

Bill of Rights Children's Working Group

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Bill of Rights Forum

Children's Working Group

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For Consultation

Submitted to the Bill of Right Forum

6th Dec 2007

Sorcha McKenna, Convener, Children's Working Group

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Working Group Membership

Convenor: Sorcha McKenna (Children and Young People's Sector)

Legal Advisor: Dr Linda Moore (University of Ulster)

Name	Sector	Organisation
Liam Larmour	Sexual Orientation	CoSo
Dr Bronagh Byrne	Disability	Disability Action
Pip Jaffa	Comm/Voluntary	Parents Advice Centre
Lindsay Conway OBE	Churches	ICC
Paddy Kelly	Children and Young People	CLC/STC
Jenny Palmer (Cllr)	Political	DUP
Sue Ramsey MLA	Political	Sinn Fein
Roy Beggs MLA	Political	UUP
Matthew McDermott	Political	SDLP
Anna Lo MLA	Political	Alliance

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Process to Date

The Forum initially decided that one working group should deal with Women, Children and Young People. This group was comprised of five political and five civil society representatives and was jointly convened by Margaret Ward of the Women's Sector and Sorcha McKenna of the Children's Sector. The Women and Children's Working Group met on July 27th and August 28th to discuss process and core documents. By this stage the enormity of the task facing the working group had become apparent and a case was put to the Secretariat of the Forum to split the group into two separate working groups. When the group met on Sept 7th it informally split into two subgroups; one dealing with women chaired by Margaret Ward and the other dealing with children chaired by Sorcha McKenna. A decision was taken and approved by the Forum to formally split the group in two and allocate new members to each. In order to progress the work the Children's Working Group, then consisting of only five members, met on two further occasions to discuss the right to health, education, and standard of living. New members and a legal advisor were then appointed to the Working Group which met for the first time on the 19th October. Subsequent meetings took place on the 9th, 16th and 28th of November with constant email contact in between in order to arrive at the proposals contained within this report.

Schedule

<u>Meeting</u>	<u>Date</u>
1 st Meeting	27 th July
2 nd Meeting	28 th Aug
3 rd Meeting	7 th Sept
4 th Meeting	21 st Sept
5 th Meeting	5 th Oct

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6 th Meeting	19 th Oct
7 th Meeting	9 th Nov
8 th Meeting	16 th Nov
9 th Meeting	28 th Nov

All minutes for the above dates are available through the Bill of Rights Forum website by following the link below.

http://www.billofrightsforum.org/index/working_groups/children_and_young_people/cyp_meetings_and_minutes.htm

Draft Recommendations

1. DEFINITION OF THE CHILD

"For the purposes of the Bill of Rights a child means every human being below the age of eighteen years."

Rationale

This provision is based primarily on Article 1 of the UN Convention on the Rights of the Child and represents almost universal consensus on the definition of the child. For the purposes of ensuring the optimum level of protection in the Bill of Right the term child is intended to refer to all children and young persons up to the age of eighteen years. The Working Group recognises that individuals under the age of eighteen, particularly teenagers, may not consider themselves to be children however for the purposes of ensuring the maximum level of protection the group adopted the universal definition.

Level of Agreement

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All members of the Children's Working Group are agreed on the content of this provision.

2. NON-DISCRIMINATION

1. "Every child has the right to equality and to equal protection and benefit of the law.
2. The Public Authority shall respect and ensure the rights set forth in this Bill of Rights to each child within the jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's, carers or legal guardian's 'race', 'colour', sex, language, religion, political or other opinion, national, ethnic or social origin, economic status, disability, sexual orientation, birth status, current or previous legal or other status."

Rationale

Non discrimination is a basic principles underpinning all human rights. The group ensured that every provision was as inclusive as possible but again felt the need to spell out the right of all children not to be discriminated against in any way. The working group considered each of the grounds on which a child in Northern Ireland can be discriminated on including gender, ethnicity and sexual orientation. The working group also discussed that fact that children can be discriminated against based on the ethnicity, political opinion, religion etc of family members and carers and though t it necessary to explicitly protect against this. The reference to 'current or previous legal status' is intended to refer to people who may be illegal immigrants or who may for whatever reason have been imprisoned. A discussion took place around the overlap between

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the groups mentioned in the provision and those covered by section 75 but it was established that there may be some degree of repetition the provision also identified groups for example carers which are not contained under current equality legislation. During this discussion the purpose of the Bill of Rights was clarified as an instrument not intended to replace legislation but a tool against which legislation can be framed and amended for the protection and benefit of people in Northern Ireland.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision however Roy Beggs, MLA (Ulster Unionist Party) is of the belief that the Equality Commission already sufficiently addresses non-discrimination and that immigration is a devolved matter and which is therefore beyond the remit of the working group.

3. BEST INTERESTS OF THE CHILD

"In all actions and decisions, including policy and legislative decisions, concerning or impacting on children, whether undertaken by public or private institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the paramount consideration."

Rationale

The best interest of the child is a principle which is fundamental to children's rights and requires that the State through its bodies ensures that in all matters concerning or impacting on children that the best interests of the individual child or children be given priority. In discussing this provision the Working Group

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considered such examples as the planning of roads and housing developments which might impact on children's access to safe play. Other examples considered included the relocation of convicted sex offenders within communities which could impact on the child's right to protection or the restriction of transports services or the closing down of community leisure facilities. The best interest principle was at the fore of the working groups' deliberation of all provisions but given the fundamental nature of the principle they felt it necessary to include a specific provision to this effect.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision. Roy Beggs, MLA (Ulster Unionist Party) suggested that older children have responsibilities as well as rights and that the suggested provision might inhibit the ability of the Public Authorities to deal with anti social behaviour. The Working Group did engage in discussions early on in the process around balancing rights and responsibilities and chose to focus on protecting the rights of all children. By requiring the Public Authorities to prioritise the best interests of the child the Working Group is not suggesting that children should be absolved of all responsibility rather that they should be dealt with in a matter appropriate to their age, needs, understanding and maturity in a manner consistent with the best interests of the child.

4. FAMILY

"The Public Authority shall respect the rights, responsibilities and duties of the parents, legal guardians and carers to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of their rights."

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Rationale

The purpose of including this provision was to recognise the central role of parents in the realisation of the rights of children. The provision requires the Public Authorities to assist parents in helping the children in their care to realise their rights e.g. the right to education, healthcare, play and leisure.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision however Roy Beggs, MLA (Ulster Unionist Party) believes that this right is incompatible with the ECHR and could be strengthened. Earlier drafts included a more detailed set of socio economic and civil and political rights but these were moved to a separate heading 'right to an adequate standard of living'.

5. EDUCATION

1. "Every child has the right to education."
2. "The Public Authority undertakes to adopt all necessary measures to protect the child's right to education and the safety and well being of pupils in the educational environment, to respect their privacy and their right to participate."
3. "The Public Authority shall ensure that the education is inclusive and respects the rights and best interests of all children without discrimination including children with disabilities, children with special educational needs, children

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in care, children in detention, child carers, children with differing sexual orientation, children of ethnic minorities, Traveller children and children living in poverty or other status. To this end, the Public Authority shall take all necessary measures to combat all forms of discrimination and promote equality in education and shall ensure that all children have the right to full access to the curriculum, as well as to receive an education which is aimed at the fulfilment of their potential and the realisation of their talents. The Public Authority shall promote and encourage the development of different forms of education, and ensure equality of opportunity and access to educational institutions for all children."

4. "The Public Authority shall ensure that school exclusions are only imposed as a measure of last resort and for the shortest period of time, and only after consideration of all alternatives bearing in mind the fundamental nature of the right to education. Children excluded or suspended from school have the right to be informed promptly of the grounds for their exclusion or suspension and of their right to participate in any process associated with that suspension or exclusion, together with their parents carers and legal guardians or other representatives. The child retains their right to education during exclusion or suspension and should be encouraged by the educational institution to return as soon as possible."

5. "Children have the right to seek, receive and impart information and guidance in a timely and accessible manner on issues affecting their social, spiritual and moral well being and physical and mental health."

Rationale

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The working group sought to establish the highest possible right of all children to education and in doing so identified groups, based on local data, whose rights in this area are currently being denied or diluted including travellers, ethnic minorities, disabled children and children in the care of the State, particularly those in detention. A recent report by NICCY for example details how traveller children are being denied their right to education as a result of lack of access and bullying resulting in poor attendance and early school leavers. The Working group strongly considered the issue of bullying and the need to protect the victimised child and to ensure that the offending child is not denied their right to education. To this end lengthy discussions took place around the use of suspensions and expulsions as a matter of last resort. Where a school takes an action to suspend or exclude a child it was agreed that the child should be fully included in the process and subject to certain rights in terms of access to information and representation. Reference to different forms of education is intended to include such projects as those which educate early school leavers, teenage parents, etc with a view to promoting the right of all children to education.

The Working group also spent a considerable amount of time debating issues around access to information and paragraph 5 is intended to refer to all kinds of information including but not limited to such topics as careers, vocational training, sexual and reproductive health, sexuality, and other matters impacting on their lives. Provision 6 on health is more explicit in terms of the need for the Public Authorities to provide specific information to children young people.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision with the exception of Roy Beggs, MLA,

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(Ulster Unionist Party) who felt that the provision went beyond the remit envisaged by the Belfast Agreement.

6. HEALTHCARE

1. "Every child has the right to enjoy the highest attainable standard of health without discrimination and shall enjoy the right to access all appropriate healthcare services including but not limited to primary care, child and adolescent mental health services and oral health."

2. "The Public Authority shall take all appropriate measures to protect the right to health and social care specific to all children without discrimination including children with disabilities, children in the care of the Public Authority, those with special educational or mental health needs, children from ethnic minorities, child carers, Traveller children and those living in a position of social deprivation."

3. "The Public Authority shall take all appropriate measures to ensure the child's right to accessible, age and understanding appropriate education and information to promote prevention and early intervention measures to address such social issues as child abuse, drug and alcohol misuse, mental health, sexual and reproductive health issues and pregnancy."

Rationale

The Working group carefully considered the challenges currently facing children in Northern Ireland in terms of access to necessary healthcare services. Recent research has identified that the provision of child and adolescent mental health services is particularly poor, a fact which is supported by the high rate of

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child suicide and self harm in the province. Access to oral health particularly by migrant children and those living in areas of socio-economic deprivation was also identified as being particularly poor. The proposal is aimed at ensuring that every child in Northern Ireland has the right to access the highest attainable level of health. Furthermore the working group extended the right to appropriate information by specifically requiring the Public Authority to take action to prevent child abuse, drug and alcohol misuse, unwanted pregnancy, and sexually transmitted infections through the provision of appropriate information.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision however Roy Beggs, MLA (Ulster Unionist Party) is of the belief that the provision goes beyond the remit envisaged by the Belfast Agreement and is concerned about the fiscal implications of such a provision. The Working Group continuously returned to the issue of budgeting and agreed that its role was to set the benchmark against which legislation would be framed and amended and not to consider the financial aspect of implementation. Paddy Kelly explained that in all cases the implementation of rights is subject to the availability of resources and that no right, other than the right to freedom from torture, is an absolute right.

7. STANDARD OF LIVING

1. Every child has the right to grow up in a stable, safe and secure family environment and to this end, the Public Authority shall provide all appropriate support and resources necessary to assist parents, carers and legal

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guardians to carry out their child rearing responsibilities and shall support them in enabling children to grow up to realise their full potential. The Public Authorities obligation under this provision shall end only when it is no longer required and shall in all circumstances be based on the best interest of the child.

2. A child for whatever reason who is deprived of that environment is entitled to special protection and assistance from the Public Authority. The choice of alternative care shall be determined by the best interests of the child alone and should be provided within a reasonable time. Children leaving the care of the Public Authority should be prepared for and supported towards independent living.
3. All children have the right to the highest attainable standard of living including appropriate and culturally sensitive housing which is determined by the best interests of the child to enable the child to realise their full potential.
4. The Public Authority shall take all necessary measures to ensure the right of all children to the highest attainable standard of living, ensuring the right to appropriate levels of housing, health, education, income and if appropriate social care services.

Rationale

In its discussions the working group highlighted the importance of a safe and secure family environment to the well being of children and the need for care givers to be supported in every way by the State. The group discussed all aspects of living standards and recognised the relationship between low levels of income and social deprivation. Particular attention was also paid to the most appropriate form of accommodation which should be provided bearing in mind that some groups including

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Travellers may not want houses but should still be entitled to suitable shelter which meets their needs and adheres to the standards contained in this provision. The Working group spent time considering the situation of children in care and reiterated once again the need to prioritise the best interests of the child.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision.

8. RIGHT TO PLAY AND LEISURE

1. The Public Authority shall promote and protect the right of every child to rest and leisure, to engage in play, sport and recreational activities appropriate to the child.
2. The Public Authority shall promote and protect the right of all children to participate fully and freely in cultural and artistic life and shall ensure the provision of all appropriate resources and guarantee the right of every child to access cultural, artistic, recreational, sport and leisure activity.

Rationale

In recent years research in Northern Ireland has demonstrated that one of the primary concerns of children in the province is the lack of access to leisure services and safe play areas particularly in rural communities. The working group discussed the benefits of play, sport and recreation to the health and well being of children as well as the fact that the lack of appropriate

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services can lead children to hang around the streets and in some cases get into trouble.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision.

9. RIGHT TO PARTICIPATE

1. The Public Authority shall promote and protect the right of every child to participate in all matters or decisions affecting them in a manner consistent with the age, understanding and maturity of the child.
2. The views of the child shall be respected and considered and given due regard, taking into consideration the age, understanding, maturity and evolving capacities of the child.
3. For this purpose, the child shall in particular be informed of their right to participate and to be provided with appropriate opportunities to be heard in any proceedings, including judicial or administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Rationale

The working group recognised the right of children to be involved in all matters affecting them for example school hearings, custody cases, criminal cases and to have their views respected and taken into consideration. This provision is based on Article 12 of the UNCRC and was amended by the working group to reflect the situation in Northern Ireland.

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Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision however Roy Beggs, MLA, (Ulster Unionist Party) is of the opinion that this provision goes beyond the remit envisaged in the Belfast Agreement. .

10. PROTECTION FROM ABUSE AND EXPLOITATION

1. Every child has the right to be protected from all forms of violence, abuse, maltreatment, neglect and exploitation including sexual abuse, child prostitution, trafficking and involvement in pornography.
2. The Public Authority shall act in the best interests of the child in taking all appropriate legislative, administrative, social and educational measure to protect every child from all forms of physical, mental and emotional violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including, but not limited to such acts or omissions while in the care of the parent(s), legal guardian or any other person who has the responsibility for or care of the child in whatever capacity.
3. Such protective measures should, as appropriate, include appropriate and effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of or responsibility for the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child mistreatment and, as appropriate, for judicial involvement. In determining such

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protective measures the best interest of the child should be of paramount consideration.

Rationale

This provision is intended to protect all children in Northern Ireland from every form of violence and exploitation, other than economic exploitation which is dealt with separately.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision.

Safety & Technology (to be inserted into child protection)

1. "The Public Authority shall encourage and assist the media in recognising their responsibility in the promotion of child rights and the protection of children."
2. "Children shall have the right to freedom of expression including the freedom to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. In seeking, receiving and imparting such information children shall be protected from information and material injurious to his or her well-being or safety."

Rationale

The need for a provisions dealing with the potential dangers of modern technology arose during a discussion on child protection. The focus of the conversation was around the issue of mobile

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phones and the internet for bullying and to groom children for sexual abuse and exploitation.

Level of Agreement

Members of the Children's Working Group did not have the opportunity to discuss the content of this provision but all were agreed that it should form part of the consultation document.

11. EMPLOYMENT PROTECTION

1. "The Public Authority recognises the right of the child to be protected from economic exploitation and from performing any work that is likely to interfere with the physical, mental, spiritual, moral or social development. In particular the Public Authority shall ensure that the education, development and general well-being of young carers is not affected by caring responsibilities. In all such considerations the best interests of the child should be paramount."

2. "The Public Authority shall without discrimination take all necessary legislative, administrative, social and educational measures to ensure the implementation of the present provision including guaranteeing the child's right to advocacy. To this end, and having regard to the relevant international instruments, the Public Authority shall in particular:

a) Provide for a minimum age or minimum ages for admission to employment;

b) Provide for age appropriate regulation of the hours, terms and conditions of

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employment;

- c) Provide for appropriate penalties or other sanctions to ensure effective enforcement of the present provision.

Rationale

The working group agreed that children have a right to work however they acknowledged that current employment legislation in Northern Ireland is poorly implemented therefore placing children at risk of exploitation and unsafe practices. It was agreed that the Bill of Rights should oblige the State to strengthen child labour legislation and implement it effectively so as to protect all children working in Northern Ireland. Among the issues discussed by the group was the number of children working after hours in the catering industry, particularly in family run businesses, and the way in which this can impede on the child's other rights including the right to education and the right to play and leisure. The working group also considered the position of child carers and strongly agreed that whilst child should be allowed a caring responsibility the State should not allow them to be primary carers and this would impact negatively on other aspects of their lives. The use of children for begging and street trading was also discussed in great detail and the provision is intended to protect against such practices.

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision.

12. CHILDREN AND ARMED CONFLICT

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1. The Public Authority shall not conscript any child into their armed forces.
2. The Public Authority shall ensure that persons who have not attained the age of 18 years are not recruited into their armed forces.
3. The Public Authority shall ensure that children shall not be directly engaged or involved in any capacity in hostilities, including their use as informers.
4. The Public Authority shall take all necessary measures to protect every child from all violence resulting from armed conflict.
5. The Public Authority shall take all necessary measures to guarantee that children affected by violence and conflict have access to prompt and appropriate support and all necessary services for their physical and psychological recovery and their social integration which is in accordance with the best interests of the child.
6. The Public Authority shall take all necessary measures to prevent children being recruited or otherwise involved with any non-state armed group.

Rationale

This provision is based on the international standards contained in the UNCRC and its additional protocol concerning the involvement of children in armed conflict. Whilst the working group recognised the UK's commitments under international law it also sought to include issues which were particular to Northern Ireland for example the use of children as informers. The working group also highlighted the need for the State to protect children from violence arising as a result of conflict this could impact for example on the types of weaponry used by security forces. The responsibility of the authorities to provide

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appropriate medical and support services to child affected by conflict was also recognised by the group as being particularly relevant to Northern Ireland given the legacy of the conflict here. Finally the working group considered the involvement of children in paramilitary groups but decided to widen this provision to protect children from other criminal gangs.

Level of Agreement

All members of the Children's Working Group are agreed on the entire content of this provision with the exception if Jenny Palmer (Democratic Unionist Party) who felt that paragraph 2 should not prevent those children who voluntarily enlist with the army and are properly trained from taking part in armed conflict.

13. CHILD WITNESSES AND VICTIMS OF CRIME

1. The Public Authority shall take all necessary measures to ensure that child witnesses should be supported throughout the court process to ensure that they feel safe, are heard in court and are able to give evidence effectively.
2. This support shall be provided by a State funded independent agency ensuring that:
 - a. Children shall be continuously and appropriately informed throughout the process;
 - b. Children shall be dealt with in a respectful manner in a child appropriate environment free from exploitation, intimidation and abuse;
 - c. Children shall only be cross-examined by trained individuals with child specific expertise;
 - d. The court process should be taken forward without delay."

Rationale

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The purpose of including this provision is to address the needs of children who are involved in the criminal justice system as victims and witnesses. There is currently no province wide support available to children in Northern Ireland to enable them to give their best evidence and to support them during what is potentially one of the most traumatic experience of their lives..

Level of Agreement

All members of the Children's Working Group are agreed on the content of this provision.

14. YOUTH JUSTICE

1. Every person under the age of eighteen years should be treated as a child for the purposes of the administration of criminal justice.
2. The Public Authorities recognise the right of every child alleged to, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's human rights and dignity, which reinforces the child's respect for their human rights and the rights of others and taking into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
3. In all decisions taken within the context of the administration of youth justice, the best interests of the child shall be the paramount consideration.

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4. No child under the age of 16 will be held criminally responsible.
5. The Public Authority shall progressively increase the age of criminal responsibility to 18.
6. The Public Authority shall provide effective alternatives to the criminalization of children including family based support and community based diversion, which are in the child's best interests. All programmes or initiatives should be effectively regulated and monitored by the Public Authority to protect the child.
7. The Public Authority shall guarantee that every child questioned, detained or charged with an offence shall:
 - a) have criminal charges, subsequent process, their rights and the consequences of their actions explained to them in an accessible, appropriate and timely manner.
 - b) the right to have access to appropriate legal and other assistance in the preparation of a defence;
 - c) the right to have any criminal charge determined without delay by a competent, independent and impartial tribunal in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is contrary to his or her best interests and taking into account his or her age or situation, of his or her parents or legal guardians;
 - d) the right to have an appropriate adult present to represent the interests of the child even if a solicitor or responsible adult is also present;

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- e) the right to be tried for a criminal offence in an appropriate setting and manner, having regard to the child's age, maturity, needs, vulnerability and understanding;
 - f) the right to have measures taken to ensure his or her participation in and understanding of the criminal proceedings; and
 - g) the right to have his or her privacy respected before, during and after the proceedings."
8. "The detention of a child must occur only in exceptional circumstances and in accordance with the law. Detention shall be used only as a measure of last resort and for the shortest appropriate period of time. A variety of dispositions and alternatives to institutional care shall be available to ensure that children are always dealt with in a manner appropriate to their well-being and proportionate to their circumstances and the alleged offence."
9. "Every child deprived of liberty shall have the following minimum rights:
- a) To be treated with respect for his or her dignity and human rights and in a manner which takes into account his or her age and particular needs.
 - b) the right to be separated from adults in detention and (if not yet found guilty) from children who have already been found guilty;
 - c) the right to receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical-that they may require in view of their age, sex and personality;

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- d) the right to prompt access to appropriate legal and medical assistance and pastoral care;
 - e) the right to privacy and respect for his or her correspondence;
 - f) the right to maintain regular and direct contact with parents, siblings or other family members and friends, save in exceptional circumstances;
 - g) the right to access the Northern Ireland Curriculum and/or educational and vocational training necessary to prepare for his or her re-integration and constructive participation in society following release.
9. Girls in detention deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders.
10. corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the child's physical or mental health is forbidden.
11. use of force or instruments of restraint used only in exceptional cases 'where all other control methods have been exhausted and failed'. Physical restraint and use of force should not cause humiliation or degradation, and should only be used for the shortest period of time."
12. "On release from an institution children shall be assisted and supervised by an appropriate authority and shall receive full support by the community."

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Rationale

The working group spent several meetings considering the two major issues contained in this provision; the age of criminal responsibility and the detention of children. In Northern Ireland the current age of criminal responsibility is 10 which is among the lowest ages in Europe a situation which has led to severe criticism from the United Nations Committee on the Rights of the Child (CRC). The UNCRC requires states to establish a minimum age below which children shall be "presumed not to have the capacity to infringe the penal law" but does not state what this age should be. The Beijing Rules provides guidance requiring that "[i]n those legal systems recognising the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the fact of emotional, mental and intellectual maturity. In a General comment on children and the justice system (February 2007) the Committee on the Rights of the Child stated that setting the age below 12 was "not internationally acceptable" and praised states with the "commendable high age of 14 – 16". Bearing in mind the international standards and the negative and long lasting implications of criminalisation the working group arrived at 16 as the new age of criminal responsibility with a view that this would be progressively increased to 18.

The working group also considered international standards in relation to the rights of children in detention. The ECHR provides children with some protection with regard to the criminal justice system: the most relevant articles are the Right to Life (Art 2); freedom from torture, inhuman and degrading treatment (Art 3); right to Fair Trial (Arts 5 & 6), Right to private and family life (Art 8). International human rights standards provide much greater protection for children in respect of fairness of trial, the importance of prevention of youth criminality, alternatives to custody, rights of children in custody, rehabilitation and

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resettlement. The Working Group sought to include and supplement these rights in their draft provision to reflect the situation of children detained in Northern Ireland.

Level of Agreement

All members of the Children's Working Group are agreed on the content of paragraphs 1-7. There was insufficient time for the remaining provisions to be properly discussed but all members of the working group agreed to their inclusion in the consultation document with a view to discussing the provisions in full in January.

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Notes for Consultation

The Children's Working Group looks forward to receiving a wide range of submissions from members of the public in particular children and young people. Submissions of all mediums are welcome but Word documents are preferred and should be emailed to Gillian Preece, Secretary to the Forum for circulation at the following address gillian.preece@billofrightsforum.org. The Working Group will reconvene in January to consider the submissions before submitting their final report to the Forum on January 15th 2008.

For further information on this document please contact

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