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Ireland still failing to comply with international obligations in relation to Child Soldiers

The government is committed to a referendum on children's rights in 2012. The Minister for Children, Frances Fitzgerald, intends to begin a national debate on children's rights in the New Year. In this context, the issue of child soldiers and Ireland's obligations under international law should be taken into account. This subject proved controversial in 2002 when it became a theme of Trócaire's Lenten Campaign. The campaign advocated that governments worldwide, including Ireland, support a ban on the use of children below the age of eighteen as soldiers. The aim was to ensure no individual under the age of eighteen was recruited into any armed force.

Little progress has been made since then in addressing the issues raised. While Ireland has ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the situation with regard to recruitment of children below the age of eighteen remains problematic.

Although the Convention on the Rights of the Child generally defines a child as any person under the age of eighteen, it adopts the lower age of fifteen as the minimum for recruitment or participation in armed conflict. This language was drawn from the Geneva Conventions of 1949 governing the law of armed conflict and was criticised for its departure from the usual age of eighteen and international human rights standards. The Optional Protocol on children in armed conflict seeks to raise the age to eighteen.

At the time of ratification of the Protocol on the involvement of children in armed conflict, Ireland entered a reservation, which stated that the minimum age for recruitment into the Defence Forces is seventeen, but that an exception is made in the case of apprentices, who may be recruited at the age of sixteen. The reservation also set out the safeguards undertaken by Ireland to ensure recruitment of personnel under the age of eighteen is not forced or coerced.

Trocaire's 2002 Campaign raised important issues with national and international implications. Since the publication of the 2008 report of the UN Committee on the Rights of the Child relating to Ireland, it appears that little action has been taken to implement its recommendations. Children under eighteen may still be recruited into the Defence Forces. Efforts to pass an amendment protecting children from serving in armed conflict and from compulsory recruitment have not made progress. Though the Children's Rights Alliance continues to advocate for a children's rights referendum and the government has pledged to hold a referendum, it is by no means certain that this more general push toward reform will result in the implementation of the recommendations of the Committee on the Rights of the Child relating to recruitment of children to armed forces.

The Irish Human Rights Commission has recommended that the government consider introducing a constitutional amendment which would clearly prohibit conscription of children into the armed forces.

A possible solution to the range of issues surrounding the protection of the rights of the child would be the constitutional incorporation of the rights contained in the Convention on the Rights of the Child into the Constitution. The value of constitutional incorporation is that it would underpin and guarantee any legislative or policy provisions to respect and protect

children's rights. However, this does not seem likely and a less ambitious constitutional prohibition on all recruitment below eighteen would also be effective. Failing that, at a minimum, a statutory provision to such effect should be enacted.

Most of the problems surrounding Ireland's implementation of the Optional Protocol relate to the violation of the spirit of the document, which calls for greater protection and respect for children. Part of the problem emanates from the deliberately ill defined commitments under the Protocol, in particular the requirement to take all "feasible measure". Nevertheless, Ireland is not fulfilling its obligations. It is estimated that there are up to 300,000 child soldiers participating directly or indirectly in hostilities around the world. It remains a serious human rights problem highlighted by Amnesty International and others that behoves Ireland to do all within its power to address. In the past arguments were made that recruitment to the Defence Forces would be adversely affected if the age for recruitment was raised. The validity of such fears was always questionable, but in the economic circumstances of today, they are even less relevant. The time is long past for Ireland to take on board the recommendations of the UN Committee on the Rights of the Child and comply with both the spirit and letter of the law.

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