A WELCOME RECEPTION?
A Child Rights-Based Analysis of the Direct Provision Scheme for Asylum Seekers in Ireland

Author: Sarah Groarke
Supervisor: Nele Verbrugghe
Abstract

Direct Provision is a scheme in Ireland in which asylum seekers are accommodated in reception centres while awaiting determination of their refugee status. Over one third of such asylum-seekers are children, many of whom have been born and grow up in such centres. Although children in DP are accompanied by family members, they nevertheless require special protection in light of their status as both children and asylum-seekers.

States are continuously criticised for their failure to effectively implement the protection of children’s rights in asylum policy, which is overshadowed by political concerns regarding security and immigration control. As a result, children who seek asylum are considered as asylum-seekers first and children second, contrary to the rights-based approach enshrined in the United Nations Convention on the Rights of the Child. In light of the widespread tendency of states to adopt restrictive asylum policies towards people seeking protection, it is therefore critical to address the question of responding to children seeking asylum in accordance with an approach that meets their needs as best as possible.

This thesis therefore seeks to establish whether the treatment of children within the system of Direct Provision is in line with international and regional children’s rights standards. In particular, it will identify the various issues arising from the interplay between children’s rights and asylum policy and its implications for the lived experiences of children in Direct Provision.
TABLE OF CONTENTS

INTRODUCTION ........................................................................................................................................... 1

CHAPTER 1: DIRECT PROVISION .................................................................................................................. 7
  1.1 Direct Provision ..................................................................................................................................... 7
  1.2 Ireland and its Approach to Immigration as a Recent Phenomenon ................................................. 10
  1.3 Children in Direct Provision ................................................................................................................. 15

CHAPTER 2: THE STATUS OF CHILDREN IN IRELAND AND IMPLICATIONS FOR THE ASYLUM-SEEKING CHILD
  2.1 The Status of Children in the Constitution of Ireland ........................................................................... 18
  2.2 Ireland and the Convention on the Rights of the Child ...................................................................... 21
    2.2.1 The Status of the CRC in the Irish Legal Framework .................................................................... 21
    2.1.2 The Thirty-First Amendment of the Constitution – Bringing Ireland in line with the principles of the CRC? ................................................................. 22
  2.3 Reconciling Childhood and Asylum Policy ............................................................................................ 24

CHAPTER 3: CHILDREN’S RIGHTS IN THE CONTEXT OF ASYLUM: THE INTERNATIONAL AND REGIONAL FRAMEWORK
  3.1 The International Framework for Asylum-Seeking Children ............................................................... 27
    3.1.1 The UN Convention on the Rights of the Child.............................................................................. 28
  3.2 The Common European Asylum System & The Irish Approach ....................................................... 39
    3.2.1 The Reception Conditions Directive and Children’s Rights – The EU Standard .......... 41
    3.2.2 Ireland and the Common European Asylum System – The Irish Standard ...................... 41
  3.3 The ECHR and the Rights of Children Seeking Asylum .................................................................... 43
    3.3.1 Article 3: The Prohibition of Ill-Treatment .................................................................................... 43
    3.3.2 Article 8 – The Right to Respect for Private Life, Family & Home........................................... 48
    3.3.3 The Irish reception of the ECHR – The ECHR Act 2003.......................................................... 51

CHAPTER 4: CHILDREN’S RIGHTS IN DIRECT PROVISION – A CHALLENGE FOR IRELAND
  4.1 Irish Law & Policy: Rendering Children in Direct Provision Invisible ........................................... 53
  4.2 Direct Provision Accommodation Centres: Adapted to the Needs of the Child? ....................... 57
    4.2.1 An Adequate Standard of Living? ................................................................................................. 58
    4.2.3 Respect for Private and Family Life.............................................................................................. 67
4.2.4 Remedies ................................................................................................................................. 70
4.2.4 Child Protection & Welfare Services for Children in Direct Provision .................... 72

4.3 CONCLUSION: TOWARDS A RIGHTS-BASED RECEPTION? .................................. 76

BIBLIOGRAPHY ............................................................................................................................. 79
A welcome reception? : a child rights-based analysis of the direct provision scheme for asylum seekers in Ireland

Groarke, Sarah