

22 December 2004

Department for Social Development
Social Policy Unit
Room 4
Annex C
Dundonald House
Stormont
Belfast
BT4 3SF

Dear Mr Gibson

Re: The Unauthorised Encampments (NI) Order 2004

Children in Northern Ireland (CiNI) is the umbrella body for the children's voluntary sector in Northern Ireland.

CiNI represents the interests of its 90 member organisations, providing policy, information and support services to members' in their work with children and young people.

CiNI notes that there has been consistent opposition to the introduction of the legislation from NGOs, as well as equality and human rights institutions. CiNI would like to endorse the submissions of which we have had sight, including Traveller Movement NI, the Committee on the Administration of Justice and the Equality Commission NI. CiNI supports their call for the legislation to be withdrawn on the grounds that it contravenes a raft of international and domestic human rights standards.

We are particularly concerned at the impact the proposed legislation will have on Traveller children and young people, given that over half (55%) of the Traveller population in Northern Ireland are children aged between 0 and 18 years (Census 2001).

We are deeply concerned that in bringing forward this legislation the Government will further discriminate against and marginalise some of the most economically and socially disadvantaged members of our society.

CiNI notes that concerns have been raised that if enacted in its present format the legislation may constitute a contravention of the International

Convention on the Elimination of All Forms of Racial Discrimination and the Council of Europe Framework Convention for the Protection of National Minorities, and the Race and Ethnic Origin Directive.

CiNI believes that in proposing to bring forward this legislation the Government is also in contravention of international human rights obligations under the Human Rights Act and the United Nations Convention on the Rights of the Child. Furthermore we are concerned that the legislation also contravenes Section 75 of the Northern Ireland Act 1998.

Human Rights Act 1998

CiNI notes that consultees have registered concern that the legislation would violate a number of provisions of the Human Rights Act 1998. The eviction of Traveller families, particularly those with young children/older members, and/or seizure of caravans, in the absence of viable alternative accommodation, could violate article 3 of the Convention in that such action could amount to inhuman and degrading treatment. Furthermore, this may also breach Article 8 which ensures respect for private and family life.

United Nations Convention on the Rights of the Child (UNCRC)

The UK Government is a signatory to the United Nations Convention on the Rights of the Child (UNCRC) and as such is legally obliged to take measures to give effect to the rights in the Convention and ensure that these enable children to enjoy the rights set forth in the Convention.

CiNI believes that the legislation may contravene a number of provisions of the UNCRC.

Fundamentally, CiNI believes that the legislation may contravene the general principles of the Convention including the right to non-discrimination, the best interests of the child, and respect for the views of the child.

Furthermore the legislation may contravene:

- Article 27 which provides “the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.”

“State Parties...shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

- Article 30 which states that “In those states in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied

the right, in community with other members of his or her group, to enjoy his or her own culture..'

The UN Committee on the Rights of the Child in delivering its Concluding Observations on the implementation of the UNCRC in 2002 noted that the 'principle of non-discrimination is not fully implemented for all children' and referred specifically to Irish and Roma Traveller children. It noted its concern at the 'discrimination against children belonging to Irish and Roma Travellers' which is reflected in part by the 'conditions of their accommodation'. The Committee recommended that the Government develop 'in a consultative and participatory process with these groups and their children – a comprehensive and constructive plan of action to effectively target the obstacles in the enjoyment of rights by children belonging to these groups.'

CiNI believes that the proposed legislation further discriminates against Traveller children and their families because of their nomadic way of life and would call on the Government to fulfil their legal obligations under the UNCRC. In particular CiNI would underline the Committee's recommendation that the Government consult with children, an obligation which is inherent in Section 75 of the Northern Ireland Act 1998, where consultation with directly effected groups and individuals is a core element of the duty to promote equality of opportunity.

Section 75 Northern Ireland Act 1998

The Explanatory Memorandum accompanying the draft legislation refers to consultation on the proposals stating that 'as the proposed measures are likely to impact significantly on the Irish Traveller community, who most frequently use unauthorised encampments, special arrangements were made to consult their representatives.'

In fulfilment of its Section 75 duty to promote equality of opportunity and given the significant proportion of children and young people within the Traveller population CiNI is keen to hear of the methods by which DSD has consulted with Traveller children and the outcome of such consultation.

CiNI also notes that in reference to the Equality Impact Assessment conducted on the proposals, the Explanatory Memorandum states that 'to mitigate any adverse impact the legislation will proceed in parallel with the development of authorised transit sites specifically for the Irish Traveller community.'

CiNI would lend its support to the requests of the Committee for the Administration of Justice and would ask DSD whether the transit sites will be fully operational prior to the enactment of this Order, or will the Order only come into force when the sites are available? Furthermore, we would also ask that DSD confirm what resources have been made available for providing the sites?

Bill of Rights for Northern Ireland

CiNI believes that the proposed legislation underlines yet again the need for comprehensive children's rights protections through a Bill of Rights for Northern Ireland. CiNI believes that a Bill of Rights, with strong children's rights protections, is required to strengthen children's rights protections in our domestic legislation and should draw on and develop the standards set in the UNCRC. While we continue to lobby for the implementation of the UNCRC through the over-arching Strategy for Children and Young People, we believe that the development of a Bill of Rights presents a unique opportunity to strengthen these provisions and serve to bring about real and positive change in the lives of Traveller children.

Northern Ireland Commissioner for Children and Young People

The Northern Ireland Commissioner for Children and Young People commissioned Queen's University Belfast to carry out research on the state of children's rights in Northern Ireland.

Children in the Traveller community were identified as a group which NICCY must give 'priority treatment' to in its work, due to what was described as 'egregious breaches of the rights of children in the Traveller community.'

Traveller children interviewed for the research were acutely aware of the accommodation concerns of their community and identified their desire for better site facilities and for housing options.

CiNI believes that the proposed legislation threatens to make the already intolerable situation of Traveller children and their families much worse. The NICCY research report notes the current circumstances of Traveller children. Those Traveller children who uphold the nomadic way of life already experience a lack of continuity in terms of their access to educational provision (p.138). The high child mortality rate is affected by living conditions (p 94); and basic health and social care needs that have long been neglected. If the proposed legislation is taken forward it will be increasingly difficult to begin to make positive progress on improving the life circumstances of Traveller children and their families.

We believe that the imposition of the proposed legislation will add to the social exclusion and deprivation experienced by the Traveller community and is yet another assault on their ability to realise their fundamental human rights.

We trust that DSD will respond to the concerns that have been raised above, and again reiterate the request for a stop on the passage of the Unauthorised Encampments (NI) Order 2004.

Yours sincerely

Pauline Leeson
Director