VIEWPOINT

PROTECTING IRISH CHILDREN BETTER – THE CASE FOR AN INQUISITORIAL APPROACH IN CHILD CARE PROCEEDINGS

KIERAN MCGRATH*

I. INTRODUCTION

This paper examines the Irish legal system's approach to children and argues that, in spite of recent attempts to reform both the child protection system and some aspects of both the law and its application, there are still many deficiencies from a children's rights perspective. It will be argued that the adversarial legal system used in Ireland is particularly unsuited to complex cases involving child welfare matters and can produce many anti-therapeutic effects as far as children are concerned. The difficulties experienced by children will be explored, as will the use of legal measures in civil cases, initiated by the State, to protect children. It will be further argued that law reform in Ireland could benefit from learning from the inquisitorial model used in the Netherlands which results in far less conflict, even where very difficult and complex decisions about children are being made.

II. RECENT DEVELOPMENTS ON CHILD PROTECTION IN IRELAND

In Ireland, legal proceedings concerning children are now part of the legal mainstream, whereas up to relatively recently, they constituted a jurisprudential backwater (McGrath, 1997). Since the mid-1980s, child abuse has also become an increasingly politicised issue in Ireland. This has been influenced particularly by the setting up of child abuse inquiries since 1993 (Ferguson, 1996, p. 29). Over this time, the rate of reported child abuse in Ireland has risen

* Kieran McGrath holds a degree in Law and a Masters in Social Work from University College Dublin. Part of his post-graduate social work studies was undertaken at the Child & Family Institute, Sacramento, California. From Jan '88 – Mar '02 he was the Head of the Social Work Department in St Clare's Assessment & Therapy Unit, the Children's University Hospital, Temple St., Dublin. In March 2002, he was appointed Assistant Director in St Clare's. He is also attached to the Dept of Social Studies, Trinity College where he teaches a course to final year Masters students, entitled "Social Work and the Law." In April 2005 he was awarded a UNESCO Visiting Professorship by the University of Valencia, Spain.

considerably. For example, in the ten years between 1984 and 1994, the number of suspected cases investigated by health boards increased more than ten fold (see Table 1 below).

The far greater attention given to child abuse and the public outpourings of outrage, while appropriate at one level, create other problems, including increased public demand for more punitive and legalistic measures to be used against parents who abuse or neglect their children. This makes it more difficult for parents in danger of abusing or neglecting their children to seek help, as they may suffer greater stigma and social isolation as a result (McGrath, 1996).

A recurring theme since the mid-1980s in the public discourse on this issue has been the inadequacies of both the civil and criminal law in handling cases involving children. The enactment of the 1991 Child Care Act, following the aforementioned high profile child abuse inquiries, gave child protection cases a higher legal status. It also, however, opened up that area of the law to the full rigours of the adversarial legal system which accentuates conflict leading to a far greater influence for a legal, rather than child welfare, discourse in child protection (McGrath, 1998).

III. BACKGROUND

The writer's first degree was in Law and he was, therefore, naturally drawn to considerations of the interface between law and social work. The interest in the legal aspects of child protection work springs directly from his work in St Clare's Child Sexual Abuse Unit, in the Children's University Hospital, Temple Street, Dublin. This multi-disciplinary unit was one of two set up in late 1987, in the midst of a great deal of public and professional disquiet about child sexual abuse.

The writer also has a particular interest in other European legal systems, in particular, in the Dutch legal system because of its highly developed approach to children, both in criminal and civil cases. The inquisitorial nature of Dutch law also makes it very different to Irish law, which is steeped in the adversarial tradition. The writer's experience as a clinician specialising for many years in a child sexual abuse unit and also research in which he has been involved, indicates that the influence of the adversarial system on the

child protection services in Ireland has been predominantly negative, because of its reliance on conflict. The Dutch inquisitorial system, on the other hand, relies more on reason than conflict in judicial decision-making. Proposals for the reform of the adversarial system are discussed, including the use of some of the better features of the Dutch system as an example of how the Irish system might be improved (McGrath, 1998; Cerezo et al 2003).

IV. CHILD PROTECTION PROCEEDINGS WITHIN THE IRISH LEGAL SYSTEM

Since the late 1980s, but particularly since the enactment of the 1991 Child Care Act, the legal climate with regard to child care proceedings in Ireland has changed dramatically. As recently as 1981, only 16.3% of children coming into care did so by court order. By 1989, this figure had jumped to over 50% (Gilligan, 1991, p. 8). Likewise, Roantree (1994) notes "a generally increasing pattern of placement by court order" (p. 2). O'Brien (1997) in her study of 92 children in foster care with relatives, in the Eastern Health Board (EHB), found that 68% were in care by court order. Overall in the Eastern region, the trend is towards greater use of court orders: between the years 1994 and 1995 the number of court orders increased by 74% and in some EHB community care areas this increase was over 100% (Lunny, 1997, pp A2-A30). In contrast, the rates of children taken into care in the Netherlands by court order averages around 20% (Veldkamp, 1997).

In the author's experience, these figures represent a very different legal climate from how it was prior to the upsurge in public interest in this area from the 1990s onwards. Cases that might have taken hours, or at most perhaps a day or two, in the past, can now take weeks. There can be as many as five legal teams, each made up of a solicitor and barrister, involved in each case.

V. RISING RATES OF SUSPECTED AND CONFIRMED CHILD ABUSE

The figures below in Table 1 indicate that while the rate of referrals has risen dramatically, the rate of substantiation has also dropped over the years.

Table 1: Reported & Confirmed Cases of Child Abuse 1984-1995

Year	Total reports Received	Child Sexual Abuse	Total number Confirmed	(CSA)	Total % Confirmed All cases	(CSA)
1984	479	88	182	(33)	37.9%	(37.5%)
1985	767	234	304	(133)	39.6%	(56.8%)
1986	1015	475	495	(274)	48.7%	(57.6%)
1987	1646	926	763	(456)	46.3%	(49.2%)
1988	2673	1055	1243	(465)	46. 5%	(50.2%)
1989	3252	1242	1658	(568)	50.9%	(45.7%)
1990	N/A	N/A	N/A	N/A	N/A	N/A
1991	3856	1507	1465	(599)	37.9%	(39.7%)
1992	3812	1362*	1701	(587)*	44.6%	(43%)*
1993	4110	1791	1609	(681)	39.1%	(38%)
1994	5152	1816	1868	(557)	36.2%	(30.6%)
1995	6415	2441	2276	(765)	35.4%	(31.3%)

(* Figures for one health board on csa not available.)
[Source: Department of Health, Dublin]

The overall national figure for 1995 was 35.4%. However, in parts of the Eastern Health Board, this figure was as low as 12.7% for the same year (Lunny, 1997, p. 21). Ireland is quite different to the Netherlands with respect to confirmation rates, in that the substantiation rate among cases monitored by the Office of the "Confidential Doctor" (OCD) is around 80% (Lamers-Winkelman & Buffing, 1996, p. 49). One of the factors that largely accounts for the divergence between the Dutch and Irish figures is the large number of referrals made to the OCD made by neighbours or family members (Lamers-Winkelman & Buffing, 1996, p. 46). Far fewer referrals are made to the Irish child protection system. For example, only 12.5% of child sexual abuse cases are referred by Irish parents (McKeown *et al,* 1993, p. 82).

VI. THE VIEW OF LAWYERS REPRESENTING PARENTS OF CHILDREN IN CARE

Since the establishment, in the early 1980s, of the Legal Aid Board, civil legal aid has been available to parents of limited means in care proceedings. As "the vast majority of children and households subject to child protection interventions are living in poverty" (Parton, 1997a, p. 11), the availability of legal aid is of great significance. In the past, parents of children taken into care in Ireland had little or no legal representation in court. According to one Irish lawyer, Ward (1997), the "parents defending such

proceedings see themselves, rightly or wrongly, as being pitted against the state with all its resources" (p. 8). Some lawyers, therefore, find themselves cast as opponents of professionals working for the state, particularly social workers, whom they see as "oppressive" because they are not "helping" parents enough to care for their children. If lawyers take such views, this creates added justification to vigorously oppose the perceived "injustice" of child protection intervention.

VII. DRAWBACKS OF GREATER LEGALISM IN CHILD PROTECTION CASES

One can view all this added legal involvement as a confirmation that the rights of all parties to the disputes are being upheld. Given the enormous significance of the removal of a child into care, there is no doubt that considerable conflict is inevitable, regardless of the method of trial. In the past, the lack of legal representation was a denial of rights to, often very poor, parents. However, there are also drawbacks to this influx of legal dexterity into the child care field. These include:

A. Parental Perception of Care Proceedings

In the writer's experience, there has been a significant shift in the way that court cases involving care proceedings are conducted in recent years. This may account, in part at least, for the fact that, in the 1990s, Irish social workers found themselves being subjected to "long and aggressive cross-examination by barristers" (McGuinness, 1991, p. 19). As has been stated previously, this is directly related to the emergence of child abuse as a high-profile and very controversial issue in Irish society. The highlighting of this in the media has increased the stigma for parents. Since they naturally feel ostracised, parents involved in such disputes often use whatever means are at their disposal to defend themselves. Making full use of the legal system has become one way to do this.

Roantree (1994) maintains that the way parents of children in care "perceive how they are treated in court can either help them to feel empowered to play an on-going role as parents to their children, or it can reinforce their sense guilt or shame... (and) fuel

their sense of anger and outrage decreasing the possibilities of collaborative working" (p. 9).

B. Strain on Children in Care

Children coming into care compulsorily are already under severe stress and additional conflict makes this worse (Roantree, 1994, p. 7). They must deal with a whole range of emotions, including shock, grief, anxiety, guilt, and feeling abandoned. Protracted legal disputes over their futures create uncertainty and therefore accentuate the stress involved. Consequently, the greater the conflict, the greater the risk of additional stress for the children is.

Children in temporary health board care can have their futures put "on hold" while lengthy legal appeals take place, making the planning of their futures extremely difficult. This can result in so called, "short term" placements lasting for years with ensuing disruption for the children. Further disruption occurs when placements break down under the strain, leading to yet more uncertainty and stress

C. Strain on Professional Witnesses

In the writer's experience, and that of other Irish professionals known to him, there is now huge stress involved for witnesses in child care proceedings. It is not unknown now for Irish child care professionals to be in the witness-box for days, rather than hours. This has the potential for a very negative effect on professional perceptions generally, making many fearful and reluctant to go to court as witnesses. This has given rise to a "no court policy" operated by some agencies, which is built into their therapeutic "contract" with the family. This means that the professionals and the family agree that the professionals will not be called to court in the event that the conflict remains unresolved. The very existence of such policies is an indication of how anti-therapeutic the court process is seen by some Irish mental health professionals.

VIII. THE ADVERSARIAL AND INQUISITORIAL LEGAL SYSTEMS

The adversarial and inquisitorial systems have been described as "the two main systems of trial in the civilised world" (Spencer and Flin, 1993, p. 75). The adversarial system is the method of trial found in Britain and Ireland, and most other English speaking countries. It has been described as:

> a competitive argument between two sides, each presenting the best case for its own side. It is not designed to objectively discover the absolute truth of the matter being tried. The parties are engaged in a struggle with each other, not in a mutual search for the truth. The competitive nature of the process is, in part, an explanation for its reputation as an awesome place for the inexperienced witness under cross-examination (Mallon and White, 1996, p. 50).

The inquisitorial model, on the other hand, is a model of trial where:

> the court takes the initiative in gathering information, builds up a file on the matter by questioning all those it thinks may have useful information to offer - including in a criminal case, the defendant - and then applies its reasoning powers to the material it has collected in order to determine where truth lies (Spencer and Flin, 1993, p. 75).

IX. THE DUTCH CHILD PROTECTION SYSTEM - HISTORICAL BACKGROUND

In common with other Western countries, the Netherlands can trace the origins of its child protection system back to the latter half of the nineteenth century. This development was influenced by the emergence of Societies for the Prevention of Cruelty to Children in the US and the UK and legislation such as the Prevention of Cruelty to Children Act in England in 1889 (van Montfoort, 1993, p. 53).

In its modern manifestation, the Dutch legal system developed from the Napoleonic Code in the 19th century. In the Netherlands, the "court hearing is informal, and the parents and (older) children are able to talk directly to the judge" (Hetherington *et al,* 1997, p. 74) This model of justice has emerged from the different philosophical traditions found in continental Europe and demonstrates a different type of relationship between the citizen and the state than that found in the British tradition (Hetherington *et al,* 1997, p. 96).

A. Criminal Proceedings

There are many aspects of criminal trials in the Netherlands which would seem truly extraordinary from a Common Law perspective. For example, children under 12 are never brought into court to give evidence in criminal trials (Lamers-Winkelman, cited in McGrath, 1998). Instead, their evidence is based on videotaped interviews with specially trained police officers. Unlike the adversarial system - with its preoccupation with direct oral evidence from witnesses - the inquisitorial system allows for consideration of police reports based on children's statements, rather than hearing the children directly. This would not be allowed under the Irish system as it would breach the hearsay rule.

There are no jury trials in the inquisitorial system, instead three judges sit together in each case. To Irish legal eyes, this seems extraordinary as it looks like each case receives the equivalent to a trial in the Special Criminal Court.

Dutch judges take an active, rather than passive, role, unlike judges in the adversarial system who, as Lord Justice Clerk-Thomson once ffamously said must behave "like referees at boxing contests: they see that the rules are kept and count the points" *(Thomson v Glasgow Corporation, 1961 SLT 231*).

Another feature that seems odd from an Irish perspective is that Dutch criminal courts can hear testimony from expert witnesses who use a process known as Statement Validity Analysis (SVA). This is where designated specialists are allowed to give evidence as to the reliability of the child's statement.

B. Civil Proceedings

Civil proceedings are conducted in the Netherlands in ways that would appear extremely informal to an Irish lawyer. In cases involving moves to take children into care, for example, it is quite common for neither the State of the parents to be legally represented. The reasons given to explain this are that compulsory measures are rarely taken and huge efforts are made to form a partnership with parents so as to reduce conflict. Likewise, judges take a very active role and interest in cases and engage in a very direct way with parents rather than allowing the lawyers "score points" off each other (McGrath 1998).

X. THE ADVERSARIAL AND INQUISITORIAL SYSTEMS COMPARED

Given the nature of the issues involved in care proceedings, high levels of conflict are unavoidable, regardless of the type of legal system employed to decide cases. Far-reaching decisions about the futures of children are being made. To take a child into care is an enormously serious step. It can be argued, therefore, that it should only be done in the most serious of circumstances, particularly when this is against the wishes of the parents and/or the children themselves. Depriving children of their parents, and parents of their children, is a momentous decision and its effect is of such huge significance that it cannot be seen as other than life-altering. Table 2 summarises the differences between the two systems.

Table 2: Outline of the Differences between the Irish Adversarial and the Dutch Inquisitorial Systems in Child Protection Cases

		Adversarial	Inquisitorial
i	Objective of trial:	Finding the 'winner'	Finding the 'truth'
ii	Role of judge:	Passive	Active
iii	Cross-examination	Conducted adversarially primarily by lawyers	Conducted neutrally, primarily by judges
v	Access to reports	Historically restrictive	Unrestrictive
iv	Legal representation	The norm	Not the norm
v	Access to reports	Historically restrictive	Unrestrictive
vi	Expert testimony:	Haphazard	Integral to the system
vii	Witness Stress:	High	Relatively low
viii	Level of Conflict	Relatively high	Relatively low

(Source: McGrath, 1998)

A. Objective of Trial

In the adversarial system, the emphasis is on winning. This emphasis is important when one considers what difficult choices have to be made. Very often, as Louis Blom-Cooper stated in the Jasmine Beckford Inquiry:

> The issues involved are rarely simple, and the choice facing social workers is often not between a wholly satisfactory family setting and an idyllic alternative, but the choice between two imperfect and uncertain options (London Borough of Brent, 1985).

In the US, Weinstein (1997) has pointed out that the win-lose nature of the adversarial approach has the effect of forcing

> the parties into fixed positions from which it may be difficult to retreat. In the child protection arena, this may mean that social workers are required to take more extreme positions in their cases than they might otherwise, in order to defend their positions in the court room. In the family custody situation, parents may make extreme allegations about their ex-spouses to ensure victory (p.87)

The inquisitorial system seeks to bring reason to bear on the proceedings and is, in essence, an *inquiry,* rather than a *contest*. This difference is significant. Given the complexity of cases and the uncertainty this brings, the best that can be hoped for is that the court system can aid in the important decision-making process about children's lives. The courts are the final arbiters when voluntary arrangements cannot be arrived at. In this context, "winning" is not a useful concept.

B. Role of the Judge

The adversarial system "is premised on the view that the truth is best elicited when two sides to a dispute pitch their wits and skills against each other in eliciting evidence; and where the judge's

role is much diminished insofar as she or he is not allowed to come into the arena by taking over the examination of witnesses" (Law Reform Commission, 1996, p. 74). Thus, the judge's role is passive, rather than active. The lawyers acting for the protagonists largely determine the way the case is conducted. They are the principal questioners of the witnesses and act in a deliberately partisan fashion. They attempt to steer the witnesses in the direction of saying only what they want said, nothing less and certainly nothing more.

In the inquisitorial system, the judge's role is active rather than passive. He/she has a huge influence on what evidence is introduced and takes a strong managerial role in determining the pace and tone of the trial. Judges act as the primary questioners of the witnesses, in a neutral way. The evidence given is primarily elicited in a non-adversarial style and is, therefore, potentially much less stressful. It is also expected that the same judge will stay with the case, over time. This is seen as significant as "it makes it more possible and more likely for the discourse of welfare to displace the legal discourse" (Hetherington *et al,* 1997, p. 101)

It is also noteworthy that in the Dutch system it is possible to appoint specially trained judges, on a "part-time" basis, as appeal judges in the Dutch High Court (van Montfoort, cited in McGrath, 1998). These are highly qualified professionals (e.g. social work or psychology), but who are also qualified lawyers. This is a striking difference between the two systems. These appointments recognise that the key knowledge required in adjudicating on very complex child care matters is not legal knowledge. It is very rare, in a child care case, for the law to be in dispute but the "facts" or opinions on what is in the best interests of the child, are almost always in conflict. Such a judicial appointment could not occur in the Common Law system.

C. Cross-Examination

In the adversarial system, "the aims of cross examination are basically twofold: (a) to advance your own case; and (b) to undermine your opponent's case" (Council for Legal Education, 1991, p. 237). Such attacking words are the language of adversary in action and emphasise the point made earlier that the priority, as

in a boxing match, is to win by scoring points off one's opponent. It is expected that lawyers are free to put exaggerated, if not outlandish, propositions to witnesses. They can, for example, essentially accuse witnesses of lying or being deceitful, without any evidence of this. Such an approach has, until recently, equally applied to children as witnesses, in criminal matters.

In the inquisitorial system, however, witnesses generally, but children in particular, are much protected. Far greater reliance is made of written reports from police and professionals, which prevents aggressive confrontation, by allowing the children's statements to be used as evidence, rather than depending on oral evidence. Likewise for parents involved in care proceedings, while they find being in court very stressful, the system is perceived as being less oppressive.

For professional witnesses too, there is much reduced stress in the inquisitorial system, due in large measure to the neutral questioning of the judge. The reports of other professionals are admitted as evidence without the necessity of oral evidence to back them up, which means that they find it easier to continue therapeutic work with the families afterwards.

D. Access to Reports

In the adversarial system, efforts are routinely made, as a matter of course, to exclude information that is unfavourable to the interests of each side in the dispute. Only those reports that are seen as favourable to each side are presented, in the first instance. If admitted, reports of the "opposition" are then scrutinised for possible weaknesses. One Irish barrister known to this writer refers to this process as "filleting reports for inadmissible evidence." This in-depth exploration of *any* report from the "enemy," even if not central to the dispute, offers the opportunity for many skirmishes that may wield the chance to score points or make the "opposing" witnesses appear to lack credibility. This is particularly so with expert witnesses.

In the inquisitorial system, any available written reports considered relevant to the inquiry are included as evidence, as a matter of routine. In the Netherlands reports supplied by Child

Protection Board, social workers form the basis of the case, incorporating other professional reports, rather than relying strictly on the oral evidence of those who wrote them. A social worker is questioned on her/his report, but not each and every line of it. This means it is not necessary to tortuously go over each and every point in the various reports, but to concentrate instead on the most contentious elements.

E. Legal Representation

In Ireland, it is now the norm in child care proceedings to have one, if not two, legal teams representing the parents; as well as the health board legal team and possibly a court-appointed guardian *ad litem* and his/her legal team. Under Section 25 (2) of the 1991 Child Care Act, a child can also be separately legally represented in care proceedings. Thus, it is quite possible to have up to five legal teams involved in an individual case. Obviously, the more legal teams operating in the court room arena, the greater the scope for protracted legal argument, with much re-hashing of evidence with each witness.

In the Netherlands, it is quite common for neither the Child Protection Board nor the parents of the children to be legally represented (Hetherington *et al,* 1997, p. 100). This emphasises the informal nature of the legal proceedings. The reason given for this by Dutch child protection professionals is that it is more of a therapeutic than a confronting process (McGrath, 1998).

F. Expert Testimony

In the adversarial system, experts may be called to give evidence in cases "on any matter which is likely to be outside the knowledge and experience of the judge or jury" (Spencer and Flin 1993, p. 251). Even here, however, the adversarial nature of the way that cases are conducted creates hostility towards professional witnesses and tends to pit the testimony of such witnesses against each other. For example, lawyers are taught that the aim of cross-examining an expert witness "is to cast doubt upon the expert's experience, methods or opinion" (Council of Legal Education, 1991, p. 244).

One training manual for barristers (Council of Legal Education, 1991) sets out eight different ways of exposing the "possible weaknesses" of experts, apart from the actual content of their reports. For example, one suggestion given is to invite the witness to try to explain technical terms in simple language, stating that "some find this difficult" (p. 244), thus making the witness appear less credible.

In the inquisitorial system, extensive use is made of Statement Validity Analysis (SVA). This technique originated in Germany in the early part of this century. It is a procedure whereby, in court cases involving children, specially trained experts offer the court an opinion on the credibility of the child's statement. This opinion can then be introduced as evidence. It is now extensively used in European countries (Spencer and Flin 1993, p. 243). The use of this technique was first recommended for cases involving sexual offences against children by an international conference in Berlin in 1921 (Gorphe, 1927, p. 164).

G. Levels of Conflict and H. Witness Stress

Given the nature of proceedings concerning children, considerable conflict and, therefore, considerable stress are inevitable. In recent times, much has been written aimed at helping professionals cope with the stress of appearing as witnesses (e.g. Livesey, 1990; Carson, 1990; McGuinness, 1991; McCormack, 1992, McGrath, 1992).

The writer's own experience of the adversarial system, when compared to his research in the Netherlands, indicates that there is much less conflict, and therefore less stress, for all concerned in the inquisitorial system. For example, Dutch witnesses spend far less time in the witness box under cross examination (McGrath, 1998)

XI. CONCLUSIONS

This paper has proposed that the adversarial legal system, because of its reliance on conflict, is an unsuitable one for dealing with child care proceedings. The inquisitorial system - as exemplified by the Dutch model - while not a perfect system of trial, has many advantages over its Irish counterpart. There are indications that, in

Ireland, the legal climate concerning child care proceedings may be becoming more conflictual, with increasing levels of stress for the parties to these disputes, especially the children and their parents.

While conflict in child care proceedings is inevitable and such cases cannot be decided by agreement, it is self-evident that the means of resolving such disputes should contain as little additional conflict as possible. The adversarial system, by its nature, accentuates the existing conflict between the parties. The essential belief in the system among lawyers is that, without attrition between the parties, there can be no confidence that the rights of all concerned have been upheld.

On the other hand, the inquisitorial system relies less on conflict and more on reason to ascertain "truth." The writer's own research (McGrath, 1998) has found that, generally speaking, the Dutch inquisitorial system - while not without its deficiencies - does seem to have distinct advantages over its adversarial counterpart.

The writer has identified a number of measures which could make significant differences in this area.

1. The first would be to introduce a constitutional change in line with the recommendations of the Kilkenny Inquiry (McGuinness, 1993) to establish, once and for all, the "paramountcy principle," i.e., that the best interests of children shall prevail in all legal disputes.
2. Secondly, it should be recognised that the *way* the law is implemented is just as important as the content of the law itself, in terms of its practical effect. The adoption of a truly inquisitorial approach in child protection cases, akin to the Dutch system, would be a positive step in this regard. The Dutch system, as an example of the inquisitorial system, is not a perfect method of trial but, compared to the adversarial model, has much to commend it. The approach is more rational, less stressful and demands a more conciliatory approach by all involved.
3. While major structural reform is awaited, Irish judges could make the present system work more smoothly by adopting a

better system of case management, in line with the recommendations of the Law Reform Commission's report on the Family Courts (Law Reform Commission, 1996).

Bibliography:

Buckley, H. (1996) "Child Abuse Guidelines in Ireland", *Administration*, Vol. 44 No. 2 pp 37-56.

Buckley, H. (1997) "Child Protection in Ireland", in Harder, M. & Pringle, P. (Eds) *Protecting Children in Europe*, Aalborg, Denmark: Aalborg University Press.

Carson, D. (1990) *Professionals and the Courts - A Handbook for Expert Witnesses*, Birmingham: Venture Press.

Cerezo, M. A., McGrath, K. & Lamers-Winkelman, F. (2003) Perpetrators and Victims of Child Sexual Abuse: Identifying the legal obstacles to rehabilitation in three European countries. In C. Cahal-May & A. Herzcog (Eds) *Child Sexual Abuse in Europe*. Strasbourg: Council of Europe Publishing

Department of Health (Various years) *Survey of Children in Care in Health Boards,* Dublin: Child Care Division, Department of Health.

Ferguson, H (1996) "Protecting Irish Children in Time: Child Abuse as a Social Problem and the Development of the Child Protection System in the Republic of Ireland", *Administration*, Vol. 44 No. 2 pp 5-36.

Gilligan, R. (1992) "Implementing the Child Care Act 1991: A Review of Resource Implications", *Irish Social Worker*, Vol. 10 No. 4, pp 7-10.

Hetherington, R., Cooper A., Smith, P. and Wilford, G. (1997) *Protecting Children - Messages from Europe*, Lyme Regis: Russell House Publishing.

Lamers-Winkelman, F. (1996) "Truth stranger than fiction: the unbelievable story of child witnesses. Going back to the future" in *Proceedings of the International Conference, Violence in the Family - Amsterdam 13-15 Oct 1994*, Brussels: International Council of Women.

Lamers-Winkelman, F. & Buffing, F. (1996) "Testimony in the Netherlands ". In B.L. Bottoms & G. Goodman (Eds) *International Perspectives on Child Abuse and Children's Testimony* . London: Sage.

Law Reform Commission(1996) *Family Courts*, Dublin: Law Reform Commission.

London Borough of Brent (1985) *A Child in Trust: The Report of the Panel of inquiry into the Circumstances Surrounding the death of Jasmine Beckford,* London: HMSO.

Livesey, B. (1990) *Giving Evidence in Court*, Bradford: British Association for the Study and Prevention of Child Abuse and Neglect.

Lunny, L. (1997) *Report of the Eastern Health-Impact Review Group on Child Care & Family Support Services*, Dublin: Eastern Health Board.

McCormack, H. (1992) *Expert Evidence in Child Sexual Abuse Cases*, Toronto: Institute of Prevention of Child Abuse.

McGrath, K. (1992) "Examination and Cross-examination: Survival Strategies". Unpublished paper given to Association of Child Psychology and Psychiatry conference, Dublin (February).

McGrath, K. (1996) "Mandatory Reporting of Suspected Child Abuse - Would the Drawbacks Outweigh the Benefits for Irish Children?" *Medico-Legal Journal of Ireland*. Vol. 2 No 2 pp 44-46

McGrath, K. (1997) *An examination of the Adversarial Legal System and its implications for Irish Child Protections Services*, Unpublished M.Soc. Sc., thesis, University College Dublin.

McGrath, K. (1998) "The Dutch Inquisitorial Legal System: What lessons has it for the Child Protection Services within an Adversarial System?". *Irish Journal of Social Work Research*. 1:2: 43-65.

McGuinness, C. (1991) "Social Work and the Law", *Irish Social Worker*, Vol. 10 No 4 pp 16-19.

McGuinness, C. (1993) *Report of the Kilkenny Incest Investigation*, Dublin: Stationery Office.

McKeown, K., Gilligan, R., Brannick, T., McGuane, B., Riordan, S., and Fitzgerald, G. (1993) *Child Sexual abuse in the Eastern Health Board region of Ireland in 1988: A statistical analysis of cases known to the community care teams and open at any time in 1988*, Dublin, Eastern Health Board.

Mallon, D. and White, C. (1995) "The Social Worker in Court", in White C. (Ed) *Law for Northern Ireland Social Workers*, Dublin: Gill & Macmillan

Masson, J. (1997) "Introducing non-punitive approaches into child protection" in Parton, N. (Ed) *Child Protection and Family Support - Tensions, contradictions and possibilities*, London: Routledge.

O'Brien, V. (1997) "A Perspective on Fostering - Relatively Speaking ". Unpublished paper given at the Irish Foster Care Association conference on fostering, Dublin. (June)

Parton, N. (1997a)*Child Protection and Family Support: Tensions, Contradictions and Possibilities,* London: Routledge

Roantree, M. (1994) "The Emotional Impact on children: Care Proceedings". Unpublished paper given to the 6th Joint St Louise & St Clare Units Annual Conference, Dublin. (20.5.'94)

Spencer, J. and Flin, R. (1993) *The Evidence of Children*, 2nd edition, London: Blackstone Press.

van Montfoort, A. (1990) "Reporting Child Abuse in the Netherlands ", Unpublished paper given the Ninth ISPCAN International Congress on Child Abuse and Neglect, Hamburg, (September).

van Montfoort, A. (1993) "The Protection of Children in the Netherlands : Between Justice and Welfare", in Ferguson, H., Gilligan, R. and Torode, R. (Eds) *Surviving Childhood Adversity - Issues for Policy and Practice*, Dublin: Social Studies Press.

Veldkamp, T. (1997) Raad voor Kinderscherming, Landelijk Bureau, Utrecht: (Personal communication.)

Ward, P. (1997) "The Irish Law of Children's Evidence - Protecting Parents". Unpublished paper given to Bar Council of Ireland Conference on the Evidence of Children, Dublin (June).

Weinstein, J. (1997) "And Never the Twain Shall Meet: The Best Interests of Children and the Adversary System", in *University of Miami Law Review*, Vol. 52 No. 79, pp 79-175.