Syllabus

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Times of Seminars: Dates in Feb-Mar 2020 tbc (see Section 3)

Note: I am based in Liverpool but feel free to email me to arrange a meeting in Galway, or to arrange a phone/skype meeting.

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1. Introduction: Children’s Rights – A Contested Area

The area of children’s rights is a compelling one. Children, formerly perceived by the law as an extension of their parents, now have an international human rights instrument outlining their rights as individuals – the UN Convention on the Rights of the Child (CRC). But what has changed? Children still lack legal autonomy for most purposes, they are the group most likely to suffer violence and poverty, and whether they enjoy CRC rights is highly dependent on the adults in their lives. In this module, we will take a critical view of the CRC, examining key issues, such as children’s rights in court and the rights of working children. We will question the relationship between parent, state and child, looking at how and whether the CRC has influenced law and practice in this area.

2. Module Details

2.1 Module Objectives
- To understand the theory underlying children’s rights;
- To be able to critically analyse the legal arguments around children’s rights;
- To evaluate the challenges and opportunities in using the CRC and other avenues to progress children’s rights;

2.2 Mode of Study
- **Seminars**: 3 hours of lecture presentation and class discussion;
- Analysis of the various international legal documents on child rights;
- Examination of literature in the area;
- Seminars are of a participatory nature to encourage free exchange of critical views and perspectives;

2.3 Core Text
- There is no core text for this module- instead a variety of sources will be used.
- See seminar overviews below for details of the literature for this module.

2.4 Preparation for Seminars

Please read the essential reading in advance of class. For many of the readings it is expected that only designated excerpts must be read. This is to ensure the task is not too onerous. Feel free to read the entire piece if you can of course. Obviously the additional reading will be hugely helpful for your preparation also. Please consider the ‘key questions’ posed in this syllabus, and informally prepare in advance thoughts and views in response to these question (perhaps in the form of bullet points) as you will be expected to contribute to class discussion.

2.5 Assessment

Students will be assessed via an essay of 3,000 words. The essay is due for submission by 3\textsuperscript{rd} May 2019. The title will be of your own choosing and will be on a theme related to
children’s rights in international and/or national law. Students will decide on their essay title based on discussions with the module co-ordinator.

3. Module Outline

<table>
<thead>
<tr>
<th>Date</th>
<th>Seminar</th>
<th>Topic</th>
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<tbody>
<tr>
<td>Fri Feb 21st</td>
<td>1</td>
<td><strong>Introduction to Children’s Rights</strong></td>
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<td>2-5pm (provisional)</td>
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<td>Sat Feb 22nd</td>
<td>2</td>
<td><strong>Children and Personal Autonomy – Voices or Choices?</strong></td>
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<td>10am-1pm (provisional)</td>
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<tr>
<td>Fri Mar 20th</td>
<td>3</td>
<td><strong>Children, Protection, Vulnerability</strong></td>
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<td>2-5pm (provisional)</td>
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<tr>
<td>Sat Mar 21st</td>
<td>4</td>
<td><strong>Children, Poverty and Exploitation</strong></td>
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<tr>
<td>10am-1pm (provisional)</td>
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4. Seminar Overviews

**Seminar 1: Children, Rights and the UNCRC**

This lecture will provide some introductory thoughts on children’s rights theory, looking at the work of those who take a strong welfare approach (and primarily think that children need protecting from themselves), and comparing it to those who think that children should have greater say in decision-making about their lives and about society generally. How these issues play out in the CRC are also considered. The contested relationship between child, parent and state is also examined. The general principles of the CRC are discussed – these principles aim to balance children’s best interests, right to be heard, right to life and right to freedom from discrimination.

**Essential Reading**

- CRC Text

**Additional Reading**

Key Questions

1. Do you think that rights for children must be different to rights for adults? Why?
2. Hafen and Hafen are of the opinion that the CRC does not sufficiently recognise the rights of parents. Do you agree?
3. Do you think that any of the rights in the CRC are more important than any others?
4. Cordero Arce proposes that we should not be bounded by the institutional framework (i.e. CRC) but … freely think it.” Do you agree the CRC is not enough?

Seminar 2: Children and Autonomy – Voices or Choices?

In this session we will examine the matter of children’s autonomy. Article 12 of the UN Convention on the Rights of the Child (CRC) aims to empower children where previously decisions were made without their input – children must be “heard” and their views given “due weight”. However the impact of this principle in legal proceedings to determine the best interest of the child (e.g. where children may be taken into state care, and where parents are in dispute) is questionable. In this seminar we will examine critical questions about the nature and power of the right to be heard in this context.

Essential Reading

- Aoife Daly, Children, Autonomy and the Courts: Beyond the Right to be Heard (Brill Nijhoff, 2018) – Introductory chapter.

Additional Reading

- Committee on the Rights of the Child, General Comment No. 12: The Right to be Heard, CRC/C/GC/12, 20 July 2009.

Key Questions

1. What do you think are important ingredients for getting child participation right?
2. Why are children **denied legal autonomy** that is fundamental to adults, and is it justifiable?
3. What does the right of children to be heard in legal proceedings really **mean** in theory and practice?
4. When (if ever) should children’s views be the **determinative** outcome in a case?
5. I argue in Daly (2018) that the ‘right to be heard’ can actually **compound children’s exclusion** from the process where decisions made about them. Do you agree?

**Seminar 3: Children, Protection, Vulnerability**

In this seminar, the vulnerabilities of children which lead to, e.g. sexual exploitation will be examined. Questions will be posed about the extent to which undue attention is given to children’s vulnerability, and not enough to the obligation to boost their capacity for autonomy through, for example, sex education and political voice. The most **ground breaking** aspect of the CRC was the inclusion of civil and political rights. In the CRC, the template of the ICCPR was used to enshrine a variety of rights for children such as freedom of expression, information, association and assembly. Yet these rights are under examined and under used.

**Essential Reading:**

**Additional Reading:**
**Key Questions**

1. How **vulnerable** are children generally, compared to other groups?
2. How do we **balance** autonomy and vulnerability?
3. How well are children protected from **exploitation**?
4. What obligations have to decrease children’s **vulnerability** through for example sex education?
5. Does the notion of ‘**participation rights**’ hinder children’s engagement in civil and political rights issues?

**Seminar 4: Children, Poverty and Exploitation**

Children are assumed to be in need of **protection** from the difficulties of the adult world. Yet millions of **children work**, many in exploitative conditions. In this seminar, we look at how poverty affects children. We also look at children’s relationship to work, examining the contested area of **minimum age standards**. If children wish to **assert a right to work**, how is the participation v protection rights issue resolved? We also ask whether children should have responsibilities for their actions in this regard, for example whether child soldiers should be held accountable for their actions.

**Essential Reading:**


**Additional Reading:**

**Key Questions**

1. When **is it ok**, if ever, for children to work (or to be soldiers)?
2. Is it justifiable that the **minimum working ages differ** slightly between industrialised and non-industrialised countries?
3. If children wish to **assert a right to work**, how is the participation v protection rights issue resolved?
4. Do you think children’s **voices are heard** sufficiently in the efforts to combat child labour?
5. Do you think the **ILO approach** – zero tolerance of child labour – is correct?
6. What is the difference between **work and labour**?
7. What responsibilities **should children take** for their actions?