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## Revitalizing Language Through Education: Ireland's Use of International Law to Drive Linguistic Preservation

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**REVITALIZING LANGUAGE THROUGH EDUCATION: IRELAND'S  
USE OF INTERNATIONAL LAW TO DRIVE LINGUISTIC  
PRESERVATION**

*Emma A. O'Connell\**

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## I. INTRODUCTION

*“Not to learn Irish is to miss the opportunity of understanding what life in this country has meant and could mean in a better future.”*<sup>1</sup>

International human rights law plays an important role in setting standards for linguistic rights and for the promotion and protection of the Irish language and culture of Ireland.<sup>2</sup> Despite its turbulent history, the Irish language continues to serve as an important vehicle of cultural expression in Ireland today, a nod to both the resilience of the Irish speaking people and considerable efforts on behalf of the Irish government to preserve the language.<sup>3</sup> Since the establishment of the Free State in 1922, Ireland has taken progressive steps to ensure that linguistic principles reflected in international law are emulated through its own domestic acts and policies.<sup>4</sup> The use of the education system as an agency for preserving this unique linguistic heritage, primarily through the development of Irish-medium education, has been a priority of the

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<sup>1</sup> Rafik Massoudi, *Narrating Irish Identity: Reviving ‘Irishness’ in the Works of William Butler Yeats and Seamus Heaney*, 10 INT’L J. OF SOC., BEHAV., EDUC., ECON., BUS. & INDUS. ENG., 1347, 1349 (2016). Seamus Heaney, born in rural Northern Ireland in 1939, was the author of over 20 columns of poetry and criticism. He won the Nobel Prize for Literature in 1995 “for works of lyrical beauty and ethical depth, which exalt everyday miracles and the living past” and has been described as “the poet who has shown the finest art in presenting a coherent vision of Ireland, past and present.” Joe Biden has frequently quoted Heaney. To mark his 2020 presidential victory, he read his favorite passage from *The Cure at Troy*, urging the United States to “hope for a great sea-change / On the far side of revenge.” *Seamus Heaney*, POETRY FOUNDATION, <https://www.poetryfoundation.org/poets/seamus-heaney> (last visited Dec. 6, 2020).

<sup>2</sup> Dymna Glendenning, *Linguistic Rights in Compulsory Education: Country Report: Ireland*, 10 INT’L J. EDUC. L. & POL’Y, 91 (2014).

<sup>3</sup> T.J. Ó Ceallaigh & Áine Ní Dhonnabhain, *Reawakening the Irish Language through the Irish Education System: Challenges and Priorities*, 8(2) INT’L J. OF ELEMENTARY EDUC., 179, 180 (2015).

<sup>4</sup> John Walsh, *Enactments Concerning the Irish Language, 1922-2016*, 39 DUBLIN U. L.J. 449, 450-451 (2016).

Irish-language revival movement.<sup>5</sup> The Irish government's commitment to international language laws and their subsequent implementation into domestic legislation, in tandem with the concerted efforts of the local language community, has elevated Ireland to center stage as an international example for the successful preservation of cultural heritage through the use of the education system.<sup>6</sup>

The first part of this article highlights the importance of preserving cultural heritage, specifically through the promotion of linguistic rights, as it relates to the unique role that the Irish language plays in cultural identity. It will also examine the education system and the central role that children play in the preservation of the Irish language and culture. Some key international human rights laws will next be considered as they relate to supporting language rights, both in a broad sense, as well as how they specifically relate to education. The purpose of this section is to illustrate the shift which occurred at the international level from general, universal recognitions of basic human rights, to more specific adoptions of direct rights to culture and language. The article will then examine Ireland's ratification and implementation of these laws through domestic legislation and policies, with a focus on its use of the education system as an agency for language revitalization. Finally, to conclude, this article will commend Ireland's vigorous efforts to preserve its cultural heritage through the incorporation of international language laws and by capitalizing on its resources, specifically schools, to promote linguistic retention through the children of Ireland.

## II. BACKGROUND

### A. *Preserving the Irish Language: Cultural Heritage and Linguistic Rights*

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<sup>5</sup> *Id.* at 182.

<sup>6</sup> Elizabeth Craig, *Irish-Language Education and the Council of Europe's Minority Treaties*, 58 N. IR. LEGAL. Q. 121, 123 (2007).

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Culture has been described as part of the “immutable web of what a society is and does.”<sup>7</sup> Through culture, people and groups define themselves. It what a society creates, values, and believes, encompassing “the tribal dance, the sacred ground, the strain of rice, the herbal remedy, the architecture, the flora and the fauna and the oral tradition.”<sup>8</sup> Cultural heritage links the past, present, and future.<sup>9</sup> Not only does it strengthen national identity, but cultural heritage is also internationally significant in that it helps foster an appreciation for cultural diversity and an understanding of our past.<sup>10</sup> It has been said that “when cultural heritage is sacrificed, it is likely that many other aspects of life that mark us as human beings are also being sacrificed.”<sup>11</sup> The ability to take part in cultural life guarantees the freedom to access, participate in, and enjoy culture, cultural heritage, and cultural expressions.<sup>12</sup> While there is no official definition of cultural rights, the Office of the High Commissioner for Human Rights has stated:

Cultural rights protect the rights for each person, individually and in community with others, as well as groups of people, to develop and express their humanity, their world view and the meanings they give to their existence and their development through, inter alia, values, beliefs, convictions,

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<sup>7</sup> Patty Gerstenblith, *Identity and Cultural Property: The Protection of Cultural Property in the United States*, 75 B.U. L. REV. 559, 561 (1995).

<sup>8</sup> *Ibid.*

<sup>9</sup> *Right to Participate in Cultural Life*, UNESCO AND HUMAN RIGHTS, <https://en.unesco.org/human-rights> (last visited Dec. 6, 2020).

<sup>10</sup> Erika J. Techera, *Protection of Cultural Heritage Times of Armed Conflict: The International Legal Framework Revisited*, 4 MACQUARIE J. INT'L & COMP. ENVTL. L. 1 (2007).

<sup>11</sup> Patty Gerstenblith, *From Bamiyan to Baghdad: Warfare and the Preservation of Cultural Heritage at the Beginning of the 21st Century*, 37 GEO. J. INT'L L. 245, 351 (2006).

<sup>12</sup> U.N. HRC, 17th Sess., Agenda item 3 at 3, U.N. Doc. A/HRC/17/38 (March 21, 2011).

languages, knowledge and the arts, institutions and ways of life.<sup>13</sup>

These rights also protect access to cultural heritage and resources that allow such development and expression to take place.<sup>14</sup> Cultural heritage does not end at tangible objects, such as monuments or collections of objects.<sup>15</sup> It also includes intangible cultural heritage made up of “oral traditions, performing arts, social practices, rituals, festive events, knowledge and practices concerning nature and the universe or the knowledge and skills to produce traditional crafts.”<sup>16</sup> The use of a particular language not only serves as a means of communication, but also “expresses that person’s cultural identity as well as the cultural heritage developed

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<sup>13</sup> *International Standards*, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, <https://www.ohchr.org/en/issues/culturalrights/pages/internationalstandards.aspx> (last visited Dec. 6, 2020). The Office of the High Commissioner for Human Rights is the leading UN entity on human rights, representing the world’s commitment to the promotion and protection of the rights and freedoms set out in the Universal Declaration of Human Rights. *Who We Are: An Overview*, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, <https://www.ohchr.org/EN/AboutUs/Pages/WhoWeAre.aspx> (last visited Dec. 6, 2020).

<sup>14</sup> *Ibid.*

<sup>15</sup> *What is Intangible Cultural Heritage?*, UNITED NATIONS EDUCATION, SCIENTIFIC AND CULTURAL ORGANIZATION, <https://ich.unesco.org/en/what-is-intangible-heritage-00003> (last visited Dec. 6, 2020).

<sup>16</sup> *Ibid.* Adopted in 2003, the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage is the first binding multilateral instrument intended to safeguard and raise the profile of intangible cultural heritage. Ireland subsequently ratified the 2003 Convention on December 22, 2015. It is important to note that, although language is important to the intangible heritage of Ireland, the protection and preservation of individual languages is beyond the scope of the 2003 Convention, which only includes individual languages as a *means* of transmitting intangible heritage. For example, oral traditions and expressions such as proverbs, riddles, poems, chants, and more. Ireland has, however, inscribed three cultural practices of intangible heritage on the Convention’s List, including Irish harping, hurling, and Uilleann piping. *Browse the Lists of Intangible Cultural Heritage*, UNITED NATIONS EDUCATION, SCIENTIFIC AND CULTURAL ORGANIZATION, <https://ich.unesco.org/en/lists> (last visited Dec. 6, 2020).

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by all previous speakers of the language.”<sup>17</sup> To be kept alive, the promotion of linguistic rights must be considered when protecting and preserving cultural heritage. However, protecting linguistic rights does not mean “freezing” the language in a fixed form.<sup>18</sup> Rather, safeguarding cultural heritage, specifically language, is about transferring the knowledge, skills, meaning, and importance surrounding it from generation to generation.<sup>19</sup> Recognizing the importance that people place on their own language “fosters the kind of true participation in development that achieves lasting results.”<sup>20</sup>

The Irish language, one of the oldest written languages in the world, is of crucial importance to the identity of the Irish people, their culture, and to world heritage.<sup>21</sup> It serves as an important vehicle of cultural expression in Ireland. Thomas Davis, an Irish poet, contended that “a people without language is only half a nation.”<sup>22</sup> Yet, a look at the turbulent history of the Irish language makes its existence today even more remarkable. In Ireland, with its long and troubled past of colonization, linguistic rights have always been sensitive nationally, culturally, and politically.<sup>23</sup> Irish was established as the dominant language in Ireland in the 5th Century A.D.<sup>24</sup> However, as the English rule was consolidated in Ireland in the 16th and 17th Centuries, the structures of the Gaelic

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<sup>17</sup> Susanna Mancini & Bruno de Witte, *Language Rights as Cultural Rights: A European Perspective*, CULTURAL HUM. RTS. 247 (2008).

<sup>18</sup> Safeguarding with Freezing, UNITED NATIONS EDUCATION, SCIENTIFIC AND CULTURAL ORGANIZATION, <https://ich.unesco.org/en/home> (last visited Dec. 7, 2020).

<sup>19</sup> *Ibid.*

<sup>20</sup> UNESCO Office Bangkok and Regional Bureau for Education in Asia and the Pacific, *Why Language Matters for the Millennium Development Goals*, 1 (2012).

<sup>21</sup> *Fifteen Surprising Facts That Will Make You Appreciate the Irish Language Even More*, THE IRISH POST, <https://www.irishpost.com/life-style/15-surprising-facts-about-the-irish-language-you-may-not-know-92707> (last visited Dec. 7, 2020).

<sup>22</sup> Glendenning, *supra* note 2.

<sup>23</sup> *Ibid.*

<sup>24</sup> *About the Language*, AN COIMISINÉIR TEANGA, <https://www.coimisineir.ie/faoin-teanga?lang=EN> (last visited Dec. 7, 2020).

society were destroyed, and with it their linguistic rights, resulting in less than 50% of the population speaking Irish by the 18th Century, a population which consisted primarily of the rural poor.<sup>25</sup> Decimated by the Great Famine of 1845 and subsequent emigration, this small Irish speaking group consisted of only 1% of the population by the end of the 19th Century.<sup>26</sup> Nonetheless, following the establishment of the Free State in 1922, Ireland has and continues to develop and adopt policies in order to revive linguistic rights as they relate to the Irish language, as discussed in the following sections.<sup>27</sup>

As illustrated above, the Irish language represents a form of intangible cultural heritage in Ireland. Recognized as a “symbol of identity” for a majority of the population, the Irish language is not only considered to be an important part of their heritage, but is a part of their own personal identity.<sup>28</sup> Throughout the 20th Century, the Irish society underwent rapid reform and reconstruction, yet national identity remained at the heart of justifications for reviving the Irish language.<sup>29</sup> Arguments in support for preserving the language were founded on the claim that “people learn Irish and support its promotion because of the sense of identity.”<sup>30</sup> After all, “Is fearr Gaeilge bhriste ná Béarla cliste.”<sup>31</sup>

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<sup>25</sup> *Id.*

<sup>26</sup> *Ibid.*

<sup>27</sup> Surveys show that the efforts are working, revealing a high level of support for Irish as symbol of identity. According to the 2011 Census, 1.77 million people (41% of the population) over the age of three defined themselves as Irish speakers. Additionally, 77,185 people said they spoke Irish on a daily basis. *About the Language*, AN COIMISINÉIR TEANGA, <https://www.coimisineir.ie/faoin-teanga?lang=EN> (last visited Dec. 7, 2020).

<sup>28</sup> Ceallaigh, *supra* note 3, at 184.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> Meaning “*broken Irish is better than clever English.*” On President Obama’s visit in May 2011, following a pint of Guinness in the local pub in Moneygall, a small village in Ireland, he spoke Irish and used this saying. The message is essentially “use whatever Irish you have, no matter how poor.” Jesse Lee, *President Obama in Dublin: “Never Has a Nation So Small Inspired So Much in Another”*, THE WHITE HOUSE PRESIDENT BARACK OBAMA (May 23, 2011), <https://obamawhitehouse.archives.gov/blog/2011/05/23/president-obama->



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The use of the education system as an agency for preserving cultural heritage, primarily through the development of Irish-medium education, has been a priority of the Irish-language revival movement.<sup>32</sup> Education is one of the fundamental means for the inheritance and development of cultural heritage, and helps guarantee the long-term recognition of a language.<sup>33</sup> As stated by Kevin Donoghue, President of the Union of Students in Ireland, “Apart from the fact that fluency in our national language is a vibrant expression of our national identity, and preserves the direct descendant of one of the most ancient languages in Europe, dual language immersion provides a unique and powerful opportunity to strengthen children’s highest cognitive brain potentials through deliberate literacy development in two languages.”<sup>34</sup> This is illustrated through a recent study, which revealed a number of positive results in connection with the use of a minority language as a medium of instruction, including enhanced self-confidence, self-esteem and classroom participation, higher levels of achievement, and greater fluency and literacy abilities.<sup>35</sup> In teaching the Irish language, schools play a crucial role in supporting the maintenance and preservation of the language through a child’s education. Quality public education in a minority language should be “extended to as late a stage in education as possible, up to and including public university education where practicable.”<sup>36</sup> Accordingly, every government funded school in Ireland is mandated to have Irish studies from primary through

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dublin-never-has-nation-so-small-inspired-so-much-another (last visited Dec. 7, 2020).

<sup>32</sup> Ceallaigh, *supra* note 3, at 180.

<sup>33</sup> Rhona K. M. Smith, *Moving Towards Articulating Linguistic Rights - New Developments in Europe*, 8 MICH. ST. U. J. INT'L L. 437 (1999).

<sup>34</sup> *Is the Irish language still important?*, STUDENT INTERNATIONAL NEWS, <http://www.sin.ie/2016/01/12/is-the-irish-language-still-important/> (last visited Dec. 7, 2020).

<sup>35</sup> *Improving the Quality of Mother Tongue-based Literacy and Learning: Case Studies from Asia, Africa and South America*, UNESCO BANGKOK, 2008.

<sup>36</sup> *Education in a multilingual world: UNESCO education position paper*, UNESCO, ED.2003/WS/2 (2003).

secondary school.<sup>37</sup> This means Irish lessons are compulsory in schools in Ireland until the age of 18.<sup>38</sup> By receiving instruction in the Irish language, children in Ireland are of “central importance to the preservation of the language and the tradition of the culture conveyed through them to subsequent generations.”<sup>39</sup>

In conclusion, despite the hurdles of its past, the Irish language represents resilience, a trait also reflected in the Irish people, though its existence today. As part of the “immutable web” of Irish society, the language embodies the oral traditions of Ireland’s past, present, and future.<sup>40</sup> Though the use of the education system, primarily, the development of Irish-medium education, Ireland has focused on children as a means for preserving the Irish language as an expression of national identity.<sup>41</sup> To achieve this result, Ireland has looked to international instruments, which lay the foundation for language-related and educational interests, as discussed below.

#### *B. Law, Language, and Learning: International Instruments on Language and Education*

As explained above, language is an important vehicle of cultural expression and serves as a central element of Irish identity. The promotion and protection of language rights, especially through the education of children, is required to ensure linguistic and cultural survival. However, state obligations under international law are a relatively recent development.<sup>42</sup> Linguistic

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<sup>37</sup> Esti Lodge, *Language Activism in Ireland*, <https://glst490.atavist.com/language-activism-in-ireland> (last visited Dec. 7, 2020).

<sup>38</sup> *Ibid.*

<sup>39</sup> Hao Wanyuan, *Linguistic Rights of Minorities in Education in International Instruments and Chinese Legislation* (Sept. 29, 2016), [http://www.chinahumanrights.org/html/2016/PAPERS\\_0929/5845.html](http://www.chinahumanrights.org/html/2016/PAPERS_0929/5845.html) (last visited Dec. 7, 2020).

<sup>40</sup> Gerstenblith, *supra* note 7.

<sup>41</sup> Ceallaigh, *supra* note 3, at 180.

<sup>42</sup> Northern Ireland Human Rights Commission, *Minority Language Rights - The Irish language and Ulster Scots*, BRIEFING PAPER ON THE IMPLICATIONS OF THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES, EUROPEAN CONVENTION ON HUMAN RIGHTS AND OTHER INSTRUMENTS (June 2010).

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rights have historically been suppressed by national or colonial “projects” of powerful nation states, which saw linguistic unity as a prerequisite to the creation of a civilized state.<sup>43</sup> Even today, there is no international law specifically dedicated to the preservation of linguistic rights through the education system. However, as discussed below, several international laws touch upon language-related and educational interests. By laying a foundation for linguistic rights, these pave the way for the promotion of language in schools as part of a larger policy of maintaining culture.<sup>44</sup>

*C. Development of Linguistic and Educational Rights under International Law*

The Universal Declaration of Human Rights (“UDHR”), generally agreed to be the foundation of international human rights law, was one of the first international instruments to provide footing for later, more specific, linguistic-rights related laws.<sup>45</sup> Adopted by the United Nations General Assembly in 1948, the UDHR represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, regardless of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>46</sup> Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the UDHR sets out, for the first

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<sup>43</sup> *Ibid.* Linguistic imperialism is a term used to describe the exploitation of the ideological, cultural and elitist power of English for the economic and political advantage by the dominant English-speaking cultures. A further definition is “discrimination based on language that unfairly treats certain linguistic communities, or unfairly advantages some languages over others.” Rose, H., Conama, J.B., *Linguistic imperialism: still a valid construct in relation to language policy for Irish Sign Language*, 17 LANG. POL’Y, 385 (2018). The aim of European imperialism and colonialism was to expand the economic and power base of European nations and to assert their superiority.

<sup>44</sup> Glendenning, *supra* note 2, at 94.

<sup>45</sup> *Human Rights Law*, UNITED NATIONS, <https://www.un.org/en/sections/universal-declaration/human-rights-law/index.html> (last visited Dec. 7, 2020).

<sup>46</sup> Universal Declaration of Human Rights, Dec. 10, 1948, G.A. Res. 217A, U.N. GAOR, 3d Sess., Pt. 1, Resolutions, at 71, U.N. Doc. A/810 (1948) (hereinafter UDHR).

time, fundamental human rights to be universally protected.<sup>47</sup> As a member of the United Nations, Ireland is expected to uphold its principles, including those set forth in the UDHR.<sup>48</sup> While the UDHR doesn't specifically set forth standards for linguistic rights in education, it does set out the principle that everyone has the right to education, and further, that no one should be denied certain basic rights on the grounds of language.<sup>49</sup> Although not legally binding, the commitments enshrined in the UDHR have been translated into binding law, including treaties, customary international law, regional agreements, and domestic law, as illustrated below.

Similar provisions appear in the European Convention for the Protection of Human Rights and Fundamental Freedoms ("ECHR"), which entered into force on September 3, 1953, and was considered to be the "first agreement ever made in which national states have submitted human rights to a system of binding international legal controls."<sup>50</sup> Ireland was one of the first signatories of the ECHR, and ratified it on February 25, 1953.<sup>51</sup> While the ECHR, like the UDHR, provides no specific linguistic rights provision, Article 14 of the ECHR protects the same

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<sup>47</sup> See UDHR, *supra* note 46.

<sup>48</sup> *Human Rights Explained: Guide to Human Rights Law*, IRISH HUMAN RIGHTS AND EQUALITY COMMISSION (first published in Sept. 2015) [https://www.ihrec.ie/download/pdf/ihrec\\_human\\_rights\\_explained.pdf](https://www.ihrec.ie/download/pdf/ihrec_human_rights_explained.pdf) (last visited Dec. 7, 2020). Through its membership of the UN, Ireland has played a significant role in the promotion of democracy, equality, peace, and development. *Ireland at the United Nations*, DEPARTMENT OF FOREIGN AFFAIRS (May 2015), <https://www.dfa.ie/our-role-policies/our-work/casestudiesarchive/2015/may/ireland-at-the-united-nations/> (last visited Dec. 7, 2020).

<sup>49</sup> Donall O. Riagain, *The Importance of Linguistic Rights for Speakers of Lesser Used Languages*, 6 INT'L J. ON MINORITY & GROUP RTS., 289, 292 (1999).

<sup>50</sup> William K. Coblenz & Robert S. Warshaw, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 44 CALIF. L. REV. 94, 102 (1956).

<sup>51</sup> *The European Convention on Human Rights in Ireland*, IRISH COUNCIL FOR CIVIL LIBERTIES (2010), [https://www.iccl.ie/wp-content/uploads/2017/11/ICCL\\_KYR\\_EURO\\_LR\\_2010.pdf](https://www.iccl.ie/wp-content/uploads/2017/11/ICCL_KYR_EURO_LR_2010.pdf).

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freedom from discrimination rights enshrined in the UDHR, including those based on “sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”<sup>52</sup> Despite this general protection, excluding linguistic rights represents a significant constraint. Where language is mentioned, it is within the context of protecting another right rather than promoting the right to speak one’s language.<sup>53</sup> As a result, it has been argued that this provision is too narrow: “Article 14 of the ECHR only has an accessory character in that the prohibition of discrimination must be invoked in combination with other rights enshrined in the convention.”<sup>54</sup>

Like the UDHR, the ECHR is similarly silent on the topic of language instruction in schools.<sup>55</sup> Representing significant disagreements involving the text supporting a right to education, the drafters withheld the inclusion of this right in order to avoid delay in signing the ECHR.<sup>56</sup> As a result, Article 2 of Protocol 1 (the Enforcement of Certain Rights and Freedoms Not Included in Section 1 of the European Convention on Human Rights) states, “No person shall be denied the right to education.”<sup>57</sup> This provision reflects a general right to education, rather than a specific right to education in a particular language.

Building on the achievements of the UDHR and ECHR, the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social

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<sup>52</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221, available at <https://www.coe.int/en/web/conventions/> [hereinafter ECHR].

<sup>53</sup> Katherine Williams & Bernadette Rainey, *Language, Education and the European Convention on Human Rights in the Twenty-First Century*, 22 *LEGAL STUD.* 625, 629 (2002).

<sup>54</sup> Moria Paz, *The Failed Promise of Language Rights: A Critique of the International Language Rights Regime*, 54 *HARV. INT’L L.J.* 157, 177 (2013).

<sup>55</sup> See ECHR, *supra* note 52, Art. 2.

<sup>56</sup> Williams, *supra* note 53, at 629.

<sup>57</sup> Council of Europe, Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms as Amended by Protocol No. 11 art. 2, Mar. 20, 1952.

and Cultural Rights (“ICESCR”), two of the most widely ratified human rights instruments, reflect extensive efforts made by the United Nations to commit states to protect direct rights to culture and language, beyond the broad guarantees of non-discrimination previously seen.<sup>58</sup> The two Covenants developed and expanded most of the rights already proscribed by the UDHR, making them effectively binding on state parties.<sup>59</sup> As opposed to the general non-discrimination provisions included in the UDHR and ECHR, the ICCPR and ICESCR represent a more focused and specialized approach regarding the protection of cultural rights.

With 173 state parties, including Ireland, the ICCPR provides a range of protections for civil and political rights.<sup>60</sup> With respect to the promotion of language rights, Article 27 of the ICCPR provides, “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”<sup>61</sup> Referred to as part of the “International Bill of Rights,” this illustrated a noticeable shift towards the adoption of a direct right to culture and language that went beyond the guarantees of non-discrimination and the protection of individual rights.<sup>62</sup> The United Nations Human Rights Committee (“UNHRC”), a body of independent experts that monitors implementation of the ICCPR by its State parties, has stated that the protection of human rights, including language rights, “is directed towards ensuring the

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<sup>58</sup> *International Human Rights Law*, UNITED FOR HUMAN RIGHTS, <https://www.humanrights.com/what-are-human-rights/international-human-rights-law/international-human-rights-law-continued.html> (last visited Dec. 7, 2020).

<sup>59</sup> Human Rights Law, *supra* note 45.

<sup>60</sup> International Covenant on Civil and Political Rights, United Nations Treaty Collection, [https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=\\_en&mtdsg\\_no=IV-4&src=IND](https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND) (As of December 7, 2020).

<sup>61</sup> International Covenant on Civil and Political Rights art. 27, Dec. 16, 1966, 999 U.N.T.S. 172 (hereinafter ICCPR).

<sup>62</sup> Paz, *supra* note 54, at 171.

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survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole.”<sup>63</sup>

While the ICCPR appears to make strides in the promotion of linguistic rights, it is silent on the topic of providing language instruction in schools.<sup>64</sup> Although it contains no specific ties between linguistic rights and education, in 2009, the UNHRC stated, “in the context of Article 27 of the ICCPR, education in a minority language is a fundamental part of minority culture.”<sup>65</sup> Despite its failure to delineate specific rights afforded to a minority language in the educational context, it redeems itself by being one of the first international human rights instruments to afford special protection to the rights of the child.<sup>66</sup> Notably, Article 24 of the ICCPR states: “Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”<sup>67</sup> While this provision appears to reflect progress towards the promotion of linguistic rights in children, it fails to specifically preserve cultural heritage through the right to receive an education in a minority language.<sup>68</sup>

Adopted on December 16, 1966, the ICESCR entered into force on January 3, 1976 as a mechanism for promoting the “principle of progressive realization of all economic, social, and cultural rights by the States to their peoples.”<sup>69</sup>

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<sup>63</sup> Human Rights Comm., General Comment 23, Article 27 (50th Sess., 1994). On the other hand, the United Nations Human Rights Council, also referred to by the acronym “UNHRC,” is an inter-governmental body within the United Nations charged with the promotion and protection of human rights around the globe.

<sup>64</sup> See ICCPR, *supra* note 61.

<sup>65</sup> *Mavlonov v. Uzbekistan*, Communication No. 1334/2004 (Apr. 29, 2009).

<sup>66</sup> See ICCPR, *supra* note 61.

<sup>67</sup> *Ibid.*

<sup>68</sup> Paz, *supra* note 54, at 180.

<sup>69</sup> Joshua Cooper, *Monitoring Economic, Social and Cultural Rights: ICESCR*, CULTURAL SURVIVAL QUARTERLY MAGAZINE (Sept. 2016),

Ireland ratified this human rights treaty in 1989.<sup>70</sup> Similar to the UDHR and ECHR, the ICESCR does not include a linguistic rights provision, but rather a general ban on discrimination on the basis of language.<sup>71</sup> Specifically, Article 2 provides that each State Party will “guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>72</sup>

Despite its silence on linguistic rights, Article 13, which is dedicated to the right to education, sets out the aims of education, highlights the need to improve teaching conditions, and recognizes the right to establish educational institutions subject to the regulation of the state.<sup>73</sup> However, like the ICCPR, Article 13 recognizes a general right to education, and does not recognize a child’s right to education or schooling in a particular language. The only reference to children with respect to education is contained in Article 13, Paragraph 3, which provides parents with the right to choose their child’s school, subject to minimum educational standards.<sup>74</sup>

Echoing the basic rights first expressed in the UDHR and subsequently articulated in the ICCPR and ICESCR, the Convention on the Rights of the Child (“CRC”) is the principal

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<https://www.culturalsurvival.org/publications/cultural-survival-quarterly/monitoring-economic-social-and-cultural-rights-icescr> (last visited Dec. 7, 2020).

<sup>70</sup> *Ireland and the International Covenant on Economic, Social and Cultural Rights: Executive Summary*, IRISH HUMAN RIGHTS AND EQUALITY COMMISSION REPORT,

[https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IRL/INT\\_CESCR\\_NHS\\_IRL\\_20733\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IRL/INT_CESCR_NHS_IRL_20733_E.pdf) (last visited Dec. 7, 2020).

<sup>71</sup> See ICCPR, *supra* note 61.

<sup>72</sup> *Ibid.*

<sup>73</sup> Ursula Kilkelly, *Religion and Education: A Children’s Rights Perspective*, a paper delivered at the TCD/IHRC Conference on Religion and Education, Trinity College Dublin, 20 November 2010.

<sup>74</sup> See ICCPR, *supra* note 61.



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instrument by which children are given special recognition and protection under international human rights law.<sup>75</sup> The CRC was unanimously adopted by the U.N. General Assembly on November 20, 1989, and to date has been ratified by 196 State parties, making it the most widely ratified international human rights treaty.<sup>76</sup> In 1992, Ireland made a clear commitment to children's rights by ratifying the CRC.<sup>77</sup> By setting forth specific civil, political, economic, social, and cultural rights of the child, the CRC has functioned as a catalyst for raising the status of children worldwide.<sup>78</sup>

The CRC, like the UDHR and ECHR, bans discrimination broadly, "irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."<sup>79</sup> Going one step further, the CRC recognizes the importance of preserving linguistic and cultural rights through education, by providing that a child's education must foster "development of respect for...his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own."<sup>80</sup> In addition, Article 30 makes clear that children who belong to a minority group, including linguistic minorities, have the right to

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<sup>75</sup> Convention on the Rights of the Child, adopted Nov. 20, 1989, G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/RES/44/736 (1989) [hereinafter CRC].

<sup>76</sup> United Nations Treaty Collection, Chapter IV: Human Rights, *Convention on the Rights of the Child*, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en). (last visited Dec. 7, 2020). The CRC has been ratified by every country except for the United States.

<sup>77</sup> *18th Anniversary of Ireland Ratifying the UN Convention*, CHILDREN'S RIGHTS ALLIANCE (Sept. 27, 2010), <https://www.childrensrights.ie/resources/18th-anniversary-ireland-ratifying-un-convention>. (last visited Dec. 7, 2020).

<sup>78</sup> Ceallaigh, *supra* note 3, at 182.

<sup>79</sup> See CRC, *supra* note 75.

<sup>80</sup> *Ibid.*

84            *DEPAUL J. ART, TECH. & IP LAW*            [Vol. XXXI:

share their culture, language, and religion with other people in that group.<sup>81</sup> Article 30 provides:

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, to profess and practise his or her own religion, or to use his or her own language.<sup>82</sup>

The CRC, therefore, helps further the preservation of linguistic rights through education by providing for both the right to an education, which helps to teach children their own rights and culture, as well as the right to use their own language, culture and religion.<sup>83</sup>

In conclusion, from the adoption of the UDHR in 1948, which set the stage by recognizing that basic rights and fundamental freedoms are inherent to all human beings, to the CRC in 1989, which represented a more targeted approach involving the preservation of linguistic and cultural rights through a child's education, a number of international human rights laws have been created in an effort to pave the way for the promotion of linguistic rights in schools. As discussed below, Ireland has made vigorous efforts to reflect these principles through its own domestic acts and policies. Through ratification and implementation of the international laws discussed above, Ireland has demonstrated a clear commitment to preserving the Irish language through the education system.

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<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*

<sup>83</sup> Rebeca Rios-Kohn, *The Convention on the Rights of the Child: Progress and Challenges*, 5 *GEO. J. ON FIGHTING POVERTY* 139, 142 (1998).

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**III. ANALYSIS**

Since its establishment in 1922, Ireland has made efforts both to preserve Irish as the main language of the Gaeltacht and to revive it as the general language elsewhere.<sup>84</sup> By implementing principles of international law, enacting domestic legislation, and the creation of robust government initiatives, Ireland has successfully targeted its school structure as a vehicle for the revitalization of the Irish language.<sup>85</sup> As a result, Ireland has set itself out as an international example for the successful preservation of cultural heritage and revitalization of linguistic rights.

*A. Ireland's Legal Landscape: Reflecting International Law in Domestic Legislation*

Before illustrating how Ireland has effectuated international law at a domestic level, it is helpful to first review the basics of the Irish legal system. As with all countries which were colonized by the British, the Irish legal system is derived from the common law tradition originally established in England in the 11th Century.<sup>86</sup> As a result, the law of Ireland consists of constitutional, statute, and common law.<sup>87</sup> The Irish Constitution, enacted in 1937, provides 50 Articles describing how Ireland should be governed and “guarantees protection of the fundamental rights of persons.”<sup>88</sup> In reference to international law, Article 29 provides that “Ireland accepts the generally recognised principles of international law.”<sup>89</sup> However, Ireland employs a dualist system, which means that

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<sup>84</sup> The term “Gaeltacht” is used to denote areas in Ireland where the Irish language is, or was until the recent past, the main language spoken by the majority of the local population. *About the Gaeltacht*, LIOFA, <https://www.liofa.eu/gaeltacht/about-gaeltacht#:~:text=The%20term%20'Gaeltacht'%20is%20used,majority%20of%20the%20local%20population> (last visited Dec. 7, 2020).

<sup>85</sup> Walsh, *supra* note 4.

<sup>86</sup> Eugene Regan, *Ireland in Europe: A Legal Perspective*, 29 INT'L J. LEGAL INFO. 219, 220 (2001).

<sup>87</sup> Catherine Allen et al., *Legal systems in Ireland: Overview*, MASON HAYES & CURRAN, W-009-0803 (Law stated as of 01-Jan-2020).

<sup>88</sup> Bunreacht na hEireann 1937.

<sup>89</sup> *Ibid.*

international agreements do not have the force of law unless they are specifically incorporated into domestic law.<sup>90</sup> According to the Constitution, “no international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas.”<sup>91</sup> This is usually done by an Act of the Parliament, and must be consistent with the provisions of the Constitution.<sup>92</sup> However, because Ireland joined the European Union (“EU”) in 1973, these Acts must also be consistent with EU law.<sup>93</sup> Understanding the complexities of the legal system is crucial to interpreting Ireland’s implementation of international law, where the goals of language legislation have been primarily to reinstate Irish as the national language in areas where it had been replaced.<sup>94</sup>

Reflecting some of the more focused approaches regarding the protection of cultural rights, which did not appear until decades later, in international instruments like the ICCPR and the ICESCR, including the right of linguistic minorities to use their own language and the right to be free from discrimination on the basis of language, respectively, the Irish Constitution illustrates that the preservation of language has been an important policy objective from the beginning. Article 8 of the Constitution provides that the Irish language, as the national language, is the first official language of the State, and recognizes English as the second

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<sup>90</sup> Regan, *supra* note 86.

<sup>91</sup> Bunreacht na hÉireann, *supra* note 88. Authority in Ireland is divided between the Legislature (the Oireachtas), the Executive (the Government) and the Judiciary (the courts). The Irish Constitution provides for a separation of these three powers, so they cannot interfere in the functions of one another. The Oireachtas is the only body that has the power to make laws. The Oireachtas is a bicameral legislature, composed of the House of Representatives (*Dáil Éireann*) and the Senate (*Seanad Éireann*). *How Parliament Works*, HOUSES OF THE OIREACHTAS, <https://www.oireachtas.ie/en/visit-and-learn/how-parliament-works/> (last visited Dec. 7, 2020).

<sup>92</sup> *Ibid.*

<sup>93</sup> *EU Law*, CITIZENS INFORMATION, [https://www.citizensinformation.ie/en/government\\_in\\_ireland/european\\_government/eu\\_law/](https://www.citizensinformation.ie/en/government_in_ireland/european_government/eu_law/) (last visited Dec. 6, 2020).

<sup>94</sup> *Ibid.*

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official language.<sup>95</sup> Illustrating Ireland's commitment to language equality and linguistic rights, each provision is written in both Irish and English, and provides that, if a divergence between the texts occurs, the text in the Irish language will prevail.<sup>96</sup> Although the Constitution does not speak directly to the instruction of the Irish language in schools, Article 42 provides for a general right to education.<sup>97</sup> The High Court of Ireland announced the State's obligation under Article 42.4, stating:

There is a constitutional obligation imposed on the State by the provisions of Article 42.4 of the Constitution to provide for free basic elementary education of all children and that this involves giving each child such advice, instruction and teaching as will enable him or her to make the best possible use of his or her inherent and potential capacities, physical, mental and moral....<sup>98</sup>

Article 8 has also been shown to play an essential role in school funding, under which a primary school may be refused funding if an adequate standard of Irish is not provided.<sup>99</sup>

In addition to the Constitution, Ireland has taken numerous steps to implement principles of international language law at the domestic level through legislation and government programs. Preserving cultural heritage through the "transmission of Irish as a living language within the family and between the generations is

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<sup>95</sup> Bunreacht na hEireann, *supra* note 88. The Irish language is unique in that it is simultaneously the language of a minority while also being a national language of the State.

<sup>96</sup> *The Legal System*, THE SUPREME COURT OF IRELAND, <http://www.supremecourt.ie/supremecourt/sclibrary3.nsf/pagecurrent/D5F78352A387D74480257315005A419E?opendocument&l=en> (last visited Dec. 6, 2020).

<sup>97</sup> Bunreacht na hEireann, *supra* note 88.

<sup>98</sup> *O'Donoghue v. Minister for Health* [1993] IEHC 2; [1996] 2 IR 20 (May 27, 1993).

<sup>99</sup> Mercator-Education, *The Irish Language in Education in the Republic of Ireland* (Mercator-Education, 2001).

critically important”<sup>100</sup> to Irish government, as illustrated by the ratification of the Good Friday Agreement of 1998 by both the Republic of Ireland and Northern Ireland.<sup>101</sup> The Good Friday Agreement represented a commitment to peace and stability, moving beyond the violence of the Troubles, and established a North/South Implementation body to promote the Irish language.<sup>102</sup> As a result, Foras na Gaelige, a cross-border, inter-governmental institution, was created in 1999.<sup>103</sup> Foras na Gaelige works to facilitate the speaking and writing of Irish in the Republic of Ireland and in Northern Ireland and “sets out specific measures to promote the use of regional or minority languages in public life.”<sup>104</sup>

Also enacted in 1998, the Education Act of 1998 (“Education Act”) reflects the CRC’s recognition of the importance of preserving linguistic rights through education.<sup>105</sup> The Education Act contains a number of references to the Irish language and represented a landmark in Irish education, providing, for the first time, a statutory framework for linguistic rights in Ireland’s school system.<sup>106</sup> Under the CRC, Ireland has an obligation to “undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.”<sup>107</sup> Although the Education Act does not specifically implement the CRC at the domestic level, it incorporates the CRC’s proclamation that every child’s education must foster “development of respect for...his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may

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<sup>100</sup> Ceallaigh, *supra* note 3, at 192.

<sup>101</sup> Agreement Reached in the Multi-Party Negotiations, Apr. 10, 1998, at 17-18 [hereinafter Good Friday Agreement] (establishing that Ireland will promote human rights protection and investigate incorporation of ECHR).

<sup>102</sup> Ceallaigh, *supra* note 3, at 184.

<sup>103</sup> *Ibid.*

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> Walsh, *supra* note 4.

<sup>107</sup> See CRC, *supra* note 75.

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originate, and for civilizations different from his or her own.”<sup>108</sup> It achieves this in part by providing that schools shall use their resources to “promote the development of the Irish language and traditions, Irish literature, the arts and other cultural matters.”<sup>109</sup> The Education Act further requires schools in the Gaeltacht area to “contribute to the maintenance of Irish as the primary community language.”<sup>110</sup>

Reflecting the important role that the education system plays in supporting the maintenance and revitalization of the Irish language, two of the leading experts in the field have stated:

While it is true that languages can survive without schools, education systems, nevertheless, have become the cornerstone in the process of reversing language shift in cases of minorised or endangered languages.... The school has become one of the most critical sites for reversing language shift and for language revitalisation in minority/endangered language contexts. Of all domains, the school is perhaps the most crucial and often bears the entire burden of language planning implementation.<sup>111</sup>

In an effort to help balance that burden, An Chomhairle um Oideachas Gaeltachta agus Gaelscolaíochta (the “Chomhairle”), was created in 2002 under Article 31 of the Education Act to establish a structure specifically catered to the educational needs of the Gaeltacht schools.<sup>112</sup> However, in addition to schools in the Gaeltacht, the Chomhairle works towards the “development of the

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<sup>108</sup> *Ibid.*

<sup>109</sup> Education Act, 1998 (Act 51 of 1998).

<sup>110</sup> *Legal Issues in Schools in Ireland-An Overview*, EDUCATION LAW IRELAND, <http://educationlawireland.com/legal-issues-in-schools-in-ireland-an-overview/> (last visited Dec. 7, 2020).

<sup>111</sup> Dr. Muiris Ó Laoire & Dr. John Harris, *Language and Literacy in Irish-medium Primary Schools: Review of Literature*, NATIONAL COUNCIL FOR CURRICULUM & ASSESSMENT (2006).

<sup>112</sup> *About Us*, AN CHOMHAIRLE UM OIDEACHAS, <https://www.cogg.ie/en/about-us/>. The Chomhairle’s mission statement includes a goal for the “the development of the Gaeltacht and Irish medium sector and the teaching of Irish in all schools.”

Gaeltacht and Irish medium sector and the teaching of Irish in all schools,” by advising the Irish Department of Education and Skills, as well as other organizations and individuals, on Irish language-medium education in both primary and post-primary education.<sup>113</sup> Some of its responsibilities include supplying Irish language teaching resources, providing support services and advice on the promotion of education through Irish schools, and research.<sup>114</sup>

The 2003 Official Languages Act (“OLA”), which reciprocated certain language principles set forth in the ICCPR into Ireland’s domestic law, represented the “first, formally articulated language policy document outlining the obligations on the State to provide public services in the Irish language.”<sup>115</sup> While Article 27 of the ICCPR provides that individuals shall not be denied the right to use their own language,<sup>116</sup> the OLA goes even further to tilt the scales in favor of language equality, mandating that all public services, administrative functions, government proceedings, and documents be offered in both English and Irish.<sup>117</sup> Its main goal is to increase and improve the quantity and quality of services provided for the public through Irish by public bodies.<sup>118</sup> Examples of public bodies which fall under the umbrella of the act include government offices, local authorities, and importantly, in the educational context, universities<sup>119</sup> and

<sup>113</sup> Ceallaigh, *supra* note 3, at 185.

<sup>114</sup> *Ibid.*

<sup>115</sup> Clayton O'Neill, *The Languages Acts in the Republic of Ireland and Canada: Lessons to Be Learnt by Northern Ireland*, 16 TRINITY C.L. REV. 115, 126 (2013).

<sup>116</sup> See ICCPR, *supra* note 61.

<sup>117</sup> Official Languages Act, 2003.

<sup>118</sup> *Official Languages Act 2003*, TRINITY COLLEGE DUBLIN, <https://www.tcd.ie/gaeloifig/en/acht-na-dteangacha-oifigiula/> (last visited Dec. 7, 2020).

<sup>119</sup> For example, Trinity College in Dublin must comply with the regulations set forth by the OLA. Any sign placed by or on behalf of Trinity must be in Irish or in Irish and English, but the Irish text should appear first. This rule also applies to any stationary used by offices, schools, faculties, etc. Even recorded oral announcements, such a voicemail on an office phone, needs to be in both Irish and English. See *Official Languages Act 2003*, TRINITY COLLEGE DUBLIN, <https://www.tcd.ie/gaeloifig/en/acht-na-dteangacha-oifigiula/>.



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Education and Training Boards.<sup>120</sup> Therefore, if an Education and Training Board is responsible for providing education through schools and programs, they must ensure that these comply with the provisions of the OLA.<sup>121</sup> By creating a space for Irish in public affairs, the OLA promotes both the freedom to speak a particular language and the freedom from neglect, denial, and discrimination.<sup>122</sup>

As further evidence of Ireland's commitment to preserve the position of the Irish language, an independent statutory office, tasked with monitoring compliance by public bodies, was established under the OLA.<sup>123</sup> The Office of An Coimisinéir Teanga (the "Office"), a language commissioner, provides advice or assistance to the public about their language rights and to public

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<sup>120</sup> *Official Languages Act 2003 Guidebook*, AN COIMISINÉIR TEANGA, <https://www.tcd.ie/gaeloifig/assets/foilseachain/Guidebook%20-%20Official%20Languages%20Act%202003.pdf>.

It should be noted that the language of the OLA does not specifically cover "Education and Training Boards." Instead, it uses the term "Vocational Education Committees." Vocational Education Committees were local, statutory education bodies in Ireland that administered education in the State. In 2013, the Minister for Education and Skills established 16 new Education and Training Boards to replace the 33 Vocational Education Committees. Upon this announcement, the Minister, Ruairí Quinn T.D., stated: "Today marks a new era for education and training in Ireland. The new ETBs will strengthen locally managed education and enhance the scale of local education and training. This represents a major component of the public service transformation agenda. At a time when the need for training and reskilling has never been more important, it is crucial to provide appropriate programmes and courses that offer students and learners the best opportunities to progress. We must do all of this while providing value for money to the taxpayer." *See 01 July 2013- Education and Training Boards replace VECs*, DEPARTMENT OF EDUCATION, <https://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR-%202013-%2007-%2001.html>.

<sup>121</sup> *Answers to questions regarding the Official Languages Act & the Regulations under the Official Languages Act*, AN COIMISINÉIR TEANGA (Feb. 16, 2009). However, if a school is a separate legal entity, independent of an Education and Training Board, it does not come under the provisions of the OLA.

<sup>122</sup> O'Neill, *supra* note 115.

<sup>123</sup> *See Official Languages Act*, *supra* note 117.

bodies about their language obligations.<sup>124</sup> Complaints may be submitted by the public in cases where it is believed that public bodies may have failed to fulfil their obligations under the OLA.<sup>125</sup> The Office, acting as a linguistic rights watchdog, investigates both these complaints as well as complaints regarding allegations that *other enactments* relating to the status or use of the Irish language have been contravened.<sup>126</sup> For example, as a result of a 2007 investigation, the Office decided that the language duties under the Education Act of 1998 had been violated when particular support services at certain schools were available in English but not Irish.<sup>127</sup> Following such a finding, the Office typically issues a report containing the appropriate recommendations.<sup>128</sup> In conclusion, provisions from the ICCPR, such as a minority's right to "enjoy their own language" set forth by Article 27, as well as a child's right to be free from discrimination on the basis of language expressed in Article 24, can be seen throughout the text of the OLA and the work of the Office.

Expanding on its linguistic commitments, Ireland officially implemented the provisions of another important international treaty, the EHCR, into domestic law on January 1, 2004, under the European Convention on Human Rights Act of 2003 (the "ECHR Act").<sup>129</sup> The ECHR Act incorporates the rights set forth in the ECHR into Irish law, which allows them to be considered before the Irish courts.<sup>130</sup> This includes provisions such as Article 14 of the ECHR, which sets forth the right to freedom from discrimination based on "sex, race, color, language, religion,

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<sup>124</sup> *About the Act*, AN COIMISINÉIR TEANGA, <https://www.coimisineir.ie/faoin-acht?lang=EN> (last visited Dec. 7, 2020).

<sup>125</sup> *Ibid.*

<sup>126</sup> *See* Guidebook, *supra* note 120.

<sup>127</sup> *Ibid.*

<sup>128</sup> *Ibid.*

<sup>129</sup> *Ibid.*

<sup>130</sup> European Convention on Human Rights Act 2003, Act number 20 of 2003 [Online] Available at: <http://www.irishstatutebook.ie/eli/2003/act/20/enacted/en/pdf> (last visited Dec. 6, 2020) [hereinafter ECHR Act].

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political or other opinion, national or social origin, association with a national minority, property, birth or other status.”<sup>131</sup>

As mentioned above, the ECHR Act allows cases to be argued in Irish Courts, which may provide a remedy, without the need to make a complaint in the European Court of Human Rights.<sup>132</sup> Section 3 of the ECHR Act creates a statutory obligation on every “organ of the state” to perform its functions in a manner compatible with the State’s obligations under the Convention.<sup>133</sup> Organ of the state is defined to include “a tribunal or any other body... which is established by law or through which any of the legislative, executive or judicial powers of the State are exercised.”<sup>134</sup> Therefore, the Department of Education, a department of the Irish State charged with the responsibility for education and training, would fall under this definition.<sup>135</sup> The Chomhairle, the body established under Article 31 of the Education Act to create a structure for the teaching of Irish in schools, discussed above, operates under the supervision of the Department of Education.<sup>136</sup> As a result, the ECHR Act governs the affairs of the Department of Education and, therefore, also the Chomhairle, by providing domestic implementation of the protections set forth in the ECHR.

While this article makes clear that Ireland has put forth significant efforts to preserve its cultural heritage through the ratification and implementation of international laws that promote linguistic rights, it is important to note that legislative measures to adopt a national language can instead be used as a tool for prejudice.<sup>137</sup> For example, in the United States, official English

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<sup>131</sup> See ECHR, *supra* note 52.

<sup>132</sup> *European Convention on Human Rights Guide for Civil & Public Service*, IRISH HUMAN RIGHTS COMMISSION (2012).

<sup>133</sup> See ECHR Act, *supra* note 130.

<sup>134</sup> *Ibid.*

<sup>135</sup> *The Department of Education*, THE DEPARTMENT OF EDUCATION, <https://www.education.ie/en/The-Department/> (last visited Dec. 6, 2020).

<sup>136</sup> *Ibid.*

<sup>137</sup> Antonio J. Califa, *Declaring English the Official Language: Prejudice Spoken Here*, 24 HARV. C.R.-C.L. L. REV. 293, 294 (1989).

language legislation has been described as a “veiled attempt to promote racism and bigotry, rather than an attempt to unify a country.”<sup>138</sup> In other words, instead of preserving a national unity, these laws can really reflect the cultural insecurity and prejudice of their supporters, and the effect of the legislation can result in deprived rights and a weaker nation.<sup>139</sup> Furthermore, if legislative support is provided for speakers of a certain language, do the previously discussed international principles of non-discrimination also require similar measures of legislative support for speakers of other languages? In Ireland, the Irish language is considered by many to be an important part of their cultural heritage, however, what are the rights of people who don't speak Irish? While there may be two sides to an “official” language argument, Ireland appears to have found a proportionate balance in protecting the Irish language, promoting linguistic rights through its children, and the preservation of nationality and culture.<sup>140</sup>

In conclusion, Ireland has made numerous efforts to reflect the goals of international language laws in its domestic legislation. From the establishment of the Irish Constitution in 1937 to the commitments set forth in the 2003 ECHR Act, and everything in between, Ireland has set itself out as an example for how states can achieve successful preservation of cultural heritage through the ratification and implementation of international human rights law.

#### *B. Government Strategies and Initiatives by the Irish Language Community*

In addition to the incorporation of international language laws, the pathway to preserving the Irish language through education has been layered with policies and programs initiated by both the government, as well as numerous Irish language organizations.<sup>141</sup> These efforts have resulted in a higher awareness and understanding of the Irish culture, reform through legislation and

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<sup>138</sup> *Ibid.*

<sup>139</sup> *Ibid.*

<sup>140</sup> Glendenning, *supra* note 2, at 97.

<sup>141</sup> O'Neill, *supra* note 115.

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education policies, and a higher use of Irish locally within the community.<sup>142</sup>

Routinely at the forefront of campaigns to protect and promote the Irish language, Conradh na Gaeilge, also known as the Gaelic League, was established in 1893 with the purpose of promoting the use of Irish as the standard language of Ireland, and subsequently went on to become the leading institution promoting the Gaelic Revival.<sup>143</sup> It aims to encourage the people of Ireland to respect and value their unique linguistic heritage, and provides a fresh perspective on Irish culture.<sup>144</sup> Conradh na Gaeilge is one of the most active language organizations campaigning for an urgent review of the teaching of Irish in the education system.<sup>145</sup> It routinely issues campaigns with policy suggestions to the Department of Education, which include recommendations for addressing problems in schools regarding the teaching and learning of the Irish language.<sup>146</sup> It also works in schools directly, including running programs to help children better understand the common heritage they share with the Irish language.<sup>147</sup> Conradh na Gaeilge also advocates for the rights of Irish speakers in general.<sup>148</sup> These efforts, for example, led to the enactment of the

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<sup>142</sup> *Ibid.*

<sup>143</sup> *What does Conradh na Gaeilge do?*, CONRADH NA GAEILGE, <https://www.cnag.ie/en/info/conradh-na-gaeilge/what-does-conradh-na-gaeilge-do.html> (last visited Dec. 7, 2020).

<sup>144</sup> *Ibid.*

<sup>145</sup> *A Brief History of Conradh na Gaeilge*, CONRADH NA GAEILGE, <https://www.cnag.ie/en/info/22-a-brief-history-of-the-conradh.html> (last visited Dec. 7, 2020).

<sup>146</sup> *Ibid.*

<sup>147</sup> *Education Policy*, CONRADH NA GAEILGE, <https://cnag.ie/en/campaigns/ongoing-campaigns/education-policy.html> (last visited Dec. 7, 2020).

<sup>148</sup> The organization also campaigned for language legislation during the 1970s and 1980s, and in 1977 produced a draft Bill of Rights for the Irish language. Additionally, in 1993 Bord na Gaeilge, the precursor to today's Foras na Gaeilge, issued a set of bilingual guidelines for appropriate state services for Irish speakers. Foras na Gaeilge, the body responsible for the promotion of the Irish language throughout the whole island of Ireland, was founded in December 1999. *A Brief History of Conradh na Gaeilge*, CONRADH NA GAEILGE, <https://www.cnag.ie/en/info/22-a-brief-history-of-the-conradh.html> (last visited Dec. 7, 2020).

OLA, as discussed earlier, which gave greater statutory protection to Irish speakers and established the position of the Office of An Coimisinéir Teanga.<sup>149</sup>

From 2006 to 2007, due to vigorous efforts by the Irish government, the language gained even more recognition. In 2006, the Irish Government issued the Government Statement on the Irish Language 2006 (“Statement”), affirming its support for the development and preservation of the Irish language, and identifying 13 key objectives in support of the language and the Gaeltacht.<sup>150</sup> “Preservation as well as promotion and development” of the Irish language is illuminated throughout the Statement, which affirms the Government’s continuing belief in the importance of the Irish language for the citizens of Ireland.<sup>151</sup> Additionally, in 2007, Irish became the 21st official working language of the EU.<sup>152</sup> When Ireland joined the European Economic Community, now referred to as the EU, in 1973, the Irish language acquired the status of a treaty language, but not an official working language.<sup>153</sup> However, starting in 2007, all primary legislation has been translated into Irish.<sup>154</sup> Although not directly related to the promotion of language in schools, this helped to enhance the status of the Irish language at the EU level by giving greater attention to Irish-speakers.<sup>155</sup> In welcoming the decision, the Taoiseach (the prime minister of Ireland) stated, “It ensures that the status accorded to Irish in the Union reflects its domestic status. It is further evidence of the Government’s determination to ensure that every opportunity is used to promote

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<sup>149</sup> *Ibid.*

<sup>150</sup> Ceallaigh, *supra* note 3, at 185.

<sup>151</sup> *Ibid.*

<sup>152</sup> Dennis Staunton, *Irish becomes the official EU working language*, THE IRISH TIMES (June 14, 2005), <https://www.irishtimes.com/news/irish-becomes-official-eu-working-language-1.455241> (last visited Dec. 7, 2020).

<sup>153</sup> O’Neill, *supra* note 115.

<sup>154</sup> Staunton, *supra* note 152.

<sup>155</sup> O’Neill, *supra* note 115, at 128.

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and facilitate the use of Irish, including in our activities as a member of the EU.”<sup>156</sup>

In 2010, the Irish Government issued the 20-Year Strategy (“Strategy”) for the Irish Language with the aim to increase the number of people using Irish on a daily basis.<sup>157</sup> The Strategy sets out a number of objectives, including “the number of people with a knowledge of Irish from 1.66 million in 2010 to 2 million by 2030” and “the number of daily speakers of Irish from 83,000 in 2010 to 250,000 by 2030.”<sup>158</sup> Strengthening the position of language within the education system is a key focus of the Strategy, and effective implementation requires “a focus on developing expertise and skills among the teaching profession - given the critical importance of the school in influencing language awareness and behaviour - as well as in the wider society, in highlighting the cultural value and importance of Irish to the Irish people.”<sup>159</sup> As a result, the education system is viewed as one of “the critical engines for generating the linguistic ability” on which the Strategy is based.<sup>160</sup>

In 2014, the Irish Human Rights and Equality Commission Act established the Irish Human Rights and Equality Commission (“IHREC”), Ireland’s leading national human rights and equality institution.<sup>161</sup> IHREC strives to “protect and promote human rights and equality in Ireland and build a culture of respect for human rights, equality and intercultural understanding in the State.”<sup>162</sup> In addition, the IHREC reviews the adequacy and effectiveness of law, policy, and practice relating to the protection of human rights in Ireland, and is tasked with making recommendations to the

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<sup>156</sup> Staunton, *supra* note 152.

<sup>157</sup> 20-Year Strategy for the Irish Language 2010-2030, Department of Education and Skills.

<sup>158</sup> *Ibid.*

<sup>159</sup> Ceallaigh, *supra* note 3, at 185.

<sup>160</sup> *Ibid.*

<sup>161</sup> *Who We Are*, IRISH HUMAN RIGHTS AND EQUALITY COMMISSION, <https://www.ihrec.ie/about/who-we-are/> (last visited Dec. 7, 2020).

<sup>162</sup> *Ibid.*

Government on measures to strengthen, protect, and uphold human rights accordingly.<sup>163</sup>

From 2018 to 2019, support for the Irish language gained even more speed, with 2018 being designated as the “Year of the Irish Language,” and major funding government announcements taking place in 2019. In 2018, the Taoiseach helped launch “Bliain na Gaeilge 2018,” the official Year of the Irish Language, stating, “whether you are a fluent Irish speaker, if you are just learning the language, or if you haven’t used your Irish in years, this is an opportunity to improve your fluency, learn more about the language and encourage your neighbors, friends and colleagues to embrace the language in their everyday lives.”<sup>164</sup> 2018 marked the 125th anniversary of the language revival movement upon the founding of the Conradh na Gaeilge, discussed above.<sup>165</sup> Niall Comer, President of Conradh na Gaeilge, stated that “Bliain na Gaeilge will give those fluent and those with the cúpla focal, or those interested in the Irish language throughout the world, a fantastic opportunity to use the language more.”<sup>166</sup> Additionally, in 2019, the Irish Government announced plans to allocate around \$1.88 million dollars’ worth of funding to organizations in order to help implement Irish language plans.<sup>167</sup> Ireland’s Minister of State for Irish, the Gaeltacht, and the Islands, expressed his support, stating, “this is a practical and influential measure that I expect will have a significant and positive impact on the health of the Irish language.”<sup>168</sup>

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<sup>163</sup> *Ibid.*

<sup>164</sup> Anthony Neeson, *2018 is Officially the Year of the Irish Language*, IRISHCENTRAL (Jan. 4, 2018), <https://www.irishcentral.com/opinion/others/2018-is-officially-the-year-of-the-irish-language> (last visited Dec. 6, 2020).

<sup>165</sup> *Ibid.*

<sup>166</sup> *Ibid.*

<sup>167</sup> *€1.7 million Funding for Irish Language Plans Welcomed*, IRISHCENTRAL (Aug. 1, 2019), <https://www.irishcentral.com/news/17-million-funding-irish-language> (last visited Dec. 6, 2020).

<sup>168</sup> *Ibid.*



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In conclusion, beyond the incorporation of international instruments, both the government and local Irish language organizations have been working hard to put policies and programs into place with the goal of bringing a higher awareness and understanding of the Irish language. Conradh na Gaeilge, for example, has been working towards the promotion of the use of Irish as the standard language in Ireland for over a century, and is one of the most active language organizations campaigning for a review of the teaching of Irish in the education system.<sup>169</sup> Additionally, the government's 20-year Strategy for the Irish Language sets forth concrete, numerical goals with regards to the number of people using Irish on a daily basis.<sup>170</sup> These policies and programs, combined with numerous efforts to reflect the goals of international language laws in domestic legislation, demonstrate Ireland's commitment to preserving the Irish language and have helped to reinstate its use in everyday life.

#### IV. CONCLUSION

Ireland has illuminated that the promotion of linguistic rights must be considered when making efforts to protect and preserve cultural heritage. Representing more than just tangible objects, cultural heritage also consists of oral traditions. The use of a particular language "expresses that person's cultural identity" and, in Ireland, represents an important vehicle of cultural expression.<sup>171</sup> Recognized as a "symbol of identity" for a majority of the population, the Irish language is not only considered to be an important part of their heritage, but is a part of their own personal identity.<sup>172</sup>

In an effort to preserve this sense of identity, Ireland has taken progressive steps to ensure that linguistic principles reflected in international law are emulated through its own domestic acts and

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<sup>169</sup> *A Brief History of Conradh na Gaeilge*, CONRADH NA GAEILGE, <https://www.cnag.ie/en/info/22-a-brief-history-of-the-conradh.html> (last visited Dec. 7, 2020).

<sup>170</sup> 20-Year Strategy, *supra* note 157.

<sup>171</sup> *See Fifteen Surprising Facts*, *supra* note 21.

<sup>172</sup> Ceallaigh, *supra* note 3, at 184.

policies.<sup>173</sup> The use of the education system as an agency for preserving this unique linguistic heritage, primarily through the development of Irish-medium education, has been a priority of the language revival movement.<sup>174</sup> Additionally, policies and programs initiated by the government, as well as numerous Irish language organizations, have resulted in a higher awareness and understanding of the Irish culture, reform through legislation and education policies, and a higher use of Irish within the community.<sup>175</sup> Through its efforts, Ireland has set itself out as an international example of how the successful implementation of international language laws can preserve cultural heritage.

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<sup>173</sup> See Walsh, *supra* note 4.

<sup>174</sup> *Id.* at 182.

<sup>175</sup> *Ibid.*