

flacNews

FREE LEGAL ADVICE CENTRES



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FLAC report: Direct provision violates human rights of asylum seekers

This year, 2010, marks the tenth anniversary of the establishment of the direct provision and dispersal scheme for those seeking asylum in Ireland.

In 2003, FLAC's first report on the subject, *Direct Discrimination?*, found that the system was "gravely detrimental" to the human rights of people seeking protection in Ireland and called for the abolition of the system. However, seven years later, the system remains in place.

On 18 February, FLAC launched its new report, *One Size Doesn't Fit All*, in Dublin's Buswells Hotel to mark the UN World Day of Social Justice.

At the launch, the Integration and Social Inclusion Centre of Ireland (ISICI) screened a digital story from a forthcoming DVD produced in partnership with the Forum on Migration and Communications (FOMACS).

The launch was chaired by Noeline Blackwell, Director General of FLAC

and both Josephine Ahern, CEO of ISICI, and Sue Conlan, the new CEO of the Irish Refugee Council (IRC), made presentations on the direct provision system.

Vukasin Nedeljkovic, a former asylum seeker and resident, spoke about his own experience of the system and reflected on the negative aspects he and others encounter while living in direct provision accommodation.

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The views of individual contributors do not necessarily represent the views of FLAC.

FLAC proposes short-term

In September 2009, the Law Reform Commission published its consultation paper on *Personal Debt Management and Debt Enforcement*. It is a comprehensive document which calls for far-reaching and much needed reforms in an area which has suffered legislative neglect for generations.

Finally recognising the urgency of the matter, and its complexity, the Minister for Justice and Law Reform Dermot Ahern TD has suggested that some short-term solutions might be implemented whilst the larger issues in the consultation paper are finalised.

Taking up that call, FLAC is suggesting some relatively simple measures which could be taken to prevent people suffering under the current archaic laws on debt enforcement. These are short-term suggestions only. They do not replace FLAC's call that the LRC's con-

sultation paper should be implemented in full at the earliest possible opportunity.

FLAC addressed these proposals to the Ministers for Justice and Finance in March with the suggestion that they consider implementing them in the short-term as a way of giving immediate relief to the thousands facing major stress and risk of further worsening their debt situation.

► Extending the Irish Banking Federation (IBF)/Money Advice and Budgeting Services (MABS) Protocol:

This protocol states that, wherever possible, the IBF member and MABS representative should attempt to formulate a mutually-acceptable, affordable and sustainable repayment plan. However, the Protocol applies to members of the Irish Banking Federation only. It

FLAC solicitor receives access to justice award

On 22 March 2010, UCC FLAC presented its Access to Justice Award for 2010 to Michael Farrell, Senior Solicitor with FLAC in recognition of his significant contribution to the Northern Ireland civil rights movement, his present work with FLAC and his role as a Human Rights Commissioner.



This award is presented every year to an individual who has advanced the cause of Access to Justice in Ireland.

UCC FLAC provides a free legal information service on campus for students on legal problems such

as landlord issues, public order issues, consumer information issues and employment rights.

Clinics take place every Wednesday in the Students' Centre on the third floor between 6 and 7 pm.

solutions to debt crisis in Ireland

would be useful to apply the rules of engagement in the Protocol to all creditors so that there is consistency of treatment for indebted clients, the money advisors who are working on their behalf and certainty for creditors as to how cases will be dealt with.

» **Elevating the IBF/MABS Protocol to a statutory footing:**

Voluntary codes always run the risk of not being adhered to or of being selectively interpreted so as to minimise their intended effect. There is no substitute for having a measure in place that has some element of legal enforceability about it. In our opinion, it should be feasible to take the Protocol (with adaptations if necessary) and elevate it to a statutory code of practice. Creditors should be obliged to demonstrate compliance with the Code before being allowed to bring legal proceedings. Alleged breaches of the Code should be the subject of a potential complaint to the Ombudsman for Financial Services.

» **Extending the Regulator's Code of Conduct on Mortgage Arrears and putting it on a statutory footing**

The current Code of Conduct on Mortgage Arrears is in need of strengthening from the borrower's perspective. This could be done by further extending the moratorium on legal proceedings, the framing of more precise obligations on the lender to explore alternative payment mechanisms and the insertion of clear obligations on the lender as to its practices in the matter of negative equity and the debt shortfall. A lender should be obliged to produce documents which prove that repossession was the last course of action in any given case.

A further difficulty is that the Code is not expressly admissible in legal

proceedings. The Financial Regulator describes it as a 'statutory' code, but that seems to merely mean that it has been issued in the exercise of a statutory power.

» **Mandatory referral to MABS:**

FLAC's report on debt enforcement, *To No One's Credit* (2009), showed that people in debt often get money advice (and indeed legal advice) far too late and that the outcome for both debtor and creditors is better when the debtor avails of such services at the earliest possible juncture. It should therefore be mandatory for creditors under the relevant codes to refer customers in payment difficulties to money advice services rather than the current system whereby such referrals are made only 'where the circumstances warrant it.' Details of state civil legal aid services and other legal support services should also be provided as a matter of course. Lenders should be obliged to show evidence of such referrals before bringing any legal proceedings against the debtor.

» **Regulation of debt collection:**

Debt collectors should be subject to regulation. There is evidence to suggest that some collectors routinely overstep the mark in terms of persistent contact with those in debt. This approach is not only personally very stressful for those in debt but it may also undermine the conclusion of sustainable arrangements between borrowers and creditors, the foundation upon which money advice work is built. There are also the parallel ques-

tions of intimidation and breaches of criminal law.

» **Regulation of 'for profit' debt counselling:**

A regulatory system should also be in place for those who charge fees to indebted people to enter into negotiations and payment arrangements with creditors. Some of these operators are allegedly informing potential clients that MABS offices have long waiting lists in order to discourage them from availing of a free service, when in fact only some offices have waiting times and they are not generally speaking very long.

» **Compulsory attendance at Instalment Order hearings:**

In the event of a debtor's failure to attend the hearing for an Instalment Order, the matter should be adjourned and a firm reminder be sent to the debtor to appear at the next hearing. Instalment Orders set without regard to the debtor's financial circumstances and made in his/her absence simply do not work. Civil legal aid should be made available to debtors facing Instalment Order applications.

» **Reducing or freezing the Courts Act interest:**

In an environment of historically low interest rates, the appropriateness of the 8% interest rate running on judgements that is currently imposed under the Court Acts is highly questionable. This is especially the case in consumer debt cases where it is clear that the debtor has no means to pay the judgment, let alone any interest accruing.

Come run, walk, or jog with FLAC!!



The Dublin Women's Mini-Marathon is an important fundraiser for us. We are hoping to have a big team of women to take part on 7 June 2010. Join our staff, members and supporters as we take on the 10km challenge and helping to promote access to justice.

For more information and a volunteer pack including t-shirt and sponsorship cards, please contact 01-887 3600, info@flac.ie or visit our website at www.flac.ie. To make a donation to the team, see www.mycharity.ie/

Pregnant women increasingly worried about workplace discrimination

Statistics from FLAC's telephone information line reveal a worrying increase in discrimination against pregnant women in the Irish workplace.

Queries relating to maternity issues, which constituted a mere 1.3% of employment calls in April 2009, have increased drastically to 14.3% in January of this year.

Pregnant women are seen as 'soft targets' by employers and are being targeted by employers under pressure to make cuts in the face of recession.

Pregnant women have a range of protections and entitlements under law, but are increasingly subject to pressure from their employers not to avail of their full rights. They are discouraged from taking full maternity leave, and some lose out on bonuses as a result of taking time off. Others even receive P45s while on leave or find themselves

bullied and forced out upon their return to work. Such actions are often illegal, but pass unchecked when women are not fully aware of their rights and how to enforce them.

The issue was highlighted in the lead-up to International Women's Day on 8 March by FLAC volunteer, solicitor Anne Lyne. Writing in the *Irish Examiner*, she expressed regret that in spite of thirty years of protective legislation, women still face high levels of discrimination in the work place.

These sentiments were echoed by the Equality & Rights Alliance, a group of 130 organisations including FLAC which opposes the cuts made to the Irish equality and human rights infrastructure. "Pregnancy-related discrimination is a very blunt, overt form of unfairness and gender discrimination," said Joanna McMinn, chairperson of ERA. "It is against the law and despite 30 years of legislation against it, we are seeing evi-

dence that this particular form of discrimination is getting worse because of the recession."

To protect themselves from discrimination it is vital that pregnant women inform themselves of their rights and entitlements and what to do when these are unjustly denied. Ironically, in a time when discrimination is on the rise, the Equality Authority, the state agency charged with providing information and assistance to citizens on equality matters, has suffered a 43% cut to its budget. Nevertheless, it remains the first port of call for those looking to get informed about their rights in this area. FLAC's advice centres can also provide once-off legal advice to assist potential victims of discrimination.

FLAC also produces a range of information leaflets, available in Citizens Information Centres, providing basic information on legal rights and entitlements.

Guidelines on mortgage arrears and job loss available

Ireland is in the grip of a mortgage arrears crisis. The recession has led to sudden and dramatic changes in the financial circumstances of thousands of families, rendering them unable to meet their monthly payments. This problem has been compounded by the collapse of the property market, throwing many of these mortgage holders into negative equity. These factors combine to trap people in houses they can no longer afford, but from which they cannot walk away without responsibility for the balance owing after the sale of their now greatly devalued property.

In response to the steadily increasing volume of calls and queries received from those trapped in this quandary, FLAC has issued a four-page guide on mortgage arrears. This document contains practical information for people having trouble making their mortgage

repayments and addresses practical questions and situations that are likely to arise.



The mortgage arrears document suggests steps to take if you think you have fallen into arrears, stressing the importance of alerting the lender to the reasons for your difficulties, investigating the possibility of getting Mortgage Interest Supplement and contacting

MABS. Other sections outline the implications of negative equity and what to do if you feel harassed by constant contact from your lenders or from third party debt collectors. The guidelines also outline the impact of the Code of Conduct on Mortgage Arrears from the Financial Regulator and indicate where to turn if you cannot afford legal advice.

An earlier factsheet offering a checklist of actions to take if you find yourself on reduced hours or unemployed is also available, now updated from last year to include recent developments. This combines practical information on which agencies will offer assistance with tips on what to do to avoid getting into debt and/or legal worries.

Both guides are available online (in PDF and HTML formats) at www.flac.ie

Official launch of FLAC centre at NUI Galway



Back row (L-R): Heather Waters, Alan O'Neill, Tara Gibbons, Niall Hayes, Róisín Fitzpatrick, Ciara McMenamin.
Front row: Noeline Blackwell (FLAC), Aisling Dillon, Prof Gerry Whyte (TCD)

The official launch of NUI Galway FLAC, a student society affiliated with the national organisation, took place on 18 January 2010. The event was hosted at the University and guests included FLAC Director General Noeline Blackwell and Trinity College Lecturer in Constitutional Law Professor Gerry Whyte.

NUI Galway FLAC's service will be modelled closely on the one used by the centres administered by the national organisation. Law students will provide legal advice and information to their fellow students in weekly clinics, supervised by qualified practitioners.

The event was opened by Prof. Liam O'Malley, Head of the NUI Galway School of Law, who congratulated the students on their achievement in re-establishing FLAC in the university. Also in attendance was solicitor Oliver Foley, a member of the original UCG FLAC. Mr. Foley spoke about FLAC's origins as a student organisation and also congratulated the members of NUI Galway FLAC for their

revival of the initiative.

FLAC was originally founded by then law students, DCU Chancellor David Byrne SC, retired member of the Hong Kong judiciary Ian Candy, Mr Justice Vivian Lavan and Denis McCullough SC.

Ms Blackwell and Prof. Whyte spoke about the current state of civil legal aid in Ireland and of FLAC's role in empowering the marginalised in society. They impressed upon the assembled students the importance of access to justice for all people.

NUI Galway FLAC clinics have now been in operation since 19 January, providing first-stop legal services to students on a range of legal issues. The clinics take place every Tuesday evening from 6 to 7.30pm in Áras na Mac Léinn, NUI Galway.

For more information on NUI Galway FLAC and its services, contact nuigflac@gmail.com

Recession does not alter remit of civil legal aid scheme

Contrary to common perception, legal advice and aid is not confined to family law matters. Legal aid (representation in court or a designated tribunal) is available to persons in civil proceedings in any Irish court of law. There are some matters excluded from the remit of the Act but these are relatively limited. State Law Centres undertake civil law work including the areas of family law, medical/professional negligence, personal injury, contract, social welfare and debt. Demand for the Board's services largely arises in the family law area and it is for that reason that most of its work is in the area of family law.

However, in recent times both the FLAC telephone information line and advice centres show an increase in queries relating to debt and employment, for example, with queries on family law issues dropping from a quarter to a fifth of all queries since 2006. Similarly, comments made by Mr Justice Brian McGovern in the Chancery Courts recently have paid credence to the fact that legal aid and/or advice should be available to people who are in severe financial trouble and who have been served with a civil summons for non-payment of a debt.

In 2010, like many countries worldwide, Ireland is in economic recession. The government faces huge challenges and there are ramifications for all kinds of service provision. But the recession cannot be used as a reason to deny access to legal services and representation to those who need it the most.

Anyone who satisfies the requirements of the Civil Legal Aid Act 1995 has a statutory right to receive civil legal aid. Anyone who fails to advise a client of this is denying the client their entitlement to assistance in accessing justice. For further information on how to apply for legal aid, visit www.legalaid-board.ie or you can contact them on Local 1890 615200. You can also find information on FLAC's site at www.flac.ie/gethelp or by calling the LoCall number at 1890 350 250.

Joint Oireachtas Committee issues report on over-indebtedness

On 16 February, the Joint Oireachtas Committee on Social and Family Affairs issued a report calling for urgent measures to be taken to tackle the growing debt crisis. FLAC had contributed to the committee's research on the issue last year and the report's recommendations echoed many of FLAC's longstanding positions on the issue, particularly those relating to taking debt out of the courts. It was compiled by Deputies Olwyn Enright (FG) and Thomas Byrne (FF), themselves both solicitors.

Launched in Leinster House, the report looked into various factors surrounding the crisis and made recommendations for reform. It highlighted the rising level of household debt stemming from low interest rates and easing of bank liquidity restraints. In an environment of lax regulation, Ireland experienced one of the most rapid rises in debt among the Euro-zone countries, as well as acquiring one of the highest percentages of debts secured on property. The rise in unemployment following the global economic crisis led to sudden changes in circumstances for many, creating great difficulties in repaying debts.

The committee went on to express concern at the soaring numbers of repossessions taking place and the failings of the current system of debt enforcement. Mirroring FLAC's proposals in *To No One's Credit* and the Law Reform Commission's consultation document on debt enforcement, it pointed out the drawbacks to holding debt proceedings in open court in

terms of expense and lack of debtor engagement and called for the establishment of alternate dispute resolution systems to deal with debt problems.

In its recommendations, the committee joined FLAC's calls for a strengthening and widening of the Financial Regulator's code of conduct, recommending it be placed on a statutory footing, apply to all lending institutions, and that the moratorium on repossessions be extended to 12 months. It also recommends that those availing of the code should not have their credit ratings negatively affected.

Another area singled out in the report was the practice of charging penalty interest on arrears. The Committee was of the view that, given that the European Central Bank does not charge penalty interest, there can be no justification for this practice in any other institution. The report forcefully and unambiguously asserts that penalty interest should be banned immediately.

Further, it suggests that institutions which lent recklessly should have some responsibility apportioned to them, that all lending institutions be obliged to refer clients with problems to MABS at an early stage, and that steps be taken to make legal documents more clear and understandable in plain English.

While expressing doubts as to the state's willingness to strike a fair balance between the interests of banks and that of beleaguered borrowers, FLAC welcomed the

Committee's proposals. "The report acknowledges that while life has changed hugely over the last ten years, our legal system has not," said FLAC Director General Noeline Blackwell. "This Committee has noted the need for an alternative system for handling debt outside the courts, as did the Law Reform Commission last year. FLAC has been calling for such a change for many years. There is a real consensus now around the need to update the law and the mechanisms for handling our over-indebtedness crisis."

She concluded: "The current system is not adequate to deal with the kind of problems created by over-indebtedness. This report points squarely to the deficiency in regulation before June 2007 and the need for a non-judicial solution to the issue. The government has to deal with these issues urgently."

Links:
FLAC report: *To No One's Credit*
<http://www.flac.ie/publications/to-no-ones-credit/>
JOC on Social & Family Affairs - Report on Over-indebtedness in Irish Society:
<http://url.ie/5neh>
LRC: Consultation Paper on Personal Debt Management and Debt Enforcement
<http://url.ie/5bgs>

Government appoints FLAC advisor to expert debt group

On 26 February, Ministers Brian Lenihan and Eamon Ryan confirmed the formation of an expert committee to deal with the issue of indebtedness, including FLAC's Senior Policy Advisor Paul Joyce. Submitting reports and recommendations on a rolling basis, the group will look into ways of helping individuals and small businesses under threat from the debt and mortgage crisis

currently gripping the country. It is understood that the body will consider the Law Reform Commission's recent recommendations on personal insolvency and debt enforcement and will involve senior officials from government departments in its work.

FLAC welcomes the formation of this group and is particularly pleased to see recognition for the expertise of Paul Joyce.

Paul has been working in the area of debt law for almost a decade and has authored two major reports issued by the organisation. He is also responsible for many submissions to politicians/policy makers calling for reform in the areas of consumer credit law and consumer debt law. FLAC wishes the committee well in its work and urges its members to work quickly to produce solutions for people struggling with debt.

Inside the Centre: The Free Legal Advice Centre @ Bray CIC

Larry Wyer, a barrister, has been volunteering in the Bray Centre for over 30 years. Operating out of Bray Citizens Information Centre (CIC), Larry not only provides legal advice, but rosters and coordinates the three Wicklow centres while FLAC's central office provides support and handles recruitment of volunteers.

Before he was even qualified, Larry began volunteering as a student. He had been invited to help with the centre's work by an existing volunteer and saw it as a great opportunity to actively use the law and to help real people with their problems. Many of those who were volunteering back then still continue to be active volunteers to this day and, despite being a 30 year veteran, Larry points out that there are others who have been volunteering in Bray even longer than himself.

Demand in the community for legal advice has steadily increased in recent years. The Bray centre originally dealt with clients who showed up on the night without appointment. However the numbers showing up made this system untenable. Volunteers were arriving at 7.30 expecting to be home at 9.00, but ending up working until 11. One volunteer even noted that he dealt with more clients in the centre than he did in his office. In response, an appointment system has been put in place and the slots available are reliably booked up every week by the time the volunteers arrive



Barrister Larry Wyer at the Bray FLAC Centres, where he has been providing legal advice for many years

for the advice clinic.

The types of queries that come through the door in Bray reveal interesting trends. While family law makes up the bulk of legal problems brought to the centre, the recession has brought with it a significant increase in consumer and debt queries. The Bray centre works closely with MABS on debt queries and often refers on clients to the money advice service. However, debt and the recession are increasingly playing a secondary role in other legal problems. Family disputes are often rendered more complex; for example, the fate of the family home is a central concern in relationship breakdown, but due to the collapse of the property bubble, selling is no longer an option. Separating couples

are now trying to negotiate more complex settlements whereby one will buy out the other, if this is possible. Debt also has a role in exacerbating family problems that is not immediately obvious from the statistics.

If demand for legal advice continues to

rise, Larry has contemplated trying to set up additional advice nights to cope. In the last few years, other centres in county Wicklow have opened in Wicklow Town and Arklow for which Larry also organises the roster. He anticipates continued cooperation among the community services in Wicklow. Under the umbrella of the Wicklow Information Network, cooperation is already well-developed. Larry represents the legal centres on this body along with the other members including MABS, the CICs, County Councils, local libraries, the HSE and Social Welfare.

Larry feels there is much to be gained from volunteering and would especially encourage young practitioners and students to get involved. Students often give advice at the centre under the supervision of a qualified practitioner, while young solicitors who are tired of being stuck in back offices often enjoy the opportunity to deal face-to-face with clients. This practical experience is invaluable and can help young lawyers learn a lot about client relations and practical problem solving and analysis. Above all, Larry believes volunteering is valuable in and of itself and that the greatest benefit is for the volunteer, which comes from giving back to the community.



FLAC report: Direct provision system violates

[cont'd from front page]

Saoirse Brady, FLAC Policy and Campaign's Officer and main author of the report, told those gathered: "The title of our report *One Size Doesn't Fit All* refers to the way in which residents within the system are not treated as individual human beings with individual requirements and circumstances, but as identical units who all fit the same mould".

She outlined the main findings of the report which include:

- » Despite the number of asylum applications falling to its lowest since 1996, the number of people living in direct provision has not mirrored this decrease. According to RIA statistics the number of direct provision residents in October 2009 was more than double the number of asylum applications made in the same year.
- » More than half of the residents have lived in direct provision accommodation for more than 2 years; more than a third of the total number of residents have been there for more than 3 years.
- » Social welfare supports for direct provision residents have become more restricted over the last

decade with the prohibition on rent supplement and the introduction of the Habitual Residence Condition. The weekly direct provision allowance of €19.10 per adult and €9.60 per child is the only social welfare payment never to have increased.

- » Despite being some of the poorest people in Irish society, direct provision residents are not included as a target group in anti-poverty and social inclusion strategies.
- » The system in its current form lacks transparency and fairness. The complaints procedure is not operated in a clear and reasonable way. A person can still end up destitute on the street without any recourse to assistance if expelled from a direct provision centre as there is no right of appeal.
- » The direct provision and dispersal system was set up to serve the needs of bureaucrats rather than the needs of people who have fled persecution to seek protection in Ireland.

Spokespersons from statutory agencies, non-governmental organisations and political parties, all contributed to the launch.

Diane Nurse of the HSE Intercultural Health Strategy said that there was inconsistency in the standards across direct provision accommodation. She added that the length of time people spent in direct provision was a cause for concern.

Maura Connolly, the Manager of the Centre for Care of the Survivors of Torture at Spirasi, spoke of the detrimental effect the direct provision system can have on individuals. She called for a system which would care for vulnerable people.

Policy and Human Rights Officer with the Office of the Ombudsman for Children's Office Manus De Barra, emphasised that children should not be placed in an administrative environment but a supportive one. A child's immigration status is secondary to the fact that s/he is a child first and foremost. The State has clear and unequivocal obligations to protect these children; there is never a rationale to discriminate against any child.

A Senior Investigator with the Ombudsman's Office, Tom Morgan, highlighted the need for a robust complaints system and stated that complaints must be monitored or they may recur and cost the State money.



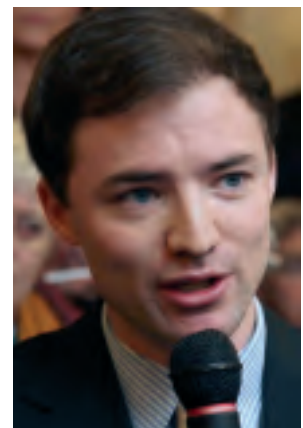
Sue Conlan
CEO, Irish Refugee Council



Josephine Ahern
CEO, ISICI



Diane Nurse
HSE Intercultural
Health Strategy



Manus De Barra
Office of the Ombudsman
for Children

Photos by Derek Speirs

human rights of asylum seekers in Ireland

Kerry O’Leary of AkiDwA referred to the lack of control experienced by mothers in direct provision. Communal toilet facilities are not appropriate for families. She asked that an assessment of the impact of direct provision on women and children be carried out.

Labour TD Michael D Higgins spoke of the need to inform the public about the reality of direct provision. He commended FLAC on the launch of the report and told those present about the problems faced by people living in direct provision in his own constituency. Denis Naughten TD, Fine Gael spokesperson on immigration, felt that a better service can be provided in a cheaper, more co-ordinated way. He also recognised that the fact that there is nothing to do while living in direct provision can lead to psychological issues and an impact on mental health.

FLAC will continue to work on the issue of direct provision throughout the year with other organisations working directly on asylum and refugee issues to achieve changes in the implementation of the direct provision and dispersal system to make it a more humane and fair scheme. The Government must honour its commitments to look after a group of people who have come to Ireland seeking refuge and protection instead of allowing them to become institutionalised by the current system.

Report Recommendations

FLAC has made a number of recommendations to address the issues raised in the report and has called for the system of direct provision to be abolished. However, while it remains in place the State should take a number of steps to improve the system:

- ▶▶ Respect, protect and promote the fundamental human rights of people regardless of their immigration status.
- ▶▶ Following on from this, the State should carry out an audit of its policy of direct provision and dispersal to ensure it meets human rights standards in both Irish law and in international human rights treaties that Ireland has ratified.
- ▶▶ A greater level of care needs to be taken to guarantee the rights of those in direct provision who are particularly vulnerable, whether by reason of their age, gender, disability, health, sexual orientation or other attribute.
- ▶▶ The Department of Justice and Law Reform needs to operate the direct provision and dispersal system in a fair and transparent way. Residents must be given a voice in decisions made about them and an objective and fair hearing if difficulties arise in the administration of the system
- ▶▶ In making any decision to relocate a person, account should be taken of his/her physical and mental health, cultural, religious and other background and the potential for conflict within a direct provision centre because of the person’s ethnicity or history in his/her country of origin.



Copies of the *One Size Doesn't Fit All* Report & Executive Summary are available to download for free (in PDF format) from www.flac.ie/publications/category/reports or for free collection at FLAC’s office. You can receive it by post at a cost of €3 by sending an stamped addressed A4 envelope to FLAC, 13 Lower Dorset Street, Dublin 1.

Also, check our website for updates on events, resources & news: www.flac.ie/campaigns/direct-provision-campaign



Kerry O’Leary
AkiDwA



Denis Naughten TD
(Fine Gael)



Michael D Higgins TD
(Labour Party)



Joan Roddy
Director, Refugee &
Migrant Project

Personal experiences of direct provision

Two people who have lived in the direct provision - one who is currently still in the asylum process, and who thus cannot reveal her identity, and one who has since received refugee status - here describe their own experience of the system.

As a person who is seeking asylum here in Ireland, I have heard other people who are in the same position give different views as to what they find the hardest living under direct provision. Some say it's the poverty they suffer having to live on €19.10 per week.

Some say it's the living conditions in almost all the hostels, whereby you have to share accommodation with complete strangers. Some say it's the attitude of the service providers while some say it's the waiting period living under these strenuous conditions. They say it's like being in prison, the only difference being that in prison, you know your jail term.

When posed with the same question, I thought long and hard about it. All the above reasons came to mind, but one thing stood head and shoulders above it all; the lack of choice.

The fact that one cannot make a decision as to where they will live or for how long. You could be posted to Galway today and the following week be transferred to Athlone with just 24 hours notice; no regard to the fact that you have family and the sadness of your children having to part from their friends both at home and at school. The lack of decision power when it comes to simple things like choosing a school for your children. This decision lies at the hands of the Accommodation Manager of whichever hostel you are living in. Then the last and definitely not the least, the lack of choice when it comes to what to eat, and when to eat.

I lived in direct provision in hostel in the Mayo town of Ballyhaunis for nearly three years. It was very hard to accept all the rules and the regulations of the hostel at first. We had to queue for food, to see social welfare officer, nurse, etc.

I wasn't able to cope with around 300 hundred people living in the same place; it was overwhelming, especially because people came from very different parts of the world.

That created tension between the residents that was manifested in arguments and physical fights, sometimes requiring Garda intervention.

I didn't find the management and the staff very helpful. They always insisted on maintaining a distance and that was extremely hard for residents with poor English.

Living in such a ghetto for a long time, limited to an income of €19.10 a week, led many people to become institutionalised. I would say that two-thirds of the residents were at some point referred to a psychiatrist and medicated.

Residents lose their personal skills during their time in direct provision; there are no outdoor or indoor facilities, the right of children to play has been taken away, there is hardly any engagement from the local community, there are not enough courses or support, people are living in poverty and social exclusion, and many other issues.

As a person who recently received refugee status, I am pleading with officials to meet with non-governmental organisations as soon as possible to discuss the issues around direct provision hostels because no one wants another report on institutional abuse.

As an artist I will continue to work to reveal the issues affecting asylum seekers and I hope that the direct provision hostels, all 54 of them in Ireland, will be closed in a short length of time.

Vukasin Nedeljkovic (Serbia)

Left: Author of FLAC's report on direct provision and Campaigns & Policy Officer with FLAC, Saoirse Brady, speaking at the report launch. To her right is Vukasin Nedeljkovic, who spoke about his own experience in direct provision at the launch and who describes his time there and the issues it raises for him in the article above.



Photo by Derek Speirs

Focus on FLAC: Yvonne Woods Information & Communications Officer

Yvonne has worked with FLAC for seven years. However, she first encountered FLAC as a volunteer, having read an advertisement on the Volunteering Ireland website. "Although I had no experience with law - the volunteer role didn't require it anyway - I was very taken with FLAC's agenda. It looked like a really interesting outfit doing a very hard job," comments Yvonne.

She had returned to Ireland after some years abroad, where she worked for international students organisations based in Prague and Vienna. Her qualification in Translation and Interpreting had set her up for a globe-trotting lifestyle, but she developed an interest in social justice issues that would eventually send her back home to Ireland in 1998, where she began work with the union SIPTU and later with University College Dublin.

The volunteering stint with FLAC led to a job offer and Yvonne started work in FLAC on a part-time basis in 2003. "There were fewer staff at the time, but the same fierce work ethic prevailed then as today - there was an incredible output from a relatively small band of people," she recalls. "FLAC has such a long history of voluntarism and a lot of that rubs off on the staff, they are very dedicated people."

She began a course in Equality Studies in 2003 also and eventually qualified with her MSc., following a thesis on critical legal education in Ireland. "There's no doubt that working in FLAC had a major influence on how my studies progressed. Working here has opened my eyes to how central law is to people's lives, even when they don't realise it. It is important that people know how to use law rather than fear it," she says.

Having mostly worked for non-governmental organisations, Yvonne found FLAC to be quite different in many ways. "Most people involved in FLAC are lawyers, which is unsurprising given the organisation's focus. It took a while for

me to understand some of the work. But I was really taken aback by how much law permeates our lives without us always realising. Because law isn't on the school curriculum you normally only get to grips with its centrality if you go into the profession or if you have some sort of particular reason, like a will or a court appearance, and so people naturally avoid it in the normal run of things."

Yvonne is a big supporter of the way FLAC and other organisations have turned this around by promoting law in the community. "Our centres are obviously a very handy resource for people looking to find out more about their rights. But the independent law centres go even further with education programmes, seminars and events to promote awareness of how to use law in the public interest."

Last year FLAC launched a project called the Public Interest Law Alliance (PILA) which is hoping to go even further down this route. "There is a really great team working on bringing law to people, and they've started a range of actions, from working with organisations on how they might use innovative legal methods to achieve their goals to examining how lawyers are trained and educated so that social justice angles are included. It's a very exciting venture!" she says.

Although she acknowledges it would be unwise for groups to "put all their campaign eggs into the law basket", it is definitely a highly valuable strand to add to any campaign strategy. "Often people will just forget about taking a legal angle on an issue because they think it will be



Photo by Derek Speirs

too difficult or expensive or they don't know a lawyer. That's what PILA is about - matching community issues with legal solutions," she comments.

The recent economic situation has thrown a spotlight on FLAC's work in the area of debt and social welfare in particular. "It is sometimes hard to get people interested in issues that are not considered 'sexy', like civil legal aid or minority rights. Part of FLAC's job is to raise the profile of such issues to strengthen lobbying for change, whether policy or legislative." The cutbacks have taken a particular toll on Ireland's human rights and equality infrastructure, which has been disproportionately affected. As a result of these measures, FLAC joined the Equality and Rights Alliance (ERA) which is working to strengthen the sector and draw attention to the need for a robust and thriving human rights and equality culture in this country.

A rewarding aspect of the job for Yvonne is FLAC's publications. FLAC conducts research into particular areas of law and this could so easily be "gathering dust on shelves around the country. But they are not - recently we have seen our work taken up and used exten-

sively by organisations, legislators and policy-makers, which is very heartening, given the amount of time and effort that goes into this research," she comments. "But even the more basic legal information leaflets we produce are very popular, they explain aspects of law and the legal system in a straight-forward way."

Apart from her specific duties, Yvonne finds the work environment in FLAC to be a real highlight of the job. "Without wanting to sound like an Oscar-winner, I have learned so much from my colleagues. There's a lot of energy and a real buzz to working here - as it's a small organisation, we're all involved in every campaign and you get to input your ideas and feedback from the start," she says.

Into the future, she would like to see FLAC continue its work on making law more accessible and on the equally important angle of helping people get access to the law, whether directly through its own work or by lobbying to extend state provision. "FLAC's role as a legal rights organisation is still as necessary today as in 1969," she says, "and there is still a mountain of work left to do in achieving equal access to justice in this country."

PILA Bulletin – sign on up!

For the past four years, every fortnight, FLAC has issued the *Public Interest Law Network Bulletin*, now known as the *Public Interest Law Alliance Bulletin* or PILA Bulletin. We would like to invite FLAC News readers to sign up to the bulletin. It goes out to some 600 individuals and organisations, including legal practitioners, legal and non-legal NGOs, academics, media and other interested parties. It offers updates on current developments in public interest law and litigation, such as legislative changes, jurisprudence and on-going campaigns both nationally and internationally, as well as upcoming events. It is circulated electronically and on the FLAC website. Please contact the PILA team at bulletin@pila.ie who will be delighted to supply further information and add your name to the Alliance network.

PILA manager leaving

At the end of April, Tony O'Riordan will step down as PILA Manager to pursue other interests and projects. FLAC very much appreciates everything Tony has done in his time with PILA, leading the PILA team and helping to lay the foundations for the project in an inclusive and sustainable way. The Board and staff thank Tony for his work and wish him success with his future projects.

Launch of Irish Human Rights Law Review

PILA is pleased to host the launch of a new scholarly publication, *Irish Human Rights Law Review*, published by Clarus Press on Thursday 20th May at 5.30pm in The Morrison Hotel, Ormond Quay, Dublin 1.

The Review, which will be published on an annual basis, will be launched by the Ombudsman, Emily O'Reilly. The other speakers at the event are the Editor, Donncha O'Connell, and Michael Farrell of FLAC.

The Review contains articles and case notes and should be of interest to practitioners, academics, activists and students involved in various kinds of human rights work. It will be available on special offer to those attending the launch.

Please RSVP to PILA by telephone at 01 8728048 or email at info@pila.ie.

Pro bono lawyers breakfast seminar

Philip Lee Solicitors hosted a breakfast seminar for various commercial law firms and PILA on Thursday 15 April. The theme was the role which *pro bono* can play in commercial law firms – and specifically, how law firms could partner with PILA.

FLAC Director General Noeline Blackwell explained that PILA's main objective in setting up a *pro bono* referral system is to utilise law firm expertise to the benefit of NGOs working in the public interest. PILA was lucky enough to be able to call on the experience of two international guests: Ed Rekosh of the Public Interest Law Institute in Budapest and Mark O'Brien of Probono.Net in New York. Ed and

Mark have worked with many commercial law firms, having established *pro bono* schemes in Central & Eastern Europe and the USA respectively.

The conversation then turned towards the NGO sector. Conor Hickey (Director of Crosscare, which works with migrants and homeless people among others) and Mike Allen (Director of Advocacy at Focus, which works in housing homeless people) outlined the potential benefits of a *pro bono* referral system for the work that they do. Mike Allen noted that one advantage of a centralised referral system is that it does not rely on informal contacts which may fall away. Conor Hickey observed that a further benefit would

be to identify potential legal avenues which may be crucial at different points of a disadvantaged person's life. The seminar concluded with a valuable discussion about how *pro bono* could work in practice.

PILA is very grateful to Philip Lee Solicitors and looks forward to collaborating with them and others on *pro bono* matters.

- ▶▶ If you are a lawyer interested in discussing what it means to join the PILA *pro bono* register and what kind of opportunities there might be to apply your legal skills in a new context, please contact PILA Legal Officer Jo Kenny at jo.kenny@flac.ie.

Resurrecting the death penalty would put Ireland out of step

Speaking to the *Irish Times* late last year, former president of the High Court Mr Justice Richard Johnson recommended the government take another look at the death penalty. Believing Irish people have become “unshockable”, he suggested the reinstatement of capital punishment might create a necessary deterrent and restore respect for law and order.

Even ignoring the considerable barriers to reinstating the death penalty posed by the 21st amendment of the Constitution and our adherence to the European Convention on Human Rights, a restoration of the death penalty would put Ireland starkly out of step with the current trend among democratic nations away from capital punishment. It is striking that even Japan and the US State of Texas, traditionally zealous in their application of the death penalty, are beginning to re-examine its use as awareness grows about miscarriages of justice, abuses of power and human rights violations.

Texas

Texas has long been notorious for its unapologetic embrace of the death penalty; however, there are signs of change in the public mood. DNA evidence has resulted in the release of 140 death row prisoners across the US, throwing light on the fallibility of the justice system. While this has not led to abolitions and moratoriums in Texas as it has in other US states, Texan juries have become far more reluctant to pass death sentences, with the number dropping 60% over the last decade.

Confidence in the system has been further undermined by the execution of Cameron Willingham. Willingham was convicted of capital murder for starting a fire which killed his three children, yet even before his execution, forensic experts had raised doubts regarding the evidence against him. These reports criticised fire investigators at the scene who misread evidence using outdated methods and concluded that the con-

viction had no basis in modern science. The execution proceeded regardless, but the controversy has had resonance.

Perhaps representative of the shift in public mood, former governor Mark White, previously a supporter of the death penalty, is among many voices now calling for a rethink on capital punishment in Texas. Even more strikingly, Houston District Court Judge Kevin Fine recently ruled the death penalty unconstitutional on fair procedure grounds due to the great risk of innocent people being executed. Many will watch with interest as the case progresses to the higher courts.

Japan

Japan has long weathered international criticism, not only for its use of the death penalty, but for its treatment of prisoners awaiting execution. Yet recently even they are reconsidering their use of the death penalty.

Japan’s use of the death penalty is particularly problematic in light of well-documented dysfunctions in its justice system. Of those charged with an offence, 99% are found guilty. This improbable figure is made even more worrying by the vast majority of convictions being based on confessions obtained in custody and lax rules on the length of interrogations and prisoner treatment.

Amnesty International recently issued a damning report highlighting conditions of those awaiting execution. Death-row inmates inhabit “toilet-sized cells”. They are not permitted to speak to other prisoners, nor are guards permitted to speak to them. They are allowed out twice a week for 30 minutes exercise and receive minimal contact with the outside world.

There is also a policy of not telling prisoners they are to be hanged until the morning of execution day. Hanging is carried out in the detention facility and family members are only informed after

the fact. This leaves prisoners in great isolation, knowing their execution could happen any time at a moment’s notice. Some prisoners wait up to 30 years and even if they are appealing their sentence, no stay is put on the execution. Indeed, many prisoners are elderly and exhibiting signs of mental illness by the time execution day arrives.

After years of resistance by the state, these controversial policies are now finally being addressed. The newly elected DPJ government, self-proclaimed progressives, have declared their willingness to open up debate on the issue. Keiko Chiba, the new Justice Minister, a long-time critic of the death penalty, has pledged to reaffirm Japan’s commitment to its human rights obligations and to re-examine the state’s policies on capital punishment.

Conclusion

Should Ireland follow Mr Justice Johnson’s advice and begin the laborious process of amending the Constitution and renege on our international human rights commitments? Europe has largely abandoned the death penalty and even in the few hold-outs among democratic jurisdictions, the public mood appears to be shifting away from it.

Resurrecting the death penalty could ultimately leave Ireland on an isolated course as other countries move toward restriction and abolition. Ireland has long trumpeted its achievements as one of the foremost advocates of human rights on the global stage. We should continue to lead by example and provide a model to the rest of the world. If we renege on our commitments and relax our human rights standards, we will become an example cited by the most egregious offenders to justify their practices and undermine the very institutions we once championed. Ireland must strive to be a paragon of human rights, and should not sacrifice standards to ill-conceived and reactionary policies in the name of law and order.

Conference on public interest law in action: Using the law to face current challenges

FLAC's Public Interest Law Alliance project recently hosted a highly successful conference that brought together NGOs and lawyers to discuss practical ways to promote the use of law in responding to challenges in areas such as debt, housing, children's rights, mental health, travellers' rights and migrants' rights.

The morning session featured presentations outlining international experiences of using the law in the public interest. Academic, author and human rights lawyer Andrea Durbach related the situation of the 'Stolen Generation' where Australian state policy removed aboriginal children from their families up until the 1970s and the role of public interest law in assisting them. Edwin Rekosh, founder and director of the Public Interest Law Institute (PILI) discussed the progression of public interest law in Central and Eastern Europe.

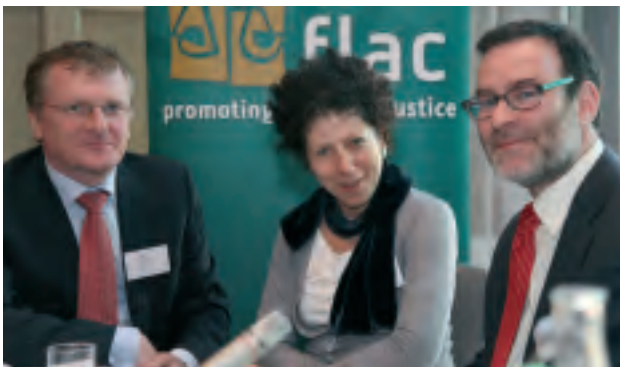
The session also included an overview

of developments in Ireland, north and south, with contributions of FLAC Senior Solicitor Michael Farrell and PILA Legal Officer Jo Kenny as well as Melissa Murray and Paul Mageean of PILS in Northern Ireland.

Workshops in the afternoon focused on specific recent examples of public interest law in action in Ireland on the topics of debt, housing, children's rights and social welfare. Solicitor Colin Daly of Northside Community Law Centre spoke about the *McCann* case that led to law reform in the area of debt. His colleague's Moya de Paor and Claire Naughton also participated in the workshops on social welfare and housing. FLAC's Senior Research and Policy Officer Paul Joyce and Campaigns and Policy Officer, Saoirse Brady, children's law expert Geoffrey Shannon and Traveller Law Centre solicitor Siobhan Cummiskey and Northern Ireland Children's Law Centre director Paddy Kelly made valuable contributions.

The final session of the day involved a public interview on public interest law hosted by broadcaster and journalist Vincent Browne. The interview panel comprised Professor Gerry Whyte of TCD, FLAC Director General Noeline Blackwell and Mark O'Brien, Director of the US-wide non-profit organisation ProBono.Net. PILA wishes to thank all those who participated in and attended the event.

- ▶ On 7 May PILA will hold a free afternoon seminar in the Distillery Building on Dublin's Church Street entitled 'Using international law – the European Social Charter and UN treaty body complaints procedures' with guest speakers Colm Ó Cinnéide of the European Committee of Social Rights and Kate Fox of the UNHCR – the UN Refugee Agency. To reserve your place, e-mail to jo.kenny@flac.ie or telephone (01) 872 8048.



L-R: Peter Ward SC, Andrea Durbach and Edwin Rekosh



L-R: Paul Mageean, Melissa Murray, Jo Kenny, Colin Daly (standing) and Michael Farrell



At the workshop on housing, Claire Naughton (NCLC) with Siobhan Cummiskey (ITM Travellers Law Centre)



L-R: Prof Gerry Whyte, Noeline Blackwell, Mark O'Brien and Vincent Browne

Photos by Derek Speirs

A different path to legal knowledge: Community Legal Education in Ballymun

On a very basic level, law might be described as a set of rules meant to represent and uphold justice. Some argue that to achieve a workable system of law, people must feed into how it is actually created, otherwise the system becomes hollow and dead. Yet, all too often, law feels like it is made by people in darkened rooms far from reality. It is this philosophy of bringing law to the people that underpins much of the work of Ballymun Community Law Centre (BCLC).

Frank Murphy, the solicitor running Ballymun Community Law Centre, has seen first-hand the great desire within a local community to learn how law works. When the Law Reform Commission launched its paper on Family Relationships in Ballymun, it was greeted by a packed house. Far from being intimidated by the law, the audience was very active in giving points of view. This eagerness to engage with the law demonstrates a need among people to learn about how the legal system works. Frank describes these public consultations as “the law made real” and says they are an important part of bringing the law to the community.

To fulfil this desire to learn, Ballymun Community Law Centre runs courses throughout the year. Taught by qualified instructors, these courses cover a range of legal areas. Filling the places is rarely a problem. “For family law, you literally put it on the notice board and you have a full class” says Frank. Teaching styles vary with the teacher, but Frank personally enjoys encouraging people to form opinions about the law. His classes have seen great discussions on things like the nature of Law and Justice, and on the limits on discrimination in the Equality Acts.

Gaining recognition for BCLC’s courses has not been an easy process. Universities are increasingly willing to give their students credit for working in the community, but remain reluctant to give those working in the community credit for what they learn. However in recent times, the assistance of the National College of Ireland has been invaluable in gaining FETAC accreditation for many of Ballymun’s courses. Technology has also opened up new possibilities. Dr. Padraic Kenna, a leading NUIG lecturer in Housing Law, now broadcasts his lectures live to Ballymun each week.

Broadening access to the legal profession is an over-arching goal of BCLC’s mission. Paraphrasing Dr Maurice Hayes at the 3rd Dave Ellis Memorial Lecture held last December, Frank likens the legal profession to the Ritz Hotel, nominally open to all but in reality only accessible to those with resources. If real equality is to be achieved, to have judges coming from areas not traditionally associated with producing judges, then legal education in Ireland needs considerable reform. Frank believes that if the Law Society, Bar Council and Universities made a concerted effort, they could focus resources on promoting and recognising community legal education and creating alternative paths to qualification.

Widening engagement with the law benefits everyone. Communities gain a better understanding of the workings of the society in which they live, while the law itself is rendered more relevant by the engagement and input of the people.

For more information on courses & events in Ballymun Community Law Centre, visit www.bclc.ie/

Making access to justice possible

FLAC has been working for equal access to justice for all people in Ireland since it was set up in 1969. Forty years later, we are still campaigning, researching and providing practical help to people all over the country. In 2008, FLAC answered some 9,500 queries over its telephone helpline and provided free legal advice to around 7,500 people via its centres around the country.

The current economic climate means increased strain on FLAC’s workload. If you would like to help FLAC continue its work promoting equal access to justice for all, please consider making a donation to the organisation.

You can help FLAC by:

- ▶ **Sending a cheque/postal order with your details to **FLAC, 13 Lower Dorset Street, Dublin 1****
- ▶ **Logging on to www.flac.ie and following the link to www.mycharity.ie**
- ▶ **Making a credit/laser card donation by completing and returning the donation form below:**

Name: Amount: € I am : a PAYE taxpayer
 a non-PAYE taxpayer

Address: *If you are a PAYE-only taxpayer, a gift of €250 or more could be worth up to an extra 72% to us!*

..... Please debit my: Visa Mastercard Laser

Card number: Expiry date: | CSV: