

flacNews

FREE LEGAL ADVICE CENTRES

The Vitality of Volunteers

Europe-wide celebration to mark contribution of volunteers

“We know how harsh the world has become in this time of recession as the flow of money through the economy and people’s purses dries up. We have no idea how unbearable our country and our world would be if the flow of volunteering generosity stopped coursing through our lives. It would spell nothing less than a psychological ice-age. That is how essential volunteers are, how critical they are to our civic well-being, our civic resilience and our civic strength.”

The above comments were made by President Mary McAleese in her speech at the opening ceremony of the European Year of Volunteering 2011 which took place at the Royal Hospital, Kilmainham, on Saturday 12 February. A Europe-wide initiative, the European Year of Volunteering 2011 is a

Process begins in UN review of Ireland’s Human Rights Record



Pictured at the Cross-sectoral Civil Society Group’s Consultation of the Universal Periodic Review held in the Aisling Hotel on Parkgate St., Dublin 8 were: Colin Wrafter, Department of Foreign Affairs; Noeline Blackwell, FLAC; Paul Rowe, Educate Together; Layla de Cogan Chin; Deaglán Ó Briain, UPR Secretariat and Deirdre Duffy, Irish Council for Civil Liberties.

Photo courtesy of ICCL and Your Rights, Right Now.

Your Rights, Right now – Civil Society’s Response to the UPR – Page 4

celebration of the value which volunteers add to societies across the continent. It aims to recognise the immense and often incalculable contribution volunteers make at all levels of society in a variety of sectors from healthcare to education to youth services and indeed legal services. The

Year’s objectives are to empower volunteer organisations and recognise the contribution of volunteers while simultaneously raising awareness and creating the best possible environment in which volunteering can flourish.

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FLAC NEWS is published quarterly by Free Legal Advice Centres Ltd., 13 Lower Dorset Street, Dublin 1.

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ISSN 07914148

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

VODAFONE PROGRAMME HELPS FLAC WITH LEGAL AID WORK



FLAC is delighted to have Doreen Mescal work with us for three months thanks to the Vodafone Ireland Foundation. The Vodafone World of Difference programme offers 30 individuals the chance to work with a charity of their choice, by providing them with three month's salary and expenses to cover the charity's administrative costs. Doreen submitted a proposal to work for FLAC and was selected as one of the 2011 winners.

Doreen has law degrees from UCD and Trinity College, and has previously both interned and volunteered for FLAC. Doreen can now build on her knowledge of the organisation and its needs, to complete a valuable project. Specifically, Doreen will be working on the Civil Legal Aid Campaign, one of FLAC's main areas of concern.

Civil Legal Aid is a vital state service, ensuring that even society's most vulnerable members have access to the justice system. The Legal Aid Board has had a significant increase in demand combined with a reduction in resources. Waiting times for an appointment at some Legal Aid Law Centres can be up to nine months.

FLAC is campaigning to ensure that Civil Legal Aid be protected as it stands and adequately funded to provide a meaningful service to those who need it. To this end, Doreen will be assisting with research, policy work and primary casework with individuals involved with the legal aid process as well as spearheading the development of a legal aid working group to monitor, research and analyse the functioning of the state scheme. It is hoped that this new group, comprising mainly volunteer lawyers and students, will be able to take on research and policy tasks that FLAC has identified as essential, but lacks the capacity to carry out.

FLAC is delighted to have this additional resource dedicated to implement this campaign. We welcome Doreen back, wish her luck and sincerely thank Vodafone Ireland for the support they have shown for FLAC's work.

If you would like to volunteer with the FLAC Legal Aid Working Group please contact:

info@flac.ie

UN: Ireland must do more to eliminate racism

In February 2011, Ireland was examined by the UN Committee on the Elimination of All Forms of Racial Discrimination (CERD) on the basis of its third and fourth periodic reports under the Convention which updated the situation since its last examination in 2005.

The State was represented at the examination by a delegation of 11 civil servants headed by Mr Diarmuid Cole, the Director General of the Department of Community, Equality and Gaeltacht Affairs. Mr Cole outlined the State's response to the list of themes raised by the Committee which included cuts to statutory bodies dealing with equality and racism, Traveller ethnicity and related issues, the Immigration, Residence and Protection Bill, ethnic profiling, reporting of racist crimes, lack of provision of non-denominational schools and the detention of asylum seekers in certain instances.

“The Committee was critical of the dismantling of the human rights infrastructure despite the economic situation”

The Irish Human Rights Commission, in its role as the national human rights institution, was also given an opportunity to outline the Irish situation to the Committee. The IHRC submitted a separate Shadow Report which highlighted concerns about the rights of the Traveller community, direct provision residents, victims of trafficking and migrant workers and their families. Dr Maurice Manning, President of the IHRC made a statement to the Committee highlighting the lack of human rights education and training

for the public sector as well as the treatment of Travellers and the conditions in which direct provision residents live for long periods of time. Both the report and the statement can be accessed on www.ihrc.ie.

The NGO Alliance Against Racism, a network of over fifty organisations including

“The NGO Alliance Against Racism... submitted a Shadow Report outlining the concerns of civil society...”

FLAC, submitted a Shadow Report outlining the concerns of civil society in relation to the treatment of migrants, Travellers, Roma and the impact of the cuts to bodies monitoring discrimination as well as to those bodies which promote and protect human rights and equality.

The Shadow Report was well received by the Committee members and a delegation from the NGO Alliance travelled to Geneva to represent the views of civil society. The majority of the CERD members attended a lunchtime briefing hosted by the NGO Alliance which led to insightful and well-informed questions during the examination of the State.

CERD's Concluding Observations were published on 11 March and the Committee was critical of the dismantling of the human rights infrastructure regardless of the economic situation. The subject of the Direct Provision and Dispersal System was also criticised for the long periods of time people spend in the process

NGO Alliance Against Racism SHADOW REPORT

In response to the Third and Fourth Periodic Reports of Ireland under the UN International Convention on the Elimination of All Forms of Racial Discrimination

The Shadow Report of the NGO Alliance Against Racism can be accessed at:
<http://www.flac.ie/publications/category/policy submissions/>

with potential “negative consequences on their health and general welfare”. The Committee called for an improvement in conditions and a review of the Direct Provision system. Another recommendation focused on the need for improving draft legislation relating to immigration and protection law including provision of separate residence permits to “migrant women in abusive relationships”.

The CERD's Concluding Observations include a recommendation that the State report back to it within a year on key issues including the impact of the cuts on the human rights bodies, the recognition of Travellers as an ethnic group, the enactment of updated legislation on immigration, residence and protection as well as legislation on female genital mutilation, incitement to hatred and incorporation of the Convention into domestic law. The new Government should ensure that it is in a position to submit this report in a year's time and that it has taken adequate measures to address these concerns in light of its own proposals in the Programme for Government.

The Concluding Observations can be read in full at :

www2.ohchr.org/english/bodies/cerd/docs/co/Ireland_AUV.pdf

FLAC's submission to the CERD Committee is available to download at:

www.flac.ie/publications/category/policy submissions/

YOUR RIGHTS – RIGHT NOW – Civil society’s response to the UPR



Universal Periodic Review
REVIEWING HUMAN RIGHTS IN IRELAND
Your Rights. Right Now.

As reported in the last edition of FLAC News, a coalition was formed to submit a joint stakeholder report for the upcoming Universal Periodic Review or UPR of Ireland in October 2011. In line with the UN’s own timeline, the civil society stakeholder report had to be submitted by 21 March 2011 and the State is due to develop its report by 4 July 2011.

A steering group of seventeen organisations, including FLAC and coordinated by ICCL, launched the “Your Rights, Right Now” campaign in January 2011. A dedicated website <http://www.rightsnow.ie/> was set up and a plain English guide to the UPR was published and disseminated widely. As part of the campaign a series of public information sessions and consultations were held with specific groups to identify some of the main human rights issues arising in the current context. Sixteen separate events were held in various locations including Dundalk, Limerick, Galway, Cork and Dublin and were attended by more than 200 individuals. The

coalition also received more than 80 separate submissions which were considered when collating the vast amount of relevant information.

A National Review Day was held on 10 March to discuss the themes arising out of the consultations as well as giving civil society organisations and representatives an opportunity to endorse the combined report and recommendations. The coalition submitted a 10 page report to the UN Office of the High Commissioner for Human Rights highlighting a wide range of human rights issues as diverse as homelessness due to mortgage arrears and over-indebtedness, cuts to the community and voluntary sector, Travellers’ issues, lack of recognition for transgender people and the quality of life of people with mental health issues. The report has so far been endorsed by 82 organisations and individuals. In addition to endorsing the report, FLAC submitted its own five page stakeholder report to the UN in relation to its specific concerns on its priority areas of work which is

available at www.flac.ie. While a lot of work went into the submissions, it is only the beginning of the process as further lobbying on specific issues will need to take place before October when Ireland will be examined on its human rights record in Geneva.

The full report of the Independent Expert on Human Rights and Extreme Poverty will be presented in June 2011 and the recently published findings of the Committee on the Elimination of Racial Discrimination will also be considered during the UPR as well as previous Concluding Observations and recommendations submitted from other UN bodies. This will be the first time that the State will be reviewed under UPR so it will provide an interesting insight into how it measures up to its international human rights commitments. FLAC will continue to lobby the Government both in the lead up to the review as well as using the findings of the review to seek improvements in the State’s protection and promotion of human rights over the next four years.

More information on Civil Society’s response to the UPR can be found at:
www.rightsnow.ie



The Human Rights Council in Session

Photo: Wikipedia Creative Commons

Analysis of the principle of non-regression in International Human Rights Law

Due to economic cutbacks in recent budgets, the most vulnerable in our society have been adversely and disproportionately affected. There was a consistent focus by the previous administration on protecting the interests of the banks while ignoring the needs of the people and denying them their basic dignity. In these difficult economic times resources are limited, however there needs to be greater emphasis placed on how best to use these resources to progressively achieve fulfilment and enjoyment of personal rights. Ireland has signed and ratified international legal instruments which stress the importance of progressively realising human rights standards for all and maintaining a duty on each State to continue to fulfil these obligations, even in times of economic turmoil. The International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Convention on the Rights of the Child (CRC), the International Convention on the Elimination of Racial Discrimination (ICERD), the EU Charter of Fundamental Rights, and the European Social Charter all include provisions obliging State parties to realise, to the maximum of available resources, the rights recognised in the conventions and charters.

Principle of Non-Regression

Each State party to international human rights instruments has a duty to provide a basic level of subsistence necessary to live in dignity, known as a minimum core obligation. Article 2 (1) of the ICESCR also declares that each State party must progressively realise rights in the covenant to the maximum of its available resources. States must generate and assign the maximum resources available to the progressive fulfilment of economic

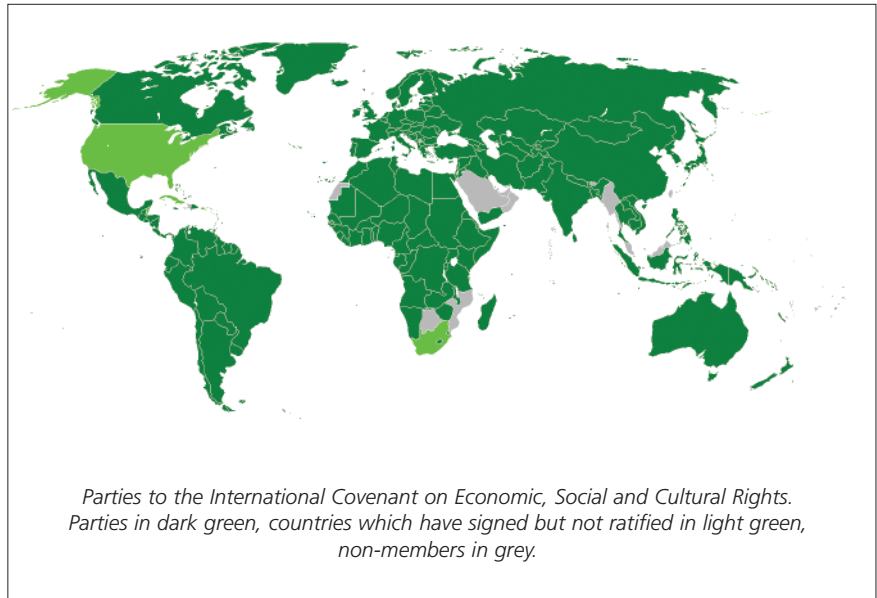


Photo: Wikipedia Creative Commons

and social rights, moving forward as swiftly as possible towards their full realization and avoiding deliberate retrogressive measures.

The Committee on Economic, Social and Cultural Rights stresses that a State cannot attribute failure to meet its minimum core obligations to a lack of resources unless it can 'demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations'.

State Obligations

When a State uses "resource constraints" as an explanation for any retrogressive measure taken, the Committee will look at the severity of the breach, in particular whether the situation concerned the enjoyment of the minimum core content of the Covenant, the country's current economic situation and whether the State sought to identify other low cost options. There needs to be more focus on effective and meaningful participation of civil society organisa-

tions in government decision making in order to establish whether State resources are being effectively allocated.

If retrogressive measures are adopted, the burden of proof rests on the State party to show that such a course of action was based on the most careful consideration and can be justified by reference to the totality of the rights provided for in the Covenant and by the fact that full use was made of available resources.

The deterioration in the global economic context is no justification for states, whatever their level of income, to compromise on their fundamental human rights obligations. States must guarantee minimum essential levels of these rights; take positive deliberate measures targeted at the most vulnerable; avoid measures that are retrogressive or discriminatory; and adjust public policy towards the progressive realisation of the rights of the whole population through the equitable distribution of available resources.

New bank charges to increase financial exclusion

On 8 March, the Economic and Social Research Institute (ESRI) published its research report, 'Financial exclusion and Over-Indebtedness in Ireland'. This study was based on data collected in an EU-wide survey on income and living conditions carried out in 2008. The study was commissioned by the Social Inclusion Division of the Department of Community, Equality and Gaeltacht Affairs. Amongst the dimensions of financial exclusion examined in the report is the question of access to a current bank account, a very topical issue in light of changes made by Bank of Ireland (BOI) to its current account terms and conditions.

The ESRI found that in 2008 one in every five Irish households did not have a bank current account and that this amounted to a level of banking exclusion three times the average for European Member States who were then part of the eurozone. Rates of households without access to a current account were greater amongst those with limited educational qualifications, those on low incomes, those living in local authority housing or those over 55 years of age, clearly demonstrating a strong link between financial exclusion and disadvantage.

The publication of this report follows quickly on the heels of the recent decision of Bank of Ireland to introduce more stringent terms for access to its free banking services. Since 21 February, customers have had to keep a quarterly balance of €3000 in their account or lodge €3000 or more during the quarter and have carried out nine online or phone transactions, in order to avoid the imposition of transaction fees. In a press release issued on 17 February, FLAC expressed its concern that the



The Central Bank, Dublin.

new charges would negatively impact low-income customers who are already struggling with reduced

“Proposals to introduce new charges or to alter existing ones should be published in advance and submissions be considered”

incomes, joblessness and mortgage and other sources of debt and called upon the Central Bank/Financial Regulator to carry out an impact analysis of these charges.

In order to be allowed to introduce a new customer charge or to increase an existing one, a credit institution must apply to the Central Bank under Section 149 of the Consumer Credit Act 1995 (as amended). The Central Bank may direct a credit institution to refrain from imposing the charge sought or may approve it, having considered matters such as the promotion of fair competition between lenders, the commercial justification for the charge and the potential effect of the charge on customers.

However, this process seems to be lacking in transparency and this is not helped by Section 150 of the Act which provides that the Central Bank may not disclose any information concerning the confidential business of a credit institution which may come to its knowledge during the course of this process.

Given that the Financial Regulator has a specific mandate to protect the interests of consumers of financial services then FLAC suggests that proposals to introduce new charges or to alter existing ones should be published in advance and submissions be carefully considered from organisations which seek to protect the consumer interest before a decision is made.

Some have suggested that the banks must become more cost effective and increase charges in an attempt to return to profitability. Nonetheless, it is ironic that one of the financial institutions being bailed out by the taxpayer now seeks to impose charges upon those least likely to be able to bear them and this is a trend likely to be followed by other banks. The result is likely to be the closure of a number of current accounts and an increase in financial exclusion, an unacceptable prospect in a country where such exclusion already exceeds the European norm.

Photo: Wikipedia Creative Commons

UN expert calls on Government to “commit to a human rights–based recovery”

The UN Independent Expert on Human Rights and Extreme Poverty, Dr Magdalena Sepúlveda and her staff carried out a country visit to Ireland from 10 to 14 January 2011. The visit was heralded as the first visit to the State of this office of the UN and its rationale was to assess the impact of the financial crisis on the poorest in society with a particular focus on social protection measures. While the visit was seen as timely given the State’s first examination under the Universal Periodic Review mechanism due to take place in October 2011, its significance was also emphasised by the then impending general election.

Dr Sepúlveda met with Ms Mary White TD, the former Minister of State for Equality, Integration and Human Rights, officials from a wide range of governmental departments, representatives from the Irish Human Rights Commission and Equality Authority, and civil society representatives to get a complete picture of the economic and political landscape for those most in need of State resources.

During her visit she travelled to a number of locations in Dublin, Galway, Limerick, Navan and Longford as well as to a Traveller halting site in Carrowbrowne and a direct provision centre in Galway where she met with residents.

The Independent Expert noted that while the State had taken some measures to reduce the “risk of poverty”, the economic boom did not benefit some of the most marginalised in Irish society. Dr Sepúlveda warned that while it was understandable for the Government to try to make savings, it must take steps to “ensure that the recovery



Dr Magdalena Sepúlveda the UN independent expert on Human Rights and Extreme Poverty.

plan does not disproportionately impact the poorest sector of society, pushing them deeper into poverty and increasing their social exclusion”. She called for the Government to commit to a “human-rights based recovery”, stressing that human rights cannot be disregarded simply because of economic insecurity. She emphasised the situation of children as the group most at risk of poverty in Ireland and reminded the State that “it must ensure that each and every child in the country has a standard of living adequate for his or her physical, mental, spiritual, moral and social development”.

FLAC made a submission to the Independent Expert prior to her country mission highlighting a number of key issues affecting people on low incomes in Ireland including:

- the impact of the Habitual Residence Condition on particularly vulnerable groups,

- the negative effect of direct provision on people seeking the State’s protection,
- the increasing problem of over-indebtedness and mortgage arrears in connection with the right to housing and
- the under-resourcing of the Civil Legal Aid scheme and its impact on people’s right to access to justice through legal information and advice.

Dr Sepúlveda will present her full report and findings to the UN Human Rights Council in June 2011.

FLAC calls on the new Government to take account of Dr Sepúlveda’s findings and ensure that her recommendations are implemented in the context of the new Programme for Government. As the Expert states, it is essential that policies are people-centred and that the economic, social and cultural rights of individuals are placed at the heart of all policy decisions.

The submission can be accessed at:

<http://www.flac.ie/publications/briefing-for-un-expert-on-extreme-poverty-january-2011/>

FLAC’s concerns are reflected in the End-of-Mission Statement of the

Independent Expert which is available to download at:

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10658&LangID=E>.

Programme for Government – Positive Co

The recently published The Programme for Government contains a number of statements committing the new administration to the protection and promotion of human rights. Many of these are very positive commitments which represent a step forward on the road to ensuring the respect for the human rights of all people living in Ireland. However, while some commitments are firm and definite, others are regrettably vague and ambiguous.

Perhaps the most significant of all is the commitment which states ‘all public bodies will be required to take due note of equality and human rights in carrying out their functions’ which could, if implemented and adhered to, have far reaching effects on the State’s efforts to promote and protect the human rights of all persons living in Ireland. All organs of the State which exercise legislative or administrative powers are already obliged by law to carry out their functions in a way which is compatible with the European Convention of Human Rights. This commitment is important if it results in all State organs understanding that this obligation exists, and that it extends to applying all the State’s human rights commitments in a way that will ensure that everyone will be able to live free from discrimination, as the Programme promises.

FLAC has long been concerned that the solutions to deal with Ireland’s economic crisis were principally focused on stabilising our banks. Therefore, the commitment in the programme to tackle Ireland’s economic crisis in a way that is fair, balanced, and which recognises the need for social solidarity, is welcome. This must translate into early action and FLAC has noted, with particular interest, the programme’s proposals to deal with over-indebtedness and those

Towards Recovery:



Programme for a National Government

who are forced to manage on social welfare payments.

Over-indebtedness

The Programme for Government recognises the need for extensive reform in the area of over-indebtedness. There is a firm commitment to fast-track personal bankruptcy reform and a proposal to examine mechanisms to help those who are over-indebted. Given the length of time that those who are over-indebted have been waiting for attention to be paid to their plight, FLAC believes that this examination must take place urgently. The

Government has at its disposal a wealth of expert information already including the report of the Government-commissioned Expert Group on Mortgage Debt and the findings of the Law Reform Commission.

Among the suggestions are:

- Ending “the practice of imprisoning people who cannot pay fines and debts” – a most welcome development and one which it is hoped will be implemented quickly.
- A firm commitment to fast-track personal bankruptcy reform needed to bring us into line with best international standards, such as introducing a flexible discharge period for “honest bankrupts”, defined as one that has materially complied with the tax laws, NAMA and Companies Acts among others.
- Introducing a two year moratorium on repossessions of modest family homes where a family makes an honest effort to pay their mortgage.
- Converting the Money Advice and Budgeting Service into a strengthened Personal Debt Management Agency with strong legal powers. The proposal is that the agency will support families who make an honest effort to deal with their debts, including non-mortgage debt, providing protection from their creditors where appropriate, so that they have time to sort out their affairs. In order to do so, the Personal Debt Management Agency will have quasi-judicial status. This proposal needs to be further fleshed out. The current role of MABS as an advisor and advocate for those who are over-indebted is extremely valuable and essential for many people in Ireland today. Any new role for MABS would have to ensure that

Commitments alongside Glaring Omissions

MABS money advisors can maintain their role as advocates and advisors for those who need it and that if its role is to be extended, that it be properly resourced.

- Making greater use of Mortgage Interest Supplement to support families who cannot meet their mortgage payments, which is a better and cheaper option than paying rent supplement after a family loses their home. It is not clear why there is no firm commitment to reform the Mortgage Interest Supplement in line with proposals made to and accepted by Government in July 2010. The current anomalies in the system are impractical, illogical and can result in people losing their homes unnecessarily.
- Non-judicial debt settlement structures for small business. It is not clear why small businesses were singled out. These structures should and could be extended to all debts.
- Tight regulation of debt collectors and money lenders. Money lenders are already regulated but debt collectors are not. This straightforward legislation should be a priority for government.

Law Reform

In terms of Law Reform the Programme contains some constructive measures in relation to the court system, such as the development of a permanent Civil Court of Appeal, a Judicial Council and the promotion of mediation.

That the Government intends to establish a 'distinct and separate system of family courts to streamline family law court processes and make them more efficient and less costly'

may also address what FLAC statistics show is a growing issue for many person contacting our telephone information line or visiting our network of centres. The focus on transparency is also welcome including reform of the Freedom of Information Acts to remove some restrictions and the confirmation that citizens must be able to access basic information about key services. There is also a promise to "extend Freedom of Information, and the Ombudsman Act, to ensure that all statutory bodies, and all bodies significantly funded from the public purse, are covered".

Immigration and Asylum

The Programme for Government promises to 'introduce comprehensive reforms of the immigration, residency and asylum systems, which will include a statutory appeals system and set out rights and obligations in a transparent way'. This commitment to a complete review and reform, with a statutory appeals system – which it is assumed will be independent – is welcome. As FLAC's report on direct provision and dispersal has recently shown, many people spend years stuck in direct provision hostels due to failures of the system. Such a review should also include a review of the Direct Provision system itself, which is an integral part of our immigration and asylum system.

Tackling Poverty and Promoting Equality

It is highly commendable that the Government has set as an objective the elimination of poverty and in particular, child poverty. It is therefore important that it is committed to maintaining social welfare rates and reversing the recent cut in the national minimum wage.

The commitment to take account of human rights and equality referred to earlier is complemented further by the proposal to "promote policies which integrate minority ethnic groups in Ireland, and which promote social inclusion, equality, diversity and the participation of immigrants in the economic, social, political and cultural life of their communities.

For transgendered people the commitment is to ensure "that transgender people will have legal recognition and extend the protections of the equality legislation to them," is welcome.

While the Programme contains a number of encouraging proposals on ensuring greater participation in society and improving the quality of life of persons with a disability, including the introduction of legislation on mental capacity which is compliant with State obligations in the UN Convention on the Rights of Persons with Disabilities, there is no commitment to finally ratify that convention – a convention and protocol to the formulation of which Ireland contributed to significantly. Ireland is one of the few remaining countries in Europe to have neither ratified the Convention nor signed or ratified the protocol.

A key task for NGOs such as FLAC will be to press for the implementation of the positive commitments without delay and to seek clarity on the more vague or ambiguous aspects of the Programme. NGOs will also highlight the omissions and question them by continuing to research and campaign for solutions to the unmet needs of all members of Irish society.

The Vitality of Volunteers

[continued from front page]



President McAleese encapsulated the range of sectors which benefit from volunteering when she noted the “sophisticated volunteer run web of practical care that makes life better for young, old, disabled, bereaved, addicted, illiterate, lonely, abused, suicidal, sick, poor and unemployed”.

“The Presidency,” Mrs McAleese continued, “has given me a unique opportunity to see at first hand the massive range and strength of voluntary effort that is part of Irish life and culture... Time and again I encounter voluntary groups which started with literally nothing but a good idea for a needed social initiative, developed around a kitchen table. Each has a story of how, against the odds they delivered their idea.”

In much the same way, FLAC began in 1969 when a small group of law students saw an unmet legal need and came together as volunteers to improve equality of access to justice for all citizens. FLAC maintains that access to justice is a fundamental right and the organisation’s work would not be possible without the support of our volunteers.

FLAC is indebted to them and the tireless work they do across the country predominantly in Citizens’ Information Centres (CICs) but also in other roles.

Numbering over 660, our centre volunteer solicitors and barristers provide an essential first contact for those in need of help in understanding their legal position. Assisted by the staff of the Citizens’ Information Centres, FLAC’s volunteers fill an important gap for people who need legal information and advice.



Photo: courtesy of Volunteering Ireland

President McAleese speaking at the Irish launch of the European Year of Volunteering 2011.

FLAC Centre Volunteers include:

- **Advisor Volunteers**, who are fully qualified solicitors or barristers and give private consultations to members of the community who cannot afford to engage a private solicitor or have to wait many months for their first appointment with the State’s Legal Aid Board.
- **Assistant Volunteers**, who have some legal background, support the work of advisor volunteers. Their presence in the centre is vital for the smooth running of the sessions where they may work at the reception in cooperation with the Citizens’ Information Centre (CIC) staff, welcome clients, manage the appointment system during the clinic and provide resources to the advisors if necessary.
- **Receptionist Volunteers** who work in a number of Citizens’ Information Centres unable to provide staff at the FLAC advice centres, most of which take place in the evenings.

In this, the European Year of Volunteering, FLAC would like to warmly acknowledge the contribution

volunteering ireland



of volunteers to the work of the organisation. So much of FLAC’s work in promoting access to justice and campaigning on strategic issues such as debt law reform is supported by the work of our volunteers. Without their support and commitment FLAC would simply be unable to carry out the variety of work it does.

To find out more about volunteering with FLAC please visit
<http://www.flac.ie/getinvolved/> or email volunteers@flac.ie
More information on Volunteering Ireland is available at:
www.volunteeringireland.com and on the European Year of Volunteering at:
<http://eyv2011.ie/>

Focus on FLAC: Zsé Varga – FLAC Volunteers Manager

Zsé Varga has had plenty of experience working in the voluntary sector and is almost a year into her new post as Volunteer Manager. Originally from Hungary, Zsé qualified as an English teacher before completing a Masters degree in ‘Cultural Organisation’, which is a combination of community development, arts and management. Building on her interest in volunteering, Zsé devoted the thesis of her degree to the topic of ‘Youth Volunteering’.

After finished her studies, Zsé worked as Training and Network Programme Manager at the National Volunteer Centre in Hungary. In 2007, she came to Ireland to work as the Training and Consultancy Manager at Volunteering Ireland which is the National Volunteering Agency in Ireland. “These roles,” says Zsé, “allowed me to work with and learn from a large number of voluntary or volunteer-centred organisations both in Ireland and around Europe.”

For many organisations the contribution volunteers make cannot be over-estimated. FLAC is one such organisation as Zsé explains: “The FLAC Centres are a core function of our organisation. They are a very visible and tangible presence of FLAC and over 10,000 people a year receive advice and information at them. All of our advisors and assistants who staff the centres are volunteers and without their commitment and dedication the FLAC centres would be unable to operate. This would mean that at the very least there would be 10,000 people annually who would not be able to get first stop, high quality legal advice. I have deep admiration for the commitment and generosity of our volunteers who staff the centres in the evenings after a long day’s work.”

Zsé’s day-to-day role at FLAC involves communicating with and supporting the centres, of which there are over 80 around the country. Many of the centres are timetabled by Zsé who must ensure there are enough volunteers at each



“The best part of the job is that I work with people who want to change the world for the better.”

centre to cater for the locality’s needs. With so many volunteers and centres to manage there is a significant amount of administrative work with correspondence including emails and phone calls to address and Zsé readily acknowledges the support she receives from her colleagues at FLAC. Most evenings she visits a centre to meet the volunteers and collect feedback on how the service is operating.

Supporting volunteers is also a major component of Zsé’s work and one which she achieves by organising training sessions on relevant and topical legal issues, inducting new volunteers – there are over 660 in total – and ensuring the provision of legal materials and other resources at the centres.

However, Zsé’s task as Volunteer Manager also has a strategic dimension for developing FLAC’s volunteer programmes. “It is very much part of my work to keep an eye out for all areas of volunteer management within FLAC,” Zsé says from her office at FLAC head office. “That includes recruitment as much as policy development and implementation in the area of volunteering and of course day-to-day management.”

“The best part of the job is that I work with people who want to change the world for the better. It is really enjoyable when meeting our volunteers in person and being able to thank them for their commitment and work. It’s also great to see how the FLAC service staffed by volunteers can help members of the public by providing them with information and advice. In so many cases the information and advice is all the person needs to deal with the legal matter affecting them.”

pila 
public interest law alliance
a project of FLAC

**PUBLIC INTEREST LAW ALLIANCE
UPDATE**

PILA legal education for NGO staff on mental health law and using the Ombudsman

Through the pro bono referral system, PILA organised mental health law training for NGO staff on 26 January and 9 March 2011. Áine Hynes of St. Johns Solicitors delivered both sessions, which dealt with the legal procedure to admit and detain someone, the law on capacity and consent particularly as it applies to the nursing homes support scheme, the UN Convention on People with Disabilities and issues around equal access to mental health services.

Both sessions were very successful with a full audience and positive feedback. Staff members from a wide range of NGOs that PILA works with participated in the training sessions. Materials from the sessions are available on the PILA website www.pila.ie

PILA also co-hosted an information session for NGOs on using the Ombudsman with the Ombudsman's office on 23 February 2011. The session included information on how to make a complaint to the office, examples of habitual residence condition complaints received by the office and information on the Ombudsman (Amendment) Bill 2008 which, if enacted by the new government, would allow for the Ombudsman's remit to be extended.

PILA views the Ombudsman's office as being an extremely useful tool to assist NGO staff to advocate for and vindicate the rights of their clients who have difficulties with government departments and statutory bodies. The Ombudsman's office also has the power to conduct a formal investigation on issues they deem to be systemic, which we view as a particularly important non judicial mechanism in highlighting and resolving issues in the public interest.

For more information on the Ombudsman visit their website: www.ombudsman.gov.ie.

IPRT/PILA seminar on juvenile justice

PILA and IPRT co-hosted an inspiring and well-attended seminar featuring attorney Marsha Levick on the experience of strategic juvenile justice litigation in the United States on 10 January. Marsha spoke to an audience of lawyers, child advocates and law students on the experiences of her work with the Juvenile Law Center in Philadelphia, PA, USA, a nationally recognised leader in juvenile law in the United States for the past 35 years. Catherine Ghent, solicitor and children's rights advocate, responded from the Irish perspective.



Pictured are Catherine Ghent, solicitor and children's rights advocate; Marsha Levick, attorney at the Juvenile Law Center in Philadelphia, US; Larry Donnelly, PILA Manager and Liam Herrick, CEO of IPRT.

PILA Participates in NUI Galway Law Day

Larry Donnelly spoke about PILA's work, including its outreach to law students and legal academics, to an audience of over 100 at the inaugural NUI Galway Law Day event to commemorate the first anniversary of the FLAC Student Society in Galway on 17 January. Noeline Blackwell, Lydia Foy and Mrs. Justice Catherine McGuinness also spoke at the event. Larry was a guest on The Keith Finnegan Show on Galway Bay FM to discuss the "Law Day" event and the work of PILA.

PILA in the news !

The January/February issue of the Law Society Gazette carried as its cover story an article by PILA on protective costs orders and public interest litigation, highlighting the chilling effect of adverse costs award on public interest cases. In publishing on this issue, PILA seeks to raise awareness around the barriers to public interest litigation and advocate potential means by which they can be overcome. PILA was subsequently invited to submit the article to the *Irish Times*.



Picture courtesy of Law Society Gazette

Check out PILA's website www.pila.ie for reports, case summaries and FAQs on potential barriers to public interest cases: costs, standing and mootness.

PILA BULLETIN

PILA issues an e-bulletin, the "PILA Bulletin" on a bi-monthly basis, containing cases, developments and events in human rights and public interest law.

We have almost 900 recipients comprising of lawyers, NGOs, academics, students and other interested individuals. If you would like to receive the bulletin please sign up by emailing bulletin@pila.ie.

PILA Seminar: The ECHR – Where are we now?'

PILA will be holding a seminar on the European Convention on Human Rights, the 4th such seminar in its latest series.

'Using the ECHR – where are we now?' will feature Dr Fiona de Londras of UCD, who co-authored "The European Convention on Human Rights Law: operation, impact and analysis" 2010 and Brian Kennelly of Blackstone Chambers London, who co-authored "Human Rights Law and Practice" (Lester & Pannick, 2009) and will take place at the Distillery Building on Church St Dublin 7 on 13 May at 4pm.

Please register by e-mailing sarah.farrelly@flac.ie. CPD points are available.

Public Interest Law Award for Children's Rights Advocate

Solicitor and Chair of the Adoption Authority Geoffrey Shannon is this year's recipient of the UCC FLAC Society's Contribution to Public Interest Law Award (previously known as the Access to Justice Award). The award is presented annually to a person the Society feels has contributed significantly to Access to Justice and Public Interest Law. Previous winners of the award have included Marie O'Donoghue and FLAC Senior Solicitor Michael Farrell. Speaking at the award ceremony the Auditor of UCC FLAC Jamie Foreman stated that "The decision to present this award to Mr Geoffrey Shannon was made simple due to his ongoing and preeminent work as an advocate for children's rights along with the prominence of his published works in both the study and practice of child and family law." UCC FLAC provides free legal advice to students of the University. Clinics take place every Wednesday in the Students' Centre on the third floor between the hours of 6 and 7 pm.



Photo: Printwell Co-operative



Trinity FLAC wins Best Small Society Award

The Trinity FLAC Society has been pronounced Best Small Society 2010-11 at the Trinity College Central Society Committee Awards. Trinity's branch of FLAC is a student run society. It holds clinics throughout the year at which students can avail of free legal advice from a qualified solicitor.

The Trinity FLAC Society also holds debates, talks and receptions addressing issues relevant to citizens' access to the law.

Recently, Trinity FLAC invited FLAC intern, Eoin Coffey onto their Trinity FM radio programme to answer queries and provide information on a range of legal issues which affect students.

Ennis seminar on mortgage debt



Speaking at the recent Seminar on Mortgage Debt organised by Clare Citizens' Information and MABS were (from left to right) Paul Woulfe, Manager Clare Citizens Information Service; Tim Ryan, Chair MABS ndl, Siobhan Brown, MABSndl; Mairead Doyle, President Clare Law Association, David Williams, Accountant, CAVA and Paul Joyce, Senior Policy Researcher, FLAC.

A seminar took place in the Temple Gate Hotel Ennis on Thursday 17 February and was opened by the Mayor of Clare Cllr. Christy Curtin. According to Paul Woulfe, "growing numbers of people are contacting Citizens' Information, MABS and FLAC concerned about what will happen if they run into mortgage or rent arrears".

The event was attended by over 150 people including many legal practitioners and FLAC volunteers at Ennis Citizens Information Centre.

FLAC CAMPAIGNS UPDATE:

Direct Provision Campaign

In a previous edition of FLAC News we noted that the Joint Oireachtas Committee on Health & Children had invited the Health Service Executive (HSE) and the Reception & Integration Agency (RIA), (the administrative section of the Department of Justice & Law Reform responsible for coordinating the provision of services to asylum seekers) to appear before the Committee on 12 October 2010. The Committee members focused on the lack of an independent complaints mechanism and the specific wording in RIA's 'House Rules and Procedures' which was seen by some members to discourage the making of complaints by residents. Noel Dowling, Principal Officer of RIA agreed to review this part of the House Rules to see if the issue regarding false and malicious complaints could be rephrased in a manner which would serve not to suppress complaints.

In January 2011 RIA's 'House Rules and Procedures' was amended. The

reference to frivolous or vexatious complaints having a negative impact on a person's application for leave to remain has been removed, with a new line stating that making a complaint will not affect how other official agencies consider applications for asylum, leave to remain or subsidiary protection. However a new line has been introduced which states "Staff at your centre will not tolerate behaviour like... deliberately making false, malicious or defamatory statements". While the statement reminds the resident of his or her legal obligations not to defame others, it is essential that this is not seen as a deterrent to making genuine complaints. The introduction of an independent and transparent complaints system would ensure that people would have faith in the system. The NGO Forum on Direct Provision, of which FLAC is a member, sent a letter to Labour and Fine Gael prior to the election asking each party for a commitment to introduce an alternative to the direct provision

system during the lifetime of the next government and to establish an independent complaints mechanism. The new Programme for Government states that the immigration, residency and asylum systems will be comprehensively reformed and will include the introduction of a statutory appeals mechanism for immigration related decisions.

While FLAC welcomes the introduction of a more efficient and fair asylum procedure it is important that the people currently living in the direct provision system are not forgotten. The new legislation will not apply to those who have made applications under the old system so it is important that their cases are dealt with as a matter of urgency.

The new updated RIA House Rules and Procedures can be found at www.ria.gov.ie/en/RIA/Pages/Update_On_House_Rules_Jan_2011

NEW OPPORTUNITIES FOR WOMEN IN LAW

FLAC is currently running a programme for women who are seeking employment or who are under-employed. The New Opportunities for Women in Law programme is funded under the Equality for Women Measure 2010-2013, an initiative supported by the European Social Fund and administered by Pobal in Ireland.

There are 24 women enrolled on the programme, who are qualified barristers or solicitors or who hold a law degree / diploma, and who wish to pursue a career in law or re-enter the employment market in a role which utilises their qualifications and

skills. The programme has four core areas: work experience through volunteering with FLAC, access to formal training courses, group learning sessions and maintaining a learning journal.

To successfully complete the programme, participants are required to undertake 200 hours of volunteering with FLAC. They also avail of training courses which assist them both with their volunteering placement and future work. Courses which participants have signed up to include: Family Law, Housing Law and Policy, Civil and Commercial Mediation and Career Planning. There are six

group learning sessions during the course of the programme, which not only provide the participants with the opportunity to meet and to network and share ideas, but also provide the participants with an opportunity to develop further their personal skills and knowledge in an informal and interactive setting.

FLAC hopes to run this programme again later this year subject to receiving funding.

For further information contact:
volunteers@flac.ie



Ireland's EU Structural Funds
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An Roinn Gnóthaí Pobail,
Comhionannais agus Gaeltachta
Department of Community, Equality
and Gaeltacht Affairs



FLAC Casework Update

Will Zambrano Judgment affect the Habitual Residence Condition?

The Zambrano judgment given by the European Court of Justice (ECJ) in March is having a major impact on immigration and deportation decisions. The EU Court held that a non-EU national could not be deported from an EU State if he or she was a parent of an EU citizen child and the child was dependent on him or her in so far as such decisions deprive those children of the genuine enjoyment of the substance of the rights attaching to the status of European Union citizen. As a result the Government is having to review the cases of parents of Irish/EU citizen children who were threatened with deportation and of some parents who were deported.

But what effect will this decision have on the Habitual Residence Condition (HRC) for social welfare claims? Many mothers of Irish/EU citizen children who are in the asylum process have been

refused Child Benefit and other benefits on the grounds that they did not satisfy the HRC because they did not have a legal right to reside here.

Now the EU Court has held that such parents must be given a right of residence and a right to work so that their EU citizen children will not be deprived of the rights attaching to European citizenship. And discrimination against such children on the basis of their parents' nationality will be prohibited under the EU Charter of Fundamental Rights which is now binding on Ireland.

This should mean that parents of Irish/EU citizen children will satisfy the HRC and should prevent their children being deprived of Child Benefit, which is available to all other children in the country. FLAC intends to raise the effect of the Zambrano decision in a number of social welfare appeals and will, if necessary, seek to have them referred to the ECJ for a ruling on the effect of Zambrano in this area.

Judicial Reviews seek publication of Social Welfare Decisions

The Report of the Commission on Social welfare in 1986 registered widespread concern over the failure of the Department of Social Welfare to publish decisions in social welfare appeals. The report said: "An overwhelming need is seen to provide more information both on procedural aspects of the appeals system and the substantive jurisprudence developed by Appeals Officers".

Twenty-five years later the Social Welfare Appeals Office is almost alone among quasi-judicial tribunals that hear appeals from the public in refusing to publish its decisions. They do put a limited selection of case summaries on their website but these do not cover the wide range of benefits involved or the various conditions attached to them.

FLAC has requested copies of previous decisions in a number of social welfare appeals and has been refused. We are currently involved in two judicial reviews seeking access to such decisions.

The Department of Social Protection and the Appeals Office claim that access to prior decisions is not needed in the social welfare area because it is covered by detailed legislation and guidelines that should give claimants adequate information.

Our experience, however, is that social welfare legislation and regulations are extremely complex and confusing and are constantly amended and changed. It is very difficult to advise clients or represent them without seeing how the legislation has been applied in practice in other cases and that is why we have taken the judicial reviews. And in a good example of cross-Border cooperation, Les Allamby, director of the Law Centre Northern Ireland, has sworn an Affidavit in these cases describing the very comprehensive database of social welfare decisions available in Northern Ireland.

In the meantime, and while we await the decision of the courts on the application for general publication of appeals decisions, Northside Community Law Centre in Dublin has established a valuable Casebase of social welfare decisions, which will be of great assistance to everyone working in this area and is available on their website.

Child Benefit Case for EU Court?

FLAC has asked the Social Welfare Appeals Office to refer a Child Benefit case to the European Court of Justice (ECJ) in Luxembourg. This may be the first time a Social Welfare Appeals Officer has been asked to seek a preliminary ruling from the EU Court. Such references, which are binding on the national courts, are usually made by courts here but they can be made by tribunals as well.

The case involves the non-EU spouse of an EU migrant worker who is living and working here. The woman in question has been forced to flee her home due to domestic abuse. She has a child who is an Irish citizen. Under EU law on Freedom of Movement she is entitled to reside here regardless of whether she lives with her husband or not, and especially as the victim of an abusive relationship.

However, the Department of Justice has refused to renew her residence permit and the social welfare authorities have refused to pay her benefits, claiming she cannot satisfy the Habitual Residence Condition because her residence permit has expired. FLAC has argued that under EU law, it is the woman's status as the spouse of an EU worker that gives her the right to reside, not a residence permit from the Department of Justice. If the Appeals Officer does not accept this, we have asked for the issue to be referred to the ECJ for a ruling which will then be binding on the Appeals Office.

The Immigrant Council of Ireland is also representing the woman in question in a High Court challenge to the Justice Department's refusal to renew her residence permit.

FLAC needs you... ...to run, jog or walk!



The Flora Dublin Women's Mini-Marathon is taking place on Monday 6 June 2011 and FLAC (Free Legal Advice Centres) is entering a team to raise much needed funds for the organisation.

FLAC is an independent human rights organisation dedicated to the realisation of equal access to justice for all. To this end it campaigns on a range of legal issues but also provides very necessary services to the public, including an information and referral helpline and a network of 70 free legal advice centres throughout Ireland.

In 2010 FLAC answered some 10,000 queries via its helpline and provided free legal advice to 10,000 people at its centres, which it operates in conjunction with Citizens Information Centres.

If you are interested in taking part and raising some money to help FLAC continue its work, please contact us for a race pack and more information at lo-call 1890 350 250 or by e-mail at kirsty.watterson@flac.ie – you can also check our website at www.flac.ie for more details.

