

PILA Bulletin, 5 May 2010

The Bulletin on Public Interest Law is issued by the Public Interest Law Alliance, a project of FLAC.

A new and comprehensive PILA website will be online in the coming months, until then you can find further information about the project at www.pila.ie. For now, the archive of PILA and PILN bulletins can be found at www.flac.ie/publications.

If you wish to have an item included please contact bulletin@pila.ie.

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1. Standing notice – Join the PILA lawyers' register!

One of PILA's objectives is to develop pro bono initiatives to match legal expertise with the legal needs of the NGOs with which PILA will be working. By means of a lawyers' register PILA intends to involve practitioners in public interest law e.g. community legal education, legal research, law reform submissions, case-work.

We would be delighted to hear from practitioners in all areas of work and in particular those with expertise in any of the following areas: charities; corporate governance; employment; equality; family; housing; human rights; immigration and asylum; landlord and tenant; mental health; public law; and social welfare.

If you are interested in the opportunity to apply your legal skills in a new context, please contact PILA's Legal Officer, Jo Kenny, at jo.kenny@flac.ie.

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2. Upcoming PILA international law seminar, 7 May 2010

A limited number of places are still available for the second PILA law seminar to be held on Friday 7 May 2010. The seminar will be entitled *Using international law – the European Social Charter and UN treaty body complaints procedures*. Colm O'Cinnéide of the European Committee of Social Rights and Kate Fox of the UNHCHR will be speaking on using the European Social Charter and the UN Treaty Body mechanisms respectively.

This seminar will take place at the Distillery Building, Church Street, Dublin 7 from 4 – 5.30pm. This event is free to all attendees and CPD points are available. Contact Jo Kenny at PILA to reserve your place: jo.kenny@flac.ie or telephone (01) 8728048.

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3. PILA hosts launch of *Irish Human Rights Law Review*, 20 May 2010

PILA is hosting the launch of a new scholarly publication, *Irish Human Rights Law Review* (IHRLR) on Thursday 20th May at 5.30pm in The Morrison Hotel, Ormond Quay, Dublin 1. Launching the event will be Ombudsman, Emily O'Reilly. The event will also be addressed by the IHRLR editor, Donncha O'Connell, who is currently a Visiting Senior Fellow at the Centre for the Study of Human Rights, LSE, and Michael Farrell, Senior Solicitor with FLAC.

The inaugural issue of the IHRLR contains articles and case notes by, among others: Hon. Justice Michael Kirby of the Australian High Court, Professor Rick Lawson of the University of Leiden, Colm O Cinnéide of UCL, Senator Alex White, BL, Siobhan Phelan, BL, Marie McGonagle and Professor Pat Dolan of NUI Galway and Dr. Alpha Connelly, formerly of the Irish Human Rights Commission. Full details of the inaugural issue and a sample of its contents can be accessed at: www.claruspress.ie. The complete inaugural editorial, an abridged version of which appeared in The Irish Times of 26th April 2010, can be read here http://www.claruspress.ie/editorial_IHRLR.pdf

The Review, which will be published on an annual basis, should be of interest to practitioners, academics, activists and students involved in various kinds of human rights work and 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.

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4. Thirty-five years of Northside Community law Centre

Northside Community Law Centre is celebrating thirty-five years in operation. To view an article on the Centre by managing solicitor, Mr. Colin Daly, featured recently in the *Irish Times*, please see: <http://www.irishtimes.com/newspaper/ireland/2010/0503/1224269584855.html>

To view the Centre's website, see <http://www.nclc.ie/>.

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5. Governor of Mountjoy's female prison resigns

The governor of Mountjoy's female prison, the Dóchas Centre, Ms. Kathleen McMahon, has resigned and expressed serious grievances with what she saw as the serious undermining of her position and an "overall lack of respect by senior personnel in the Irish Prison Service".

Ms Mc Mahon strongly criticised the prison service and pointed to the lack of consultation with key staff on decision-making in the jail. She stated that many of the women there are low risk and should never have been jailed. She went on to note that the regime within the Dóchas Centre was designed to treat women with dignity and respect aimed at their reintegration into society. This progressive system was now being hampered by the overcrowding which she fears will lead to high rates of drug use, self harm and depression.

Ms McMahon stated she believes that a decision had been made to "introduce a more punitive regime involving holding as many women as possible in an already overcrowded centre" and that a new policy of denying temporary release to low-risk prisoners had developed.

The Dóchas Centre, which was once the 'flagship women's prison in Europe' is now overcrowded, housing 137 women in a centre built for 85. Ms. McMahon served as governor for over ten years.

For further information on the prison, see http://www.irishprisons.ie/prisons-dochas_centre.htm.

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6. Equality Tribunal's Annual Report sees threefold rise in discriminatory dismissals

The Equality Tribunal's Annual Report, published last week, has shown a threefold increase in the number of discriminatory dismissals based on race, pregnancy or disability. The level of complaints of discrimination in employment equality now accounts for almost 84% of cases. Melanie Pine, Director of the Equality Tribunal, states that these types of cases account for three-quarters of its workload and cites the recession and the change in economic circumstances as the underlying cause.

The report shows there was an increase of 21 per cent in referrals to the tribunal on grounds of disability in 2009, and referrals based on gender increased from 20 to 95 per cent, while the number of referrals based on race declined to 289, a 29 per cent reduction on the 2008 figure. However, the Director of the Equality Tribunal, Ms Melanie Pine said this figure did not reflect the huge increase in referrals on grounds of race over the past four years.

Ms Pine, commented that there has been a 4% overall increase in the number of cases brought to the Tribunal in the three months to March 2010, with a 6% increase in employment equality and a 3% increase in equal status cases. The mix of cases has shown some significant shifts:

- claims of discrimination in employment on the age ground have more than trebled
- claims of discrimination in equal status on the race ground have doubled
- there are falls in gender cases in employment and equal status.

Minister for Equality Mary White, who attended the launch of the report, said the State was in an economic crisis and resources were scarce. "These circumstances of increased competition have the potential to increase the risk of discrimination against vulnerable people in our society, particularly in the employment field," she said. In noting the valuable contribution that migrants make to the economy she emphasised that we must deal with any signs of racism as soon as they arise.

To view the full report click on the link below.

www.equalitytribunal.ie/publications/annualreport

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7. Northern Ireland: G and D: The Forced Marriage (Civil Protection) Act 2007

The High Court in Northern Ireland has recently heard what appears to be its first major case under the Forced Marriage (Civil Protection) Act 2007. The case involved two sisters (D and G) aged 12 and 14, of Pakistani Muslim descent living in Northern Ireland. When they were aged 10 and 11 a Trust brought wardship proceedings on the grounds that their parents had arranged for them to travel to and remain in Pakistan in order to be educated. The Trust claimed that this was a pretext, a view which was based on the previous experience of the forced marriage of their brothers, and argued that once they were in Pakistan they would be isolated, attended to and prepared so that they could be forced to marry. Interim orders were granted in 2007 and care was awarded to the Trust. Wardship powers of the High Court were the main source of relief in such cases before the 2007 Act came into force and the Court was now being asked to make an order under the new Act.

The High Court accepted that there was a real and substantial risk that D and G would be forced to marry if they travelled to Pakistan and that the conditions for granting an order under the Act were satisfied. While the Court held that forced marriage was an abuse of human rights, Justice Stephens expressed concern at the substantial interference with the right to private and family life under Art.8 of the ECHR which a wardship order involves. It was noted that the girls were well cared for and had a happy family life, however the family had endured racial hostility in the area in which they live. The girl's mother expressed her desire to the Court to bring up all of her children in accordance with proper ethical standards.

The judge ended wardship orders previously granted for the children and issued a forced marriage protection order. In granting the order under the 2007 Act Justice Stephens stated the real reason G and D were to be sent to Pakistan in 2007 was "so that they could learn 'respect' as an overarching filial duty which I hold in the context of this family means obedience overriding their full and free choice."

To read the judgement in G and D (Risk of forced marriage: Forced marriage protection order) [2010] NIFam 6 (26 March 2010), please see

[http://www.bailii.org/cgibin/markup.cgi?doc=/nie/cases/NIHC/Fam/2010/6.html&query=forced+and+marriage+and+\(civil+and+protection\)+and+act&method=boolean](http://www.bailii.org/cgibin/markup.cgi?doc=/nie/cases/NIHC/Fam/2010/6.html&query=forced+and+marriage+and+(civil+and+protection)+and+act&method=boolean)

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8. UK: Absence of review mechanism renders permanent inclusion on sex offender register incompatible with European Convention on Human Rights

Two convicted paedophiles who brought an appeal to the Supreme Court in the UK have won the right to challenge their inclusion on the sex offender's register. Convicted offenders who are sentenced to more than 30 months in prison are duty bound to keep the police informed of where they are living and of any travel abroad for the remainder of their lives. The appeal was brought on the grounds that the lack of a review system amounted to a disproportionate interference with their right to privacy and family life under Article 8 of the European Convention on Human Rights. The appeals arose out of two independent claims for judicial review. The first concerned a boy, F, who was convicted at age 11 of a number of sexual offences and the rape of a six year old boy while the second concerned a man who was sentenced to 5 years indecent assault of his daughter.

Five Supreme Court Justices upheld the Court of Appeal's decision and ruled that the indefinite registration on the sex offenders register with no right of review was incompatible with a person's right to privacy under the European Convention on Human Rights. However the Court did not say the register itself was illegal but approved the judgment of the lower court that it was lawful to monitor someone for life if they presented a danger to society. Lord Philips stated that protection of potential victims of sex crimes is a priority but if an offender can demonstrate that they do not pose a further threat then there is no reason justifying an interference with their right to privacy and family life. The Court noted that other countries had introduced measures of reviewing sex offenders subject to monitoring and to keep people needlessly on a register was draconian and a waste of tax payers' money.

To read the judgement in full in *F & Anor, R (on the application of) v Secretary of State for the Home Department* [2010] UKSC 17 (21 April 2010), please see <http://www.bailii.org/uk/cases/UKSC/2010/17.html>

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9. UK: Council of Europe presses UK to introduce total ban on smacking children

Britain is under pressure from the European Union to introduce a total ban on the smacking and corporal punishment of children. The Council of Europe has pointed out that the UK is one of the few countries in the world not to have introduced such a ban, and has criticised Britain for failing to implement a ban more than 10 years after a ruling which stated that the practice could violate children's rights against inhumane and degrading treatment. The current law prohibits the use of force against children, but allows adults in the home, in part-time institutions and religious schools to mount a defence against assault charges where the force used was mild, on the grounds that the punishment used was reasonable.

The British Government's independent advisor on child safety has recommended a ban on smacking in all places outside of the family home but stopped short of banning it inside the home. This reluctance stems from the traditionalist relationship in the UK between parent and child being based on authority, and state interference with family life has never been welcome. None of the main parties running in the forthcoming election have included a specific policy on the topic in their election manifestoes, but the Children's Secretary has stated that the government would support a ban on the smacking of children outside the family home but not a full ban. Earlier this year two Liberal Democrat MPs attempted to introduce a clause in the Children, Schools and Families Bill which would have limited the use of corporal punishment to parents or those with parental responsibility.

Information on the issue from the Children's Rights Information Network can be found at <http://www.crin.org/resources/infodetail.asp?ID=22437>

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10. Commissioner for Human Rights intervenes before Court in asylum cases

The Council of Europe Commissioner for Human Rights, Mr. Thomas Hammarberg recently made public his third party intervention submitted to the European Court of Human Rights, following an invitation by the Court, in a group of cases concerning return of asylum seekers from the Netherlands to Greece as a result of the EC 'Dublin Regulation'.

Based on two visits to Greece in December 2008 and February 2010 and continuous country monitoring, the Commissioner's written submission outlined his observations on serious issues relating to the procedure for asylum and human rights safeguards in Greece, including asylum seekers' reception and detention conditions. While expressing his support for the Greek government's decision and efforts to overhaul the refugee protection systems, he stated that the present Greek asylum law and practice do not comply with international and European human rights standards.

Article 36, paragraph 2 of the European Convention on Human Rights makes provision by third party interventions by the Commissioner. This case was the first invocation of the mechanism by the Commissioner. In a previous case in 2007, the Commissioner replied to questions put forward by the Court relating to the situation of an applicant.

With the entry into force of Protocol No. 14 to the Convention, the Commissioner will have the right to intervene at his own initiative as third party in the Court's proceedings. That Protocol can be read here: <http://conventions.coe.int/Treaty/EN/Treaties/Html/194.htm>. Protocol 14 is due to enter into force on 1 June 2010. The intervention itself can be read here: <https://wcd.coe.int/ViewDoc.jsp?id=1595689&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>.

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11. Spain Supports Judges Inquiry into Franco Regime

Rallies are taking place across Spain in support of a high profile judge, popular among the Spanish political left and international human rights defenders, who is accused of acting without jurisdiction in launching an Inquiry into the Franco regime. The Spanish judge who opened the inquiry into atrocities under the four decade long reign of General Francisco Franco now faces the prospect of a trial. Baltazar Garzón, who has led Spain's fight against political corruption and terrorism and pursued leaders such as Augusto Pinochet of Chile and Silvio Berlusconi of Italy, is accused by the far right political group Manos Limpias, of knowingly exceeding his legal powers. It is claimed that he went beyond his official power in initiating the probe into tens of thousands of disappearances which occurred during the Civil War and the ensuing Franco reign. A Supreme Court magistrate found that Garzón had ignored a 1977 amnesty that pardoned politically motivated crimes committed by both sides during the Civil War. Garzón denies the charges and intends to appeal the magistrate's decision but if found guilty could face a suspension from the bench of up to 20 years.

Mr. Garzón made his name as an international defender of human rights by utilizing Spain's doctrine of universal jurisdiction which allows perpetrators of crimes abroad to be prosecuted in Spanish courts.

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12. U.S: Civil rights leader Dorothy Height dies aged 98

Dorothy Height, the pioneering voice of the civil rights movement has died in hospital following a seriousness illness. The 98 year old was the leader of the National Council for Negro Women fighting for women's rights on issues such as equal pay and education, and in the 1950s and

1960s was a key organizer for Martin Luther King Jnr, often being the only woman in the movement's inner circle.

Height was born in Virginia in 1912 into a culture where women could not vote and blacks had few rights. She excelled in the class room and was accepted to Barnard College but was then turned away as the college's quota of two black women had already been reached. She went on the study for a degree and master's degree at New York University and then trained as a social worker.

She worked to prevent lynching, desegregate the armed forces, reform the criminal justice system, and for free access to public accommodation and stood on the platform with Martin Luther King, when he gave his famous "I have a dream" speech in 1963. Height received two of the nation's highest honors: the Presidential Medal of Freedom in 1994 and the Congressional Gold Medal in 2004.

One of her favourite sayings was "If the time is not ripe, we have to ripen the time" and liked to quote 19th century abolitionist Frederick Douglas on the three effective ways to fight for justice are to "agitate, agitate, agitate." In a statement, Obama called her "the godmother of the civil rights movement" and a hero to Americans.

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13.Probono.net

For readers interested in pro bono, probono.net is a US site which providing the legal sector with resources to help in assisting low income and disadvantaged clients and includes an international section. To read their April newsletter please click on the link below.

<http://www.probono.net/news/>

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14.Events: Fair Ireland Forum presents: 'The Human Rights of Children and Families: prevention, intervention and support in times of crisis', 11 May 2010

A dialogue between Prof. Pat Dolan, joint founder and Director of the Child and Family Research Centre at NUI Galway, and RCNI Director Fiona Neary, Executive Director of the *Rape Crisis Network Ireland* . They will discuss the challenges and opportunities for prevention, intervention and victim support policies in times of economic crisis.

The Fair Ireland Forum at NUI Galway is an initiative of members of the NUI Galway academic community. The Forum aims to create space for NUI Galway and the wider community to participate in and make concrete contributions to public debates on the current economic, social, and governance challenges facing Ireland - grounded in principles of fairness, social inclusion, accountable and democratic governance, and respect for human rights.

Date: Tuesday 11 May 2010

Venue: Bank of Ireland Theatre, Áras na MacLéinn, National University of Ireland, Galway

Time: 7pm

Fee: free event

For more details see: www.fairirelandforum.org.

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15. Irish Women and Lawyers Association, Seminar on the Civil Partnership Bill 2009, 12 May 2010

The Irish Women Lawyers Association (IWLA) hosts its Annual General Meeting and Seminar on the Civil Partnership Bill 2009 in Blackhall Place, Dublin. Speakers will include: Brian Barrington B.L. and Muriel Walls, Partner, McCann Fitzgerald Solicitors.

To book your place, email admin@iwla.ie or phone 01 817 5267 / 087 290 6294 by 5th May, 2010

Date: Wednesday 12 May 2010

Venue: The Green Hall Lecture Theatre, The Law Society, Blackhall Place, Dublin 7.

Time: 5.15pm

Fee: members: Free, non-members: € 40, students, devils, apprentices, unwaged or those under 5 years practice: €5.

<http://www.lawsociety.ie/pages/Events/IWLA-Civil-Partnership-Bill-2009/>

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16. Access to Justice: For some or for all? Conference, 15 May 2010

The Bar Council Voluntary Assistance Scheme will host a conference entitled *Access to Justice: For some or for all*. The keynote speaker for the event will be Mary Robinson, former President of Ireland and former UN High Commissioner for Human Rights and who is currently the President of *Realizing Rights: The Ethical Globalization Initiative*. A panel discussion, chaired by Turlough O'Donnell SC will follow her speech and this will feature Noeline Blackwell, Director General of FLAC, Damien Peelo of the Irish Traveller Movement and Fr. Peter McVerry SJ.

The conference will take place at the King's Inns, Constitution Hill, Dublin 7 on Saturday 15 May 2010 from 9.30am-1pm. RSVP to Jeanne Mcdonagh at jmcdonagh@lawlibrary.ie.

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17. Law Society Annual Human Rights Lecture, 19 May 2010

The Annual Human Rights Lecture 2010 takes place on May 19th, with Mr. Morris Dees as guest speaker. Morris Dees is the co-founder and chief trial counsel for the Southern Poverty Law Center (SPLC). Mr. Dees founded the Centre in partnership with Joseph J. Levin Jr., following a successful business and law career. Mr. Dees is widely known for his use of innovative civil law strategies to obtain court judgments for monetary damages in racism and other discrimination cases.

Places can be reserved by contacting Anthea Moore on 01 672 4800 or by email a.moore@lawsociety.ie

Date: Wednesday, 19 May 2010.

Venue: Presidents Hall, Blackhall Place Dublin 7.

Time: 5pm

For more information see: <http://www.lawsociety.ie/pages/Events/Annual-Human-Rights-Lecture-2010/>

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18. International Course on Children's Rights titled 'Children's Rights in a Globalised World: from Principles to Practice', 5-17 September 2010

The ICCR is a two-yearly training programme in children's rights. The training course is an interdisciplinary and international programme which attracts a diverse range of participants from all over the world. It will be led by key experts in the field. The focus throughout will be both theoretical and applied. The course is designed to benefit professionals from non-governmental organisations, national human rights institutions, government, international governmental organisations, field operations, and interested academics and PhD students. Applications are to be submitted online before 15 May 2010.

Further details on the 2010 training course, including application form, programme and names of experts, can be found on the website www.iccr.be.

Date: 5 – 17 September 2010
Venue: Ghent-Antwerp (Belgium)

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19. European Pro Bono Forum, Paris, 18-19 November 2010

PILI has announced the dates and location for the next European Pro Bono Forum. It is to be held in Paris between November 18-19, 2010. Sponsorship opportunities and conference information will follow soon. Follow the link below for more details.

www.pili.org/index.php?option=com_content&view=article&id=40262:save-the-date-2010-european-pro-bono-forum-18-19-november-paris&catid=15:piln-listserv&Itemid=179

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FLAC – promoting access to justice <http://www.flac.ie>

We need to protect Human Rights and Equality in Ireland! Join the ERA campaign - today!
Sign the petition: <http://www.ipetitions.com/petition/erapetition/>

Visit the website: <http://eracampaign.org/weblog/>