

PILN Bulletin, 5 March 2007

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Attached files:

a) Letter to TDs re campaign to restore universal Child Benefit

1. Dave Ellis: Obituary (from *Irish Times*, Saturday 17 Feb 2007)

Legal expert who devoted life to helping the marginalised

Dave Ellis, who died on February 2nd after a short illness, was a prominent member of the civil legal aid and community law movement who devoted his career to working with marginalised individuals and communities.

In particular, in his work as a community law officer with the then Coolock Community Law Centre (now Northside Community Law Centre) from 1977 until 1998, he had a major influence on the development of legal aid services in Ireland. A modest and unassuming man, he had a warm personality, great integrity and a wicked sense of humour.

Born in 1949 to Doris and the late George Ellis, he attended Kingstown School, Dún Laoghaire, before graduating in law from Trinity College Dublin in 1972. He was admitted to the roll of solicitors in October 1974 before moving to London where he worked for Harlesden Advice Centre for a number of years. In 1977, he returned to Ireland to work as Ireland's first community law officer in the Coolock Community Law Centre (CCLC) which had then recently been established by the Free Legal Advice Centres to demonstrate how law might be used strategically to protect disadvantaged communities. A key element of this vision was the empowerment of local communities and as community law officer, one of Dave Ellis's first tasks was to establish links between the law centre and community organisations in Coolock with a view to setting up a community-based management committee. He had this committee in place within a year and in May 1979 it took over full responsibility for the running of Ireland's first, and for many years, only, community controlled law centre.

He pioneered new ways of working with the law and also pioneered working in new areas of the law.

He introduced the concept of community legal education, courses in which citizens were informed of their rights in key areas of the law. So novel was this at the time that the first such course attracted the attention of the national newspapers. He also devised and

implemented a schools' project whereby talks were given to pre-employment year students in local schools on such issues as employment rights, taxation and welfare rights. In time, as more advisory agencies came on the scene, he moved on to "second-tier" work, providing those agencies with the legal resources that they needed to work effectively with their clients.

He also lobbied the political system on behalf of the local and wider community. He wrote ground-breaking reports on the operation of the social welfare appeals system and on civil legal aid; he drafted countless submissions proposing reforms of various aspects of employment law, public housing law and social welfare law. During his time there, CCLC campaigned with other organisations on such issues as divorce, the legal position of lone parents, homelessness and, of course, legal aid. Apart from his work with CCLC, he played a key role in the establishment of Ireland's second community law centre in Ballymun in 2002, as a key player on, and advisor to, the management committee which commenced the campaign to open the Law Centre in 1999.

During more than two decades working with CCLC, Dave Ellis developed considerable expertise in areas of the law relevant to low-income communities. In particular, he had an exceptional knowledge of Irish social welfare law, representing thousands of welfare claimants in their dealings with the welfare authorities.

In 1998, he left CCLC and subsequently established Community Legal Resource (CLR), a co-operative of researchers with legal and social policy expertise working with community and voluntary groups. Under the CLR umbrella, he provided information, training and support to service providers within the broader voluntary and community sector. Much of his work with CLR was devoted to promoting good practice both in the delivery and the management of these services. In CLR, he continued his pursuit of social justice with a commitment and enthusiasm which never dimmed and which inspired others who worked with him.

Dave Ellis was an extraordinarily kind and generous person who undertook so much work for voluntary and community groups at a modest rate and often on a *pro bono* basis. He shared his knowledge freely and believed wholeheartedly in social justice and in the possibility of social change. He touched the lives of very many people in statutory, voluntary and community organisations around Ireland. Although fiercely committed to his work, he was always entertaining, gregarious and humorous company during work and when the work was done. In his spare time, he was a very talented painter and a lover of music, in particular jazz. He was also a loyal Shamrock Rovers supporter and an enthusiastic birdwatcher.

He is survived by his wife and soulmate, Sarah, who shares his commitment to community empowerment and social justice, his beloved mother, Doris, and his brothers, John and Brian.

Dave Ellis; born April, 1949; died February 2nd, 2007.

2. Radio tribute to Dave Ellis, 11 March 2007

Near FM, the independent radio station for North and East Dublin, is broadcasting a tribute to Dave Ellis on Sunday 11 March 2007. The programme is called 'Between the Lines' and will run from 12:00 to 13:00. The station frequency is 90.3 FM and you can check out the website at <http://www.nearfm.ie> - if you go to 'Schedule', edited highlights of the programme will be available to download following the broadcast.

3. Equality Studies Centre UCD - Public Lecture on 'Equality and the Contemporary Critique of Human Rights', 12 March 2007

As part of its Public Lecture Series on Equality, the Equality Studies Centre in the UCD School of Social Justice is organising a talk on **'Equality and the Contemporary Critique of**

Human Rights' on Monday 12 March, 2007 at 6:00 pm in Room L503, UCD James Joyce Library Building. Speaker for the lecture will be **Lestor Mazor**, Professor of Law at Hampshire College, Amherst, Massachusetts. Please notify the ESC in advance if you wish to avail of ISL interpretation: 01-716 7104 or equality@ucd.ie

Professor Mazor studied at Stanford University and served as law clerk to the Honorable Warren E. Burger, later Chief Justice of the US Supreme Court. He has taught criminal law, legal philosophy and other subjects at the University of Virginia and the University of Utah before moving to Hampshire College, and has been a visiting professor at the State University of New York at Buffalo, University of Connecticut and Stanford University. He has published books and articles about the legal profession, and on topics in legal philosophy, legal history, and the sociology of law. He was a Fulbright Research Scholar in Great Britain and West Germany and has taught in American studies at the Free University of Berlin and legal studies at Central European University in Budapest. Professor Mazor's special concerns include the limits of law, utopian and anarchist thought, and other subjects in political, social, and legal theory.

4. Amnesty International Conference on Human Rights Based Approaches, 20 April 2007

Amnesty International (Irish Section) is organising an international conference on Economics and Human Rights in the Gresham Hotel, Dublin 1 on Friday 20 April 2007. The keynote speaker will be Peter Sutherland. Human rights and economics are intrinsically linked. The allocation of resources has major implications on the protection and promotion of all human rights - civil, cultural, economic, political and social. This conference aims to explore the topic of economics and human rights, looking at international best practice and the Irish experience. Preliminary research findings on how the Irish budgetary process impacts on our human rights will also be presented and participants will be encouraged to input into the research process.

For more information, please contact Amnesty at 01-677 6361 or info@amnesty.ie

5. Court rules Legal Aid Board can inspect files

Catherine Martin & Diarmuid Doorley v. The Legal Aid Board, Ireland & The Attorney General, High Court, Laffoy J., 23rd February 2007

A decision by the High Court on 23 February last has important implications for Legal Aid clients and solicitors. Two Legal Aid Board solicitors had challenged a decision by the Board that all case files of Civil Legal Aid clients should be open to inspection by non-legal Board staff for quality control purposes.

The two solicitors were concerned about the confidentiality of the information in the files, mostly dealing with often sensitive family law cases, and the effect on the solicitor-client relationship. They did not object to inspection of files by legal staff who would have experience of client confidentiality.

Judge Mary Laffoy held that the Legal Aid Board was entitled to insist on its staff, legally qualified or not, seeing the files, even in *in camera* family law cases, and that this was part of the deal when clients applied for civil legal aid. She did say, however, that in the case of sensitive Court-ordered reports, it would be for the Court that had ordered the reports to decide who should see them.

Legal Aid Board solicitors will now have to tell all clients in advance that their files are liable to be read by Board staff other than the lawyers who are handling their cases. It remains to be seen whether this will put people off bringing their cases to the Legal Aid Board. Perhaps the least the Board could do now to help restore confidence would be to guarantee that inspection of files will be carried out only by or under the direct supervision of legally qualified staff.

6. Text of Children's referendum published

The recently published Twenty-Eighth Amendment of the Constitution Bill 2007 focuses on children. The Amendment reads:

"WHEREAS by virtue of Article 46 of the Constitution, any provision of the Constitution may be amended in the manner provided by that Article:

AND WHEREAS it is proposed to amend the Constitution:

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—The Constitution is hereby amended as follows:

- (a) section 5 of the Irish text of Article 42 shall be repealed,
- (b) section 5 of the English text of Article 42 shall be repealed,
- (c) the Article the text of which is set out in *Part 1* of the *Schedule* shall be inserted after Article 42 of the Irish text,
- (d) the Article the text of which is set out in *Part 2* of the *Schedule* shall be inserted after Article 42 of the English text.

2.—The amendment of the Constitution effected by this Act shall be called the Twenty-eighth Amendment of the Constitution. This Act may be cited as the Twenty-eighth Amendment of the Constitution Act 2007.

PART 2

CHILDREN

Article 42(A)

1. The State acknowledges and affirms the natural and imprescriptible rights of all children.

2. 1° In exceptional cases, where the parents of any child for physical or moral reasons fail in their duty towards such child, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

2° Provision may be made by law for the adoption of a child where the parents have failed for such a period of time as may be prescribed by law in their duty towards the child, and where the best interests of the child so require.

3. Provision may be made by law for the voluntary placement for adoption and the adoption of any child.

4. Provision may be made by law that in proceedings before any court concerning the adoption, guardianship or custody of, or access to, any child, the court shall endeavour to secure the best interests of the child.

5. 1° Provision may be made by law for the collection and exchange of information relating to the endangerment, sexual exploitation or sexual abuse, or risk thereof, of children, or other persons of such a class or classes as may be prescribed by law.

2° No provision in this Constitution invalidates any law providing for offences of absolute or strict liability committed against or in connection with a child under 18 years of age.

3° The provisions of this section of this Article do not, in any way, limit the powers of the Oireachtas to provide by law for other offences of absolute or strict liability.

2. 1° In exceptional cases, where the parents of any child for physical or moral reasons fail in their duty towards such child, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

2° Provision may be made by law for the adoption of a child where the parents have failed for such a period of time as may be prescribed by law in their duty towards the child, and where the best interests of the child so require.

3. Provision may be made by law for the voluntary placement for adoption and the adoption of any child.
4. Provision may be made by law that in proceedings before any court concerning the adoption, guardianship or custody of, or access to, any child, the court shall endeavour to secure the best interests of the child.
5. 1° Provision may be made by law for the collection and exchange of information relating to the endangerment, sexual exploitation or sexual abuse, or risk thereof, of children, or other persons of such a class or classes as may be prescribed by law.
- 2° No provision in this Constitution invalidates any law providing for offences of absolute or strict liability committed against or in connection with a child under 18 years of age.
- 3° The provisions of this section of this Article do not, in any way, limit the powers of the Oireachtas to provide by law for other offences of absolute or strict liability."

The Children's Rights Alliance (www.childrensrights.ie) has welcomed the publication of the Bill. It has announced that it will be carrying out a further consultation with the members of the alliance – some 80 organisations connected with children's rights. In a conference on the topic at Trinity College Dublin on Children's Rights and the Constitution on 21 February, and in other debate around the media, respected commentators have on the whole welcomed proposals to advance children's rights in principle. However, the clauses of the bill and the underlying thought has met with a more mixed response.

Currently the bill is at the second stages of the Dáil. While it has been presented to both Houses of the Oireachtas, it has yet not been substantially discussed nor has a date for a referendum been set.

7. Call for action - and assistance - on FLAC campaign to restore Universal Child Benefit

FLAC is trying to assemble a small group to do some short-term voluntary work on our campaign to ***Restore Universal Child Benefit***.

Since 2004, the Irish government has restricted Child Benefit, an important monthly welfare payment which the government itself admits is key to combating child poverty, to parents deemed to be "Habitually Resident" in Ireland. Many Irish and immigrant families fail to satisfy this definition. The policy contravenes human rights law and is clearly discriminatory. Please see our website (<http://www.flac.ie>) for more details.

We hope that you, too, recognise the blatant unfairness of the government's policy on Child Benefit.

We have lots of campaigning work to do, such as writing letters, stuffing envelopes, contacting politicians, drafting articles for publication and delivering postcards around Dublin.

We hope to organise evening meetings once a fortnight, to get together in our offices in Dorset St and really get this campaign moving.

Please contact us if you would like to get involved at campaigns@flac.ie or 01- 874 5690.

If you support our campaign, but cannot spare the time to come into the office, we would be grateful if you would consider signing the attached letter and forwarding it to your local TD.

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