

# IHRC Human Rights E-Bulletin – Winter 2011

Welcome to the Winter edition of the Irish Human Rights Commission's (IHRC) Human Rights E-Bulletin. The IHRC is Ireland's National Human Rights Institution with a statutory remit under the Human Rights Commission Act 2000 to ensure that the human rights of all people in Ireland are promoted and protected in law, policy and practice. This bulletin provides a quarterly update on the activities of the IHRC.

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### 1. Upcoming Events: Human Rights Day, 10 December 2011

On Human Rights Day, 10 December, we remember the proclamation of the Universal Declaration of Human Rights some 63 years ago. It is a time to pay tribute to all those who defend human rights. 'Social media and human rights' is the theme of this year's Human Rights Day, which acknowledges the extraordinary events this year that demonstrate the impact of social media in mobilising people to defend human rights.

- **Tweet the UN Human Rights Commissioner**

The UN High Commissioner for Human Rights, Navi Pillay, will answer questions from social media users on 9 December from 2.30pm to 3.30pm Dublin time (9:30am to 10:30am New York EST). The event can be watched live on [Facebook](#) and on the [UN website](#). The moderator of the event is Abderrahim Foukara from Al Jazeera television.

Send questions in advance via Twitter using hashtag #AskRights or post it on the events section of the UN's Human Rights [Facebook page](#). Questions should be short: 140 characters or less.

- **On-line launch of IHRC human rights video for civil and public servants**

Social media is also an excellent medium for learning. On 10 December, the Irish Human Rights Commission is launching online, a training video that promotes awareness of human rights to the Irish Civil and Public Service to mark Human Rights Day. On the 10<sup>th</sup>, take a look at the video on the [website](#).

## Working Structure of the IHRC

The work of the IHRC is delivered through two divisions: Research, Policy & Promotion, and Enquiries, Legal Services & Administration.

## Research, Policy and Promotion

The Research, Policy and Promotion Division carries out the work of the IHRC in legislative review, research, policy, awareness including media and events, human rights education and international relations including the IHRC's role as a National Human Rights Institution.

### 2. Ireland's Universal Periodic Review, 6 October 2011

Ireland was examined on its human rights record under the Universal Periodic Review on 6 October 2011 by the UN Human Rights Council. A number of reports informed deliberations at the hearing including the [State's own report](#), the [IHRC's report](#) and a [stakeholder report](#) compiled by the UN. In advance of the Hearing the IHRC called on the State to make [15 voluntary commitments](#). The IHRC also met directly with members of the Human Rights Council to set out the concerns expressed in its report.

The UN Human Rights Council has now produced its [Outcome Report](#). The IHRC was very pleased that a large number of its concerns and recommendations were reflected in the report.

Out of a total of 126 recommendations made by the UN, the Government has publicly accepted 62 recommendations and has committed to considering another 49 recommendations by the time Ireland's UPR Report is formally adopted at the Human Rights Council session in March 2012.

The IHRC will continue follow up work on UPR in the coming months.

### 3. Scheme of Vetting Bureau Bill 2011

In October, the IHRC published its [Observations](#) on the Scheme of the National Vetting Bureau Bill 2011 and submitted its observations to the Minister for Justice, Equality and Defence. On publishing the Observations, the IHRC, in its [press statement](#) welcomed the Scheme of the National Vetting Bureau Bill 2011 as a means of putting the current ad hoc system (Garda vetting) on a statutory footing and made recommendations to further strengthen human rights safeguards in the draft legislation. Among its recommendations, the IHRC recommended that:

- Full procedural and administrative safeguards are in place in the entire vetting process, to ensure that the vetting scheme fulfils its purpose of protecting children and vulnerable adults while at the same time protecting people who are vetted from undue interference with their right to private and family life, further safeguards must be included in this Bill.
- There should be a strong link between disclosure of private information other than convictions and the nature of employment. The storage and onward transmission of information collected during the vetting process should be clearly provided for in the Bill.
- The issue of vetting for reasons of national security should be addressed in separate legislation.

### 4. IHRC & Law Society of Ireland Annual Human Rights Conference, 22 October 2011

The IHRC's 9<sup>th</sup> Annual Human Rights Conference with the Law Society of Ireland was a great success with a capacity attendance. The conference was opened by the Presidents of the Law Society and IHRC and the theme of the conference this year was *Ireland's Record on Human Rights under the Spotlight – Implications of the United Nations Universal Periodic Review*. Ireland had just been examined by the UN Human Rights Council on its human rights record on 6 October and the draft recommendations provided a basis for discussion at the conference.

The keynote address was delivered by Anastasia Crickley, Member of the UN Committee on the Elimination of Racial Discrimination. The IHRC Chief Executive, Éamonn Mac Aodha, spoke about the IHRC's role as Ireland's National Human Rights Institution. Deirdre Duffy, Irish Council for Civil Liberties and *Your Rights. Rights Now.* (NGO UPR Coalition) provided an analysis of the outcomes of the UPR process from the NGO Coalition's perspective. The opening session was concluded by a drama by migrant women domestic workers, which offered a powerful illustration of the discrimination they can face and have tried to overcome.

Rich discussions took place in parallel sessions and were facilitated by able chairs including Susan McKay, National Women's Council of Ireland, Professor William Binchy, Trinity College Dublin, John Dolan, National Disability Federation of Ireland, Professor Gerry Whyte, Trinity College Dublin and Mrs Justice Catherine McGuinness, former President of the Law Reform Commission. The sessions focused on women's rights, Traveller's rights, the rights of people with disabilities, human rights and poverty, and human rights in prisons and places of detention respectively. Carol Coulter, Legal Editor of the Irish Times provided the audience with an insightful closing address.

Speaker's presentations are available on both the IHRC's [website](#) and the Law Society of Ireland's [website](#).

### **5. Human Rights Education and Training Project (HRETP)**

The IHRC's Human Rights Training with the Civil and Public Service is set to continue into 2013 thanks to renewed philanthropic funding following the successful completion of Phase 1, which ended in September 2011. The HRETP has to date trained approximately 350 Civil and Public Servants through tailored training for different departments and state services. The Project has also distributed over 7000 hard copies of - 'Human Rights Guide for the Civil and Public Service'. It is available in English and Irish, and to download or browse [online](#).

Training to date has included 12 Civil and Public Service Trainers who completed a 2-day training course equipping them to deliver basic human rights training and linking the benefits of human rights training to specific staff roles such as Human Resources. The Trainers will now have access to ongoing support from the IHRC and will be able to utilise the newly developed Human Rights Training for Trainers Pack that was distributed to participants, accompanied by a memory key with specific resources that can be used at training sessions. If you would like to register interest to apply for the next round of [Human Rights Training for Civil and Public Service Trainers](#), or like to discuss your human rights training needs, please email the Project Manager Fiona Murphy: [fmurphy@ihrc.ie](mailto:fmurphy@ihrc.ie)

All Civil and Public Service workers can avail of the [website created for Human Rights Training](#) purposes. This website has a menu of useful tools that will help in a training situation or for individual work related purposes to acquire accessible, useful and practical information. The website contains quizzes on the International, European and domestic human rights frameworks, along with a human rights timeline, information on Treaty Bodies and useful charts and diagrams. It also contains multi-media resources including an introduction to human rights training video and the first fully developed e-learning course available by January 2012. See [www.ihrc.ie/training](http://www.ihrc.ie/training) for more information.

### **6. NHRI Capacity Development Partnership Project in association with Irish Aid**

The IHRC, in cooperation with Irish Aid, has launched a pilot project to provide capacity support to National Human Rights Institutions in Irish Aid Programme countries. The Project builds on *ad hoc* work

undertaken by the IHRC over the past number of years including providing support to the Ethiopia and South Sudan Human Rights Commissions. Providing support to other NHRIs is an important role for a NHRI, who can provide peer-based support on the practicalities of running a national institution in a spirit of partnership. The IHRC Capacity Building Project, which is funded by Irish Aid, undertook its first assessment mission to the Sierra Leone Human Rights Commission in November 2011. The pilot phase of the Project will continue until August 2012.

### **Enquiries, Legal Services and Administration**

The Enquiry and Legal Services section of the Division is usually the first point of contact between members of the public concerned about human rights. This service informs the overall work of the IHRC and ensures that the IHRC is aware of human rights issues as they are emerging and as they effect people in practice. It is on the basis of these communications that the IHRC exercises its enquiry and legal functions.

#### **7. *G. v District Judge Catherine Murphy, the Director of Public Prosecutions, Ireland and the Attorney General (High Court)***

In October 2011, the IHRC was notified of these proceedings and decided to seek liberty to appear as *amicus curiae* (friend of the Court) in the High Court pursuant to Section 8(h) of the Human Rights Commission Act 2000. The High Court granted permission to appear in the case.

The case arises from an individual with significant mental disabilities who faces criminal prosecution, where an issue arises as to the individual's fitness for trial within the meaning of Section 4 of the Criminal Law (Insanity) Act 2006. As the legislation requires the case to be sent forward from the District Court to the Circuit Court for trial, the question before the Court was whether the individual faced more severe penalties as a consequence, if convicted; if so, whether this was on the basis of his disability and if so; whether this would violate the guarantee of equality under Article 40.1 of the Constitution.

The case was heard over two days 22-23 November 2011 and the IHRC presented written and oral submissions; being represented by pro bono counsel. In its submissions, the IHRC drew the Court's attention to the relevant Constitutional and Convention arguments. It also raised the principles which arise under the UN Convention on the Rights of Persons with Disabilities, soon to be ratified by the State.

Judgment is expected in December 2011.

#### **8. *O'Keeffe v Ireland (Application No. 35810/09 - European Court of Human Rights)***

In August 2011, the European Court of Human Rights acceded to the IHRC's application to intervene as *amicus curiae*/ third party (friend of the Court) in this case which concerns historic child abuse in a school run by a religious patron.

The case concerns an individual who suffered sex abuse while a child at the hands of a principal in a primary school under the patronage of the Bishop of Cork and Ross in the 1970s. The Applicant brought a case to the High Court and Supreme Court but lost both suits. She then make an Application to the European Court of Human Rights which this year "communicated" the case to Ireland.

The IHRC filed its [submissions](#) in September 2011 which are available on its website.

## 9. School enrolment policy submission

In November 2011, the IHRC made a [submission](#) to the Department of Education and Skills '[Discussion Paper on a Regulatory Framework for School Enrolment](#)'. The IHRC grounded its submission on two key principles; namely (1) that the State is responsible for regulating school admissions policies and (2) that such policies should be compatible with those human rights obligations the State has committed itself to. Such human rights obligations were listed by the IHRC as including freedom from discrimination, the respect for privacy and the right to freedom of religion, conscience and thought, including the philosophical convictions of parents and children.

Particular groups of children were identified by the IHRC in its submission as requiring special attention in school enrolment policies - children from minority groups (including people of a minority faith or of no faith), children with disabilities ("special needs"), Traveller children and "newcomer" children (children of recent migrants to the State).

Prior to this submission, the IHRC had produced a major report in May 2011 entitled *Religion and Education: A Human Rights Perspective*. This report has fed into the Forum on Patronage and Pluralism in the Primary Sector, established by the Minister for Education and Skills and chaired by Professor John Coolahan. A final report from the forum is expected at year's end.

The IHRC 2011 Report was on foot of a consultation process and consideration of 60 submissions made to it. The IHRC's main recommendation was that diversified provision of school type be introduced in the State to give parents and children greater choice. Mindful that this recommendation could not be immediately implemented, the report went on to recommend that pending diversified school provision, significant changes will be required to the current model (where the majority of school patrons are religious denominations) in order to meet human rights standards. The IHRC thus called on the Government to introduce a number of structural reforms to protect the rights of minority faith or non faith children who are being educated in denominational schools today. These include changes to the Education Act 1998 and to the Rules of National Schools. They also included an expanded role for an Ombudsman body to consider complaints concerning exemption procedures or any unwanted exposure to indoctrination or proselytism should be considered. Similarly it recommended that the remit of School Inspectors should include inspection of how religion classes are conducted in schools.

## 10. European Court Reform

The IHRC as part of the European Group of National Human Rights Institutions (NHRIs) continues to work on [Reform of the European Court of Human Rights](#) with international colleagues. State compliance with Judgments of the Court is important if Ireland and other States are to fully meet their international obligations.

The European Court faces a backlog of 153,000 cases and some States are seeking to curtail the right of individual petition to reduce the number of cases going to Strasbourg.

In the European Group of NHRI's view, the backlog is actually caused by the following:

- Lack of domestic implementation of the ECHR and the Court's case-law;
- Lack of execution of ECtHR judgements in the State concerned;
- Lack of effective domestic remedies;
- Lack of information about the Court and the admissibility criteria to be fulfilled for the Court to examine a case on its merits;
- Lack of capacity of the Court to deal with the caseload arising from the above.

Recent submissions by the European Group of NHRIs to the Council of Europe's Steering Committee on Human Rights (at which the European Group has observer status) raised concerns on the following issues: subsidiarity, filtering of applications, admissibility criteria, measures that affect access to the Court, national implementation, advisory opinions, simplified amendment procedure, election of judges and EU Accession.

Recently the UK took over the Chair of the Council of Europe with the stated aim of moving forward with the reform process. Further information on European Court Reform and on judgments against Ireland is available on the IHRC [website](#).

## **11. External Reports from International Organisations**

- **FRA Report: Irregular migrants excluded from basic rights and services in Europe**

Exploitation in the workplace, lack of access to basic services and barriers to accessing justice are some of the challenges facing irregular migrants highlighted by a new [report](#) of the European Union Agency for Fundamental Rights (FRA).