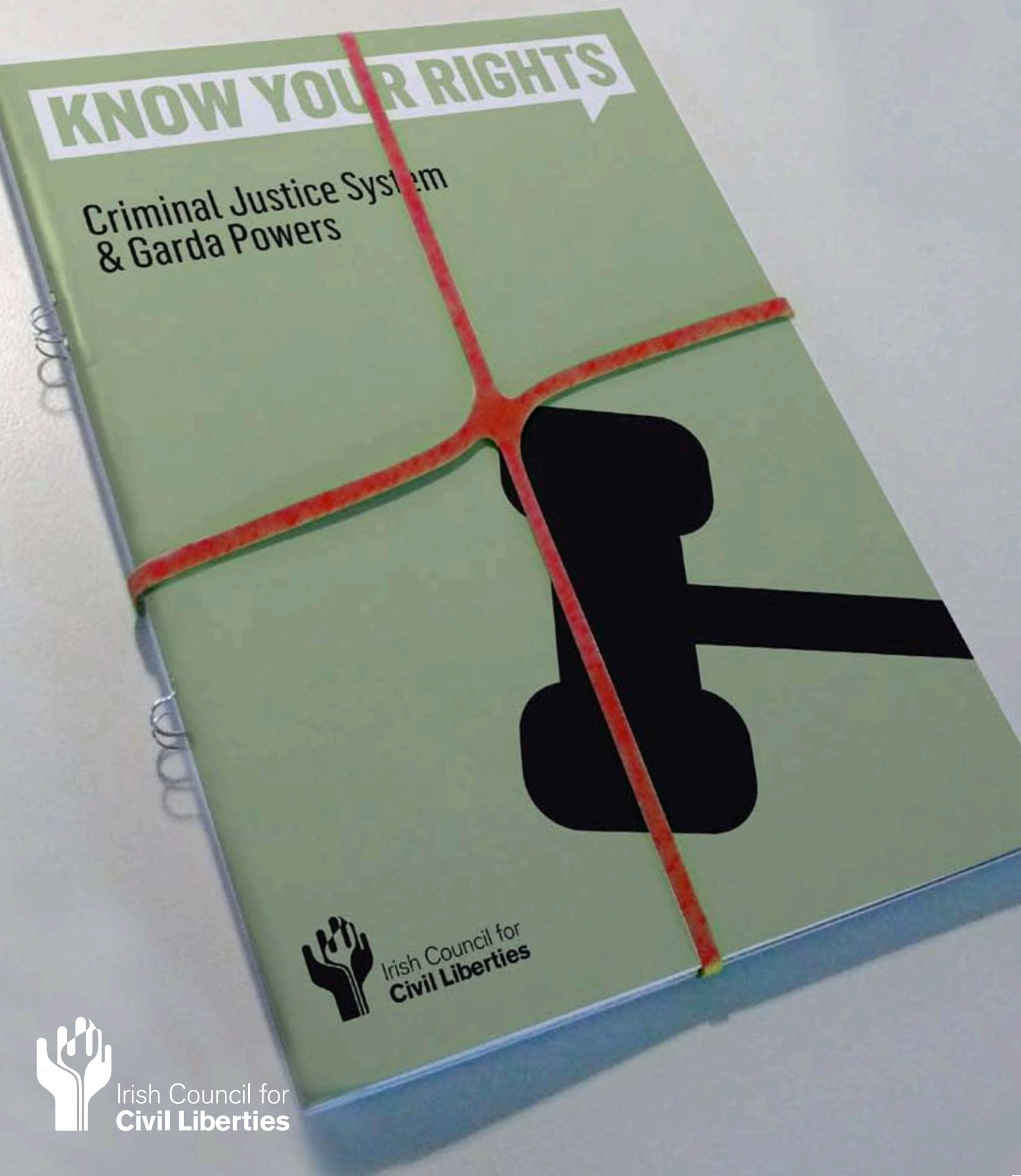




# Rights News

Winter 2009/2010



Irish Council for  
Civil Liberties

# ABOUT THE ICCL

The Irish Council for Civil Liberties (ICCL) is Ireland’s leading independent human rights watchdog, which monitors, educates and campaigns in order to secure full enjoyment of human rights for everyone. Founded in 1976 by Mary Robinson and others, the ICCL has played a leading role in some of the most successful human rights campaigns in Ireland. These have included establishing an independent Garda Ombudsman Commission, legalising the right to divorce, securing more effective protection of children’s rights, decriminalising homosexuality and the introduction of enhanced equality legislation. We believe in a society which protects and promotes human rights, justice and equality.

## What we do

- We advocate for positive changes in the area of human rights.
- We monitor government policy and legislation to make sure that it complies with international standards.
- We conduct original research and publish reports on issues as diverse as equal rights for all families, the right to privacy, policy reform and judicial accountability.
- We run campaigns to raise public and political awareness of human rights, justice and equality issues.
- We work closely with other key stakeholders in the human rights, justice and equality sectors.

## How you can help

You can help us to continue our work to monitor, train, conduct research, campaign and lobby for changes in legislation to ensure our rights are protected and promoted.  
*Please visit our website: [www.iccl.ie](http://www.iccl.ie) or phone us on 01 799 4504 to make a donation.*

Contact us:  
**ICCL, 9-13 Blackhall Place, Dublin 7**  
**T: +353 1 799 4504 F: +353 1 799 4512**  
**E: [info@iccl.ie](mailto:info@iccl.ie) W: [www.iccl.ie](http://www.iccl.ie)**

# MESSAGE FROM THE DIRECTOR

2009 has been quite a year. Twelve months ago, the Minister for Justice, Equality and Law Reform, Dermot Ahern TD, informed the Dáil that he had “decided to focus on some of the more soft issues in the Department to achieve a significant reduction” in costs. His “soft issues” included slashing the budgets of the Irish Human Rights Commission and the Equality Authority and closing the National Consultative Committee on Racism and Interculturalism (NCCRI).

This December, the Human Rights Commission remains “open for business”, but with a greatly-diminished capacity, and the Equality Authority has been starved of the funds that it needs to carry out its vital awareness-raising work.

The ICCL has been able to take a small amount of the strain, by assuming the “RAXEN” function of reporting on racism to the European Union’s Fundamental Rights Agency (a task performed by the NCCRI before its perfunctory closure last December), but our equality and rights landscape remains decimated.

Of course, these are difficult economic times for everyone but – in a mature democracy – the effective protection of rights should not be treated as an optional extra and it is certainly not a “soft issue”. The ICCL will continue to campaign, both in its own right and through other strategic partnerships and alliances, against the long-term damage being done to Ireland’s capacity to protect the most vulnerable.

I am very proud of the awareness-raising work that the ICCL has accomplished during this difficult period. We have held our first, and launched our second national human rights film competition, bringing rights-based messages to a very wide audience. Every second-level school in the country has received a copy of our new teaching resource on internet privacy for young people, *Think Before You Click*. Many thousands of people have signed up to the LOVEACTION campaign message, developed in partnership with our friends in the LGBT community, and calling for full equality for same sex couples – now.



We have extended and bolstered our network of support in the legal profession, both through traditional ICCL work such as campaigning against regressive criminal justice measures and by fundraising activities to replenish our depleted coffers.

The support that we have received from sponsors, supporters, members and friends has strengthened both our finances and our resolve. The Irish Council for Civil Liberties will not allow the protection of human rights to be dismissed as a soft issue, nor will it permit the economic downturn to deflect it from the need to bring rights-based messages to the widest possible audience.

Our newest project, which is featured on the cover of this issue, is a series of ICCL Know Your Rights packs. The generous sponsorship of Garrett Sheehan Solicitors will allow the first of these packs – on the Criminal Justice System and Garda Powers – to be launched in early 2010.

Next year will bring greater challenges, but also new opportunities. Your support for our work will help to ensure that the ICCL is ready to confront the challenges and to grasp emerging opportunities to contribute to the more effective protection of rights in Ireland.

**Mark Kelly**  
Director

# MONITORING HUMAN RIGHTS



## Know Your Rights – Coming Soon

The ICCL is currently working on a new set of public information packs, which are due to be rolled out in the coming months under the banner ‘Know Your Rights’.

The Know Your Rights project will inform a wide public, in clear and accessible language, of their rights under various identified areas of the law.

The first rights pack deals with criminal justice and Garda powers. This is an updated and redesigned edition of the ICCL’s 2003 Criminal

Justice information pack, which for years has been the most requested of the ICCL’s publications. This pack has been generously sponsored by Garrett Sheehan Solicitors.

Packs on the European Convention on Human Rights Act 2003 and on Privacy Rights will follow in 2010. These will be available online, and distributed to libraries and citizens’ information centres nationwide.

For further updates, please visit the ICCL website, which will soon feature a dedicated Know Your Rights section.



## Make the Gift of a Lifetime

At the very core of what we do is the belief that we can make a difference and have an impact where it matters most – on the lives of vulnerable and marginalised individuals and communities. You can help us to continue this work for generations to come by remembering us in your Will.

After your family and loved ones, please consider making this deeply meaningful gift to the Irish Civil Liberties Trust.\* Your contribution, regardless of the amount, will help us to ensure that the ICCL remains strong and continues to protect and promote the rights of everyone living in Ireland .

For further information, please contact the office on 01 799 4504 or email [info@iccl.ie](mailto:info@iccl.ie). You can also visit [www.iccl.ie](http://www.iccl.ie) to learn more about how you can leave a lasting legacy for human rights.

To those of you who have already expressed your wishes to remember us in your Will, we would like to take this opportunity to extend our most sincere thanks to you. Your support is invaluable.

Irish Civil Liberties Trust      Registered Charity Number 11460

\*The ICLT is an independent charitable trust, with the key objective of the advancement of education in the areas of civil liberties, human rights and fundamental freedoms. It collects and distributes funds which can be used to support the work of the Irish Council for Civil Liberties (ICCL).





Update on Legislation – Recent ICCL Submissions

Deirdre Duffy | ICCL Research & Policy Officer

The Communications (Retention of Data) Bill 2009

The Communications (Retention of Data) Bill 2009, which gives effect in Irish law to the EU Data Retention Directive, is currently passing through the Oireachtas. At present, Irish law only provides for the retention of telephone data. The Data Retention Directive requires governments to retain both telephone and internet data for assistance in the investigation, detection and prosecution of serious crime. Both call logs and location information will be monitored; however, it will not apply to the content of the telephone and internet communications.

Nonetheless, the ICCL is concerned about the privacy implications of some of the measures in the Bill. Under Article 8 of the European Convention on Human Rights (ECHR) and the Constitution, people have a right to privacy with respect to their electronic communications. Your communications should not be monitored unless the monitoring can be shown to be lawful and necessary in a democratic society and for certain specified reasons (including national security and the prevention of crime or disorder). The monitoring activity must also be proportionate to the aim pursued (for example, criminal investigation).



The retention regime proposed in the Bill involves the collection of telephone and internet data on everybody in the country. However, such a “blanket” system of data collection has recently been rejected by the European Court of Human Rights in relation to the DNA database in England and Wales. The Data Retention Directive stipulates that communications data should be retained for at least six months and no more than two years. However, unlike our European counterparts, the Bill provides that telephone data should be retained for two years and internet data for one year. To minimise intrusion into private life, the ICCL considers that all data should only be retained for 6 months.

Furthermore, one of the more worrying aspects of the Bill is the extension of access to communications data to Revenue officials. This is compounded by the fact that prior judicial or other approval is not required before data access can be requested. In fact, in some situations, requests for data can be made orally. Access to personal communications records is a very intrusive power and the ICCL remains unconvinced that the proposed judicial oversight powers are sufficiently robust. The judicial reports currently submitted in relation to access to telephone data are minimal and the same procedure has been suggested in the Bill to cover the new retention regime.

The ICCL's submission on the Communications (Retention of Data) Bill 2009, covering these and other points in detail, is available on our website at [www.iccl.ie](http://www.iccl.ie).



Home Defence and the Right to Life

On 7 October 2009, the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights requested submissions on the issue of home defence. The ICCL made a submission to the Joint Committee highlighting the need to ensure that any legal reforms in this area are benchmarked against the standards set out in the European Convention on Human Rights (ECHR).

The ICCL considers that current Irish law, as stated by the Court of Criminal Appeal in *DPP v. Barnes*, provides an adequate framework for dealing with circumstances where an intruder is injured – fatally or non-fatally – by a householder. The Court grounded its judgment in the Constitution: the personal rights (Article 40.3.1) and right to private property (Article 40.3.2) of the householder and the right to life (Article 40.3.2) of the intruder. Although the Court pointed out that there may be many situations where householders would be well advised to flee, he or she can never be under a legal obligation to do so. The Court's decision can be summarised as follows: householders cannot kill a burglar simply for being a burglar; however, a householder is entitled to defend her or his home and is not obliged to retreat. The use of force to defend the property must be proportionate and whether or not it is proportionate is to be determined by using both objective and subjective criteria.

As part of the submission, the ICCL also outlined the requirements of Article 2 (right to life) of the ECHR, should any reform in this area be considered. Under Article 2, the State must have in place an adequate legal regime to avoid people being exposed to unnecessary risks to their lives. Furthermore and crucially, lethal force can only be used when absolutely necessary. This is an important consideration bearing in mind that the use of force within the home environment could have unintentional deadly consequences and the fact that all force has the potential to be fatal. The requirement that only proportionate, necessary and reasonable force can be used operates to preserve the safety and lives of both the intruder and the householder. Any change in the law which sought to empower householders to use whatever degree of force they might deem appropriate would place the right to enjoy property above the right to life of an intruder. This would almost certainly be at variance with the requirements of the ECHR.

The ICCL's submission on Home Defence and the Right to Life is available on our website at [www.iccl.ie](http://www.iccl.ie).



ICCL Kicks off its RAXEN National Focus Point Work

Karla Charles | ICCL Researcher



In August 2009, the ICCL, in conjunction with UCD School of Social Justice, was appointed as the EU Fundamental Rights Agency's RAXEN National Focal Point on racism, xenophobia, Islamophobia and anti-Semitism in Ireland. Since then, ICCL researcher Karla Charles has been carrying out work to meet the various report deadlines that the ICCL is now required to meet in this important new monitoring role.

A 'Rapid Response Report' was completed on the human rights issues and debates in the print media during the 2009 EU Parliamentary election and the Lisbon referendum in October. The focus of the report was on the accession of Turkey to the EU and the wider immigration debate, but it also noted that much of the debate in Ireland on these issues occurred on the airwaves as opposed to in the print media.

Two quarterly bulletin reports have also been submitted, which cover some of the main developments in a policy, legal, research and

Equality & Rights Alliance Lodges Complaint to the EU Commission

Rachel Mullen | Co-ordinator, Equality and Rights Alliance



The Equality and Rights Alliance (ERA), a coalition of over 130 civil society groups and activists, has lodged a legal complaint with the European Commission and a parallel petition to the European Parliament. ERA's complaint, which was lodged on 7 September 2009, centres primarily on the independence and viability of the Equality Authority and contends that Ireland is in breach of EU law due to the disproportionate budget cuts imposed in the October 2008 budget. This saw the budget of the Equality Authority reduced by 43 per cent while the budget of the Irish Human Rights Commission was reduced by 24 per cent.

EU equality directives in the fields of race and gender require Member States to maintain designated national bodies for the promotion of equal treatment. These directives are:

- The Racial Equality Directive 2000/43, Article 13
- The Gender Equal Treatment Directive 2002/73, Article 1(7)
- The Gender Services Directive 2004/113, Article 12
- The Gender Recast Directive 2006/54, Article 20

Under these provisions, the designated national body must, as a

awareness-raising context in Ireland in the area of racism, xenophobia and discrimination.

Karla's current focus is on the Complementary Data Collection report which provides information for the relevant sections of the Fundamental Rights Agency's 2010 Annual Report 2010. This report is made up of secondary research on areas including:

- the Equality Bodies' work on complaints data on racial or ethnic discrimination and any important case law on racial or ethnic discrimination;
- statistical data on racist and related crime;
- employment, housing and health care, including data, incidents, research findings and good practice;
- education, including data, exemplary cases of discrimination, restrictions of access to education and good practice;
- the participation of minorities in public life. This covers respecting the right to identity and promoting mutual understanding, promoting the public use of language spoken by minorities, and effective participation of persons belonging to minorities in public life, as well as any good practices.

This report will be submitted to the FRA before the end of December.

minimum, be able to give independent assistance to victims of discrimination to pursue complaints, conduct independent surveys concerning discrimination, publish independent reports and make recommendations on discrimination issues.

While the directives do not specify a level of funding for the national designated body, they stress the need for specialist bodies to be independent in carrying out their functions.

The 1992 UN Paris Principles for the status and principles of national rights institutions make reference to issues of independence and adequate resourcing of bodies. They note in this regard: 'The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the government and not be subject to financial control which might affect this independence'.

The ERA believes that the Irish Government has used the cover of financial cutbacks in public expenditure to mount a targeted attack on Irish equality and rights institutions, by singling out these bodies for disproportionately large cuts. In particular, the combination of the budget cut and the accelerated decentralisation programme have crucially undermined the ability of the Equality Authority to function as a designated national body under the EU equality directives on race and gender, rendering it unable to effectively fulfil its prescribed functions.

The ERA has just published research on the impact of the cuts to the Equality Authority and the Irish Human Rights Commission. This research also outlines a set of indicators to allow the ERA to track the ongoing impact of the cuts on the bodies and their ability to deliver on their core functions. This information will be submitted to the EU Commission to reinforce the issues outlined in our complaint.

The ERA's latest report, 'Downgrading Equality and Human Rights: Assessing the Impact', is now available at the ERA website – [www.eracampaign.org](http://www.eracampaign.org).





2010 ICCL Human Rights Film Awards Launched at Cork Film Festival

Young filmmakers, ICCL staff and supporters were in Cork on 7 November 2009 to attend a special Cork Film Festival screening marking the launch of the 2010 ICCL Human Rights Film Awards.

Following on from its inaugural 2009 competition, won by Vittoria Colonna for her film *My Identity*, the 2010 Awards once again call on both amateur and professional filmmakers, directors, producers and scriptwriters to turn their hands to a making a short film on a human rights issue relevant to Ireland.

The launch screening, which showcased the six outstanding films from the 2009 competition shortlist, took place at the Gate Multiplex on Cork's North Main Street on the Cork Film Festival's closing weekend. The screening was followed by a reception in the Bodega where the runners up from last year's competition, Barry O' Donoghue and Aoibheann O'Sullivan, spoke to attendees about the competition and the profile and opportunities their success has given them.

The ICCL aims to build upon the great success of its inaugural competition, ensuring that the 2010 competition boasts an even higher number of quality entries. The ICCL is proud to once again have the support of an acclaimed competition Panel and Jury, including filmmakers Rebecca Miller and Kirsten Sheridan, and former IFCO Director John Kelleher.

The ICCL is also delighted to have 'The Irish Examiner' on board as the Awards' official media sponsor.

The competition is open to original films of a maximum of 15 minutes in length, based on a human rights topic in, or relevant to, Ireland.

A shortlist of five to six film entries will be chosen by our Panel for a Gala screening in summer 2010, at which the Jury will announce the Grand Prize winner.

Full details, and an application pack, are available on the competition website, [www.humanrightsfilmawards.org](http://www.humanrightsfilmawards.org)

The closing date for submissions is 31 March 2010



L-R: Barry O'Donoghue, Mark Kelly, Aoibheann O'Sullivan, Marc O'Sullivan, Irish Examiner Arts Editor - Photo courtesy of The Irish Examiner



CCFF Director Mick Hannigan with ICCL Member Gearoid Kilgallen



2009 Runner up Aoibheann O'Sullivan speaking at the reception in the Bodega



2009 Runner up Barry O'Donoghue speaking at the reception in the Bodega



ICCL Holds its Second Annual Dinner for Legal Professionals

On 26 November 2009 the ICCL held its second annual dinner event for legal professionals. The evening began with a drinks reception sponsored by the Bar Council of Ireland, followed by dinner in Dublin's Fallon and Byrne. The ICCL welcomed Fiona Murphy, co-founder of Bhatt Murphy Solicitors, London, as the event's guest speaker, who provided a first-hand account of her practice and its use of human rights standards in its work.

The event was attended by over 75 legal practitioners, who also showed their support for the ICCL through a raffle and auction featuring a range of fantastic prizes. Guest auctioneer Turlough O'Donnell S.C., (better known as a former Chair of the Bar), proved that his persuasive capacities extend well beyond the Four Courts, and special thanks are due to him for his contribution on the evening.

The ICCL would like to thank the Bar Council of Ireland and all of our sponsors who donated prizes, including: Fallon & Byrne, Louis Copeland, Residence, the Buff Day Spa, Lilliput Stores, Loulerie, The elbowroom, Sankiev, The Pen Corner, L'Ecrivain, The Dubliner, The Sunday Business Post, the Grooming Rooms. A special thanks also goes to Claire Hanley, Kathleen Barrington and the IRFU for their generous contributions.



Aileen Donnelly S.C., Iseult O'Malley S.C. and Dara Robinson



Guest Auctioneer Turlough O'Donnell S.C.



Guest speaker Fiona Murphy



Martha Simons, Giollaíosa Ó Lideadha S.C., Libby Charlton



Ger O'Donovan, ICCL Executive Board Member Conor Power, John Stanley, ICCL Co-Chair Natalie McDonnell, Derek Shorthall, Sinead Costello

ICCL LAWYERS' DINNER SPONSORS:

ICCL HUMAN RIGHTS FILM AWARDS SPONSORS:







## New ICCL Website Launched

On Human Rights Day 2010, the ICCL revamped its online presence with the launch of its new and improved website. Still located at [www.iccl.ie](http://www.iccl.ie), the website builds on the user-friendly form of its predecessor, bringing increased interactivity, multimedia features, and expanded access to our publications.

The new website features ICCL articles, press releases, publications and latest news, as well as photo and video galleries of our events and activities. The publications section, currently being expanded and backdated, will provide a comprehensive and searchable archive of the ICCL's most important reports and submissions.

Users can keep up to date with the latest ICCL news via subscription to the site's e-news list or to its themed RSS feeds. The site also links to the ICCL's new Facebook and Twitter pages, and allows users to share content on their own social networking pages.

The site also features a new 'Support us' section, allowing users to give one-off or regular gifts to help the ICCL continue its vital work as Ireland's independent human rights watchdog.

We hope you will enjoy using our new website and would welcome comments and feedback – please contact [info@iccl.ie](mailto:info@iccl.ie).



## Bid for a Signed Grand Slam Ireland Rugby Jersey

The Irish Rugby Football Union (IRFU) has very kindly donated a rugby jersey signed by the Grand Slam winning team to the ICCL. We are most grateful to receive this very special item, which

has been signed by the legendary team and would make the perfect Christmas gift and heirloom. And all funds raised through the sale of the jersey will go to support the ICCL's work.

If you would like to make an enquiry about buying the jersey please contact the ICCL offices by emailing [info@iccl.ie](mailto:info@iccl.ie) or by phoning 01 799 4504. More pictures of the jersey are available on the ICCL's website at [www.iccl.ie](http://www.iccl.ie). Please note, a disclosed reserve price of €700 has been set.

The deadline for accepting offers is Friday, 18 December at 5pm and we guarantee delivery of the jersey in Ireland on 22 December 2009. Good luck!

## ICCL Teams Up With NCTE to Launch 'Think B4U Click' Teaching Pack

Every second level school in the State has now received a copy of *Think Before You Click*, the brand new teaching resource on online safety and privacy jointly published by the Irish Council for Civil Liberties and the National Centre for Technology in Education (NCTE), in cooperation with the Curriculum Development Unit's Second Level Support Service.

The teaching resource was launched by ICCL Director Mark Kelly and NCTE Director Jerome Morrissey at the Office of the Children's Ombudsman, Dublin, on 30 October 2009. They were joined by representatives of the Curriculum Development Unit and the Safer Internet Ireland Youth Advisory Panel (SIYAP).



NIAL DENNEHY, BRONTÉ FITZMAURICE, MEGAN HANLON & CORMAC TEEVAN OF THE SIYAP

The first resource of its kind developed for use on the Junior Certificate CSPE curriculum, *Think Before You Click* explores issues of online privacy and safety for young people. Recognizing the great advantages that the internet bestows on young people, and its central importance in their daily lives, *Think Before You Click* strikes a balance between empowerment and protection. While highlighting the great value of new media for education, creativity and social interaction, it also demonstrates the need to use this technology in a responsible and wise manner.

The ultimate aim of *Think Before You Click* is to empower young people to become effective, safe and autonomous users of the internet.

The resource has been distributed to the CSPE departments of second level schools nationwide, and will be rolled out as part of the Curriculum Development Unit's in-service training courses for teachers in the coming months. *Think Before You Click* is also available for teachers and students to download in whole or in part at the specially-designed websites [www.thinkb4uclick.ie](http://www.thinkb4uclick.ie) and [www.tb4uc.ie](http://www.tb4uc.ie).