

# **Irish Council for Civil Liberties**

## ***An Comhairle um Chearta Daonna***

### **Annual Review of 2002**

- 1. Report of the Co-Chairs**
- 2. Report of the Director**

# **Report of ICCL Co-chairs to ICCL AGM February 22<sup>nd</sup> 2003**

Firstly we'd like to thank the members who have come here today for the ICCL's AGM. We appreciate the fact that you have sacrificed a Saturday morning in order to be here and we value your interest in the organisation.

In the past the co-chairs' report has been an all encompassing round-up of the organisation's activities in the previous year. However, this year the report shall be shorter as we will focus on the work of the ICCL as carried out by the Executive over the previous twelve months. The Director's report will contain more details on the ICCL's core activities.

## **Organisational Development and Staff**

The past year has been a significant one for the ICCL as we continue the process of development of the ICCL from a mainly voluntary organisation into a professional human rights NGO. When we reported to you last year our then Director, Donncha O'Connell, was preparing to leave the organisation and return to NUI Galway. In the period when the organisation was without a Director Liam Herrick served as Acting Director and we would like to commend him on a job well done. During this time the Officers of the Organisation took a more direct role in the daytoday financial management of the organisation and we would also thank them for this extra effort.

The Executive conducted a long and extensive recruitment process to find the new Director of ICCL. We were delighted that Aisling Reidy decided to accept the position of Director and started working with us in October. With her broad experience of work in the NGO, not-for-profit and international justice sectors she is a valuable addition to the ICCL's staff team.

Another new employee is Alma Farrell who started working as our Administrator in March. As well as administering our busy office Alma has also taken on the task of typesetting the ICCL's newsletter which is now being produced more frequently than in the past.

Aisling and Alma along with Liam Herrick, our Research & Parliamentary Officer, represent the current complement of staff in the ICCL's office. At three this is the largest number of staff that the organisation has ever had.

## **Strategic Development**

Over the last year the ICCL Executive has taken the need to restructure and professionalise the organisation's structures as its main priority. Some of the results of this are embodied in the proposals to change the ICCL's constitution that we will present to you later this morning. These changes were proposed after a constitutional review that was overseen by an external facilitator Mr. Chris O'Malley (Development Officer, Dublin City University). In addition Ms. Frauke Seidensticker (Vice President of the German Institute for Human Rights, former Director of Amnesty International Switzerland) reviewed our proposals and provided valuable insights. The Executive feels that the new

structures we are proposing are necessary in order to reflect the fact that the organisation's operational activities are now centred in the ICCL's office and the Executive has assumed a more strategic role.

In addition, the new ICCL Executive that will be elected at this meeting will immediately embark on a strategic review process. The purpose of this strategic review is to enable our new Director to have an input into the strategic direction which the organisation will take over the next five years. The review will determine what the organisation's future strategy and staffing requirements will be. As a result of this process we will then submit a funding application to The Atlantic Philanthropies. This funding application will cover a 5-year period and will provide the template for the organisation's development over the next few years.

As the organisation has become more complex it was felt necessary to formalise written procedures etc. that we use. For this reason the ICCL Executive approved an Equal Opportunities policy for the organisation, grievance procedures for staff and a set of procedures for policy working groups.

## **Funding**

The ICCL Executive also wish to acknowledge our funders: The Atlantic Philanthropies and the Joseph Rowntree Charitable Trust. In particular, we wish to mention our main funder The Atlantic Philanthropies whose support and advice is much valued.

## **Policy**

The Executive discussed various policy issues throughout the year. The results of these policy discussions and decisions will be reflected in the Director's report. Briefly, however the Executive decided that the production of a Police Reform Policy paper should be a priority and we are delighted that Liam Herrick's detailed paper will be launched at our seminar on the 4<sup>th</sup> March 2003.

While the Executive continued to focus the ICCL's policy initiatives in the areas of criminal justice (including police accountability) and equality the issue of privacy also became increasingly important during the year. Consequently, the ICCL Executive agreed that the organisation would engage in discussions with Privacy International about the possibility of them conducting a privacy audit on this country.

## **Executive**

Finally, we would like to say a word of thanks to the members of the ICCL Executive and the members of our various policy working groups who have continued to work (in a voluntary capacity) for the organisation over the last 12 months.

In particular, Malachy would like, on behalf of the rest of the ICCL Executive, to express our gratitude to Aileen Donnelly who is retiring from the Executive this year. Aileen has been a long-time member of our Executive and has spent 6 years as co-chair of the ICCL. Aileen's hard work has been a significant factor in making the ICCL the growing, successful organisation that it is to-day.

Aileen would like to thank the many people who she's worked with in the organisation over the years who have given so much of their time and expertise. A special thanks is due to the co-chairs that she's been privileged to work with: Michael Farrell, Michael Finucane and Malachy Murphy. Their commitment to the organisation and its values as well as their co-operative work ethos made co-chairing a rewarding experience both personally and organisationally.

Aileen Donnelly,  
Co-Chair

Malachy Murphy,  
Co-Chair

**IRISH COUNCIL *for* CIVIL LIBERTIES**  
**An Chomhairle um Chearta Daonna**

***DIRECTOR'S REPORT TO ANNUAL GENERAL MEETING***

**FITZWILLIAM HOTEL, DUBLIN**  
**22<sup>nd</sup> February, 2003**

## ***INTRODUCTION***

Good morning. I would like to welcome you all to the AGM and to say how pleased I am that I now have my first “official” opportunity to address you as the Director. As most of you will know – I took up the post of Director the ICCL in October 2002. It has been just over four short months since I began, and I can assure you that for me it has been one of the steepest learning curves, I have been through and I know I am still climbing.

## ***Issues of 2002-2003***

### **Garda Reform**

In the 12 months since the last AGM, there has been perhaps unprecedented public focus on the issues of garda accountability. The number of high profile cases and incidents which have arisen, from the Reclaim the Streets march to the ruling in the Frank Shortt case; the court awards for Grainne and Ciara Walsh for assault to the opening of the Morris and the Abbeylara Tribunals have made accountability of An Garda Síochána a matter of public debate. It was indeed one of the issues into which I was immediately thrust as Director, and it is one of the areas of course in which the ICCL has continuously worked.

It now seems that the time has come where we might see some real change. One of the key changes which we want to see is the establishment of an independent Ombudsman to investigate complaints against the Gardai, and an improvement in mainstreaming human rights policy in the delivery of the police service. We have just completed our Policy Paper on Police reform, which is due to be launched on 4<sup>th</sup> March at a seminar, attended by amongst others, Nuala O’Loan the Police Ombudsman for Northern Ireland and the Minister, Michael McDowell, in the Royal Dublin Hotel.

We welcome the fact that the Human Rights Commission published its proposal for a New Garda Complaints System in December, calling also for an independent Ombudsman, and we hope that the arguments which both of us have put forward, and we know is supported by best practice, will win out in the end.

What is disappointing is that the Garda Policing Plan for 2003, which relies heavily on the Garda Public Attitude Survey of 2002, seems to move away from mainstreaming human rights in Garda policy. Although the Garda have now a Declaration of Professional Values and Ethical Standards and over the past two years had in their report made a number of human rights commitments, the latest Plan reflects a worrying swing to respond to public attitude, diminishing the priority of human rights commitments. What we need to see is a real commitment to fostering a human rights approach to policing and not simply taking the lead from public pressure. We hope that these aspects of the Plan will not be reflected in the delivery of the police service in the year to come.

## ***Criminal Justice and EU measures***

It is now a matter which should be taken for granted that much of what we need to focus on comes not out of Irish sources, or UN sources, but the EU. There are a number of developments which impact on the area of civil liberties, criminal justice and human rights that we have tried to address. The area that has had the most impact on our work has been developments in the sphere of Justice and Home Affairs, the so-called "third pillar". Those of you who recall the newsletter will be aware of the number of times we have had cause to raise this. In September we saw the introduction of the European Arrest Warrant, which did away with years of extradition law that had been based in the main on upholding the rights of due process. We are now faced with a Criminal Justice (Terrorism) Bill which threatens to tag as terrorism many public order offences, in a definition that is extremely wide, and a burden of proof which is incompatible with standards of a fair trial. The ICCL will be making its position on this Bill known to the Minister, and the Oireachtas is a submission, very soon. We are also glad to know that this piece of legislation has also raised the concern of the Human Rights Commission.

The reality is that at the moment many decisions and directives are emerging from the EU from a process which is neither open nor transparent and yet cuts to the core of fundamental rights. In the constitutional review which is underway at the EU there has been many recommendations from NGOs to whom we are affiliated to abolish the Third Pillar, and to incorporate its sphere of responsibility in a structure which is fully accountable and democratic. We of course fully endorse those views. This year we have had the chance to put our views across in a number of forums - a meeting attended by members of the Government, AG's office and the judiciary in Copenhagen, at the EU to the EU Commission's Team Europe, and to the political body at the Forum on Europe, in Dublin Castle.

We will continue during this year to do this, and to improve our access to lobbying at an EU level, because we have no illusions about the impact on citizen's rights in this country – both positive and negative, the political process in Brussels has. On the issue of positive impacts, we hope that a binding European Charter of Fundamental Rights and EU accession to the European Convention on Human Rights will begin to become reality this year.

## ***Privacy and E-rights***

I will also make a quick mention here of the area of privacy and e-rights, here although it has been mentioned in the Chair's report, because the backlash to September 11, and its impact on core civil liberties, continues un-abated and is often mediated through EU measures. Almost on a weekly basis we are faced with new challenges to data protection, and invasion of privacy. Stories of the US developing A Total Awareness System that will store intimate details of all those in the US and perhaps beyond, are no longer scare stories. With further developments of how passports containing bio-metric information may be introduced and that airlines will be required to divulge all passenger information to American authorities, this is an area ripe for abuse and

injustice. This goes hand in hand with proposed domestic legislation on data retention. We know that this is an area that affects a broad range of people, and that across the public many are worried by it. Through the e-rights group and the office we will be working on this area and engaging in a consultation process with the government, commencing on Monday in fact.

Also in this area, a recent European Court decision which confirmed that CCTV camera recordings are a form of data processing and an interference with privacy, will help us in our campaign to make sure that CCTV usage is limited by the rights of privacy.

## ***Equality***

The past year has also been one in which dangerous attacks were launched on the equality legislation and institutions in this country. The Travelling Community in particular has felt the brunt of those who react to anti-discrimination legislation as if it were a piece of totalitarian punishment. Perhaps the most visible example of this was the withdrawal of funding for the Citizen Traveller Campaign by the Minister for Justice.

One of those on the war path against the Travelling Community were the Vintners. Right at the beginning it became clear that publicans and Vintners were un-happy with the legislation and would seek to undermine it. In February of 2002, the Government extended the terms of reference of the Commission on Liquor Licensing (the Commission) to include the examination of the rights of licence holders to refuse admission and service. The ICCL with other equality NGOS, made representations to both the Minister and the Chairman of the Commission indicating that we felt the Commission was an inappropriate institution to consider this issue. In the meantime there were a number of incidents across the country where publicans declared bans on members of the Travelling Community – announcements which were met with less than the political condemnation they deserved, for blatant flouting of the law. When the report of the Commission came out, the ICCL made its position known to the Minister: the report reflected the views of just one stakeholder – it was not the view of any body with expertise in the area of equality and that its recommendations should not form the basis of any government action. The last thing that this country needs is proposals which could herald a return to the day when disabled people, older people, gay men, lesbians, Travellers and others are excluded from pubs and nightclubs on spurious grounds and denied the right of access to an important arena of social interaction. We have not had a response from the Minister, but we hope that he will heed the demand for a broad consultation process. In the meantime, we will continue to show our support for the Equality Authority and resist attempts to diminish its powers, and thereby water down equality protection. The response is available on the Web site.

Another area where the Travelling Community were targeted this year was in the area of accommodation or lack of it. Predictions that the Housing (Miscellaneous Provisions) Act would be operate as a racist and prejudiced piece of legislation were borne out by the arrest of six Traveller families in Ennis under the new anti-trespass law in the summer. Rather than target the large-scale commercial settlements which the government said it was



intended to do, it was used to victimise individual families. What is of course is most reprehensible is that it is the local authorities who themselves have failed to provide accommodation for these families are then prosecuting them and taking their caravans away.

This remains a real issue for the ICCL and we will continue to work with the Irish Traveller Movement in particular through their Legislative Advice Committee to assist them in any way we can.

Protecting, promoting and improving real equality is one of the core values of the ICCL, and it will continue to be one of the main focuses of ICCL work.

### ***Disability***

Disability is of course also one of the nine-grounds on which discrimination is prohibited, and disability rights in and of themselves have also been to the forefront during the past year. One reason for this of course is the continued absence of a rights based disability bill, a fact which did not go unnoticed by the United Nations Economic Social and Cultural Rights Committee. The Disability Legislative Consultation Group has therefore over the year been working on drafting a report for government which will guide government on what such a bill should look like. Donal Toolan, one of our Executive members, has been a member of the DLCG, and the ICCL as a body has been working with many other NGOs from the Free Legal Advice Centres, to the Centre for Independent Living, to feed into the DLCG process. The results of the Group's work are as we know a matter for this afternoon's seminar, so I will not go into the detail, but we do hope that the Government will be taking the proposals seriously and relying on the document as their framework.

A positive reason for disability rights having been so much on the agenda, is that 2003 is the European Year for Persons with Disabilities, and in this respect the ICCL has been a member of the NDA Sub-Committee for Rights and Responsibilities. The work at the beginning of the year, in reviewing and evaluating projects which sought to advance the rights and responsibilities of persons with disabilities, has been intense, but we hope that it will lead to some useful projects emerging during the year. Regrettably the money made available by the government to fund these projects is pathetically small and is yet another example of how the government has failed to meet its commitment to vulnerable sectors of the community. On this note, Bertie Ahern's response and dismissal of the protest outside the Mansion House on the day of the launch of the EYPD, joined by the ICCL, was quite extraordinary and depressing.

### ***Social and Economic Rights***

On April 29th to May 2nd last year, Ireland's second national report under the United Nations Covenant on Economic, Social and Cultural Rights was examined by the relevant UN Committee in Geneva. As a Director, when I joined, I was delighted to learn that the ICCL not only had made a submission to the Committee, but that Liam Herrick had been able to attend the Committee session. For me this reflected a very positive acknowledgement that Economic and Social rights are wholly embraced by the ICCL as equal

and integral parts of the human rights agenda as civil and political rights. I know that this was certainly the philosophy held by my predecessor Donncha O'Connell and I am glad to take up that philosophy. I think it was essential that we were there to outline what the major shortcomings in Ireland's efforts to ensure that citizens enjoy the rights set out in the Covenant. The input from NGOs like the ICCL immeasurably enable the Committee to make a realistic assessment of the Government's report, and to hold the government to account. The Committee was very critical of government policy on disability, women's rights and on Traveller's rights.

It is for this reason – our belief in Economic, Social and Cultural Rights, and our experience in Geneva, that we fully embrace the joint initiative we have with ICTU, Combat Poverty Agency, Committee on the Administration of Justice and the Northern Ireland Voluntary Trust. In the November newsletter we spelt out the background to this project: it is about making economic, social and cultural rights real to people on the ground – it is about putting the commitments into action, and about bringing people traditionally on the outside of discourse into the middle of it. We hope that through this project the next time that the Irish government reports to the Committee that it will not only have improved its record, but that there will be a host of information available to the Committee from the people on the ground about just how much the government has or has not delivered on the Covenant obligations. Again, in the face of a Minister who does not on his own admission believe in justiciable economic and social rights, we will not underestimate our challenge.

### ***Racism, Asylum and Immigration***

The challenge is not less in the area of race, asylum and immigration issues. In the area of asylum and immigration, we have this year campaigned and continue to do so, against the introduction of carrier sanctions and other asylum measures which do not make the system better but attack the most vulnerable in the system. We also made our position clear on the rights of Irish citizens with non-national parents – that is that they are entitled to full, equal treatment and respect for their rights, including the right to remain in Ireland. On these issues we campaign with other organizations such as Amnesty International, the Irish Refugee Council and the Refugee Project. Regrettably the number of measures that we find ourselves opposing is growing rather than lessening. Recent weeks have seen the introduction of proposals to limit asylum seekers to direct provision, irrespective of circumstance or mental health, as well as the withdrawal of the right of non-national parents to apply for residency if they have an Irish citizen child.

These measures are not only wrong in their own right but reflect a deliberate abdication of the duty on the Department of Justice and Government to put in place a fair, transparent and human rights compliant asylum and immigration policy and process. Rather than deal with the hard issue of policy, the government has sadly chosen the negative path of plugging so-called abuses, instead of reforming the system which causes problems.

## ***The ECHR, the Human Rights Commission and other perennial matters***

A report would not be complete without a reference to the on-going saga, which is the European Convention on Human Rights Bill. In January of this year the ICCL along with everyone else - the Bar Council, Law Society, Amnesty International, and the Human Rights Commission before us, went to the Oireachtas to repeat our concerns about the ECHR Bill. The Committee was left in no doubt that there was unanimity on how poor the Bill was. Yet last week the Minister was apparently before the Committee rejecting and refusing venomously any changes to his Bill - and it is his Bill. It remains to be seen whether we see a Bill this year or not and if so whether the united voice of the "human rights community" – and I am not afraid to use that term will be allowed have any influence on the matter.

The Human Rights Commission should also not escape without mention, as we will be looking closely to expect great things from them in the coming year. We look forward to their strategic plan, the fact that they will have staff, a premises and hopefully a much much higher profile. In 2002 there were two new appointments to the HRC – a Chief Executive and a President, however it will be ironic if so soon after these appointments the term of office of the actual Commissioners comes to an end with so little achieved. The publication of the HRC last year of its position paper on the ECHR, and in December of its contribution to the National Plan Against Racism and Garda Accountability are positive signs, but we hope that by this time next year we will be able to report on a fruitful year of activity by the HRC and co-operation between us and them.

## ***Media***

It did not take me very long to realize the demands of the media on an organization like the ICCL and on the Director and staff. And raising awareness of civil liberties issues, engaging in public debate and maintaining the public profile of the ICCL is one of the most time consuming areas of the ICCL work. The amount of work, which is done in this area, often well outside office times, is reflected in the press releases which are available on our web site and are regularly updated. Beyond those statements we are often called upon to comment in the print or broadcast media on a wide range of topics which all have civil liberties content. The last few days have been prime examples of that. I would like to think that the reason the ICCL is called upon is because it does speak with authority on matters pertaining to civil liberties – an authority built up by those who go before me. I also believe that it is important that we do not lose that authoritative, if at times unpopular, voice.

It is extremely important in my view that we maintain a high level of engagement with the media, for there is no more direct way to engage with public opinion than through the media. However it is a challenge to both engage with the media, to seek to inform debate with a human rights input, and yet to know that you largely cannot control the priorities which the media set. But we must rise to that challenge, and some of the growth in the

organization that we anticipate during the coming year will undoubtedly reflect that.

### **Acknowledgments**

I would like to thank Liam Herrick and Alma Farrell for their tremendous work over this year. Not only did they run the office for the majority of the past year, but since October they have made me feel very welcome and more importantly offered me advice, insight and support. It is very gratifying to work with two people who carry out their job with such commitment. My thanks also to the Executive, and particularly to Aileen Donnelly and Malachy Murphy, the two co-chairs who have been

In writing this report, and trying to analyze the environment, particularly the political one, in which ICCL is now operating, I could not but help recall a comment made by my predecessor in his last report. It was that he had one constant that was the Minister John O'Donoghue to oppose and make his job easy. So in one sense I guess I also have to thank Minister McDowell for ensuring that there is never a dull moment in the fight for the promotion of human rights. It is maybe ironic, that before returning here, the only run in I had had with an Irish politician was in 1996, when I was speaking at a seminar during the Irish Presidency of the EU about the need to strengthen the EU system for human rights protection. The speaker who went after me started his speech with "I would like to say that I totally disagree with the previous speaker, the last thing we need at is more rights." That was Michael McDowell T.D. as he was then. Little did I know then that in 2003 he would be Minister for Justice.

I hope that you will forgive any shortcomings in this report as a sign of the fact that I am still in the process of coming to grips with the breadth and depth of the issues with which the ICCL has grappled with this year. We do try to ensure the visibility of our work to you through our web site and the newsletter, which can now go back to producing regularly. I hope that the omissions and oversights of this morning will be rectified by the information supplied through both those sources.

I would like to finish by saying how glad I am to have decided to apply for and then accept the post of Director of the ICCL. I was lucky enough to have spent a lot of time doing very interesting and challenging work in the field of international human rights, and I would not have changed from that path, but for an opportunity to work for such an organization as the ICCL. I hope that I will be able to make the most of this opportunity, and that over the coming year we can really make a difference and an impact on the quality of civil liberties and human rights in Ireland.