

# IHRC

AN COIMISIÚN UM CHEARTA DUINE  
IRISH HUMAN RIGHTS COMMISSION

## **Economic, Social and Cultural Rights**

### Making States Accountable

## **Saturday 21 November 2009**

PRESIDENTS' HALL, LAW SOCIETY OF IRELAND, BLACKHALL PLACE, DUBLIN 7



*Law Society of Ireland*

# MORNING SESSION

TIME	EVENT	SPEAKERS	TOPIC
9.00 – 9.20	Opening Ceremony	Mr John Costello, Senior Vice-President of the Law Society of Ireland.	Welcome
		Dr Maurice Manning, President of Irish Human Rights Commission	
9.20 – 10.45	Plenary Session	<b>Economic, Social and Cultural Rights in the International and National Legal Order</b>	
	Chairs of Session	Mr John Costello, Senior Vice-President of the Law Society of Ireland Dr Maurice Manning President of Irish Human Rights Commission	
9.20 – 9.30	Opening Remarks	The Hon. Mr Justice John L. Murray Chief Justice of Ireland	
9.30 – 10.10	Keynote Address	The Hon. Ms Navanethem Pillay United Nations High Commissioner for Human Rights	The Legal Protection of Economic, Social and Cultural Rights
10.10 – 10.30	Speaker	Professor William Binchy, Commissioner, Irish Human Rights Commission	Protecting Economic, Social and Cultural Rights in Ireland
10.30 – 10.45	Questions		
10.45 – 11.15	Break – tea/coffee in session rooms		

**Mr John Costello**, Senior Vice-President of the Law Society of Ireland. John Costello is a Consultant in the Private Client Department of Beauchamp Solicitors and has over twenty five years experience in Wills, Administration of Estates, Trusts, Tax Planning, Wards of Court, and Powers of Attorney. He also practises in Family Law. He is a former member of the Commission on the Status of People with Disabilities. He is also a Director of St Michael's House.

**Dr Maurice Manning**, President of the Irish Human Rights Commission (IHRC), was first appointed in 2002, and re-appointed in 2007 for a further five year term. He previously lectured in politics in University College Dublin where he is currently Adjunct Professor in the School of Politics and International Relations. He is Chancellor of the National University of Ireland, and has been a member of the Governing Authority of the European University Institute at Florence. Dr Manning has written several books on modern Irish politics. He was a member of the Oireachtas for twenty-one years, serving in both the Dáil and the Seanad. He has been a member of the New Ireland Forum and the British-Irish Inter Parliamentary Body.

**The Hon. Mr Justice John L. Murray**, Chief Justice of Ireland was Attorney General of Ireland from August to December 1982 and again from 1987 to 1991. From 1991 to 1999 he was a Judge of the Court of Justice of the European Communities. From 1997 to 2000 he was a visiting Professor of Law at the Université de Louvain. From 2000 to 2003 he was chairperson of the Anti-Fraud Committee of the European Central Bank. In 1999 he was appointed a Judge of the Supreme Court of Ireland. He was appointed Chief Justice of Ireland in July 2004. The Chief Justice is chairman of the Courts Service Board and the Judicial Appointments Advisory Board.

**The Hon. Ms Navanethem Pillay**, United Nations High Commissioner for Human Rights. Ms Pillay was appointed as High Commissioner in 2008. Prior to her appointment, Ms Pillay served as a judge of the International Criminal Court from 2003. Ms Pillay, a South African national, was the first woman to start a law practice in her home province of Natal in 1967. She acted as a defense attorney for anti-apartheid activists, helping establish key rights for prisoners on Robben Island. In 1995, after apartheid, Ms Pillay was appointed as acting judge on the South African High Court and in the same year she was elected to be a judge of the International Criminal Tribunal for Rwanda, and was its President from 1999 to 2003. She played a critical role in the ICTR's groundbreaking jurisprudence on rape as genocide. In South Africa, she contributed to the inclusion of equality clauses in the country's Constitution. She co-founded Equality Now, an international women's rights organisation. Ms Pillay received a BA and a LLB from Natal University South Africa. She holds a Masters of Law and a Doctorate of Juridical Science from Harvard University.

**Professor William Binchy**, Commissioner of the Irish Human Rights Commission was first appointed a Commissioner in 2001 and re-appointed in 2006. Professor Binchy is Regius Professor of Laws at Trinity College Dublin. He has been a special legal adviser on family law reform to the Department of Justice. As Research Counsellor to the Law Reform Commission, he advised on reform of law relating to the status of children. He has represented Ireland at the Hague Conference on Private International Law in the areas of marriage and inter-country adoption. Professor Binchy organises the annual African workshop on constitutionalism for the Chief Justices and senior judiciary of African states.

## MID-MORNING SESSION

SESSION	SESSION 1	SESSION 2	SESSION 3	SESSION 4	SESSION 5
11.15am - 1pm					
<b>Name</b>	Employment Rights	Social Welfare Rights	Education Rights	Health Rights	Housing Rights
<b>Chair</b>	Mr David Begg, General Secretary, Irish Congress of Trade Unions	Ms Moya De Paor, Solicitor, Northside Community Law Centre	Ms Catherine Ghent, Kelleher O'Doherty Solicitors	Dr Tracey Cooper, Chief Executive, Health Information and Quality Authority	Ms Aideen Hayden, Chairperson of Threshold
<b>International Mechanisms</b>	Ms Corinne Vargha, Senior Labour Law and Social Dialogue Specialist, International Labour Organisation	Mr Colm O'Cinneide, Reader in Human Rights Law, University College London & member of the European Social Rights Committee	Ms Katherine Zappone, Commissioner, Irish Human Rights Commission	Dr Brigit Toebe, Independent Researcher and Consultant & Honorary Lecturer, University of Aberdeen	Dr Padraic Kenna, Lecturer in Law, NUI Galway
<b>National Mechanisms</b>	Ms Eilis Barry, Barrister-at-Law	Mr Michael Farrell, Senior Solicitor, FLAC - Free Legal Advice Centres	Mr Conor O'Mahony, Lecturer in Constitutional Law, University College Cork	Ms Lindsey Dyer, Director, Users and Carers, Mersey Care NHS Trust	Mr Cormac Ó'Dúlaicháin, Senior Counsel
1.00 - 2.00	<b>Lunch</b>				

**Mr David Begg**, General Secretary of the Irish Congress of Trade Unions. Mr Begg was appointed to this position in 2001. For five years prior to that he was Chief Executive of Concern Worldwide, an international humanitarian organisation working in 27 countries. He is also a Director of the Central Bank (since 1995), a Governor of the Irish Times Trust, a non-Executive Director of Aer Lingus, a member of the National Economic and Social Council (NESC), and a member of the ESRI Council. He also sits on the Executive Committee of the European Trade Union Confederation (ETUC).

**Ms Corinne Vargha**, Senior Labour Law and Social Dialogue Specialist, International Labour Organisation (ILO). Ms Vargha joined the ILO in 1988 and has served in various legal positions in the field and in Headquarters. Throughout these years, she has provided technical advice on comparative labour law and international labour standards to governments, policy-makers and union and employers' organizations leaders. She facilitated a number of national tripartite discussions around labour law reforms, including when these reforms were undertaken as part of a broader policy agenda such as PRS, private sector development, structural adjustment, etc.

**Ms Eilis Barry BL** has recently resumed practising as a barrister specialising in anti-discrimination and employment law. She held the position of legal adviser to and head of the legal section of the Equality Authority for nine years. She has given numerous presentations and written extensively in this area. She is co-editor of 'Equality In Diversity, The new Equality Directives' (ICEL No 29).

**Ms Moya De Paor**, Solicitor, Northside Community Law Centre. Ms De Paor's areas of practice include employ-

ment and equality law, social welfare law and human rights law. She was awarded an LLM from Trinity College Dublin in 2005. She is a member of the Law Society's Employment and Equality Law Committee and has lectured with the Law Society's Law School on human rights law.

**Mr Colm O'Cinneide**, Reader in Human Rights Law at University College London. He is a graduate of UCC and is member of the Irish Bar. He has published extensively in the field of human rights and anti-discrimination law, and served in 2004 as a member of the UK Task Force on the establishment of the new Commission for Equality and Human Rights. He is currently a member of the European Committee of Social Rights that supervises state compliance with the European Social Charter.

**Mr Michael Farrell**, Senior Solicitor, Free Legal Advice Centres (FLAC). Mr Farrell has held this position since 2005. Prior to that he worked with Michael E. Hanahoe solicitors since 1990, where he worked on criminal law, extradition, defamation, personal injuries, and in cases before the Residential Institutions Redress Board. Before that he was a journalist.

He was vice chair and co-chair of the Irish Council for Civil Liberties and has been a member of the Irish Human Rights Commission since 2001. He is also a member of the Human Rights Committee of the Law Society. He campaigned for the incorporation of the European Convention on Human Rights into Irish law and has taken cases to the European Court of Human Rights, the UN Human Rights Committee and the European Committee of Social Rights. He has worked recently in the area of social welfare law for immigrants and asylum-seekers.

**Catherine Ghent**, Solicitor, Kelleher O'Doherty Solicitors, Dublin. Ms Ghent qualified as a solicitor in 2004. She specialises in public law and in particular child law and criminal defence work. She has lectured and spoken extensively on children's issues and has contributed to public debate on child protection and juvenile justice issues. She is a member of the Human Rights Committee of the Law Society of Ireland, has lectured on the Society's PPC II Child Law course and the Certificate in Criminal Law.

**Dr Katherine Zappone**, Commissioner of the Irish Human Rights Commission. Dr Zappone has been a Commissioner since 2001. She is Co-Founder and Director of The Centre for Progressive Change, Ltd, established to develop and provide resources for community and social change within Ireland and abroad. Dr Zappone is a former Chief Executive of the National Women's Council of Ireland. She has conducted a number of national research projects including inequality in children's education. She is Co-Founder and Chair of An Cosán, a large community-based organisation in West Tallaght, Dublin, committed to eradicating poverty through education. Dr Zappone lectured for a decade in Trinity College Dublin on ethics and human rights. She is widely published in feminism, ethics, equality issues and education.

**Dr Conor O'Mahony**, Lecturer in Constitutional Law, University College Cork is a graduate of UCC (B.C.L., LL.M.) and the University of Wales, Aberystwyth (Ph.D.) His research interests lie broadly in the areas of constitutional law and fundamental rights with a particular focus on educational rights, special educational needs and children's rights. He is the author of *Educational Rights in Irish Law* (Thomson Round Hall, 2006) and has published numerous articles in such journals as the *Irish Jurist*, *Public Law*, the *Child and Family Law Quarterly*, the *Dublin University Law Journal* and the *Irish Journal of Family Law*. He is a member of the editorial committee of the *Judicial Studies Institute Journal*. He has delivered papers at conferences in Ireland and abroad and contributed to analysis in the media.

**Dr Tracey Cooper**, Chief Executive of the Health Information and Quality Authority, was appointed to the position in 2006. During her career, Dr Cooper has worked in and advised on different health systems, served on national task forces, worked closely with health improvement bodies in the UK and with the health and social care system in Northern Ireland.

Dr Cooper graduated from Southampton University Medical School and subsequently held posts in General Surgery and Accident & Emergency in England and Scotland. She was Locum Consultant in A&E in Chesterfield & North Derbyshire Royal Hospital before leaving clinical practice, becoming more involved in national health reform and taking up senior management posts in the NHS. She joined the NHS Clinical Governance Support Team in 2001 and became Deputy Head and Director of Operations in January 2004.

**Dr Brigit Toebe**s, Independent Researcher & Consultant and Honorary Lecturer, University of Aberdeen. Dr Toebe lectures at Copenhagen University and she is involved with the Business Department of the Danish Institute for Human Rights (advising the pharmaceutical industry on how to implement human rights). Dr

Toebe's main research interests are the interfaces between health and human rights.

From 2005 to 2008 she lectured at the University of Aberdeen School of Law (and is now an Honorary Lecturer there). She was previously a legislative advisor at the Netherlands Council of State, where she advised on the reorganisation of the Dutch health care sector. Brigit Toebe is the author of a Ph.D. thesis entitled 'The right to health as a human right in international law' (published by Intersentia, 1999).

**Ms Lindsey Dyer**, Director, Service Users and Carers, Mersey Care NHS Trust. Ms Dyer has spent many years enabling people who use health services to effect their rights as a Regional Director of MIND; Director, Patients Advice Bureau, North Western Regional Health Authority and as a Commissioner of Mental Health and Learning Disability Services in Liverpool Health Authority/Primary Care Trusts.

**Ms Aideen Hayden**, Chairperson of Threshold. Threshold is a voluntary organisation which aims to secure a right to housing for all and provide advice and advocacy to those experiencing housing problems. Ms Hayden is a Solicitor and member of the Private Residential Tenancies Board, a Government body that regulates the private rented sector. She is the author of *Policy Consequences - a study of the £5,000 Surrender Grant in the Dublin Housing Area* and has been a Visiting Research Fellow in Trinity College Dublin. Ms Hayden is currently chair of the European Network of Housing Researchers working group on Private Rented Markets and is an Ad Astra Scholar in University College Dublin where she is completing a study on tenant purchase policy.

**Dr Pdraic Kenna**, Lecturer in Law, NUI, Galway. Dr Kenna holds a Ph.D. from NUI. He lectures in property law, housing law and policy regulation. Dr Kenna published *Housing Rights and Human Rights* (2005). He established the FEANTSA Expert Group on Housing Rights, which was involved in the Collective Complaint relating to the breach of Article 31 of the European Social Charter by France. He has collaborated in the preparation of the Council of Europe Commissioner for Human Rights, Issue Paper - *Housing Rights: The Duty to Ensure Housing for All*, (2008) and the Recommendation of the Commissioner for Human Rights on the Implementation of the Right to Housing (2009). Dr Kenna is currently writing *Housing Law: Rights and Policy*, to be published in early 2010.

**Mr Cormac Ó'Dúlacháin**, SC is in practice since 1986. He is a former chairperson of Threshold. He has a general practice in civil, commercial and criminal litigation, and a special interest in public law issues particularly housing and immigration. He was Counsel for the Plaintiffs in the recent case of *Pullen v. Dublin City Council* in which a declaration of a breach of Section 3(1) of the European Convention on Human Rights Act 2003 was made arising from the use of Section 62 of the Housing Act, 1966. He has participated in mediation studies at the Harvard Negotiation Institute. Recently he appeared before the Joint Oireachtas Committee on Finance to discuss legal strategies for dealing with mortgage default and negative equity.

# AFTERNOON SESSION

TIME	EVENT	SPEAKERS	TOPIC
2.00 - 2.15	Ceremony		Award of Certificates for the Annual Human Rights Essay Prize 2009
2.15 - 3.30	Plenary Session	Using Economic, Social and Cultural Rights in the Community to hold States to account	
	Chair	Mr Éamonn Mac Aodha, Chief Executive, Irish Human Rights Commission	
	Speakers	Ms Inez McCormack and Ms Nicola Brown, Participation and Practice of Rights Project	
	Closing Address	Professor Alan Miller, Chairperson, Scottish Human Rights Commission	
3.30	Close of Conference		

**Mr Éamonn Mac Aodha**, Chief Executive, Irish Human Rights Commission. Mr Mac Aodha was appointed in December 2007. Prior to that, he was Director of Human Rights for the Irish Department of Foreign Affairs from 2004 and previously served as Human Rights Officer at the Permanent Mission of Ireland to the United Nations in Geneva. In his role as Director of Human Rights he was responsible for reporting by Ireland to the United Nations on its human rights record and for driving human rights aspects of Irish foreign policy. Called to the bar in 1990, he has since worked on political, aid, trade and Anglo-Irish issues with the Department of Foreign Affairs and has served on diplomatic postings at the Irish Embassies to the Holy See, South Africa and Israel.

**Ms Inez McCormack**, Chair of the Participation and Practice of Rights Project. The Project is a pioneering North/South Initiative ([www.pprproject.org](http://www.pprproject.org)) focused on enabling disadvantaged communities and groups on the island of Ireland to access resources and services through a human rights-based approach.

Originally from Belfast, Ms McCormack became active in the Northern Ireland civil rights movement in the late 60's. She then became a trade union and equality activist. Ms McCormack is a former President of the Irish Congress of Trade Unions and was the first woman to hold this post. She is the senior advisor to the Global Coalition for Women's Rights/Worker's Rights and is joint chair of the Irish North/South Health Services Partnership. Ms McCormack is also a writer and broadcaster.

**Ms Nicola Brown**, Policy and Research Officer, Participation and the Practice of Rights Project. Ms Brown has an LLB in Law from the University of Dundee and an LLM in International Human Rights Law from the University of Nottingham. She worked for four years for the Centre for Capital Punishment Studies at Westminster University in London, which researches penal policy and practice in death penalty retentionist countries. She also worked for the United Nations High Commission for Refugees Liaison Office in Dublin, carrying out appraisals of local asylum policy and co-ordinating family reunification procedures for individuals granted refugee status. Within the PPR Project Ms Brown works to put international human rights standards at the service of local communities and groups.

**Professor Alan Miller**, Chairperson of the Scottish Human Rights Commission (SHRC) is the Commission's first Chair, elected to the position in 2007. Prof. Miller has experience and expertise on human rights grounded in involvement with the legal, academic and voluntary communities within Scotland. He previously ran a law practice in Glasgow and is a past President of the Glasgow Bar Association and former Director of the Scottish Human Rights Centre. He teaches human rights at the University of Strathclyde. Prof. Miller has been engaged with the United Nations and other bodies in capacity-building initiatives in around 20 countries. He has been an adviser to the Global Business Leaders Initiative on Human Rights led by Mary Robinson, former UN High Commissioner for Human Rights.

## PLEASE NOTE

- Presentations by speakers will be posted on the websites of the IHRC ([www.ihrc.ie](http://www.ihrc.ie)) and the Law Society of Ireland ([www.lawsociety.ie](http://www.lawsociety.ie)) after the conference.
- Lunch will be provided in the Law Society cafeteria. This year there will be a modest charge for lunch.



Human rights are universal, inalienable, interrelated, and interdependent. However, although economic, social and cultural rights are protected in international law, primarily through the International Covenant on Economic, Social and Cultural Rights (ICESCR), there has been a historical distinction made between these rights and civil and political rights, stemming from disagreement between States when drafting detailed legal obligations arising from the Universal Declaration of Human Rights.

In 1993, the Vienna World Conference on Human Rights examined the question of the relationship between the two sets of rights. A consensus view emerged that both civil and political rights and economic, social and cultural rights are of equal importance. The resulting Vienna Declaration and Programme of Action explicitly provides that all human rights are “universal, indivisible and interdependent and interrelated”.

The difference that has been created between the two sets of rights can clearly be seen in the low level of enforcement mechanisms for economic, social and cultural rights which exist both nationally and internationally. Recently, the opening for signature of the Optional Protocol to the ICESCR has recognised the increasing move in the international system to rectify this divergence. In December 2008, the UN High Commissioner for Human Rights, Navanethem Pillay described the significance of the Optional Protocol before the General Assembly in the following terms:

*Closing a historic gap in human rights protection under the international system, the Optional Protocol represents a veritable milestone in the history of universal human rights, making a strong and unequivocal statement about the equal value and importance of all human rights and the need for strengthened legal protection of economic, social and cultural rights. It will move us closer to the unified vision of human rights of the Universal Declaration. Importantly, it will enable victims to seek justice for violations of their economic, social and cultural rights at the international level for the first time.*

The obligations of the Irish State with respect to economic, social and cultural rights are articulated both within the United Nations system for the protection of human rights, and at the regional level under the auspices of the Council of Europe and European Union. However, it must be noted that in relation to the nature of Ireland’s obligations under international law, the constitutional position on the status of international treaties has a critical effect.

The aim of this conference is to examine the international and national protection of economic, social and cultural rights. Specifically, it will examine the international and national human rights mechanisms that are in place to enforce the protection of these rights. The plenary sessions will offer overviews, while the parallel sessions will provide an opportunity to examine in more depth the extent to which these mechanisms hold the State to account and how they can be further strengthened in that regard.

## EXAMPLES OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- **Equal right of men and women to enjoy economic, social and cultural rights**
- **Right to work**
- **Right to just and favourable conditions of work**
- **Right to form a trade union**
- **Right to an adequate standard of living, including food, clothing and housing**
- **Right to the highest attainable standard of physical and mental health**
- **Right to education**