



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TU AIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Déardaoín, 2 Meitheamh 2011.

[illegible]

SEANAD ÉIREANN

*Déardaoín, 2 Meitheamh 2011.
Thursday, 2 June 2011.*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.

Prayer.

Business of Seanad

An Cathaoirleach: I have received notice from Senator Thomas Byrne that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Finance to outline his views on the recent statements by a number of his Cabinet colleagues, including the Minister for Transport and the Minister for Public Expenditure and Reform, which were significantly at variance with previously set out Government policy.

I have also received notice from Senator Pat O'Neill of the following matter:

The need for the Minister for Social Protection to outline the number of places available on the Tús scheme; the location of the scheme within the framework of other initiatives to tackle unemployment; and the opportunities which will be available to those who participate in the scheme when their participation ends.

I have also received notice from Senator Trevor Ó Clochartaigh of the following matter:

Ar an ghá don Aire Coimirce Sóisialaí é a dhéanamh soléir an mbeidh daoine in ann obair níos faide ná 3 bliana ar scéimeanna fostaíochta Pobail, agus ar an ghá soléir atá ann chun níos mó deiseanna a chur ar fáil i scéimeanna fostaíochta Pobail

I have also received notice from Senator Brian Ó Domhnaill of the following matter:

The need for the Minister for Education and Skills to clarify the steps being taken to overcome the refusal of the planning application for a new school in Gort an Choirce, County Donegal.

I regard the matters raised by Senators Byrne, O'Neill and Ó Clochartaigh as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. Senator Ó Domhnaill may give notice on another day of the matter he wishes to raise.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, motion re establishment of the Committee of Selection, to be taken without debate at the conclusion of the Order of Business, and No. 2, Criminal Justice (Female Genital Mutilation) Bill 2011 — Order for Second Stage

[Senator Maurice Cummins.]

and Second Stage, with the contribution of spokespersons on Second Stage not to exceed 12 minutes and those of all other Senators not to exceed ten minutes.

Senator Darragh O'Brien: Yesterday I specifically requested a debate on the programme for Government, including on its progress and implications. I fully appreciate that the Government has only been in office for a short time, but I wish to raise this matter in the light of the announcement yesterday evening of the 10% arbitrary cut in the numbers of SNA and resource teaching hours, including those previously agreed, across all schools. I do not wish to make a political point, but we should discuss this matter as soon as possible. I am requesting that on Friday, 10 June the House should sit to debate every item in the programme for Government and whatever issues Members of the House wish to raise in this regard. Clarity is required on a number of items in the programme, including the banking, education and health sectors, in particular the fair deal scheme. Yesterday the Leader indicated that he would consider positively the request for such a debate, but it should be held sooner rather than later. I know we have a lot of business to deal with next week, but I propose that we sit on Friday, 10 June to deal specifically with the programme for Government. I ask the Leader to consider this request and if he can accede to it, it will be a good step forward for us.

There is a lot of confusion concerning the proposed household charge and-or water rates. Earlier in the week the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, announced a household charge would be introduced on 1 January 2012, but no amount was given. The following day the Tánaiste said this would not happen because it was not included in the programme for Government. He said water rates would be introduced but only when water meters were in place. I agree with this. The Taoiseach seemed to back up the Tánaiste, but yesterday the Minister reiterated that a household charge would be introduced on 1 January 2012. I am proposing an amendment to the Order of Business that we ask the Minister for the Environment, Community and Local Government to attend the House today to clarify the matter.

Senator Ivana Bacik: I congratulate Senator Susan O'Keeffe who has been appointed as Labour Party Whip and will as a consequence be Deputy Whip on the Government side. I look forward to working with her.

As the Leader of House, Senator Maurice Cummins, indicated, there will be no difficulty in having the debate on the programme for Government sought by Senator Darragh O'Brien.

Senator Darragh O'Brien: Yes.

Senator Ivana Bacik: However, a more effective debate might focus on specific aspects of the programme such as education. I would be happy for us to have an early debate on that topic, as well as the environment and the charges Senator O'Brien mentioned. Most pressingly, we need to have a debate on the economy. Yesterday, for example, some Senators sought a debate on NAMA, while I sought a debate on white collar crime, particularly in the absence of any prosecutions arising from the banking scandal. The need for a debate on the economy has been thrown into focus today by the report from FLAC, Free Legal Advice Centres, which reveals the alarming figure that the number of debt queries rose by 400% last year. In 2010 FLAC dealt with 11,000 queries, a large number of which were from persons who were very concerned about their levels of debt. That is happening as a direct consequence of the false boom for so many years which was presided over by the previous Government. A debate on the economy could tackle issues around banking, the concerns raised by FLAC and the serious challenge posed by unemployment.

I support the calls made for a debate on children's rights. I am delighted that we will have such a discussion next week when the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, will attend the House. That debate needs to tackle a number of items, including the report of the Ombudsman for Children and criminal justice matters. As the Ombudsman said in her report, children are still being detained in St. Patrick's Institution, which is a source of great public shame and scandal. I am glad to see that the programme for Government contains a commitment to close that institution, for which I am sure there will be cross-party support. However, we need to keep the pressure on the Government to ensure it will be closed as a matter of urgency and that children will no longer be detained in inhumane conditions.

Senator Rónán Mullen: I share the sentiments expressed by Senator Darragh O'Brien. I would like the Minister for the Environment, Community and Local Government to come to the House to discuss the proposals put forward. The proposal for water charges has been a plan afoot for about 18 months yet it is remarkable that it still appears that there is no great clarity about what will happen in that respect. The Minister said that water charges will be introduced and that there will be a flat fee, charge or rate from January next but nobody seems to be clear about how precisely people will be charged for water thereafter.

Senators will be familiar with the old phrase about it being Saturday night and not a child in the house washed. Having listened to the discussion on the "Today with Pat Kenny" programme today, one would be left wondering whether some families, including larger ones, would be able to afford to wash their children. In the context of water metering, which is a good and necessary idea, it is not clear whether provision would be made for families. That kind of metering system could be extremely onerous on families. There needs to be a justice dimension to this as well when it comes to charging for water. The principle that people would be charged for water consumption is valid not least when one considers what occurred during the freeze out last year when people left their taps running and so on. As somebody said, if people had to pay for that they would not be so quick to do it.

In the context of the Aer Lingus dispute, everybody must agree that the idea that we would have such an industrial action is horrible to contemplate but there are justice issues involved. In the current climate people will have to work harder for less and that will have to apply across the board in the public and private sectors. We must be mindful again of the needs of families and safety issues. The idea that people could be rostered for six out of seven days during the summer, particularly in such a sensitive area of work, seems unacceptable.

In terms of people being expected to do more for less, we would want to avoid at this time the abuse of younger workers in particular. In many professions and other areas young people are being taken on for internships and apprenticeships. In some cases they are not being paid and in others they are not even been paid expenses but they are being required to do a great deal of work, equivalent to the work for which other people have been amply paid in the past. It is important at a time when we are all buying into the idea of doing more for less that we do not end up abusing particular groups in the workplace.

I, too, welcome the proposed discussion on the needs and the rights of children, particularly in the context of the Fourth Report of the Special Rapporteur on Child Protection, Mr. Geoffrey Shannon. Having listened to Mr. Shannon last week and having read what he produced in his report, it is clear that he has done a great deal of impressive work but I point to one issue in particular and ask the Leader the Government's intentions on the issue of criminalising the purchase of persons in prostitution. Several years ago during the debate on the human trafficking Bill, I tabled amendments, supported by others, including our former leader, Senator Joe O'Toole, which, if accepted, would have criminalised the purchase of persons in prostitution. At that time there was a certain amount of cynicism from the Government side, a certain blasé

[Senator Rónán Mullen.]

attitude towards that. It is good to see that the tide of opinion is shifting in this area. The previous Minister for Justice and Equality, the former Deputy Dermot Ahern, said he was moving towards bringing forward legislation that would criminalise persons engaged in the purchase of persons for reasons of prostitution. It would help make the country a colder house for those who would traffic persons into our country. At a time when we have not yet seen much proposed legislation from the Government, that legislation should be made a priority. Will the Leader take that message back to Government and then tell us its intentions on criminalising the purchasers of persons in prostitution?

Senator Fidelma Healy Eames: We should use this House to shape policy to meet emerging needs in the economy. In view of that I request a debate on the education system and how it supports job creation and innovation. I refer in particular to the skill gaps identified here and the jobs that are available here that nobody can fill. To think that there are in region of 800 posts in IT for that graduates are not capable of filling is an incredible indictment of our education system, given the shortage of jobs in real terms. I would be grateful if the Leader could arrange for the Minister for Education and Skills, Deputy Ruairí Quinn, to come into the House to examine this.

I support what other colleagues said today about people being worried about debt. The FLAC report released this morning shows that there has been a 400% increase in debt-related queries since 2007 and the boom collapsed. We need to invite the Minister for Social Protection into the House to outline the measures available right now in the community, be it through the MABS, the Citizens Advice Bureau, Bord Gáis, the ESB or the banks, to support families managing debt. We know about these issues because they are raised with us in the constituency offices but we also need to know that these measures are available because families need a road map of supports, especially in view of new charges, those of water charges and the household charge, coming down the line. This will be a potential mess for families unless such debts can be managed.

An Cathaoirleach: Has the Senator a question for the Leader?

Senator Fidelma Healy Eames: My questions have been delivered.

Senator Jim Walsh: I support the call by Senator Ó Murchú yesterday for a joint agreed motion on the Dublin and Monaghan bombings. Will the Leader facilitate that happening? He and I sat on a sub-committee which heard the most appalling tales from the victims of those bombings who were sadly and badly failed by this State over many decades. We may have an opportunity now to resurrect this issue and to try to help bring some closure for them. I appeal to Senator Cummins to play his part in achieving that.

Will the Leader arrange for the Minister for Finance to attend the House to discuss our outdated and antiquated bankruptcy laws? It is a travesty of justice that people who have been caught in this unprecedented recession will be debarred from entering business for a period of 12 years. There were some recommendations that this would be reduced to five while neighbouring jurisdictions confine it to one year. We should have a good debate on that and bring sufficient pressure to bear so that the necessary changes will be made. We have been very tardy in dealing with this issue over the past three years. In that regard, we might include the issue which arose recently of Members of these Houses who may find themselves debarred as a consequence of bankruptcy pursuit. That is unfair. The people decide who represents them. That is a throwback to former days when people of property controlled the democratic system. We should reflect on that and necessary amendments to the legislation should be made.

I second the proposal of Senator Darragh O'Brien that the Minister, Deputy Hogan, would attend the House. I am a strong proponent of water charges and have been ever since the former Tánaiste, Mr. Dick Spring, introduced them back in 1983. I criticised the Labour Party for the populous decision it took under the then Minister, Deputy Howlin's stewardship of the Department, to abolish them to save the seat of the then Deputy Joan Burton in Dublin West, which was unsuccessful in itself. I ask that we have a debate on that. It is urgently required that clarity be brought to this situation. If our economy is to get on the road to recovery, it will require some certainty to restore confidence. This ongoing debate where we are phasing in pain on people is only prolonging this recession.

Interestingly, I attended an economic conference in Beijing two weeks ago and noted that China is focusing on generating its own domestic consumption to meet the targets that it needs to support its economy, which has a minimum of 7% growth annually. We must focus on doing that as well. We are also missing out on the global improvement in economic growth. We need to position ourselves so that we can avail of that. Of the many issues, this is one to which we should bring clarity quickly.

Senator Michael Mullins: Will the Leader seek support from the Ministers for Justice and Equality and Foreign Affairs and Trade for the family of a young man from Portumna in County Galway, Mr. Matthew Fitzpatrick, who died in tragic circumstances in Mannheim, Germany, in December 2010? The young man in question died——

An Cathaoirleach: We should not name individuals from outside the House.

Senator Michael Mullins: It is in the public domain.

An Cathaoirleach: We still should not name them.

Senator Michael Mullins: Fine. The police in Mannheim put the young man's death down to suicide, yet his family have serious concerns about the verdict. When his body was repatriated to Dublin, the deputy State pathologist carried out an autopsy and identified a significant number of injuries on his body. The jury at the Coroner's Court in Dublin returned an open verdict on his death.

I ask every Senator to familiarise himself or herself with the family's website, which contains some disturbing information. The family is anxious——

An Cathaoirleach: This is not applicable to the Order of Business.

Senator Michael Mullins: ——that the case be reopened by the German police. Will the Leader seek the support of the Minister on the family's behalf?

Senator Sean D. Barrett: Will the Leader discuss with the Minister for the Environment, Community and Local Government, Deputy Hogan, the finances of local government? My fear is that the financial problem will only be tackled on the taxation side, as my colleague stated, and not on the expenditure side. It appears that important issues raised in the McLaughlin report on local government are not being addressed. They should be addressed at the same time, as we must tackle the situation as an expenditure problem as well as a tax raising problem. McLaughlin estimates we are overmanned by ten county managers, 50 directors of services, 220 people in corporate services, 225 people in middle management and 180 people at professional, senior and middle management level. Given that the moratorium has mostly resulted in a reduction in outdoor staff by 13% and management by only 7%, the question of whether we get good value for money from local government poses a serious problem. I hope the Leader will raise the matter with the Minister before we embark on increasing taxation unnecessarily.

Senator Paul Coghlan: I am delighted by the appointment of Senator O’Keeffe as the Labour Party Whip in the House. As far as I am concerned, it gives a welcome new meaning to “burden sharing”.

Senator Ivana Bacik: Hear, hear.

Senator Paul Coghlan: I endorse Senator Bacik’s words——

Senator Terry Leyden: Fine Gael will have burdens soon and it will need to share. They are coming down the track.

Senator Paul Coghlan: We will come back on track soon. I endorse Senator Bacik’s call for a debate on the economy to include the banking sphere, NAMA and the National Treasury Management Agency, NTMA. The scope is wide and could also include the role of the credit controller, Mr. John Trethowan, who is a wonderful individual. I had a preliminary chat with the Leader on this subject, although I intend to discuss it with him further. Perhaps the House will find a way to sit down with the people in question from time to time. I back the call for a debate and I am sure the Leader will give it good consideration.

Senator David Cullinane: Yesterday, the Leader agreed to a discussion on the joint labour committee independent report and the Minister for Enterprise, Jobs and Innovation’s proposals. The timeframe of 10 June for the Minister’s engagement with the social partners is tight. He met some of them yesterday. Does the Leader intend to hold the debate and invite the Minister to the House before that date?

I welcome Senator Bacik’s confirmation that there will be a discussion on the Ombudsman for Children’s sixth annual report. Does the Leader intend to invite the Ombudsman to attend the Chamber for that discussion? Yesterday, she stated something profound, namely, that law-makers should heed the rights of children.

Senator Darragh O’Brien: Hear, hear.

Senator David Cullinane: We owe it to her and to children to listen. The invitation is important.

A plethora of health issues were raised yesterday and the Leader stated that he would collate them and invite the Minister for Health to the House for several discussions. Diabetes services pose a serious concern. As part of the discussions with the Minister, will time be given to debate Diabetes Action’s proposals on reconfiguring services for adolescents and children?

I welcome Senator Bacik’s remarks to the effect that there will be a debate on the economy. Could we also consider the questions of unemployment and forced emigration? Today’s figures show 2,600 more people on the live register, bringing the overall number to 443,000. Will the debate on the economy address youth unemployment and unemployment generally, the question of people who are under-employed and have had their hours cut and the matter of self-employed people falling into traps——

An Cathaoirleach: These points can be made during the debate.

Senator David Cullinane: Will these matters, including the issue of forced emigration, form part of the debate? If we are to have a debate on the economy, we might rush into a broad, sweeping discussion, but unemployment is a national emergency, given the figures released today. The House needs a clear and specific debate on the issues of unemployment and returning people to work.

Senator Tom Sheahan: Will the Leader invite the Minister for Finance to attend the House so that we might ascertain the measures he is pursuing to get banks to release credit to businesses? The initiatives, incentives and policies pursued by the Government to return people to work and to maintain and create jobs in small businesses will not work unless we get banks to lend. Yesterday, I was contacted by a constituent, the third generation in business, whose direct debit of €3,500 was returned by a bank because it would leave the constituent €37 overdrawn. Business cannot continue under this banking cloud.

I support Senator Barrett's point. Recently, another constituent whose kitchen needed to be replaced was contacted by a local council staff member. The council sent an engineer to tell the person it had no funding. Why is the engineer there if there is no funding to carry out the work?

Senator Terry Leyden: Last night, I tabled a motion on the Adjournment that concerned the proposed referendum on children's rights. As the Cathaoirleach knows, the joint committee reported in February 2010. Its members included many current Cabinet members, those being, the Minister for Children and Youth Affairs, Deputy Fitzgerald, the Minister for Finance, Deputy Noonan, the Minister for Justice and Equality, Deputy Shatter, and the Minister without portfolio, Deputy Howlin, as well as Government backbenchers Deputies White and Neville. We are now in June 2011 and, last night, the Minister of State, Deputy McEntee, stated on behalf of the Minister, Deputy Fitzgerald, that the referendum would not be held in conjunction with this year's presidential election because doing so would be contentious. I do not know how it could be contentious, as that election will be a low-key affair.

Senator Ivana Bacik: As far as Fianna Fáil is concerned. The Senator's world view is welcome.

Senator Darragh O'Brien: The Labour Party has not made its mind up yet.

(Interruptions).

An Cathaoirleach: Senator Leyden without interruption, please.

Senator Terry Leyden: We will debate the matter next week. This is the Seanad of all the talents. There is so much talent in the House, it is unbelievable, but that talent is under-utilised. I would like it to be used a bit more. If the children's rights referendum is held in 2012 in conjunction with the referendum on the abolition of the House, I will campaign on the retention of the House. The focus will be off the most important referendum ever held. We have neglected the issue. A new Government is in power, yet there will be no referendum.

The distinguished Senator van Turnhout had an input into this matter through her submission to the joint committee. According to the former Minister, Mrs. Mary O'Rourke, it was a good and important submission.

This is a contentious matter. If the referendum is not held this year, will it be held in 2012? Will it ever be held? Are the cold hands of the IMF, the European Union, the ECB and Mr. Ajai Chopra involved in this matter? Are those to whom I refer seeking to delay the referendum on the basis of the cost that will accrue to the State?

Senator Fidelma Healy Eames: It is the cold hand of Fianna Fáil.

Senator Terry Leyden: No. I am seeking clarification on this matter.

Senator Fidelma Healy Eames: It is the hand of Fianna Fáil.

An Cathaoirleach: Senator Terry Leyden to continue, without interruption. Does the Senator have a question to put to the Leader?

Senator Terry Leyden: Is control being exercised in Merrion Street, Brussels or Frankfurt?

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Terry Leyden: I challenge the Government to hold the referendum in September. It should not wait any longer to hold it. It will be the most important in the history of the State.

An Cathaoirleach: That matter is not relevant to the Order of Business.

Senator Terry Leyden: It is very relevant.

An Cathaoirleach: It is not relevant to today's Order of Business. Does the Senator wish to put a question to the Leader?

Senator Terry Leyden: I will table an amendment if the Cathaoirleach so wishes. Does he want me to table such an amendment?

An Cathaoirleach: As the Senator well knows, the Order of Business relates to the business of the House for today.

Senator Terry Leyden: Does the Cathaoirleach wish me to table an amendment?

An Cathaoirleach: That is a matter for the Senator.

Senator Terry Leyden: It is. I ask the Leader to incorporate in the debate on children's rights a discussion on the deliberations of the joint committee which issued its final report in February 2010. I am also seeking clarification on who is running the show. Is it those involved in Brussels or Merrion Street?

Senator Martin Conway: I request the Leader to ask the Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, to come before the House to outline his plans for the Dublin Airport Authority, DAA, which as Members are aware, is burdened with debt. There is significant concern, particularly in the area of the country from which I come, about the authority's future plans for Shannon Airport. The DAA controls Dublin, Shannon and Cork airports and also has a remit in respect of Aer Rianta International, regarding which the McCarthy report contains certain proposals. In the light of the important, strategic role played by Cork and Shannon airports in international tourism, it is important that the Minister come before the House to outline his plans for the DAA, what he is doing about the excessive salaries of that organisation's chief executive, directors and senior management and his intentions in respect of breaking up the DAA and dealing with the significant burden of debt it has taken on as a result of the building of Terminal 2 and its involvement in other major capital investment projects. I would like the Minister to outline the long-term plans——

An Cathaoirleach: Those are points the Senator can make during the debate on the matter.

Senator Martin Conway: This matter is very relevant. I am asking the Leader to discover for the House, through the Minister, the plans in place in respect of Shannon Airport. For example, will it continue to have links with Dublin Airport?

An Cathaoirleach: Does the Senator have a question he wishes to put to the Leader?

Senator Martin Conway: Absolutely. Will the Leader establish why the e-mail addresses of members of senior management at Shannon Airport end with the form “@daa.ie”? The organisation will prosper if it has some autonomy. I request, therefore, that the Leader discuss this matter with the Minister as a matter of urgency in order that he might come before the House to engage in a debate on it.

Senator Labhrás Ó Murchú: There have been several instances in which the Seanad has dealt with motions agreed on all sides. This generally happens in cases in which there is agreement and support on the issue in question. Every Member agrees that we must bring closure to the issue of the Dublin and Monaghan bombings. We are all aware of the suffering is continuing. I welcome yesterday's statement by the Leader to the effect that the Taoiseach is involved in discussions with his counterpart in Britain. However, it will only be of assistance to him if the House can agree a motion on the matter to which I refer. If the various Leaders and the Whips can come together, it should be possible to agree a wording.

Will the Leader check the current status of Moore Street as a national monument? During the final weeks of its lifetime the previous Seanad engaged in a very informative and historic debate on this issue. Sitting in the Visitors' Gallery on that occasion were relatives of all the signatories of the 1916 Proclamation. Subsequent to that debate, a meeting was held with the Taoiseach and relevant Ministers and officials. I was also in attendance at that meeting. With five years to go before the centenary of the 1916 Rising, it is vital that we not allow this issue to be sidelined. If the relevant buildings in Moore Street were developed, they would become a major attraction. They would be a particular attraction for those Irish people who wish to know more about their history. When the House engaged in a debate on tourism yesterday, it was stated among the main preferences of tourists visiting this country were culture and history. I have no doubt that tourists coming to Ireland would flock to Moore Street if the right preservation and development were to take place. Perhaps the Leader might check the position on this matter and provide the House with a reply, if not today, then next week.

Senator John Kelly: I would like the Minister for Health to come before the House to address a number of issues relevant to his portfolio. One such issue about which I am extremely concerned is the proposed centralisation of the medical card system. The system under which those over 70 years were dealt with by local community welfare officers in their counties was centralised to Dublin. It is proposed that from next month the entire system for medical cards will be centralised to the capital. The decisions in this regard were made in the past by the HSE and I am of the view that they will give rise to no material gain to those who use the service, namely, those who have or are seeking medical cards. Instead of applying to their local community welfare officer, people will now be obliged to deal by telephone with faceless bureaucrats in Dublin who will not understand the family circumstances of those with whom they will be dealing from a social and economic point of view. Owing to the fact that local community welfare officers are aware of families' circumstances, they are in a position to exercise a certain amount of discretion in particular cases. Under the new system, this will no longer be the case. One of my major concerns relates to the fact that a great deal of discretion was exercised in the case of those suffering from cancer. I estimate that medical cards were given to cancer patients 100% of the time. This was despite the fact that they may have exceeded the thresholds laid down in the guidelines relating to medical cards. It is a pity Senator John Crown is not present because consultants and GPs—

An Cathaoirleach: We do not refer to Senators absent from the House.

Senator John Kelly: —have consistently informed those with cancer that they are entitled to a medical card. That is false information because all applicants are subject to a means test.

[Senator John Kelly.]

I would like the Minister for Health to indicate how he is going to deal with the fact that discretion will be removed from the process in granting medical cards. Those granting the cards will be bound by guidelines that are outdated. The thresholds relating to the guidelines have not been increased in approximately seven years. There is a need for the House to engage in a debate on this matter before the transition to which I refer takes place in July.

Senator Thomas Byrne: I wish to raise a number of important issues. Senator Darragh O'Brien's proposed amendment to the Order of Business is extremely important because it would allow the Seanad to discuss, with a Minister, a matter of some significance. I appeal to Labour Party Members and the Independents nominated by the Taoiseach to support the amendment and not just to simply to vote with the Government as a matter of routine. It is vital that we discuss this issue in order that the people might obtain clarity in respect of it.

I would welcome it if the Tánaiste and Minister for Foreign Affairs and Trade came before the House to discuss the Wikileaks allegations. Some serious allegations were made by US Embassy staff to the effect that, for political purposes, the Tánaiste said one thing in private and another in public. Are the Tánaiste's statements on water charges simply public statements made for political purposes? Is the position the same on his statements and those of his party on the JLCs? These are the questions members of the public are asking. Until the Tánaiste provides answers in the House, we will not have clarity on the relevant issues.

Another crucial matter is the ownership of nursing homes. A nursing home company in the United Kingdom which manages 31,000 beds has gone out of business and been placed in liquidation. As a result, authorities in the United Kingdom will be obliged to care for the people affected at a significant cost. It is vital that legislation aimed at limiting the number of beds which particular companies in this country can own and manage be brought forward. The consequences of a nursing home company going into liquidation and thereby leaving the State with responsibility for the care of its customers are too serious to contemplate.

Senator Feargal Quinn: Will the Leader organise a debate on the Prison Service, a subject about which Senator Bacik has spoken eloquently in the past? It is some time since we had a debate on the service and several changes have occurred in the past several months. I would like the position regarding the development at Thornton Hall to be confirmed. Recent figures showed a rise in the number of people in prison for not paying debts. It is like going back to Dickensian days when other solutions can be found.

Senator Ivana Bacik: Hear, hear.

Senator Feargal Quinn: I am also concerned about the level of early releases. The European Court of Human Rights has issued instructions as to what we have to do with our jails. I accept a debate on the Prison Service would be very wide but it would be useful to have the views of the new Seanad. It is essential it gives this topic the attention it deserves.

Food exports have been successful in recent times. However, we must bear in mind the Spanish cucumber E. coli case. Today the German authorities had to apologise and admit they made a mistake. Spanish cucumbers were not the source of the outbreak as they had originally claimed. This was after hundreds of millions of euro worth of exports for Spanish farmers were wiped out by the original claim, devastating their businesses. While the apology will come with some form of recompense for Spanish businesses and farmers, it is a reminder of how this could happen to Irish food exports. Only 18 months ago, the pigmeat business was devastated due to a dioxin problem identified by our controls with huge harm done to our exports. What is worse, however, is when an authority in another country makes a comment that can devastate

a business as has happened in the Spanish case. We must take steps to ensure we can avoid such a situation arising with our food exports.

Senator Michael D’Arcy: When will the forensic evidence and DNA sampling Bill be brought forward on the legislative programme? This important legislation, which arises from the Prüm treaty, was on the previous legislative programme. While a UK case ended up in the European Court of Human Rights, delaying the introduction of the legislation, the case has been concluded. It is crucial the Garda has every tool available to it to ensure it can conduct the particular criminal searches provided for by this legislation and the Prüm directive. The former Minister for Justice and Law Reform originally brought the legislation forward on the basis that it met the limits the European Court of Justice had determined were acceptable. Will this vital legislation be brought forward as soon as possible?

Senator Kathryn Reilly: I support Senator Quinn’s comments on the food export industry. With the outbreak of E.coli in Europe and the many deaths caused by haemolytic-uraemic syndrome, a complication arising from it, will the Leader organise a debate on food, particularly country-of-origin labelling? While such labelling is a requirement for beef, fruit and vegetables, it is not so for pigmeat, poultry and sheepmeat. We should not have to wait for another food crisis to happen before we introduce these rules. Will the Leader invite both the Minister for Health and the Minister for Agriculture, Marine and Food to the House for an open debate on country-of-origin food labelling for pigmeat, poultry and sheepmeat, and the issue of substantial transformation which is not distinguished by the tariff nomenclature given that both their Departments have already drafted regulations on the introduction of such labelling?

Senator Denis Landy: Will the Leader organise for the Minister of State at the Department of the Environment, Community and Local Government with responsibility for housing and planning, Deputy Willie Penrose, to attend the House to debate the possibility of the State or local authorities acquiring ghost estates for those on housing lists? This is a pressing issue. Many of these estates are deteriorating by the week which is also affecting their value.

Will the Cathaoirleach clarify the procedure concerning the repetition of requests from Members for certain debates? Yesterday, for example, I called for a debate on the proposed household charges while my colleague, Senator Marie Moloney, called for one on the joint labour committee rates. These issues were raised again today by other Senators. If there could be a response after a request is made, it would prevent the repetitive raising of issues and allow the House to get on to the actual debates on the issues. Will the Cathaoirleach clarify for me as a new Senator how we can get over this repetitive process?

An Cathaoirleach: The Chair has no control over what debates are called for and so forth.

Senator Paschal Mooney: Senator Feargal Quinn is a modest man who would not claim credit as one of the people directly responsible for introducing traceability into the food market during his time with Superquinn. We are eternally grateful for his actions in this regard. There is, however, a powerful food lobby which resists increased transparency in food labelling. The issue requires a more proactive approach from European governments. Under current labelling rules there is much covert activity with, for example, the term “Made in the EU” sometimes used for food on Irish shelves that it is claimed to be sourced in Ireland when it is not.

In light of Senator Martin Conway’s comments, coming from the west myself I fully empathise with him on the continuing viability of Shannon Airport. I congratulate Liam Scollan, chairman, and the board of Ireland West Airport Knock on its 25th anniversary. We all recall the controversy surrounding the building of the airport. Now it is so successful and viable it

[Senator Paschal Mooney.]

will not require any further public service obligation moneys. Long may its profitability and success continue, as the airport is important to tourism in the west.

Yesterday, I asked that Government time be provided for a discussion on the diaspora, particularly considering this week's meeting between the Tánaiste and Minister for Foreign Affairs and the 76 Irish ambassadors to see how they can promote Ireland. This is not a new initiative as it had been introduced by the former Administration several years ago. Last night, the Minister for Transport, Tourism and Sport, Deputy Varadkar, invited the House, and by implication the general public, to submit proposals for Farmleigh II. The initial Farmleigh conference was an initiative by the economist, David McWilliams, which was then picked up by the then Minister for Foreign Affairs and now leader of Fianna Fáil, Deputy Micheál Martin.

It was a tremendous success in bringing together the various disparate parts of the diaspora from across the world, particularly, and most importantly, those emigrants who have been a success in corporate environments. As a result of these initiatives, the Global Irish Network was established which is also promoting Ireland. In light of the appalling and tragic unemployment figures announced recently, it is important we harness the diaspora and the success achieved by Irish people, including second generation Irish people, in their adopted countries who are ready, willing and able to help this country out of the economic morass in which it finds itself. This is an important element of the jobs strategy and economic debate taking place. In that regard, I ask that the Leader provide time before the next Global Irish Economic Forum at Farmleigh in September-October, to allow Members of this House, in particular new Members, to put forward their views and ideas in regard to how we can effectively harness the Irish diaspora and also to send out to them the message that this Parliament has not forgotten or neglected them but appreciates the efforts they are making.

Senator Colm Burke: Having come from a Parliament where a person is given only one minute speaking time, I am conscious that many Members in this House would have already this morning used up their entire allocation of speaking time for the year.

I support Senator Landy's comments in regard to repetition. Perhaps in calling for Ministers to come to this House to explain themselves, we should by way of reform commence with ensuring we do not have repetition in this regard. While it is important people are allowed to make their points, we should perhaps review procedures at an early date to ensure we use our time effectively. I ask that the procedures be reviewed at an early date.

Senator Brian Ó Domhnaill: I support Senator Darragh O'Brien's call for a debate today on the issue of water charges, which has become a national controversy on the airwaves and in the print media. People are scared because they cannot afford to pay another utility bill or domestic rates on their properties from January next. This matter is not dealt with in programme for Government. Prior to the election, the Labour Party indicated that if in Government it would not propose water charges while Fine Gael took a different stance and said it would consider the proposal. There was at that time no talk of a utility charge. There is a need for an urgent debate on this issue before the forthcoming bank holiday weekend.

An Cathaoirleach: Is Senator Ó Domhnaill supporting the amendment?

Senator Brian Ó Domhnaill: Yes. It is vital that debate takes place to provide clarity on this issue. The Minister for the Environment, Community and Local Government has been saying one thing, the Taoiseach has been saying another and the Leader of the Labour Party and Tánaiste and Minister for Foreign Affairs and Trade, has been saying something different.

There is total uncertainty on this matter. If there is uncertainty in Government, there is uncertainty among the public. We need early clarification of this matter.

I ask the Leader to provide time for an urgent debate on the fishing sector, in particular the inshore fishing sector and in this regard to invite the Minister with responsibility for fisheries to the House. During the rough weather last Sunday night-Monday morning, tens of thousands of euro of damage was caused to lobster pots along our coast from west Cork to north-west Donegal. Some fishermen lost up to €100,000 worth of lobster pots which cannot be replaced because fishermen do not have the financial resources to do so. I call for an urgent debate on fishing. I also call on the Government to seriously consider compensating fishermen for their losses as many of them cannot afford to take to the waters again without some type of Government intervention.

Senator Mark Daly: I call on the Leader to invite the Attorney General to the House. Under Standing Order 56, he may attend this House and be heard.

Senators: She.

Senator Mark Daly: She. Under section 35 of the NAMA legislation a code of practice was to be established within three months. This has been done. The code of practice states that all assets under the control of NAMA should be sold under the code of conduct for the governance of State bodies, which means that every asset, be it a loan or property, should be sold by auction or tender. This is not happening. The reason all assets were to be sold by auction or tender was to ensure public confidence that NAMA is doing its job and that the money given to it is being maximised. I have been informed by people involved in the industry that there is widespread corruption in this regard. People whose assets are in NAMA are now buying back their assets at below market value, which is hard to believe. The taxpayer is now losing not tens of millions of euro but hundreds of millions of euro because NAMA is not selling assets in the manner set down by the Oireachtas. These assets should be sold in a transparent manner.

I wrote to the Office of the Attorney General prior to the election and again after the election. I invited the Attorney General to come to this House to explain the reason it appears NAMA is breaking the laws of the Oireachtas. However, she has neither acknowledged nor replied to my letter. For this reason, I call on the Leader, under the powers of this House, to invite the Attorney General to come to this House to address us on this most important issue. We do not want to have to set up a tribunal of inquiry in two years time to investigate why the State bodies did not do their job as directed by the Oireachtas, resulting in a loss of taxpayers' money. I ask the Leader to use Standing Order 56 to do this.

Senator Trevor Ó Clochartaigh: I dtosach báire, ba mhaith liom go n-iarrfaí ar an bPríomh Aire nó ar an Taoiseach féin teacht go dtí an Teach agus soiléiriú a thabhart dúinn maidir le comhchoiste Oireachtais ar chúrsaí Gaeilge agus Gaeltachta. An mbeidh a leithéid ann agus an mbeidh daoine á gceapadh air, nó an bhfuil sé caite i dtraipisí?

Chomh maith leis sin, ba mhaith liom tacú leis an moladh a rinne an Seanadóir Ó Domhnaill. Tá ceist na hiascaireachta thar a bheith tábhachtach faoi láthair. Le cur leis an díospóireacht sin, ba mhaith liom go bpléifí ceisteanna a bhaineann le coirpigh a dhéanamh de hiascairí a bhíonn ag plé le cúrsaí riarachán ar na báid. Department officials are criminalising fishermen for administrative misdemeanours. Ba bhreá liom go bpléimís é sin. Ceist íontach tábhachtach í sin i gcomhthéacs chúrsaí iascaireachta. Chomh maith leis sin, ba cheart go bpléifí an bealach a gcuirtear na treoirlínte ón Aontas Eorpach i bhfeidhm sa tír seo maidir le cúrsaí iascaireachta. Tá an chosúlacht ann go bhfuil siad i bhfad níos déine ná ins na baill stáit eile ina bhfuil iascaireacht go forleathan. Sílim gur ceist íontach tábhachtach í sin. Má tá rath le beith ar

[Senator Trevor Ó Clochartaigh.]

thionscail na hiascaireachta, caithfimid dul i ngleic leis an bhfadhb seo agus caithfimid cuidiú leis na hiascairí.

Sa bhreis air sin, tá sé fíor-thábhachtach go mbeadh plé againn sa Teach maidir le cúrsaí achmainní nádúrtha, mar an ghaoth, an ola agus mar sin de. Bheinn ag iarraidh ar an gCeannaire díospóireacht a thionóil ar an ábhar sin chomh maith.

Senator Maurice Cummins: Senator Darragh O'Brien called for a debate on the programme for Government. I will endeavour to provide time for such a debate in the coming weeks although I cannot commit to any particular date in that regard. However, I assure the Senator that we will have a debate on that subject in the coming weeks. I do not propose to accept Senator O'Brien's amendment. Members will be aware that the Department of the Environment, Community and Local Government has been developing proposals for a programme of water metering to be rolled out next year following commitments of the previous Government under the EU-IMF programme for financial support. I emphasise that this was a decision taken by the previous Government. The Minister for the Environment, Community and Local Government has repeated on numerous occasions that it is the Government's intention to roll out a water metering programme. Charges will be only for use of water above a particular annual allowance. This remains the Government's position.

The EU-IMF programme for financial support for the Irish State also contains commitments in relation to revenue from property. It is the Government's intention to advance proposals on a site valuation tax. However, this will take time. The Minister for the Environment, Community and Local Government has stated that he is preparing proposals to meet the commitments laid out in the EU/IMF programme and will bring them to Government shortly. I do not propose to accept Senator O'Brien's amendment.

Senator Bacik raised the report on children's rights. I hope to have a debate on that report. The debate could be expanded to include the report from the Ombudsman for Children. That debate will take place next week.

Senator Mullen spoke about human trafficking and prostitution. We will get the up-to-date position on legislation in that regard.

Senator Healy Eames referred to the skills deficit and the jobs initiative. That matter can be incorporated in debates that are planned for the coming weeks.

With regard to the Dublin and Monaghan bombings, an all-party motion on this matter was tabled in the other House in 2008. The Taoiseach has had negotiations with the British Prime Minister on this subject. I do not know whether it would serve any purpose to debate this matter at this time. While I do not rule the proposal out and will consider it, I wonder what it would achieve at this time.

Senator Ó Murchú raised the same subject and also the question of establishing Moore Street in Dublin as a national monument. We will seek further information on that.

The matter raised by Senator Mullins would be more appropriately debated on the Adjournment, when the Minister could reply. Senator Barrett referred to the McLaughlin report and funding for local government. We will seek information on that. We may ask the Minister to come to the House and speak on his proposals for local government, which could incorporate water charges and staffing in local authorities. As soon as the Minister can come to the House we may have a debate on that matter. This would afford Senators the opportunity to speak on the items mentioned by Senator Barrett and by Senator O'Brien.

Senator Coghlan and other Members sought a debate on the economy and the banks. Senator Cullinane raised a number of items, including joint labour committees, JLCs, and also the

question of repetition by Senators. I am afraid I cannot determine what Members say when they rise to speak. If one Member says something I cannot forbid another Member from requesting a debate on the same subject.

Senator Denis Landy: The Leader could coax them.

Senator Maurice Cummins: I hope to have a debate on the JLCs. The problem is getting Ministers to come to the House. Any Member may ask for a debate but it is then my duty to ask a Minister to make himself available on a particular day. It is not an easy task, given the schedules of Ministers. I will endeavour to have as many Ministers as possible come the House. I suggested yesterday that we could have debates without a Minister being present and forward the contents of the debate to the relevant Minister. I prefer to have the Minister present, but we may have to have debates without Ministers being present.

Senator Terry Leyden: That would be meaningless.

Senator Mary M. White: There is a new Minister for Children and Youth Affairs and a new Department.

An Cathaoirleach: The Leader, without interruption, please.

Senator Maurice Cummins: It is within our remit to do so. Senator Cullinane spoke about health matters and unemployment. We can incorporate unemployment and other matters in the debate on JLCs. It is for Members to focus on the area they wish to dwell on.

Senator Sheahan made an important point about banks and their lending to small businesses. This is a major problem. We may incorporate that matter in the debate on the economy and banks that was called for by other Members.

Senator Leyden referred to the referendum on children and asked why it is not being held in conjunction with the presidential election. Deputy Micheál Martin asked in the Dáil that the referendum not be taken on the same day as the presidential election. Senator Leyden's party colleagues might get their act together in that regard.

Senator Terry Leyden: That does not mean the referendum cannot be held this year.

An Cathaoirleach: The Leader, without interruption, please.

Senator Maurice Cummins: Senator Conway raised the matter of Shannon Airport. This could be raised on the Adjournment. I recommend that he do that.

Senator Terry Leyden: Senators are entitled to have views and to express them. That is my view.

Senator Maurice Cummins: Senator Kelly raised the issue of medical cards. This is a serious matter. Community welfare officers have discretion in this matter and it can be taken up with the Minister for Health and Children.

Senator Byrne referred to WikiLeaks. Some interesting leaks have been published in newspapers. Exchanges of information between governments and reporting by diplomatic missions is an important aspect of the formulation of foreign policy and the conduct of international relations. This type of activity by diplomatic services takes place in every country. It is done for a variety of reasons, including political and commercial. It is important that such exchanges take place. However, it is not the intention of the Tánaiste to comment on the publication of the United States diplomatic cables.

Senator Terry Leyden: There will not be many going to the American Embassy for functions. They can have their glass of wine by themselves.

An Cathaoirleach: Can we hear the Leader without interruption, please?

Senator Maurice Cummins: Senator Quinn spoke about the prison service and the report on prisons. I am endeavouring to have the Minister in the House next week, if possible, to discuss that report.

Senators Quinn, Reilly and Mooney raised the issue of food and food labelling. The previous Seanad debated the Food Harvest 2020 report. Perhaps we should have another debate on that subject in the coming weeks.

Senator Landy raised the matter of ghost estates, which are prevalent in many areas throughout the country. We can incorporate that in the debate on local government, when the Minister comes to the House. Senator Mooney called for a debate on ways to harness the power of the diaspora. A second Farmleigh meeting will be held later this year. We can arrange a debate on this subject. It is a question of bringing a Minister to the House to deal with these matters.

Senators Ó Domhnaill and Ó Clochartaigh referred to the fishing industry. I will arrange for a debate on this matter in the coming weeks. I hope to arrange a debate on the Irish language next week. Yesterday, a number of people asked to have this debate. I am working on that and I hope to have the debate next week.

An Cathaoirleach: Senator Darragh O'Brien has moved an amendment to the Order of Business.

Senator Darragh O'Brien: A Chathaoirligh, may I raise a point of order? The purpose of the amendment was to address the lack of clarity on the Government side as to whether a water charge or a household charge is proposed. Am I to take it from the Leader's answer that a household charge will proceed on 1 January of next year? Has the Leader given that clarification, although this was not tied into the EU-IMF deal? If that charge will be in force from 1 January next year, as the Minister for the Environment, Community and Local Government has said, there is no need to proceed with the amendment.

Senator Maurice Cummins: That is not what I stated. People can seek their own clarification on this matter. I thought what I had said was very clear. With regard to what Senator Darragh O'Brien said about the charge being introduced on 1 January, I never mentioned such a thing in my clarification.

Senator Darragh O'Brien: In that case, I will press the amendment.

Senator Mark Daly: On a point of order, I point to Standing Order 56 which refers to the Attorney General.

An Cathaoirleach: I have no control over what the Leader says in reply. The point of order must relate specifically to procedure. I have an amendment in the name of Senator Darragh O'Brien, "That statements on the Government proposals for the introduction of water and household charges be taken today." Is the amendment being pressed?

Senator Darragh O'Brien: Yes.

Amendment put:

The Seanad divided: Tá, 19; Níl, 32.

Tá

Byrne, Thomas.
Cullinane, David.
Daly, Mark.
Leyden, Terry.
MacSharry, Marc.
Mooney, Paschal.
Mullen, Rónán.
Ó Clochartaigh, Trevor.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.

O'Brien, Darragh.
O'Donovan, Denis.
O'Sullivan, Ned.
Power, Averil.
Quinn, Feargal.
Reilly, Kathryn.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bacik, Ivana.
Barrett, Sean D.
Bradford, Paul.
Brennan, Terry.
Burke, Colm.
Clune, Deirdre.
Coghlan, Eamonn.
Coghlan, Paul.
Comiskey, Michael.
Conway, Martin.
Cummins, Maurice.
D'Arcy, Michael.
Gilroy, John.
Harte, Jimmy.
Hayden, Aideen.
Healy Eames, Fidelma.

Henry, Imelda.
Higgins, Lorraine.
Keane, Cáit.
Kelly, John.
Landy, Denis.
Moloney, Marie.
Moran, Mary.
Mulcahy, Tony.
Mullins, Michael.
Noone, Catherine.
O'Donnell, Marie-Louise.
O'Keeffe, Susan.
O'Neill, Pat.
Sheahan, Tom.
van Turnhout, Jillian.
Whelan, John.

Tellers: Tá, Senators Ned O'Sullivan and Diarmuid Wilson; Níl, Senators Paul Coghlan and Susan O'Keeffe..

Amendment declared lost.

Order of Business agreed to.

Senator Thomas Byrne: On a point of order, it should be noted that the Labour Party and Independent Senators voted against asking the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, to come to the Seanad to discuss the water charge issue.

An Cathaoirleach: That is not a point of order.

Committee of Selection: Motion

Senator Maurice Cummins: I move:

That, in pursuance of Standing Order 89 of the Standing Orders relative to Public Business, the Committee of Selection be appointed and do consist of the following members:

An Leas-Chathaoirleach, Senators Ivana Bacik, Paul Bradford, Paul Coghlan, Maurice Cummins, Lorraine Higgins, Rónán Mullen, Darragh O'Brien, Susan O'Keeffe, Jillian van Turnhout, Diarmuid Wilson.

Senator David Cullinane: On a point of order, I ask that it be noted that no member of the Sinn Féin Party has been included in the appointment of the committee.

An Cathaoirleach: The party numbers did not warrant selection of a member to the committee.

Question put and agreed to.

Criminal Justice (Female Genital Mutilation) Bill 2011: Order for Second Stage

Bill entitled an Act to provide for the creation of an offence of female genital mutilation, and other offences relating to female genital mutilation, for the better protection of girls and women; to provide for amendments to other enactments; and to provide for related matters.

Senator Ivana Bacik: I move: “That Second Stage be taken now.”

Question put and agreed to.

Criminal Justice (Female Genital Mutilation) Bill 2011: Second Stage

Question proposed: “That the Bill be now read a Second Time.”

An Cathaoirleach: I welcome the Minister for Health and Children to the Seanad and congratulate him on his portfolio. It is his first time to visit the House and I wish him well.

Minister for Health (Deputy James Reilly): I congratulate the Cathaoirleach and the Leas-Chathaoirleach on being elected to their new positions and the new Senators on being elected to theirs. I look forward to serving with all of them.

I thank Senator Ivana Bacik for raising this important issue in the Seanad last April and encouraging the Government of the day to commence the preparation of the Criminal Justice (Female Genital Mutilation) Bill 2011. I am very pleased to see the Bill being restored to the Order Paper of the 24th Seanad, as female genital mutilation, FGM, is a gross violation of women’s human rights. This legislation which aims to expressly prohibit it is the first step in ensuring the practice will not take hold in Ireland. The Bill has benefited from consultation with national and international experts in this field and will bring Ireland in line with international best practice as well as providing indisputable legal clarity on the issue. In bringing this Bill before this House, I do so on the basis that we all share a desire to see an end to this practice in Ireland.

Female genital mutilation, FGM, is a harmful traditional practice and a form of violence that directly infringes upon women’s and children’s rights to physical, psychological and social health. FGM is recognised internationally as a gross violation of human rights for girls and women and a form of gender-based violence. The World Health Organization defines FGM as any procedure involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. The WHO estimates that between 100 million and 140 million girls and women worldwide have been subjected to some form of FGM and a further 3 million girls are at risk each year. This equates to 6,000 women and girls undergoing FGM daily in the world. We know that there are at least 3,000 women living in Ireland who have undergone FGM.

The prevalence, type and age at which FGM is performed varies between and within countries and regions, with ethnicity as the most decisive factor. FGM is known to be performed in at least 28 African, Middle Eastern and Asian countries. Prevalence ranges from nearly 90% or higher in Egypt, Eritrea, Somalia and Sudan, to less than 50% in the Central African Republic and Côte d’Ivoire, to 5% in the Democratic Republic of Congo and Uganda. Increased immigration to Europe has meant that a cultural practice previously associated with the developing world has become an issue, indeed a problem that needs to be overcome in a

culturally sensitive manner in European societies, including Ireland. In many cases, families and communities will attempt to continue to practise FGM after moving to Europe as a way of upholding traditional customs.

The rationale for the continuance of FGM varies across regions, countries and cultures. In every society in which it is practised, however, FGM is an expression of gender inequality. In many instances, parents want their daughters to undergo FGM to avoid stigmatisation or social exclusion by the rest of the community. In practising communities, it is strongly believed that a girl is not marriageable if she has not undergone FGM.

FGM has no health benefits. It involves removing and-or damaging healthy and normal tissue and interferes with the natural function of girls' and women's bodies. The immediate health consequences of FGM can include severe pain, shock, haemorrhage, difficulty passing urine, infection, psychological trauma, sepsis and can lead to death. Long-term complications include chronic urinary and menstrual problems, chronic pain, pelvic inflammatory disease, cysts, infection, increased risk of HIV transmission and infertility. HIV transmission occurs because many practitioners of FGM do not sterilise the instruments they use, meaning they could be used on a dozen different girls and women.

FGM also has serious and adverse consequences for mothers and children during childbirth. A WHO study found significant associations between FGM and various types of obstetric complications. The risk to women's and girls' health is invariably aggravated by the use of unsterile equipment, unsanitary environments, lack of any anaesthetic and the procedure being carried out by unskilled members of the community. In addition to physical health consequences, women who have undergone FGM also report negative psychological and emotional effects.

The main purpose of the Bill is to prohibit FGM along with providing for related offences, some of which apply to certain extra-territorial jurisdictions. I will set out the specific measures in the Bill in greater detail later in this statement. Having a specific Bill prohibiting this practice will bring legal clarity and certainty to the issue. It is likely that female genital mutilation already constituted an offence under the Non-Fatal Offences against the Person Act 1997 but this Bill leaves no room for doubt and sends the message loud and clear that FGM will not be tolerated in Ireland.

Having specific legislation on FGM will also aid social and health care personnel working with practising communities as they will be able to point to this legislation and the serious punishment for offences relating to FGM in their efforts to prevent the continuation of this custom. Moreover, we know from NGOs and public health services working with practising communities that the most significant risk of FGM being carried out on female children living in Ireland arises during visits to countries where FGM is commonly practised. Parents are coming under pressure to have FGM carried out on their daughters upon visiting their country of origin. This Bill aims to address this risk by creating an offence of removing a girl or woman from the State for the purpose of FGM and by introducing an extra-territorial element to its provisions.

In addition, the Bill explicitly addresses the cultural imperative of FGM. We all know how important culture can be for a sense of identity and how important being able to share cultural traditions can be, especially among migrant communities. Nevertheless, the freedom to practise one's traditions and beliefs may not supersede the protection of fundamental human rights and freedoms. The Bill stems from a human rights perspective and stipulates that the right to practise cultural traditions cannot be evoked to justify FGM.

Finally, the Bill includes several provisions to ensure that victims of this crime are protected during legal proceedings. These provisions reflect the fact that many victims might be minors

[Deputy James Reilly.]

and proceedings are likely to be against members of their own family. Officials have been reviewing this area following the publication of this Bill in January this year and further safeguards in this regard will be proposed on Committee Stage.

Turning now to the details of the Bill which contains 15 sections. Section 1, the interpretation section, provides for the definition of female genital mutilation and certain other terms used in the Bill.

Section 2 criminalises the act of doing female genital mutilation. It also provides for the offence of attempting to do an act of female genital mutilation. The offences of aiding, abetting, counselling or procuring the commission of female genital mutilation are already provided for in the general criminal law Acts on the grounds that a person is liable to be tried and punished where he or she aids, abets, counsels or procures the commission of an indictable offence.

Section 5 of the Bill provides that doing or attempting to do female genital mutilation is an indictable offence. In a similar vein, the offence of conspiring with another person to do female genital mutilation is covered by the same general criminal law.

Various exemptions to the offence of female genital mutilation are provided for. These exemptions are aimed at avoiding the criminalisation of surgical operations required for the protection of the physical or mental health of a girl or woman, or those necessary to assist a woman in labour or after she has just given birth. With respect to this exemption, it is provided that any kind of mutilation that is equivalent to female genital mutilation following delivery, such as re-infibulation, even at the request of the woman, would also constitute an offence under these provisions.

A further exemption is made for a girl or woman who self-mutilates, although a person who aids and abets such a girl or woman to do female genital mutilation on herself can be tried for an offence under the general criminal law. Finally, a person is exempt when doing an act on a woman who is over 18 years and there is no resultant permanent bodily harm. Because we have used the broad WHO definition of what constitutes FGM, this final exemption is to avoid making certain forms of genital piercing and cosmetic surgery for aesthetic purposes a criminal act.

Section 2(3) precludes the possibility of invoking reasons of custom or ritual, or the consent of the girl-woman herself or her parents-guardian, in any defence to proceedings for the commission of the general offence of doing or attempting to do an act of FGM.

Section 3 contains offences that relate to removing a girl or woman from the State for the purposes of doing female genital mutilation to her. This provision reflects the fact that the greatest risk to children living in this State arises during visits to their family's country of origin.

Subsection (1) makes it an offence for a person to take a woman or girl from the State where one of the purposes of taking her is to subject her to female genital mutilation, FGM. A similar offence for attempting to remove her is also created. Subsection (3) provides where it can be reasonably inferred that an accused person took a girl or woman out of the country for, among other reasons, the purpose of subjecting her to female genital mutilation and that female genital mutilation was indeed subsequently carried out when she was abroad, there shall be a presumption that the accused took the girl or woman out of the State to subject her to female genital mutilation unless the contrary is shown.

Section 4 covers acts done outside the State and adds an extra-territorial dimension to the Bill. This section provides that if a person who is an Irish citizen or a person who is ordinarily resident in the State commits an offence of doing or attempting to do female genital mutilation outside the State in a country where FGM also is illegal, he or she is guilty of an offence. This

dual criminality provision is included to comply with the requirements of Article 29.8 of the Constitution and to comply with the general principles of international law. Only in exceptional circumstances are extra-territorial offences in criminal law provided for without dual criminality, for example, in the case of war crimes or terrorist offences. The expression, “ordinarily resident in the State”, is defined as a person who has or had his or her principal residence in the State for the period of 12 months preceding the alleged commission of the offence.

Section 5 sets out the penalties for offences committed under sections 2, 3 and 4 of this Bill. It provides for penalties for both a summary conviction and a conviction on indictment. Section 6 provides that proceedings for an offence under this Bill may only be commenced either by or with the consent of the Director of Public Prosecutions. Section 7 is a standard provision of double jeopardy under which a person cannot be proceeded against for an offence under this Bill if the person already has been acquitted or convicted of the same offence in another country. Sections 8, 9, 10 and 11 set out measures to protect the privacy of the victim and of the accused person. For this purpose, the Bill incorporates the extensive provisions in the Criminal Law (Rape) Amendment Act 1990 with respect to governing the exclusion of the public from hearings and the measures in the earlier Criminal Law (Rape) Act 1981 with respect to the provisions that safeguard the anonymity of the victim.

Section 12 provides for evidentiary matters relating to a person being deemed to be an Irish citizen at the time that an offence is alleged to have been committed in any proceedings that refer to an offence under section 4(1)(c) of the Bill, that is, the extra-territorial measures. It also allows for evidence by certificate. Section 13 amends the Schedule to the Bail Act 1997. The Schedule lists the offences that are defined as “serious offences” and section 2 of the Bail Act provides for the circumstances in which bail may be refused for such offences. As a result of this amendment, the offences in this Bill that relate to sections 2, 3 and 4 will be added to the bail Schedule. Section 14 amends Schedule 1 to the Children Act 2001, inserting the offences relating to female genital mutilation at sections 2, 3, and 4 of the Bill into this Schedule of offences against children. Section 15 contains the Short Title of the Bill.

I emphasise that in Ireland, we are in the fortunate position of being able to take a preventative and proactive approach to female genital mutilation. We have the opportunity and the duty to protect girl children and women from practising communities currently living in Ireland from undergoing this procedure. While legislation alone is never sufficient to tackle a problem of this gravity, the enactment of this Bill specifically prohibiting FGM and including extra-territorial provisions is a vital step in preventing female genital mutilation taking hold here. This Bill, if enacted, will act as a powerful deterrent and also potentially will empower practising communities living in Ireland to resist pressure from their country of origin to preserve this seriously damaging custom. I commend the Bill to the House and look forward to the debate.

Debate adjourned.

First Report of the Committee of Selection: Motion

An Leas-Chathaoirleach: The Committee of Selection reports that it has nominated the following Members to serve on the Committee on Procedure and Privileges: Senators Ivana Bacik, Paul Bradford, Paul Coghlan, Lorraine Higgins, Rónán Mullen, Darragh O’Brien, Susan O’Keeffe, Jillian van Turnhout and Diarmuid Wilson.

I move: “That the report be laid before the Seanad.”

Question put and agreed to.

Criminal Justice (Female Genital Mutilation) Bill 2011: Second Stage (Resumed)

Question again proposed: “That the Bill be now read a Second Time.”

Senator Marc MacSharry: I join others in welcoming the Minister, Deputy Reilly, to the House and wish him well in his office. This has been my first opportunity to congratulate him on his appointment since he has taken office. I wish him every success and while Members are present for legislative purposes today, I hope he will be in a position to attend debates in the House in the short term on some of the serious issues that have emerged in recent weeks concerning the fair deal scheme and the overall financing of the health service and not least, on more parochial concerns that Members will have. In my case, my concern is for the Minister's former alma mater in Sligo General Hospital, where the 100 days are counting down and I am sure the Minister of State, Deputy Perry, talks to the Minister regularly about the return to it of cancer services.

The purpose of today's sitting is the Second Stage debate on the Criminal Justice (Female Genital Mutilation) Bill 2011. It would be remiss of me not to pay tribute to my colleague in the last Seanad, Senator Bacik, whose leadership on bringing forward this issue was accepted immediately by the Minister of the day. Following the Bill's preparation, it was published shortly before the dissolution of the previous Dáil. In essence, this captures for me the true worth of the Seanad and what it can contribute. I note for the attention of newer Members or those who have chosen to tune in online, which is the only place one can watch this debate unless one attends the House, that no member of the media is present. Moreover, this debate is likely only to be covered in a token way, perhaps by “Oireachtas Report” much later this evening. This is the great failing in respect of debates that show the Seanad's worth and what it gives to people, even in advance of potential reform. One need only ask the people from the organisations who are sitting in the Visitors' Gallery and who I welcome. They have fed public concern in through leaders in society like Senator Bacik, who have then introduced legislation based on public concern. This happens more often than not in this House but rarely happens in the same way in the Dáil. However, the media will choose to cover matters there, while pontificating on the need to over-scrutinise the €25 million it costs to legislate in this House. I refer to the proof seen today in respect of the Bill under discussion and note the tongue in cheek and token coverage, as well as the empty chairs of the media benches that can be seen today. The coverage of this House is a sad indictment of that profession with respect to the good work being done on this Bill and on other Private Members' Bills which Fianna Fáil Members plan to introduce, as well as those I am sure will be developed and initiated by the Government side, by the two Independent groupings and by colleagues in Sinn Féin to which one may look forward in future.

There is nothing with which to disagree in the context of the Criminal Justice (Female Genital Mutilation) Bill 2011. Quite simply, it is a barbaric act, as described by the then Minister, Ms Harney and by the Minister, Deputy Reilly, subsequently. As a relatively young person, I find it extremely difficult to comprehend that any part of modern society would contemplate inflicting such barbaric acts on girls or women of any age. The introduction of this legislation is appropriate and long overdue. Through the work of others, Members have become better informed regarding the 3,000 women who have suffered in this way. It is of the utmost urgency that this Bill be passed in its entirety. The Minister has outlined in considerable detail the medical aspects and has noted that there are no medical or health benefits to FGM. Having read the research papers made available to Members by the Oireachtas Library and others as to the mythical benefits, I believe they are unreal. It is important that the various State agencies, such as the HSE and others, are appropriately informed regarding the cultural backgrounds of people in order that they can be sensitive to people's perceived cultural practices and the

myths associated with them. Among the reasons female genital mutilation, FGM, is supposedly necessary are sexuality, preservation of virginity until marriage, marriageability, economics in that FGM is an income-generating activity for the women who perform it and gives them higher status in their societies, tradition and preserving a so-called set of values and rituals in the community. Despite this, there is no proof that it is linked to any religion. There was some suggestion that Islam had some association with it but there is no such teachings in the Koran and no Islamic person of note would preside over such a barbaric act and regard it as a ritual necessary to denote one's loyalty or devotion to religion. Culturally aesthetic reasons are put forward, that in some way the genitalia is supposed to be ugly.

It is disgraceful in the extreme that in the modern world anyone would preside over this practice. While we must be sensitive in dealing with the cultural issues and the myths associated with it, we must not be deterred from moving forward very forcefully with this legislation. I do not wish to delay the House by pontificating about this issue. The Bill's benefits are clear and we must proceed with it. I suggest that Committee Stage be dealt with as quickly as possible and we can deal with amendments at that stage. I commend the Bill to the House and, in particular, I commend the efforts of Senator Ivana Bacik. I remind the media these are the debates in which they should interest themselves and not just provide the tongue in cheek coverage we have seen in the past.

Senator Ivana Bacik: I welcome the Minister for Health, Deputy James Reilly, to the House on this his first visit to the 24th Seanad. I hope to see plenty more of him. I also thank the Minister and Senator MacSharry for their kind words. I am very honoured and delighted on behalf of the Government to introduce this important Bill, the Criminal Justice (Female Genital Mutilation) Bill 2011, as the first Bill of the 24th Seanad. I am very proud it is a Bill initiated in this House and, indeed, it originated in a debate on a Private Members' Bill I introduced for the Labour Party in April of last year which had the same purpose of prohibiting specifically as an offence the practice of female genital mutilation. I pay tribute to the former Labour Party Deputy, Liz McManus, who introduced a similar Bill in the Dáil in 2001. I also pay particular tribute to the officials in the Department of Health and Children — the practice is not to name them — some of whom have been very active and proactive behind the scenes in driving this Bill and in ensuring it was carefully crafted in the Department of Health and Children, the Department of Justice and Equality and the Office of the Attorney General. This was following the commitment last April by the former Minister, Mary Harney, to introduce a specific Bill on female genital mutilation as a result of the debate on FGM which I had initiated. This Bill is very much a creature of the Seanad and also a creature of cross-party work. I am delighted the Bill has the support of the Opposition, and parties on all sides of the House have worked on it.

The legislation has also benefited from input from different non-governmental organisations, NGOs. I pay tribute to the many such organisations which I and others have worked with on the issue over many years. AkiDwA is an organisation which represents migrant women living in Ireland and it has been very active, as have Amnesty International, Barnardos, Cairde, the Children's Rights Alliance, the Irish Family Planning Association, Comhlámh, organisations representing the Somali community, the National Women's Council of Ireland, the Refugee Information Service and the Women's Health Council, all of which have worked on this Bill. A great deal of work went into the 2008 national plan of action to address FGM and all the groups I mentioned and others, were represented on a steering committee. In addition, the HSE and Irish Aid put a great deal of work into progressing research on this issue and seeking legislation. Many people have been involved in bringing this issue to the attention of the Legislature.

[Senator Ivana Bacik.]

I wish to mention a person who is in the Visitors Gallery, Ifrah Ahmed, who has been very active and last week organised a fashion show and forum in the Gresham Hotel to highlight the practice of FGM. I pay tribute to her and to the many other women and men living in Ireland who have been active on this issue.

The rationale for the introduction of the Bill is clearly apparent from the very eloquent speech of the Minister on this topic. We should all be aware that FGM is a barbaric practice but it is a practice that is widespread in 28 countries in Africa, the Middle East and Asia. The Minister referred to some countries where as many as 98% of women are subjected to FGM, usually in childhood as very young girls are cut and mutilated in this way, often with unsterilised equipment. Whatever the context, this is a practice that infringes and breaches the human rights of girls and women. It is an issue of children's rights as well as of women's rights. It is an aspect of gender-based violence because FGM, wherever it is practised and whatever the ritual or custom or religious justification offered, is in fact an expression of gender inequality and a breach of the rights of women and children. As we know in Ireland and elsewhere, control over women, their bodies and their sexuality is a key mechanism in sustaining gender inequality and FGM persists in countries where women have the least status and power generally in society.

This is not just a problem for women in developing countries, however. As the Minister has said, an estimated 3,000 or more women live in Ireland on whom FGM has been practised. AkiDwA has estimated that approximately 10,000 women and girls are now living in Ireland who come from countries where FGM is practised and who are therefore at risk of having FGM performed upon them. Clearly, the risk is heightened where women or girls return to countries where FGM is widespread in their communities. This is, therefore, a serious child protection issue for us in Ireland as much as it is an issue in other countries. We are aware that 3 million girls are subjected every year to FGM. It is a barbaric practice and leads to appalling physical and psychological consequences, including death.

There is a very powerful and moving description of FGM in Ayaan Hirsi Ali's autobiography, *Infidel*. She describes how FGM was practised on her and on her younger sister when they were five and three years old. I have two daughters of that age so it is a particularly moving, powerful and distressing account to read. Anyone who hears at first hand from women on whom FGM has been practised, as I have, or who reads accounts like the one I have described will be aware of how important it is that we take action.

I will explain why this legislation is needed and I will speak briefly about this Bill before commending it to the House. There are very specific reasons for the need to legislate against this practice. First, it is now recognised internationally that all countries, including countries in the EU and countries where FGM would not be routinely practised or widespread, should have specific legislation to prohibit FGM as part of their child protection policies. A total of 12 out of the original EU 15 member states have enacted legislation. Such legislation was enacted in the UK in the 1980s so this Bill is a catch-up in so far as Ireland is concerned. It is a matter for women's rights and also for children's rights. We are enjoined by the UN Committee on the Rights of the Child to legislate for a prohibition on FGM. The strongest reason is there are women and girls living in Ireland who are at risk of having FGM performed upon them or on whom it has been performed, usually before they have come to Ireland. The legislation, therefore, has a very practical purpose which is to act as a symbolic deterrent to assist those communities in Ireland who are fighting against the practice and challenging it in their communities.

The Bill is also of very practical import to doctors, particularly obstetricians and gynaecologists, who are working in Irish hospitals and who may be faced with women who have had FGM and who may be requested to re-infibulate women after childbirth. This legislation is necessary to protect doctors and to prohibit them from carrying out this request, even in cases where the woman requests it. This was made very clear to me at a talk I gave in the Institute of Obstetricians and Gynaecologists last September. The institute has actively participated with the Department of Health and Children with regard to this Bill. Dr. Kenny in Cork University Maternity Hospital spoke very powerfully about the experience of women patients seeking re-infibulation, how difficult it may be for doctors in that scenario and the importance for doctors that legislation is in place to prohibit re-infibulation. I am pleased the Minister addressed this issue in his contribution.

Problems exist with the existing legislation. The Minister mentioned the Non-Fatal Offences against the Person Act 1997 but there have been concerns that this Act may not cover FGM where it is performed with the consent of the woman or girl or with the consent of the parents of a child. This is a difficulty with the current legislation and shows the gap in it. Other issues arise regarding the need for a specific extra-territorial offence where a person brings a girl abroad for the purpose of having FGM performed upon her there. This is not specifically targeted in current legislation. There are very practical reasons we need to have this legislation in place.

I want to deal with some of the specific issues that I know we will discuss in more depth on Committee Stage. Some organisations such as Amnesty International have raised issues with the specific text of the Bill. It is very strong. It has been vetted by several Departments and has taken some time. It was promised last April by the then Minister, Ms Mary Harney, and was finally published on 20 January this year. It went through quite a rigorous drafting process in the meantime. I hope it can be passed and that if improvements can be made during the debates in the Seanad and Dáil they will be made. The Minister has already referred to amendments he proposes to introduce.

On Committee Stage we will discuss section 1 and the definition of “female genital mutilation” in some depth. There are other ways of defining it. The definition we have taken is close to that used in the recent British Act and the 2005 Prohibition of Female Genital Mutilation (Scotland) Act. We can examine other ways of defining it. The key factor is to ensure that it is defined in a broad enough way to cover such practices as reinfibulation. Exemptions must also be provided to protect doctors who perform certain necessary surgical operations.

There are some concerns with the definition, in particular with the exceptions in section 2. Section 2(2)(a) refers to the need to protect the mental health of a girl or woman. Akidwa and Amnesty International have raised the issue of how female genital mutilation can be justified on the basis of the need to protect the mental health of girls or women. There might be concerns that individuals might seek to justify reinfibulation on the basis of reference to mental health. We need to examine whether the phrase “mental health” needs to be in the Bill and we look forward to that debate on Committee Stage.

Another issue raised by Akidwa in regard to section 2 is the *mens rea* for the offence. I am happy that it is dealt with. There is provision in section 1 saying that the purpose or effect of the act of female genital mutilation must be excision, infibulation or other mutilation. That clearly covers intentional or reckless carrying out female genital mutilation. Following the CC judgment in the Supreme Court a person could not be prosecuted on a strict liability basis but the *mens rea* is fairly clear.

I am glad to see the exception in section 2(2)(c). It is an important aspect of the protection for victims that the Minister mentioned. It is appropriate that a girl or a woman who self

[Senator Ivana Bacik.]

mutilates would not be prosecuted. It is also appropriate that section 2(2)(d) provides that consent is not a defence. Some groups have suggested that the exemption for a woman who is over 18 should include a reference to her consent but we need to be clear that consent is no defence and we should not complicate what is already stated in section 2(3) which states that consent shall not be a defence. It is one of the strong aspects of the Bill.

It is also welcome to see that the act cannot be justified on customary or ritual reasons. It is an important proviso which we need in specific legislation. It is very important that when we move through the Bill we examine its extra territorial reach and that there are provisions for anonymity of victims, something which was lacking in earlier versions. There has been some concern about the definition of “permanent bodily harm” and we might examine the issue because clearly there are very different degrees of female genital mutilation, but all of them must be subject to the criminal offence here.

It is great to see cross party support in the House for the Bill. Anyone who makes a critique of it will do so in a constructive manner because we all want to see a strong Bill put before the House. We should remember that this is a real and pressing issue for many women and girls living in Ireland today, as I, the Minister and groups working with people from practising communities are aware. This Bill did not meet with unanimous support across Ireland.

I saw at least one article in a newspaper which quoted members of practising communities as opposing the Bill and suggesting, appallingly, that a distinction could be made between types of female genital mutilation and there was one type, so-called female circumcision, which was not as bad or should not be criminalised. All forms of female genital mutilation, whatever name is given to them, amount to a barbaric practice and a breach of the rights of women, girls and children. I am delighted to see that all forms of female genital mutilation will be criminalised in this very welcome Bill and I commend it to the House.

Senator Rónán Mullen: Tá coinne ag an Seanadóir Mary White agus ar an ábhar sin, ba mhaith liom mo chuid ama a roinnt leí.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Rónán Mullen: I welcome the Minister to the House and commend the Government on bringing this Bill forward. As other Senators have said, particular credit is due to Senator Bacik and the Labour Party for bringing forward this important issue just over a year ago in this House. It is hard to believe that between 100 and 140 million women in the world may have undergone female genital mutilation. It is a truly scandalous state of affairs and it is right and proper that Ireland would move to have specific legislation prohibiting this practice and any involvement with it.

In recognising and congratulating Senator Bacik for her initiative on this issue, although she and I have often come from different places philosophically on a range of issues concerning human dignity, it is an issue which can unite people of goodwill who seek out the common good and vindicate the dignity of the human person at all stages of life. It is an absolutely vital issue for us to raise at this time.

I very much subscribe to the notion that this is about women’s rights and reducing and tackling gender inequality. Those are important concepts and ones which have to be vindicated in our world and country. It is a pity that the word “dignity” is not present in the Minister’s speech. We really need to rediscover the language of human dignity because female genital mutilation is first and foremost an attack on human dignity. It is an attack on women’s rights and gender equality, but the fundamental issue is that it is an attack on human dignity.

This is a very interesting subject. There are many issues in the world today where we are invited to believe that certain practices are somehow acceptable because many people engage in them, have engaged in them or are they are important to certain cultures. This issue is pre-eminent in demonstrating to us that there are norms which have to be recognised and honoured across time and space.

The idea that it could ever be culturally acceptable to attack and violate a person's dignity and interfere with his or her bodily integrity in such a way as female genital mutilation is absolutely repulsive and must be so to any civilised society. That is why I would argue strongly that we infuse this debate with the language of human dignity.

I support and congratulate the Government and the Labour Party in dealing with the issue of extra territoriality. I recognise the sensitivity around dual criminality. In his speech to Minister said it is only in certain cases that one can go beyond the requirement that an act would be criminal in the country of origin of the perpetrator and of destination where the act is carried out.

I wonder whether we should make an exception in this case. In other words, we could provide that it would be a crime for an Irish citizen to carry out or to be in any way implicated or involved in female genital mutilation, even in countries where it is legal. I wonder what message it might send out to people to know that they would not be criminalised for carrying out such an action on the basis that it is legal in the country where they did it. If, for example, the issue involved child abuse in a country with inadequate child protection laws, none of us would have sympathy for a person who was criminalised for carrying out or being involved in an act of child abuse, notwithstanding that it was lawful to do so in the country in question.

Senator Ivana Bacik correctly raised the issue of mental health, one of the aspects of the legislation on which AkiDwA has raised questions. It would be useful if the Minister were to specify the reason a defence should be available, including in circumstances where the action is carried out to treat the mental health of the person concerned. In what circumstances could mental health be invoked for a procedure such that it should be protected?

While the House will have an opportunity to address the issues I raise on Committee Stage, I emphasise two points. The Minister has endorsed the preventive and proactive approach taken in the legislation and correctly noted that legislation is never sufficient. The law is a teacher and while it is important that legislation specifies what is and is not permissible, it must also be backed up by initiatives to ensure a cultural message is sent to all those resident here that female genital mutilation is an unacceptable practice. What plans does the Government have to reinforce the impact of this new law with cultural and educational initiatives in order that the law is seen to be well justified? I congratulate the Minister and Senator Bacik on their initiatives in introducing the Bill early in this term.

Senator Mary M. White: Having sat alongside the Minister at the Joint Committee on Health and Children for some years, I am optimistic and pleased that the health portfolio is in his hands. His speech was thoroughly prepared and demonstrated a deep knowledge of the issue. Senators are privileged that he has come before the House in person to deal with the Bill. I also compliment Senator Ivana Bacik and Senator Jillian van Turnhout, chief executive of Children's Rights Alliance, on driving forward this issue. Senators are delighted to have Senator van Turnhout's expertise in the Seanad.

The Bill aims to protect women in Ireland from female genital mutilation. It defines acts of female genital mutilation as indisputable criminal offences and highlights the offence of transporting females from Ireland to carry out this intrusive procedure elsewhere. The Minister has cited a number of frightening statistics, for example, that between 100 million and 140 million

[Senator Mary M. White.]

women, including 3,000 women in Ireland, have been subjected to genital mutilation. It is alarming that before the end of today, a further 6,000 women and female children around the world will have been subjected to this practice. The Minister has also noted that female genital mutilation does not have any health benefits. He has detailed the severe pain, shock, haemorrhaging and serious psychological trauma victims experience and referred to the practice being performed without sterile equipment or the use of an anaesthetic.

Last year, at my own expense, I visited Malawi to open educational facilities, including classrooms and houses for teachers, which had been funded by the staff of Louth County Council. I was left in no doubt that the reason the practice of female genital mutilation continued was a lack of education, resources and power among women in the countries in which it was practised.

I am sorry I will not be present for the rest of the debate. I enjoyed the Minister's speech and commend his passion. It is pleasing to note the seriousness with which the issue of female genital mutilation is being treated by the Department.

Senator Colm Burke: I congratulate Senator Ivana Bacik on identifying with and progressing this issue and ensuring the Bill was brought before the House. I also thank the Minister for supporting the legislation and introducing it at such an early date.

I remember raising the issue of female genital mutilation with Members of the Oireachtas in 1992 or 1993. I did so because an Irish doctor working in London had suddenly been confronted with the problem following a major influx of refugees from Somali to London. As a result, a special clinic was opened in Northwick Park Hospital to deal with the issue. Staff at the clinic quickly learned that it was not easy to approach the issue of female genital mutilation, which affects more than 100 million people worldwide. In most of the countries where the practice is performed, it is a cultural issue. Staff at Northwick Park Hospital found that a large number of the women who had experienced female genital mutilation could not speak English. Unfortunately, their spouses could speak English and within two weeks of the clinic opening staff noted that the information they were providing for patients was not being correctly translated by their spouses. As a result, the hospital had to hire translators. This highlights the cultural aspect of the problem of female genital mutilation and an unwillingness to accept the changes required.

This legislation, while welcome, is long overdue. As Senator Bacik noted, legislation outlawing female genital mutilation was introduced in the United Kingdom in 1985 and updated in 2003. Moreover, female genital mutilation has been addressed in legislation in most European Union member states. Comprehensive legislation is in place in France, in particular, where a number of prosecutions have been brought.

As a result of the influx of migrants in the past decade, female genital mutilation has become a significant issue in Ireland. In 1992 and 1993 concerns were raised with me that the British legislation was more comprehensive than ours in this area in that the former permitted prosecutions to be brought. The doctor who opened the clinic at Northwick Park Hospital ended up giving evidence before the British Medical Council to have a person removed from the medical register for performing this procedure in the United Kingdom. The individual in question was concerned that someone could be brought to Ireland and was not satisfied that our legislation was sufficiently comprehensive. The Bill before us is comprehensive in the sense that it clearly sets out a definition of the offence of female genital mutilation. While I am aware that concerns have been expressed as to whether the definition is sufficiently comprehensive, it makes it virtually impossible for anyone to use any defence. It is close to what would make

it impossible for anyone to use any such defence in this country. I know, however, that some Members will be tabling amendments to make the situation tighter.

I have a problem concerning section 4, although this will be dealt with at a later stage. It concerns the fact that for someone to be prosecuted here for having performed FGM outside this country, the act must also be illegal in the country where it was carried out. I wonder if this section can be re-examined in this respect. The UK legislation goes a step further in that even where FGM is legal in the country in which it is performed, it is still possible to prosecute. Under the provisions of the Bill before us, however, it may not be possible to do so. If there are constitutional reasons the Bill cannot be so amended, I will obviously have to take them on board. However, when cultural pressures are brought to bear, people can be removed from one country in order for the procedure to be performed in another. Under section 4 it would appear that if the procedure is legal in a foreign country, then a subsequent prosecution would not succeed here. I will therefore seek to amend that section accordingly.

As other speakers have said, FGM is very much a cultural issue and is not just about legislation. There is only so much we can do by way of legislation, but the Bill is about making the procedure illegal and ensuring that we have a comprehensive legal framework to discourage people from continuing the practice. We also need to educate people, but it must be borne in mind that it will take time to change attitudes to a matter which affects so many. The focus of such education must be on people who come from countries where FGM is an accepted procedure.

I welcome the legislation, which is long overdue and should be enacted at the earliest possible date. I thank the Minister for taking this matter on board so early after his appointment.

Senator David Cullinane: I welcome the Minister for Health to the House. He may be aware that in recent days a plethora of health issues have been discussed here and that there have been requests for him to attend the House. We will welcome the opportunity to discuss these matters with him in due course and hopefully he will be a frequent visitor to the Seanad.

I commend Senator Bacik for her work on this Bill which, as she said earlier, has cross-party support. It certainly has the full support of Sinn Féin and will not be amended by us. Our spokesperson on health in the Dáil, Deputy Ó Caoláin, has consistently called for such legislation to be introduced. We welcome the fact that Senator Bacik and her Labour Party colleagues have introduced the Bill, which is also supported by Fine Gael, Fianna Fáil and the Independent groupings.

The Minister has made some interesting points and rightly refers to FGM as a gross violation of women's rights and human rights generally. That is an important statement to make. He also said that the act will not be tolerated. There are gaps in the Non-Fatal Offences against the Person Act, which could allow people to offer a defence of consent, as one option. There are also concerns about the extra-territorial effect of the current Act, so I welcome sections 3 and 4 which deal with FGM acts committed outside the State. I am glad the Bill will attempt to fill many of the legislative voids that have existed heretofore.

The legislation will help many families that may be affected by FGM. It should be stated that most immigrants are law-abiding people and there are many in such communities who do not want their family members, including daughters, to be subjected to these acts. If we enact this Bill, thus making FGM illegal, it will give families who may come under peer pressure within their communities greater weight to say that they do not want the FGM procedure to be carried out. In addition, people will know that they could go to jail for 14 years if they allow such an act to take place. The legislation is therefore important in giving moral support and a legal imperative to such families.

[Senator David Cullinane.]

Many health problems and psychological issues flow from carrying out female genital mutilation. According to AkiDwA's statistics, over 3,000 women and girls have been subjected to FGM and I understand that the figure has been revised upwards since last year. The vast majority of those who will be affected by FGM are medical card holders who may be subjected to long delays before getting the necessary treatment. The Minister should reflect on that problem.

Senator Colm Burke spoke about addressing the cultural aspects of FGM. While we must have the necessary laws in place, we also need to win the hearts and minds of communities whose members believe that FGM is acceptable. I have worked with immigrants and I am unhappy with the direct provision system in this State whereby many young women are corralled into reception centres and are thus very much out of sight and out of mind. On three occasions, as a public representative, I was refused entry to one reception centre in Waterford because it was a private facility. My request was only to deal with routine matters in that facility. Many, if not most, of the women affected by these serious issues live in such reception centres. In addition, many advocacy groups that wish to work with and support such women are horrified by the way in which immigrants are treated by the direct provision system.

I have a high regard for the current Minister for Health and I know he will bring a different perspective to the job. He has a difficult task, given what has gone before so I will give him my full support in terms of what has to be done. The Minister and his Government colleagues, however, should be conscious not just of how we treat Irish people but also how new Irish immigrants are treated, particularly with regard to their health requirements. They have particular health needs and we cannot isolate their living environment in this context. If we are to win the hearts and minds of immigrant communities, those issues must be addressed.

I commend the Bill, which has the full support of Sinn Féin. I commend the Minister for supporting the legislation, as well as Senator Bacik for introducing it in the first place.

Senator Jillian van Turnhout: I thank the Minister for his comprehensive presentation of the Bill. I am delighted that we are discussing this legislation, which is the first measure on which I have shared my views. As previous speakers have said, this is a positive step and I hope the Bill will be passed without delay so it can be placed on the Statute Book. While my comments are aimed at strengthening and improving the Bill, I will be giving it my full support. I wish to thank the Children's Rights Alliance, AkiDwA, Amnesty International Ireland and other NGOs for their briefings. I also acknowledge the leading and supportive role played by Senator Bacik on this important matter.

We all recognise the horrors of FGM as a gross violation of human rights, as well as being a critical issue concerning children's rights and child protection. FGM has real implications for children living in Ireland today.

Families in Ireland from FGM practising regions have reported serious pressures from overseas families to bring their daughters back to have the procedures carried out. This Bill must make it abundantly clear that Ireland will not tolerate this practice. It must be passed to bring Ireland into line with the majority of European countries but, most importantly, it will help families and parents to counter pressure to submit their daughters to FGM. It should act as a deterrent to the continuation of the practice and deliver a clear preventative message.

I will use my time to focus on the Bill. As Senators, it is our duty to make this Bill as strong as possible. There are three important areas that I propose should either be amended or clarified. The first in regard to defences. I am extremely concerned about section 2 in terms of

defences, which seems to allow for a surgical operation “necessary for the protection of her physical or mental health”. This is not an acceptable defence and should be removed. We know that FGM has no health benefits and involves removing and or damaging healthy and normal body tissue. I am also concerned that mental health could be used as a defence by a parent or guardian to remove a child from Ireland to undergo FGM abroad. If such a defence is used, that is tantamount to saying that FGM must be performed to ensure the mental health and wellbeing of a girl but I do not know how this could be used in a country like Ireland where FGM is deemed totally unacceptable. The use of such a defence effectively links mental health to culture, yet the Bill elsewhere rightly states that the defence of culture cannot be used.

The second issue I would like to mention, which several colleagues raised, is that of extra-territoriality. I welcome the inclusion of the vital principle of extra-territoriality, making it an offence for an Irish citizen or a person ordinarily resident in Ireland to commit or attempt to commit an act of FGM in another country. I note the Minister’s comments on this important issue but I am still concerned. Currently, the FGM act must therefore be illegal in the jurisdiction where the act takes place for it to be an offence. I am concerned about the issue of dual criminality which the Minister has raised. This is an issue on which we need to send a very strong message to the effect that, regardless of the other country’s legal stance, in Ireland it is illegal and it must be illegal for a person to take a child to any other country. This to me is as important as terrorism and I would like that issue to be re-examined.

The third issue is in regard to the definition in the Bill on which many speakers have commented. The definition is close to the World Health Organisation’s definition, which the Minister referenced. I question why we would not use the World Health Organisation’s definition to ensure that it is abundantly clear.

I fully support the Bill, as drafted, but we could go further and send a very strong message.

Senator Cáit Keane: Cuirim fáilte roimh an Aire chuig an Teach. Táim an-bhródúil as an deis labhairt do mo chéad uair sa Teach ar an Bhille seo. Inniu, tá deis againn, ní amháin caint agus obair a dhéanamh ar son mná na hÉireann ach ar son mná an domhain. Táim an-bhródúil a bheith páirteach sa díospóireacht seo.

On my first opportunity to speak in this House, I am delighted to be afforded the opportunity to speak on this important Bill. It is an opportunity to speak not only for the women of Ireland but for the women of the world, some of whom perhaps cannot speak for themselves. We should all be cognisant of that.

I, like previous speakers, commend Senator Ivana Bacik on initiating this Bill in the House and having brought it to Second Stage. We will be able to make further contributions on it as it progresses. The initiation of this Bill is an example of how Seanad Éireann carries out its work. It has effectively and efficiently initiated Bills in the past and it will initiate more in the future.

Senator MacSharry commented on how the media are absent from the House on this important occasion, which is regrettable. It is an important occasion for women but it is more than that. It is an important occasion for health services for women, Ireland’s health services, health professionals, social workers, other services and provisions related to this barbaric act. I am sad the media in Ireland have not shown courtesy to the people whom the subject matter of this Bill has affected and will affect. It has been enunciated that there is cross-party support for this Bill. Perhaps it is a reflection on the media in Ireland that women’s issues are not important to them. This is an example of that. Good news very seldom makes news, it is bad news usually that makes the news.

[Senator Cáit Keane.]

Speakers have commented on the statistics on the prevalence of FGM. The World Health Organization's statistics on its prevalence in the world and in Ireland were mentioned. I have a list of statistics but I will cite just one, the fact that 6,000 girls a day suffer this practice. That statistic brings the horror of this home and raises the question should we have had our eyes closed to it for so long. Note should definitely be taken of that statistic.

The practice is unquestionably a barbaric act — there is no other word for it — by western standards but by any standards worldwide. We have continuous migration into this country and culture has been mentioned in the debate but culture is one thing and barbaric acts are another. This practice must be condemned.

Women who have undergone this barbaric procedure have suffered from all types of medical problems afterwards. It must to be outlawed. There is no legislation in place covering the practice of FGM and we are dependent on the sub-legislation in place. There is lack of a clear legal framework not alone to provide for the people affected but to assist health workers, social workers and care professionals. I commend the Minister on his detailed contribution on the Bill he presented and on the knowledge he has brought to the House on the implementation of the medical guidelines.

Senators Bacik and van Turnhout mentioned the mental health aspect in terms of the impact of this act. We should flesh out that aspect on Committee Stage and amend the legislation accordingly. Mental health covers a multitude and it needs to be detailed in the Bill. If it is not detailed, there will be loopholes. We must ensure that we close all loopholes in the case of this important legislation.

Another aspect is that of consent, to which Senator Bacik referred. It concerns sections 3(2)(c) and 4(2)(d). Section 3(2)(c) contains the words “done to a woman” but the words “without consent” are omitted, although section 3 provides that it shall not be a defence for it to be believed that there was consent. We will have to examine that section on Committee Stage. In European countries women have free will and consent is one thing but in other cultures women even over the age of 18 do not have free will and are subservient to the male gender in certain countries. We must ensure that if we are legislating in this respect for people going out and coming back into this country that we take into consideration that what consent means in Europe may not mean consent in another jurisdiction. That must be taken into consideration in terms of sections 3(2)(c) and 4(2)(d). Education must also play an important part in this respect.

I thank the Minister for bringing this legislation to the House. I support it and I am delighted it has cross-party support.

Senator Aileen Hayden: Like others, I welcome the Minister to the House. I also congratulate Senator Bacik, who championed the original legislation, the Female Genital Mutilation Bill 2010.

I became aware of this issue when, as a student in University College Dublin, I read an account of an African UCD student. She wrote in a college magazine about how she had been pulled out of her bed at ten years of age, taken by the women of her community and had a clitorrectomy performed. It was probably the most harrowing story I have ever come across.

Many of those present are parents. I have two daughters. The idea that one could do such a thing to a child is almost beyond belief. However, significant numbers of female genital mutilations are performed on female children globally. It is not on the wane. For example, few Irish

people who holiday in Egypt are aware of the fact that, despite protestations to the contrary, approximately 90% of its female children have FGMs performed on them. For those of us in Ireland, it is tempting to believe that, while this is an issue, it is not one for us. As stated by Senator Bacik and others, this is far from the situation. Apart from the fact that an estimated 2,500 women in Ireland have had FGMs performed on them, we are also a multicultural society and must face up to the facts of being one.

It has been stated in the House that this situation primarily concerns uneducated people. Facts from the UK give the lie to this assumption. Educated parents in minorities continue this illegal practice either directly or via underground methods, that is, they have FGMs performed on their children. It has also been stated that this is a cultural matter. We cannot underestimate the importance of the cultural precepts attached to FGM. For example, Senator MacSharry mentioned the sincere belief in a number of societies that the capacity of daughters to marry well would be impacted where FGM was not performed on them. We cannot underestimate the societal pressures. For this reason, we must be clear and vigilant regarding where we stand as a society.

We could expand upon a number of the issues raised by Senator MacSharry. The long-term effects of FGM include the decrease or loss of sexual sensation, in part or in its entirety, infertility, urinary incontinence and complicated child birth. I read a harrowing account of an Irish midwife working in a Middle Eastern country who had assisted a number of women on whom FGMs had been performed give birth.

We cannot be remotely casual about what our multicultural society is facing. We cannot leave this matter at the legislative stage. Legislation is vital and I am confining my comments to the Bill as a whole as opposed to specific aspects, but it is important that the legislation be backed up by enforcement and the clear message that sanctions will be handed out for any offence under this law. We must also move forward and provide support for the women of minorities. Evidence from the World Health Organization, WHO, indicates that the education of mothers in particular is influential in combating the practice of FGM. It is also important that we provide resources to facilitate women who seek the reconstruction of their genitalia following FGMs.

The issue of FGM goes to the heart of what constitutes femininity and female sexuality. As a society, we must be unequivocal in our condemnation of this practice.

Minister for Health (Deputy James Reilly): I thank the Senators for contributing to this debate and note the broad support for the Bill. Like others, I am shocked that this practice continues to such an extent across the globe, that our citizens are at risk in this country and that people who would like to view Ireland as their new domicile should still be at risk.

The main purpose of the Bill is to prohibit FGMs and to provide for related offences, some of which apply to certain extra-territorial jurisdictions. Having a specific Bill prohibiting the practice will bring legal clarity and certainty to the issue and, I hope, act as a powerful deterrent for practising communities. In drafting the Bill, my officials have been able to learn from international experience in this field and call upon experts to ensure the proposals are evidence-based and in line with best practice. This is an important principle of which we should continually remind ourselves, namely, that our policies as well as our medical practices should be evidence-based.

I will address some of the issues raised by Senators. The Government recognises that FGM is a violation of human rights and a form of gender-based violence. I take on board Senator Mullen's concern that this is a serious attack on the dignity of a human being. Mental health

[Deputy James Reilly.]

issues have been mentioned. The concern is that they might be used as a ruse or legal loophole. The exemption referring to the protection of mental health refers to the possible need for surgery for gender reassignment, intersex conditions or congenital malformations. As custom and ritual reasons cannot be invoked as a defence for this purpose, neither can the effects of not conforming with them. I hope this reassures Senators, but I would be happy to elaborate on Committee Stage and to take on board any amendment that strengthens this provision. Members should be clear that this is what the mental health section is about.

As worded, the Bill prohibits the process of reinbulation, which serves no purpose in respect of labour or birth and, therefore, is not exempted under subsection 2(2)(b).

The issue of permanent bodily harm is a complex one that posed some challenges. While the Government is clear that FGM in all its forms must be criminalised, it is not our intention to criminalise certain forms of genital piercing or cosmetic surgery for aesthetic purposes. In our deliberations, we were conscious that the rights of all women living in Ireland had to be balanced against one another. Therefore, the Government decided to use the broad WHO definition of what constitutes FGM, including Type IV. This category subsumes all other practices not included in Types I, II and III and usually refers to pricking, piercing, incising, scraping and cauterising. This decision was made to ensure that all forms of FGM were covered by the Bill on the basis that terms such as “pricking” can be used to legitimise or cover up more invasive procedures. An exemption was added to protect the freedom of choice over cosmetic or other procedures that do not violate women’s human rights. This approach was chosen following extensive consultation with the Office of the Attorney General and the Office of the Director of Public Prosecutions. Under this exemption, no offence is committed if an act of FGM is committed against a woman of 18 years or over and where no permanent bodily harm is done. If, however, no consent was given for this act, it would still constitute assault and would be covered by the Non-Fatal Offences against the Person Act 1997.

Concerns have been expressed in respect of dual criminality. While it could be argued that the requirement of dual criminality is undesirable, the Government has been advised that it is necessary at present to comply with constitutional and international law. Only in exceptional circumstances are extra-territorial offences in criminal law provided for without a dual criminality requirement. Under Article 29.8 of the Constitution, the State may exercise extraterritorial jurisdiction in accordance with the generally recognised principles of international law. Under that, only offences *jus cogens* — against the conscience of the world — such as piracy, war crimes and terrorist acts carry universal jurisdiction. Where extraterritorial as opposed to universal jurisdiction is exercised, it almost inevitably includes a requirement for dual criminality.

Article 7 of the European Convention on Human Rights is of particular relevance in respect of this matter, particularly as it provides that no person shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. However, I am aware that Ireland is involved in preparatory work relating to the draft Council of Europe convention on preventing and combating violence against women. Under the terms of this draft convention, the practice of FGM is condemned. In addition, it provides that there should not be a dual criminality requirement. The removal of dual criminality from FGM legislation could be revisited if the convention is ratified. The UK’s Female Genital Mutilation Act 2003 does not include a dual criminality provision because the Government of that country is not bound by the requirements of a constitution which demands it.

The Bill before the House makes provision for offences which relate to removing a girl or woman from the State for the purpose of subjecting her to FGM. The relevant section mitigates the need for the dual criminality requirement. The Bill incorporates provisions to safeguard the privacy of the victim as well as that of the accused person, as set out in the Criminal Law (Rape) Act 1981 and the Criminal Law (Rape)(Amendment) Act 1990. Officials from the Department are currently examining the possibility of further strengthening the protection available to the victims of FGM. This protection is particularly pertinent to FGM cases as a result of the fact that the victims are likely to be children and the accused are often their parents.

In the context of raising awareness, the HSE awaits the enactment of the legislation to progress with printing information leaflets relating to FGM. Moreover, the executive has engaged in significant steps to raise awareness and train health and social care professionals in this area by progressing the health-related objectives of the national action plan against female genital mutilation in recent years. I assure Senator Cullinane that we will investigate the instances to which he referred where citizens and non-nationals are not being afforded proper protection and information.

I again thank Senators for their contributions to this debate. Like many others, I thank Senator Bacik for introducing legislation on this matter last year. I look forward to further constructive examination of the Bill on Committee Stage.

Question put and agreed to.

Committee Stage ordered for Tuesday, 7 June 2011.

Acting Chairman (Senator Jim Walsh): When is it proposed to sit again?

Senator Ivana Bacik: At 2.30 p.m on Tuesday, 7 June 2011.

Adjournment Matters

EU-IMF Programme

Senator Thomas Byrne: I thank the Minister for Finance, Deputy Michael Noonan, for attending the Chamber to address this Adjournment matter at such short notice. He has an important job to do, one in which, by and large, I and my party will be supporting and encouraging him. This matter, however, I believe is sufficiently serious for him to address.

Last week a Minister, as part of a pre-arranged interview concerning the return of Ireland to the bond markets, an area not in his brief, stated Ireland would not return to the bond markets. Since then Government officials have had to make all sorts of briefings, creating confusion.

A similar event occurred several weeks before when another Minister misspoke official Government policy. On this most important and most sensitive issue, the Government is speaking not with one voice or a sense of common purpose but as a collection of individuals trying to get themselves in the newspapers.

The leader of Fianna Fáil mentioned in the other House that this slip-up was referred to 2,200 times in the international media. The Minister in question has now re-entered the fray,

[Senator Thomas Byrne.]

claiming his comments were hyped up. Yesterday's edition of *The Irish Times*, however, sums up this so-called hyped up mood. It stated:

. . . careless talk by Government Ministers on fiscal policy at a time when the State's very solvency is at stake can prove extremely damaging. It creates doubt and uncertainty in financial markets among those that most matter, the bond investors from whom the State hopes to borrow again next year.

It went on to recommend that the Minister, Deputy Leo Varadkar, should mind his own Department's business. I would recommend that too.

Deputy Varadkar is a very intelligent Minister and I will be lobbying him on important issues such as road safety, the Slane bypass and integrated ticketing for commuters. We will have to borrow from bond investors to fund many of these items. The impact of this talk and confusion on consumer and business interest rates from our banks must not be underestimated either, a point needed to be understood more by the wider populace.

The Government should speak with one voice on the important issue of our solvency, a provision which should apply to Government backbenchers too. Throwaway comments in a Chamber, or even a leak from a parliamentary party meeting, can often end up in the world press, as I know from bitter experience.

There is good news, however. Yesterday's edition of the *San Francisco Chronicle* stated, "Ireland should be able to access bond markets next year, according to Frank Gill, senior director of European sovereign ratings at Standard & Poor's." The world is watching. I hope these comments should give encouragement to the Government to stick to the approach laid down and agreed by the former Government. It should speak with one voice, with a sense of common purpose and remember that life in government is not just about profile interviews but sometimes staying quiet. From this side, we will support the Government's agreed policy on our solvency and do nothing to undermine it.

Minister for Finance (Deputy Michael Noonan): I thank Senator Thomas Byrne for raising this issue and giving me the opportunity to address the remarks made. I also thank him for his support and that of his party for the general thrust of Government policy on these matters.

When commenting on financial market issues, it is important we are aware that what we say can be misunderstood for a variety of reasons. For this reason finance Ministers refrain from comment on such matters. However, the Government position remains as was, namely, we will repay our debts in line with their terms and conditions. The Government is not seeking any rescheduling.

I reiterate that the Government is committed to the programme targets. This commitment covers all the conditions covering fiscal consolidation, financial sector reform, structural reform and structural fiscal reform. Meeting these conditions on time and on target is the best way to ensure that we emerge successfully from this programme. This will mean that we can return safely to the financial markets for funding in as timely a manner as possible. This is one of the principal objectives of the programme.

This Government's commitment to the programme does not stop us from seeking and agreeing changes to aspects of it. Indeed, the Government has already renegotiated changes in the key conditions of the programme that it wished to change. The outcome of the recent review was that programme implementation is on target, in terms of the fiscal targets and of delivering the conditions with end-March 2011 deadlines. We have made a strong start and have received

a clean bill of health from the troika, namely, the European Union, European Central Bank and IMF, the teams which undertook the review.

The subject of this motion must be considered in this context, namely, a strong commitment to the programme objectives and a strong track record on implementation. In relation to the statements made, I believe these were taken out of context. In the case of the Minister, Deputy Varadkar, I understand his comments were made in relation to the likely funding of public private partnerships in the transport infrastructure sector and were not specifically about the EU-IMF programme of financial support in general. On the comments made by the Minister for Public Expenditure and Reform, I understand that this refers to a story carried by Reuters in the middle of last month. This arose from an answer to a hypothetical question. I want to emphasise that answers to hypothetical questions are just that. Government policy is, as I have already stated, that we will repay our debts in line with their terms and conditions. The Government is not seeking any rescheduling.

Ireland's programme is on track and we are doing what is necessary to restore our ability to fund ourselves. It is the stated intention of the National Treasury Management Agency, NTMA, to return to sovereign debt markets as soon as market conditions permit. The steps necessary to enable such a return include resolution of the banking sector issues and continued progress in the reduction of the budget deficit in line with the targets agreed in the EU-IMF programme of financial support together with implementation of policies that will see us return to sustainable economic growth. A key development in that regard has been the publication of the results of the bank stress tests on 30 March 2011 and the associated recapitalisation exercises which have been well received by investors and rating agencies alike.

The NTMA is in constant contact with market participants and will advise me when it feels that the time is right to re-enter the markets. In the opinion of Mr. John Corrigan, head of the NTMA, we may be able to do so in the third quarter of next year. While circumstances change, that is his tentative date. Based on conservative projections of our funding needs and taking account of funding possibilities, there is no urgency about a return to the markets. Indeed, the purpose of a programme such as the EU-IMF programme for Ireland is to provide the space necessary for economic and fiscal adjustment to take place. Based on current projections and assuming no market access, the State has access to sufficient funds for its needs into the second half of 2013.

The continued adherence to Government policies aimed at fostering growth and to the programme conditions, will be an important part in achieving this outcome.

Community Employment Schemes

An Cathaoirleach: I welcome the Minister for Social Protection, Deputy Burton, to the House and congratulate and wish her well in her new portfolio.

Senator Pat O'Neill: I, too, welcome the Minister to the House.

I welcome the introduction of the TÚS initiative as another important measure to stem the huge problem of unemployment that is the legacy of the last Government and I commend Minister, Deputy Burton, for her work in progressing this new programme.

Unemployment is a serious issue in Kilkenny, with in excess of 7,000 people in the county currently on the live register. Five young people have emigrated from the parish of Bennetsbridge in the past three weeks. Their loss is felt by everyone in the community, not least their families. In a small village, the emigration of five young people affects everyone. Their presence

[Senator Pat O'Neill.]

is missed from the local GAA and soccer clubs and from the various important little events that take place in a rural village throughout the year. It is a sad time for families and communities.

As I mentioned, the live register in Kilkenny is at a record high. I note that my county has been allocated only 80 community work placements under the TÚS programme which will be managed by Kilkenny Leader partnership for the Department of Social Protection which has overall responsibility for the scheme. I welcome that the work opportunities are to benefit the community and are to be provided by community and voluntary organisations in urban and rural areas. However, I am concerned that this programme, like so many programmes introduced by the last Government, is a little *ad hoc* and short term in nature. Moreover, I am disappointed that the TÚS programme is limited to the community and voluntary sector.

Having just come to this House from Kilkenny County Council, I am keenly aware of the huge pressures that local authorities are under in these difficult times. In Kilkenny, 150 staff have been let go, 75 of whom were outdoor staff. I am sure this situation is replicated in local authorities the length and breadth of Ireland. I ask that the Minister to revisit the parameters of the TÚS scheme with a view to including local authorities in its remit. In recent times, with the visits of President Obama and Queen Elizabeth and with the Government's excellent initiatives in the jobs strategy, Ireland's role as a tourist destination is at the forefront of people's minds. However, we have some important improvement and maintenance work to carry out if we are to show our best side to visitors. As I mentioned, local authorities are feeling the pinch with the loss of staff, particularly outdoor staff. There remains a great deal of work to be done in terms of cleaning up litter, dealing with graffiti and so forth and I believe this programme could assist in this regard.

The TÚS scheme could also assist in dealing with issues arising from estate management. I ask that the Minister, Deputy Burton, examine these issues and to work with the Minister and Minister of State for the Environment, Community and Local Government, Deputies Hogan and Penrose, respectively, with a view to expanding this new scheme to include local authorities in its remit. There is an opportunity here for joined-up thinking.

Perhaps the Minister will clarify if it will be possible to increase the number of places on the programme available in Kilkenny and if every type of community group be entitled to register for TÚS, including local sports clubs such as the GAA? It is soul destroying for people to know that two days after having worked 364 days on this scheme they will be unemployed and will not be able to re-enter the scheme for three years. What will happen when participants complete their year in the scheme? Will they be eligible to participate in other schemes or will the Minister change the criteria of the scheme and extend the time of employment? Will participants be able to move to another community scheme? How does this scheme fit in with existing schemes aimed at the unemployed operated by the Department of Social Protection, including the community employment and rural social schemes? Will the Minister consider including on the scheme the long-term unemployed who are availing of jobseeker's allowance? Has the Department engaged with trade unions about the scheme? While I welcome the scheme I believe that with minor changes communities and unemployed could get greater gains from it. Does the Minister propose to review this scheme to put it on a stronger footing and to link it in more coherently with other programmes?

I would like to commend Leader in Kilkenny for its excellent community work and to thank the Minister for coming into the Seanad to discuss this matter today.

Minister for Social Protection (Deputy Joan Burton): Thank you, a Chathaoirleach, for your remarks. It is very nice to be back in the Seanad today.

I acknowledge Senator Pat O'Neill's interest in this area and thank him for raising the matter. It affords me an opportunity to inform the House of the roll-out of TÚS, a work placement initiative with the community and voluntary sectors. This will be an important initiative for persons who are unemployed.

I was delighted when, on taking office, I saw the provision of 5,000 places, but I was surprised to find no one had taken the places and that the scheme had not been initiated. Much work has been done since I took office as Minister for Social Protection to get the scheme going.

Senators will wish to note that the first supervisory positions for TÚS were filled this week. Over the course of the next fortnight another 100 or so supervisory, or team leader, posts will be filled and the first 60 or so participants will commence work with local development companies throughout the country as soon as the supervisors are in place.

I would like to summarise some of the key features of TÚS. Five thousand work placements are being identified in the not-for-profit community and voluntary sectors. Local development companies have been working to identify quality work placements within suitable organisations across a broad range of services of benefit to communities. Participants will be paid their social welfare entitlements and an additional €20 per week. Participants under 25 years will be paid the maximum job seeker's allowance plus €20 per week. This will make TÚS very attractive to this age group. Participants will work for 19.5 hours per week, with some degree of flexibility in the schedule of hours.

The aim is to offer 5,000 work placements over the next year. Separate allocations have been made, as was said by the Senator, to each of the local development companies and to Údarás na Gaeltachta which will deliver TÚS at local level. It is important we maintain the focus on the long-term unemployed. For this reason, eligibility for TÚS is, at present, confined to those on the live register for 12 months and in receipt of job seeker's allowance.

TÚS presents one of a number of opportunities to meet the Government's aim of keeping people work-ready and at the same time providing and supporting valuable support services in the community and voluntary sectors. In addition to TÚS and a number of other schemes and initiatives that provide work or work placement opportunities, such as community employment and the rural social scheme, I announced a new internship programme as part of the jobs initiative with the aim of providing 5,000 short duration opportunities.

With regard to the Senator's comments about the limitations on TÚS, the internship scheme, which will go live on 1 July, may answer many of his issues. It will be open to people who have been on the live register for three months or more. It is aimed to give experience to people who have a qualification or an accomplishment but who cannot get a job because they have no experience and cannot get experience because they cannot get a job. Participants will get a six to nine month internship or traineeship, for which they will continue to be paid their social welfare payment plus €50. Given the Senator's comments about a more flexible scheme, he may like to look at that scheme. It will be included in the social welfare Bill and I will outline it in detail when I bring the Social Welfare and Pensions Bill 2011 to the House before the end of June.

There are a range of interventions, with differential duration and access criteria, designed to offer responses to people presenting with a broad set of circumstances. The overall intention is to have a suite of interventions that will play different roles for people wishing to enhance their employability or commence self-employment.

[Deputy Joan Burton.]

The availability of job opportunities with some financial incentives, even short-term work placements, is important. In addition to any financial benefit, work brings benefits to the individual, including improvements in his or her position, and to family circumstances. The intention is that following engagement with these types of interventions, a person will progress to available work opportunities or further training or development.

For anyone involved in community or voluntary work or in the community at large, it is depressing to see young people in their 20s heading into dependency on social welfare which could last for half a decade, a decade or even longer and become a lifestyle choice rather than a temporary period when they get an income support from the State and the State reaches out to assist them, whether through education, training or work experience, to get back to the jobs market. That is the cultural reform we must bring about in social welfare.

There is a range of expertise available within local development companies. I went to Tullamore to meet the network of local development companies and to talk about TÚS in detail. I was amazed, on becoming Minister, to find that no one was taking up the course. The response so far has been very positive. During June, we will see the first people taking up the placements. The response from the different companies has been positive.

I will come back to the Senator and we will have an opportunity during the debate on the social welfare Bill to discuss this matter. We will examine the internship programme, which specifically answers the access flexibility requirement the Senator indicated. The internship programme will be open to the private, public, voluntary and community sectors. There have been indications of interest by development companies and the private sector but also, for example, by county managers.

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire go dtí an tSeanaid. Tá mé thar a bheith buíoch as an t-am a thógáil, mar tuigim go maith go bhfuil sí an-chruógach na laethanta seo. Tá fáilte faoi leith roimh na cuairteoirí óga sa Ghailearaí go dtí an tSeanaid tráthnóna. I welcome the Minister and thank her for taking the time out of her busy schedule to talk about an important issue relating to community employment, CE, schemes, which has come to light in recent weeks. My Sinn Féin colleague, Senator David Cullinane, highlighted what he feels is a jobs crisis. We are certainly in dire straits with regard to job creation. I appreciate that the Minister is looking at this as a matter of urgency.

It has come to our attention that in recent weeks a directive has been given by one of the regional departments in FÁS that the leniency of allowing an extra year on a FÁS scheme has been curtailed, that the three year rule is to be implemented very strictly and that people will not be given a fourth year or extra time on a local CE scheme.

A number of questions arise from the directive. It is not logical when we are in a national jobs crisis. The FÁS website describes the community employment scheme as an employment and training programme that helps long-term unemployed people to re-enter the active workforce by breaking their experience of unemployment through a return to a work routine. This is all fine and dandy if one has a job to return to. At present, there is a huge difficulty for people who are leaving CE schemes in finding employment.

In most areas, people who have been on CE schemes and who are doing extremely important work in their communities are being displaced by other people who are already on the live register. There is a revolving door scenario, where people on FÁS courses, who have been trained and are doing fantastic work, are being replaced by others who are on the dole. It does

not make sense. The communities I talk to in Connemara and Galway are disappointed by the lack of leniency where there was leniency previously.

Did the directive originate at Government level, particularly from the Minister's Department, or did it originate within FÁS? What is the thinking behind it? There is no benefit in people leaving CE schemes if they are unable to find gainful employment and are put back on the dole. One of the benefits of CE schemes is that participants work with other people, are trained and improve their skills. Leaving people languishing on the dole is not a positive option when the cost of keeping them on CE schemes might not be much more.

It is possible the related cost of mental health issues which would ensue from not having them on those CE schemes would be more than the amount we are saving by putting them back on the dole.

I ask the Minister to consider the Sinn Féin proposal of creating 10,000 new places on FÁS CE schemes because, as the Minister said, the jobs initiative is being rolled out at present but those jobs have not yet materialised. In the interim, there are over 430,000 people on the live register. This would be a fantastic opportunity to get those people doing meaningful work in their communities. The cost of having them on a CE scheme as opposed to being on the dole would be much more beneficial in an economic, social and every other sense.

I draw attention to the plight of self-employed people who do not qualify for the dole, including those who had been labourers, electricians, plasterers, fishermen, farmers and so on. At this stage, they are not counted on the live register and are not entitled to unemployment payments despite being unemployed. We feel something needs to be done to try to help these people out of this difficult situation and to help train them. We plead with the Minister to address this as a matter of priority because such people seem to be the forgotten unemployed in our country at present.

The Minister might give us an insight as to what is happening in regard to the restructuring of FÁS and the future of community employment within the new structure of the national employment and entitlements service. When and how will this happen and will it have an effect on the CE schemes to which I referred?

I am not sure if the Minister is aware of the work done over the years by Pobal in the area of disadvantage. Mr. Trutz Haase has done much work on economic indicators and the deprivation index which shows that many rural and peripheral areas are at a much higher level of socioeconomic disadvantage. For example, to take the Connemara Gaeltacht, the
2 o'clock further west one goes, the lower the level of education and the higher the proportion of people dependent on State income such as a FÁS course or State-funded employment. Therefore, there is a cycle of deprivation that has continued even though Pobal has been putting money into schemes for the last 20 years to try to reverse this. The gap between rich and poor, and between those who are deprived and those who are not, has not lessened but has widened a little.

In peripheral areas such as west Donegal and west Mayo, as well as possibly in some urban areas where there is a huge level of deprivation, will FÁS bring back that level of leniency in regard to CE schemes so those people would be allowed by the Minister to have that extra fourth or fifth year on the schemes? It is much more difficult for people in such areas to find gainful employment and I ask that they would be given a special dispensation and some leniency to try to help them through these difficult years, to keep those communities alive, to allow people to train and upskill and to keep them in gainful employment as well as doing much of the work that is needed in the community. Another element affecting communities in the west

[Senator Trevor Ó Clochartaigh.]

is that many of those who are able to work are emigrating, so we are losing many of the younger people who would do much of that voluntary work in those areas. It is a very small thing which would make a huge difference to us and our communities.

I welcome the Minister's comments on the TÚS programme and we hope it will roll out well under Údarás na Gaeltachta. Gabhaim buíochas leis an Aire. Tá mé thar a bheith buíoch di as an t-am a thógáil agus tá súil agam go mbeidh sí ábalta na smaointe seo a thógáil ar bord.

Deputy Joan Burton: Ba mhaith liom buíochas a ghabháil leis an Seanadóir maidir leis an cheist seo. I thank the Senator for raising this matter. Community employment has long been an important initiative for persons who are unemployed. As with a number of other interventions, community employment has evolved over a number of years, with eligibility broadened to provide working opportunities for a wide range of people who face challenges in accessing the wider work force.

The primary aim of community employment is to facilitate re-entry to the active workforce. Community employment achieves this by breaking the cycle of unemployment, opening up training and educational opportunities, providing work experience and work routines, and utilising people's skills. Operationally, community employment has two options, with different eligibility rules and conditions. The part-time integration option is designed to help participants aged 25 years and over to find a job or enter full-time training or education, normally after one year on community employment. A person who is aged 35 or over and is claiming a jobseeker's payment for three years or more can qualify for the part-time job option. With this option, a person can work up for up to three years compared with the standard one year available to other participants in recognition of the need to provide access to a part-time job for extended periods for persons in this eligibility category who have been unable to secure regular employment for some time.

Extensions of a further year are only allowed under the part-time integration option. Requests for extensions must be made a minimum of eight weeks before the participant's proposed finish date by the project supervisor. Once an extension application is received by the local FÁS office, the FÁS development officer decides whether the extra year's placement is the most suitable and cost effective measure to assist a participant in gaining employment. Participants who are deemed job-ready by the supervisor are not extended in order to free up the place for other participants.

Lifetime participation on CE is capped at three years for those aged under 55 and the cap is six years for those aged 55 and over. Persons in receipt of a qualifying disability-related payment for 12 months are eligible for one additional year on top of these two limits, that is, four years for those under 55 and seven years for those aged 55 to 65 years. I have no proposals to consider changing these arrangements. The day-to-day administration of community employment is a matter for FÁS as part of its responsibility under the Labour Services Act 1987, as amended by Part 3 of the Social Welfare (Miscellaneous Provisions) Act 2010, and the Minister of the day has no role in respect of any administrative matter, as I am sure the Senator appreciates.

The community employment programme makes an important contribution to the delivery of local services across the country and provides significant employment and training opportunities for those engaged. I do not envisage any change that would impact on the nature or range of services delivered. Within the current budgetary constraints, the number of places on community employment was increased to 23,300 in 2010. The budgetary provision in 2011 will

allow FÁS to continue the programme at the same level as in 2010. In delivering these places, FÁS will continue to operate flexibly in the management of this allocation in order to maximise progression to the labour market while at the same time facilitating the support of community services.

The Senator asked about the national employment and entitlements service. As he is probably aware, at present the whole of FÁS is within the Department of Education and Skills but the proposal is that the employment services side of FÁS, including the community employment services, will move to the Department of Social Protection. This is in place at present at the planning and senior levels, and I am getting an opportunity to meet FÁS staff in different centres. I hope the national employment and entitlements service will be under way this time next year but it is a major change to bring social welfare services, community welfare officers and FÁS employment advisers and placement services all together under one roof. If they come together under one roof, we should be able to offer people who are in need of social welfare income support a much more integrated service to help get them back into the labour market or training and education. As I said, we have begun that process.

As I said to Senator O'Neill on the earlier matter, I am also in the process of activating and rolling out the 5,000 TÚS places. There has been a very strong response from local development and management companies, including the Údarás na Gaeltachta, because they see it as a valuable opportunity.

On 1 July we will offer the internship option. This will provide a great deal of flexibility that voluntary and community organisations and the private and public sectors will be anxious to explore. However, it is about giving. Consider, for example, a person who has completed an apprenticeship or finished a degree or masters course, yet cannot break into the jobs market because of the current economic climate. This scheme will offer six to nine months of quality experience which that person can utilise and include in a *curriculum vitae* to get into the jobs market. In addition, this measure will stop people, particularly young men, drifting into long-term unemployment. All international and Irish studies show that it is an especially negative experience for them and marks them for a very long time.

An Cathaoirleach: Senator Ó Clochartaigh may ask a brief supplementary question.

Senator Trevor Ó Clochartaigh: The Minister has mentioned she has no proposals to change the arrangements. I am bold enough to ask her to take on board the proposals I have made in this Chamber, namely, to look at the Pobal measuring system in order to identify areas of deprivation and perhaps subsequently change the terms of reference regarding extensions for a further year which are allowed only as part of the part-time integration option. Areas seen to be deprived under the Trutz Haase measurement system might be included. As the Minister stated, the position for long-term unemployed persons did not change, even during the boom times. Having such an option would alleviate some of the problems under discussion.

Deputy Joan Burton: The Senator can take it as a given that all existing schemes will be kept under constant review. As stated, an unprecedented number of unemployed persons are looking for opportunities. Although the community employment scheme has its critics who say it is not sufficiently close to the labour market, many of us realise it offers very valuable experience to certain individuals in communities throughout the country.

As the integration of FÁS with my Department proceeds, community employment schemes will come more closely within the Department's remit. Pobal and the partnership companies will be included in the remit of the Department of the Environment, Community and Local

[Deputy Joan Burton.]

Government and there will be a certain amount of change. However, the important element of the changes is giving persons who are unemployed opportunities in order that they will believe they have valuable options they can exercise in work, education and training placements. The spin-off effect is to be felt in the contribution they make in community work. I will keep the matter under constant review.

The Seanad adjourned at 2.15 p.m. until 2.30 p.m. on Tuesday, 7 June 2011.