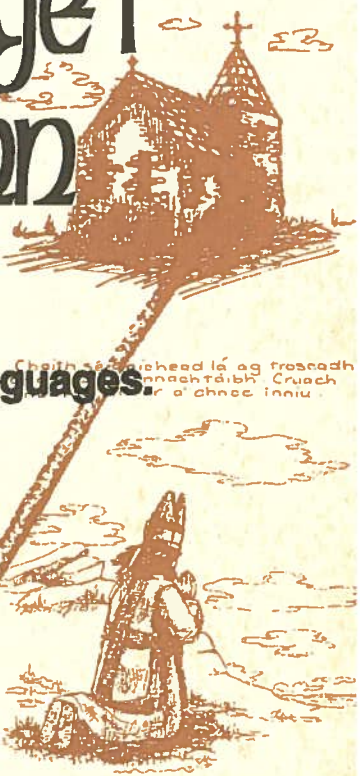


Stáid agus stádas gaeilge i dtuaisceart na hÉireann

The Irish language in Northern Ireland

The UK Government's approach to the Irish Language in light of the European Charter for Regional or Minority Languages.

Chairh Rádraig tríocha bliain ag leathnadh an Chreidimh. Bhunaigh sé tuairim is ar 300 eaglais sa tír. Is in Ard mhacha a bhunaigh sé an phríomh eaglais. O'ag sé i Sabhall agus i Aireadh é i nDún Rádraig.



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Published by the Committee on the Administration of Justice

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European Charter for Regional or Minority Languages**

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PREFACE

This publication continues the interest of the **Committee on the Administration of Justice** in issues of minority rights and cultural rights. Questions surrounding the Irish language have, of course, been the subject of much controversy in the past. This is usually the case with minority rights issues. Nonetheless, much activity in the past number of years has endeavoured to extract the language from becoming further embroiled in controversy.

The concern of this publication is to sustain the language and seek for ways to cement the progress that has been made in re-generating interest in and support for it. The issue has been looked at in the light of debates elsewhere in Europe.

The Executive Committee of **CAJ** wishes to thank Stephan Mo for producing the first draft of this report. A student from Norway who spent three months in Northern Ireland in the Autumn of 1992, Stephan produced an extensive first draft in his second language within a month of his return to Norway. Thanks are also due to William Lafferty who introduced Stephan to CAJ, Brice Dickson, Martin O'Brien, Stephen Livingstone, Feilim ó hÁdhmaill, Pádraig ó hAoláin, Fionnuala ní Aoláin and Michael Ritchie.

CAJ Executive Committee

September 1992

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BROLLACH

Staid agus Stádas na Gaeilge i dTuaisceart na hÉireann - *An Chairt Eorpach do Mhionteangacha nó Teangacha Reigiúnacha.*

I dtús mhí na Samhna 1992 cuireadh **An Chairt Eorpach do Mhionteangacha nó Teangacha Reigiúnacha** i láthair na mballstát de chuid Chomhairle na hEorpa. Shínigh aon bhallstát déag an coinbhinsiún seo um chearta teanga a bhfuil ceangal dlí ag baint leis. Níor shínigh Rialtas na Breataine an chairt.

Le tamall maith anuas is eol don **Choiste um Riaradh an Chirt (CAJ)** gur ábhar buartha do phobal na Gaeilge i dTuaisceart na hÉireann an dóigh leatromach a gcaitheann Rialtas na Breataine leo, mar shaoránaigh dara grád dar leo. I measc na ngearán atá ag pobal na Gaeilge áirítear.

- dearcadh na n-údarás poiblí agus na bhfórsaí slándála ar an Gaeilge agus na chainteoirí Gaeilge.
- maoiniú d'oideachas fríd mheán na Ghaeilgí
- maoiniú d'imeachtaí cultúrtha
- easpa aitheantais don Ghaeilge i dtaca le cláir Ghaeilge ar raidió agus ar théilífís
- an difríocht idir an cur chuige tionscnaíochta maidir leis na teangacha eile Ceilteacha (an Bhreathnais agus an Ghaidhlig) i gcomparáid leis an dóigh a gceadaítear an Ghaeilge ar agus go doicheallach.

Séard a dhéantar sa pháipéar seo ná na ceisteanna sin atá ardaithe ag pobal na Gaeilge i dTuaisceart na hÉireann a chíoradh agus a scagadh agus meastar an staid i láthair na huaire i bhfianaise a bhfuil lengtha amach sa chúnant Eorpach ar chearta teanga.

Glactar leis sa pháipéar seo gur ar Rialtas na Breataine, ar faoina dhlíuse atá Tuaisceart na hÉireann, a thiteann an fhreagracht fá dtaobh na ceisteanna seo. Meastar freagracht Rialtas na Breataine i leith na gceisteanna agus na gcearta teanga seo, gan dochar d'aon socruithe bunreachtúla a d'eireódh sa todhcháí, rud nach bhfuil aon dearcadh ar leith ag an Choiste um Riaradh an Chirt air.

Tagrann an Chairt Eorpach atá faoi chaisidil do staid na mionlach teanga sin atá scártha ó chéile ag teorainneacha náisiúnta. Cuirtear an páipéar seo faoi bhráid mar cion an Choiste seo chun an díospóireacht fá na ceisteanna tabhachtacha seo cearta mionlach agus cearta teanga a chothú agus chun an leibhéal meabhraíochta fá dtaobh den Chairt Eorpach is déanaí a ardú.

Pádraig ó hAoláin

1. INTRODUCTION

For some time now, the Committee on the Administration of Justice (CAJ) has been aware of concerns within the Irish speaking community in Northern Ireland about the priority and support given to the Irish language by the United Kingdom government. Complaints concern, among other things:

- the question of funding for Irish-language-medium education;
- insufficient funding for cultural activities;
- the lack of Irish language programmes on electronic media;
- differences between the *promotion* of other Celtic languages (ie Welsh and Scots Gaelic) and mere *tolerance* of the Irish language;
- the attitude by public bodies, including the security forces, to the use of the language.

The context for these issues is the question of minority or collective rights as opposed to individual rights, though clearly the two are interlinked, most obviously through the question of cultural rights. This paper looks at the issues raised by the Irish speaking community in Northern Ireland and assesses the position in the light of a recent European covenant on linguistic rights - the **European Charter for Regional or Minority Languages**.¹

It is necessary at the start to point out that the paper assumes a responsibility for this issue falling to the United Kingdom government as having jurisdiction in Northern Ireland. Clearly, however, many Irish language activists will conceive an irony in this, preferring to look southwards for deliverance. The paper however assesses the UK's responsibility without prejudice to future constitutional arrangements, on which the CAJ has no position. The European Charter under discussion alludes to the position of linguistic minorities divided by national borders, reflecting the reality facing many linguistic minorities in Europe. This paper is presented as a contribution to the debate around these important issues of minority rights and linguistic rights and also to raise awareness of this latest European Charter.

European Charter for Regional or Minority Languages

On 5th November 1992 the **European Charter for Regional or Minority Languages** was laid open for signature. Eleven member states of the **Council of Europe** signed this first legally binding Convention on linguistic rights. The United Kingdom did not. "We are still considering whether to sign the European Charter on Minority or Regional Languages"

¹ For full text of Charter, see Appendix 1.

said a Minister in the Department of Foreign and Commonwealth Affairs, Mr. Garel-Jones, in the House of Commons the day of the signing.²

Over 30 million people in the European Community speak lesser used languages.³ The Charter is concerned with regional and minority languages, which it defines, at Article 1a as follows:

"languages traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population and different from the official language(s) of that State."

In other words, this does not include dialects of the official language of the state or the languages of migrants.

In the United Kingdom there are three living languages that will unproblematically come under the cited definition - the Celtic languages of Welsh, Scots Gaelic and Irish with a total of over 725,000 speakers.⁴ In Northern Ireland there are 142,000 men and women with some knowledge of Irish and 79,000 who can speak, read and write the language.⁵

The indigenous approach in the Charter means that other minority languages like Chinese and Hindi - the most common "migrant languages" in Northern Ireland - will not be affected if the United Kingdom signs the convention. However, CAJ would argue that the Charter has implications for Gammon or Cant, the traditional language of Irish Travellers. This language undoubtedly fits the Charter's definition of an indigenous or minority language.⁶

There has been a growing interest in the Irish language in Northern Ireland in the last ten to fifteen years. This is evident in the establishment, through totally voluntary effort, of several Irish medium schools and nurseries, and more are planned. There is a large number of adult Irish classes in the voluntary sector. The strong reaction to the original exclusion of Irish from the list of modern languages in the statutory curriculum is further evidence of the importance of Irish as a general issue. The only daily newspaper in the Irish language, *LÁ*, is published in Belfast, and there has been an increasing number of radio and TV-programmes in Irish.

The revival of Irish coincides with an increasing awareness in the international community of the need for minority rights. The **European Charter for Regional or Minority Languages** is important because it is the first international and legally binding convention which exclusively deals with cultural rights of minorities. The new convention commits the signing states to promote and encourage minority languages like the Irish language, and specifies different measures to accomplish that.

The main object of this pamphlet is to discuss the **European Charter for Regional or Minority Languages** in relation to the Irish language in Northern Ireland:

² Mr Garel-Jones in answer to Joe Hendron MP.

³ "Language Law and Minority Languages", in *Contact Bulletin - The European Bureau for Lesser Used Languages*, Vol. 7, No. 2, 1990, p. 1.

⁴ Census 1991.

⁵ Northern Ireland Census 1991, HMSO 1992, p. 159.

⁶ "Shelta and Polari" in Trudgill, P., (Ed), *Languages in the British Isles*, Cambridge, 1984.

In chapter 2 a brief history of the Irish language and its position in Northern Ireland today is given. This includes a discussion of the general complaints by the Irish language community.

Chapter 3 examines the general policy of the British Government towards Irish and the two other minority languages in the UK affected by the convention, Welsh and Scots Gaelic. Chapter 4 puts the local discussion in the theoretical context of minority rights. Chapter 5 outlines and assesses existing international human right mechanisms with relevance to linguistic minorities.

In chapter 6 the history, structure and procedures of the **European Charter for Regional or Minority Languages** are outlined. Before the discussion of the provisions of the Charter with respect to the state of the Irish language in Northern Ireland, the general objectives and principles of the convention with relevance to Irish in Northern Ireland are discussed.

Finally, chapter 7 looks at the specific measures the convention mentions and how they fit with the present state of the Irish language in Northern Ireland. The recommendations CAJ puts forward in this chapter are all based on the provisions in the Charter.

2. THE IRISH LANGUAGE: HISTORICAL BACKGROUND

The Celtic languages were once spoken by a people who inhabited the largest part of Europe, from Bohemia to the west coast of Britain. Today, however, most of the Celtic languages have died. Of the four which are still spoken in substantial numbers by native speakers, three can be found inside the United Kingdom; Welsh, Scots Gaelic and Irish. The other is Breton in Brittany, France.

Ever since 300 BC when Goidelic speakers from France and Spain came to Ireland and settled, there have been Irish speakers on the island. The language was dominant for at least a thousand years and until 1170 those parts of Ireland where Irish was the everyday language of the local community coincided with the whole island. Today there are only remnants - called Gaeltachta - in Galway, part of Mayo, Kerry, Meath, Cork, Waterford and Donegal.⁷

Interaction between the Scottish and Irish speakers of Celtic languages must be recognised as an important aspect of the history of these islands. Many of the settlers in Ireland during and in the thousand years before the Plantation were Gaelic speakers from Scotland. Irish and Scots Gaelic are dialects of one language, and when English speakers came they were initially a very small minority in many areas.⁸ In fact, Scots Gaelic developed in Ireland and was carried over to Scotland after the Romans left by settlers from Dal Riada in Ulster, who formed a kingdom in Argyll.⁹

2.1. The place of the Irish language during British colonisation

From about 1169, the involvement of England in Ireland began, with English dominance over the whole island being achieved by the late seventeenth century. That the Irish language was discriminated against by the English rulers is evidenced in the **Statutes of Kilkenny** of 1366 and statutes enacted by the Dublin Parliament in 1541. Irish chiefs were expelled, poets killed or imprisoned, manuscripts burned and the sons of Irish nobles kidnapped and brought up to speak the English language.¹⁰

7 Adler, Max K., *Welsh and the other dying languages in Europe - A sociolinguistic study*, Helmut Buske Verlag, Hamburg 1977, p. 52.

8 Mac Póilin, Aodán, *The Protestant Gaelic Tradition*, ULTACH Trust, Belfast.

9 Bell and Grant, op. cit., p. 140.

10 Bell, Robert and Grant, Nigel, *Patterns of Education in the British Isles*, George Allen & Unwin, London 1977, p. 141.

The native language and culture were clearly perceived as inhibiting factors to the imperial designs of the English and later British state. In ways paralleled by English practice in Scotland after the battle of Culloden in 1745, the dress, language and culture of native opposition were specifically targetted as part of a political project of domination.

This process saw an increasingly close identification between the Irish language and the experience of dispossession. Political power and control were articulated in the English language, and those who wished to have access to those circles needed to learn English and use it. Increasingly, English was seen as the language of the future, of progress and commerce while Irish was portrayed as backward and of no practical use for those who wished to succeed. Epic poems in Irish at the end of seventeenth century gave eloquent voice to the devastation caused by conquest and the sense of native culture being in the descendent in the face of the aggressive, self-confident invaders.

The influence of the Plantations must be seen as part of this process despite the fact that many settlers were Gaelic speakers from Scotland as already indicated. Given the deep political cleavages it was inevitable that the natural alliances of the settled population would be with the colonial power. Various risings by the dispossessed natives caused an increasing sense of beleaguerment.

This process was somewhat vitiated by an antiquarian interest in the language and culture of Ireland which was, to some extent, paralleled by an emerging movement seeking independence from England at the end of the eighteenth century. The antiquarian interest was important in recording and popularising some of the cultural artefacts which were in undoubted decline by this time. It was also important in that this early revival, and the movement for political independence from Britain, was led in large part by northern Protestants. However, the influence of this phase in the history of the Irish language had little effect on the attitude of the political masters of the situation in London.

The National School system, set up in 1831, is an indication of the dominant attitude to the Irish language. English was compulsory and the effect of often zealous anglicization encouraged by the ethos of the National schools was further to erode the hold of Irish on the rural population. However, it was the cataclysm of the Famine in the late 1840s and resulting emigration throughout the rest of the century which accelerated the decline of the language. It hit the poorest sections of the population hardest, especially in the Western part of Ireland where the language was most commonly spoken.¹¹ The association between the Irish language and the experience of dispossession was correspondingly strengthened.

The awakening nationalism in Ireland in the late 19th century, saw the language as an important mark that distinguished the Irish people from the English rulers. Persistent discrimination against the Irish language by the English rulers who saw it as a political symbol of opposition to colonial rule, made it a natural symbol for Irish nationalists to gather around.¹² After about 1860 Irish became more and more associated with the nationalist revival. Some commentators have equated this as an association with Catholicism.¹³ Nevertheless, at the end of the 19th century the Ulster Unionist Convention still had an Irish

¹¹ Broken Covenants: Violations of international law in Northern Ireland, Report of the Northern Ireland Human Rights Assembly, 1992, p 168.

¹² Interview with Feilim ó hAdhmaill, 21. December 1992.

¹³ Pritchard, Rosalind M. O., "Language Policy in Northern Ireland", in *Teangeolas*, No.27, Summer 1990, p. 31.

language banner across the entrance hall. Equally it is important to acknowledge the influence of Irish Protestants such as Douglas Hyde in both the nationalist movement and the language revival.

The importance attached to the Irish language as a symbol of Irish identity is evident in its position as the first official language when the 26 counties achieved a partial independence from the British Empire in 1921. This is despite the fact that most Irish people have English as their first language.

2.2. The Northern experience

The Irish language has been discriminated against or at best been ignored by the Government, since Northern Ireland was established in 1921. Liam S. Andrews writes that a policy of planned neglect was promoted and developed by the Northern Ireland Government to suppress the development of Irish in the education system.¹⁴

Symptomatic of this neglect was the removal of questions about the language from the census in 1921.¹⁵ This was felt as a clear message to Irish speakers that, not only was the state not prepared to recognise their linguistic rights and needs, it was not even prepared to recognise their existence.¹⁶

In Northern Ireland, Irish is an important part of the nationalist identity, and it is regarded as such by both communities. Unionists tend to regard the language as alien. On the other hand, a robust nationalist perspective can be found in Sinn Féin's use of the language as a political symbol: "We make no apology for connecting politics with culture, and cultural struggle with freedom struggle."¹⁷

However, as has been stressed in this chapter, Irish has not only been spoken by Catholics in Ireland. Many of the settlers were Gaelic speakers from Scotland. Furthermore, at the turn of the 19th century, the revival of Irish was inspired by Belfast Protestants.¹⁸ And even today there are people within the Unionist community who see Irish as part of their identity, and who favour increased support for the language.¹⁹ 23% of Protestants in Northern Ireland currently favour the teaching of Irish and Irish culture in schools, according to the report "Social Attitudes in Northern Ireland".²⁰ Another indicator of the desire for more access to Irish is contained in the Opsahl Report. School children taking part in the proceedings of the Opsahl Commission requested: "that all schools should give pupils the option to study Irish history and the Irish language ('opportunity' and 'choice' were frequently repeated words in relation to this issue)."²¹ Irish is clearly an important part of the common history of the two communities in Northern Ireland.

14 Andrews, Liam S., "The Irish Language in the Education System of Northern Ireland: Some Political and Cultural Perspectives" in Pritchard, Rosalind M. O. (Ed.), *Motivating the Majority: Modern Languages in Northern Ireland*, C.I.L.T./U.U., London and Coleraine 1991, p. 91.

15 The language questions were not re-introduced until 1991.

16 *Broken Covenants: Violations of international law in Northern Ireland*, Report of the Northern Ireland Human Rights Assembly, 1992, p 169.

17 Sinn Féin, "Two Republican POWs in the H Blocks...", p. 1.

18 Mac Póilín, op. cit.

19 Interview with Chris McGimpsey, Honorary Secretary of the Ulster Unionist Party, 19. November 1992.

20 Stringer, Peter and Robinson, Gillian (eds), *Social Attitudes in Northern Ireland*, The Blackstaff Press, Belfast 1991.

21 Pollack, Andy (Ed), *A Citizens' Inquiry: The Opsahl Report on Northern Ireland*, Lilliput Press, Belfast, 1993, p 380.

At present there are 79,012 people in Northern Ireland who are able to speak, read and write Irish according to the 1991 Census, and 45,338 who can only speak the language. The total number with some knowledge of Irish - who can speak, read and/or write Irish to an unspecified extent - is 142,003, which constitutes around ten percent of the population of Northern Ireland.²²

It must be noted that this figure tells us little about the level of literacy of Irish speakers. The census is based on self-assessment, and it is impossible to discover how far Irish speakers are fluent in the language. Bilingualism is not a fixed point, but a continuum where one end indicates complete fluency and the other end only the knowledge of a few words.

Those who see Irish as a symbol of resistance to "Britishness" may tend to exaggerate their level of fluency in the language. However, the high number of people who see themselves as Irish speakers indicates 'at least a considerable interest in the language.

There is no Gaeltacht in Northern Ireland today, even though the majority of the population of Ulster was Irish speaking in the seventeenth century. Pockets of native speakers survived in north-east Antrim, central Tyrone and South Armagh until the early twentieth century.²³

2.3. General complaints by the Irish speaking community

The first broad area of complaint concerns the fact that Irish has not been regarded as an integral part of the culture in Northern Ireland. There has been great play made of the fact that the language has been politicised by nationalists. This thesis, however, refuses to acknowledge that it was the experience of invasion which first politicised the language when its eradication was seen as a political objective by the colonisers. Irish-speakers assert that the language should be recognised as part of the cultural heritage of the North. Most place-names are of Irish origin and historically the language has been used and encouraged by both protestants and catholics, unionists and nationalist, even if to differing degrees, throughout modern Irish history.

The failure of British Governments to recognise Irish language as something worthwhile to be nurtured and developed, let alone promoted, is thus a major complaint by the Irish speaking community. Irish speakers criticise the fact that no positive action is taken by the Government to **promote** the Irish language in any way. The Government is said to have a piecemeal approach towards Irish with funding directed to keeping the Irish language activists quiet: all initiatives, say activists, have to come from the Irish language community and the Government just responds to demand. Andrews writes that "what little Government has done for Irish is due to political pressure."²⁴

The second major area of complaint by the Irish language community in Northern Ireland is discrimination in terms of public funding and recognition compared with Welsh in Wales and Scots Gaelic in Scotland. The Irish-language has no official status, in contrast to

²² Northern Ireland Census 1991, op. cit., p. 159.

²³ James, Clive, "Indigenous Non-English Language Communities in the United Kingdom", *Contact Bulletin - The European Bureau for Lesser Used Languages*, Vol. 8, No. 2-3, Autumn 1991, p. 6.

²⁴ *Ibid.*, p. 100.

Welsh in Wales and legislation discriminating against the use of Irish still exists. The **Administration of Justice (Language) Act (Ireland) 1737** states that all proceedings in the Court of Justice shall be "in the English tongue and language." Also, after a long campaign by Irish language groups the British Government committed itself in December 1992 to removing the discriminatory section of the **Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1949** which prohibits the erection of street signs in Irish.²⁵

Another alleged discriminatory act by the Government was its withdrawal in 1990 of the ACE grant of approximately 90,000 per annum from the West Belfast Committee of **Glór na nGael**, an organisation involved in the promotion of Irish by way of setting up nursery schools and adult classes and encouraging the wider use of the language. The government's alleged reason referred to a statement by Douglas Hurd (then Secretary of State for Northern Ireland) in 1985 that some community organisations increase the standing and further the aims of paramilitary organisations.²⁶ After a campaign by both civil liberty and Irish language groups the funding was restored in 1992.

A third area of concern to the Irish language community is the funding of education through the medium of Irish. Activists have had to struggle long and hard setting up schools and raising money to pay for staff and resources, in the face of apparent indifference from officials. Though the picture has now improved to some extent, there is still no parity in terms of the treatment of other minority languages in the UK.

A fourth area of concern translates the lack of official recognition into the practical experience of everyday life. Thus Irish speakers experience difficulty in registering recent births or deaths using Irish names. There is also continual aggravation when trying to use the Irish forms of names to register as students at university, when writing cheques, when questioned by members of the security forces or applying for jobs.

A fifth area concerns the lack of Irish language programmes on local media. Considering the fact that 10% of the population at least have an interest in the Irish language, activists say that the level of programming is woefully inadequate.

These complaints will be examined in more detail when the substantive provisions of the **European Charter for Regional or Minority Languages** are assessed.

²⁵ "Mayhew welcomes 'fresh' republican thinking", *The Irish Times*, 17. December 1992.
²⁶ ULTACH Trust, *Annual Report 1990/91*, p. 26.

3. THE UK GOVERNMENT'S POLICY TOWARDS MINORITY LANGUAGES

3.1 The UK government's policy towards the Irish language

While a number of government departments may provide funding to language interest groups, there are two main government bodies which deal with the Irish language in terms of responding to lobbying and formulating policy. These are:

- the Department of Education for Northern Ireland (DENI); and
- the Central Community Relations Unit (CCRU).

The Government's expenditure on the Irish language, excluding funding for Irish medium schools, totalled some 1,216,000 in the financial year 1991-92.²⁷ Government funding of the Irish language has increased substantially over the last seven years²⁸, which indicates a more favourable position by the Government. This total figure is, however, misleading. It includes some one-off payments, funding to job-creation schemes which happen to involve the Irish language, funding for schools, the education of whose pupils would have to be funded anyway, and monies to pay for censorship of prisoners' correspondence.²⁹ Thus the figure cannot be seen as a positive, annual government commitment to the language. It is more an indication, with some exceptions which will be discussed below, of the extent to which the Irish-speaking community has extracted money from normal government expenditure.

Though CCRU acts as "a central contact point on issues regarding Irish", there is no formal mechanism for co-ordination between the different governmental bodies dealing with the Irish language. Informal contacts appear to be the only method of co-operation.³⁰

DENI funds the Irish language through primary and secondary schools, universities and the Arts Council. Funding for the Irish language is not separately identified, with the exception of funding for Irish medium schools, which amounts to 405,000 for the financial year 1991-92.³¹ This is symptomatic of the Department's approach towards the Irish

27 Mr. Hanley's answer to MP Rev. Ian Paisley, 9. November 1992.

28 Mr. Cope's answer MP Mr Seamus Mallon, 29. November 1990.

29 See Barry White, "Speaking up for Irish" in **Belfast Telegraph**, 2. February 1993.

30 Interview with the Central Community Relations Unit, 27. November 1992 and further correspondence.

31 Mr. Hanley's answer to MP Rev. Ian Paisley, 9. November 1992.

language. There is no policy to promote any particular kind of education or particular subject on the curriculum. The Department's primary aim is to secure adherence by schools to the statutory curriculum.³²

CCRU funded a variety of language projects with a budget of 523,000 in 1991-92. The two main projects are the Place-name Project, searching for the Irish origin of place-names, and the ULTACH Trust³³, whose fundamental aim is to "advance the Irish language, traditions and cultural heritage"³⁴ through funding and lobbying. The ULTACH Trust is the only **independent** Irish language body which receives government funding for running costs as a matter of policy.³⁵

In the CCRU's view, it has a flexible approach to the funding of Irish language projects. Its main policy objective is to improve greater cross-community contact and to better the understanding of Irish culture as part of the cultural tradition in Northern Ireland.³⁶

The CCRU only responds to demand, and does not take any initiative to fund its own projects. The objective is not the encouraging of interest in Irish, but rather demonstrating the contribution of Irish to the cultural traditions of Northern Ireland. It is clear therefore that the Government has no policy of promoting a bilingual society within Northern Ireland.³⁷ It follows that the new census figures of 1991, which show that nearly 10% of the population of Northern Ireland has some knowledge of Irish, will have no impact on the Government's policy, unless it leads to an increased demand for funding.³⁸

The CCRU has been undertaking a review of the Government's policy towards the Irish language as well as conducting a review of the guidance issued for Northern Ireland departments on Irish. These were due to be completed by the summer of 1993.³⁹

In addition to CCRU and DENI, the Department of the Environment expended 46,410 in 1991-92 on a wide variety of activities and schemes designed to promote the Irish language in the Greater Belfast Area through Belfast Action Teams (BAT).⁴⁰

146,535 was paid under the Training and Employment Agency's Action for Community Employment scheme (ACE) to assist employment within six organisations promoting the Irish language.⁴¹

It is important to distinguish, however, between schemes such as BAT and ACE which fund Irish language groups as part of a job-creation policy and the absence of schemes specifically designed to promote the Irish language.

32 Interview with the Department of Education for Northern Ireland, 27. November 1992 and further correspondence.

33 Interview with CCRU, op. cit.

34 ULTACH Trust, op.cit., p. 6.

35 Glór na nGael's funding is obtained through a community employment scheme. It is not given by the relevant government department as part of a policy supporting the Irish language.

36 Interview with CCRU, op. cit.

37 Ibid.

38 Ibid.

39 Ibid and further correspondence.

40 Mr. Hanley's answer to MP Rev. Ian Paisley, 9. November 1992.

41 Ibid.

The 1985 Anglo-Irish Agreement between the United Kingdom and the Republic of Ireland does not mention linguistic rights explicitly, but it deals with the broader terms of "identity" and "cultural heritage". Article 5(a) reads:

"The Anglo Irish Intergovernmental Conference shall concern itself with measures to recognise and accommodate the rights and identities of the two traditions in Northern Ireland, to protect human rights and to prevent discrimination. Matters to be considered in this area include measures to foster the cultural heritage of both traditions (...)."

However, by 1989 no views or proposals had been put forward on ways in which the use of the Irish language on official papers or in other ways might be facilitated.⁴²

In the Official Review of the Agreement, published in May 1989, the two Governments recognise the:

*"importance of the Irish language in this context (the effort to improve community relations) and undertake to support efforts to enhance awareness and appreciation of this particular strand of the cultural heritage."*⁴³

The increased support for the Irish language through the CCRU, and especially the Government's support of the ULTACH Trust, may be seen in this context. Besides this, however, the Agreement appears to have had little concrete impact on the situation of the Irish language.

3.2. The Government's policy towards other minority languages covered by the Charter

Both Welsh and Scots Gaelic receive more public funding than Irish and they are recognised by the Government as something worthwhile to be nurtured and developed in contrast to the Irish language. A number of different reasons have been suggested for this, mainly the existence of areas where Welsh and Scots Gaelic are in daily use by a majority of the population and an apparently higher number of people speaking these languages. The last point is true for Welsh, but not however for Scots Gaelic according to the latest census-figures.

But this can not be the whole explanation of the Government's less positive attitude towards Irish. It may be that another important factor which explains the difference in policy is that Irish is seen as a political symbol identified with nationalism, and consequently rejected by many Unionists. Such a notion is rejected by many Irish language activists, who have consistently said that the language is available to everyone. Furthermore, as has been indicated in Chapter 2, if the language has political elements to it, those were first drawn out in the context of the English "civilising mission" to eradicate Irish language and customs.

⁴² Hadden, Tom and Boyle, Kevin, *The Anglo-Irish Agreement. Commentary, Text and Official Review*, Edwin Higel and Sweet & Maxwell, Dublin and London 1989, p. 31.
⁴³ *Ibid.*, p. 85.

3.2.1. Welsh

There are 527,500 people speaking Welsh and living in Wales,⁴⁴ which indicates an increase of 24,000 people since the Census in 1981.⁴⁵ There exist areas, like Gwynedd and Dyfed, with more than 70 percent Welsh speakers, but the recent increase has mainly come in English-speaking areas.⁴⁶ By contrast, in Northern Ireland there are 142,000 men and women with some knowledge of Irish and 79,000 who can speak, read and write the language.⁴⁷

The government's policy towards Welsh is much more positive than towards the Irish language. For 1992/93 7.6 million was granted by the Government in support of the Welsh language.⁴⁸

The general education policy in Wales is that all parents have the right to have their children educated through the medium of Welsh if they so wish, either in Welsh medium units in existing schools or in free-standing Welsh medium schools. Decisions on the funding and establishment of Welsh medium schools and units are made by the Local Education Authorities.⁴⁹

The Welsh Language Education Development Committee is financed by the Welsh Office to co-ordinate Welsh language activities in order to ensure that the best possible use is made in all areas of Welsh language education.⁵⁰

Welsh-medium pre-school education receives government funding and in 1991 there were 609 pre-school groups and 351 mother and toddler groups throughout Wales.⁵¹

There are Welsh Departments at five university colleges in Wales, and at two of them, Bangor and Aberystwyth, several subjects are taught through the medium of Welsh.⁵²

Welsh has an official status, conferred by the **Welsh Language Act 1967**. The Act's specific provisions include an absolute right for any person in Wales to use Welsh in legal proceedings (section 1), a general power for the government to make provisions for the use of Welsh for any other governmental purpose, such as the completion of official forms and documents (section 2) and a provision that anything done in Welsh for such purposes shall have the like effect as if done in English, provided that the English version of any form or instrument may be made to prevail (section 3). The Act covers the whole range of official forms and many aspects of the operation of education and other social systems, not only the administration of justice.⁵³ But while there is still no right for most central government services to be provided through the medium of Welsh, an increasing proportion are available as a result of public pressure.⁵⁴

44 Census 1991.

45 Hindley, Reg, *The Death of the Irish Language - A Qualified Obituary*, Routledge, London 1990, p. 222.

46 Ibid.

47 Northern Ireland Census 1991, HMSO 1992, p. 159.

48 Press release by the Welsh Office, 9. March 1992.

49 Mac Póilin, Aodán, *Irish-medium Education in Northern Ireland - A Preliminary Report*, ULTACH Trust, Belfast 1992, p. 4.

50 Edwards, D. Garreth, in SDLP, *An ghaeilge agus teangacha eile ls IC Csaide san eoraip*, 1988, p. 16.

51 Mac Póilin, *Irish-medium Education in Northern Ireland*, op. cit., p. 4.

52 Ibid.

53 Standing Advisory Commission on Human Rights, op.cit. pp. 87-88.

54 James, op. cit., p. 7.

The new government-sponsored **Welsh Language Act 1993**, will further strengthen the position of the Welsh language. For example, the Act requires that in the conduct of public business and the administration of justice, the Welsh and English languages should be treated on an exactly equal basis. Furthermore, Part Two of the Act requires all public bodies in Wales to produce Welsh language schemes.⁵⁵

In 1988 a publicly funded Welsh Language Board was established, with the aim of acting as an advisory capacity to the Secretary of State for Wales and other public bodies. It may also receive and attempt to resolve complaints.⁵⁶

In local government, one of the eight county councils provides a fully bilingual administration, while two others provide an element of bilingualism. One district council operates entirely through the medium of Welsh, while six others have a degree of bilingualism. In the remaining 31 councils there is a little or no use of the Welsh language.⁵⁷ Signposts and traffic notices are bilingual throughout Wales.

With the advent of the fourth television channel in Wales in 1983 there are some 30 hours of Welsh programmes per week on Sianel Pedwar Cymru (S4C). Radio Cymru (BBC) broadcasts some 30 hours per week in Welsh. There are three national and two regional weekly newspapers or magazines in Welsh in addition to numerous monthly or bimonthly magazines.⁵⁸

National bodies in the cultural sphere are the Welsh Books Council, which produces more than 200 new titles each year,⁵⁹ and the Welsh Arts Council.

3.2.2. Scots Gaelic

There are 67,730 people out of a total Scottish population of around 5 million who speak Scots Gaelic living in Scotland.⁶⁰ The number has decreased since the Census in 1981, when 79,300 - 1.3 per cent of the total - spoke the language.⁶¹ Gaelic speakers mainly live in the North West Highlands and on the Islands, with the Outer Hebrides as a stronghold with 80 percent speaking the language.⁶² The Northern Ireland figures for Irish display a proportionately higher percentage of the population involved in the language. The 142,000 men and women with some knowledge of Irish represents around 10%, while the 79,000 who can speak, read and write the language⁶³ represents around 6%.

The Government's policy towards Gaelic is less favourable than towards Welsh, but still far more positive than towards the Irish language in Northern Ireland. In the financial year 1990-91 1,505,000 was granted by the Government for the promotion and development of Gaelic.⁶⁴

Hansard Vol. 541, 11th January 1993, House of Lords, Col 833-834.
Standing Advisory Commission on Human Rights, op. cit. p. 88.
James, op. cit. p. 7

Ibid.

Ibid.

Census, 1991.

Hindley, op. cit., p. 227.

James, op. cit., p. 6.

Northern Ireland Census 1991, HMSO 1992, p. 159.

Mr Ian Lang's answer to MP Mr Seamus Mallon, 29. November 1990.

In 1958 Gaelic officially became a medium of instruction in primary schools. Today the language is promoted chiefly by the establishment of Gaelic units within existing primary schools. No Gaelic medium secondary school yet exists.⁶⁵

There is an increasing number of Gaelic medium playgroups, which receive government funding.⁶⁶

When it comes to further education, Sabhal Mor Ostaig, a Gaelic medium further education college, provides courses in business studies combined with information technology, office technology and Gaelic studies. In November 1992 it received a capital grant of 800,000 from the Scottish Office for expansion of the college.⁶⁷ Lewis Castle College provides some courses taught in the medium of Gaelic too.

The Universities of Aberdeen, Edinburgh and Glasgow offer a full range of Gaelic and Celtic studies courses and three colleges of education offer varying degrees of provision for Gaelic in teacher training courses.⁶⁸

Gaelic has no official status. There is no right to use Gaelic in courts, but an interpreter can be obtained for a monoglot Gaelic speaker.⁶⁹

Very few official documents are produced in Gaelic, and neither the Scottish Office nor most local authorities in Scotland would be able to reply in Gaelic to communications in Gaelic. The Government has recently agreed to bilingual road signs and some have been erected in the Western Isles and the Highlands.⁷⁰

The Western Isles Island Council is a county council created in 1975 for the purpose of separating the Gaelic speaking areas in the West from two different and mainly English-speaking county councils. Hindley calls this "the one major pro-Gaelic change" that has occurred.⁷¹ The new council adopted a bilingual policy document in 1982 which has hopes of success, because most of the population affected speak Gaelic.⁷²

Comunn na Gaidhlig (CNAG) is an organisation created in 1984, with representatives from the voluntary sector and the administrative authorities, with the aims of advising the Government on Gaelic policy matters, co-ordinating Gaelic development initiatives, promoting the language and initiating developments of its own account.⁷³

4 million is spent annually on production of broadcasting material in Gaelic.⁷⁴ In 1990 two hours a week were broadcast on television in the medium of Scottish Gaelic, and it is the aim to increase this to ten hours a week by 1995.⁷⁵ This increase is possible due to government funding of 8 million annually for the provision of television programmes in the

65 James, op. cit., p. 7.

66 McKay, John Angus, in SDLP, *An ghaeilge agus teangacha eile is lú úsaide san eoraip*, 1988, p. 11.

67 "Breathing new life into an old language", *The Guardian*, 3. November 1992.

68 James, op. cit., p. 7.

69 Ibid, p. 6.

70 Ibid.

71 Hindley, op. cit., p. 227.

72 Ibid., pp. 227-228.

73 McKay, John Angus, op. cit., p. 11.

74 Napier, Séamus de, *Report on the Provisions of Irish-Language Television in Northern Ireland*, ULTACH Trust, Belfast, p. 3.

75 Breathnach, D., "Study Visits to Friesland and Scotland", in *Contact Bulletin - The European Bureau for Lesser Used Languages*, Vol. 7, No. 2, 1990, p. 7.

Gaelic language, which comes in addition to the 4 million mentioned above.⁷⁶ Radio nan Gaidheal broadcasts up to 32 hours a week in Gaelic.⁷⁷ Gaelic is only modestly represented in the press by occasional articles in newspapers.⁷⁸

Since 1969 the Gaelic Books Council has assisted in publishing books in Gaelic.⁷⁹ The National Gaelic Arts Project, which receives official support from the Scottish Arts Council, provides support and shared administration for a whole range of arts initiatives.⁸⁰ Feisean nan Gaidheal (The Association of Gaelic Arts Festivals) has, with government support, established 12 community arts festivals working through the medium of Scottish Gaelic.⁸¹

⁷⁶ Napier, *op. cit.*, p. 3.

⁷⁷ Breathnach, *op. cit.*, p. 7.

⁷⁸ James, *op. cit.*, p. 7.

⁷⁹ *Ibid.*

⁸⁰ "The National Gaelic Arts Project", in *The Bridge - Newsletter of Highlands and Islands Forum*, spring 1991, p. 5.

⁸¹ "Feisean nan Gaidheal", in *The Bridge - Newsletter of Highlands and Islands Forum*, spring 1991, p. 9.

4. THE PROTECTION OF MINORITIES

Two important controversies regarding human rights and the protection of minorities are presented in this chapter. They are both relevant to the European Charter for Regional or Minority Languages and the Irish speaking community in Northern Ireland.

4.1. Individual or collective rights

In international human rights, a cardinal distinction must be drawn between individual rights, which are bestowed upon every single human being personally, and collective rights, which are afforded to human beings communally, that is to say, in conjunction with one another or as a group. A minority would be such a group.

After the Second World War specific rights for minority-groups were not regarded as important. Human rights were mainly seen as individual and not collective rights, as is evident in the various UN conventions. The **United Nations Charter** and the **Universal Declaration of Human Rights** adopted by the **United Nations** in 1948 established non-discrimination and equality of treatment as rules of international human rights law, and neither of them mentions minorities. Non-discrimination and equality of treatment were seen as sufficient for the protection of minorities.⁸² The same applies to the **European Convention on Human Rights**. Thornberry asserts that international law does not appear to value the identity of human groups to the extent that it purports to value their members as individuals.⁸³

The need for specific minority rights is increasingly being recognised by the world community, largely because of the rising ethnic tensions in Eastern Europe after the collapse of communism. It can be seen in the latest documents of the **Conference on Security and Co-operation in Europe (CSCE)**, which specify minority rights and even established a **High Commissioner for National Minorities**.⁸⁴ The **UN**, the **Council of Europe** and the **European Community** are all working on different declarations on the rights of minorities, but none has as yet been formally adopted. The **European Charter for**

82 See however Article 27 of the **International Covenant on Civil and Political Rights** discussed in section 5.1 of this pamphlet.
83 Thornberry, Patrick, **Minorities and Human Rights Law**, The Minority Rights Group, Report No. 73, London 1987, p. 5.
84 See for example: CSCE, "Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 29 June 1990" in **Human Rights Law Journal**, Vol. 11, No. 1-2, 1990, pp. 232-246; CSCE, "Helsinki Document 1992 - The Challenge of Change, 10. July 1992", in **Human Rights Law Journal**, Vol. 13, No. 3-4, pp. 284-306.

Regional or Minority Languages will therefore be an important seminal document for future declarations on minority rights.

Minority rights differ from most other human rights in that they refer to individuals as members of a community. It has therefore been argued that collective rights are necessary if minorities, their language and their culture are to be sufficiently protected. As Dinstein writes:

*"It is clear that the exclusive pursuit of individual human rights, without paying heed to the collective needs of minorities, is a counter-productive policy."*⁸⁵

Behind this notion lies the idea that, at times, the enjoyment of individual human rights is virtually impossible unless a collective right is implemented.

An example would be the right to speak a minority language, which is an individual right. To safeguard this right, various collective rights preserving the minority language must be implemented. Schools teaching the minority language need to be established, media using the minority language must exist etc. These are manifestations of a collective right which are necessary if an individual is to make use of the right to speak his or her minority language in community with others. These collective rights are necessary if the minority language is going to survive.

The **European Charter for Regional or Minority Languages** contains several collective rights of this kind, relating to education, media, culture etc. This first legally binding convention on linguistic rights for minorities is important because it recognises the importance of collective rights in the protection of minorities.

4.2. Identical treatment or distinctive but equal treatment

Advocates of the identical treatment argument argue that all people should receive identical treatment irrespective of what group or community they belong to. They see affirmative action as dangerous because it accentuates the differences between one distinctive minority and the majority of the community. Increased cleavages may be the result. This approach permeates the UN declarations and conventions which have established equality of treatment as a rule of international human rights law.

Others believe that equality permits or even requires distinctive rights for particular groups or communities - a separate but equal treatment. Donnelly writes that "cultural rights may require more than just non-discrimination, or at least a very active and affirmative policy of non-discrimination."⁸⁶

In the **Belgian Linguistics (No. 2)** case, the **European Court of Human Rights** stated that "certain legal inequalities tend only to correct factual inequalities" and maintained that "the principle of equality of treatment is violated only if the distinction has no objective and reasonable justification."⁸⁷ It thereby favours separate but equal treatment as an acceptable way of pursuing the objective of full equality of treatment and esteem.

⁸⁵ Dinstein, Yoram, "Collective Human Rights of Peoples and Minorities", in *International and Comparative Law Quarterly*, Vol. 25, January 1976, p. 117.

⁸⁶ Donnelly, *Universal Human Rights in Theory and Practice*, Cornell University Press, Ithaca (New York) 1989, p. 157.

The **CSCE Meeting of Experts on National Minorities** in 1991 stated that measures to protect and promote the identity of national minorities "will be in conformity with the principles of equality and non-discrimination with respect to the other citizens of the participating State concerned."⁸⁸

These statements support the assumption of Northern Ireland's **Standing Advisory Commission on Human Rights** that "there is a substantial body of opinion among those concerned with human rights which accepts that the granting or recognition of some special rights for members of minority groups within established state boundaries is legitimate under international human rights law and that such rights may occasionally be required."⁸⁹

The **European Charter for Regional or Minority Languages** states in Article 7 that:

"the Parties shall base their policies, legislation and practice on the need for resolute action to promote regional or minority languages to safeguard them."

Part III of the Convention lists "measures to promote the use of regional or minority languages."

The Convention thereby recognises the importance of putting positive duties on the state to be pro-active in protecting minorities. Thus, in regard to minority languages, rights preventing discrimination are not sufficient to save languages from dying.

The Charter further says that an affirmative policy is not discriminatory against the majority (Article 7, paragraph 2):

"The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages."

The Charter is therefore in favour of, or even demands, a distinctive but equal treatment in contrast to the traditional view in international human rights law. It further puts a positive obligation on the state to promote the minority's interest, rather than merely protecting it against discrimination.

87 Belgian Linguistics (No. 2), **European Court of Human Rights**, Series A, No. 6, 1968, p. 34.

88 CSCE, "Report of the CSCE Meeting of Experts on National Minorities", Geneva 19. July 1991, in **Human Rights Law Journal**, Vol. 12, No. 8-9, p. 333.

89 Standing Advisory Commission on Human Rights, **Religious and Political Discrimination and Equality of Opportunity in Northern Ireland**. Second Report, HMSO, London 1990, p. 83.

5. INTERNATIONAL HUMAN RIGHTS MECHANISMS AND LINGUISTIC MINORITIES

There are three international governmental organisations which deal with the rights of linguistic minorities, and they are therefore relevant for the Irish language in Northern Ireland: the United Nations, the Conference on Security and Cooperation in Europe and the Council of Europe. These three mechanisms are all mentioned in the preamble to the European Charter for Regional or Minority Languages.

5.1. The United Nations

The most extensive minority rights provision in the United Nations' conventions is Article 27 of the **International Covenant on Civil and Political Rights**, which entered into force in 1976. It mentions particularly the right of linguistic minorities. Article 27 reads:

"In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language." (Our emphasis)

This provision, which is binding on the United Kingdom as a party to the Covenant, might be regarded as having a limited impact if interpreted literally. It states a minimum rather than a maximum of rights.

The right to "use their own language" is fairly general, and the **Human Rights Committee** has been reluctant to permit too restrictive an interpretation of the protection provided under Article 27.⁹⁰ The reports submitted to the Committee by the ratifying states on how they act on the Convention have in many cases taken a broad view of the phrase "ethnic, religious and linguistic minorities".⁹¹ Dinstein writes that "there is need of further elaboration and concretisation of the general and somewhat abstract principle pronounced in Article 27."⁹²

⁹⁰ Ibid, p. 81.

⁹¹ Ibid

⁹² Dinstein, op. cit., p. 118.

The vague character of the UN Covenants in respect to linguistic rights is of little help in pressing for active government support for minority languages, although it gives a general protection to linguistic minorities. Thornberry argues that Article 27 can be read to impose positive duties on the state, based on the argument that, in order to function, the Article must go beyond the rule of non-discrimination.⁹³

However, in practice, Article 27 appears to be interpreted more broadly in relation to the general principles of equality and non-discrimination. The Article does not grant minorities an unequivocal collective right - it is "persons belonging to such minorities" who are granted rights. This is in accordance with the international community's reluctance to see human rights as collective rights. Sieghart claims however that Article 27 is of great importance because it offers a bridge between the rights of individuals and collective rights.⁹⁴

The United Nations has been working on a draft declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities for many years. The draft declaration was eventually approved by the **Commission on Human Rights** at its forty-eighth session in February 1992, and is now awaiting approval by the **ECOSOC** and adoption by the **General Assembly**.⁹⁵ If it comes into force, it will mean an important improvement in the rights of minorities, although it does not accept the principle of collective rights. It is concerned with "persons belonging to minorities" only.⁹⁶

5.2 The Conference on Security and Co-operation in Europe

The **Conference on Security and Co-operation in Europe (CSCE)**, of which the United Kingdom is a member, has increasingly become aware of the importance of minority rights.

The **Helsinki Final Act** was the first international document after the second world war seriously to address minority rights issues.⁹⁷ After that document the CSCE strengthened its commitment to minority protection in subsequent documents. In the **Charter of Paris for a New Europe** of 1990, which marks the end of the era of confrontation and division in Europe, the 36 member states:

*"affirm that the ethnic, cultural, **linguistic** and religious identity of national minorities will be protected and that persons belonging to national minorities have the right freely to express, preserve and develop that identity without any discrimination and in full equality before the law."*(Our emphasis)⁹⁸

In the Document of the Copenhagen Meeting the CSCE devotes almost an entire chapter to minority rights issues⁹⁹, and the following year CSCE held a Meeting of Experts on National Minorities which adopted a report.¹⁰⁰ In 1992 the CSCE established a **High**

93 Thornberry, Patrick, "Self-Determination, Minorities, Human Rights: A Review of International Instruments", in **International and Comparative Law Quarterly**, Vol. 38, October 1989, p. 881.

94 Sieghart, Paul, **The Lawful Rights of Mankind**, Oxford University Press, Oxford 1986, p. 168.

95 Center for Human Rights, **Human Rights - Minority Rights, Fact Sheet no. 18**, United Nations, Geneva 1992, pp. 6-7.

96 *Ibid.*, pp. 15-18.

97 Buergenthal, Thomas, "The Copenhagen CSCE Meeting: A New Public Order for Europe", in **Human Rights Law Journal**, Vol. 11, No. 1-2, 1990, p. 226.

98 CSCE, "Charter of Paris for a New Europe, 21. November 1990", in **Human Rights Law Journal**, Vol. 11, No. 3-4, 1990, p. 380.

99 CSCE, "Document of the Copenhagen Meeting of the Conference of the Human Dimension of the CSCE, 29. June 1990", *op. cit.*, pp. 242-245.

Commissioner on National Minorities, with a mandate to prevent conflicts arising from tensions involving national minorities at the earliest possible stage.¹⁰¹

Of the CSCE Documents, the Document of the Copenhagen Meeting is most important in relation to linguistic rights for minorities. It has more general provisions than the **European Charter for Regional or Minority Languages**, but it follows the same lines. The document states that national minorities have the right to develop their linguistic identity and that the state shall protect and promote that identity. Persons belonging to minorities shall have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities.¹⁰²

None of the CSCE Documents is legally binding on the CSCE-states, and CSCE has no enforcement-mechanism to make members uphold their commitments. The documents are merely statements of intention. But since the documents are agreed by consensus, there is a pressure, which may be enforced by international opinion, on the member states not to violate the commitments put down in the documents.

5.3. The Council of Europe

In 1950 the **Convention for the Protection of Human Rights and Fundamental Freedoms** was agreed in Rome, and three years later it came into force. The United Kingdom is bound by the Convention.

The Convention lists a series of individual rights in relation to law, family life, religion etc. All of these are conditional on Article 14, which states:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."(Our emphasis)

The Convention fits in with the general post-war trend of individual rights based on non-discrimination. In 1985, CAJ expressed concern in relation to the European Convention on Human Rights, because it does not protect group rights at all.¹⁰³

A positive aspect of this Convention is that it is possible for individuals to take a case before the **European Commission** (and sometimes the **Court**) of Human Rights if the Convention is broken and if there is a failure to rectify this by the usual legal process in the state in question. These procedures for complaints can be very effective.

In the framework of the **Council of Europe** a **European Convention for the Protection of Minorities** has been drafted by the **European Commission for Democracy**

¹⁰⁰ CSCE, "Report of the CSCE Meeting of Experts on National Minorities, 19. July 1991", op. cit., pp. 332-334.
¹⁰¹ CSCE, "Helsinki Document 1992 - The Challenge of Change, 10. July 1992", op. cit.

¹⁰² CSCE, "Document of the Copenhagen Meeting of the Conference of the Human Dimension of the CSCE, 29. June 1990", op. cit., pp. 242-244.

¹⁰³ The Committee on the Administration of Justice, **Ways of Protecting Minority Rights in Northern Ireland**, CAJ Pamphlet No. 7, June 1985, p. 39.

through Law. This draft deals specifically with linguistic minorities,¹⁰⁴ but it has not yet been adopted.

It is within the framework of the **Council of Europe** that the **European Charter for Regional or Minority Languages** has come into being. This Charter and its relevance to the case of the Irish language in Northern Ireland will be dealt with in the rest of this report.

104 Maliverni, Giorgio, "The draft Convention for the Protection of Minorities. The Proposal of the European Commission for Democracy through Law", in **Human Rights Law Journal**, Vol. 12, No. 6-7, 1991, pp. 265-273.

6. THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

6.1. The background

The signing of the European Charter for Regional or Minority Languages is the culmination of a long process which started in 1984 with a public hearing in the Palais de l'Europe in Strasbourg on regional and minority languages. Following the hearing a draft European Charter for Regional or Minority Languages was prepared by a Committee of Experts. The Parliamentary Assembly of the Council of Europe gave a very favourable opinion of the draft in October 1988.

In June 1992 the meeting of the Ministers' Deputies of the Council of Europe voted by a large majority to accord the legal form of a convention to the Charter. Twenty one states voted in favour, while the United Kingdom abstained together with France, Cyprus and Turkey. Greece cast the only negative vote.¹⁰⁵

On the fifth of November 1992 Austria, Denmark, Finland, Germany, Hungary, Liechtenstein, Luxembourg, Malta, the Netherlands, Norway and Spain signed the Charter. Three months after at least five of these eleven countries have ratified the convention (i.e. when the respective parliaments have voted in favour of being bound by the Charter) it will enter into force.

The United Kingdom is still considering whether to sign the convention or not, as is the Republic of Ireland.¹⁰⁶ This does not mean that the United Kingdom or other countries are prevented from signing it at a later stage. The Convention is even open for accession by states outside the Council of Europe, notably the evolving, multi-linguistic democracies in Eastern Europe.

6.2. The structure

Part I of the convention contains the general provisions, including definitions and which of the specific provisions each state has to apply. It also states that no provision in the

¹⁰⁵ "European Convention for Regional or Minority Languages", in *Contact Bulletin - The European Bureau for Lesser Used Languages*, Vol. 9, No. 2, Autumn 1992, pp. 1-2.

¹⁰⁶ "Republic under pressure to sign Euro-language treaty", *The Irish News*, 10 November 1992.

convention shall limit the rights guaranteed by other conventions or affect more favourable provisions which already exist in the state or which are provided for by bilateral or multilateral agreements.

Part II of the convention, which deals with the general objectives and principles regarding regional or minority languages, must be accepted by all the signing parties. It is however possible to make reservations to some of the paragraphs.

Part III contains specific measures to promote the use of regional or minority languages in public life. It is divided into seven articles dealing with:

- education;
- judicial authorities;
- administrative authorities and public services;
- media;
- cultural activities and facilities;
- economic and social life; and
- transfrontier exchanges.

The convention is flexible and offers the signing states different levels of commitment, depending on the different language situations in the respective countries. States have to apply a minimum of 35 paragraphs or sub-paragraphs from Part III of the convention in respect of each language specified at the time of ratification.

Part IV explains the procedures for periodical reports, how they are examined and how the Committee of Experts is constituted.

Part V of the convention deals with the procedures of signing, ratification, acceptance, approval and accession.

6.3. The procedures

The Convention is binding, but has no enforcement mechanism if states violate their commitments. The contracting parties must present a public report on the policy pursued at three-yearly intervals.

This report will be examined by a Committee of Experts, which also take account of statements by bodies or associations legally established in the states. The Committee shall make a report with recommendations for the Committee of Ministers of the Council of Europe. The report, which also contains comments by the State-Parties, *may* be made public by the Committee of Ministers. In addition, the Secretary General of the Council of Europe is obliged to make a two-yearly report on the application of the Charter to the Parliamentary Assembly of the Council of Europe.

Since the Convention has no enforcement mechanism or court-system, it is dependent on pressure from international opinion to be effective. It is therefore important that the reports are made public, and that non-governmental organisations are active in lobbying the Committee of Experts. Article 6 of the convention highlights this aspect by committing the Parties to:

"undertake to see to it that the authorities, organisations and persons concerned are informed of the rights and duties established by this Charter."

Minority rights, including the important aspect of linguistic rights, are increasingly gaining international concern, as evident in the latest documents of the Conference on Security and Co-operation in Europe (CSCE) (see chapter 3.2.). This new international awareness will make it easier to create and maintain pressure on the contracting states to abide by the obligations expressed in the Charter.

6.4 Article 7 - Objectives and principles of the Charter

Article 7 of the **European Charter for Regional or Minority Languages** lists the objectives and principles regarding regional or minority languages on which the contracting states must base their policies, legislation and practice. It says that the state shall recognise the minority language as an expression of cultural wealth. The Parties are obliged to take resolute action to promote minority languages in order to safeguard them and to facilitate and/or encourage the use of minority languages, in speech and writing, in public and private life. The provision of appropriate forms and means for the teaching and study of minority languages at all appropriate stages is also mentioned as an objective.

It is not possible for the signing parties to make reservations to any of the principles and objectives mentioned.

Clearly, in the light of many of the complaints of the Irish speaking community in Northern Ireland, the rigorous adoption of the Charter's approach by the UK government would have significant consequences.

6.5. Conclusion and recommendation

This chapter has outlined the evolution of the **European Charter for Regional or Minority Languages**, which puts an obligation on the signing parties to promote, facilitate or encourage the use of minority languages. The British Government appears to have no positive policy of the kind demanded in the convention towards the Irish language. Present policy is restricted to responding to demand.

CAJ recommends that the British Government should adopt a more positive policy towards the Irish language, as it has towards the two other living Celtic languages in the United Kingdom, Welsh and Scots Gaelic. The last census shows a great interest in the Irish language even though one must recognise that the situation in each of the three regions is different, Northern Ireland having no Gaeltacht.

Nevertheless, a more active Government policy is necessary for the United Kingdom to satisfy the general objectives and principles of the European Charter. The next chapter will examine the detailed practical steps which the British government might adopt to satisfy the more specific provisions of the Charter.

7. THE STATUS OF IRISH AND THE SPECIFIC PROVISIONS OF THE CHARTER

This chapter deals with the specific measures in the Charter promoting minority languages in public life. Not all paragraphs under each article will be mentioned. For more details, see the Charter in the Appendix.

A contracting state is not expected to apply all the provisions under each article, but the minimum of 35 paragraphs and sub-paragraphs that have to be applied must include at least three paragraphs or sub-paragraphs from the articles which relate to education and cultural activities, and one relating to each of Articles 9, 10, and 13.

CAJ's recommendations are based on the provisions in the Charter. The recommendations concern areas where it appears the British Government would have to change present legislation and practice to allow it to be able to sign the **European Charter for Regional or Minority Languages**.

7.1.1. Article 8 - Education

The Convention's Article 8 on education deals with pre-school education, primary education, secondary education, technical and vocational training, university and adult education. For each of these areas the state has options regarding the level of commitment with which it will apply the provisions of the Convention. But even the weakest provision in the Convention puts an obligation on the state to favour and/or encourage education in the minority language. When it comes to primary and secondary education, the state is at least obliged to provide education in the minority language to those pupils whose families so request.

The article has further provisions dealing with the teaching of the history and culture which is reflected by the minority language, the training of teachers and the creation of a supervisory body responsible for monitoring the measures taken and progress achieved in the teaching of the minority language.

Of the ten paragraphs and sub-paragraphs dealing with education, a contracting state **has** to sign three. This marks the importance attached to education by those who drafted

the convention, which corresponds to the importance the Irish language community places on education.

7.1.2. Irish and education

Education is seen as the most important area of concern by the Irish language community because of its crucial role in stabilising and supporting minority languages which are under threat. The main complaints regard lack of governmental support and funding. The lack of teaching material at every level also represents an obstacle to the spread of Irish.

Before partition there were a number of Irish medium schools in Northern Ireland, but they ceased in the 1920s largely through official hostility.¹⁰⁷ Irish medium education did not re-emerge until 1971.

7.1.2.1. Irish medium pre-school education

Pre-school education is an important issue for the Irish language community because it is vital if children from English-speaking homes are to be able to move on into an Irish medium primary school. The first Irish medium nursery school (Naíonraí) was set up in 1977, and in 1992 the number of Irish medium nurseries has grown to at least 16, of which eleven are in Belfast.¹⁰⁸

At present, no Naíonra receives support from the Department of Education, despite being essential to Irish medium education. The only government support is through ACE-grants to assist employment.¹⁰⁹

7.1.2.2. Irish medium primary schools (*Bunscoil*)

There exist two grant-aided primary schools teaching through the medium of Irish (*Bunscoil Phobail Feirste* and *Gaelscoil na bhFál*). Both situated in West Belfast. In addition there has been one Irish medium unit in an English medium primary school (*Steelstown Primary School*) in Derry. These had a total enrolment of 648 in September 1992.¹¹⁰

In addition there are two other Irish medium primary schools, one in Newry (*Bunscoil an Iúir*) and the other in the Twinbrook-area of West Belfast. These two Irish medium schools receive no governmental funding and are therefore totally dependent on private fund-raising. It is thus far impractical to expect that they will be able to reach the required quota to qualify for government support. However, negotiations are underway to arrange a mechanism whereby the Twinbrook school might qualify on the basis of being a satellite centre for the *Bunscoil*.

There are further plans for a fifth Irish medium primary school in Ballymurphy in West Belfast, to open in 1993. Finally, plans to develop the Irish medium stream in *Steelstown Primary School* in Derry into a free-standing school will bear fruit in September 1993. The school will have around 200 pupils.

¹⁰⁷ Mac Póilin, *Irish-Medium Education in Northern Ireland*, op. cit., p. 2.

¹⁰⁸ Broken Covenants, op. cit.

¹⁰⁹ Interview with DENI, op. cit.

¹¹⁰ Mr. Hanley's answer to MP Rev. Ian Paisley, 9. November 1992.

There are two criteria for the grant-aiding of primary schools. First, the Department may reject a school on the ground that it provides an unacceptable standard of education. The second criterion is that of the school's long-term viability, which refers to a school's potential to achieve an ultimate enrolment of 100 children. A school has to show evidence of an enrolment of that size, which means that the school must have an intake of 15-16 pupils each year over a period of more than one year.¹¹¹ This criterion is not a matter of law, but refers to an internal policy document arguing against smaller schools on the grounds that it is difficult for them to provide a broad and balanced curriculum.¹¹²

While the current criterion is clear, it should be noted that, until recently, the enrolment number was 200 pupils and there were no guidelines to show how a school could prove it might reach this target. This made it extremely difficult for Irish language schools to obtain the benefits of grant-aid.

Thus, the first Irish-medium school (Bunscoil Phobail Feirste) did not receive maintained status until 1984 - 13 years after it was established and after applying for funding since 1978. It was not until it had an enrolment of over 140 pupils that the Department of Education conferred maintained status. The second Irish-medium school (Gaelscoil na bhFál) got funding in 1992, after five years without funding.¹¹³

In contrast to religiously-integrated schools, there is still no preferential treatment of Irish-medium schools. Integrated schools get funding at an earlier stage, though the government say that they also have to demonstrate a potential to secure long-term enrolment. Their daily running costs are covered so that they more easily can build up an enrolment basis which helps them to meet the viability criteria.¹¹⁴

The Department is reluctant to support Irish medium schools on the basis of an enrolment of less than 100 pupils. It would rather support Irish medium streams in English medium schools, as they have been doing at Steelstown Primary School. Its view is that there is not a large enough Irish speaking community outside Belfast and Derry to support Irish medium schools. The Department would support an Irish medium stream, with an annual intake of 15-16 pupils from the first year. The government points out that Scots Gaelic-medium streams are a common feature of the Scottish education system.¹¹⁵

Irish language streams have however a range of disadvantages according to the Irish language community. The most important is the danger of being overwhelmed by an English-speaking environment. This is important since the pupils live in an English-speaking environment most of the day. Another disadvantage is that streams do not operate as self-contained units, and hence no allowance is made for the particular developmental needs of the stream as distinct from the English-medium sector of the school. The Irish language community demands that the Government recognise the difference between Irish and English medium schools and adjust the viability criterion accordingly.

111 Interview with DENI, op. cit.

112 Mac Póilin, *Irish-Medium Education in Northern Ireland*, op. cit., p. 9.

113 Interview with Feilim ; hAdhmaill, 21. December 1992.

114 Interview with DENI, op. cit. and further correspondence.

115 Ibid. and further correspondence.

A curriculum has been developed for Irish medium primary schools, which is slightly different from that which applies in English medium primary schools. It recognises the need to teach all subjects through the medium of Irish during the first four years.¹¹⁶

7.1.2.3. *Irish medium secondary education (Meanscoil)*

There is also an Irish medium secondary school (Menscoil Feirste) in West Belfast, established in 1991. It has a small though rapidly-expanding enrolment. Only 15 children entered in 1992¹¹⁷ and this is due to rise to around 36 in September 1993. The school is totally dependent on private fund raising, which makes it difficult to increase the enrolment to meet the viability criterion.

The viability criterion is higher for secondary schools than for primary schools. The reason is that a secondary school has to provide a greater range of subjects, which necessitates a higher number of teachers and hence a higher level of enrolment. That makes it even more difficult to obtain state grant aid given the present policy of no preferential treatment.

The problem of insufficient teaching material in Irish is particularly serious for the existing secondary school.¹¹⁸

7.1.2.4. *Irish in English medium schools*

The number of pupils studying Irish in individual English medium schools is not available. However, on the basis of the 10 percent sample survey of the 93 schools which offered Irish as a subject in the 1988-89 academic year, it has been estimated that 26,210 are studying the language.¹¹⁹

The number of pupils taking Irish as a subject in English medium secondary schools is decreasing. One reason may be a belief among parents that Irish is not as useful as French or other foreign languages - a belief which is strengthened through the place Irish has in the education system in Northern Ireland. The Northern Ireland Education Minister in 1989 stressed his own view that all pupils should learn one of the major European languages and added: "Parents who choose to have their children take Irish instead of one of them, at a time when the importance of the European dimension is growing, should think carefully about the future consequences of such a decision."¹²⁰ Irish is however still the most popular language after French, and the achievements in examinations are far better.¹²¹

A further reason for the decrease may be the position Irish has in the curriculum of Northern Ireland. After first having been left out of the new core curriculum, it was accepted as a foreign language like French, Spanish, Italian and German after pressure from Irish language groups in 1989. This means that pupils can choose Irish instead of one of the other four languages. The schools must however provide at least one of the European Communities working languages, which does not include Irish.¹²² Due to financial constraints, schools can often afford to employ a language teacher only for the foreign language it has to offer. Only the largest schools have the capacity and resources to

116 Ibid.

117 Mac Póilín, *Irish-Medium Education in Northern Ireland*, op. cit., p. 26.

118 Interview with Maoilcholaim Scott, Irish Language Development Officer in Newry and Mourne District Council, 3. November 1992.

119 Mr. Hanley's answer to MP Rev Ian Paisley, 9. November 1992.

120 Hindley, op. cit., pp. 153-154.

121 Pritchard, op. cit., p. 29.

122 Andrews, op. cit., p. 101.

provide Irish as an additional choice. The result is that many pupils are not offered the choice of Irish, despite Irish being part of the curriculum.¹²³ As indicated earlier¹²⁴ it is clear that pupils from both Protestant and Catholic communities want to have more opportunities to learn Irish.

Furthermore, Irish is not part of the core curriculum at primary level in English medium schools and may be taught only as an option in the time that remains after the compulsory subjects have been dealt with.¹²⁵

Irish as a subject is only taught in Catholic schools. This reinforces the notion that Irish is solely part of the nationalist identity. No protestant schools provide Irish, a fact regretted by Chris Mc Gimpsey, Honorary Secretary of the Ulster Unionist Party. He has proposed government funding for peripatetic teachers of Irish - a measure necessary to build up a core of Irish speakers in the Protestant community.¹²⁶

The BBC has produced school programmes to support Irish teaching in English medium schools.¹²⁷

7.1.2.5. *Other aspects of Irish and education*

A chair in Irish has existed at the Queen's University Belfast since 1849 and the University of Ulster also provides studies in the Irish language.¹²⁸ The Government has a limited influence on the courses provided, since the universities are autonomous and independent institutions.

Adult education is supported in a limited way through government funding. The ULTACH Trust and CCRU have for example funded the preparation of a new version of CCrsa Closamhairc Gaeilge, an adult self-teaching audio-visual course in Ulster Irish.¹²⁹ Most of the adult courses are however provided by voluntary societies.¹³⁰ Around 3500 adults were attending Comhaltas Uladh evening classes in Irish in 1987,¹³¹ and there were over 70 adult classes outside the state education system in West Belfast alone in 1985.

One teacher training college - St Mary's Teacher Training College - has an Irish language department but, according to those involved in Irish medium education, the college approach is inadequate in the training of teachers for Irish medium schools. Its remit is to train teachers who can impart the language in the context of an otherwise English-speaking school environment.¹³²

No supervisory body monitoring the measures taken and progress achieved in developing the teaching of Irish exists in Northern Ireland.¹³³

123 Interview with Feilim ó hAdhmaill, 23. October 1992.

124 See page 6 of this pamphlet.

125 Andrews, op. cit., p. 101.

126 Interview with Chris McGimpsey, op. cit.

127 Mr. Hanley's answer to MP Rev. Ian Paisley, 9. November 1992.

128 James, op. cit., p.6.

129 ULTACH Trust, op. cit., p. 12.

130 Broken Covenants, op. cit.

131 Hindley, op. cit., p. 158.

132 Interview with Seamus Mac Seáin, 27. October 1992, and see also Andrews, Liam S., *The Irish Language in Northern Ireland: The Training of Primary and Post-Primary Teachers*, EMOL project, Leeuwarden, 1993.

7.1.3. Conclusion and recommendations

The UK could sign the necessary three paragraphs or sub-paragraphs of Article 8 without changing present practice, since they fund Irish medium primary schools, have Irish included in the curriculum of English medium secondary school and it is possible to study Irish at university level.

This would, however, be to sign the convention on a minimum basis. There is also the question of how educational policy towards Irish is in accordance with the objectives and principles of the convention, which commits a state to promote, facilitate and encourage the use of the minority language.

CAJ recommends:

- that the British Government, in accordance with the Charter, support pre-school, primary and secondary education in the Irish medium at least to those pupils whose families so request;
- that the Government support basic and further training of teachers required for Irish medium schools to function;
- that a supervisory body responsible for the measures taken and progress achieved in establishing and developing the teaching of Irish be established.

7.2.1. Article 9 - Judicial authorities

Article 9 obliges the state parties to ensure that the courts will conduct proceedings in the minority language if one of the parties so request, that the accused or the litigant may use his or her minority language and that requests, documents and evidence be produced in the minority language. But these measures have to be undertaken only as far as the number of residents using the minority language and the situation of the language justify the measures. The measures must not hamper the proper administration of justice.

Further, the convention has provisions making the parties guarantee the validity of legal documents when they are written in minority languages, and states have to make available in minority languages the most important national statutory texts, especially those relating particularly to users of these languages.

Each contracting state has to apply one of the provisions dealing with judicial authorities.

7.2.2. Irish and judicial authorities

The **Administration of Justice (Language) Act (Ireland) 1737** says that all proceedings, including all information, documents and statutes, in the Courts of Justice shall be in the English language. However, in the **O'Fiach** case, the magistrate initially allowed O'Fiach to address the Court in Irish through an interpreter on the 15th of May

1984. Similar permission however was refused one week later.¹³⁴ A number of Irish speakers have gone to prison for demanding the right to have their cases heard in Irish. Sean O Canain from Derry spent seven days in prison after he insisted on giving his defence in Irish in a motor-tax case.¹³⁵

7.2.3. Conclusion and recommendations

The **Administration of Justice (Language) Act (Ireland) 1737** makes it impossible to apply any of the provisions mentioned in Article 9 of the convention. Since one of the paragraphs or subparagraphs has to be applied, the Act would have to be amended before the United Kingdom could ratify the convention.

CAJ recommends:

- that an accused/litigant is guaranteed the right to use Irish in court and that documents and evidence be not considered inadmissible solely because they are formulated in Irish;
- that any necessary use of interpreters and translations should not involve extra expenses to the persons concerned.

7.3.1. Article 10 - Administrative authorities and public services

Article 10 has provisions which say that parties shall ensure that a user of minority languages may submit oral or written applications in his or her language, or that he or she may validly submit a document in these languages to administrative authorities and public services. Widely used administrative texts and forms are to be made available in the minority languages. The same provisions apply to regional and local authorities and in addition there are sub-paragraphs saying that minority languages can be used in regional or local assemblies.

One sub-paragraph says that parties shall allow and/or encourage the use or adoption of traditional and correct forms of place-names in the minority language.

Some provisions deal with the use of the minority languages in dealings with the public service.

Paragraph 4 mentions measures to put into effect the other paragraphs of the article, such as interpretation or translation and recruitment and/or training of officials.

One provision also states that the parties shall allow the use or adoption of family names in the minority language.

The contracting states have to apply at least one of the provisions in Article 10.

134 Broken Covenants, op. cit.

135 Sinn Féin Cultural Department, "Submission to Human Rights Conference", Belfast 1992, p. 3.

7.3.2. Irish and administrative authorities and public services

Irish speakers have no right to deal with administrative authorities in Irish. The present practice seems to be to answer letters received in Irish, but the reply will be in English. At the Public Inquiry into the Belfast Urban Area Plan in 1988, an interpreter for the Irish speakers was appointed, but this represents an exception.¹³⁶ Irish language organisations demand in the O Fiaich Principles, the result of a conference in Belfast in 1990, that every Irish speaker shall have the right to deal with all levels of government administration, and with all state and semi-state bodies, in Irish.¹³⁷

The Government has no policy on publishing official documents in Irish. The most extensive official document published in Irish is the Programme of Study for Irish in Irish Medium Schools.¹³⁸ A bilingual map of Northern Ireland has also been published.¹³⁹

No official forms such as those for tax, or census returns etc., are in the Irish language. The Standing Advisory Commission on Human Rights has recommended "Irish language legislation under which Orders might be made specifying the circumstances in which individuals or bodies would be entitled to use the Irish language in their dealings with Government and for other official purposes."¹⁴⁰ The Commission envisages that it would include, for example, the registration of births and deaths.¹⁴¹

The Royal Mail will mostly deliver letters with the address written in Irish as long as the address includes the correct postcode.

In Belfast City Council there is a standing order which prohibits speaking in Irish, drawn up after incidents where Sinn Féin councillors spoke Irish. An end to this ban was one of the demands in the O Fiaich Principles.¹⁴² There is however no law making it illegal to use Irish in regional or local assemblies.

Newry and Mourne District Council has established an Irish Language Development Officer and there are Irish language committees in Derry, Strabane, Omagh, Enniskillen and Newry and Mourne Councils.¹⁴³ They represent a positive contribution to the promotion of the language.

The Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1949 prohibiting the setting up of street signs in Irish has long been criticised by the Irish language community, and Irish language activists have erected over 500 street signs in Irish in nationalist areas.¹⁴⁴ In a statement on the 16th December 1992 by the Secretary of State for Northern Ireland, Sir Patrick Mayhew, the British Government committed itself to removing this legislation. In the future, where there is local demand, street names in Irish can be erected alongside the English name.¹⁴⁵

¹³⁶ Interview with Nóirín Uí Cleirigh, Glór na nGael, 28. October 1992.

¹³⁷ "Irish Language Principles - A Charter for the Rights of Irish Speakers in Northern Ireland, dedicated to the memory of Cardinal Tomás ó Fiaich", Belfast 1990.

¹³⁸ Interview with DENI, op. cit. and further correspondence.

¹³⁹ Interview with ULTACH Trust, 22. October 1992.

¹⁴⁰ Standing Advisory Commission on Human Rights, op. cit., p. 93.

¹⁴¹ Ibid.

¹⁴² "Irish Language Principles", op. cit.

¹⁴³ Interview with Maoilcholaim Scott, op. cit.

¹⁴⁴ James, op. cit., p. 6.

¹⁴⁵ *The Irish Times*, 17. December 1992, op. cit.

There have been incidents where Irish speakers have been harassed by the security forces after using their Irish names.¹⁴⁶

There is a right to use and adopt the family name in Irish for those who wish so in Northern Ireland. This right does not extend to prisoners who want to adopt the Irish version of their names. This has been taken to court, with no success.¹⁴⁷ Current practice, however, appears to suggest that prison authorities refer to the name by which a prisoner is initially charged. Adopting an Irish name during sentence is not allowed.

There are a number of other issues arising from prisons in Northern Ireland. Two prisoners, McCormic and Pickering, took a case to court complaining that they were not allowed to write and receive letters in Irish, that conversation in Irish was not allowed during visits, that there were long delays in the admission to the prison of literature written in Irish and that they were not allowed to use Irish forms of their names.¹⁴⁸

The appellants lost their appeal in the High Court,¹⁴⁹ but there has nevertheless been a change in practice for the better. Letters in Irish are now received. It is possible to speak Irish during visits though this does not amount to a right. The delays in receiving and sending literature written in Irish have been reduced, subject to normal censorship procedures.

7.3.3. Conclusion and recommendations

The United Kingdom could sign one of the paragraphs or sub-paragraphs of Article 10 without having to change any practice.

The administrative authorities will mostly reply to applications in Irish, Irish street names are to be legalized and it is possible to adopt family names in Irish.

CAJ recommends, however,

- that legislation should recognise the right of Irish speakers to use Irish in formal contacts with administrative authorities, and to use the Irish version of their names;
- that users of Irish should be entitled to submit written applications to public services and administrative authorities at all levels and to receive replies in Irish;
- that widely used administrative texts and forms should be made available in Irish or bilingual versions.

146 Interview with Feilim ó hAdhmaill, 23. October 1992.

147 "In the High Court of Justice in Northern Ireland between Eoghan MacCormaic otherwise Eugene Mindzenty McCormick and John Henry Pickering and Governor of HM Prison Maze and The Secretary of State for Northern Ireland", CARF0394, pp. 9-10.

148 Ibid.

149 Ibid.

7.4.1. Article 11 - Media

Article 11 deals with the media of television, radio and the written press in addition to audio and audio-visual works. It says that the state shall encourage and/or facilitate at least programmes and articles if not channels and newspapers in the minority language. It also says that the government shall cover the additional costs of those media using minority languages or apply existing measures for financial assistance to audio-visual productions. Support for training of journalists in the minority language is also mentioned as a measure promoting minority languages in public life.

The reception of radio or television programme and newspapers from neighbouring countries where the same minority language is used, must not be restricted. The interests of the users of minority languages are also to be represented or taken into account within bodies with responsibility for guaranteeing freedom and pluralism in the media.

A contracting state has to apply one of the provisions in Article 11.

7.4.2. Irish and the media

If a minority language is going to survive against the tide of majority languages in the world today, it must be able to provide the same entertainment facilities, particularly for children and young persons, as are available in the majority language.¹⁵⁰

While there has been a substantial increase in Irish language programmes on the British Broadcasting Corporation - Northern Ireland, the situation is still far from satisfactory.¹⁵¹ Up to 1981 there were no Irish language programs on BBC. Today there are three and a half hours of programmes in the Irish language on Radio Ulster each week. There have been several TV programmes in Irish as well, though amounting only to approximately four hours a year.¹⁵² The Director of the ULTACH Trust is a member of the BBC's Educational Broadcasting Council for Northern Ireland.¹⁵³

Ulster Television has approached the ULTACH Trust for advice on projected Irish language programmes,¹⁵⁴ but no programmes have yet been broadcast.

Irish language programmes broadcast from Radio Telefis Eireann in the Republic of Ireland cover parts of Northern Ireland. The ULTACH Trust has in a report suggested a single TV-channel for Irish speakers covering the entire island and funded jointly by the governments of the Republic of Ireland and the United Kingdom.¹⁵⁵

Belfast Community Radio, a local radio station, has programmes in Irish, and they have received some funding from CCRU.¹⁵⁶ The British Government has, despite requests from

¹⁵⁰ Napier, op. cit., p. 23.

¹⁵¹ For a recent review of this issue, see Mac Póilin, Aodán agus Andrews, Liam, *BBC agus an Ghaeilge*, ULTACH Trust, Belfast 1993.

¹⁵² Interview with Kieran Hegarty, BBC, 10. November 1992.

¹⁵³ Interview with ULTACH Trust, op. cit.

¹⁵⁴ ULTACH Trust, op. cit., p. 14.

¹⁵⁵ Napier, op. cit.

¹⁵⁶ Interview with CCRU, op. cit.

Irish language groups, refused a licence for an Irish language radio station in Northern Ireland.¹⁵⁷ In June 1993, however, for the first time, an Irish language radio station, which had been operating illegally, was given a licence for one month. It remains to be seen whether this indicates a change of attitude by the authorities and whether a more long term licence will be forthcoming.

Since 1985 *LÁ* - the only daily Irish language newspaper - has been published in Belfast. In the summer of 1993, *LÁ* became a weekly publication on a temporary basis due to lack of resources. The paper has received funding from CCRU to extend its circulation.¹⁵⁸ Other newspapers, like **The Irish News** and **Andersonstown News**, regularly carry articles in Irish.

7.4.3. Conclusion and recommendations

There has been a substantial improvement in the situation for Irish in the media. The British Government would have no problem in signing several of the paragraphs and sub-paragraphs of Article 11. It is important to remember however that approximately 10 percent of the population in Northern Ireland speaks Irish and that the media are important, especially for children, if a minority language is to survive.

CAJ recommends:

- that the Government ensure the creation of one radio station and one television channel in Irish. The television channel could, as the ULTACH Trust proposes, be a joint project with the Republic of Ireland;
- that the Government cover the additional costs of those media which use the Irish language.

7.5.1. Article 12 - Cultural activities and facilities

This Article has provisions that states shall encourage types of expression and initiatives specific to minority languages in the cultural sphere. Translation of works from/to minority languages is mentioned as one measure.

The state must ensure that bodies responsible for organising or supporting cultural activities make appropriate allowance for incorporating the knowledge and the use of minority languages and cultures in the undertakings which they initiate or for which they provide backing. Bodies responsible for organising or supporting cultural activities should have at their disposal staff speaking the minority language and representatives of the minority language community should take part in planning cultural activities.

A contracting state has to sign at least two of the provisions in Article 12.

157 Broken Covenants, op. cit.

158 Interview with CCRU, op. cit. and further correspondence.

5.2. Irish and cultural activities and facilities

Cultural activities are seen as an important area of concern by the Irish language community. In the *ó Fiaich Principles* Irish language activists demanded that grant aid and support for Irish language art should be provided on a par with that given to English language art.¹⁵⁹ There are complaints that the Arts Council of Northern Ireland lacks a specific policy with respect to the Irish language, and that all the initiatives have to come from the Irish language community. A report¹⁶⁰ with a proposal for the reorganisation of the Arts Council has been published, and it has received many responses, also from Irish language groups. The relevant minister announced decisions on the restructuring of arts funding in the first half of 1993. The chairperson of the Arts Council has invited contributions from all interest groups to the development of an arts strategy.¹⁶¹

The ULTACH Trust is represented on the Arts Council's General Purposes Committee, one of its functions being to make recommendations for funding Irish language books and magazines.¹⁶²

The Arts Council of Northern Ireland was awarded a total grant of 33,600 for Irish language arts in the financial year 1991-1992.¹⁶³ This is a considerable increase from the 10,000 awarded in 1985-1986.¹⁶⁴ In addition a substantial sum is provided by CCRU for the place-name Project of the Department of Celtic Studies in Queens University. This project, which is documenting the Irish origin of place-names, has been criticised however for having little to do with the promotion of Irish as an active language.¹⁶⁵

The Government does not fund translations of books: neither from English to Irish, nor vice versa.

5.3. Conclusion and recommendations

The United Kingdom could apply at least the two necessary paragraphs or sub-paragraphs of Article 12, but it is a matter for discussion how explicit the Government's cultural policy towards Irish is. Irish language activists would say it is far too vague and that more positive policy should be implemented.

CAJ recommends:

that the public authorities encourage types of expression and initiative specific to Irish, and foster different means of access to works produced in the Irish language;

that bodies responsible for organising or supporting cultural activities incorporate the knowledge and use of Irish language and culture in the undertakings which they initiate or for which they provide backing, and that they have Irish speaking staff at their disposal;

3 "Irish Language Principles", op. cit.

3 **Structures and Arrangements for Funding the Arts in Northern Ireland**, July 1992. Available from the Department of education, Arts, Museums and Libraries Branch.

1 Interview with DENI, op. cit. and further correspondence.

2 ULTACH-Trust, op. cit., pp. 14-15.

3 Mr. Hanley's answer to MP Rev. Ian Paisley, 16. November 1992.

4 Mr. Cope's answer to MP Mr. Seamus Mallon, 29. November 1990.

5 Interview with Patsy McGlone, SDLP, 2. December 1992.

- that representatives of the Irish speaking community participate directly in providing facilities and planning cultural activities;
- that the Government create and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical and legal terminology in Irish.

7.6.1. Article 13 - Economic and social life

Article 13 deals with discrimination regarding the use of minority languages in documents relating to economic and social life, and commits the state parties to oppose practices which discourage the use of minority languages in connection with economic or social life. States must also encourage public authorities, insofar as they are competent in this respect, to implement provisions that allow the use of minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents. Parties to the convention must promote the use of minority languages in the economic and social part of the public sector.

At least one of the paragraphs or sub-paragraphs in Article 13 has to be applied by contracting states.

7.6.2. Irish and economic and social life

There is no legislation discriminating against the use of Irish in economic and social life. On the other hand, there is no legislation in Northern Ireland preventing discrimination on linguistic grounds. The **Northern Ireland Constitution Act 1973**, Section 19(1), forbids discrimination only on the grounds of religious belief or political opinion.

Irish speakers say they have experienced difficulties in dealings with banks and universities, mainly due to prejudice and ignorance which has been reinforced by a lack of Government enthusiasm for the language over the years. Speakers have alleged that they have suffered discrimination from university authorities when they have tried to register using the Irish version of their names. Similarly with banks or with private sector transactions in the North, there are often difficulties in using Irish names or Irish cheques. Banks often refuse to issue Irish cheque-books, though these are routine in the South. Furthermore, discrimination in employment is alleged with Irish speakers claiming that they face barriers in terms of job applications and interviews when they use their Irish names. In all these instances, neither protection nor redress exists.¹⁶⁶

7.6.3. Conclusion and recommendations

The United Kingdom could apply some of the provisions in Article 13, since there is no legislation prohibiting or limiting the use of Irish in economic and social life. On the other hand nothing is done to promote the use of Irish in this important sphere of life.

¹⁶⁶ Interview with Feilim ó hAdhmaill, 23. October 1992.

CAJ recommends:

that the Government should oppose practices designed to discourage the use of Irish in connection with economic or social activities.

7.7.1. Article 14 - Transfrontier exchanges

Article 14 commits the state parties to apply existing bilateral and multilateral agreements in such a way as to foster contacts between the users of the same language in neighbouring states in the fields of culture, education, information, vocational training and permanent education. The parties are also committed to facilitating and promoting co-operation across borders, in particular between regional or local authorities.

A contracting state does not have to apply any of these provisions.

7.7.2. Irish and transfrontier exchange

No formal agreement on the issue of the Irish language exists between the United Kingdom and the Republic of Ireland. The Anglo-Irish Agreement of 1985, which is the most recent bilateral agreement between the two states, does not mention the Irish language specifically. Cross border co-operation is limited in the main to security measures. The importance of the Irish language is, however, mentioned in the Official Review of the Agreement in 1989, without referring to transfrontier exchange as a way of promoting it.¹⁶⁷

Beyond funding some organisations' scholarships to the Donegal Gaeltacht, the Government does not fund projects which promote co-operation across the border.¹⁶⁸ There has, however, been some limited co-operation at district council level.¹⁶⁹ The ULTACH Trust has established links with a number of organisations in the Gaeltacht.¹⁷⁰

7.7.3. Conclusion and recommendations

Article 14 does not represent an obstacle to the ratification of the document, since a signing party does not have to apply any of the provisions on transfrontier exchange. The importance of these provisions for Northern Ireland is however substantial, since despite the fact that many people use a substantial amount of Irish in everyday life there is no Gaeltacht in Northern Ireland at present. The Irish language in Northern Ireland coexists with one of the strongest languages in the world. It is essential therefore that borders do not hinder co-operation and exchange between Irish speakers.

¹⁶⁷ Hadden and Boyle, op. cit., p. 85.

¹⁶⁸ Interview with CCRU, op. cit. and further correspondence.

¹⁶⁹ Interview with Maolcholaim Scott, op. cit.

¹⁷⁰ ULTACH Trust, op. cit., p. 16.

CAJ recommends:

- that existing and new bilateral and multilateral agreements between the United Kingdom and the Republic of Ireland should be used to foster contacts between Irish speakers on both sides of the border in the fields of culture, education, information, vocational training and permanent education; the creation of a joint TV-channel is one possible project within this framework;
- that the Government should facilitate and promote co-operation across borders, in particular between regional and local authorities for the benefit of the Irish language.

8. CONCLUSION

The European Charter for Regional or Minority Languages is an important document for the minority languages of Europe. It differs from the traditional position in human rights documents in that it calls for the use of affirmative action in the protection of minorities. It is a comprehensive document which includes not only general objectives and principles but also specific measures to promote the use of minority languages in public life.

The renowned socio-linguist Joshua A. Fishman stresses that it is important for the survival of endangered languages that they are used in daily life at community level - in the family, the neighbourhood, the elementary school, the workplace. This is more important than spreading the language into the uppermost spheres of modernity, such as astrophysics, where few will be affected and which do little for the spread of the language.¹⁷¹ This view is shared by many Irish language speakers, who stress the importance of increased support for education and culture if the Irish language is to survive.

The provisions in the **European Charter for Regional or Minority Languages** have the aim of increasing the possibility of using and guaranteeing the right to use minority languages in the public sphere - in schools, in courts, in dealings with administrative authorities and public services, in economic and social life etc. It will make it easier for a speaker of a minority language to use the language in his or her daily life.

This paper has shown that the British Government can apply a number of the Charter's provisions without changing its policy towards the Irish language, but the Government has to make considerable commitments in order to sign the minimum of 35 paragraphs or sub-paragraphs from Part III of the convention.

CAJ recommends that the United Kingdom sign the **European Charter for Regional or Minority Languages** and has in this report put forward some recommendations as to which paragraphs and sub-paragraphs the United Kingdom might apply as a first step. The latest census figures show a huge interest in Irish. The language is a part of the cultural traditions of both nationalists and unionists in Northern Ireland, although it has been more connected with the first. Most Irish speakers will generally support the principle that the language does not belong to any particular political or religious tradition and are keen to promote the language across the community.¹⁷²

171 Fishman, Joshua A., *Language and Ethnicity in Minority Sociolinguistic Perspective*, Multilingual Matters, Clevedon 1989, ch. 12.

172 A view expressed in many of the interviews I undertook, and also stated in ULTACH Trust, op. cit., p. 9.

However, the **European Charter for Regional or Minority Languages** reflects the latest thinking in the international human rights community on the issue of linguistic rights as a facet of minority rights. The United Kingdom government, relatively progressive in its approach to Welsh and to Scots Gaelic, will be aware that the pro-active approach outlined in the Charter is a useful tool for the Irish language community in pressing for government support for the Irish language. The history of discrimination faced by the Irish language merits an appropriate response from the government. The European Charter provides a mechanism for beginning to redress the complaints of Irish language activists. It would also keep the British government in step with its European partners.

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Appendix

THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Preamble

The member states of the Council of Europe signatory hereto,
Considering that the aim of the Council of Europe is to achieve a greater unity between its members, particularly for the purpose of safeguarding and realising the ideals and principles which are their common heritage;
Considering that the protection of the historical regional or minority languages of Europe, some of which are in danger of eventual extinction, contributes to the maintenance and development of Europe's cultural wealth and traditions;
Considering that the right to use a regional or minority language in private and public life is an inalienable right conforming to the principles embodied in the United Nations International Covenant on Civil and Political Rights, and according to the spirit of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms;
Having regard to the work carried out within the CSCE and in particular to the Helsinki Final Act of 1975 and the Document of the Copenhagen Meeting of 1990;
Stressing the value of inter-culturalism and multi-lingualism and considering that the protection and encouragement of regional or minority languages should not be to the detriment of the official languages and the need to learn them;
Realising that the protection and promotion of regional or minority languages in the different countries and regions of Europe represent an important contribution to the building of a Europe based on the principles of democracy and cultural diversity within the framework of national sovereignty and territorial integrity;
Taking into consideration the specific conditions and historical traditions in the different regions of the European States,
Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Charter:

- a. the term "regional or minority languages" means languages that are
 - i. traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population, and
 - ii. different from the official language(s) of that State;

it does not include either dialects of the official language(s) of the State or the languages of migrants;

- b. "territory in which the regional or minority language is used" means the geographical area in which the said language is the mode of expression of a number of people justifying the adoption of the various protective and promotional measures provided for in this Charter;

c. "non-territorial languages" means languages used by nationals of the state which differ from the language or languages used by the rest of the State's population but which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof.

Article 2

Undertakings

1. Each Party undertakes to apply the provisions of Part II to all the regional or minority languages spoken within its territory and complying with the definition in Article 1.
2. In respect of each language specified at the time of ratification, acceptance or approval, in accordance with Article 3, each Party undertakes to apply a minimum of thirty-five paragraphs or sub-paragraphs chosen from among the provisions of Part III of the Charter, including at least three chosen from each of the Articles 8 and 12 and one from each of the Articles 9, 10, 11, and 13.

Article 3

Practical Arrangements

1. Each contracting State shall specify in its instrument of ratification, acceptance or approval, each regional or minority language, or official language which is less widely used on the whole or in part of its territory, to which the paragraphs chosen in accordance with Article 2, paragraph 2, shall apply.
2. Any Party may, at any subsequent time, notify the Secretary General that it accepts the obligations arising out of the provisions of any other paragraph of the Charter not already specified in its instrument of ratification, acceptance or approval, or that it will apply paragraph 1 of the present article to other regional or minority languages, or to other official languages which are less widely used on the whole or part of its territory.
3. The undertakings referred to in the forgoing paragraph shall be deemed to form an integral part of the ratification, acceptance or approval and will have the same effect as from their date of notification.

Article 4

Existing Regimes of Protection

1. Nothing in this Charter shall be construed as limiting or derogating from any of the rights guaranteed by the European Convention on Human Rights.
2. The provisions of this Charter shall not affect any more favourable provisions concerning the status of regional or minority languages or the legal regime of persons belonging to minorities which may exist in a Party or are provided for by relevant bilateral or multilateral agreements.

Article 5

Existing Obligations

Nothing in this Charter may be interpreted as implying any right to engage in any activity or perform any action in contravention of the purposes of the Charter of the United Nations or other obligations under international law, including the principle of the sovereignty and territorial integrity of States.

Article 6

Information

The Parties undertake to see to it that the authorities, organisations and persons concerned are informed of the rights and duties established by this Charter.

PART II

OBJECTIVES AND PRINCIPLES PURSUED IN ACCORDANCE WITH ARTICLE 2, PARAGRAPH 1

Article 7

Objectives and principles

1. In respect of regional or minority languages, within the territories in which such languages are used and according to the situation of each language, the Parties shall base their policies, legislation and practice on the following objectives and principles:
 - a. the recognition of the regional or minority languages as an expression of cultural wealth;
 - b. the respect of the geographical area of each regional or minority language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question;
 - c. the need for resolute action to promote regional or minority languages in order to safeguard them;
 - d. the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life;
 - e. the maintenance and development of links, in the fields covered by this Charter, between groups using a regional or minority language and other groups in the State employing a language used in identical or similar form, as well as the establishment of cultural relations with other groups in the State using different languages;
 - f. the provision of appropriate forms and means for the teaching and study of regional or minority languages at all appropriate stages;
 - g. the provision of facilities enabling non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire;
 - h. the promotion of study and research on regional or minority languages at universities or equivalent institutions;
 - i. the promotion of appropriate types of transnational exchanges, in the fields covered by this Charter, for regional or minority languages used in identical or similar form in two or more States.
2. The Parties undertake to eliminate, if they have not yet done so, any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of a regional or minority language. The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages.
3. The Parties undertake to promote, by appropriate measures, mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective.
4. In determining their policy with regard to regional or minority languages, the Parties shall take into consideration the needs and wishes expressed by the groups which use such languages. They are encouraged to establish bodies, if necessary, for the purpose of advising the authorities on all matters pertaining to regional or minority languages.
5. The Parties undertake to apply, *mutatis mutandis*, the principles listed in paragraphs 1 to 4 above to non-territorial languages. However, as far as these languages are concerned, the nature and scope of the measures to be taken to give effect to this Charter shall be determined in a flexible manner, bearing in mind the needs and wishes, and respecting the traditions and characteristics, of the groups which use the languages concerned.

PART III
MEASURES TO PROMOTE THE USE OF REGIONAL OR
MINORITY LANGUAGES IN PUBLIC LIFE IN ACCORDANCE
WITH THE UNDERTAKINGS ENTERED INTO UNDER ARTICLE
2, PARAGRAPH 2

Article 8

Education

1. With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State, to:

- a.
 - i. make available pre-school education in the relevant regional or minority languages; or
 - ii. make available a substantial part of pre-school education in the relevant regional or minority languages; or
 - iii. apply one of the measures provided for under (i) and (ii) above at least to those pupils whose families so request and whose number is considered sufficient; or
 - iv. if the public authorities have no direct competence in the field of pre-school education, favour and/or encourage the application of the measures referred to under (i) to (iii) above;
- b.
 - i. make available primary education in the relevant regional or minority languages; or
 - ii. make available a substantial part of primary education in the relevant regional or minority languages; or
 - iii. provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv. apply one of the measures provided for under (i) to (iii) above at least to those pupils whose families so request and whose number is considered sufficient;
- c.
 - i. make available secondary education in the relevant regional or minority languages; or
 - ii. make available a substantial part of secondary education in the relevant regional or minority languages; or
 - iii. provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv. apply one of the above measures provided for under (i) to (iii) above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;
- d.
 - i. make available technical and vocational education in the relevant regional or minority languages; or
 - ii. make available a substantial part of technical and vocational education in the relevant regional or minority languages; or
 - iii. provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv. apply one of the measures provided for under (i) to (iii) above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;
- e.
 - i. make available university and other higher education in regional or minority languages; or
 - ii. provide facilities for the study of these languages as university and higher education subjects; or
 - iii. if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs (i) and (ii) cannot be applied, encourage and/or allow the provision of university and higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;
- f.
 - i. arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or
 - ii. offer such languages as subjects of adult and continuing education; or
 - iii. if the public authorities have no direct competence in the field of adult education, favour and/or encourage the offering of such languages as subjects of adult and continuing education;
- g. make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;
- h. provide the basic and further training of the teachers required to implement those of paragraphs (a) to (g) accepted by the Party;
- i. set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.

2. With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

Article 9

Judicial authorities

1. The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

- a. in criminal proceedings:
 - i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
 - ii. to guarantee the accused the right to use his/her regional or minority language; and/or
 - iii. to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or
 - iv. to produce, on request, documents connected with legal proceedings in the relevant regional or minority language, if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;
- b. in civil proceedings:
 - i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
 - ii. to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or
 - iii. to allow documents and evidence to be produced in the regional or minority languages if necessary by the use of interpreters and translations;
- c. in proceedings before courts concerning administrative matters:
 - i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
 - ii. to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or
 - iii. to allow documents and evidence to be produced in the regional or minority languages if necessary by the use of interpreters and translations;
- d. to take steps to ensure that the application of sub-paragraphs (i) and (iii) of paragraphs (b) and (c) above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.

2. The Parties undertake:

- a. not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or
- b. not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language, and to provide that they can be invoked against interested third parties who are not users of these languages on condition that the contents of the document are made known to them by the person(s) who invoke(s) it; or
- c. not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language.

3. The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.

Article 10

Administrative authorities and public services

1. Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible, to:

- a. i. ensure that the administrative authorities use the regional or minority languages; or

- ii. ensure that such of their officers as are in contact with the public use the regional or minority languages in their relations with persons applying to them in these languages; or
 - iii. ensure that users of regional or minority languages may submit oral or written applications and receive a reply in these languages; or
 - iv. ensure that users of regional or minority languages may submit oral or written applications in these languages; or
 - v. ensure that users of regional or minority languages may validly submit a document in these languages;
- b. make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;
- c. allow the administrative authorities to draft documents in a regional or minority language.
2. In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:
- a. the use of regional or minority languages within the framework of the regional or local authority;
 - b. the possibility for users of regional or minority languages to submit oral or written applications in these languages;
 - c. the publication by regional authorities of their official documents also in the relevant regional or minority languages;
 - d. the publication by local authorities of their official documents also in the relevant regional or minority languages;
 - e. the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;
 - f. the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;
 - g. the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.
3. With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible, to:
- a. ensure that the regional or minority languages are used in the provision of the service; or
 - b. allow users of regional or minority languages to submit a request and receive a reply in these languages; or
 - c. allow users of regional or minority languages to submit a request in these languages.
4. With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:
- a. translation or interpretation as may be required;
 - b. recruitment and, where necessary, training of the officials and other public service employees required;
 - c. compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.
5. The parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

Article 11

Media

1. The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:
- a. to the extent that radio and television carry out a public service mission:
 - i. to ensure the creation of at least one radio station and one television channel in the regional or minority languages, or
 - ii. to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages, or
 - iii. to make adequate provision so that broadcasters offer programmes in regional or minority languages;
 - b.
 - i. to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages, or
 - ii. to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;
 - c.
 - i. to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages, or

- ii. to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;
 - d. to encourage and/or facilitate the production and distribution of audio and audio-visual works in regional or minority languages;
 - e. i. to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or
ii. to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;
 - f. i. to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or
ii. to apply existing measures for financial assistance also to audiovisual productions in regional or minority languages;
 - g. to support the training of journalists and other staff for media using regional or minority languages.
2. The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the re-transmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
3. The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.

Article 12

Cultural activities and facilities

1. With regard to cultural facilities and activities - especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including *inter alia* the use of new technologies - the parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field, to:
- a. encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;
 - b. foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;
 - c. foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;
 - d. ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;
 - e. promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;
 - f. encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;
 - g. encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;
 - h. if necessary create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.
2. In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.
3. The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

Article 13

Economic and social life

1. With regard to economic and social activities, the Parties undertake, within the whole country, to:
 - a. eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;
 - b. prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;
 - c. oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;
 - d. facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.
2. With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible, to:
 - a. include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, ensure the implementation of such provisions;
 - b. in the economic and social sectors directly under their control (public sector), organise activities to promote the use of regional or minority languages;
 - c. ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;
 - d. ensure by appropriate means that safety instructions are also accessible in regional or minority languages;
 - e. arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages.

Article 14

Transfrontier exchanges

The Parties undertake:

- a. to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;
- b. for the benefit of regional or minority languages, to facilitate and promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form.

PART IV APPLICATION OF THE CHARTER

Article 15

Periodical Reports

1. The Parties shall present periodically to the Secretary General of the Council of Europe, in a form to be prescribed by the Committee of Ministers, a report on their policy pursued in accordance with Part II of this Charter and on the measures taken in application of those provisions of Part III which they have accepted. The first report shall be presented within the year following the entry into force of the Charter with respect to the Party concerned, the other reports at three-yearly intervals after the first report.
2. The Parties shall make their reports public.

Article 16

Examination of the reports

1. The reports presented to the Secretary General of the Council of Europe under Article 15 shall be examined by a committee of experts constituted in accordance with Article 17.
2. Bodies or associations legally established in a Party may draw the attention of the committee of experts to matters relating to the undertakings entered into by that Party under Part III of this Charter. After consulting the Party concerned, the committee of experts may take account of this information in the preparation of the report specified in paragraph 3 below. These bodies or associations can furthermore submit statements concerning the policy pursued by a Party in accordance with Part II.
3. On the basis of the reports specified in paragraph 1 and the information mentioned in paragraph 2, the committee of experts shall prepare a report for the Committee of Ministers. This report shall be accompanied by the comments which the Parties have been requested to make and may be made public by the Committee of Ministers.
4. The report specified in paragraph 3 shall contain in particular the proposals of the committee of experts to the Committee of Ministers for the preparation of such recommendations of the latter body to one or more of the Parties as may be required.
5. The Secretary General of the Council of Europe shall make a two-yearly detailed report to the Parliamentary Assembly on the application of the Charter.

Article 17

Committee of Experts

The committee of experts shall be composed of one member per Party, appointed by the Committee of Ministers from a list of individuals of the highest integrity and recognised competence in the matters dealt with in the Charter who shall be nominated by the Party concerned.

Members of the committee shall be appointed for a period of six years and shall be eligible for re-appointment. A member who is unable to complete a term of office shall be replaced in accordance with the procedure laid down in paragraph 1, and the replacing member shall complete his predecessor's term of office.

The committee of experts shall adopt rules of procedure. Its secretarial services shall be provided by the Secretary General of the Council of Europe.

PART V FINAL PROVISIONS

Article 18

This Charter shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification or approval shall be deposited with the Secretary General of the Council of Europe.

Article 19

1. This Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Charter in accordance with the provisions of Article 18.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 20

1. After the entry into force of this Charter, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council of Europe to accede to this Charter.
2. In respect of any acceding State, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 21

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations to paragraphs 2 to 5 of Article 7 of this Charter. No other reservation may be made.
2. Any Contracting State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

Article 22

1. Any Party may at any time denounce this Charter by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

Article 23

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Charter of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Charter in accordance with Articles 19 and 20;
- d. any notification received in application of the provisions of Article 3, paragraph 2;
- e. any other act, notification or communication relating to this Charter.

List of CAJ Publications

- No. 1 **The Administration of Justice in Northern Ireland:** the proceedings of a conference held in Belfast on June 13th, 1981 (no longer in print).
- No. 2 **Emergency laws in Northern Ireland:** a conference report, 1982 (no longer in print).
- No. 3 **Complaints Against the Police in Northern Ireland,** 1982.
- No. 4 **Procedures for handling complaints against the Police,** 1983 (updated by No. 16).
- No. 5 **Emergency Laws: suggestions for reform in Northern Ireland,** 1983 (photocopy available).
- No. 6 **Consultation between the police and the public,** 1985.
- No. 7 **Ways of protecting minority rights in Northern Ireland,** 1985 (price £1.00).
- No. 8 **Plastic Bullets and the Law,** 1985 (updated by No. 15)
- No. 9 **The Blessings of Liberty: An American Perspective on a Bill of Rights for Northern Ireland,** 1986 (price £1.50).
- No. 10 **The Stalker Affair: More questions than answers** 1988 (price £1.50)
- No. 11 **Police Accountability in Northern Ireland** 1988 (price £2.00)
- No. 12 **Life Sentence and SOSP Prisoners in Northern Ireland,** 1989 (price £1.50)
- No. 13 **Debt - An Emergency Situation? A history of the Payments for Debt Act in Northern Ireland and its effects on public employees and people on state benefits** 1989 (price £2.00)
- No. 14 **Lay Visitors to Police Stations in Northern Ireland** 1990 (price £2.00)
- No. 15 **Plastic Bullets and the Law,** 1990 (price £2.00)
- No. 16 **Cause for Complaint.** The system for dealing with complaints against the police in Northern Ireland 1990 (price £2.00)
- No. 17 **Making Rights Count.** Includes a proposed Bill of Rights for Northern Ireland, 1990 (price £3.00)
- No. 18 **Inquests and Disputed Killings in Northern Ireland,** 1992 (price £3.50)
- No. 19 **The Casement Trials: A Case Study on the Right to a Fair Trial in Northern Ireland,** 1992 (price £3.00)
- No. 20 **Racism in Northern Ireland: The need for legislation to combat racial discrimination in Northern Ireland,,** June 1992. The proceedings of a CAJ conference held on 30th November 1991-(price £3.00)
- No. 21 **A Bill of Rights for Northern Ireland. 1993** (price £2.00)
- A briefing Paper on the Northern Ireland (Emergency Provisions) Bill,** 1991 (price £3.00)
- Human Rights in Northern Ireland: A submission to the United Nations Human Rights Committee,** 1991 (price £1.50)
- Submission to the United Nations Committee Against Torture,** November 1991 (price £1.50)
- Submission to the Royal Commission on Criminal Justice,** November 1991 (price £1.50)

Submission to United Nations Sub Commission on the Prevention of Discrimination and the Protection of Minorities, both August 1992 and August 1993 (price £1.00)

Submission to Initiative '92 January 1993 (price £1.50)

Allegations of Psychological Ill-treatment of Detainees held under Emergency Legislation in Northern Ireland February 1993 (price £2.00)

Submission to the Central Community Relations Unit on Race Relations in Northern Ireland, March 1993 (price £3.00)

Submission to the United Nations Committee on the Elimination of Racial Discrimination August 1993 (price £1.50)

Civil Liberties in Northern Ireland: The CAJ Handbook (2nd edition) June 1993 (price £6.00)

Combating Racist Harassment in Northern Ireland: A joint submission by the Chinese Welfare Association, CAJ and the Northern Ireland Council for Travelling People to the Home Affairs Committee inquiry into Racial Attacks and Harassment, June 1993 (price £2.00)

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- ❑ Monitors Civil Liberties issues
- ❑ Publishes a monthly bulletin JUST NEWS
- ❑ Provides information to the public
- ❑ Has published pamphlets on policing, prisons, emergency legislation, Bill of Rights etc.
- ❑ Campaigns for adequate safeguards to protect civil liberties
- ❑ Has published a comprehensive handbook on civil liberties in Northern Ireland

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