



**FUNDAMENTAL SOCIAL RIGHTS
IN NORTHERN IRELAND:**

***BUILDING UPON THE AGREEMENT
AND THE
EUROPEAN SOCIAL CHARTER***



Conference report

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***Fundamental Social Rights in Northern Ireland:
Building upon the Agreement and the
European Social Charter***
(Conference proceedings - 17th June 1999)

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Conference Proceedings

*Fundamental Social Rights in Northern Ireland:
Building upon the Agreement and the
European Social Charter*

**Opening Plenary session - chaired by Maggie Beirne
of the Committee on the Administration of Justice (CAJ)**

I would like to welcome you all to this event organised by the CAJ and sponsored by the Council of Europe, and I'd like to thank you all very much indeed for coming.

I think most of you would know in general about the work of the CAJ and you will see displays of our publications and other materials at the back of the room. Essentially we work across the whole gamut of human rights - that is, civil, political, social, economic, and cultural rights. We were honoured to receive the Council of Europe Human Rights Prize for 1998, and to mark that event we organised a seminar to inform people about the European Convention of Human Rights (ECHR). We had always intended to organise a similar event in connection with the European Social Charter, which is the socio-economic counterpart of the ECHR. Together, the European Convention of Human Rights and the European Social Charter have come to be known as the "European Bill of Rights".

The Good Friday Agreement sets out the inter-dependence of these rights, and puts human rights very centrally at the heart of all Northern Ireland's future political and constitutional arrangements. It, moreover, determined that we would have a Bill of Rights for Northern Ireland, and this will be an early priority task for the new Human Rights Commission. CAJ thought that it would therefore be very timely to organise this follow-up seminar and to focus on the inter-relationship between civil, political, economic, social and cultural rights in Northern Ireland. We assume that the Commission will be developing a very broad and deep consultation around the



content of the future Bill of Rights, and we hope that this seminar will make some small contribution to that debate.

The Council of Europe has indicated its interest in this initiative by financing and facilitating the participation of several of their own well-known experts. I have no doubt that we will find the perspectives from other jurisdictions enormously invaluable in our discussions.

Our first speaker, Professor David Harris, is a leading authority on European Law and both the Convention and the Social Charter. He is currently a Professor of International Law at Nottingham University, and a consultant to the United Nations, the Council of Europe, and the European Commission. He is a former member of the European Committee of Social Rights, and it is in this expert status that we have asked him to speak today.

Our second speaker, who will follow on immediately afterwards, is Professor Stein Evju. Professor Evju is vice president of the European Committee of Social Rights, which has the task of overseeing implementation of the Social Charter in the more than 41 member states of the Council of Europe. Professor Evju is also President of the Norwegian Labour Court, and Professor of Labour Law at the University of Oslo, Norway.

Thank you very much indeed.

*European standards in the protection
of economic and social rights*

Presentation by Professor David Harris¹

Thank you very much. I am very pleased to have been invited here to Belfast. I am particularly pleased because my first appointment as a university lecturer was in Queens University and I met my wife here. She was a research student and we did our courting in the area of Belfast, so I have very good memories of this part of the world.

I am also very pleased that the Council of Europe has recognised the great work that has been done by the Committee on the Administration of Justice (CAJ) for its work in the area of human rights by awarding the CAJ its Human Rights Prize. It is a very well deserved recognition of the organisation's work. I am very pleased too that the CAJ works actively on economic and social rights because over the years it has become clear that they have not, in human rights terms, obtained the recognition and treatment that civil and political rights have. Yet, clearly, economic and social rights are equally important.

My brief is to talk about European standards in the protection of economic and social rights and more particularly to talk about the standards in the European Social Charter of the Council of Europe. This is not the European Social Charter - or Chapter - of the European Union. There was a time when Mrs Thatcher was getting rather upset about the European Social Charter, the one that emanated from the European Union, and she was shown on television holding a copy of that - in her mind - infamous instrument. She in fact was holding a copy of the Council of Europe Social Charter, which was quite a different instrument, and not the one that she was cross about. Although it is the case that the UK has not infrequently been found in

¹ David Harris, formerly of the European Committee of Social Rights, is professor of international law at Nottingham and acts as a consultant to the UN, the ILO and the EC.



breach of the Council of Europe Social Charter, it is quite a different instrument from its European Union parallel. In fact the Council of Europe's Social Charter is the exact counterpart, in the field of economic, social and cultural rights, of the European Convention of Human Rights in the area of civil and political rights.

Although this is not clear from its title, the European Social Charter is a human rights instrument. I am very glad that this is now recognised to some degree by a change in the name given to the Committee that operates the Charter. There is to be a presentation shortly by the Vice President of the European Committee of Social Rights, Stein Evju, that examines national compliance with the European Social Charter. That body used to be known as the Committee of Independent Experts of the European Social Charter. It has just changed its name, and I think that is a good development to demonstrate that we are talking about economic and social rights as human rights.

Well, what are these standards? If you know the Covenant on Economic, Social and Cultural Rights, then you will have some good indication from that and if you know the work of the International Labour Organisation (ILO) then you will have some indication of the economic side. The European Social Charter covers economic and social rights but doesn't have a section on cultural rights. It is a bit light perhaps on social rights - there are some gaps. For example, there is not a fully fledged right to education or housing, but these gaps have been filled in lately by a new instrument.

There is the European Social Charter of 1961 which is the one that the UK and most states are party to. That is the one that has been given some very clear detailed meaning by what was the Committee of Independent Experts. But there is now another instrument, because it became clear that the standards in the 1961 Charter were somewhat dated in some respects, and the text was sometimes too specific to allow for dynamic interpretation. It guaranteed, for example, only two weeks holiday with pay. In 1996, however, the states in the Council of Europe adopted a Revised European Social Charter, which sets higher standards in some areas, and repeats the existing standards in

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other areas. It incorporates the jurisprudence under the old regime and it adds some additional rights such as housing and exclusion from poverty / social exclusion. It is a very good and well-conceived instrument. It will come into force in July 1999 for the states that have accepted it - i.e. the contracting parties to the original Charter, who are moving over to the revised Social Charter, and other Central and East European states that were not previously Charter parties. The UK has signed the Revised Social Charter and it has for a while had the question of ratification of the Revised Charter under review, but as yet it has not ratified it. I do not believe that ratification is imminent. At present 23 states are parties to the 1961 Charter and/or the Revised Charter.

At the moment the UK is subject to the original 1961 text. So what are the Charter's standards in respect of economic and social rights? It has some 19 Articles that guarantee particular economic and social rights. It starts off with economic rights and for the most part goes into these in great detail. It then goes on to social rights - it has something on the right to health in Article 11, it has something about social security in Article 12, it has something about social and medical assistance in Article 13 and then it has other provisions on family life in Article 16, and on mothers and children in Article 17. These provisions, though, are not so detailed as those on economic rights. The reason for this is that the ILO had been in place for quite a long time and played quite a significant part in the drafting of the text of the Charter. So the details of the ILO conventions and recommendations could be used as a good place to borrow detailed provisions for the earlier part of the Charter on economic rights. But, as regards social rights, this was a relatively new and uncharted area. One had the International Covenant on Economic, Social and Cultural Rights, that was drafted in 1961, but it had not yet been adopted, and there was very little other practice to go upon, so the texts are rather tentative and general, and have been filled in by interpretation by the European Committee of Social Rights.

So, there is more detail on the economic rights' side than on the social rights' side. What does one find in the guarantees? Article 1 is about



the right to work. It requires the state to have a policy geared towards full employment (see Article 1, paragraph 1). It has a provision that is very important in practice (see Article 1, paragraph 2), which requires a contracting party to protect effectively the right of the worker to earn his/her living in an occupation freely entered upon. That requirement was clearly intended to deal with forced labour. However, it has been interpreted so as to protect against not only forced labour that is forced at the outset, but also forced labour in the sense that a person may want to withdraw his/her labour. Restrictions on this right to withdraw labour that has been freely entered upon are covered by Article 1, paragraph 2. A number of European states, including the UK, have been found in breach of this provision in the context of merchant shipping, and the prohibition on merchant seamen from going on strike in some situations. The Committee has found that where withdrawing labour would not risk endangering the safety of the ship, there is a breach of Article 1.2.

That aspect of the Article is perhaps not very important in practice. More important is the other dimension to Article 1, paragraph 2, that is not evident from the text but has been read into the provision by the Committee of Social Rights. That interpretation is to do with discrimination. The Committee has focused on the word 'effectively' and interpreted it to mean that if people are denied opportunities for some reason to do with discrimination (for example, ethnic background, sex, colour), then such treatment does not comply with the obligation to protect "effectively" the right of the worker to earn a living. Most of the jurisprudence on Article 1, paragraph 2, and there is quite a lot of it, has been to do with this non-discrimination aspect. The provision was supposed initially to have been to do with access to employment and securing employment. However, the Committee in recent years has deepened its examination of the matter to allow it to study - where appropriate - issues of remuneration and discrimination within employment (not solely at the point of recruitment).

While most attention has been focused on concerns involving sexual discrimination, the debate in recent times has ranged more widely. The preamble to the Social Charter has always had the standard formula on

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discrimination that you find in texts of this kind. It covers discrimination by reference to origins of a certain kind, by reference to colour, etc. What one finds is that the Committee has recently been tackling issues of discrimination by reference - for instance - to political opinion or trade union activity. Questions have also been put to one state in respect of matters to do with discrimination against gypsies and persons of a certain religion. Article 1 paragraph 2 is a very significant provision and has been interpreted in a very rigorous way by the Committee of Social Rights.

I obviously do not have time to go through all nineteen Articles. Here I can just highlight a few examples. Article 2 for example is about reasonable conditions of work - reasonable working hours, holidays with pay, a day off in the week. A particular provision that is interesting is Article 2, paragraph 1, which talks about reasonable working hours. That is a provision that is left open to a dynamic interpretation by the Committee because the notion of what is reasonable can evolve over time. There is an interface here between the Council of Europe and the European Union instruments. Under the European Social Charter in Brussels, some directives had been adopted relating to working hours, and there is a rule of 48 hours a week in that directive, as I am sure you know. There is another directive on maternity leave and one or two others that parallel what one has in much more detail in the Council of Europe European Social Charter. There tends to be a relationship between what happens in Brussels and what happens in Strasbourg by way of interpretation. The Social Charter in Strasbourg is interpreted as a separate instrument but the Committee of Social Rights does look to see what European standards are being evolved in EU instruments. In Strasbourg, I think the Committee perhaps has come to the point where if a State Party reported more than 50 hours in a working week, then there would be a serious question to ask about its "reasonableness", which is in line with the 48-hour limit in the Brussels directive..

The notion of "reasonable" is open to interpretation and that allows me to make a general point. When we are looking at the Charter as a



whole, we have an evolving and dynamic instrument. We have one that is really geared to European standards. What the Committee does, is seek to make sense of what our European expectations and standards are at the time the matter is being considered - and standards may change, circumstances may change.

A good example of this changing environment can be seen in Article 12, paragraph 3. This paragraph speaks of the obligation to progressively improve social security provision. As time has moved on, demographic change has occurred. There are great difficulties for states now in improving social security provision. The Charter was drafted at a time when it was thought that things were always going to get better, economic situations would always improve, and one could suppose that states would gradually improve the provisions for social security. However, that is no longer the case for economic and demographic reasons, and the Committee has had to grapple with a situation where states are under pressure, are cutting back on social security provisions, and are thinking about privatisation.

Article 4, paragraph 1, provides another interesting provision to study. Article 4, paragraph 1 is about pay; it is about wages, and wages that are sufficient to provide a worker and his family with a decent standard of living. It is a very important provision and obligation, but it has proved a very difficult one for the Committee to operate. What criteria do you use when you are determining whether a wage is such as to provide a decent standard of living? For a long time, the Committee operated a 66% rule, and it took the view that if wages in some areas of the economy were below 66% of the average, then the State Party was not in compliance with Article 4, paragraph 1. This position has changed very recently. The Committee of Social Rights now operates the rule that if wages are below 50% (and we are talking here about net wages), then it is likely that the state will be considered in breach of Article 4, paragraph 1. If the wages fall between 50% and 60% of the average wage, one looks at other provisions to see if the government merits a non-compliance ruling. This shows how the Committee uses evolving notions to determine whether one's wage allows a decent standard of living.

A very important provision of the Charter is Article 7, which has to do with child and young person's labour. There are a number of very detailed provisions that apply ILO standards. I mention this provision in particular because we are moving now into the situation where the Charter is enforced not only by periodic reports, but also for those contracting parties who accept this, by collective complaints. Collective complaints can be sent to Strasbourg through the Additional Collective Complaints Protocol. There are now nine contracting parties to this Optional Protocol, and you can bring a collective complaint against these nine states. The UK is not one of them as yet, and I do not know that it has any immediate intention to accept the right of collective complaint. The first case has now reached the Committee under this mechanism and it is one about child labour. The complaint has been admitted for consideration on its merits. It is about child labour in Portugal. The allegation is that persons under the age of 15 are to a significant extent, in a certain part of the country, working in breach of Article 7, paragraph 1. It further is suggested that the inspection arrangements meant to ensure that such abuses do not occur are not working properly. Of course, the full merits of this have still to be determined. However, it is an interesting case for the first collective complaint, and shows that Article 7 is a very important provision.

One finds a very important provision in Article 8, paragraph 1 concerning maternity leave. You may know that the ILO is working on improving standards on maternity leave. There is a provision in Article 8, paragraph 1 in respect of 12 weeks maternity leave and in respect of income that will allow a person to take that leave meaningfully. One has to have a certain level of income that comes from state benefit from retention of salary or state benefit while on maternity leave, and the Committee tends to look to 80% or more to be acceptable. One controversial dimension to this is that the Committee has said that six weeks maternity leave is compulsory. There must be in place a mechanism to ensure that a woman takes her leave and is not subject to improper pressure being brought to bear on her by her employer to return to work prematurely. That has been controversial. There is a parallel European Union directive in respect of maternity



leave but it is not on exactly the same terms. The Revised Social Charter has improved standards further and the requirement has now raised maternity leave from twelve to fourteen weeks.

If I am to move on from Article 8 to cover the rest of the Charter in the few minutes that are left to me then I must spend some time on social rights. The original Article 16 concerning the rights of family is a very important one. It is extremely generally phrased but has been given some detailed meaning by the Committee. It relates to the provision of family housing, the provision of family benefits and non-discrimination. I should make the point that running through the whole of the Charter is a theme of non-discrimination. There is no particular provision in the Charter like Article 14 of the European Convention on Human Rights which says that every right in the European Convention on Human Rights has to be guaranteed on a non-discriminatory basis, but you have in the preamble a wording similar to that of Article 14. This is used to serve the same purpose by the Committee. It has been read into provisions of the Charter where appropriate - with regard to family rights relating to discrimination on grounds of sex, religion, whatever it might be. One country in particular - Turkey - has some problems since not all the family law regimes applicable in Turkey provide for equality of treatment between men and women. This affects, for example, rights within family, rights in respect of property and rights to do with marriage. Turkey has been found to be in breach of Article 16 in that regard. The Charter as a whole has this theme of non-discrimination running through it and, where relevant, the Committee has found it possible to use the text of the preamble to apply to specific Articles so as to require non-discrimination.

The provision in Article 17 concerning children and mothers is a rather dated provision, and the Revised Social Charter has amended the text of Article 17 very significantly. It is now much more comprehensive and ambitious in terms of the guarantees it provides in respect of the rights of children. It is not limited to mothers, it is focused on children, and it improves upon what was missing in the original Charter, which is a very important right indeed i.e. the right to

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education, which is now to be found at the very end of the text of Article 17 as revised.

I would like to finish by telling you of the provisions of the Revised Social Charter. There are, for example, some economic guarantees granting the worker protection in the case of insolvency of an enterprise; there are others which guarantee that if one's firm is declared bankrupt, there must be provision made for redundancy arrangements and protection against arbitrary dismissals. Beyond the context of employment, there are very important provisions to do with the right to protection against poverty and social exclusion (Article 30) and the right to housing (Article 31). This last right was only protected to a very limited, scattered, extent in the original text of the European Charter.

What I want to say finally is that the Committee that operates the Charter has, since 1965 when the Charter came into force, interpreted the text extensively and there is a very rich jurisprudence giving meaning to it. In order to understand what the European standards are that emerge from the Charter you need to look at the practice of the Committee. One gets a very good sense from that practice exactly what the current standards are across Europe. They are not essentially very different from ILO standards, but there are some deviations. What is particularly original and distinctive is what has been done in the field of social rights where there has been no equivalent of ILO standards to work by. The Committee has been very innovative, increasingly so in recent years, in giving meaning to the social rights that are protected in the Charter.

Thank you.



*Applying the European Social Charter
within the national legal system*

Presentation by Professor Stein Evju²

The headline designated for this presentation points at an important task *and* a challenge - not merely, I might add, with respect to Northern Ireland.

Professor Harris pointed in his presentation to the Charter's relations to International Labour Organisation (ILO) instruments and the 1966 UN Covenant on Economic, Social and Cultural Rights. Hence, I can leave that aside. Let me just note that the Charter is a reflection of fundamental values recognised in social and economic rights' standards more generally. Further, like law-making treaties and domestic legislation generally, the Charter presupposes consequences in the national legal regime. And, as Professor Harris also underlined, it is a dynamic instrument - one important aim of which is to contribute to social change.

It is often argued against social and economic rights that these are abstract and collective notions, and not rights in the true sense. That argument must be rejected. Granted, the provisions of the European Social Charter (ESC) are framed in general and, on many counts, seemingly vague terms. This is however not different from the case of civil and political rights. The European Social Charter is the counterpart of the European Convention on Human Rights (the ECHR), and it is important to underline, and to not lose sight of, the fact that, just like civil and political rights, social and economic rights have as their aim *individual protection*.

² Professor Stein Evju, vice president of the European Committee of Social Rights, president of the Norwegian Labour Court and professor of labour law at the University of Oslo, Norway.



The relation between civil and political and social and economic rights is, indeed, of key importance. The fundamental principle of the interdependence and indivisibility of human rights - on which the 1961 Social Charter is based (and which is now expressly stated in the Preamble to the Revised European Social Charter, 1996) - is essential. There would seem to be no call to argue this point here. I have noted that the interdependence of civil, political, social, economic and cultural rights is essentially recognised in the Good Friday Agreement.

This merits being mentioned, however, with a view to the prospective Bill of Rights for Northern Ireland.

There is no dichotomy, or no strict demarcation lines, between the ECHR - to which the Good Friday Agreement explicitly refers - and the European Social Charter. Nor is that a novel view. For example, the point was made twenty years ago by the European Court of Human Rights; in the *Airey* case judgement (9 October 1979; Series A No. 32).] On the contrary, there is an intrinsic interrelationship and - contrary to what is often suggested - on *many points* an overlap between the two treaties.

Let me just briefly note, by way of example.

- Prohibition of forced labour is embodied both in article 4 of the ECHR and in Article 1(2) of the ESC.
- There is a relationship between Articles 2 and 3 of the ECHR, on the right to life and protection against "inhuman and degrading treatment", and Article 3 of the ESC on the right to safe and healthy working conditions. The European Committee of Social Rights has made reference to this on many occasions in its rulings.
- There is also an obvious relationship between Article 11 of the ECHR on freedom of association and Article 5 of the ESC on the right to organise, pertaining to workers', trade union, employers' and employer association rights. The European Court of Human Rights has also referred to this relationship. There is in turn a

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relationship with Article 6 of the ESC on the right to bargain collectively.

- Protection of the family, is covered in Article 8 of the ECHR and in the ESC in Article 16, as well as in other provisions (e.g. in Article 19 on migrant workers and their families).

Speaking generally, then, there is an essential link between the ECHR and the ESC. Social and economic rights are an important complement to civil and political rights. At the same time, the latter provide pertinent guarantees in the context of the former. *It is only by a combination that a good balance may be achieved.*

Thus, it would be of major significance if such a holistic approach is applied to the drafting of the Bill of Rights for Northern Ireland. While the ECHR now is in the process of becoming part of the national legal order, and is referred to explicitly in the Good Friday Agreement, no similar standing is yet accorded to the ESC. Hence, from the perspective of the protection of social and economic human rights, it would mark an important step and a major achievement if rights and guarantees embodied in the European Social Charter are included in the Bill of Rights. This is, of course, particularly true given the status and role of the Bill of Rights in the national legal order pursuant to the Good Friday Agreement (a point to which I will return later on).

While the Charter's provisions on many counts may seem vague - as I have already touched upon - and not always easy to implement, at a closer look it will be seen that in many respects it contains rights and guarantees that are certainly concrete, justifiable and enforceable.

A first task and challenge, then, would be to analyse the Charter and to identify such rights and guarantees as could suitably be included in the Bill of Rights. A second, perhaps, would be to consider how to transpose those rights and guarantees into specific provisions adapting in an appropriate way to national circumstances and legal tradition. That would depend on whether one favours a technique of straightforward incorporation or one of transposition.



In either case, it may also be considered whether to include rules on the right of access to courts and related procedural guarantees.

To illustrate, again briefly and by way of example. Firstly, it is firmly established that the right to social and medical assistance in Article 13(1) lays down an entitlement to public assistance as of right. Social assistance should be granted as a "subjective (individual) right". The European Committee of Social Rights (ECSR) has consistently held that this implies a requirement of that right being supported by a right of appeal to an independent body or, as the case may be, a court, empowered to rule on the basis of objectively determined criteria. Furthermore applicants ought to be able to benefit from legal assistance despite their lack of resources.³

Secondly, and on a more general note, in many cases, complaints by individuals may be a measure not readily resorted to in practice. At the level of the ESC itself, the supervisory machinery has now been reinforced by the introduction of the collective complaints procedure, under which organisations have a right to lodge complaints to the ECSR. In the context of social and economic rights, procedural rights are no less important at the national level. It could be argued, and should be considered, that non-governmental organisations should be recognised as partners to be consulted, and as entities with the capacity to institute legal proceedings for the protection of the more general aspects of social and economic rights and, in instances in which no aggrieved individual with a sufficient interest - or the requisite resources - to take court action can be found.⁴

³ Cf. Conclusions XIII-4, General Introduction at pp. 55-56. I am using this as an example also because it has given rise to critical debate in Norway. The national situation still needs to be clarified to the ECSR, hence there no firm conclusion yet for Norway.

⁴ As an example, to the Norwegian Supreme Court decision Rt. (*Norsk Retstidende*) 1990 p. 874, allowing Norges Handikapforbund (the Norwegian Association for the Handicapped) to act as an intervener in litigation pertaining to the rights of a severely handicapped person to social assistance from the local municipality under the 1964 Social Assistance Act.

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Put even more generally, the principle of effectiveness, including recourse to effective remedies - which is so important in the context of the ECHR - is equally important in the context of the European Social Charter, *and* with regard to the interrelationship between the two instruments. This, I submit, is an important aspect that needs to be taken into consideration in the framing of national legislation as well as in its application.

Good faith compliance with international law obligations implies that the standards imposed by international treaties *are* guaranteed in the domestic legal order. The obligation to ensure that international standards' requirements are met rests, primarily and fundamentally, with the State. Hence, the focus, also as far as the European Social Charter is concerned, may be said to be first and foremost on the national legislature.

I have noted that according to the Good Friday Agreement, the Westminster Parliament will retain power to legislate as necessary to ensure that the UK's international obligations are met in respect of Northern Ireland [GFA Section 33, Strand One, Part 3]. Nonetheless it may, perhaps, be appropriate to observe that the Charter's requirements are further reaching.

National - in this context, Westminster - legislation may provide a basis and general framework, but not necessarily a comprehensive or exhaustive regulation of all aspects to be considered. Where legislative and policy making powers are divided between "central" and "regional" governments, responsibility to ensure compliance will rest also on the government at the "regional" level. This, I might add, is not a merely theoretical observation. Examples exist, in the case-law of Charter supervision, of states found to not be in compliance on the grounds of violations ensuing from measures adopted by regional governments.[E.g., Germany, Belgium.]

Now entering an unprecedented era of devolved government, this will bring with it new challenges for the UK, with respect to Charter



compliance - and challenges as well as opportunities, it would seem, for the Northern Ireland authorities.

Where the Northern Ireland Assembly and administration have competence in fields covered by the Charter, they will have to be aware of its standards, to take account of them, and see to it that the Charter's requirements are respected. That should impact not only on legislative measures, but also on administrative procedures and practices and, as the case may be, on policy measures in a broader sense. It is pertinent, here, to recall the principle of effectiveness (which I have already briefly referred to). It is inherent in this that the Charter (like other treaties) requires not only formal compliance, *de jure*. In a general context, within a legal framework, it is equally important that also the situation in practice conforms to the Charter's standards. The importance of this, *de facto* compliance, is readily attested to by the case-law of the Charter supervisory machinery, in particular the ECSR.

To put this a little differently, the Charter and its effective implementation at the national level presuppose an active legislature being able and willing to take social and economic rights into account and to take them seriously.

However, from the point of view of the Charter, the national *courts* and their role should also be studied. There is, of course, an interrelationship here, between legislation and courts. On a general note - also from the point of view of the Charter - it is clearly preferable if legislation lays down concrete and individualised rights and obligations. They can more easily be handled by courts and can be better applied, than abstract intentions or goal-oriented declarations.

Then, in this context it is pertinent to recall the provision of the Good Friday Agreement in which it is stated that any legislation passed by the Northern Ireland Assembly and subsequently found by the courts to violate the ECHR *or* the Bill of Rights will not be valid. [GFA Section 26 (a), Strand One, Part 3.]

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This is, indeed, a highly significant provision, laying down an important principle of a constitutional law character. This kind of principle I am familiar with, albeit in a different context. The power of courts to review and set aside legislation on the grounds of non-conformity with constitutional law norms is a well embedded principle of long standing in Norwegian constitutional law (and it is also applied, now and again). I am not sufficiently familiar with your system, however, to really realise to what extent this principle amounts to opening up a wholly new avenue or to expanding the role of the courts in judicial review.

At any rate, the norm thus expressed in the Good Friday Agreement certainly emphasises the point I touched upon a little earlier, of how important it would be if rights and guarantees embodied in the European Social Charter are made a part of the Bill of Rights. From the point of view of the Charter that would, of course, be welcomed as a way of recognising its importance in the national legal order. More importantly, though, it would as a matter of principle amount to a significant strengthening of the protection of social and economic rights in domestic law. The courts will then be empowered to review and, as the case may be, set aside statute law provisions not conforming to the rights and guarantees thus included. And in the case of a conflict of norms the courts will, presumably, be able to base a decision in the individual case directly on the relevant provisions of the Bill of Rights itself.

The importance of a possible inclusion of Charter standards in a Bill of Rights may however also go further.

Before proceeding, however, let me note that from the way it is worded, I take it that this provision of the Good Friday Agreement on judicial review will *not* apply in respect of legislation passed by the Westminster Parliament. That may seem a rather significant limitation of the scope of the principle. Again, I am not as well versed in your legal system, or how it may be foreseen to develop, as to venture to try and assess the potential importance in practice of such a limitation. What I would suggest, however - with reference to the observations I



am about to make - is that it should not necessarily be considered to exclude the courts from drawing on guarantees embodied in a Bill of Rights also in this regard.

Beyond - or supplementing - judicial review in the strict sense (if it may be put in such terms), the inclusion of Charter standards in a Bill of Rights would also - at least so I presume - provide a strong foundation and impetus for the courts to interpret and apply statute law rules so as to conform in the best way possible with those standards and the requirements implied therein. By this kind of approach the courts would have the possibility to contribute in a positive way to the effective implementation and enforcement of the rights and guarantees concerned. This could be applied not only to points of substantive law. As I have already touched upon, procedural rights are important and can be used to make social and economic rights more effective. For instance, applying this kind of approach and relying on the principle of effectiveness as one inherent in the Charter, the courts could grant NGOs *locus standi* - if that right is not already recognised in domestic law - to act as plaintiffs or interveners in litigation pertaining to social and economic rights in such contexts as I have mentioned previously.

As this last point would suggest, the general approach could be taken even a step further. If basic principles or provisions of the Charter are recognised in a Bill of Rights, that may be seen as a basis for applying the same kind of approach in respect of the standards that are not explicitly incorporated or transposed into the Bill of Rights. And a recognition in principle of Charter standards could in a similar way be given effect with regard to the interpretation and application of national legislation generally.

Whether this could be a viable approach will of course depend, both on how a Bill of Rights is framed and on - constitutional or other - principles of law otherwise prevailing in the national legal order. Once again, I am not in a position to assess or purport to advise. What I am doing here is merely to indicate possible lines of thinking, drawing on experience from my own domestic legal order.

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At this point, and on the same basis, I could add an observation on a differing note. An act incorporating certain human rights conventions into Norwegian law was passed just recently.⁵ In the course of the debate preceding the enactment, some notes of concern were voiced that when limiting the act to encompass only certain specific treaties, this may be taken as a basis for arguing that those that are not included can not be regarded as equally important and hence not be accorded similar importance or weight with regard to judicial review and the construction by courts of domestic laws.

Still, it is arguable that being one arm of the State, the courts must be - or, at any rate, should be - obliged to take due regard of all international obligations undertaken by the State. Consequently, a general principle of "presumption of harmony" should prevail. Domestic legislation must be presumed to respect, and not be intended to breach international law obligations, and thus it should be interpreted and applied by the courts accordingly, so as to ensure that conformity is attained as far as possible.

This is, in principle, the prevailing approach in Norwegian law. To counteract distinctions being made between different treaties or treaty obligations, a principle to that effect may be asserted in some form of "general clause" or preamble to legislation or in the preparatory work of the relevant act - whichever is appropriate in the national legal tradition. In Norway, it is the latter approach that has been relied on. How effective that will prove to be, remains to be seen.

From this, I shall turn to a different point, but again based on the debate connected to the recent act on incorporation of human rights treaties in Norway. The point I wish to make is that, if the implementation of international human rights standards is to be effective, legislative action needs to be supplemented and supported by other measures of a practical nature. You have, I am sure, already recognised and taken due account of this in conjunction with the

⁵ Act of 21 May 1999, which entered into force on that date; including the ECHR and the two 1966 UN Covenants but, regrettably, not the ESC, among others.



incorporation of the ECHR into domestic law. Permit me to say, however, that while the ECHR in general is well known - though perhaps not its content in detail and the substantial case-law pertaining to it - the situation might not be the same when it comes to the European Social Charter. It is my experience, on home turf and elsewhere, that people - and that would include judges - have scant, if any, knowledge of the Charter, its standards and requirements. Hence, it is a paramount task also to promote knowledge, to disseminate information, and to make the relevant materials and adequate resources available - to government officials and judges, and also to legal and other practitioners and to individuals - so that law on the books may become law in practical reality. Put bluntly, if no one knows, nothing happens.

Then in closing, let me just briefly note. The ECHR is now in the process of becoming an effective part of your national legal order. Drafting a Bill of Rights is a unique opportunity to expand on this - "supplementing the ECHR", to employ the language of the Good Friday Agreement - thereby to lay the foundations of a more comprehensive and coherent protection of human rights. That is a challenge and an aim which, if attained, would mark a significant achievement that, no doubt, will be highly appreciated and warmly welcomed, well beyond the boundaries of Northern Ireland.

Thank you.

Plenary discussion

(The following account is an edited version of the question-and-answer session which followed the presentations)⁶

1. Ratification of the Revised Social Charter

Question: Has the Labour government made any statement or taken any position at all as to when it will ratify the Revised Social Charter?

Answer: As far as the present government is concerned, we are unaware of any official statement that has been made, any response to a question in parliament, or any other official statement, suggesting early ratification.⁷ There are few signs that it is likely to be done soon. Obviously, it is more likely to happen quickly if people bring pressure to bear to this end. (Further to a question on the Republic of Ireland, it was confirmed that the Irish government has not yet ratified the Revised Social Charter).

2. Collective Complaints Procedure

Question: Has the collective complaints procedure been accepted yet by the United Kingdom?

Answer: No. It is certainly important that it be made clear to government (via questions, meetings etc) that people are thinking about the value of the collective complaints procedure to them. Once the collective complaints procedure gets going properly - and we have

⁶ The answers were provided by the keynote speakers - Professors Harris and Evju - and supplemented by Regis Brillat and/or John Darcy, both of the Directorate of Human Rights. CAJ has substantially edited the debate for ease of presentation.

⁷ Subsequent research found a statement by the Foreign & Commonwealth Office to the Select Committee on Foreign Affairs on 20 October 1998 noting "The UK has signed the Revised Social Charter and is actively considering which articles it might ratify. The UK is progressing steadily towards ratification". No indication of a timetable was given.



at present what might be called a test case - that will be important, since people will begin to see its practical value. If the system is seen to be useful, then NGOs and trade union organisations will want to start using it, and they will want to bring pressure to bear upon the government to submit itself to this mechanism.

3. Expansion of Council of Europe membership

Question: Given the expansion of the Council of Europe eastwards, is there any risk that the reasonably high standards of compliance expected currently of member states will be lowered to allow for increasingly different political and economic realities?

Answer: There will clearly be some changes that will occur fairly rapidly. The membership of the expert committees and governmental committees for example will begin to change. Yet, looking at the European Court of Human Rights, which already includes members from the "expanded" Europe, there appears to be little difference in the nature of the Court's judgements. There certainly is no suggestion that there has been any shift in standards in applying the Convention, and it would be surprising if the Charter were very different. All of the debate to date has rather concerned the difficulties likely to be faced by the new member states in meeting the expectations placed on them by the Convention and Charter. There will of course be some changes and debates to standards in coming years - reference was made earlier to the widespread concerns across Europe regarding appropriate levels of social security provision etc. and the role one can reasonably expect of states. However, this is really a problem for Europe as a whole and not peculiar to the question of an expansion of the Council of Europe eastwards.

4. Margin of Appreciation

Question: Would it be correct to say that the European Social Charter is more explicit and leaves less grounds for the "margin of

appreciation" allowed to member states and so often cited in the context of the European Convention of Human Rights.

Answer: The margin of appreciation - or allowing the state some discretion in determining how best to comply with the provisions of international and regional human rights standards is - as suggested - a very well established element in the practice surrounding the European Convention of Human Rights. There is no equivalence within the European Social Charter. The European Committee of Social Rights comments on whether it believes that the obligations are complied with or not. Most of the obligations are positive obligations and require states to do things - to make provision for families, to make provision for children, to improve social security or whatever. To some extent, of course, all of this work is impressionistic, and Committee members are looking in fact to see if enough is being done. There is however no doctrine of margin of appreciation within the system *per se*.

5. Human Rights Education/Awareness and information dissemination

Question: What can be done to get this information out to a much broader audience of people? How many people living on big housing estates, or in poorly paid jobs, are aware of the Social Charter, or its potential significance for their lives? It seems to be difficult even to get a copy of the Universal Declaration of Human Rights on occasion, so what needs to be done to better promote these standards to the people who most need to know they exist?

Answer: This is a very big problem always. This seminar is perhaps an attempt to make some inroads in this kind of problem, but its significance will depend on the extent to which the people here can translate the key messages back to the people they work with and for.

6. Individual versus group rights

Question: It was said that the rights in the Charter are essentially individual rights but Northern Ireland is a very divided society where people very often express particularly their economic and their cultural rights in terms of the group to which they belong. Should any collective rights be included in the Bill of Rights, and should there be any mechanism proposed in connection with the Bill of Rights for dealing with rights when they conflict?

Answer: The issue is not that the rights of the Charter are all about individual rights; some of them are clearly framed as collective notions. But what is important is that rights are essentially about protecting individuals (whether exercising their individual or collective rights). The exact content of your Bill of Rights is essentially a political question to which people here have to give due consideration - it would probably be inappropriate for outsiders to comment in any detail. What can be said though with regard to the problem of conflicting rights, is that a balancing needs to be done, and that it is a continuous process of balancing. There certainly is no really simple answer.

7. The European Social Charter in the courts

Question: The judiciary in Britain seems already to be taking on board the consequences of the European Convention of Human Rights and its incorporation in the Human Rights Act. Are these changes likely to have any implications for the potential in future of drawing on the European Social Charter?

Answer: The European Social Charter of course does not come within the Human Rights Act, but some economic and social issues can be tackled under the aegis of the European Convention of Human Rights. For example, there was a case where a man had AIDS and was to be deported to the West Indies. There was no proper healthcare for him there and the European Court of Human Rights under Art. 3,

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to do with inhuman and degrading treatment, reached the conclusion that his deportation would be a breach of Article 3. There are various other aspects to the European Convention that bear upon economic, social and cultural rights, and that would allow one to raise an issue to do with such rights once the Human Rights Act comes into force. That is very welcome. For example, commentators have pointed out that the courts will have to interpret the "right to life" in terms also of the dimension relating to economic, social and cultural rights.

Moreover, the Social Charter is an international treaty on a par with the International Covenant on Civil & Political Rights and the International Covenant on Economic, Social and Cultural Rights. Accordingly, it can be used in the interpretation of legislation and when developing common law. Unfortunately however, while it is possible for people to use the Charter this way, any legal search seems to suggest it rarely happens. Research carried out several years ago suggested that the European Social Charter had only been mentioned (and then in passing) in one judgement. Barristers should be made more aware of the value of these European wide standards.

We spoke earlier of the problem of publicity in regard to international instruments generally, and the European Social Charter in particular. It would be important to make the legal profession and the judiciary (as well as those most likely to be affected) aware of the potential of the European Social Charter when arguing a case. For example, in immigration cases and migrant workers that are to be deported, Article 19 insists that they have a right to a hearing before this happens. The Social Charter could definitely be used more in the courts than it is.

8. Environmental concerns

Question: Do discussions around rights give any consideration to the environment and the rights of other organisms in creation?

Answer: While in sympathy with the thinking that underlies the question, the European Social Charter has little to offer in this regard.



Article 11, which deals with the right to health, has been interpreted as having an environmental dimension, since what happens in respect to the environment can affect health. The Committee therefore does put questions about radioactive materials and so forth, but beyond that the European Social Charter has little potential.

9. Workfare Schemes

Question: Has the European Committee of Social Rights ever dealt with the proliferation of workfare schemes in different jurisdictions, where people get very limited benefits, or where benefits are made dependant on one's availability for work?

Answer: The issue of attaching conditions to social, to unemployment systems, or other forms of social or other benefit, is an increasing phenomenon throughout the signatory states of the European Social Charter. Previously, the issue arose in connection under the forced labour provisions - ie under Article 1(2) - but increasingly the European Committee of Social Rights has started to discuss the issue under questions of social assistance entitlement, ie Article 13. It is of course relevant both to the freedom to choose one's occupation and to the right to social assistance, and can be discussed under either or both rubrics. Work and or training obligations have been imposed by Austria, Belgium, Denmark, Finland, France, Germany, Iceland, Norway and Spain, and these countries have all been asked to give further details. The Committee's approach will be to examine in detail what the conditions are. Is there a sanction? What is the nature of this sanction? Is there for example a reduction in benefits or a cancellation of benefit entitlement? In particular, they will be looking at the reasonableness of the decision, whether it will be subject to review by a court, who has access to a court and do they have legal assistance? In other words are there sufficient procedural guarantees to protect people's rights?

***The Good Friday Agreement,
a Bill of Rights for Northern Ireland
and the European Social Charter***

Regis Brillat Council of Europe

Nuala Conlon NI Anti Poverty Network

Pauline Buchanan Irish Congress of Trade Unions

Christine Bell Human Rights Centre, Queen's University

*The Good Friday Agreement,
a Bill of Rights for Northern Ireland,
and the European Social Charter*

Panel discussion

**Regis Brillat, Directorate of Human Rights,
Council of Europe**

I am very happy to participate in this seminar and in particular in this panel discussion. I would like above all to congratulate the Committee on the Administration of Justice for their work in the field of human rights, and their initiative in organising this meeting.

Since you have already received documents on the European Social Charter and after the very detailed and convincing presentations, I will not explain to you in detail the content of this European treaty.

Allow me however to recall some of its fundamental features, which are sometimes forgotten and which could be of relevance to the discussions under way in Northern Ireland on the implementation of the Agreement.

Firstly, the European Social Charter is a *human rights instrument*. It was adopted in 1961 and revised in 1996 within the Council of Europe. This organisation, which celebrated its 50th anniversary last month, is the oldest and widest European organisation. The Charter protects economic and social rights. It establishes rights which concern everyone every day of their lives. It affects them from birth and even before (maternity protection, protection of health especially combating infant mortality), right through to old age.

The rights it guarantees concern the following five pillars: housing, health, education, employment and social protection.



All of these pillars come under a fundamental principle – equality. This means that the rights guaranteed by the Charter should be ensured without discrimination of any kind.

Council of Europe Member States recognise that human rights, whether of a civil, political, economic, social or cultural nature, are indivisible and inter-dependant. The concept of indivisibility implies that the same importance should be given to all fundamental human rights.

Sometimes governments and international organisations seem however to be reluctant to accept the consequences of the principle of indivisibility of all human rights. They seem to attach more importance to civil rights. Indeed all 41 Council of Europe Member States have ratified the European Convention on Human Rights. Only 25 have ratified the Charter or the revised Charter. Even if the Charter enjoys wider acceptance, this figure is still rather low.

On the contrary, individuals perceive that civil and political rights on the one hand, and economic and social rights on the other, are totally indivisible. They are even interdependent: indeed the enjoyment of one of these categories cannot be properly secured unless the other rights are also guaranteed. This is most apparent to those who experience the most severe forms of need: how can you exercise your right to vote when you have no home? How can children benefit from school if they do not have enough to eat? How can you exercise your right to work if you don't have the proper education and training?

In view of the fundamental issues they represent, social rights naturally find their place in national constitutions. It is interesting to note that most of the new constitutions recently adopted in Europe contain in their Bills of Rights references to economic and social rights, in addition to civil and political rights.

Secondly, and very importantly, the Charter is *an instrument of social dialogue*. It assigns a role to all social partners, especially trade unions, employers and non-governmental organisations. They should

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be active at national level in discussions, consultations and through collective bargaining, if the Charter is to be fully implemented and respected. They may also be active at European level through their participation in the supervisory mechanisms of the Charter (either by submitting comments on national reports, or by lodging collective complaints).

The purpose of the Charter however, is not to impose on states a single detailed European social model. On the contrary, states may decide on how they implement the Charter. The limit is of course the concern for the respect of human dignity, which underpins all of the Charter's provisions.

It is very important to note that several rights provided for in the Charter can be implemented without significant expenditure - for example, the right to organise (Article 5). Other rights cost more, but then the same is true of certain civil and political rights - the implementation of which can also be very expensive (eg. the right to a fair trial; rulings from the Committee for the Prevention of Torture in respect of prisoners).

A final remark: there is one European Social Charter. Its importance has been recognised by the European Union. The Amsterdam Treaty has incorporated into the treaty on the European Union, an explicit reference to the Council of Europe's Social Charter. It is hoped that the future EU Bill of Rights will be based on the European Convention on Human Rights and on the European Social Charter.

**Nuala Conlon, Director,
Northern Ireland Anti Poverty Network**

I'd like to thank you for inviting me here today. Before beginning I should say something about our organisation. The Anti-Poverty Network is based in Belfast, but we have members throughout the north, and we are part of a larger European network which is based in Brussels. It is the European network that largely focuses on European



social policy. We actually deal with a lot of different poverty issues in the north.

I want to briefly focus on two issues: firstly, participation. How can the debate around a Bill of Rights be inclusive and respond to the needs of so called "ordinary" people. Secondly, I want to express some concerns about the importance of ensuring that rights are not merely written down, but that the process itself has to be seen to have an impact on the ground - and on the very people the rights are designed to protect.

Firstly, with regard to participation, I have no information as to how the Human Rights Commission intends to pursue its Bill of Rights work. I certainly hope that they intend to make the debate as inclusive as possible, and that they will undergo a consultation process encouraging and enabling people from all sections of the community to participate. And when I say from all sections of the community, I mean not just Protestant and Catholic, but people on low incomes generally. Perhaps the Commission could link up with organisations throughout the north, for example with community development organisations, with trade unions and others that have the contacts on the ground? I am sure such groups would be more than willing to assist them.

It would be very important that the process not become restricted to "legal circles". It is obvious that the public needs to develop a commitment to the idea and the content of the eventual Bill of Rights, if it is to mean anything. And that commitment will only be secured if as many people as possible are able to participate in the debate. In our experience there is considerable interest in consultation - if the issues are relevant, and if people believe that there will be something worthwhile coming out of the process.

Finally I want to raise a concern about enforcement of rights which I think is very important. The European Social Charter includes "the rights to just conditions of work, fair remuneration, and non-discrimination". From April 1st, everyone in the north, with few

exceptions, has the right to a minimum wage of £3.60 (for people aged 22 and over), or £3 for those under 22. I do not believe that the level of the National Minimum Wage is “fair remuneration”, and I would be interested in what the Council of Europe’s decision would be on this matter if asked. What does the Council of Europe consider “fair pay” in both the UK and Republic of Ireland? The Republic is bringing in their own National Minimum Wage next year. Moreover, three months on since this right was introduced, on the 1st April, we have to note that many people from Northern Ireland have benefited from an increase in their wages - even though we would argue that the wage is far from a decent one. Yet, there are many who, even though they now legally have the right to the minimum wage, in reality don’t receive it. I could go on to give some examples, but I have been asked to be brief, so let me concentrate on enforcement of this so called right.

To oversee and implement the government’s National Minimum Wage, a Compliance Unit, made up of four inspectors and an office manager, has been established in Belfast. This team is responsible for ensuring that all employers throughout the north, including the thousands of small firms here, are paying the legal minimum wage and not requiring additional hours, or not replacing workers with younger (and cheaper) workers. We have met with the team, and have no doubt that their intentions are good, but they can only react to complaints as they arise. To date they have received about 1000 complaints. Evidence from the Citizens Advice Bureau, who have been documenting cases since the 1st April, demonstrates that there are many employers who are well aware of the right to the minimum wage but are certainly not paying it. They are assuming - probably correctly - that they will not get caught. This surely demonstrates that rights, to be effective, and to have the intended impact upon people’s lives, must be enforced and monitored, and that there must be realistic resources allocated to these enforcement and monitoring procedures.



**Pauline Buchanan
Vice Chair, NI Committee
Irish Congress of Trade Unions**

Thanks very much for giving me the opportunity to address you on workers' rights for Northern Ireland.

In Northern Ireland there are currently 199,000 trade unionists, of which 87,560 are women. Labour market indicators show that over the next two years male full time employment will continue to fall, while female and part time work will continue to rise.

The Irish Congress of Trade Unions, in its "Investing in Peace" document, sets out a number of key objectives to secure the best possible conditions for workers in Northern Ireland. Among them are: full employment, economic progress, social and community development, and justice issues.

We know that peace, stability and progress will not result exclusively from an end to violence, but that government and the social partners must develop an economic strategy, with its primary objective being creation of sufficient jobs to reduce unemployment. In particular, Congress seeks the reversal of job cuts and cuts in training places and in education.

The Irish Congress took the step of supporting the Agreement because it delivers a basis on which we can build a fairer and more just society. Indeed, much of it contains elements that Congress has fought for over many years. Strand 3 under human rights, calls for a commitment to promote amongst other things - the right to freedom from sectarian harassment. We have played a significant role in eradicating sectarianism from the workplace, and working with the social partners to do this. The establishment of CounterAct, the anti sectarian unit, has also proved to be invaluable in this regard.

The Agreement also outlines the right to equal opportunity in all social and economic activity, regardless of creed, disability, gender or

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ethnicity. The CAJ Bill of Rights goes further and includes: language, conviction for a criminal offence, and sexual orientation. We support that.

We want to build on this section of the Agreement and include what Professor Harris talked of this morning - the right to work, the right to a fair wage (which is contained also in the CAJ document), and the right to a minimum wage which Nuala covered quite extensively. But this is still not enough, and I'm sure we would all agree that the exclusion of young people is absolutely unacceptable. The right not to be unfairly dismissed from one's employment is particularly crucial. The Employment Relations Bill gives enhanced protection - for example, protecting employees after one (rather than two) years of employment, and also giving increased compensation. But we want it to go further, and for protection to begin from day one of employment.

The right to strike is an obviously important right. The ILO and the UN have held that the right to strike should be protected by law. Yet workers cannot strike, without it being treated as a breach of contract. The Employment Relations Bill makes it automatically unfair to dismiss a worker for industrial action during the first eight weeks of official lawful industrial action. However, this does not prevent dismissal.

It is important to include the right to adequate training to allow full development of ability and skills, and the need for lifelong learning to be accessible and to be properly resourced.

The right to work in a safe environment should not be overlooked. On average, 28 people are killed in Northern Ireland each year in workplace accidents. These figures include accidents in the agricultural sector, where the proportion of deaths is high. Asbestos here is responsible for 75-100 deaths every year. ICTU are currently making representations to the Assembly on the issue of health and safety at work.



One of the most fundamental rights for workers in NI is the right to go to and from their place of work without fear, and this is one of the issues that we would want to see addressed in the Bill of Rights.

There have been a number of consultation documents lately produced here which are of great interest to the trade union movement. One is the childcare document, the other is produced by the Department of Economic Development and deals with the topic of violence against women. Childcare is undoubtedly one of the biggest barriers to women's full participation in the labour market. Until there is a supply of good quality affordable childcare, and governments and employers take their full share of responsibility, it is hard to see how women can contribute fully to the paid labour force, which of course leaves the economy and society worse off. The Violence to Women Document raises mainly the issue of domestic violence. It gives appalling statistics for Northern Ireland. This is clearly not an issue of concern only to women - it is a trade union issue, a human rights issue, and it is a political issue.

Both of these topics must be addressed by the Assembly. The absence of childcare and the problems of domestic violence contribute to women's poverty, which affects their whole lives, and of course has consequences for the next generation. We welcome the establishment of the Human Rights Commission and, in particular, the appointment of Inez McCormack, vice president of the Irish Congress of Trade Unions. We want as a trade union movement to help develop the Bill of Rights with the Commission, and to assist in the strengthening of workers' rights. We will of course be pursuing this same agenda directly with the Assembly and with the Civic Forum. Thank you.

**Christine Bell, Director
Human Rights Centre, Queens University**

Traditionally, human rights lawyers have thought in terms of three different types of rights. The first - civil and political rights - includes issues such as the right to fair trial and free speech. Such rights are most often enforced 'negatively' ie by getting a government *not* to do something. Thus, governments should *not* impede your right to free speech and should *not* put you in jail without a fair trial. The second category of rights would be social and economic rights such as we are discussing today. These need positive government action for fulfilment - eg right to housing, right to a decent job, right to a certain standard of health care. The third type of rights - tentatively referred to as group rights - do not attach themselves to individuals as such, but to groups or communities of people. The classic example of that would be, for example, the right to self determination which adheres not to one person but to a whole people.

Sometimes people have talked about these types of rights as three "generations" of rights, meaning that the three different types of rights have different status in international law in terms of how they are enforced. Some of the panel presentations have made reference to that. It is much easier, one imagines, to oblige the government *not* to do something, than to get them positively to do something.

Essentially there are two ways in which rights can be enforced. Firstly, rights can be written into formal Bills of Rights, and international documents, and on the basis that these are minimum standards, they can be enforced through the courts, and by monitoring bodies such as Human Rights Commissions. The second way to enforce rights is to create clear policy objectives, and develop ways of measuring and monitoring those objectives. I want to use two examples from South Africa, and comment on the parallels between those examples and the mechanisms established by the Belfast Agreement.

Firstly in South Africa the politicians all negotiated an Interim Constitution - a constitution which would govern the process of



transition to democracy. In that Interim Constitution, there is a Bill of Rights. It was lawyers who put together that Bill of Rights and, not surprisingly, that Bill of Rights consisted of very legally framed civil and political rights. But, once the political talks were completed, there was a very broad and deep public consultation launched. The Constitution was discussed in newspaper and media reports, propounded in comic books for children, translated into a large number of languages. The material was used in literacy projects and people developed special materials and ways of communicating with those who could not read. There were rurally-based and urban-based dissemination programmes, and through an extensive information campaign it was possible to reach a massive proportion of the population. Of course, one of the key areas for consultation in the Constitution as a whole, was the nature and content of the proposed Bill of Rights. And, surprise, surprise, the biggest difference between the first and second versions of the Bill of Rights, was the addition of social and economic rights!

When people were talked to, they talked of the things that affected them day to day, and these were therefore incorporated into the Bill of Rights. These rights are now enforceable by the courts, and the constitutional courts make decisions on them. Indeed, because of the concern that it was exactly socio-economic rights which might get overlooked by the courts in practice, a special obligation was placed on the Human Rights Commission to monitor the implementation of social and economic rights. Just by way of example, the South African Human Rights Commission sought to fulfil that obligation by working together with a whole coalition of NGOs to hold public hearings into poverty in South Africa.

I however also wanted to raise a second but quite distinct approach to the question of social and economic rights, and that concerns the setting of policy objectives and determining how to influence policy and decision making. An interesting example that I came across there was a coalition of NGOs who were working closely with government on a thing called the "Women's Budget" for South Africa. This notion was based on the idea of not just benefiting women, but of addressing

some of the most vulnerable and excluded in society. Thus, if one actually looks at where women are in any society, they can generally be found at the bottom of the heap - so, policies geared at benefiting women will address the wider economic and social imbalances in any society.

Essentially, the Women's Budget looks at types of programmes - ones which only affect women, ones which are geared to effecting change like affirmative action within departments, and ordinary policies. It looks at how women are excluded from debate on those areas and also how assessors exclude women's need. I thought it was an interesting initiative and I think it has parallels, with what is going on here. I think that what was being done there with the Women's Budget has parallels with efforts in Northern Ireland to monitor and implement Targeting Social Need programmes and also the new equality duty imposed on public authorities.

Plenary discussion

A general debate was then opened up wherein the audience asked questions, raised points and complemented the remarks made by earlier speakers.

The first contributor, a representative of the Progressive Unionist Party, and an artist, emphasised the importance of any debate around a Bill of Rights being really inclusive, and the importance therefore of developing creative methods of involving people. There was also a concern about a Bill of Rights, and indeed international instruments, focusing on individual rights and perhaps underplaying the importance to individuals of their wider community ties. In Northern Ireland, there is a lot of importance vested in one's sense of communal identity and the need to have one's community treated with respect. Too narrow a focus on individual rights might be problematic.

Another contributor, working with a non-governmental organisation, considered that there was a growing fashion whereby NGOs



previously active on civil and political rights were now moving to concentrate instead on social, economic and cultural rights. But, surely there is a risk at least in the Northern Ireland context that this fashion is distracting us from the very important civil and political dimension of the conflict? Is there a risk that we are - wittingly or unwittingly - avoiding the even more difficult political questions, or assuming that those have been resolved, by this (re)focusing on economic, social and cultural rights?

The Chief Commissioner of the Human Rights Commission welcomed the comments that had been made about the importance of a broad and deep debate around the Bill of Rights, and reassured the audience that, to the extent possible, this was exactly what the Commission hoped to do. The Commission wanted a truly effective participative process and wanted to talk to as many people as possible, and encourage submissions from as many people as possible. As to the content of the Bill of Rights, no options are to be excluded and the process of debate must be as inclusive as possible. As one of the authors of the CAJ draft Bill of Rights (alluded to by one of the speakers), there was a ready personal sympathy for the idea that the eventual Bill include references to economic, social and cultural rights.

However, the Chief Commissioner went on to note that the Good Friday Agreement had some language which could be construed in a quite restrictive way regarding the Bill of Rights. While it was open to the Commission to go beyond that language, it would be helpful in the consultation process for people to comment on this issue. Thus the Agreement says that the Bill of Rights must pay regard to "the particular circumstances of Northern Ireland" and must draw on international instruments and experience "as appropriate". It would be helpful for the Commission, when people make submissions in due course about the Bill of Rights, that they explain, to the extent possible, how the proposals are relevant to the particular circumstances of Northern Ireland. For example, the Anti-Poverty Network might want to emphasise the extent to which poverty levels are worse here than elsewhere in UK, for example. The Agreement also refers to concepts of "parity of esteem" and the "identity and

ethos of both communities in Northern Ireland". If any of the audience, or indeed the Council of Europe guests, had any advice to offer regarding the significance of such terminology, the Commission would appreciate any and all guidance.

Finally, reference was made to the concerns frequently raised with the Commission by politicians. A discussion of economic, social and cultural rights - more perhaps than civil and political rights - often seems to lead into a debate about resources, how one can best target resources, and who makes decisions about resources. Politicians believe that they were elected to make these kinds of decisions, and are sometimes concerned that a rights-focused debate in the economic arena can wittingly or unwittingly undermine their responsibilities in this area.

The Director of the Northern Ireland Council of Ethnic Minorities was interested in learning what was the added value of the new Revised Social Charter, and whether people should be being encouraged to lobby to ensure its ratification. He also asked the Council of Europe experts for their reaction to the fact that, it would seem, that the UK government, and the Council of Ministers generally, do not appear particularly keen to have an Additional Protocol which would go beyond Article 14 of the European Convention of Human Rights and more effectively tackle issues of discrimination.

The final contributor of the session brought together a number of different strands arising from the morning's discussion. The chairperson of the Training for Women Network expressed surprise that, according to the chart prepared by the CAJ (see in Appendix), the Council of Europe seemed to have little to say with regard to training and vocational provision in the UK. She had subsequently learnt that, if there are no comments this is because - by and large - the Committee of Social Rights assumes that there are no particular problem areas worth commenting upon. However, this would suggest that vocational/training issues could be separated from an examination of the right to work when it is clear, particularly in the NI context, that the two are intimately related. Most people here who are socially



excluded are so, because they are economically excluded. This social exclusion would be dramatically lessened if they could get a job, but a very large proportion of long term unemployed have no or few qualifications. This is not a new phenomenon; this inter-relationship between education, training and employability has been clear for a very long time. So, if the Committee of Social Rights is assuming that all is well in the vocational and training sphere, it suggests that they are not being supplied with the right information about the situation locally.

This conclusion lead the contributor to emphasise a point made by several other speakers i.e. that there is a need for a much more effective and a two-way communication process. On the one hand, there is a need to distribute information about the Council of Europe, the European Convention on Human Rights, and the European Social Charter, to local communities and to those who are socially excluded. But, just as importantly, we need to encourage, enable and empower those constituencies to reciprocate by sending information about their needs to the various Council of Europe mechanisms. Only in this way, can we ensure that the monitoring processes work, that the monitoring is real and relevant to those on the ground, and that the decision-makers are getting feedback directly from those experiencing exclusion and disadvantage.

While it is appreciated that CAJ may have started this process with this seminar, it is absolutely crucial that it is not just left to CAJ: all NGOs and educators must take seriously the task of political education for people in Northern Ireland.

Further to this general discussion, the chair concurred with the last speaker in emphasising the importance of good information (in both directions). Even CAJ, which gives a high priority to monitoring the activities of international and regional human rights mechanisms, had been surprised when preparing for this seminar to see just how detailed a scrutiny the UK was subjected to on its economic and social record. CAJ, and many other actors in the economic and social sphere, were not sufficiently aware of the work of the Committee of Social Rights,

and were therefore not routinely sending the alternative research data that the Committee should have to hand. If an enforcement mechanism is to work at all, it is clearly very dependent on broad civil society feeding back their insights into the European mechanisms with a view to evolving a partnership-type arrangement. Hopefully, this seminar would be seen as a first step in the right direction.

In summing up his final remarks, Regis Brillat entirely concurred with the importance of seeing vocational training and education as intimately related to the right to work. Indeed, he had referred in his speech to this inter-relationship by rhetorically asking how one could exercise the right to work without proper education and training.

As to better exchanges of information, it was noted that government reports to the Committee of Social Rights are public documents,⁸ and that all NGOs are welcome to send comments on their government's report direct to the Committee. The next series of government reports are due in June 1999, and the Committee will need to study them, comment, and publish their conclusions in February 2000. Given the usual delays, this is in fact little more than a six month period in total and the Committee has to examine the situation in 21 countries. Since government reports, almost by definition, assert that everything is beyond reproach, alternative perspectives/questions/comments, whether from trade unions, NGOs or other actors, are all helpful in ensuring more effective scrutiny.

While it is true that some people argue that the European Convention has stronger enforcement mechanisms because individuals can take Convention cases to the European Court of Human Rights, there are some arguments that would suggest the Charter has equally useful enforcement powers. Thus, whereas the European Court of Human Rights needs to have a case before it in order to look at a specific provision of the Covenant, the Charter reporting mechanism ensures

⁸ It is intended that all government reports be published on the Internet. The current cycle of reports are at present being posted on the Council of Europe's website (October 1999).



that *all* signatory states are being regularly examined on *all* provisions from the moment they sign on.

As to the question of the "added value" of the Revised Social Charter, it was noted that it was much more modern and more efficient than the original Charter. While repeating many of the old provisions, it also adds new rights. It would of course be vital for all member states of the Council of Europe to sign (or, in the case of the UK, ratify) the Revised Charter as soon as possible.

As to the concerns around the Protocol on Article 14 of the Convention, the Revised Social Charter has, to some extent, already anticipated what might happen with regard to the Convention, and has improved anti-discrimination provisions.

Nuala Conlon welcomed the remarks made on behalf of the NI Human Rights Commission and its commitment to a truly participative approach. This will require the Commission going out to communities, providing creche facilities, putting information out in more easily accessible language. If intermediary bodies like themselves were to assist - particularly in terms of photocopying and circulating documents - there would need to be some thinking about the resourcing of this work, or it might not be done as well as it must be done. It was assumed that the Commission would probably be more than happy to get practical proposals about how to make the process a truly participative one.

Pauline Buchanan felt that the key words throughout the various comments related to "cultural" and "collective" issues. How are we to promote understanding and rights around these issues? She felt that it was on these sorts of issues that the trade union movement might have a lot to offer, given the diversity of its membership and its own interest in the areas. The other key strand of thinking related to words such as "access" and "information". It would be important that the decision makers present should take these concepts away with them and reflect on how to pursue these challenges more energetically in future.

Fundamental Social Rights

Christine Bell had three reactions to the plenary exchange. Firstly, she thought it important to emphasise the fact that the debate about "group rights" had baffled human rights lawyers for years. There were the rights of individuals to express their identity within groups, and the rights of individuals who do not want to belong to groups and, of course the potential conflict between these different rights. Secondly, we must not fall into the trap of talking of civil and political rights *or* economic/social or cultural rights. They are all inter-dependant and indivisible; and work on one set of rights helps further the work on other rights. Thirdly, while understanding that politicians might feel uneasy with a discussion of socio-economic rights, we should not overlook the fact that the rights encapsulated in any Bill of Rights will only be minimal standards. Setting a threshold level ought in fact provide a useful context from which local politicians can negotiate improvements. Once the Assembly is up and running, it would be a disappointing if its main role was seen to be one of implementing government cuts. Creating a basic socio-economic rights framework, and developing indicators as to how policies and rights can further socio-economic rights, should in fact empower not dis-empower local politicians. Moreover, it will assist in the development of vital partnerships between the governing and the governed.

The chair concluded with a vote of thanks to all involved. For those people staying in the afternoon, there would be practical workshops around different aspects of the Social Charter.



Conference Workshops

The group divided (after lunch) into two workshops.

Workshop One: Right to work and fair conditions of work

This workshop was encouraged to study the relevant provisions of the European Social Charter, apply this to Northern Ireland, and discuss what the Council of Europe could do to assist governments comply with their obligations under the Charter. The workshop was also provided with a Chart examining UK compliance with the European Social Charter (see in Appendix).

Relevant provisions of the European Social Charter

- ◆ *Everyone shall have the opportunity to earn his living in an occupation freely entered upon (article 1)*
- ◆ *All workers have the right to just conditions of work (2)*
- ◆ *All workers have the right to safe and healthy working conditions (3)*
- ◆ *All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families (4)*
- ◆ *All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex (20)*
- ◆ *All workers have the right to protection in cases of termination of employment (24)*
- ◆ *All workers have the right to protection of their claims in the event of the insolvency of their employer (25)*
- ◆ *All workers have the right to dignity at work (26)*

Caroline Nolan reported on the discussions in their workshop and noted that it had been very lively and informative. The focus of the group (perhaps because of a preponderance of lawyers who kept referring to the text) was on the first two articles of the Charter, and



particularly the issue of "full employment". Was this a concrete right that we would want written in to the Bill of Rights for Northern Ireland, or was it merely an aspirational goal? Opinions divided, though it was recognised that there might be cultural differences also. Some within the group found the idea of setting an abstract framework quite alien, whereas the Norwegians and other Europeans think easily in those terms.

One very important discovery was that Article 1 ("right to work") is the only article on which the Committee of Social Rights does not take a formal stand as to whether member states are in conformity or not. In other words, there is a working assumption that this is essentially aspirational in intent, rather than a legal and binding obligation.

The focus around Article 1(2) started initially with the debate about what was meant by work "freely entered upon". Would workfare - where social and other benefits may be dependent on one's willingness to take up work - violate the principle of work being freely entered upon? Indeed, there is increasing complexity in terms of the relationships between employees and employers, and many new types of contractual arrangements which may violate the principle of free choice.

Also, how does the Council of Europe interpret the issue of access? Can for example lone parents who are obliged to comply with inflexible work rotas claim a breach of the Article. What about refugees who face insurmountable criteria imposed by professional bodies which mean that they are disbarred from engaging in the profession they were trained for?

One interesting discovery was that the obligation to ensure non-discrimination in work, covers all aspects of employment.

Another fascinating aspect of Article 2 is the interpretation to be applied to the obligation to create "just conditions of work". The UK has accepted to be bound of Article 2 with the exception of the references to daily and weekly working time (2.1). There was some

uncertainty in the group about the relationship between this opt-out and the obligations imposed by the Working Time Directive from the European Union. But a study of the Committee of Social Rights' conclusions shows that they consider that the two sets of provisions (ie Council of Europe and European Union) are consistent.⁹ It seems that the problem lies essentially with the government remaining unconvinced of the need to limit working hours. Numerous examples of problems with the operation of the Working Time Directive, and the enforcement mechanisms of same, were then discussed briefly.

The Social Charter reporting system seemed very good, in that all member states have to report, and to report very regularly in a public way. This seems a better system that applies within most UN treaty bodies. There was some uncertainty regarding the role of trade unions in terms of information circulation. Is it the responsibility of the member state to inform local trade unions of the content of the governmental report, or is this a responsibility of the Council of Europe? It was agreed that this issue should be pursued. There was a lot of interest in the fact that people could send in questions that the Committee of Social Rights might put to governments. But, then, very importantly what happens if a member state is found not to be in conformity with its legal obligations? The Council of Europe representative in the workshop explained that after the Committee of Social Rights has deliberated, the Governmental Committee meets and determines whether to make a recommendation to the Council of Ministers. This happened for example with regard to the UK regarding its non-compliance with respect to trade union rights. Obviously, governments often move quickly to amend the provisions and avoid this kind of censure, or any repeat censure. Of course, there is a real disadvantage if "people back home" are unaware of the situation and do not pursue the criticism being levelled internationally. So, it is vital that there is a steady exchange of information between inter-governmental bodies and non-governmental groups in the country.

⁹ See Conclusions XIV-2 of the European Committee of Social Rights, published end 1998



Workshop Two: Right to Social Protection

This workshop was also encouraged to study the relevant provisions of the European Social Charter, apply this to Northern Ireland, and discuss what the Council of Europe could do to assist governments comply with their obligations under the Charter. The workshop was provided with a Chart examining UK compliance with the European Social Charter (see in Appendix).

Relevant provisions of the European Social Charter

- ◆ *Children and young persons have the right to appropriate social, legal and economic protection*
- ◆ *Employed women, in case of maternity, have the right to special protection in their work.*
- ◆ *Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable*
- ◆ *All workers and their dependants have the right to social security. Anyone without adequate resources has the right to social and medical assistance; everyone has the right to benefit from social welfare services*
- ◆ *Disabled persons have the right to independence, social integration and participation in the life of the community*
- ◆ *Every elderly person has the right to social protection*
- ◆ *Everyone has the right to protection against poverty and social exclusion*
- ◆ *Everyone has the right to housing*

Eilis Haughey reported back from the workshop and noted how diverse the group was, in terms of representing ethnic minority issues, the specific concerns of Travellers, health concerns, the needs of people with disabilities and particularly those in long term institutional care because of mental illness.

A first concern related to the question of social security provision, the increase in poverty, and particularly the lack of take-up of benefits. It

was felt that there needs to be a more pro-active information policy so that people know about their rights, and their rights to benefits. NGOs were thought to have a particular responsibility for raising awareness of the international standards which prevail in this area.

There was some concern expressed that no specific reference is made in the Social Charter to the right to a nomadic life style. In that regard, perhaps the local NI race legislation is more useful to Travellers than the Charter, since at least the former makes specific reference to the needs of Travellers. This led into several distinct but equally fascinating discussions.

Firstly, is it better to use local or regional/international remedies? A representative from the Law Centre expressed an interest in taking test cases on disability and emphasised the value of people looking initially to domestic and local remedies, rather than seeing the European mechanisms as an obvious first recourse. Indeed some concern was expressed that, given the limited resources of NGOs etc., it might be inappropriate to focus too much on mechanisms like the Social Charter, which - at best - can address general government policies and programmes. Such efforts might distract people from the importance of responding to more immediate and individual needs on the ground. At the same time, it was recognised that the Social Charter provides another important route for securing change, and should at the very least be more widely known so that NGOs could avail of whatever mechanisms were most effective in any particular instance.

The second theme that emerged in the debate was the fact that the Charter provisions allow for a fair deal of flexibility. So, while true that the Charter does not assert the right to nomadism, its various provisions can certainly be put at the service of Travellers. For example, Travellers as a group experience very high levels of infant mortality, differential treatment in terms of social security benefits, and particular accommodation problems. All of these issues can be addressed under the relevant provisions of the Charter, and the disadvantage faced by Travellers can be highlighted, even if there is



no explicit "right to nomadism". There are also certain advantages of seeing the Charter as a complement to other initiatives. Thus, one country extended the length of its maternity provision when faced with the comparative data from other member states. In Northern Ireland, the arguments around the Tinnelly and McElduff case at the Court of Human Rights drew on the fact that the Committee of Social Rights had repeatedly raised concerns in its examination of the national security exemptions of section 42 of the Fair Employment Act.

A lot of concern was expressed by the group about the need to render the Bill of Rights debate both accessible and relevant to the most excluded. It is difficult to think of a more excluded group than those in long term institutional care, for example, and it was agreed that we should be pursuing both short term and longer term actions. On the one hand, disability cases could be being taken locally, but we should be thinking simultaneously and creatively about the rights of this constituency both to participate in, and benefit from, the Bill of Rights debate.

Last but not least, someone in the group wondered if it was morally right that the European Committee of Social Rights could countermand the decisions taken by locally elected and accountable decision-makers. However, it was noted that (a) the European Social Charter (like the Convention) has been freely and democratically entered into by member states and was not therefore in any sense being "imposed" from a higher authority; (b) moreover, rights were essentially about the defence of the individual and the minority against unfettered majoritarianism. It is not acceptable to suggest that popular will can trump the rights of people (the unemployed, Travellers, the mentally ill, etc) who may be considered to be out of step with majority opinion, whatever that is.

General Discussion

The final plenary session focussed on how those present could better disseminate the kind of information that had been debated at the seminar. It is important that people know what their rights are, that

they know what methods of recourse exist, and that if the UK government is found wanting in some regard (as it has in the various examinations) it is made accountable to its electorate and changes start to occur.

Specific proposals put forward included:

- the conference report should be sent to the Irish Congress of Trade Unions with a request that it be circulated to all its union members and to Trades Councils for wider dissemination and debate
- the report should be written in simple English
- Area Partnership Boards could be circulated with the report and asked to brief their constituencies.
- There is a teaching programme in secondary schools in the Republic and this is piloted in schools north and south etc. It includes the complete texts of main human rights instruments, including the Social Charter. It is very practical in giving case-studies working through the mechanisms, and encourages schools to develop a Bill of Rights of their own. This document has been very widely circulated, and perhaps the material from this conference could piggy-back on that somehow.
- We should inform and engage not only Westminster decision makers but our local politicians, since they can be held to account for their duties under the Social Charter.



*CAJ's programme of action
on the European Social Charter*

Further to the conference, a number of initiatives have been or will be undertaken by the Committee on the Administration of Justice in the context of its work on the European Social Charter. On the basis of the following programme, CAJ will be seeking to build even more effective alliances with other interested parties to ensure the greater protection of economic and social rights in Northern Ireland. Anyone wanting more information on the following programme should contact the CAJ office.

As a result of the conference exchanges, CAJ believes that:

1. The **Bill of Rights** must incorporate clear reference to the economic and social rights encapsulated in the European Social Charter. While the Good Friday Agreement refers specifically to the relevance of the European Convention on Human Rights to the Bill of Rights, the logic of its frequent references to the importance of economic, social and cultural rights for the welfare of Northern Irish society, necessitates drawing upon the European Social Charter also (see letter to the NIHRC in appendix).
2. **Information about rights** is vital to the assertion and enforcement of rights in practice. Included in Appendix is an outline of the key rights protected by the European Social Charter and the Revised Social Charter. CAJ will approach the Council of Europe about easy-to-distribute copies of these documents and, when available, disseminate them to conference participants, trade unions and other community and umbrella organisations that could further distribute them. CAJ will also communicate with the Council of Europe about user-friendly versions of the formal texts, so that the material



can be even more widely disseminated to the individuals and local groups who would directly benefit from the implementation of the Charter. The UK government should be asked how it intends to improve access to these important documents. For information on the Council of Europe, government reports etc. see their website at www.coe.fr

3. Early moves should be taken to **ratify the Revised Social Charter**. The views of most conference delegates was that the Revised Social Charter, as a more modern and updated version of the 1961 European Social Charter, should be ratified without delay by all member states of the Council of Europe. As regards the UK, efforts are currently underway in conjunction with groups in Britain, to ensure early ratification. CAJ has been in contact to this effect with groups in Britain such as ATD 4th World, Justice and Oxfam; the latter is coordinating work in this area. Locally, CAJ will liaise with trade unions, development organisations, other human rights groups, and NGOs generally to promote this campaign.
4. **Collective Complaints Protocol:** The UK government will be asked when ratifying the Revised Social Charter to also sign up to, and in due course, ratify, the Collective Complaints Protocol.
5. Members of the **Parliamentary Assembly** of the Council of Europe would be an important constituency to mobilise, both in terms of encouraging the government to move to early ratification and in terms of disseminating information more generally about the human rights mechanisms available to people. CAJ, in cooperation with groups in Britain, will seek to make contact with as many members as possible to further this programme of action.

6. **Reporting mechanisms and scrutiny by the Council of Europe.** The main mechanism by which the Council of Europe ensures that governments meet their obligations under the Social Charter is the scrutiny of government reports. CAJ will circulate to interested groups the UK report (or direct them to the appropriate Internet location) and encourage recipients to submit to the Directorate of Human Rights any information which they may consider relevant to the consideration of the UK's record in the protection of economic and social rights. NGOs, trade unions and others, will be occasionally reminded of the value of systematically sending reports, evaluations, statistical surveys etc. to the Directorate, so that these can be drawn upon by the Council of Europe's secretariat.

7. **The European Social Charter and domestic courts:** CAJ will draw to the attention of the Criminal Justice Review, the NI Courts Service, the judiciary, the NI Human Rights Commission, the Law Society and Bar Council, the importance of addressing in training courses and information sessions the protections offered by the European Bill of Rights as a whole. Thus, while the Human Rights Act incorporates the European Convention of Human Rights, the European Social Charter is relevant also, and may need to be more pro-actively promulgated in legal circles. Plenty of examples of read-across and inter-dependence between the Convention and the Charter were cited in the conference proceedings.

8. **Local politicians:** While Westminster has the primary responsibility to comply with the Charter, some of the jurisprudence evolving around the Social Charter in Strasbourg concerns the obligation of local governments to comply with the standards set. As Belgium and Germany have discovered, any non-compliance at a more local level will be held against central government. The local Assembly



therefore needs to be made aware of its obligations under the European Social Charter so that Northern Ireland's legislation, administrative procedures and policies conform to Council of Europe standards.

*Implications of the European Social Charter
for Northern Ireland's Bill of Rights*

The following is the text of a letter sent to the Northern Ireland Human Rights Commission by CAJ as a follow up to the June conference.

Dear Commission members,

You will be aware of a conference organised by CAJ in June 1999 entitled *Fundamental Social Rights: Building Upon the Agreement and the European Social Charter*. Several members of the Commission attended. A full report of the conference is enclosed for your information. The purpose of this letter is to highlight the specific implications, as we see it, of the debate around the European Social Charter for the work you are about to launch around a Bill of Rights for Northern Ireland.

1. At the international level there is an International Bill of Rights. As you know, this term is used to denote the International Covenant on Civil and Political Rights together with the International Covenant on Economic, Social and Cultural Rights. At the European level, there is increasing talk of a European Bill of Rights, which in turn is the combination of the European Convention on Human Rights (ECHR) and the European Social Charter (ESC). Logic would suggest therefore that any local document called a Bill of Rights should incorporate protections in the civil and political sphere, but also in the economic, social and cultural spheres.
2. We are aware of the fact that in the Good Friday Agreement's references to a Bill of Rights for Northern Ireland, explicit reference is made to the European Convention on Human Rights, but not to the European Social Charter. However, this was clearly not a deliberate omission. Firstly, reference is

made in very general terms to the value of drawing "as appropriate on international instruments and experience", and frequent explicit reference is made elsewhere and throughout the Agreement to the importance of economic, social and cultural rights. Most importantly of all, we draw the Commission's attention to the opening preamble of the Agreement wherein the parties commit themselves to "the achievement of reconciliation, tolerance and mutual trust, and to the protection and vindication of the human rights of all". We believe that it would be entirely unacceptable for the new Bill of Rights to interpret "human rights" in the narrow civil and political sense, and not recognise the centrality to peace building of greater economic, social and cultural equality for all in Northern Ireland.

3. The references in the Agreement to economic, social and cultural rights are not comprehensive but some of the issues listed on pages 18 and 19 of the text provide a starting point:
 - ◆ Need to pursue broad policies for sustained economic growth
 - ◆ Need to promote social cohesion, in particular community development
 - ◆ Need to encourage the advancement of women in public life
 - ◆ Need for measures to enhance the environment, producing new approaches to transport issues and strengthening the physical infrastructure of the region
 - ◆ Need to develop both rural and urban areas
 - ◆ Need to promote employment equality & progressively eliminate the differential in unemployment rates between the two communities
 - ◆ Need to develop government policies aimed at targeting social need so as, amongst other things, to combat unemployment

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- ◆ Need to develop respect, understanding and tolerance in relation to linguistic diversity
 - ◆ The right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity
 - ◆ The recognition that young people from areas affected by the troubles face particular difficulties and community-based initiatives need to be supported
 - ◆ The recognition that the promotion of a culture of tolerance will require initiatives to facilitate and encourage integrated education and mixed housing
4. The proposal from the Council of Europe experts who spoke at the conference was that Northern Ireland might be well advised to examine in turn each of the provisions of the Revised Social Charter, with a view to adapting it to local realities. In this way, we would get the best of both worlds - both drawing upon international best practice and applying that best practice to local realities and adapting and amending accordingly. The assumption is of course that any changes would be to improve the provisions in the local context: after all, we must never overlook the fact that the any inter-governmental treaty is a fairly minimal starting point. Given the relative prosperity of the UK, and even of Northern Ireland (when compared to several other member states), any local provisions should be able to improve on region-wide standards. Perhaps the NIHRC could commission some drafting of texts along these lines? Or, alternatively, perhaps the Council of Europe has already done some work of this kind with new member states, and has material that they can usefully provide?
5. We would draw your attention in particular to the remarks made at the conference by Stein Evju, vice-president of the European Committee of Social Rights and president of the Norwegian Labour Court. He clearly saw a lot of potential in the Good Friday Agreement in terms of protecting economic



and social rights, and was very keen that any Bill of Rights for Northern Ireland incorporate this vision. Moreover, he emphasised the extensive overlap between the European Convention (which is explicitly mentioned in the Agreement) and the Social Charter (which is not). Very interestingly, he alluded to the growing jurisprudence that suggests that departures from the Charter provisions at regional or local governmental level can be held against the member state. Thus, if the Assembly, once up and running, were in any sense to fail to comply with the Charter, Westminster would be held to account for such failures. There is therefore a need for local politicians to be made aware of their responsibilities and of citizens to be made aware of their rights in this domain.

6. There was also an interesting debate in one of the plenary sessions about the importance of informing and training the legal profession (judges, barristers and others) in the relevance of the Social Charter. As you address the issue of training in connection with the Human Rights Act, you may want to consider whether there would be a value in introducing people more generally to the whole of the European Bill of Rights, and not just the Convention rights.
7. To avoid any misunderstanding, we should note that even the combination of the Convention and the Social Charter overlooks the issue of cultural rights, yet these also are alluded to in the Good Friday Agreement. We are not suggesting that these two important documents be the only international and regional good practice that is drawn upon, but merely that they provide a useful starting point.

We hope that you will find the enclosed material of interest. We would draw your attention in particular to some interesting exchanges around the issue of representative and participative democracy, the need for closer scrutiny of the detailed supervisory cycles of the UK's socio-economic record, the need for a campaign to have the UK ratify the Revised Social Charter, and the importance of genuine two-way

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communication. However, the particular purpose of this letter was to focus on those aspects of the seminar that touched directly on the Bill of Rights debate.

In that context, we cannot end this letter without conveying the strongly felt and frequently expressed view of the conference participants that any debate about rights must involve those who will most benefit from their protection. We know that this is a concern of the Commission as well. In the context of socio-economic rights, it was thought vitally important to reach out to the most marginalised, the poorest, and the least well educated in our society. This, of necessity, requires the use of innovative measures, and the Commission will have to be very pro-active. Examples cited at the event included the value of resourcing intermediate bodies with access to the most marginalised; user friendly material; texts in simple English; meetings in community centres - with creche facilities - rather than (or as well as) city-centre hotels etc. Of course, different excluded constituencies have different needs. Thus, for example, some wondered how those people with mental illness, learning difficulties, or in institutional care, will be assisted to contribute to the process of change that a Bill of Rights denotes? No easy answers exist of course, but if CAJ can in anyway bring these ideas further forward with you, we are of course more than happy to do so.

Looking forward to keeping in regular touch as this work develops,

Yours sincerely etc.

What is the European Social Charter?

(List of rights protected under the Charter)

The European Social Charter was opened for signature 18 October 1961 in Turin, and guaranteed nineteen fundamental rights.

An Additional Protocol to the European Charter was opened for signature 5 May 1988 in Strasbourg, and guaranteed four additional rights.

These two texts were then combined and added to in the Revised European Social Charter, which was opened for signature 3 May 1996 in Strasbourg, and guarantees a total of thirty-one rights.

The (Revised) European Social Charter commits all signatories to ensuring within their jurisdiction:

Protection of employment, including:

- the right to work;
- the right to safe working conditions;
- the right to just conditions of work, fair remuneration and non-discrimination;
- the rights of workers to organise, bargain collectively, receive information, and be consulted;
- special protection for certain categories of workers; children and young persons, women, disabled persons, and migrant workers.

Special protection outside the work environment, including:

- rights for children and young persons;
- rights for mothers;
- rights for families;
- rights for the disabled;
- rights for migrant workers and their families'
- rights for the elderly; and



Social protection for the whole population, including:

- the right to protection of health;
- the right to social security and to social and medical assistance;
- the right to benefit from social welfare services;
- the right to protection against poverty and social exclusion;
- the right to decent housing.

Chart examining UK compliance with the European Social Charter

(correct as of June 1999)

The chart attached has been prepared by the Committee on the Administration of Justice (CAJ) on the basis of material from the European Committee of Social Rights. This Committee is responsible for determining the extent to which Member States are or are not in compliance with their obligations under the European Social Charter.

It is important to note that the conclusions of the European Committee of Social Rights cover different time-periods, since there are two distinct cycles for examination (i.e. two and four yearly cycles depending on the provision). We understand, in fact, that several of the criticisms made by the European Committee of Social Rights, and in due course by the Council of Europe's Governmental Committee, are currently being addressed by the government. In the interim, however, CAJ prepared the attached so that seminar participants are informed of the kinds of issues which have been (or continue to be) a matter of concern to the Council of Europe with regard to the UK.

It is clear from even a cursory study of the material produced by the European Committee of Social Rights, and of the Governmental Committee, that the domestic legislation and practices of Member States are very closely and regularly scrutinised. The Committee of Social Rights is willing to receive material from non-governmental organisations, trade unions, business representatives and others, in addition to formal reports from Member States. It is on the basis of such material, that the Council of Europe can ensure that governments - including the UK government - comply with their obligations under the Social Charter.



Examination of UK compliance with the European Social Charter

Conclusions by the European Committee of Social Rights	
Article	Summary
<p>Article 1</p> <p><i>The Right to Work</i></p>	<p style="text-align: center;">1.1</p> <p>Full Employment</p>
	<p>Notes that the unemployment rate in NI is declining, but long-term unemployment is a serious problem with 56.4% of the unemployed out of work for more than one year. Unemployment is particularly high among Catholic males.</p>
<p style="text-align: center;">1.2</p> <p>The right of the worker to earn his or her living in an occupation freely entered upon</p>	<p>Notes that in 1996 74% of all part-time workers were women and asks whether existing employment regulations treat part-time workers and full-time workers on an equal basis so as to avoid indirect discrimination of female workers. Notes that certificates issued pursuant to Section 42 of the Fair Employment Act preclude effective access to court and thus undermine the protection against discrimination in access to employment on the grounds of religious belief and political opinion. The Committee reaches a <i>negative conclusion</i>.</p>
	<p style="text-align: center;">1.2.2</p> <p>Prohibition of forced labour</p>
	<p>The Committee renewed its <i>negative conclusion</i> with respect to the prohibition of forced labour, as the provision imposing criminal sanctions against striking seamen was still in effect.</p>

	<p>1.4 Vocational guidance, training and rehabilitation</p>	
<p>Article 2 <i>The Right to Just Conditions of Work</i></p>	<p>2.1 Reasonable daily and weekly working hours</p>	Non accepted provision by the UK
	<p>2.2 Public holidays with pay</p>	
	<p>2.3 Annual holiday with pay</p>	
	<p>2.4 Reduced working hours or additional holidays for workers in dangerous or unhealthy occupations</p>	
	<p>2.5 Weekly rest period</p>	
<p>Article 3 <i>The Right to a Fair Remuneration</i></p>	<p>3.2 Industrial accidents and occupational diseases</p>	<p>The Committee notes that the number of fatal accidents has risen considerably in NI, especially in the agricultural sector. The Committee asks to be informed of the results of its considerations.</p>
	<p>3.3 Consultation with employers' and workers' organisations on questions of safety and health.</p>	

<p>Article 4 <i>The Right to a Fair Remuneration</i></p>	<p>4.1 Adequate remuneration</p>	<p>The Committee notes that there was no statutory minimum wage during the reference period, except for agricultural workers. It asks the government to provide information on the net national average wage, and also on the net value, i.e. after deduction of social contributions and taxes, of the lowest wage actually paid. The Committee reaches a <i>negative conclusion</i>.</p>
	<p>4.2 Increases rate of remuneration for overtime work</p>	<p>The UK does not have a statutory law specifying when and how overtime must be paid. This is inconsistent with the Charter, which states that workers have a right to an increased rate of remuneration for overtime work. The Committee has said that, in the absence of legislation and/or satisfactory practical evidence, they are unconvinced that all workers are paid at a higher rate for overtime work. It must conclude that the UK fails to comply with this provision of the Charter.</p>
	<p>4.3 The right of men and women to equal pay for work of equal value</p>	<p>Non accepted provision by the UK</p>
	<p>4.4 Reasonable notice of termination of employment</p>	<p>The Committee reiterates its <i>negative conclusion</i> on the ground that the statutory notice periods laid down for workers with up to three years' service are not adequate. It observes that the UK has been in breach of this provision for many years and urges the authorities once more to take the necessary steps to respect its obligation under this provision.</p>
	<p>4.5 Limitation of deduction from wages</p>	

<p>Article 5 The Right to Organize</p>	<p>Forming trade unions- Trade Union Activities</p>	<p>The Committee renews its <i>negative conclusion</i> on account of various provisions of the 1992 Trade Unions and Labour Relations Act and the 1993 Trade Union Reform and Employment Rights Act. The provisions include: - limiting the disciplinary action a trade union may take against its members; - the possibility for employers to take measures to persuade employees to relinquish trade union activities and collective bargaining; - limiting the right of the trade unions to exclude or expulse an individual - limiting the right of trade unions to use their property freely; - interfering with the confidentiality of trade union membership. The Committee requests that measures be taken to repeal these provisions. *See also <i>Committee of Ministers Recommendation R Ch S(97)3</i>.</p>
<p>Article 6 The Right to Bargain Collectively</p>	<p>6.1 Joint Consultation</p> <p>6.2 Promotion of machinery for voluntary negotiations</p> <p>6.3 Conciliation and arbitration</p>	<p>The Committee again concludes that Section 13 of the 1993 T. U. Reform and Employment Rights Act is in breach of Article 6 para.2 as it interferes with the right to bargain collectively</p>

	<p style="text-align: center;">6.4</p> <p style="text-align: center;">The Right to collective action</p>	<p>The UK is not in conformity with the Charter in relation to the right to strike. Amongst other things, employers have the right to dismiss all workers taking part in a strike and then re-employ them selectively three months after dismissal. Given the combined effect of these restrictions, the Committee renews its <i>negative conclusion</i>. See also <i>Committee of Ministers Recommendation R Ch S (93) 3 & (97)3</i>.</p>
<p>Article 7 The Right of Children and Young Persons to Protection</p>	<p style="text-align: center;">7.1</p> <p style="text-align: center;">Minimum age for employment</p>	<p style="text-align: center;">Non accepted provision by the UK</p>
	<p style="text-align: center;">7.2</p> <p style="text-align: center;">Higher minimum age for employment for occupations regarded unhealthy or dangerous</p>	
	<p style="text-align: center;">7.3</p> <p style="text-align: center;">Persons subject to compulsory education shall not be employed in work that would deprive them of the full benefit of their education</p>	<p style="text-align: center;"><i>Negative conclusion</i>, as there is no mandatory rest period in the summer for persons subject to compulsory education.</p>
	<p style="text-align: center;">7.4</p> <p style="text-align: center;">Working hours for those under 16 shall be limited</p>	<p style="text-align: center;">Non accepted provision by the UK</p>

	<p>7.5 The right of young workers and apprentices to a fair wage and other allowances</p>	
	<p>7.6 Time spent by young persons in vocational training shall be treated as forming part of the working day</p>	
	<p>7.7 employed persons under 18 shall be entitled to not less than three weeks' annual holiday with pay</p>	<p>Non accepted provision by the UK</p>
	<p>7.8 Persons under 18 shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations</p>	<p>Non accepted provision by the UK</p>
	<p>7.9 Persons under 18 employed in occupations prescribed by national laws or regulations shall be subject to regular medical control</p>	
	<p>7.10 To ensure that protection against physical or moral dangers to which children and young persons are exposed</p>	

<p>Article 8 <i>The Right of Employed Women to Protection</i></p>	<p>8.1 To provide for women to take leave before and after childbirth up to a total of at least 12 weeks</p>	<p>The Committee reaches a <i>negative conclusion</i> as the Charter states that an obligatory 6 weeks of leave must be allowed after the birth of a child. Also the rate, duration, nature of maternity pay was deemed inadequate.</p>
	<p>8.2 To consider it unlawful for an employer to give a woman notice of dismissal during her absence on maternity leave or to give her notice of dismissal at such a time that the notice would expire during such an absence</p>	<p>Non accepted provision by the UK</p>
	<p>8.3 To provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose</p>	
	<p>8.4(a) To regulate the employment of women workers on night work in industrial employment</p>	<p>Non accepted provision by the UK</p>
	<p>8.4(b) To prohibit the employment of women workers in underground mining and on all other work which is unsuitable</p>	

<p><i>Article 9 The Right to Vocational Guidance</i></p>		
<p><i>Article 10 The Right to Vocational Training</i></p>		
<p><i>Article 11 The Right to Protection of Health</i></p>		
<p><i>Article 12 The Right to Social Security</i></p>	<p>12.1 Establishment or maintenance of a system of social security</p>	
	<p>12.2 To maintain the social security at a satisfactory level</p>	<p>Non accepted provision by the UK</p>
	<p>12.3 To raise the system of social security to a higher level</p>	
	<p>12.4 To take steps to treat equally nationals of other Contracting Parties in respect of social security rights</p>	<p>Non accepted provision by the UK</p>

<p>Article 13 <i>The Right to Social and Medical Assistance</i></p>	<p>13.1 Social and medical assistance for those in need</p> <p>13.2 Non-discrimination with respect to persons receiving social and medical assistance</p> <p>13.3 Advice and assistance in case of want</p> <p>13.4 Social and Medical assistance for nationals of Contracting Parties lawfully within the territory of another Contracting Party</p>	<p>The Committee renews its <i>negative conclusion</i> because social assistance benefits are subject to a condition of habitual residence (except for those covered under Community Law), where "habitual" is an "appreciable" period of time.</p>
<p>Article 14 <i>The Right to Benefit from Social Welfare Services</i></p>		<p>The situation is incompatible with the Charter as nationals from other Contracting Parties who are lawfully in the UK, but not residing there are subject to a habitual residence test when asking for social assistance. This restriction is unacceptable, as this aid is meant to respond to emergencies and is thus temporary.</p>

<p>Article 15 <i>The Right of Physically or Mentally Disabled Persons to Vocational Training, Rehabilitation and Social Resettlement</i></p>		
<p>Article 16 <i>The Right of the Family to Social, Legal and Economic Protection</i></p>		
<p>Article 17 <i>The Right of Mothers & Children to Social/Economic protection</i></p>		
<p>Article 18 <i>The Right to Engage in a Gainful Occupation in the Territory of Other Contracting Parties</i></p>	<p>18.1 To apply existing regulations in a spirit of liberality</p>	

	<p>18.2 To simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers</p>	
	<p>18.3 To liberalise regulations governing the employment of foreign workers</p>	<p>The Committee reaches a <i>negative conclusion</i> as the regulations for foreign workers to be considered as self-employed are too onerous, i.e. £200,000 capital must be invested, and at least 2 jobs must have been created.</p>
	<p>18.4 The right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Contracting Parties</p>	
<p>Article 19 <i>The Right of migrant workers and their families to protection and assistance</i></p>	<p>19.1 Free assistance and information services; steps against misleading propaganda relating to emigration and immigration</p>	
	<p>19.2 Measures to facilitate the departure, journey and reception of migrant workers and their families</p>	
	<p>19.3 Co-operation between social services in emigration and immigration countries</p>	

	<p style="text-align: center;">19.4</p> <p>Treatment of migrant workers not less favourable than that of nationals in respect of employment, trade union rights and accommodation</p>	<p>In NI the Committee notes that the Housing Executive has been instructed to operate in accordance with the Regulations made for England and Wales under the Housing Act of 1996 [There has been a <i>negative conclusion</i> with respect to Scotland]. Thus, applications from nationals of state signatories to the Charter will be accepted in accordance with procedures. The Committee wants confirmation that the instruction is being implemented.</p>
	<p style="text-align: center;">19.5</p> <p>Treatment of migrant workers not less favourable than that of nationals in respect of employment taxes, dues and contributions</p>	
	<p style="text-align: center;">19.6</p> <p>Family Reunion</p>	<p>The Committee reaches a <i>negative conclusion</i> as the UK has no statutory right to family reunion for children aged between eighteen and twenty-one years old. This is not in compliance with the Charter.</p>
	<p style="text-align: center;">19.7</p> <p>Treatment of migrant workers not less favourable than that of nationals in respect of legal proceedings</p>	

Fundamental Social Rights - Appendices

<p>The Committee requests that the UK government clarify how the reasons of a political nature are interpreted and applied to nationals of other Contracting Parties when deporting persons for reasons of national security. It also reaches a <i>negative conclusion</i>, as there is no right of appeal to a court or any other independent body against a deportation order issued by the Home Secretary pursuant to Section 15(3) of the 1971 Immigration Act.</p>	<p>19.8 Security against expulsion</p>	
	<p>19.9 Transfer of earnings and savings</p>	
<p>With respect to self-employed migrants the situation in the UK does not comply with the provisions under paragraphs 4, 6, 8.</p>	<p>19.10 Extension of protection and assistance to self-employed migrants</p>	



Conference Agenda

Fundamental social rights in Northern Ireland: Building upon the Agreement and the European Social Charter

17th June 1999, Belfast

- 09.30 **Registration and coffee**
- 10.00 **Opening and Introductions**
- 10.10 **"European standards in the protection of economic and social rights"**. Presentation by David Harris, formerly of the European Committee of Social Rights, professor of international law at Nottingham, & consultant to the United Nations, International Labour Organisation and the European Commission.
- 10.35 **"Applying the European Social Charter within the national legal system"**. Presentation by Stein Evju, vice-president of the European Committee of Social Rights, president of the Norwegian Labour Court, and professor of labour law at the University of Oslo.
- 11.00 **Questions and Plenary Discussion followed by coffee**
- 11.45 **Panel discussion entitled "The Good Friday Agreement, a Bill of Rights for Northern Ireland, and the European Social Charter"**. Regis Brillat (Directorate of Human Rights, Council of Europe), Nuala Conlon (NI Anti-Poverty Network), Pauline Buchanan (Communication Workers Union and vice-chair of the Northern Ireland Committee of the Irish Congress of Trade Unions) and Christine Bell (Human Rights Centre at Queens University, Belfast). A short presentations by each panellist will be followed by plenary debate
- 12.45 **Closure of event**

Practical workshops will be organised in the afternoon for those wishing to examine in some detail the enforcement mechanisms available under the European Social Charter.



List of registered conference participants

Holiday Inn Hotel, University Street, Belfast
17 June 1999

Name		Organisation
Les	Allamby	Law Centre (NI)
Alex	Attwood	SDLP
Brian	Barrington	Office of Deputy First Minister
Christine	Bell	Director, Human Rights Centre, QUB
Joanna	Betson	DFA, Dublin
May	Blood	Greater Shankill Early Years Project
Miriam	Brady	Conference of Religious of Ireland
Patricia	Bray	North-West Forum for People with Disabilities
Regis	Brillat	Council of Europe (speaker)
Jean	Brown	West Belfast Partnership Board
Pauline	Buchanan	CWU/ICTU (speaker)
William	Caldwell	Department of Economic Development
Annie	Campbell	NICVA
Patricia	Campbell	Mencap
Nuala	Conlon	NI Anti Poverty Network (speaker)
Jerome	Connolly	Irish Commission for Justice & Peace
Victoria	Creasy	Voluntary AIDS Forum, NI
John	Darcy	Council of Europe
Brice	Dickson	NI Human Rights Commission
Fred	Dodds	GPMU
Margaret	Donaghy	Traveller Movement (NI)
Julie	Doran	Irish Missionary Union/ Table Campaign
Olwyn	Douglas	PUP
Terry	Enright	UNISON
Stein	Evju	Council of Europe (speaker)

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Sean Barry Nadette	Farren Fitzpatrick Foley	SDLP University of Ulster Multi-Cultural Resource Centre
Deborah Tom Jim Ciara Graham	Gadd Gillen Glackin Gnuie Gudgin	Chinese Welfare Association NIC-ICTU CRE Chinese Welfare Association NI Assembly, Office of First Minister
Paul Eilis Eileen	Hainsworth Haughey Howell	University of Ulster SDLP Falls Community Council
Bill	Jestin	Department of Enterprise, Trade and Employment
John Inez	Keenan Keenan	Belfast Traveller Sites Project Craigavon Travellers Support Committee
Janette Ethna Patricia Martin Pauline	Keers Kelly Kelly Kerr Kersten	Belfast Healthy Cities Conference of Religious of Ireland NI Human Rights Commission NICVA West Belfast Economic Forum
Mervyn Seamus	Lanetry Lynch	Training & Employment Agency Help the Aged
Denise Patricia Tary Geraldine Chrissie Barbara Majella	Magill Maxwell McAfee McAteer McAuley McCabe McCarron	NI Human Rights Commission University of Ulster Sussex Place Family Services Upper Springfield Development Trust West Belfast Partnership Board Ulster People's College Irish Missionary Union/Table Campaign
Denis Harry Billy Chris	McCartney McConnell McCreight McCrudden	Department of Finance & Personnel NI Disability Council CWU Lincoln College, Oxford



Conal	McFeely	NICDA
Clare	McGivern	Department of Finance & Personnel
Mary	McManus	East Belfast Community Development Agency
Yasin	Mohammed	Council for Ethnic Equality
Anne	Molloy	NICDA
Michael	Mongan	Belfast Traveller Sites Project
Clare	Moore	ICTU
Pauline	Murphy	Women's Opportunities Unit, UU
Desi	Murray	Belfast Trades Council
Mary	Nelis	NI Assembly Member (SF)
Dermot	Nesbitt	NI Assembly Member (UUP)
Caroline	Nolan	West Belfast Economic Forum
Paul	Noonan	BTEDG
Eamonn	Oakes	MSF/ICTU
Carol	O'Bryan	Simon Community NI
Donncha	O'Connell	Irish Council for Civil Liberties
Kellie	O'Dowd	Women into Politics Project
Tony	O'Reilly	North-West Forum for People with Disabilities
Barry	Phillips	Law Centre, Derry
Nooshin	Proudman	Council for Ethnic Equality
Brid	Rodgers	SDLP
Petra	Sheils	EOC-NI
Odhran	Stockman	Law Centre
Liam	Stone	Upper Springfield Development Trust
James	Uhomoibhi	NI African Cultural Centre
Ellen	Weaver	Law Centre (NI)
Joanne	White	Jones & Cassidy Solicitors
Ian	Williamson	Alliance Party
Monica	Wilson	Disability Action
Robin	Wilson	Democratic Dialogue
Una	Wilson	Disability Action
Jane	Winter	British Irish Rights Watch
Patrick	Yu	NI Council for Ethnic Minorities

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The **Committee on the Administration of Justice (CAJ)**, founded in 1981, is an independent non-governmental organisation which:

- ❖ monitors civil liberties issues;
- ❖ publishes a monthly JUST NEWS;
- ❖ provides information to the public;
- ❖ has published extensively on policing, discrimination issues, Bill of Rights etc;
- ❖ has published a comprehensive handbook on civil liberties in Northern Ireland; and
- ❖ campaigns locally and internationally.

**CAJ works for a just and peaceful society in Northern Ireland
where the human rights of all are protected.**

The **Council of Europe** is an intergovernmental organisation founded in 1949, it currently consists of forty-one states. Its aim is: *"to achieve a greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress"* [Article 1.a. of the Statute of the Council of Europe] Its statutory principles are pluralist democracy; respect for the rule of law; and respect for human rights.

More information about the European Social Charter can be obtained from the Social Charter Section, Human Rights Directorate, Council of Europe, Strasbourg, France.

Price £5.00

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