



Annual Report 2003

IHRC

IRISH HUMAN RIGHTS COMMISSION

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FOREWORD

National human rights institutions are a relatively new phenomenon. Twenty years ago there were less than a dozen worldwide. Today there are more than sixty, most of them, like the two human rights commissions on this island, born in the last decade.

Three main factors have led to this sudden and dramatic growth in national human rights institutions – internal revolutions, such as in South Africa where the establishment and continuing vindication of human rights was seen as central; the collapse of Communism with the emergence of dozens of new states with little or no tradition or culture of human rights, but with a determination to see them as a cornerstone of the new order and the growing centrality of human rights in so much of western law.

The Irish Human Rights Commission is, like the Northern Ireland Human Rights Commission a direct product of the Good Friday or Belfast Agreement of 1995. Each Commission is independent but work together through a Joint Committee and each is enjoined to ensure an equivalence of rights on each part of this island.

Already, in the short history of national human rights institutions it is clear that the role of such institutions vary greatly from country to country. A human rights commission in a newly independent and still chaotic country can find itself in a lonely, vulnerable and hostile situation with little institutional or cultural backing. In this country we have a written constitution with strong human rights provisions, a judiciary with a good record in human rights, a strong parliament, a vigilant media, an alert public opinion and statutory bodies with responsibilities for specific areas of human rights such as equality and disability.

The essential remit of the Commission is to promote and protect human rights and in so doing we have to be very conscious of the environment in which we operate. Our job is to speak fearlessly and clearly where human rights are concerned, to pursue and promote best practice and to do this whether scrutinising legislative proposals, examining the law in practice, conducting research, promoting debate, examining individual complaints or working with our colleagues in Northern Ireland on human rights issues of common concern. It is not our job to duplicate work being done elsewhere, whether that be in the courts or by other agencies. Our job is not to

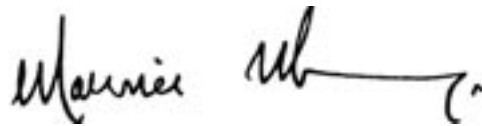


Maurice Manning
President, IHRC

compete, but to add value through our expertise and independence. Our strategic plan commits us to working with groups already active in such areas as racism, disability, Travellers' rights, immigrants, women and gender issues, economic, social and cultural issues. This we have enthusiastically done over the past year and we believe that with our limited resources such focus offers the best prospect of achieving real and lasting results.

The year 2003 has been a significant one for the Irish Human Rights Commission. Although fully operational for just over half the year, this Report details the very substantial and varied work done but more important it clearly indicates that over the past year the Commission has established itself on secure foundations and given itself the strategic direction which will enable it to grow into fully realising the expectations of the Belfast/Good Friday Agreement and the Acts of the Oireachtas which underpin its existence – and to become in the words of Taoiseach Bertie Ahern 'a model for others to follow and one that would set, rather than follow, standards of best international practice in this area'.

Finally may I thank the Commissioners for the dedication, expertise and determination they have brought to the work of the Commission and the Chief Executive and Staff for their hard work, high standards and whole-hearted commitment.

A handwritten signature in black ink, appearing to read 'Maurice Manning', followed by a long horizontal flourish.

Maurice Manning
President

INTRODUCTION

At the beginning of 2003, the Commission was operating out of small temporary offices which accommodated the President of the Commission, the Chief Executive and a temporary Secretarial Assistant. By the end of the year, the Commission had moved to permanent premises, and nine additional members of staff had been recruited and commenced their duties. In short, during the year the Commission acquired both the human and infrastructural resources needed for it to function effectively.

Central to the organisation of the work of the Commission was the adoption in March 2003 by the Commission of a strategic plan for the period 2003 – 2006. This provided a focus for the work of the Commission and set out those areas for priority attention in the years ahead. Guided by the plan, members of the Commission and staff processed a substantial body of work, as detailed in chapters 5, 6 and 7 of this Report.

Two further developments of significance were the launch of the Commission's website on 10 December 2003 and the submission to Government in July 2003 of a report containing the Commission's recommendations for improving its effectiveness and the effectiveness of several of its statutory functions.

At year's end, the Commission was in a position to begin carrying out its various functions in a more structured and consistent manner. It was equipped to pursue its mission to promote and protect the human rights of all persons in the State and to consider with the Northern Ireland Human Rights Commission, in the context of the Joint Committee, human rights issues in the island of Ireland. In the years ahead, the Commission, assisted by its staff, looks forward to fulfilling the mission entrusted to it.



Alpha Connelly
Chief Executive,
IHRC

A handwritten signature in dark ink, appearing to read 'Alpha Connelly', written over a horizontal line.

Alpha Connelly
Chief Executive

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THE COMMISSION

The Human Rights Commission is a statutory body deriving its composition, functions and powers from the Human Rights Commission Acts 2000 and 2001.

Membership

The Acts provide that there shall be a President and 14 other members of the Commission. They also provide that not less than 7 members of the Commission shall be women and not less than 7 members shall be men. The President of the Commission is Dr. Maurice Manning. The other members of the Commission in 2003 were:

- Professor William Binchy
- Ms. Olive Braiden
- Mr. Martin Collins
- Professor Robert Daly
- Ms. Suzanne Egan
- Mr. Michael Farrell
- Ms. Nuala Kelly
- Ms. Jane Liddy
- Ms. Clodach McGrory
- Professor Fionnuala Ní Aoláin
- Mr. Tom O'Higgins
- Professor Gerard Quinn
- Mr. Mervyn Taylor
- Dr. Katherine Zappone

Short biographies of all the members of the Commission are given at Appendix 1.

Members of the Commission



Dr. Maurice Manning
President of the
Commission



**Professor William
Binchy**



Ms. Olive Braiden



Mr. Martin Collins



**Professor Robert
Daly**



Ms. Suzanne Egan



Mr. Michael Farrell



Ms. Nuala Kelly



Ms. Jane Liddy



Ms. Clodach McGrory



**Professor Fionnuala Ní
Aoláin**



Mr. Tom O'Higgins



**Professor Gerard
Quinn**



Mr. Mervyn Taylor



Dr. Katherine Zappone

Functions

The functions of the Commission, as set out in section 8 of the Human Rights Commission Act 2000, are as follows:

- to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights;
- if requested by a Minister of the Government, to examine any legislative proposal and report its views on any implications of such proposal for human rights;
- to consult with such national or international bodies or agencies having knowledge or expertise in the field of human rights as it sees fit;
- either of its own volition or on being requested to do so by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strengthen, protect and uphold human rights in the State;
- to promote understanding and awareness of the importance of human rights in the State and, for these purposes, to undertake, sponsor or commission, or provide financial or other assistance for, research and educational activities;
- to conduct enquiries;
- to prepare and publish, in such manner as it thinks fit, reports on any research undertaken, sponsored, commissioned or assisted by it or in relation to enquiries;
- to apply to the High Court or the Supreme Court for liberty to appear before the High Court or the Supreme Court, as the case may be, as *amicus curiae* in proceedings before that court that involve or are concerned with the human rights of any person and to appear as such an *amicus curiae* on foot of such liberty being granted;
- to take whatever action is necessary to establish and participate in the joint committee of representatives of the Commission and of the Northern Ireland Human Rights Commission;
- to provide assistance to persons in connection with legal proceedings involving law or practice relating to the protection of human rights;
- to institute legal proceedings to vindicate the human rights of a person or a class of persons.

The Commission's enquiry function may be exercised of its own volition or at the request of a person with a sufficient interest in the matter. The function is however not free-standing in the sense that an enquiry must be linked to the exercise of one or more of four other specified functions of the Commission, namely, review of the adequacy

and effectiveness of law and practice in the State relating to the protection of human rights, consultation with national or international bodies or agencies having a knowledge or expertise in the field of human rights, making of recommendations to the Government in order to strengthen, protect and uphold human rights in the State, and promotion of understanding and awareness of the importance of human rights in the State.

There are a number of other statutory limitations to the exercise of this function: for example, where the matter has already been finally determined by a court or a tribunal, the Commission may not conduct an enquiry into it. But where the Commission decides to hold an enquiry, it has extensive powers to compel the production of documents and the attendance of witnesses. An enquiry may be held in public or in private. It may be small: for example, clarification of a matter through correspondence with a local authority; or large-scale: for example, a public enquiry into a matter which appears to reveal a systemic abuse of human rights.

It is most important to appreciate that the enquiry function is an investigative one. The Commission is not a court or tribunal in the normally understood sense of these terms. It does not have the competence to adjudicate alleged violations of human rights, to overturn decisions made by another body or to award a remedy, such as compensation, in respect of a breach of a person's human rights. Rather the function is designed to secure the evidentiary basis upon which to exercise the four other specified functions to which it is linked, for example, the basis upon which to make a recommendation to the Government to strengthen the protection of human rights in the State.

Because of a perceived lack of clarity with respect to its enquiry function, the Commission sought an opinion from Senior Counsel as to the nature and scope of the function; and this was supplemented by a paper submitted to the Commission in May 2003 on the matter by the Chief Executive and Senior Caseworker. The paper is reproduced at Appendix 2.

During 2003, the Commission exercised, or took steps with a view to exercising, all but 2 of its functions. The 2 functions which it regarded as precipitate to exercise in the absence of adequate staff were its *amicus curiae* brief and the institution of legal proceedings to vindicate the human rights of a person or class of persons. (See further below Chapter 6 on the Commission's casework.)

Plenary and Committees

The Commission met in plenary once a month in 2003, i.e. 12 times in all. Commissioners also met from time to time according to their membership of particular Committees of the Commission.



On arrival at NUI Galway, the President of the Commission, Dr. Maurice Manning, being welcomed to NUI Galway by the College Registrar, Prof. Jim Browne. The Commission held its plenary meeting outside Dublin for the first time in November 2003.

At the beginning of the year the Commission had 15 Committees and Advisory Groups. These were:

- Ad Hoc Committee on the Offences Against the State Acts, 1939 – 1998
- Ad Hoc Staffing Committee
- Advisory Group on Children with Disabilities
- Advisory Group on Research concerning the Treatment of Older Persons in Institutions
- Committee on Approach to Work
- Committee on Racism
- Committee on Rules of Procedure
- Committee on the Appointment of the Chief Executive Officer
- Committee on the Website, Logo and Computer Network
- Committee to Draft Submission on the Incorporation of the European Convention on Human Rights into Irish Law

- Committee to Negotiate with the Department of Finance
- Communications Committee
- Finance Committee
- Premises Committee
- Research Committee

The nature and range of the Committees reflected the fact that the Commission had been in a start-up phase, located in small temporary premises with only a skeleton staff. Some were established to deal with a specific finite task, such as the recruitment of a Chief Executive, others to deal with administrative matters, such as the establishment and maintenance of a website and computer network, pending the recruitment of appropriate staff under the general direction of a Chief Executive.

At its meeting in May 2003, the Chief Executive presented proposals to the Commission for the revision and rationalisation of its Committee system. The proposals were designed to afford recognition to the fact that many of the Commission's Committees were, or were about to become, redundant due to the recruitment of staff and the work undertaken by staff and to focus the attention and efforts of Commissioners more centrally on the development and oversight of the implementation of Commission policies, particularly in its key areas of work. Following these proposals, the Commission agreed that in future its Committees would comprise the following and that all other existing Committees were formally abolished:

- Committee on Racism
- Committee on Approach to Work
- Casework Committee
- Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee)
- Finance Committee
- Research Committee
- Committee on the Offences Against the State Acts

The Commission also agreed to retain the Advisory Group on Research concerning the Treatment of Older Persons in Institutions. In addition, at its meeting in May 2003, the Commission decided to establish a Committee with the remit of drafting the Commission's Report to the Government under section 24 of the Human Rights Commission Act 2000. Section 24 provides:

The Commission shall, before the expiration of the period of two years from the establishment day, make to the Government a report containing such recommendations as it thinks fit for improving –

- a. the effectiveness of the Commission
- b. the effectiveness of any of the functions conferred on it by this Act, particularly having regard to any developments in the field of human rights that have occurred in the said period of two years (whether within or outside the State).

With the submission of this Report to the Government in July 2003, the task of this Committee was completed. The conclusion and recommendations of the Report are reproduced at Appendix 9.

At its meeting in June 2003, the Commission decided to establish a Committee on Economic, Social and Cultural Rights. It also decided at this meeting to extend the terms of reference of the CEDAW Committee and to rename this Committee the Committee on Gender and Women's Rights.

The Commission further decided, at its meeting in July 2003, to establish a Committee to review negative decisions of the Casework Committee, should such a review be requested by the person the subject of a negative decision.

Finally, at its meeting in October 2003, the Commission established a Committee on the Administration of Justice to replace the Committee on the Offences Against the State Acts.

The membership and terms of reference of each of the Committees of the Commission are given at Appendix 3.

STAFF OF THE COMMISSION



Recruitment of Staff

The Commission appointed Dr. Alpha Connelly as its Chief Executive on 10 June 2002. Consideration was then given to the number of other staff required and to the role various members of staff would play in assisting the Commission to fulfil its many statutory functions. A Committee of the Commission worked with the Chief Executive to identify priority staffing and job profiles.

Roughly speaking, the areas of work to be undertaken by staff were divided into two broad categories: policy positions and administrative (including clerical) positions and the decision was taken to recruit five persons in each category.

With regard to the policy positions, the Commission's functions were grouped into three general areas: matters relating to legislation and policy, casework, and educational and informational activities. It was decided to recruit two officers in relation to the legislation and policy work of the Commission, a Senior and an Assistant Legislation and Policy Review Officer, and similarly two officers in relation to the Commission's casework, a Senior and an Assistant Caseworker. The Commission already had a significant backlog of communications from individuals seeking its help in relation to human rights grievances, and it was important that a caseworker be recruited as soon as possible to deal with these communications as well as other casework matters. With regard to the educational and informational activities of the Commission, it was thought appropriate first to recruit a senior officer who would map out the Commission's responsibilities and potential in this area and, in doing so, identify more clearly the role to be played by a second assistant officer in this area. The title "Human Rights Awareness Officer" was given to this position.

With regard to the administrative positions, it was accepted that it would be desirable to recruit an officer with responsibility for general administrative matters. It was also accepted that there was a need on the administrative side for persons with particular knowledge and expertise in financial matters and in human resources. Given the relatively small number of staff to be recruited in the first instance and the relatively small amount of the Commission's budget, it was decided to combine the roles of financial officer and personnel officer into one job and to try to recruit one person to fulfil both roles. It was recognised that it might be difficult to attract a person of the required ability and experience since persons tended to be specialised in either financial affairs or human resources, not in both. Furthermore, it was recognised that particular qualities were needed in respect of the frontline person, normally a receptionist, who

would be the public's first point of contact with the Commission. It could be reasonably expected that individuals would telephone or call to the office who were upset or angry because they perceived themselves to be victims of serious human rights abuses, and therefore a very high degree of sensitivity and tact would be required of this staff member. It was decided that this person should also have responsibility for ensuring observance of the security arrangements regarding entry into and exit from the Commission's premises. In acknowledgement of the special qualities required for this job and the security duties associated with it, the term "Desk Officer" was chosen to designate the position rather than simply "receptionist". In addition, persons were to be appointed to two clerical positions.

Under the legislation establishing the Commission, the Commission is empowered to appoint its own staff, but may only do so with the consent of two Ministers, the Minister for Justice, Equality and Law Reform and the Minister for Finance. The consent of the two Ministers is required to the number of persons to be appointed as members of staff, to the terms and conditions of service of each member of staff, to the grade at which each member of staff is to serve, and to their remuneration and allowances.

The acquisition of the necessary ministerial consent to the priority staffing of the Commission proved to be a protracted process. Consent was given to appointment to the ten positions sought but at a lower grade and at a lower salary than that considered appropriate by the Commission. The Minister for Finance was particularly adamant that appointment should be on the first point of the relevant salary scale, thereby precluding the Commission from appointing at a higher point on the scale should a candidate present who merited this.

The services of a recruitment agency were employed to assist with recruitment, but the Commission retained direct control of the final selection.

The five administrative positions were advertised nationally in November 2002 and the five policy positions early in December 2002.

It was envisaged that individual members of staff would assume their duties at intervals over the course of 2003 since the Commission had yet to acquire permanent premises and was operating from small temporary premises pending its relocation. With one exception, this aim was realised, and nine of the positions were filled as follows:

Desk Officer, Teuta Bytyqi-Forde	: 18 March 2003
General Administrator, Gavin McSpadden	: 18 March 2003
Clerical Officer, Hazel Murphy	: 14 April 2003
Senior Caseworker, Des Hogan	: 22 April 2003

Senior Legislation and Policy
Review Officer, Liam Herrick : 14 July 2003
Assistant Legislation and
Policy Review Officer,
Róisín Hennessy : 11 August 2003
Assistant Caseworker, Gerry Finn : 8 September 2003
Senior Human Rights Awareness
Officer, Mary Ruddy : 22 September 2003
Clerical Officer, Claire McCann : 29 September 2003

In order that staff could commence their duties, it was necessary to acquire additional temporary accommodation for them. Such accommodation was sought both on the private market and from the Office of Public Works; and the Commission is very grateful to the Office of Public Works for making additional space available to it in the same building as that in which the original temporary premises of the Commission were located.

Prior to appointment, prospective staff were shown the space (limited) and conditions under which they would be expected to work (basic) until the Commission moved to permanent premises. Without exception, they agreed to work in what were less than ideal conditions; and the Commission appreciates that it is fortunate to have attracted such highly motivated and co-operative staff.

There was one position which it did not prove possible to fill during the initial round of recruitment. This was the position of Administrator (Finance and Human Resources). Although several candidates were suitable for appointment, none were prepared to accept appointment at the salary offered. This situation persisted even after the re-opening of negotiations with the Minister for Finance on the question of salary and the giving of consent by the Minister to appointment at the third point of the relevant scale.

The position therefore had to be re-advertised. This time the Commission recruited directly rather than through an agency and managed to attract to the position a highly qualified person with experience both in financial management and in human resources. The person, David Carolan, assumed duties on 12 January 2004.

Staff Structure

At the time of recruitment, it was also necessary to decide upon the staffing structure of the Commission, and a diagram showing the formal relationship of the 11 members of staff of the Commission is given below.



Superannuation Scheme

Pursuant to section 20 of the Human Rights Commission Act 2000, in February 2003, the Commission submitted to the Minister for Justice, Equality and Law Reform a scheme for the granting of superannuation benefits to its staff. In March 2003, the Minister for Finance consented to the Commission's proposed superannuation scheme being put into operation as soon as possible.

ACQUISITION OF PERMANENT PREMISES

3

The Search

Prior to the appointment of the Chief Executive, the Commission had started to look for permanent premises and had established a committee to this end. The Committee had identified preferred premises in a building under construction and had drawn up a draft layout of the premises. The Committee continued to assist the Chief Executive in this regard upon her appointment.

The draft layout was modified somewhat and negotiations pursued with the prospective landlord. A costing was done in respect of the fit-out of the premises, and a Supplementary Estimate submitted to the Minister for Justice, Equality and Law Reform for the once-off sum of money required to construct and equip offices. The Commission was informed that Supplementary Estimates were not being entertained by the Minister for Finance at the time and that consequently the monies needed would have to be found out of the regular budget of the Department. The Department was willing to make €500,000 available to the Commission for this purpose, which was some €300,000 under what was sought.

In view of the magnitude of the shortfall, the Commission renewed its search on the private market for permanent premises. At the same time, because of a retraction in the rental market for commercial property, it continued negotiations with the landlord of its preferred premises to see if some arrangement could be arrived at which would allow the Commission to rent the premises within the allocation assigned to it by the Department of Justice, Equality and Law Reform. The Chief Executive was assisted in these negotiations by the General Administrator when he assumed duties in March of 2003, and it proved possible to renegotiate some of the terms of the lease. It took about three months for the fit-out of the premises to be completed and the basic office furniture to be purchased. The President of the Commission and the staff moved into the new offices on the fourth floor of Jervis House, Jervis Street, Dublin 1 on Friday, 17 October 2003 and the offices opened for business on the afternoon of Monday, 20 October 2003.

In devising the layout of the offices and in overseeing the construction and the fit-out of the premises, the Commission relied heavily upon the services and expertise of staff of the Office of Public Works and would like to take this opportunity to express its thanks to these persons and to the Office itself.

The Opening of the Premises



The President of the IHRC, Dr. Maurice Manning with An Taoiseach, Bertie Ahern, at the opening of the Commission premises on International Human Rights Day, 10th December, 2003.

The premises were officially opened by the Taoiseach on International Human Rights Day, 10 December 2003, in the presence of a large invited audience. Both the Taoiseach and the President of the Commission spoke at the opening. A copy of the Taoiseach's speech is reproduced at Appendix 4, and a copy of the President's speech at Appendix 5.

STRATEGIC PLAN

4

Drafting and Adoption of the Plan

The Human Rights Commission has a very broad mandate to promote and protect human rights in Ireland. To this end it has had a wide range of functions conferred on it. The resources available to it (and which are likely to be made available to it for the foreseeable future) are however quite limited. In such a situation, it is imperative that there be a clear focus to the work of the Commission and agreed priorities if the Commission is to fulfil its mandate and to carry out its functions in an effective manner.

In order to afford this focus and direction, a Committee of the Commission, the Committee on Approach to Work, undertook the task of drafting a strategic plan. The Plan was completed in early 2003 and published at a launch in the City Hall, Dublin, on 31 March 2003. It is entitled, *Promoting and Protecting Human Rights in Irish Society: A Plan for 2003 – 2006*.

The Plan identifies a number of key areas of work on which the Commission intends to focus over the next four-year period, describes the functions of the Commission and the activities it proposes to undertake to fulfil its mandate, and provides information on the earlier activities of the Commission. It also contains the Commission's mission statement and sets forth the values and criteria informing choices it will make regarding its work during the lifetime of the Plan. Information on how the Commission will operate in practice is also provided. A copy of the Commission's mission statement is reproduced at Appendix 6, and a copy of the core and operational values of the Commission at Appendix 7.

Key Areas of Work

The choice by the Commission of key areas of work was informed by its discussion of policy issues both in plenary session and in Committee meetings and by meetings with external bodies and persons at which they communicated their concerns and expectations to the Commission. The choice was also informed by a set of criteria which are set out in Appendix 8.



**Commissioners
Dr. Katherine
Zappone and Prof.
William Binchy,
Chief Executive
Dr. Alpha Connelly,
and Commissioner
Prof. Fionnuala Ní
Aoláin at the
launch of the
Commission's
Strategic Plan.**

In considering those areas on which to concentrate, the Commission used a threefold classification based on the traditional differentiation between civil and political rights on the one hand and economic, social and cultural rights on the other. Within the civil and political field, it selected for special attention the administration of justice. In the economic, social and cultural field, it did not select any particular area for attention. Rather it recognised that there is little comprehension of this category of rights in Ireland. Whereas persons are familiar, through the fundamental rights provisions of the Constitution, with the classic civil and political liberties, many do not view economic, social and cultural issues from a rights perspective. This is as true of politicians and public officials as it is of members of the public. The Commission therefore decided to set itself the task of improving the understanding in Ireland of the nature of economic, social and cultural rights and of the various ways in which they can be realised and, if need be, enforced.

The third of the three general areas of work was classed as “cross cutting issues”, that is, issues which do not fall neatly into either the civil and political rights category or the economic, social and cultural rights category, but rather span the two categories. Under this general heading, four “issues” were chosen. They are racism, persons with disabilities, gender, and equality and human difference.

In its Plan, the Commission acknowledges that racism is not a new phenomenon: that it has existed for many years against the Travelling community and there have been attacks at times on Jews and on a number of black Irish people. However, there are worrying signs that racism is on the increase and the Commission believes that it has become a very serious concern in contemporary Irish society. The Commission therefore decided to designate it as a priority issue and to seek to work with other relevant bodies, in both the public and the private sector, to combat it.

It is estimated that there are at least 360,000 persons with disabilities in this jurisdiction, and they are much more likely to live in poverty and to be trapped in vicious circles of social exclusion than persons without a disability. It is becoming increasingly accepted worldwide that the health and welfare models which society has traditionally used in its treatment of persons with disabilities is misconceived and that if such persons are to have the same life opportunities as persons without a disability, a rights-based approach to their situation needs to be adopted. The Commission therefore indicated in its Plan that it would bring a rights-based perspective to bear in its review of the current law and practice and on legislative proposals as they affect persons with disabilities, thereby contributing to the attainment of a society in which persons with disabilities effectively enjoy the full panoply of human rights.

Despite more than a generation of legislation designed to secure equality for women and men, particularly in respect of paid employment and associated matters, gender inequality still exists in Ireland. This is demonstrated by the fact that women are grossly under-represented in political life and on public boards, that more women experience poverty, that domestic and other violence against women is an everyday reality and that women are still paid less in employment than men. The Commission therefore decided that it would play a role in the advancement of gender equality in Ireland, in particular by drawing on relevant international human rights standards, such as those set out in the Convention on the Elimination of All Forms of Discrimination Against Women.

Lastly, the Commission chose as a key area of work equality and human difference. Recent equality legislation has afforded a degree of protection against discrimination to certain social groups, especially in relation to employment and to the provision of goods and services. These groups are defined by gender, marital status, family status, age, disability, sexual orientation, race, religion and membership of the Travelling community. However, there are other social groups which experience discrimination and which do not enjoy any such legal protection. Moreover, even the protected groups are not fully protected against discrimination, and there are outstanding issues for all these groups, especially those who have been less visible, such as lesbians, gays, bisexuals and transsexuals. In its Plan, the Commission stated that it would address these gaps, and identified the situation of older people as a matter of particular concern to it.

The Commission decided to set itself the task of improving the understanding in Ireland of the nature of economic, social and cultural rights

There are worrying signs that racism is on the increase and the Commission believes that it has become a very serious concern in contemporary Irish society

Consultation Process

The Commission aims to use its strategic plan as a key document in its consultation and dialogue with various bodies, agencies and individuals throughout the lifetime of the Plan. Prior to the adoption of the Plan, the Commission had met with a number of groups, participated in several regional, national and international conferences and seminars, and had attended meetings at the request of agencies and representative groupings. It had also worked closely and collaboratively with the Northern Ireland Human Rights Commission. The Commission benefited from this initial phase of dialogue and sought to take account of and include in its Plan many of the concerns and issues raised.

With the launch of the Plan, the Commission initiated a phase of structured consultation and dialogue which, it is intended, should continue throughout the lifetime of the Plan. The Commission will take a flexible approach to the implementation of the Plan in the light of this ongoing consultation.

Consultation will involve a series of targeted discussions with non-governmental organisations, Government Departments, local and thematic groups, and political parties to hear their views and to provide information on the work programme of the Commission. The Commission also intends to hold public meetings, to use local radio and local newspapers to bring the Plan and the Commission itself to the attention of as wide a public as possible. Particular effort will be made to ensure the participation in

Members of the audience at the Commission's first public consultation meeting on the Strategic Plan in November 2003.



the consultation process of those who are most at risk of having their human rights violated or ignored. The Commission will actively seek to hear how the protection of human rights can be improved upon through a range of enforcement options and through implementation of Government commitments.

The Commission held its first public consultation meeting in Galway on 27 November 2003. (See further below page 16)

The Commission will strive to be as open and flexible as possible in this process, balancing the views and concerns expressed in the dialogue with the goals and achievements of targets that it sets for itself within the parameters of the Plan and the resources available to it.

The Commission welcomes suggestions on its Plan, and will build into its work programme a process of dialogue and review as a key component of forward planning for the next period.


Added Value

The Commission is an independent, statutory body. It is not an arm of government, nor are its employees civil servants of the Government. Likewise it is not a mouthpiece of non-governmental organisations or private sector bodies. In a sense, the Commission is a bridge between the public and private sectors in its endeavour to ensure that the human rights of all people in the State are fully realised and protected. It will also work with both sectors to this end.

The Commission has stated in its strategic plan that it will work in support of other agencies active in the field of human rights and that its aim will be to work in harmony with such bodies and avoid any unnecessary duplication of work. In this, it will be guided by the need to deploy its limited resources as effectively as possible.

Moreover, in developing its work, the Commission will seek to exercise its unique statutory powers in a manner which will bring 'added value' to work already being undertaken in the State to promote and protect human rights.

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5

KEY AREAS OF WORK

Administration of Justice

During the course of the year, the Commission examined five legislative proposals referred to it by the Minister for Justice, Equality and Law Reform under section 8(b) of the Human Rights Commission Act, 2000 for its views on their implications for human rights. The proposals were:

- the European Arrest Warrants Bill 2003
- the Criminal Law (Insanity) Bill 2002
- the General Scheme of a Garda Síochána Bill 2003
- the General Scheme of a Criminal Justice Bill 2003
- the Commissions of Investigation Bill 2003

The Commission submitted its views on the implications for human rights of the European Arrest Warrants Bill 2003 to the Minister on 16 September 2003. This Bill was designed to implement a Framework Decision of the Council of the European Union which deals with the rights of persons subject to transfer between criminal jurisdictions and has the general effect of reducing judicial scrutiny of such transfers. In its views, the Commission broadly welcomed many of the safeguards provided for in the Bill and accepted as legitimate its objective to streamline procedures for the extradition of persons between EU member states. However, it expressed concern that the Decision was based on the questionable presumption that there is effective and equivalent protection of accused persons' rights in all EU member states. It also took the opportunity to express concern at the lack of effective systems of democratic scrutiny, lack of transparency and the inadequate consideration of human rights and civil liberties standards within the decision-making process leading to the adoption of such Framework Decisions.

The Commission submitted its views on the Criminal Law (Insanity) Bill to the Minister on 22 October 2003. It warmly welcomed improvements in the legislation governing the criminal responsibility of mentally ill persons who have committed offences and noted that the Irish Psychiatric Association and the National Disability Authority (NDA) had already published detailed submissions on the Bill. The primary function of the Commission being to ensure that Irish legislation and administrative practice are in compliance with the human rights provisions of the Constitution and with the State's human rights obligations under international agreements to which Ireland is party, the Commission limited its views to some observations on compliance with these standards and supported some of the recommendations of the NDA in this regard.

The Commission submitted its views on the General Scheme of the Garda Síochána Bill 2003 to the Minister on 10 November 2003. It expressed the opinion that policing is central to the protection of human rights in a democratic society, that human rights should be at the core of policing philosophy and practice, and that the protection and promotion of the human rights of those who come into contact with the Garda Síochána and the rights of members of the police service need not be viewed as contradictory, but can rather be seen as mutually reinforcing. The Commission had already published, in December 2002, a position paper, entitled *A Proposal for a New Garda Complaints System*, in which it had argued for an independent and effective body to deal with complaints against members of the Garda Síochána. In its views on the General Scheme of the Bill, the Commission reiterated its conviction that the most appropriate means of achieving the effective independent investigation of complaints is through the establishment of a Garda Ombudsman and strongly urged the Minister for Justice, Equality and Law Reform to reconsider the issue in drafting the proposed Bill.

In its views on the General Scheme of the Criminal Justice Bill 2003, the Commission focused on four specific proposals contained in the Scheme which gave it cause for concern: the extension of the power to issue search warrants; provision for increased periods of detention; the extension of the power to take bodily samples; and the power of the Director of Public Prosecutions and of the Attorney General to take a prosecution appeal. In relation to search warrants, it expressed the view that the case for justifying an extension of the circumstances under which the Garda Síochána controls the issuance of warrants had not been made. It further submitted that, if there are practical difficulties in obtaining a District Court judge to issue a warrant, other solutions may be available such as exploring the possibility of the electronic communication of warrants in exceptional circumstances. In relation to periods of detention, it likewise expressed the view that the case for justifying an extension of the period beyond 12 hours as provided for in existing legislation had not been made, and that this period is sufficient for the proper investigation of an arrestable offence. In relation to the taking of bodily samples, the Commission expressed concern that the proposal to allow members of the Garda Síochána to take samples from *all* persons arrested upon suspicion of having committed an arrestable offence is neither necessary in a democratic society nor proportionate to the aim of preventing crime and protecting the rights of others. It also expressed concern about the proposal to authorise members of the Garda Síochána to use reasonable force, if necessary, to obtain photographs, fingerprints, palmprints and non-intimate bodily samples from such persons, regarding it as not compatible with the basic principles of human rights law which provide that force should only be used when strictly necessary. It further recommended that a number of general safeguards be put in place for persons from whom bodily samples are taken. In relation to prosecution appeals, the Commission voiced concern that the proposed type of appeal may be unfair to the acquitted person in that it creates the potential to undermine the good name of the person and may undermine

In its views on the General Scheme of the Criminal Justice Bill 2003, the Commission reiterated its conviction that the most appropriate means of achieving the effective independent investigation of complaints is through the establishment of a Garda Ombudsman

the presumption of innocence by imputing guilt to the person. It also voiced concern that where a point of law is referred to the Supreme Court by the Director of Public Prosecutions or by the Attorney General, the Supreme Court will be effectively pronouncing on what is a moot point, removed from the reality and urgency of the facts of the case. The Commission's views were communicated to the Minister on 15 January 2004.

Draft observations were also prepared on the Commissions of Investigation Bill 2003 for consideration by the Commission at its plenary meeting in January 2004. The objective of the Bill is to create a system of investigation for matters of public concern which would generally be held in private and which would not attract the financial costs and need for legal representation associated with Tribunals of Inquiry but would provide a more timely and accessible remedy for parties wishing to get to the truth of the subject matter of the investigation.

In addition to these observations, a delegation of the Commission appeared before the Oireachtas Joint Committee on Justice, Equality and Women's Rights, at its invitation, on 2 December 2003 in connection with the Committee's review of the criminal justice system. The proceedings were broadcast live on TG4.

Economic, Social and Cultural Rights

On 17 November 2003, the Commission participated, at the invitation of the Combat Poverty Agency (CPA) in a Policy-Makers Focus Group. The context for the meeting of the Group was the commissioning by the CPA of an evaluation of the National Anti-

The Commission is welcomed to Galway for consultation meetings in November 2003. NUI Galway Registrar, Prof. Jim Browne, Prof. Gerard Quinn of the Law Faculty, NUIG, and member of the Commission, Commission's Chief Executive Dr. Alpha Connelly, Dr. Vinodh Jaichand, from the Human Rights Centre, NUIG, and President of the Commission, Dr. Maurice Manning.



Poverty Networks Programme (2001 -2003). The evaluation was to include an assessment of the extent to which the development and implementation of national policies that support social inclusion have been influenced by the Networks Programme as a whole and by individual networks. Representatives of the National Disability Authority, the National Economic and Social Council, the Department of Justice, Equality and Law Reform and the Department of Social and Family Affairs also participated.

The Commission held its first public consultation meeting on its strategic plan in Galway on the evening of 27 November 2003. The focus for discussion at the meeting was economic, social and cultural rights. The meeting was chaired by the President and opened with four formal presentations, two by Commissioners and two invited responses by academics of NUI Galway. The presentations were followed by over sixty minutes of informed debate with the audience. A wide range of interests were represented, including members of the local authority, disability groups, Travellers groups, partnership bodies and voluntary organisations.

Racism

As part of an ongoing programme of co-operation with Amnesty International (Irish Section) on racism, a joint seminar on racism and the media was held in Dublin on 25 June 2003. The decision was also taken to co-host with Amnesty International (Irish Section) a major conference on racism and the law in 2004.

In July 2003, there was published by the National Action Plan Against Racism Steering Group, of which the Commission was a member, the report, *Diverse Voices: A Summary of Outcomes of the Consultative Process and a Proposed Framework for the National Action Plan Against Racism*.

In the context of the Joint Committee of the Irish Human Rights Commission and the Northern Ireland Human Rights Commission, Commissioners and staff of the two Commissions undertook the preparation of *A User's Guide to the International Convention on the Elimination of Racial Discrimination*. The *Guide* was published on 18 September 2003 on the occasion of a meeting in Belfast of the Joint Committee. The publication indicates the shared view of both Commissions that racism and racial discrimination are among the most pressing human rights problems in both parts of the island; and its purpose is to help non-governmental organisations, black and ethnic minority groups, community organisations, pressure groups and others to use the mechanisms of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in the fight against racism in both parts of Ireland. The *Guide*



The President of the Commission, Dr. Maurice Manning in conversation with Ms. Mercy Peters, Co-ordinator, Association of Refugees and Asylum Seekers in Ireland and Abel Ugba, Department of Sociology, Trinity College Dublin.

PHOTO:
FRANK MILLER /
THE IRISH TIMES

describes the scope and content of the Convention; the procedures and working methods of the Committee on the Elimination of Racial Discrimination which was set up to monitor compliance by States Parties with their obligations under the Convention, including the individual complaints procedure; and shows how CERD can be used by non-governmental organisations and others to oppose racism. Appendices to the *Guide* include the text of the Convention and summaries of decisions taken by the CERD Committee in cases of individual complaints.

On 21 October 2003, the Commission published a paper entitled *Position of Non-National Parents and their Irish-Born Children*. This followed on a decision of the Supreme Court in January 2003 in which the Court held that while children born within the State are entitled to Irish citizenship, there is no automatic right of residency here for non-national parents of such children and that it is open to the Minister for Justice, Equality and Law Reform to deport such persons if the circumstances warrant it. Subsequently, the Minister issued letters of warning of deportation to up to 700 non-national parents of children born in Ireland, and the Commission was concerned at the effect this was having on asylum-seekers and other immigrants. It was also concerned at the lack of readily accessible legal advice to such parents. The paper gave expression to these concerns and made a number of recommendations to Government in this regard.

In the latter part of the year, the Commission also undertook research on the international human rights standards of relevance to migrant workers and their families. This formed part of a collaborative research project with the National Consultative Committee on Racism and Interculturalism which undertook to review the relevant EU standards. The results of the research were published in April 2004 as *Safeguarding the Rights of Migrant Workers and their Families. A Review of EU and International Standards: Implications for Policy in Ireland*. The Commission also, individually and in the context of both the Joint Committee and the Joint Equality and Human Rights Forum, urged the Government to ratify the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families.

Lastly, the Commission was represented at the Regional Seminar of Experts for Western States meeting on the Implementation of the Programme of Action adopted at the World Conference Against Racism (Durban), which was held in Brussels from 10 to 12 December 2003.

Persons with Disabilities

The Commission was represented at the Second Session of the United Nations Ad Hoc Committee on a Comprehensive and Integral Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities, which was held in New York from 16 to 27 June 2003.

The Commission was responsible for co-ordinating the contribution of European national human rights institutions to the discussions at the Session, and a Position Paper agreed by the European institutions is annexed at Appendix 11.

The Ad Hoc Committee decided to establish a Working Group to prepare a draft text of a Convention for negotiation by States and observers at the Committee. The Working Group was to comprise twenty-seven governmental representatives, twelve representatives of non-governmental organisations and one representative of national human rights institutions accredited to the International Co-ordinating Committee of these institutions (see further below pages 24-25). A member of the South African Human Rights Commission was chosen as the representative of national human rights institutions; and it may be noted that a member of our Commission was chosen to represent a non-governmental organisation on the Working Group.

In June 2003, the Commission published *Observations on the Proposals Paper of the Disability Legislation Consultation Group (DLCG) from the Perspective of the International Covenant on Economic, Social and Cultural Rights*. The DLCG was

convened in order to provide a structured opportunity to a cross-section of groups in the disability sector to make their views known about what any future Disabilities Bill should contain. The Group submitted its recommendations to Government in February 2003.

The Commission's *Observations* related to a key recommendation of the Group, namely, that provision should be made for legal redress, complaints and appeals in the context of the provision of services to meet independently assessed needs. The primary purpose of the *Observations* was to explore whether, and to what extent, international law is supportive of the recommendation; and the Commission took Ireland's existing international legal obligations under the International Covenant on Economic, Social and Cultural Rights as the main source of legal obligations in this regard. The Commission concluded that the International Covenant is supportive of the kind of proposal made by the DLGG.

On 11 September 2003, the Commission submitted to the Joint Oireachtas Committee on Education and Science preliminary written observations on the Education for Persons with Disabilities Bill 2003. The Commission's main concern about the Bill related to the preparation of education plans by school principals. It also criticised the marginalised role of parents and children in the preparation of education plans by Health Boards and the National Council for Special Education and in the review of these plans. It also recommended that there should be a clear statement in the Bill of the presumption of mainstream education, with the qualification that, in the limited circumstances where persons with disabilities are excluded from mainstream schools, effective and adequate services should be provided in line with the principle of the least restrictive alternative. The progress of the Bill through the Oireachtas was monitored throughout the remainder of the year. As of the end of the year, the Bill had not been enacted.

On 13 September 2003, the Commission co-hosted with the Law Society of Ireland and the National Disability Authority a public conference on "Global Trends in Disability Law: Setting a Context for Irish Law Reform", in the premises of the Law Society, Dublin. The speakers from abroad included persons from the Office of the UN High Commissioner for Human Rights, the Disability Rights Commission in the United Kingdom and the Directorate General for Employment and Social Affairs of the European Commission (See Appendix 12).

Gender

On 8 March 2003, a representative of the Commission chaired the opening session of the International Conference on Women and the Law, held at the NUI Cork. The session was entitled "Recognising gender-based persecution: challenges for asylum law and policy".

At its meeting on 25 September 2003, the Commission agreed a number of priority topics in respect of its Shadow Report on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and work then commenced on the drafting of the Report. The priorities are:

- A review and comment on the Irish Constitution from a gender perspective;
- An examination of Ireland's method of monitoring progress, in particular the development of gender equality indicators as benchmarks to monitor the progress of Ireland's implementation of its obligations under CEDAW; and
- A review of the impact of selected aspects of policy and legislation with regard to the reduction of discrimination against women and the promotion of women's rights in the following areas:
 - women and poverty
 - women and disability
 - migrant women and women of racial and ethnic minorities
 - older women.

On the afternoon of 27 November 2003, as part of the consultation process on its strategic plan, the Commission held a seminar with the Women's Studies Centre of the NUI Galway. Also present at the seminar, apart from members of the Centre and Commissioners, were representatives of a number of non-governmental organisations involved in women's rights issues.

During the course of the year, the Commission also nominated a representative to the advisory committee of the Equality for Women Measure Project entitled "Pavee Beoirs – Progress in Partnership". This is a joint project of the National Traveller Women's Forum and Pavee Point. The overall aim of the project is to develop a culturally appropriate capacity-building package which will enhance the participation of Traveller women in social partnership arenas at local, regional and national levels, thereby ensuring quality outcomes for Traveller women from all relevant policies and practices developed. The role of the advisory committee is:

- to advise on the strategic direction of the project;
- to give and receive feedback on the development of the project;
- to participate in the review and evaluation of the project;
- to share ideas and information with the sponsoring organisations; and
- to mainstream the learning from the project into their own work.

The project is funded through the Department of Justice, Equality and Law Reform.

A major piece of research commissioned by the Commission on Older People in Long Stay Care was published in April 2003

Equality and Human Difference

On 17 January 2003, the Chief Executive gave a presentation, at its request, to the National Economic and Social Forum Project Team on Implementing Equality for Lesbian, Gay and Bisexual People. The presentation dealt primarily with the potential of the European Convention on Human Rights and Protocols to advance the situation of lesbian, gay and bisexual people in Ireland.

A major piece of research commissioned by the Commission on *Older People in Long Stay Care* was published in April 2003 as a consultation document and circulated widely to relevant persons and bodies. The Commission is particularly concerned at the evidence from the research that there is no legislation on quality of care. The Commission is also concerned that there is very little published up-to-date information available on the quality of care in either public or private long-stay care, that there are no clear rules about access to health-board long stay places, that the admission system lacks transparency, that there is a shortage of long stay care beds, and that the complaints and appeals procedure are inadequate. On 30 May 2003, the Commission issued a press release expressing its concern at the proposed transfer of cases of alleged discrimination in licensed premises from the Equality Tribunal to the District Court.

During the course of the year, the Joint Equality and Human Rights Forum held four meetings, and the Commission was represented at each of these meetings. The Forum comprises a number of statutory equality and human rights bodies in Ireland and the United Kingdom and affords the opportunity to these bodies to meet in a formal structure to discuss matters of common interest. The meetings held in 2003 were:

- meeting of chief executive officers, hosted by the Disability Rights Commission, Manchester, 16 May 2003;
- meeting of chairpersons and chief executive officers, hosted by the Equal Opportunities Commission, London, 11 June 2003;
- meeting of the chief executive officers, hosted by the Equality Authority, Dublin, 3 October 2003; and
- meeting of chairpersons and chief executive officers, hosted by the Equality Commission for Northern Ireland, 20 November 2003.

In June 2003, the Joint Equality and Human Rights Forum published the results of a research project undertaken by its members entitled *Re-thinking Identity: The Challenge of Diversity*. The research explored identity and the multiple identities which people have. It focused on disabled minority ethnic people, Black and minority ethnic women, lesbian, gay and bisexual people with disabilities, women with disabilities, young lesbian, gay and bisexual people, and young minority ethnic men.

CASEWORK

The Commission has four relevant functions which fall into the category of casework. These functions are:

- to consider requests for an enquiry into a relevant human rights matter;
- to offer its expertise in human rights law to the superior courts in suitable cases involving human rights issues as *amicus curiae*, or friend of the court;
- to institute proceedings to vindicate the human rights of persons in the State;
- to consider applications for assistance in relation to legal proceedings involving human rights law or practice.

In April 2003, the Commission established a Casework Committee whose terms of reference included considering requests for an enquiry or applications for assistance in connection with legal proceedings involving human rights. In May 2003, the Commission adopted criteria by which it would consider such requests. These criteria were revised in July 2003. Also, in July 2003, the Commission established a Review Committee to consider requests for review of negative decisions of the Casework Committee.

Queries

The Commission regularly receives queries from members of the public in relation to human rights issues and attempts to assist the person accordingly. Some of this assistance involves referring people to another agency or to a solicitor, where the matter is more appropriately dealt with elsewhere.

Between May 2003 and December 2003, the Commission received 319 telephone queries. In the second half of the year, the Commission moved from a more formalistic approach to its casework functions to one which sought to identify which new queries were not formal requests to the Commission.

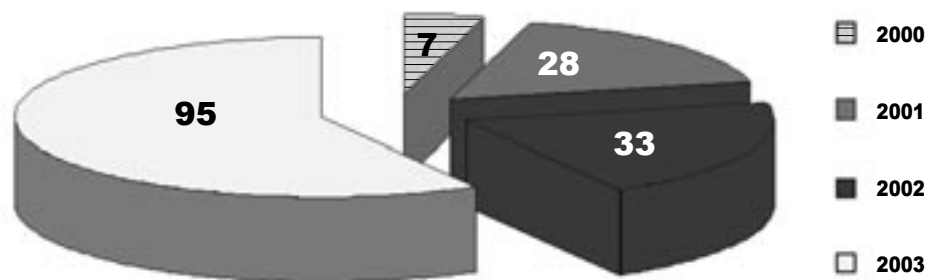
The Commission has found that a large number of queries will relate to issues which are outside the remit of the Commission. In this situation, casework officers will direct persons to appropriate assistance or complaint mechanisms, such as those with jurisdiction in respect of public services, the regulation of professional bodies or aspects of the criminal justice system. In some situations, the appropriate person to refer someone to will be a solicitor. For example, persons approaching the Commission may be advised as to the availability of legal assistance under the criminal and civil legal aid schemes.

Often it is the case that persons only require general information and casework officers attempt to be as helpful as possible in this regard.

Formal requests

Some requests to the Commission will be formal requests and the person will be invited to submit relevant documentation to the Commission in support of her or his request. The Commission had received requests from individuals since late 2000. In 2003, these requests increased significantly, as shown in Table 1. These requests were only processed by the Commission from April 2003 on, at which time the first casework officer was recruited, with a second casework officer recruited in September 2003.

TABLE 1



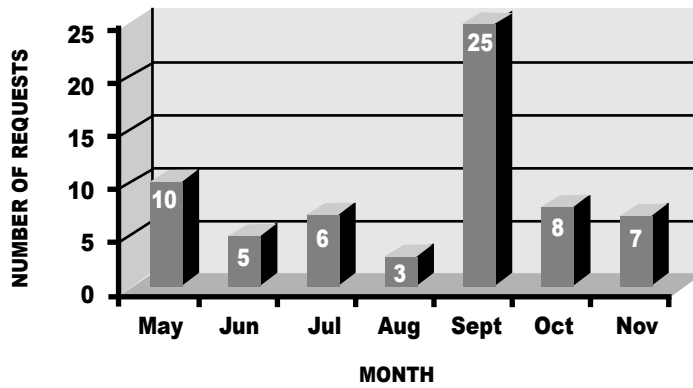
Total number of requests received by year pursuant to sections 9(1)(b) and 10 of the Human Rights Commission Act, 2000

From May 2003, the Casework Committee began the process of formally considering all requests and queries received since late 2000. Many of these requests had only been the subject of minimal correspondence in the absence of Commission staff. In May 2003, the Commission faced a backlog of 107 requests to the Commission.

By the end of 2003, the Casework Committee had formally considered 64 requests. Table 2 shows the number of requests considered by the Casework Committee by month from May to November 2003. Of those considered, a number of requests were deemed to have lapsed or to have been resolved (see Table 3).

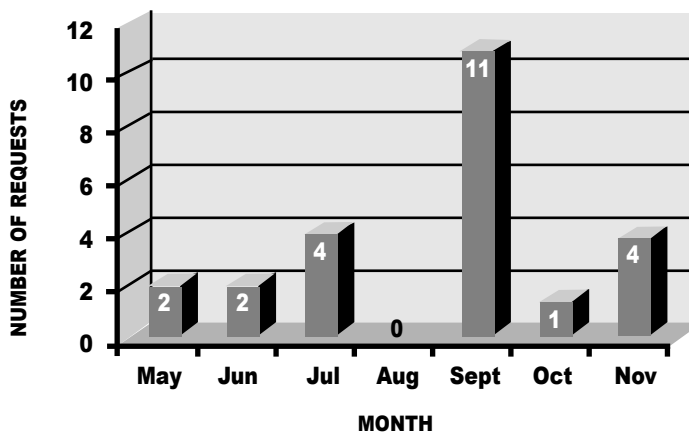
Despite the number of requests considered by the Casework Committee, by year's end, the backlog of requests was still evident, with approximately 100 requests yet to be considered by the Commission.

TABLE 2



Requests considered by the Casework Committee: 2003

TABLE 3



Number of lapsed or resolved requests: 2003

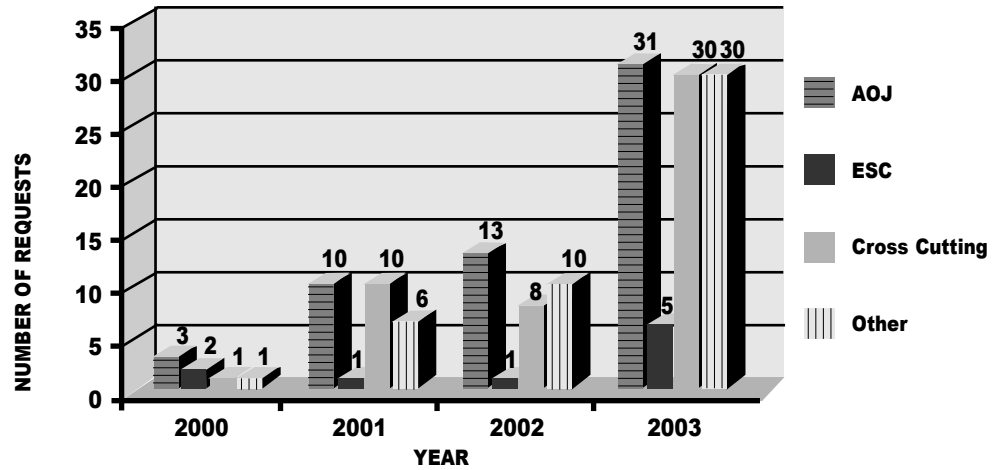
Types of request

Requests to the Commission have raised issues from across the spectrum of human rights. In terms of the Commission's priority areas of work, as outlined in its *Plan for 2003-2006*, these areas have been:

- a) civil and political rights (administration of justice)
- b) economic, social and cultural rights
- c) cross-cutting issues (including racism, immigration, disability, gender, equality and human difference, children and older people).

As can be seen in Table 4, between 2000 and 2003 there has been a fairly proportionate increase in requests to the Commission relating to these priority areas.

TABLE 4



How 'requests received' relate to the Commission's 'key areas of work'

Court interventions

The Commission considered one request to intervene as *amicus curiae* in the High Court during the year but did not accede to the request. A number of other *amicus curiae* requests were not considered as they were either inter-related with a request for an enquiry or the pleadings had not yet been settled.

OTHER WORK

European Convention on Human Rights Bill

Almost since its establishment, the Commission has advocated the direct incorporation of the European Convention on Human Rights into Irish Law. The Government however favoured a form of indirect incorporation modelled on that adopted in the United Kingdom. Early in 2003, the Commission drew up a list of proposed amendments to the Government's European Convention on Human Rights Bill, drafted its own Bill providing for the direct incorporation of the Convention and a commentary thereon and submitted these documents to each member of the Dáil Select Committee on Justice, Equality, Defence and Women's Rights for consideration at the Committee stage of the Bill in the Dáil.

Joint Committee

The Joint Committee of the Commission and the Northern Ireland Human Rights Commission, provided for in the Good Friday Agreement, met on five occasions over the course of the year:

**At Joint
Committee
Meeting:
Margaret-Ann
Dinsmore, NIHRC;
Dr. Maurice
Manning; Dr. Alpha
Connelly; Prof.
William Binchy; Mr.
Tom O'Higgins; Ms.
Suzanne Egan;
Tom Donnelly,
NIHRC; Prof. Brice
Dickson, Chief
Commissioner of
NIHRC; Ms. Nuala
Kelly.**



- 21 January 2003 in Dublin
- 11 April 2003 in Belfast
- 19 June 2003 in Dublin
- 18 September 2003 in Belfast
- 11 December 2003 in Dublin.

In addition to the consideration of human rights issues of common interest in plenary meetings of the Joint Committee, the Sub-Committee on Racism and the Sub-Committee on a Charter of Rights for the Island of Ireland met several times to progress matters in their respective areas.

International Co-ordinating Committee

The International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights oversees compliance by national human rights institutions (NHRIs) with the U.N. Paris Principles relating to these institutions and serves, among other things, as a forum for the co-ordination of their activities and the discussion of matters of common interest. Every other year it plans and organises with a host institution an international conference for NHRIs in co-operation with the Office of the U.N. High Commissioner for Human Rights. It also holds an annual meeting in Geneva in conjunction with the consideration by the U.N. Commission on Human Rights of an agenda item on NHRIs.

The annual meeting of the International Co-ordinating Committee was held on 15 and 16 April 2003. The Commission was represented at the meeting by its Chief Executive.

The International Co-ordinating Committee has four regional groups: one each for Africa, Europe, the Americas and the Asia-Pacific region. In 2003, the Commission was responsible for co-ordinating the input of the European group into the negotiations on an International Convention on the rights of persons with disabilities and for drafting, from time to time, a common position of the Group on this matter.

Co-operation with the Law Society of Ireland

On 13 September 2003, the Commission co-hosted with the Law Society of Ireland a public conference on “Global Trends in Disability Law: Setting the Context for Irish Law Reform”. A copy of the conference programme is attached at Appendix 12.



The Hon. Mr. Justice Brian Kerr, Lord Chief Justice of Northern Ireland; Hon. Lord Justice Laws, UK Court of Appeal; Ms. Alma Clissman, Parliamentary and Law Reform Executive; Mr. James MacGuill, McGuill & Co. Solicitors; The Hon. Mr. Justice Ronan Keane, Supreme Court; Mr. Michael Kealey, William Fry Solicitors; Dr. Alpha Connelly, Chief Executive of Human Rights Commission; Dr. Maurice Manning, President of the Human Rights Commission; and The Hon. Justice Rosalie Abella, Court of Appeal, Ontario, Canada, at the joint IHRC/Law Society of Ireland conference New Human Rights Legislation in October 2003.

On 18 October 2003, the Commission also co-hosted with the Society a conference on new human rights legislation. A copy of the conference programme is attached at Appendix 13.

At its meeting in December 2003, the Commission further agreed, at the suggestion of the Society, to co-host an annual conference with it on a human rights theme.

Website

With the appointment in September 2003 of the Senior Human Rights Awareness Officer, work began on the development of a permanent website for the Commission. The development of the website comprises two phases. The first phase, which was completed in 2003, involved the preparation of a proposal for tender, the agreement of a contract and the completion of the initial design and posting of material on the site. The website was developed to comply with W3C, a recognised high standard of web accessibility for users with a visual disability and was officially launched by the Chief Executive on 10 December 2003, International Human Rights Day.



The Chief Executive of the Commission, Dr. Alpha Connelly, officially launched the Commission's website www.ihrc.ie in December 2003 in the presence of An Taoiseach, Mr. Bertie Ahern and President of the Commission, Dr. Maurice Manning.

From 10 to 31 December 2003, there were 738 visitors to the www.ihrc.ie website. In view of the fact that the site was not registered in any directories during this three-week period which also coincided with Christmas, the Commission is satisfied that the site was relatively active and expects that it will comprise an important component in its human rights awareness work.

The second phase of the website development will be completed in 2004.

Business Plan for 2004

Towards the end of the year, a Business Plan was drafted for 2004, based on the Commission's strategic plan.

FINANCIAL MATTERS

Section 22 of the Human Rights Commission Act 2000 provides that the Minister for Justice, Equality and Law Reform may, in each financial year of the Commission, pay to it, out of monies provided by the Oireachtas, a grant of such amount as he or she, with the consent of the Minister for Finance, determines towards the expenses of the Commission in the performance of its functions. The amount of the grant allocated to the Commission in 2003 was €1,280,000.

Pending the appointment of a financial officer, the pay element of the Commission's grant was administered on behalf of the Commission by the Finance Division of the Department of Justice, Equality and Law Reform, and the Commission is grateful to the Finance Division of the Department for its support in this regard. The non-pay element of the grant was directly administered by the Commission itself.

In addition to its regular grant, in January 2003 the Commission sought a once-off supplementary allocation of €852,927.66 to enable it to obtain and fit out permanent premises. The Commission was allocated €500,000 for this purpose.

The draft accounts for 2003 as submitted, in accordance with section 16(2) of the Human Rights Commission Act 2000, to the Comptroller and Auditor General for audit are given below.

Income and Expenditure Account 2003

Euros €

INCOME

Non Pay element of Grant-in-aid	415530
Salaries	471446
Allowances	135022
New Premises Grant	500000
Misc.Spending by DJELR	74296
TOTAL INCOME	<u>1596295</u>

EXPENDITURE

Staff Costs	471446
Commissioner's Fees and Allowances	135022
Office Requirements	44292
New Premises Spending	414915
Cleaning	852
Telecommunications	6213
Travel and Subsistence	37647
Printing and Publications	33979
Legal Expenses	70896
Insurance	10871
Professional/Consultancy Fees	114012
Conferences	10711
Misc.	12781
TOTAL EXPENDITURE	<u>1363637</u>

SURPLUS (DEFICIT)

232658

Balance Sheet 2003

Euros €

FIXED ASSETS	333677
CURRENT ASSETS	
Debtors	0
Cash at bank and in hand	245176
	245176
CURRENT LIABILITIES	
Creditors and Accruals	12518
Net Current Assets	-232658
Total Assets Less Current Liabilities	<u>566335</u>
FINANCED BY	
Surplus on Income & Expenditure Account	232658
Capitalisation Account	333677
	<u>566335</u>

Capitalisation Account 2003

€

OPENING BALANCE	0
Add: Additions to Fixed Assets in the year	367,822
Less: Amortisation in line with Depreciation	34,144
	333,677

Notes

Accounting Practice

- These accounts are prepared on an accruals basis and are for the period 1st of January 2003 to the 31st of December 2003.
- These accounts are prepared for audit by the Comptroller Auditor General within 3 months of the end of year period as set out in the Comptroller Auditor Generals Act 1993 and with reference to Section 16 of the Human Rights Commission Act.
- In the Income and Expenditure account, all amounts relating to salaries allowances and miscellaneous spending were administered directly by the Department of Justice, Equality and Law Reform.

Fixed Assets and depreciation

- Fixed assets are included in the accounts at cost less depreciation
- The following methods and rates of depreciation apply: Equipment and IT written off over 5 years at 20% per year
- Lease for building written off over its duration of 25 years
- The depreciation, which is matched by an equivalent amortisation of the capitalisation account, is not charged against the Income and Expenditure account.
- Website Development is included in expenditure but not as equipment.

Capitalisation Account

The capitalisation account represents the unamortised value of funding provided for fixed assets.

APPENDIX 1

Biographies of Members of the Commission

MANNING, Maurice (President)

- Dr Maurice Manning was appointed President of the Commission in August 2002.

An academic by background, Dr Manning previously lectured in politics in University College Dublin and has been visiting professor at the University of Paris (Vincennes) and the University of West Florida. He is a member of the Senate of the National University of Ireland, of the Governing Authority of University College Dublin and was a member of the Governing Authority of the European University Institute at Florence.

Dr Manning has written several books on modern Irish politics. He was a member of the Oireachtas for twenty-one years, serving in both the Dáil and the Seanad. He was a member of the New Ireland Forum and the British Irish Inter Parliamentary Body. He served as both Leader of the Seanad and Leader of the Opposition in that House.

BINCHY, William

- Professor Binchy is Regius Professor of Laws at Trinity College, Dublin. He was special legal adviser on family law reform to the Department of Justice, preparing legislation on family maintenance, protection of the family home and domestic violence. As Research Counsellor to the Law Reform Commission he advised on reform of law relating to the status of children. He has represented Ireland at the Hague Conference on Private International Law in the areas of marriage and inter-country adoption. He has actively contributed to public discussion of human rights issues, including those relating to divorce, abortion, Travellers and asylum seekers.

He has participated in a programme on constitutionalism for the Tanzanian judiciary held in Dar es Salaam, is co-organiser of a training programme for the magistracy of Botswana and organiser of the annual African workshop on constitutionalism for the Chief Justices and senior judiciary of African states, held in Trinity College, Dublin, which is now in its eighth year. He was a Visiting Fellow at Corpus Christi College Cambridge for the Michaelmas term of 2002 and was a member of the Hederman Committee to Review the Offences Against the State Acts, which reported in May 2002.

BRAIDEN, Olive

- Olive Braiden is former Director of the Rape Crisis Centre. In this context she campaigned for legislative reform in the area of rape and child sexual abuse. She initiated and published research on the law on rape in the EU. She established training programmes for community workers in the former Yugoslavia. In the aftermath of the

war these programmes are continuing in Kosovo. She is a board member of the Courts Service, the Judicial Advisory Board and is Chairwoman of the Crisis Pregnancy Agency and chairwoman of the Arts Council. She has served on many Government Working Parties and Steering Committees and was a founding member of UNIFEM. Over a period of fifteen years she has lived in Spain, France, Belgium, the UK, Bahamas and Thailand. She recently completed a M.Phil in Gender Studies in Trinity College Dublin.

COLLINS, Martin

■ Martin Collins is Assistant Director of Pavee Point Travellers' Centre. He has extensive experience of community work with Travellers over 17 years. He is a former member of the Government Task Force on the Travelling Community which is generally regarded as a milestone in terms of offering a new analysis and framework for action on the problems experienced by Irish Travellers. He then went on to become a member of the Monitoring Committee set up to monitor the implementation of the 1995 Task Force Report. He is also a founding member of the Irish Traveller Movement which has a membership of over 80 Traveller groups.

Through his work at Pavee Point he is involved in providing anti-racism training to a wide range of professions including the Gardaí, teachers and social workers. He was also actively involved in the campaign for the introduction of anti-discrimination legislation, namely the Equal Status Act and the Employment Equality Act, which for the first time offered redress to Travellers who experienced unlawful discrimination.

DALY, Robert

■ Professor Daly is an expert on Posttraumatic Stress Disorder, on the psychiatric effects of interrogation and torture and on the medical aspects of human rights in general. In the past he represented the Irish Government in the torture case against the UK at the European Commission on Human Rights, was a member of Amnesty International's Medical Advisory Board awarded the European Peace Prize, advised the American Civil Liberties Union, and has worked for victims of abuse in Latin American States and the Balkan Wars. He has evaluated programmes of the European Commission and the Council of Europe in many parts of the world. He has also been a trainer for the Committee for the Prevention of Torture, for human rights workers in the Kosovo conflict, etc. He has served as an expert witness in numerous human rights-related cases on both sides of the border and in the UK. He currently serves on the World Psychiatric Association's Committee dealing with allegations of abuse and, as Chairman of the Irish Division of the Royal College of Psychiatrists, advised the Minister for Health on changes in Mental Health law. He was formerly Dean of Medicine and head of the Psychiatry Department at University College Cork, Clinical Director in the Southern Health Board and a member of the Medical Research Council.

EGAN, Suzanne

■ Suzanne Egan has been a lecturer in International and European Human Rights Law at the Faculty of Law in University College Dublin since 1992. She is a qualified barrister and holds a Master of Laws Degree from Osgoode Hall Law School in Toronto. Prior to lecturing at UCD, she was the Legal Supervisor of an independent research centre on refugee law and policy in Canada (1989-1991) and a Research Assistant at the Law Reform Commission in Ireland (1991-1992).

She is a founding member of the Refugee Protection Policy Group in Ireland, an independent group of lawyers, academics and others working in the field of refugee law and policy. She is also a former member of the Executive Committee of the Irish Refugee Council. She has published widely in the area of human rights, particularly with regard to refugee law and policy.

LIDDY, Jane

■ Jane Flood Liddy, born in Dublin, called to the Irish Bar (1972), holds a Diploma in European Law (1974), was the last Irish member of the European Commission on Human Rights (1987-1999). This independent body had jurisdiction over approximately 40 countries. She is a former President of its First Chamber. The work involved rejecting some cases, often after adversarial, including oral, proceedings, in decisions not subject to appeal and also assessing the merits of other cases by investigations e.g. in Turkey, prior to final judgment by the Court of Human Rights in Strasbourg. She resigned from the Civil Service in 1987 to take up this post. Before that, she was Deputy Legal Adviser in the Department of Foreign Affairs, where her duties included advising on all aspects of international human rights law. She has published and has had speaking engagements on human rights issues in Ireland and abroad since 1984.

FARRELL, Michael

■ Michael Farrell was prominently involved in the Civil Rights movement in Northern Ireland in the 1960s and 1970s and has campaigned on many civil rights and human rights issues over the last 30 years. He was involved in campaigns for the Birmingham Six and other victims of miscarriages of justice in the 1980s and in the campaign against political censorship under Section 31 of the Broadcasting Act. He was vice-chair and then co-chair of the Irish Council for Civil Liberties for most of the 1990s and was involved in campaigns for gay rights, divorce, equality laws, refugee rights, against racism, and for the incorporation of the European Convention on Human Rights into Irish law. He has an M.Sc. in Politics and was formerly a journalist and author.

He is now a solicitor and has been involved in taking cases to the European Court of Human Rights and other international bodies. Born and brought up in Co. Derry, he lived for 20 years in Belfast before moving to Dublin where he now lives.

KELLY, Nuala

■ Nuala Kelly has worked at national and international level to ensure respect and enforcement of the human rights of Irish emigrants and prisoners abroad. As former Co-ordinator of the Irish Commission for Prisoners Overseas, she helped co-ordinate campaigns to vindicate the rights of the Birmingham Six, the Guildford Four, the Maguire family and other victims of injustice and built a case service for all Irish prisoners abroad.

She continues her work with prisoner-related projects such as Expac and the Educational Trust, a cross-border body which allocates grants for education and training to ex-prisoners. She also does consultancy and research work with a focus on prison, migration and social policy issues.

She participated in the Forum for Peace and Reconciliation and was a member of the Consultative Forum of the EU Peace Programme. She was also a member of the Human Rights Working Group of the Irish Commission for Justice and Peace and a board member of the Belfast-based Centre for Research and Documentation.

She was educated at Queen's University Belfast, holds an MSc in Sociology and has trained in international human rights advocacy at Columbia University, New York. She has taught on human rights and adult education courses and participated in campaigns for the rights of women and communities.

McGRORY, Clodach

■ Clodach McGrory was born in Belfast. She was awarded a BA degree in Irish by Trinity College, Dublin in 1986 and subsequently was awarded a certificate in professional legal studies and an LL.M degree in Human Rights and Emergency Law by Queen's University, Belfast.

She practised as a barrister in Northern Ireland and later worked at the Northern Ireland Law Centre. She was an active member of the Belfast-based NGO, the Committee for the Administration of Justice.

In 1997 she was appointed to the Standing Advisory Committee on Human Rights in Northern Ireland. Following the Good Friday Agreement, in 1998 she was appointed as a Sentence Review Commissioner. In this capacity, she had responsibility for the release of prisoners convicted under emergency legislation in Northern Ireland. Since May 2002 she has held a part-time judicial appointment as a Chairperson of Social Security Appeal Tribunals.

In July 2002 she was appointed to the Life Sentence Review Commission, an independent body which makes decisions on the release of life sentence prisoners convicted under non-emergency legislation in Northern Ireland.

Ní AOLÁIN, Fionnuala

■ Professor Fionnuala Ní Aoláin is Professor of Law at the University of Ulster's Transitional Justice Institute and Visiting Professor at the University of Minnesota Law School. She has previously been Visiting Scholar at Harvard Law School (93-94); Associate-in-Law at Columbia Law School (94-96); Visiting Professor at the School of International and Public Affairs Columbia University (96-00); Assistant Professor of Law at the Hebrew University (97-99) and Visiting Fellow at Princeton University (01-02). Her teaching and research interests are in the fields of international law and international human rights law.

She has published extensively in the fields of emergency powers, conflict regulation, and sex based violence in times of war. She is an elected member of the Executive Committee for the Belfast based Committee on the Administration of Justice, and is also a member of the Irish Council for Civil Liberties. She was previously a representative of the Prosecutor at the International Criminal Tribunal for the Former Yugoslavia at domestic war crimes trials in Bosnia (96-97). In 2003 she was appointed by the United Nations Division on the Advancement of Women as Special Expert on promoting gender equality in times of conflict and peace making. She is a native Irish speaker.

O'HIGGINS, Tom

■ Tom O'Higgins is a chartered accountant and is a graduate in Economics and History from University College Dublin and in Human Resources Management from Sheffield Business School. He is a former president of the Institute of Chartered Accountants, a member of the Institute of Personnel and Development and of the Institute of Taxation.

He was a partner at PricewaterhouseCoopers from 1969 to 2000 where he was a senior audit partner and Head of Human Resources. He continues to assist organisations in recruitment and human resource issues and serves as a member of selection boards for the Civil Service Commission and for other bodies. A specialist in corporate governance, he is Chairman of the Coombe Women's Hospital, and is recent Chairman and a member of the Board of Concern Worldwide. He is chairman and a member of the audit committees of a number of State and semi-state bodies. He is also a member of the Change Partnership, an executive coaching and mentoring organization and is a director of a number of private companies.

QUINN, Gerard

■ Gerard Quinn is a professor of law at NUI, Galway. Called to the Irish Bar in November 1983, he holds a Harvard Doctorate in Juridical Science (S.J.D.). He is a former Director of Research at the Law Reform Commission and led the legal research team of the Commission on the Status of Persons with Disabilities. He has worked with

the European Commission on general human rights issues as well as on the preparation of EU policy instruments in the field of disability rights. He is Director of an EU Network of Disability Discrimination Lawyers. He is a member of the European Committee of Social Rights (Council of Europe).

He is a member of the research advisory boards of Land Mine Survivors Network (Washington DC), Soros Foundation EU Monitoring Programme on Accession Countries on Disability (Budapest), AHEAD (Association for Higher Education Access and Disability), Dublin, and European Children-Our Concern (Brussels). He is a member of the United Nations Working Group convened to draft a treaty on the rights of persons with disabilities. He has published widely on economic, social and cultural rights, on the rights of persons with disabilities and on the EU and human rights.

TAYLOR, Mervyn

■ Mervyn Taylor is a former Minister for Equality and Law Reform and was a Dáil Deputy for over 16 years. He served as Assistant Government Chief Whip from 1982 to 1987. While in opposition he held various spokesperson positions including Education, Justice, Finance and Public Service, Industry and Commerce, and Employment Equality and Law Reform. He is a practising solicitor for 40 years, apart from the period in which he held Ministerial Office. He is a former member of the European Monitoring Committee on Racism and Xenophobia.

ZAPPONE, Katherine

■ Katherine Zappone is a philosopher, educator and independent public policy research consultant. As former Chief Executive of the National Women's Council in Ireland, she participated in a number of committees and working groups at national, European and international level to advocate women's social and economic rights and gender equality. She is a former member of the National Economic and Social Council of Ireland and has conducted a number of national research projects in public policy and gender equality, and equality in children's education. She is co-founder and Chair of An Cosán, a large community-based organization in West Tallaght, Dublin committed to eradicating poverty through education.

She lectured for a decade in Trinity College Dublin in ethics and human rights, and has lectured in Canada, Australia, Europe, the USA and throughout Ireland. Widely published in feminism, ethics, equality issues and education, she conducts research, consults and teaches. Her most recent work includes: *Charting the Equality Agenda: A Coherent Framework for Equality Strategies in Ireland North and South* (2001) and *Re-Thinking Identity: The Challenge of Diversity* (2003). She holds a PhD in Education and Religion from Boston College.

APPENDIX 2

Paper by the Chief Executive and Senior Caseworker on the Enquiry Function of the Commission

THE GENERAL SCOPE OF THE COMMISSION'S COMPETENCE TO CONDUCT ENQUIRIES UNDER SECTION 9(1)(b) OF THE HUMAN RIGHTS COMMISSION ACT, 2000

By Alpha Connelly, Chief Executive, and Des Hogan, Senior Caseworker

INTRODUCTION

Section 8 of the Human Rights Commission Act, 2000 ("the Act") lists the functions of the Commission. One of these functions is "to conduct enquiries under and in accordance with *section 9*" of the Act: section 8(f). Section 9(1)(b) empowers the Commission, subject to other specified provisions of the Act, to conduct an enquiry into "any relevant matter" at the request of any person who considers the conducting of an enquiry to be necessary or expedient for the performance of any of the Commission's functions under paragraph (a), (c), (d) or (e) of section 8.

The Commission sought a legal opinion from senior counsel on, among other things, the general scope of the Commission's competence under section 9(1)(b). In general we agree with counsel's opinion on this matter: namely, that the competence of the Commission to conduct an enquiry under section 9(1)(b) is limited by reference to the other functions of the Commission specified in paragraphs (a), (c), (d) and (e) of section 8; that the Commission is not an adjudicatory body; that, in the exercise of its enquiry function, the Commission may not pronounce on the merits of an alleged violation of human rights but that it may make recommendations, e.g. after forming a view as to the adequacy and effectiveness of law and practice in the State relating to the protection of human rights.

The purpose of this short paper is to emphasise some of the points made by counsel in his opinion and to give a fuller account of the general competence of the Commission under this provision as we understand it.

THE LINKAGE TO OTHER FUNCTIONS OF THE COMMISSION

It is most important to note that the competence of the Commission to conduct an enquiry under section 9(1)(b) is not free-standing in the sense that the competence must always be exercised in furtherance of a specified function or functions of the Commission. These functions are:

- to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights: section 8(a);
- to consult with such national or international bodies or agencies having a knowledge or expertise in the field of human rights as the Commission sees fit: section 8 (c);
- either of its own volition or on being requested to do so by the Government, to make such recommendations to the Government as it deems appropriate in relation to the measures which the Commission considers should be taken to strengthen, protect and uphold human rights in the State: section 8(d);
- to promote understanding and awareness of the importance of human rights in the State and, for these purposes, to undertake, sponsor or commission, or provide financial or other assistance for, research and educational activities: section 8(e).

Section 9(1)(b) is to be read together with one or more of these other provisions of the Act, and when the Commission conducts an enquiry under section 9(1)(b), the enquiry is to be conducted by reference to one or more of these other functions of the Commission. In other words, there is a broader context within which the Commission exercises this enquiry function than the facts of a specific request. Section 9(1)(b) does not stand alone. The Commission's competence under this provision must be exercised in tandem with one or more of the other specified functions.

It may be helpful if we were to illustrate what this might mean in practice, and we therefore do so below in relation to each of the other functions.

1. Review of the Adequacy and Effectiveness of Law and Practice in the State Relating to the Protection of Human Rights: Section 8(a)

A request from a person that the Commission conduct an enquiry may relate to the adequacy and effectiveness of the law and practice in the State relating to the protection of human rights, and in reviewing the adequacy and effectiveness of the law and/or practice, the Commission may conduct an enquiry into "any relevant matter".

An example would be an enquiry into aspects of the garda complaints system or into the conditions of detention of a person in a psychiatric institution as part of a review of the adequacy and effectiveness of the relevant law and/or practice.

2. *Consultation with National or International Bodies or Agencies Having a Knowledge or Expertise in the Field of Human Rights: Section 8(c)*

A request from a person that the Commission conduct an enquiry may relate to consultation by the Commission with a national or international body or agency having a knowledge or expertise in the field of human rights, and as part of the consultation the Commission may conduct an enquiry into “any relevant matter”.

An example would be the conducting of an enquiry in the context of consultation by the Commission with an international treaty-monitoring body in connection with the shadowing of Ireland’s reports to the body on the measures it has adopted to give effect to the provisions of the relevant treaty. A specific example would be the conducting of an enquiry at the request of a woman living in a rural community concerning the health services available to her and the feeding of the result of this enquiry into the Commission’s consultation with the Committee on the Elimination of Discrimination against Women. This Committee has requested that in its next report Ireland provide comprehensive information on the situation of rural women, including statistical data covering life expectancy.

3. *Recommendations to the Government in Relation to the Measures which the Commission Considers Should be Taken to Strengthen, Protect and Uphold Human Rights in the State: Section 8(d)*

A request from a person that the Commission conduct an enquiry may relate to the making of a recommendation or recommendations by the Commission to the Government in respect of the strengthening, protecting and upholding of human rights in the State, and in considering what recommendation(s) to make, the Commission may conduct an enquiry into “any relevant matter”.

The function of the Commission under section 8(a) to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights is closely linked to its recommendatory function under Section 8(d) in that it can reasonably be expected that a review under section 8(a) will form the basis of a recommendation to Government under section 8(d). An example would be the conducting of an enquiry into the handling of a number of complaints of ill-treatment by members of the Gardaí as providing evidence of the need for a fairer and more independent garda complaints system and reliance

on this evidence by the Commission in the making of recommendations to Government to this effect.

4. *Promotion of Understanding and Awareness of the Importance of Human Rights in the State: Section 8(e)*

A request from a person that the Commission conduct an enquiry may relate to the promotion of understanding and awareness of the importance of human rights in the State. Section 8(e) provides that, for the purposes of promoting such understanding and awareness, the Commission may undertake, sponsor or commission, or provide financial or other assistance for, research and educational activities. In promoting this understanding and awareness, the Commission may conduct an enquiry into “any relevant matter”.

An example would be the conducting of an enquiry into a particular case of allegedly racist comments or behaviour by a civil servant as a precursor to the possible commissioning of research by the Commission into the incidence of racist behaviour in a Government Department or to the possible adoption of a training programme on anti-racism to be offered to a Department. Another example would be the conducting of an enquiry into the appropriateness of the provision (or lack of provision) of accommodation by local authorities for Travellers with a view to heightening awareness and understanding of the human rights standards which the State should observe in this regard.

These other four functions of the Commission then provide the context within which the Commission may conduct an enquiry at the request of a person.

THE ESSENTIAL NATURE OF THE ROLE OF THE COMMISSION IN CONDUCTING AN ENQUIRY AND THE IMPLICATIONS IN TERMS OF THE OUTCOME FOR THE PERSON WHO REQUESTED THE ENQUIRY

A second important point is that in exercising its competence to conduct an enquiry at the request of a person, the Commission does not operate as an adjudicative body in respect of the determination of rights. It is therefore not analogous, in exercising this function, to a court of law or legal tribunal. Nor is the conduct of an enquiry analogous to the consideration by such international bodies as the Human Rights Committee or the Committee on the Elimination of Racial Discrimination of communications from individuals alleging violations of their rights under the relevant human rights treaty (in the former case, the International Covenant on Civil and Political Rights and in the latter case the International Convention on the Elimination of All Forms of Racial Discrimination).

The Commission, in exercising its enquiry function, does not have the power under the Act to conclude or find that there has been a violation of the human rights of the person who requested the enquiry, or indeed of any person, and provide a person with a remedy for the violation. Where the enquiry has been conducted in furtherance of the Commission's function under section 8(a), the Commission may conclude that the enquiry has revealed a deficiency in the law and/or practice in the State relating to the protection of human rights and this conclusion may, in turn, form the basis of a recommendation to Government under section 8(d) as to measures which should be taken to strengthen, protect and uphold human rights in the State. Where the enquiry has been conducted in furtherance of the Commission's function under section 8(c), the outcome of the enquiry will be taken into account in the consultation by the Commission with the particular national or international body or agency. Where the enquiry is undertaken in furtherance of the Commission function under Section 8(e), the issue highlighted by the request may prompt the adoption of a particular educational programme.

Although the Commission does not have the competence to make a finding of a violation of a person's human rights, it may, in our view, make pronouncements which stop one or two steps short of such a finding. For example, it may say that an enquiry has raised doubts as to whether a particular person's human rights have been respected, or that the evidence raises issues or concerns that a person's human rights may not have been respected. We would urge caution in the phrasing of such conclusions so as to avoid the appearance of a finding by the Commission that a person's human rights have been violated, and recommend that the Casework Committee reflect on the question of the appropriate phrasing of the outcome of enquiries and report back thereon to the plenary in due course.

OTHER RELEVANT FUNCTIONS OF THE COMMISSION

It is also important to note that the fact that a person requests the Commission, under section 9(l)(b) of the Act, to conduct an enquiry does not preclude the person's communication from subsequently being handled by the Commission under another relevant section of the Act. For example, in the course of the consideration of a request to conduct an enquiry, it may become apparent that a better method of proceeding would be for the person to request the assistance of the Commission under section 10 of the Act in relation to legal proceedings; or the Commission may decide, as a result of an enquiry, to institute proceedings in a court of competent jurisdiction under section 11 of the Act to obtain relief for the person concerned. The exercise of the Commission's functions under section 8(j) together with section 10 or under section 8(k) together with section 11 may lead to a finding by a court that the person has suffered a violation of their

human rights and the provision of a remedy by the court in respect of the violation. Furthermore, a request for an enquiry or the actual conducting of an enquiry may prompt the Commission to seek to appear as *amicus curiae* in particular proceedings before the High Court or the Supreme Court in furtherance of the function conferred on it by section 8(h) of the Act. In short, the fact that the Commission has received a request from a person under section 9(1)(b) of the Act does not necessarily corral consideration of the substance of the request solely to that statutory provision.

SUMMARY

There are several important points to note about the competence of the Commission to conduct an enquiry at the request of a person under section 9(1)(b) of the Human Rights Commission Act, 2000. They are:

1. The competence of the Commission to conduct an enquiry is not free-standing. It is linked to four other specific functions of the Commission and is to be exercised in tandem with one or more of these other functions. The other functions are:
 - a. the keeping under review of the adequacy and effectiveness of law and practice in the State relating to the protection of human rights;
 - b. consultation with national or international bodies or agencies having a knowledge or expertise in the field of human rights;
 - c. the making of recommendations to the Government in relation to measures which should be taken to strengthen, protect and uphold human rights in the State;
 - d. the promotion of understanding and awareness of the importance of human rights in the State.
2. The role of the Commission in conducting an enquiry is not adjudicative. The Commission may not decide that a person's human rights have been violated.
3. It follows that the Commission may not itself provide a remedy for any violation of a person's human rights. It may, however, in the exercise of another function altogether, e.g. its function under section 8(j) read together with section 10 of the Act (to grant assistance in relation to legal proceedings) or its function under section 8(k) read together with section 11 (to institute legal proceedings on behalf of a person or class of persons), take action which may lead to the affording of a remedy to a person for a violation of that person's human rights.

21 May 2003

APPENDIX 3

Terms of Reference and Membership of the Committees of the Commission

ADVISORY GROUP ON RESEARCH CONCERNING THE TREATMENT OF OLDER PERSONS IN INSTITUTIONS

Members

- Jane Liddy (Convenor)
- Suzanne Egan
- Nuala Kelly
- Mervyn Taylor
- Katherine Zappone
- Maurice Manning

Terms of Reference

- To perform functions set out in the invitation to tender for research namely “to assist it (the Commission) and any successful tenderers in relation to the project. Tenderers may be required to make a formal presentation on their proposals” (source - invitation to tender, paragraph 7)
- To select successful companies/individuals on the basis of proposals received.

COMMITTEE ON THE ADMINISTRATION OF JUSTICE

Members

- President (Convenor)
- William Binchy
- Michael Farrell
- Jane Liddy
- Fionnuala Ní Aoláin

Terms of Reference

- To further the Human Rights Commission’s objectives in the Key Area of the Administration of Justice, including the issue of emergency laws.
- To identify priorities and to develop strategy in relation to the Key Area of the Administration of Justice as set out in the Strategic Plan 2003 – 2006.
- To examine how the Commission should engage with the issue of the Offences Against the State Acts, 1939-1989.

COMMITTEE ON APPROACH TO WORK

Members

- Katherine Zappone (Convenor)
- Maurice Manning
- Martin Collins
- Michael Farrell
- Mervyn Taylor

Terms of Reference

- To keep the implementation of the Strategic Plan under review.
- To oversee the consultation process.

CASEWORK COMMITTEE

Members

- Maurice Manning (Convenor)
- Clodach McGrory (who went on maternity leave mid-year)
- Robert Daly
- Nuala Kelly
- Fionnuala Ní Aoláin (who went on maternity leave in December)
- Mervyn Taylor

Terms of Reference

- To establish procedures for the performance of the functions of the Commission under sections 8(f), (h), (j) and (k), 9, 10 and 11 of the Human Rights Commission Act, 2000.
- On the recommendation of the Senior Caseworker or the Chief Executive, to take decisions on behalf of the Commission in the application of the criteria specified in the document, *Criteria for Dealing with Requests under Sections 9(1)(b) and 10 of the Human Rights Commission Act, 2000*, with certain exceptions which shall be referred for decision to the Commission sitting in plenary, as are set out in the Appendix attached hereto.
- To develop, subject to the direction of the Commission, the Commission's policy and strategy with respect to casework.
- To consider other proposals by the Senior Caseworker and the Chief Executive in relation to the performance of the functions of the Commission under sections 8(f), (h), (j) and (k), 9, 10 and 11 of the Human Rights Commission Act, 2000, and to report to the Commission sitting in plenary thereon.
- Pending further consideration by the Commission, to take, in emergency

situations*:

(i) decisions on behalf of the Commission as to whether or not to apply, further to section 8(h) of the Act, to the High Court or the Supreme Court for liberty to appear as *amicus curiae* and to so apply and appear, as required

(ii) decisions on behalf of the Commission as to whether or not to institute court proceedings seeking relief in respect of a human rights matter, further to sections 8(k) and 11 of the Act and to institute proceedings, as required.

** Emergency situations are those urgent and grave situations which, in the opinion of the Convenor of the Casework Committee, require consideration before the next Ordinary Meeting of the Commission (and where it is not feasible to convene an Extraordinary Meeting) and which are related to the Commission's functions under either section 8(h) of the Act (amicus curiae application and appearance), or sections 8(k) and 11 of the Act (instituting proceedings seeking relief of a declaratory or other nature).*

Examples of an emergency situation would be where the Commission receives a request relating to imminent superior court proceedings; the Commission being requested to appear as amicus curiae in the proceedings, or where the Commission receives a request in relation to urgent injunctive relief being sought by a person or class of persons concerning her/ his or their human rights. An emergency situation does not include a situation caused by the delay on the part of the person (or their representative) in making the request to the Commission.

Appendix to the Terms of Reference

Section 9(1)(b) and section 10 matters to be reserved to the Plenary for decision

- Where the Casework Committee, after taking into account a preliminary costing of a proposed enquiry under section 9(1)(b) of the Act or proposed "assistance" under section 10 of the Act, considers that the projected cost will exceed €10,000, it shall refer the matter for decision to the Commission sitting in plenary.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Members

- Katherine Zappone (Convenor)
- Suzanne Egan
- Gerard Quinn
- Martin Collins
- Nuala Kelly
- William Binchy

Terms of Reference

- To carry out the Commission's policy on protection and progressive realisation of economic, social and cultural rights as set out in the Commission's Strategic Plan, and to work wherever possible in co-operation with other statutory and non-statutory bodies in the field.
- To make proposals for the development of policy to the Commission, and proposals for research to the Commission's research committee.
- To play a role in advancing an awareness and understanding of the nature of economic, social and cultural rights, and to focus on appropriate means of giving them practical effect.
- To keep under review those aspects of domestic law, policy and practice that impact on issues of poverty and poverty-reduction.

FINANCE COMMITTEE

Members

- Tom O'Higgins (Convenor)
- Mervyn Taylor
- Maurice Manning
- Alpha Connelly

Terms of Reference

- To advise the Commission and the Chief Executive on all questions relating to the expenditure and the budget of the Commission and the keeping and auditing of the Commission's accounts.

GENDER AND WOMEN'S RIGHTS COMMITTEE

Members

- Katherine Zappone (Convenor)
- Olive Braiden
- Fionnuala Ní Aoláin
- Maurice Manning

Terms of Reference

- To ensure a rights-based perspective in the implementation of Government commitments to eliminate discrimination against women.
- To carry out the Commission's policy on opposition to discrimination against women and the promotion of women's equality, working wherever possible with women's groups.
- To oversee and contribute to the Commission's shadow report of Government's progress to UN Committee on the Convention on the Elimination of Discrimination Against Women. In this regard to :
 - Identify the scope of the Commission's submission
 - Identify primary areas of the Commission's intervention
 - Identify areas of research and evidence-gathering to provide the basis for comments on the Government report.
 - Establish relationships with women's human rights project (project co-ordinating NGO shadow report).
 - Consider inviting external experts to work with the Commission.
 - Meet with UN Committee on the Commission's submission.
- To make proposals to the Commission for research related to, and for developments of its policy on gender and women's rights.

COMMITTEE ON RACISM

Members

- Michael Farrell (Convenor)
- Maurice Manning
- Martin Collins
- Tom O'Higgins
- Nuala Kelly
- Fionnuala Ní Aoláin

Terms of Reference

- Will carry out HRC policy on opposition to racism and support for

interculturalism as set out in the Commission's Strategic Plan and submission to the Steering Group on National Action Plan Against Racism (NAPAR), working wherever possible in co-operation with other statutory and non-statutory bodies in the field and bodies representing minority ethnic groups.

- Will make proposals to the Commission for developing its policy on racism and interculturalism.
- Will continue to work with statutory and non-statutory bodies towards the development and implementation of the NAPAR. The basis of the Committee's work in this area will be the Commission's submission to the Steering Group on NAPAR.
- Will keep under review those aspects of immigration and asylum law and practice that impact on the issues of racism and interculturalism (the Committee could begin this work but because of the amount of legislation and agencies involved it might require a separate working group to research this area and formulate proposals).
- Will play a role in publicising and promoting international human rights standards relevant to issues concerning racism and methods of monitoring and enforcing the application of those standards, with particular reference to Travellers, asylum seekers, migrant workers, refugees and generally Irish people of diverse ethnic backgrounds.
- Will act as the Commission's representatives / or will delegate some of its members to act as the Commission's representatives on the Sub - Committee on Racism of the Joint Committee of the Commission and the NIHRC.

RESEARCH COMMITTEE

Members

- Jane Liddy (Convenor)
- Maurice Manning
- Katherine Zappone
- William Binchy
- Fionnuala Ní Aoláin
- Nuala Kelly
- Suzanne Egan

Terms of Reference

- To develop, subject to the direction of the Commission, the Commission's policy and strategy with respect to research and to oversee and co-ordinate the Commission's research activities.

REVIEW COMMITTEE

Members

- William Binchy (Convenor)
- Michael Farrell
- Tom O'Higgins

Terms of Reference

- To review negative decisions made by the Casework Committee and to this end: to meet, consider and decide on requests for a review of negative decisions made by the Casework Committee pursuant to section 9(1)(b) or section 10 of the Human Rights Commission Act, 2000, by reference to the Commission's document "Criteria for Dealing with Requests under section 9(1)(b) and 10 of the Human Rights Commission Act, 2000," where a person the subject of a negative decision requests such a review.

COMMITTEE ON SECTION 24 OF THE HUMAN RIGHTS COMMISSION ACT, 2000

Established: 25th Ordinary Meeting of the Commission, 1 May 2003

Disbanded: 29th Ordinary Meeting of the Commission, 28 August 2003

Members

- Alpha Connelly (Convenor)
- Nuala Kelly
- Jane Liddy
- Katherine Zappone

Terms of Reference

- To draft a report to the Government under section 24 of the Human Rights Commission Act, 2000.

APPENDIX 4

Speech by the Taoiseach, Mr. Bertie Ahern, T.D., at the official opening of the new premises of the Human Rights Commission, Jervis House, Jervis Street, Dublin 1 on Wednesday, 10th December 2003

Dr. Maurice Manning, President of the Human Rights Commission; Dr. Alpha Connelly, Chief Executive; Distinguished guests; Ladies and Gentlemen, I am very pleased to be here today at the official opening of the new premises of the Human Rights Commission.

It was exactly five years ago on this date in 1998 that I said we would establish a Human Rights Commission in this State, which would be a model of its kind, a national Human Rights institution which would set, rather than follow, standards of best international practice in this field.

I gave that commitment, particularly in the context of the obligation we assumed in the Good Friday Agreement to take steps to further strengthen and underpin the constitutional protection of human rights in this jurisdiction. One of those steps was to set up a Human Rights Commission, which would have a mandate and remit at least equivalent to that of the Northern Ireland Human Rights Commission. The Human Rights Commission Act, 2000 is a testament to the Government's delivery on the commitment I gave.

I think it is fair to say that the Act was generally welcomed as representing an enlightened approach, one which not only embraced the principle behind the commitment, but the spirit which inspired it. The Act is also clear evidence of the Government's willingness to move beyond a minimalist approach on this fundamental issue. We were determined to take full account of the 1993 United Nations Paris Principles relating to the Status of National Human Rights Institutions and the associated 1995 United Nations Guidelines and we did so. These documents set out the ideal structural and operational framework applicable to Human Rights Commissions. They are the blueprints, if you like, which are designed to inform Governments in establishing such bodies.

My decision at the time to publish the Government's proposals in draft form was designed to ensure that as wide a consultation process as possible took place on the issue before the Bill was prepared. Not only were those proposals discussed by two

important Committees of the Oireachtas, but most, if not all, of the NGOs with an interest in human rights related issues had an input into the final shape of the Bill. I readily acknowledge here today the valuable work and contributions made by all those who contributed to the consultation process.

It is important to bear in mind that the origins of the Human Rights Commission can be traced back much further than the Good Friday Agreement. The general human rights theme appeared in the 1985 Anglo-Irish Agreement and it was the subject of continued elaboration throughout the various phases of the development of the peace process in Northern Ireland. For example, the second Downing Street Declaration in 1993, and the 1995 Framework Document developed the idea of rights within an all-Ireland dimension. In 1996, the Forum for Peace and Reconciliation commissioned and published two Consultancy Studies on the protection of human rights, one of which explored the idea of establishing a Human Rights Commission. A majority in the Constitution Review Group, which reported in 1996, were of the view that a Human Rights Commission should be established by legislation.

The Human Rights Commission is designed to be a powerful and independent watchdog and champion of human rights in Ireland. It has a very wide mandate and remit. Its task is to monitor the whole area of the development of human rights and to take action, if necessary, through the various mechanisms which are available to it under the founding legislation.

The island of Ireland dimension is a crucial one and this is why the Commission's participation in the Joint Committee of Representatives with the Northern Ireland Human Rights Commission is so important.

At the moment this Committee, as envisaged in the Good Friday Agreement, is engaged on preliminary work in drawing up a Charter of Rights on an island of Ireland basis. This has a background and context deriving from political developments over the past decade. I wish the Joint Committee well in its endeavours in this regard.

While the Commission has this significant role to play in the North/South context, it is also tremendously important for Ireland's standing in the international community. Most importantly, at the domestic level it also promises to bring tremendous added value to the process of change and renewal in our society. I believe - and this is key - that the Commission will provide constructive and well informed contributions. Furthermore, with the coming into force of the European Convention on Human Rights Act, 2003 at the end of this month, giving further effect to the provisions of the Convention in our domestic law, the Commission will have a further, very significant dimension added to its mandate.

As most of you will be aware, the Commission is far from beginning its work today. In fact, its first interim inaugural meeting took place on 6 March, 2001. And it has already produced an impressive volume of work and has significant achievements to its credit. The Commission has submitted its statutory two-year report, containing recommendations for improving its effectiveness, and the Government will be considering the issues raised shortly.

Today, however, marks the Commission's full emergence into the public spotlight. For my part, and on behalf of the Government, I want to congratulate the Commission on its work to date. I wish to pay a particular tribute to its founding President, the Honourable Justice Donal Barrington and to his successor, Dr. Maurice Manning. Both of them have shown outstanding commitment in seeing the Commission through its formative stage. In raising the Commission to the position of respect it now enjoys, they have been ably supported by a very distinguished and talented Body of Commissioners, whose conviction and work I am also happy to commend.

I look forward to the Commission developing its full potential in line with our original vision and expectation for the good of all persons on this island.

Thank You.

APPENDIX 5

Speech of Dr Maurice Manning, President of the Human Rights Commission, at the opening of the Commissions premises, Jervis House, Jervis Street, Dublin 1 on Wednesday, 10th December 2003

We are very honoured to have you here, Taoiseach, to open our new premises and in the process to initiate a new phase in the life of the Human Rights Commission.

It is particularly appropriate that you should be the person to open these premises. As you pointed out, the Human Rights Commission was born out of the Good Friday Agreement of which you were a major architect. There may have been earlier suggestions and proposals, but the Good Friday Agreement was the catalyst, which produced Human Rights Commissions north and south on this island and speaking for ourselves, we are very proud of the fact that our genesis lay in that historic international agreement.

The importance given to the two Human Rights Commissions in that Agreement was a clear statement of the centrality being given to human rights in both parts of the island, not just in the long term resolution of old conflicts, but as a deed of foresight, encouraging the new Commissions to be proactive in ensuring, at the very least, an equivalence of human rights standards in both parts of the island. Such a stipulation gives each of us a real incentive to keep raising the bar and ensures that neither can rest on our laurels.

At that time, Taoiseach, and again today, you emphasised your own particular personal hope for the Commission. These challenging words of yours, we have very much taken to heart and are on the inside page of our Strategic Plan; 'In formulating the legislation it was my intention that the Commission would be a model for others to follow and one that would set, rather than follow, standards of best international practice in this area'. The spirit behind the drafting of our founding legislation was generous. The essence of the Paris Principles was encapsulated in that legislation, as well as a genuine attempt to adopt best international practice. The Oireachtas debates showed genuine good will on the part of all parliamentarians and there was none of the snideness, the carping and sniping, which is too often a part of the debates on human rights elsewhere.

There are aspects of that legislation which already, we believe, need to be changed, and I will refer to them in a moment, but overall I have to say the attitude of both

government and parliament to the concept of a Human Rights Commission was generous and positive and we have proceeded on the basis that what was said then was meant. We believe it was.

Unfortunately, no one told the Department of Finance about this generosity of spirit and Finance behaved as Finance always does, with the result that it has taken us longer to get where we are today than anyone of us would have liked. But we are here and that is the important thing. We have fine premises and we have, I believe, recruited first rate staff. Our staff members are professional, enthusiastic and committed and I believe that they will be at the core of the success of this Commission in the coming years.

I am glad the Taoiseach acknowledged the substantial work done by the Commission to date, much of it done by Commissioners in the absence of staff and back-up resources. Our Strategic Plan offers a clear-eyed view as to what it is a Human Rights Commission with limited resources can do to promote and protect human rights in this country. It is focused on key areas of work; it is ambitious but realistic in what it believes we can do. It has identified six key areas of work:

- Civil and political rights
- Economic, social and cultural rights
- Racism
- Persons with disabilities
- Gender
- Equality and human difference.

Within these areas we have been particularly concerned with fostering a rights-based approach in disability; we are concerned in what we see as a regression in the handling of Travellers human rights issues; the consequences of the Supreme Court decision in the case of Irish-born children of non-national parents causes real worry; we are keen to see a rights-based approach adopted in key aspects of policing reform, so that standards and practices here are at least as good as those in Patten. These are just some of the issues we are and will be working on over the coming months and years.

National human rights institutions are a relatively new, if very welcome, phenomenon. Every national human rights institution is different, shaped most of all by the context in which it finds itself. There is an enormous difference between a human rights commission in a third world country where it may be the only refuge of those whose human rights have been breached and a human rights commission in a sophisticated country like this, with its written, human rights friendly Constitution, a judicial system with a good human rights track record, a strong parliament, an ombudsman, a range of statutory bodies with human rights interests and a media which is by and large vigilant.

In such a context a Human Rights Commission has to be focused, has to be conscious of non-duplication and of not getting into needless competition. It is our approach to work with other groups, NGO and statutory whether in disability, in economic and social rights, in the administration of justice, with ethnic and minority groups, seeking to bring an informed legally based human rights dimension to their work, most of all, adding value to their work.

At its most simple, it is the function of a national human rights institution to speak clearly, fearlessly and with authority on human rights issues, whether it be through commenting on proposed legislation, or on the law in practice, on the rights of individual groups, on the rights of a specific individual, on the rights of groups be they gender-based, ethnic or cultural. It is our duty to follow if not lead best international practice and it is our job to raise the levels of awareness of human rights, especially among policy makers and opinion formers, but also, with younger people.

There are changes we would like to make to our founding legislation. You have already made reference Taoiseach to our report under Section 24 of the 2000 Act, which we have submitted to you. Some of these changes we would like to see refer to budgetary and organisational matters, but there are two or three changes to which I wish to refer today.

The first is about linkages to government. At present the Commission is linked to the Department of Justice, which is the department which steered our legislation through and which is in effect our promoting department.

In what I have to say I want to be very clear about our experiences with the Department of Justice. Michael McDowell has been a strong supporter of the Human Rights Commission; he has fought for resources for us and he has been scrupulous in referring all appropriate legislation to us and he has respected, if not always agreed, with our views. Likewise, the officials with whom we have dealt have always been positive and helpful in their dealings with us. So what I am saying is in no way personal. Far from it.

It is the view of the Commission, after careful thought, and for reasons outlined in our Section 24 Report that the independence of the Commission should not just be fact but should be seen to be so. It is in the nature of things that much of our interaction will be with various government departments and agencies, because inevitably most allegations of human rights breaches are made against state bodies. That most of these may be unfounded is not the point; what is important is that the Human Rights Commission, like the Ombudsman be seen to be fully independent of all government departments and it is for that reason we believe that consideration should be given by

the Government to linking the Commission more closely to the Oireachtas in terms of its accountability and the exercise of its functions, as is the case with the Ombudsman. That case we make in our submission to you Taoiseach and I think when you read it you may find that there are compelling reasons for what we say.

Insofar as the Commission does have links with a government department, we feel that such a link should be with your department Taoiseach – in part because your department has the least involvement in the implementation of specific aspects of government and has greatest overview of government activity, and because too of our genesis – the Good Friday Agreement – and our involvement in the Joint Committee on an All Ireland basis. We would like to see a strengthening of that Joint Committee, by giving it a formal status, distinct from the two Human Rights Commissions. The Joint Committee has identified and is working on some important human rights issues of cross-border concern and for that reason – and for others – we believe that a strengthening of the Joint Committee would be a positive and useful step.

One further recommendation I would like to bring to your attention and that is, we would like you Taoiseach, as a simple matter to ensure that the Government, by resolution, require all Ministers of the Government to refer legislative proposals to the Commission for its views, where it appears these proposals may have significant implications for the protection of Human Rights. The Department of Justice is the only department which does this at present as a matter of course and we believe it is something which should be second nature to all departments on any legislative issues where there are human rights implications.

There are some people I want to thank before I conclude. Judge Donal Barrington, my predecessor, who gave the Commission great stability and direction in its early days. He brought the very disparate Commissioners together, steered them through very difficult times and left behind a focused and united Commission. I cannot speak too highly of the members of the Commission. Each member brings a particular expertise and differing philosophies to bear on our work, but underlying all is a great unity of purpose in the cause of promoting and protecting human rights. The amount of work done in the early stages by the Commissioners themselves with no staff or back-up was truly extraordinary. We have been lucky in the quality and commitment of our Commissioners and I want to thank them personally and individually for their dedication, their professionalism and their utter commitment, because without them, we would not be where we are today. Finally may I thank our Chief Executive, Dr Alpha Connolly. She has that rare capacity to be a first rate academic and a first class Chief Executive.

APPENDIX 6

Mission Statement

The mission of the Human Rights Commission is to endeavour to ensure that the human rights of all people in the State are fully realised and protected, in law, in policy and in practice.

The Commission will pursue its objectives vigorously and independently. It will do its best to ensure that Irish law and practice is in line with the highest international standards, measuring our law and practice against the standards set out in the Constitution and in international human rights agreements to which Ireland is a party.

Where the Commission believes human rights are not being adequately protected, it will say so clearly and strongly, and will actively seek change in the law, policy or practice concerned.

In carrying out its functions, the Commission will operate in an independent, fair, open, accessible and accountable manner and will seek to use to the full the powers conferred upon it.

The Commission will seek to increase awareness of human rights protections and how to access them, striving to create a strong, pervasive culture of human rights at all levels within the State.

The Commission will work closely and, where appropriate, collaboratively with statutory bodies, Government Departments, non-governmental organisations and all involved in human rights issues.

The Commission will work closely too with other National Human Rights Commissions, the UN and the Council of Europe to endeavour to ensure a high standard of human rights protection.

The Commission takes particularly seriously its participation in the Joint Committee with the Northern Ireland Human Rights Commission, as provided for by the Good Friday Agreement. The Commission will work collaboratively to strengthen the protection of human rights in both jurisdictions and work to establish a charter “reflecting and endorsing agreed measures for the protection of the fundamental rights of everyone living in the island of Ireland”, as proposed by the Agreement.

APPENDIX 7

Core and Operational Values of the Commission

CORE VALUES

The protection and promotion of human rights is the core value of the Human Rights Commission. In pursuit of this commitment, the Commission will work to ensure the protection of civil, political economic, social and cultural rights in recognition of the universal, indivisible, interdependent and inter-related nature of all human rights.

OPERATIONAL VALUES

In carrying out its functions, the Commission will act independently and in a transparent and fair manner. The Commission will be as accessible and accountable as possible.

A commitment to consultation and dialogue will be at the heart of the Commission's work. The Commission will co-operate closely with other bodies at home and abroad.

The Commission will work in support of other agencies active in the field of human rights. The Commission's aim will be to work in harmony with such bodies and avoid any unnecessary duplication of work. In this respect, the Commission will be guided by the need to deploy its limited resources as effectively as possible.

In developing its work, the Commission will seek to exercise its unique statutory powers in a manner which will bring 'added value' to work already being undertaken in the State to promote and protect human rights.

The ability to respond effectively to situations as they arise will be a central operational value for the Commission.

The Commission will be motivated by respect for the inherent equality and dignity of all individuals and a commitment to promote and protect the rights of the most vulnerable members of society.

The Commission will review and evaluate its own work in order to ensure that it exercises its mandate to promote and protect human rights as effectively as possible.

APPENDIX 8

Criteria for Selecting Key Areas of Work

CATEGORY 1

The criteria listed below are the minimal set of requirements which generally will be satisfied before the Human Rights Commission will act on a human rights issue.

An issue will:

- Fall within the scope of the Commission's statutory functions as set out in Chapter 6 of this Plan. This means that the Commission must have the legal powers necessary to examine, report or act upon the human rights issue concerned.
- Concern a right that is not adequately protected in the State. If other bodies are already addressing the issue, the Commission must ensure that its actions do not unnecessarily duplicate existing efforts to address the issue.
- Be consistent with the core value of the Commission: the protection of human rights. This means that the Commission must be sure that work on the issue would advance the further protection of human rights in the State.

CATEGORY 2

In addition to fulfilling all of the criteria set out above, the issue will generally meet at least two of the following criteria.

An issue will:

- Be urgent. This means that the Commission must be satisfied that there is a pressing need to address the issue concerned, for example, if there is a threat of any (further) violation of rights or a threat to a person a group. Long-standing issues are not excluded under this criterion.
- Concern a right or address a need that the Commission could effectively work to protect, to the benefit of a significant number of people. This means that the Commission should be satisfied that work undertaken by it would address systemic experiences of human rights violations and would have the potential for wide effect.
- Be an issue of fundamental principle in which human rights appear to be violated or blatantly unresolved.
- Involve allegations of credible serious and/or widespread human rights abuse.
- Concern a right, in respect of which the Commission, because of its particular powers and expertise, could make a distinct and positive contribution to the enhancement of human rights protection in Ireland.

CATEGORY 3

A number of other considerations will also influence the selection of priorities. In taking a strategic approach to its work, the Commission will always consider what it hopes to achieve by its actions. In particular, the Commission will consider whether work by it on an issue would enhance a culture of rights in Ireland, contribute to any reform processes which may be underway, act as a symbolic beacon highlighting what can be achieved in the realm of human rights protection or address long-standing issues which may have been a source of frustration for individuals or groups.

The Commission will be particularly sensitive to those groups and individuals who have been historically marginalized in Irish society and who find it particularly difficult to access formal means to address their human rights concerns.

In addition, the Commission's work will reflect the diverse spectrum of human rights issues falling within its mandate.

The Commission will seek to work during the period of its strategic plan on issues which will contribute to its own knowledge and understanding of human rights problems and its ability to address them and which will ultimately increase its effectiveness both within Ireland and internationally.

Finally, it is important to note that it is not possible to anticipate all the human rights issues that may require attention and include them in the strategic plan. Often, issues will arise suddenly, like, for example, when the Government refers a new piece of legislation to the Commission or when a case of relevance to human rights protection reaches the courts. Furthermore, during the Commission's process of dialogue and consultation with other bodies and individuals, issues may arise that the Commission deems critical to address. Whilst remaining faithful to its overall strategy, as outlined in its plan, the Commission needs to retain the operational capacity to react flexibly to such developments.

APPENDIX 9

Conclusions and Summary of Recommendations contained in the Commission's Report to Government under Section 24 of the Human Rights Commission Act, 2000

CONCLUSIONS

The effectiveness of the Commission is in large part dependent upon it having at its disposal adequate human and financial resources. The Commission is confident that when the full initial complement of its staff assumes duties, it will have available to it the personnel required for it to be able to exercise its many functions. It is however most concerned that its present budgetary allocation falls far short of what is required.

The Commission believes that the amount of its annual grant-in-aid should be negotiated and agreed with it rather than unilaterally determined by the Government or by a Minister of the Government. It also believes that these negotiations should relate to the amount of its grant overall, or at least to the totality of the pay and the totality of the non-pay elements of the grant, not to specific items of its grant, in order to respect its independence and to promote public confidence in its independence.

The Commission is furthermore of the view that its effectiveness and independence would be better ensured were there to be no formal link between the Commission and a Government Department, and would favour a closer link between the Oireachtas and itself in relation to its accountability for the exercise of its functions. Should a link between the Commission and a Government Department nevertheless continue to be necessary, the Commission is of the view that this link should be with the Department of the Taoiseach, not with the Department of Justice, Equality and Law Reform.

As to its membership, the Commission would wish the appointments process to be such as to secure an outcome which is conducive to the effectiveness of the Commission. In this regard it would wish the process to be as open and transparent as possible and for a suitably qualified advisory committee to be established to recommend persons for appointment. Members of this committee should possess knowledge of domestic and international human rights law as well as experience in

the field of human rights, and the committee should take due account of the statutory requirements relating to the membership of the Commission: namely, that the members of the Commission should be suitably qualified for such appointment by reason of possessing relevant experience, qualifications, training or expertise, having regard to the functions conferred on the Commission, and that its members should broadly reflect the nature of Irish society.

The Commission would also favour greater specificity in the terms and conditions of appointment of members and an explicit undertaking by members to serve impartially and independently.

Over the two years covered by this Report, the Commission has essentially been in a start-up phase. It has not been in a position to exercise the full range of its functions. Nevertheless, it has kept developments in legislation and practice under review and has commented publicly where these have given rise to human rights concerns; it has examined several legislative proposals referred to it by the Minister for Justice, Equality and Law Reform for its views on the human rights implications of the proposals; it has consulted widely with other human rights bodies, both nationally and internationally; it has made recommendations to the Government in relation to the upholding of human rights; it has commissioned research and published the results of this research as well as other documents on human rights matters; it has commenced its consideration of requests which have been made to it by persons for the conduct of an enquiry and/or for the provision of assistance in relation to legal proceedings involving issues of human rights; and it has participated fully in the Joint Committee of representatives of the Commission and of the Northern Ireland Human Rights Commission.

It has moreover reflected on its functions and has identified several ways in which the effectiveness of its functions might be improved. These concern the examination of legislative proposals referred to it by a Minister of the Government, consultation with national and international bodies having a knowledge or expertise in the field of human rights, participation in the Joint Committee, and the provision of assistance in relation to legal proceedings involving human rights matters.

The Commission is therefore pleased to submit to the Government this report containing recommendations which, in its opinion, would improve its effectiveness and the effectiveness of the functions conferred on it. A summary of these recommendations is given below.

SUMMARY OF RECOMMENDATIONS

The Commission recommends with respect to improving the effectiveness of the Commission that:

1. Consideration be given by the Government to linking the Commission more closely to the Oireachtas in terms of its accountability for the exercise of its functions. To the extent that a link is to be retained between the Commission and a Government Department, that link should be with the Department of the Taoiseach.
2. The Government ensure that at least the estimated amount of its annual operating costs as submitted to the Minister for Justice, Equality and Law Reform in March 2003, namely €2,211,314.41, be made available to the Commission by way of its budget for 2004.
3. In future, the amount of the grant it is to be paid be the subject of negotiations between the relevant authorities and the Commission with a view to achieving agreement as to the moneys needed for the Commission effectively to fulfil its statutory functions.
4. Should the Commission not be able to appoint a suitably qualified financial officer in the next few months, the Government should arrange for a suitable officer to be seconded to the Commission as a temporary measure to deal with financial matters until a finance and human resources administrator is appointed by the Commission.
5. The Government should ensure that no Minister or Department exercises or seeks to exercise control in respect of particular items of the Commission's expenditure.
6. There should be no direct control by a Government Minister or Department over the number of staff employed by the Commission, the grade at which staff are employed, and the remuneration and allowances as well as other terms and conditions on which they serve. Rather the Commission itself should have direct control of these matters, subject to its overall accountability.
7. The Government should give preliminary consideration to making provision for the Commission to appoint some staff to permanent positions.
8. The public advertisement process should continue to apply with a view to ensuring open and transparent procedures for appointments. A suitably qualified advisory committee of independent persons, which includes expertise in international and domestic human rights law and relevant experience, could validate the qualifications of all candidates deemed to be suitably qualified for the purpose of section 5 (4) of the Act. The committee may also advise the Government in overall terms with a view to facilitating the appointment by it, of a Commission that broadly reflects the nature of Irish society as referred to in section 5 (12) of the Act.

9. Consideration be given to providing greater specificity in the terms and conditions of appointment of members of the Commission.
10. It be a condition of appointment as a member of the Commission that the member shall serve impartially and independently and shall exercise or perform his or her powers, duties and functions in good faith and without fear, favour, bias or prejudice and subject only to the law.

The Commission further recommends with respect to improving the effectiveness of its functions that:

11. The Government by resolution require all Ministers of the Government to refer legislative proposals to the Commission for its views where it appears that these proposals may have significant implications for the protection of human rights.
12. In any revision of its founding legislation, the Commission's function of consulting with other national and international bodies and agencies having a knowledge or expertise in the field of human rights be expanded expressly to include participating in and contributing, as appropriate, to the work of such organisations.
13. The Government should give consideration to consulting with the British Government with a view to affording a formal status to the Joint Committee distinct from the two Human Rights Commissions on the island of Ireland and to funding jointly the operation of the Committee.
14. Section 10 of the Act should be amended to make it clear that the Commission has the power to grant assistance to persons seeking to vindicate their rights before an international body whose competence in this regard has been recognised by the State.

Finally, the Commission recommends that:

15. Provision be made for it to submit a further report to the Government containing recommendations for improving its effectiveness and the effectiveness of the functions conferred on it. This report should be made within five to six years of the establishment date of the Commission, that is, three to four years from the date of the submission of this report.

APPENDIX 10

Speeches and Presentations

PRESIDENT'S SPEAKING ENGAGEMENTS IN 2003

17th February 2003	Speech on 'The Irish Experience' at <i>Establishing our Rights: The Role of Scotland's Human Rights Commission</i>
24th February 2003	Speech at launch of Quinn & Degener <i>Human Rights and Disability</i> , NUI, Galway
March 2003	Speech at launch of the <i>Strategic Plan 2003-2006</i>
24th April 2003	Speech <i>The Human Rights Commission – Strategy and Priorities</i> , Law Society Annual Conference, Lisbon
15th May 2003	Speech <i>Human Rights and Irish Society</i> , Annual Conference of Irish Vocational Educational Association, Limerick
22nd May 2003	Speech <i>Human Rights – the Challenges Ahead</i> at Galway and District Business and Professional Women's Club Summer Lunch, Galway
16th July 2003	Speech at the launch of <i>Direct Discrimination?</i> Published by FLAC, Dublin
2nd September 2003	Speech <i>Human Rights and Disability</i> at Youth Beyond Disability Seminar, organised by PwDI, Dublin
13th October 2003	Speech at the launch of <i>Labour Immigration into Ireland</i> published by the Immigrant Council of Ireland.
1st November 2003	Speech on 'Promotional Powers' at <i>National Human Rights Institutions: What makes them Effective</i> Conference organised by The Centre for Civil and Human Rights, Notre Dame University Law School; The Human Rights Centre, Queen's University Belfast and The Human Rights Centre, University of Essex
13th November 2003	<i>The Role of National Human Rights Institutions</i> Roundtable, Danish Centre for Human Rights, Copenhagen
10th December 2003	Speech at the opening of the Human Rights Commission premises, Jervis House

CHIEF EXECUTIVE'S SPEAKING ENGAGEMENTS IN 2003

17 January 2003	Presentation to the National Economic and Social Forum Project Team on Implementing Equality for Lesbian, Gay and Bisexual People
11 June 2003	Presentation on 'Some International Developments Relating to National Human Rights Institutions' at the Joint Equality and Human Rights Forum
29 October 2003	Presentation on 'Funding and Staffing' at the British Council Seminar, <i>National Human Rights Commissions: effective or just existing?</i>

APPENDIX 11

Position Paper of the European National Human Rights Institutions

ATTENDING THE SECOND SESSION OF THE AD HOC COMMITTEE TO
CONSIDER A COMPREHENSIVE AND INTEGRAL INTERNATIONAL CONVENTION
TO PROMOTE AND PROTECT THE RIGHTS AND DIGNITY OF PERSONS WITH
DISABILITIES

COMPILED ON 16 JUNE 2003

- Danish Institute for Human Rights
- Irish Human Rights Commission
- Northern Ireland Human Rights Commission

The above combined European NHRIs have agreed on the following joint initial position with respect to the drafting of a new treaty on the human rights of persons with disabilities, and, on this basis, have further agreed to coordinate their participation at the Second Session of the Ad Hoc Committee taking place from June 16th 2003.

1. IS A TREATY NEEDED?

The above combined National Human Rights Institutions of Europe strongly believe that a new treaty focusing on the human rights of people with disabilities is necessary. The very existence of such a drafting process would itself send a powerful signal to the world that disability is now primarily considered a human rights issue.

A new treaty would provide a focal point for disability issues in the UN human rights system. This would be of benefit to States in helping to clarify their respective obligations. It would also be helpful to disability NGOs by providing them a clear set of tailored benchmarks with which to work.

The elaboration of a new treaty would help to underscore reform trends taking place throughout the world and would also help to instil a positive dynamic for change in those parts of the world where disability reform has yet to sink deep roots.

The European NHRIs do not believe that a Protocol (or series of Protocols) to the existing human rights treaties is a practicable alternative to the drafting of a treaty. For one thing, it is unclear to which human rights treaty (if not all) this would apply. Furthermore, if individual Protocols were drafted for all six human rights treaties, then wide and unjustifiable disparities would emerge as between different effective dates of entry into force. More crucially, if the effect of any such a Protocol/s were to emphasize that the relevant human rights contained in the instrument in question apply to the benefit of persons with disabilities, then this would be surplusage, since it is already plain that the existing treaties apply for the benefit of all persons including those with disabilities. A treaty is needed precisely because, in spite of the theoretical coverage of the existing treaties, more practical and focused measures are needed to ensure the effective enjoyment of the rights in question.

2. STATUS OF NEW LEGAL INSTRUMENT AND DRAFTING PROCESS

The combined National Human Rights Institutions of Europe strongly believe that, rather than adopting a medical model, which has long been discredited, any new treaty should be a recognisable human rights instrument.

As such, it should not so much add new rights to the corpus of existing rights. It should not specify 'disability rights'. Rather, and in keeping with the essential nature of thematic human rights treaties, it should draw out the added-value of the existing general human rights norms and tailor them specifically to the circumstances of persons with disabilities.

Any new treaty should aim to achieve the full, equal and effective enjoyment of all human rights without any discrimination. However, the principle of equality and non-discrimination, when taken in the abstract, should not become the main object of the treaty. While any new treaty could benefit by the inclusion of general principles, it should not confine itself to a brief statement of principles. Rather, the treaty should spell out with particularity what the full, equal and effective enjoyment of each of the rights would look like within the text dealing with each substantive right.

The process of tailoring rights to the specific circumstances of persons with disabilities could benefit from the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities. However, any new treaty should not amount to a legalized version of the Standard Rules. Rather, any new treaty should represent a fair judgment of the relevance and significance of the general human rights norms in the very specific context of disability.

The drafting process would not have the necessary legitimacy unless it was open to the fullest possible participation of persons with disabilities and their representative organizations. A rational process of tailoring general rights to the circumstances of people with disabilities requires this. Furthermore, the process would not merely lack rationality but also moral legitimacy if it did not make the required space for the involvement of civil society.

3. WHAT THE TREATY SHOULD CONTAIN

The starting point should be based on the fact that all human rights are universal, indivisible, interdependent and interrelated. The relevant rights should encompass both sets of rights, civil and political on the one hand and economic, social and cultural on the other.

The rights set out under any new treaty should not fall short of the general standards already set under the existing corpus of UN human rights law.

The relevant rights should be derived from the human rights principles of equality of opportunities, human dignity, personal autonomy and participation. The Convention should establish the importance of these principles with regard to the specific circumstances of persons with disabilities. Inclusion of the principles should not be a substitute for the treatment of individual substantive rights in the body of text of the convention. Rather the principles would serve as a backdrop to all the substantive rights in the convention and serve as point of reference both in the drafting process and in the implementation of the instrument.

The substantive rights should be tailored to the situation of persons with disabilities. A new instrument should for example make due allowance for positive action measures, including the concept of 'reasonable accommodation', and the right to independent and integrated living. Also, the rights to accessibility and personal assistance services should be specifically included.

The drafting process should take due account of the positive jurisprudence of the existing treaty monitoring bodies in the disability context.

Some mechanism should be found to link development aid to the achievement of the obligations of any new treaty. This could usefully be done by insisting on the proofing of development aid programmes to the norms of the treaty.

4. IMPLEMENTATION & MONITORING

An independent expert treaty monitoring body should be established to monitor periodic state reports. It should also be enabled to entertain individual and collective complaints of alleged violations. The treaty monitoring body should have a mix of expertise from human rights as well as disabled persons.

The Convention should support the establishment of effective national implementation monitoring mechanisms with due respect for the Paris Principles.

APPENDIX 12

Programme of Public Conference on Global Trends in Disability Law

- Human Rights Commission
- National Disability Authority
- Law Society of Ireland

Saturday, 13th September 2003, Law Society, Blackhall Place, Dublin 7

PROGRAMME

TIME		SPEAKERS
9.30am	REGISTRATION	
9.50am	Welcome	Geraldine Clarke, President, Law Society
	Global Trends in Disability Law Reform	Dr. Arthur O'Reilly, immediate Past President of Rehabilitation International and former Director of the NDA
	Session Chairperson:	Stefano Sensi, United Nations, Geneva
10.00 – 10.30am	The UN – Anchoring Disability as a Human Rights Issue: Preparation of a UN treaty on human rights for the disabled	
10.30 – 11.00am	The EU – Advancing the Equality Agenda in Europe: European Community policy to combat discrimination, with specific reference to people with disabilities	Barbara Nolan, Head of Unit dealing with anti-discrimination, fundamental social rights and civil society, Directorate General for Employment and Social Affairs, European Commission
11.00 – 11.30am	Bringing Rights Home: The experience of the British Courts in applying the ECHR in relation to disability issues	Caroline Gooding, Disability Rights Commission, UK
11.30 – 11.50am	COFFEE	
	Critical Issues in Disability Law Reform in Ireland	
	Session Chairperson:	Ms. Angela Kerins, Chairperson, NDA
11.50 – 12.20pm	Legal capacity: Proposals for Law Reform	Patricia Rickard-Clark, Solicitor, Law Reform Commissioner
12.20 – 12.50pm	Equal citizens: Proposals for Disability Legislation	Donal Toolan, Disability Legislation Consultation Group

1.00 – 2.15pm	LUNCH The Enforceability debate: The Challenges Ahead Session Chairperson:	Donncha O'Connell, lecturer, NUI Galway, Irish member of EU Network of Independent Experts in Fundamental Rights
2.15 – 2.45pm	Effective Remedies and Other Challenges – an international legal perspective	Gerard Quinn, Professor of Law, NUI Galway and member of the Human Rights Commission
2.45 – 3.15pm	Beyond Justiciable Rights – Standards and Quality	Rory O'Donnell, Director, National Economic and Social Council
3.15 – 3.45pm	Panel Discussion	Including David Ruebain, Solicitor, UK
3.45pm	Close of Conference	Dr. Maurice Manning, President, Human Rights Commission

APPENDIX 13

Programme of Conference on New Human Rights Legislation

- Human Rights Commission
- Law Society of Ireland

Saturday, 18th October 2003

Presidents' Hall, Law Society of Ireland, Blackhall Place, Dublin 7

PROGRAMME

TIME

9.15am

REGISTRATION

9.50

Welcome

SPEAKERS

Gerard F. Griffin,
Senior Vice President,
Law Society

The European Convention on Human Rights Act 2003

Morning Session Chairperson:

James MacGuill,
MacGuill & Co. Solicitors

10.00 – 10.30am The European Convention on Human Rights Act 2003: What the Act will mean

Michael McDowell,
Minister for Justice,
Equality and Law Reform
Honourable Lord Justice Laws,
Court of Appeal

10.30 – 11.00am Bringing Rights Home: 3 years of working with the European Convention on Human Rights Act 1998 in the UK

Michael Kealey,
William Fry Solicitors

11.00 – 11.30am Pleading the European Convention on Human Rights Act 2003: Issues for practitioners

11.30 – 11.50am COFFEE

11.50 – 12.20pm Rights close to home: 3 years of the Human Rights Act in the North

The Hon. Mr. Justice
Brian Kerr, High Court,
Northern Ireland
Chief Justice Ronan Keane,
Supreme Court

12.20 – 12.50pm Issues for the judiciary in the application of the European Convention on Human Rights Act 2003

1.00 – 2.15pm LUNCH

Other new Human Rights Legislation

Afternoon Session Chairperson:

Dr. Maurice Manning,
President, Human Rights
Commission

2.15 – 2.45pm The EU Charter of Fundamental Rights: what practical effects?

Professor Dermot Walsh,
University of Limerick

2.45 – 3.15pm	An All Ireland Charter of Human Rights	Professor Brice Dickson, Chief Commissioner, Northern Ireland Human Rights Commission
3.15 – 3.45pm	Changing to a Rights Culture	The Hon. Justice Rosalie Abella, Court of Appeal, Ontario
3.45 – 4.15pm	Panel Discussion	
4.15pm	Close of Conference	Dr. Maurice Manning, President, Human Rights Commission

APPENDIX 14

List of Publications in 2003

■ **Reports:**

Promoting and Protecting Human Rights in Irish Society: A Plan for 2003-2006 Report to the Government under Section 24 of the Human Rights Commission Act, 2000 (July 2003)

■ **Research:**

Older People in Long Stay Care (April 2003) (Author: Ita Mangan)

■ **Submissions/Observations:**

Submission on Criminal Justice (Terrorist Offences) Bill 2002 (February 2003)

Observations on the Proposals Paper of the Disability Legislation Consultation Group (DLCG) from the Perspective of the International Covenant on Economic, Social and Cultural Rights (June 2003)

Observations on the Criminal Law (Insanity) Bill 2002 (September 2003)

Observations on the European Arrest Warrants Bill 2003 (September 2003)

Observations on the Education for Persons with Disabilities Bill 2003 (September 2003)

Position of Non-National Parents and their Irish-Born Children (October 2003)

Observations on General Scheme of Garda Síochána Bill 2003 (November 2003)

■ **Joint Committee Documents:**

A User's Guide to the International Convention on the Elimination of Racial Discrimination (September 2003)

■ **Joint Publications:**

Re-thinking Identity: The Challenge of Diversity, Edited by Katherine Zappone (June 2003) Published by the Joint Equality and Human Rights Forum (Equality Authority (Ireland); Human Rights Commission (Ireland); Equality Commission for Northern Ireland; Northern Ireland Human Rights Commission; Disability Rights Commission (Great Britain); Commission for Racial Equality (Great Britain); Equal Opportunities Commission (Great Britain))

Diverse Voices: A summary of the Outcomes of the Consultative Process and a proposed Framework for the National Action Plan Against Racism (July 2003) Published by the National Action Plan Against Racism Steering Group