



NORTHERN
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HUMAN
RIGHTS
COMMISSION

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Rt Hon Paul Murphy MP
Secretary of State for Northern Ireland
Block B, Castle Buildings
Stormont
Belfast BT4 3SG

July 2003

Dear Secretary of State,

I have pleasure in submitting to you, as required by paragraph 5(1) of Schedule 7 to the Northern Ireland Act 1998, the fourth Annual Report of the Northern Ireland Human Rights Commission. It shows how the Commission has performed its functions during the period 1 April 2002 to 31 March 2003.

Yours sincerely,

Brice Dickson
Chief Commissioner





CHIEF COMMISSIONER'S FOREWORD

Full details of the Commission's work during the year 2002-2003 are provided in the pages which follow. For ease of reference the Commission's main concerns are set out below.

1 The right to life

The Commission is severely disappointed by the government's response to the judgment of the European Court of Human Rights in the *Jordan* case of May 2001. We do not believe that enough is being done to ensure that thorough, impartial and effective investigations are being conducted into all killings in Northern Ireland, especially (but not exclusively) those allegedly perpetrated by, or with the connivance of, members of the security forces. More particularly, the inquest system in Northern Ireland remains in a chaotic state because of the failure of the government to take the necessary steps to comply with European standards. We also remain worried that the Key Persons Protection Scheme, and related schemes, are not being applied in Northern Ireland in a way which is fully consistent with Article 2 of the European Convention on Human Rights.

2 Paramilitary violations

The frequency and severity of violence associated with paramilitary organisations continues to alarm us. We assert that such violence (like practically all violence) is an abuse of people's human rights and that the victims of such abuses need more protection and help from state agencies. We call on all paramilitary organisations to desist from their violence and on all political parties to work towards its complete elimination from our society. Early in 2003-2004 we will be publishing a report on *Human Rights and Victims of Violence*.

3 The use of plastic baton rounds

The Commission wishes to see greater attention paid to the need to find a replacement for the baton round, or plastic bullet. We are disturbed at the guidelines used by the army when firing this weapon and we believe that the "new" baton round, in use since June 2001, is no safer than its predecessor. There have, of course, been many incidents of public disorder during the year, and we recognise the right of members of the security forces to be protected from attack, but we do not think the present baton round is the appropriate weapon for such circumstances.



4 Children's rights

There has not yet been an adequate response to the Commission's expression of concerns, in its report entitled *In Our Care*, about the needs of children in custody. We are still awaiting the closure of Lisnevin Juvenile Justice Centre. The rights of children while they are at, or travelling to or from, school are still not wholly protected, as the Holy Cross dispute has shown, and there is still no law effectively preventing physical assaults on children in the home. We await with interest the appointment of a Commissioner for Children and Young People.

5 The Bill of Rights project

We are continuing to build support for a Bill of Rights for Northern Ireland but have been disappointed at the lack of collective cross-party involvement in the project. The development of our advice to the Secretary of State has taken longer than originally planned, mainly because we have been trying to create a political consensus within Northern Ireland first. A lack of resources has hampered our work to some extent in this regard.

6 The Commission's powers

The Commission remains deeply dissatisfied at the government's failure to accord to the Commission the full range of powers which nearly every other Human Rights Commission around the world enjoys (including the Irish Commission). We are firmly of the view that we cannot properly perform our functions, especially our investigative and research functions, unless we can, for instance, compel the production of information from anyone we approach. We can understand why some members of the public might believe we are a toothless tiger in the absence of such power.

Brice Dickson
Chief Commissioner

July 2003



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INTRODUCTION TO THE COMMISSION

This is the fourth Annual Report of the Northern Ireland Human Rights Commission, a body established on 1 March 1999 under section 68 of the Northern Ireland Act 1998. The report covers the period 1 April 2002 to 31 March 2003. The Secretary of State for Northern Ireland is under a statutory duty to lay it before Parliament at Westminster. The Commission is not directly answerable to the Northern Ireland Assembly (which was suspended on 14 October 2002 and remains so as this document goes to press), but copies of the report will be sent to all persons who were Members of that Assembly at the date of suspension.

The Commission receives its funding out of general taxation, allocated by the Secretary of State out of the money voted by Parliament to the Northern Ireland Office, and its members are appointed (after an open selection process) by that officer of state. Otherwise the Commission is completely independent of the UK government machine. Indeed a large part of its work consists in critiquing the activities of the government. In virtually all respects the Commission has the features required of a national human rights institution by the General Assembly of the United Nations; these were set out in the so-called *Paris Principles* in 1993.

THE COMMISSIONERS

At the start of the year there were 13 Commissioners in post, but on 9 September 2002 two Commissioners resigned. By the end of the year no replacement Commissioner had yet been appointed. Indeed the process for seeking

applications for appointment had not been started by the Northern Ireland Office. One of the consequences of the resignations was that the Commission was left with only three female Commissioners. This makes it difficult to ensure that the committees of the Commission are as gender-balanced as they should be.

The two Commissioners who resigned cited concerns over the strategic direction of the Commission and, in one case, the risk that the Commission's work on a Bill of Rights might further polarise communities in Northern Ireland. The remaining Commissioners bore these concerns in mind as they continued to consider the Commission's new Strategic Plan for 2003-2006 (a draft of which had been widely circulated for consultation in May 2002) and Phase 3 of its Bill of Rights Project (see pages 24-27 below).

Pen pictures of all 13 Commissioners who served during the year are set out on the next page and an indication is given of the number of full Commission meetings they were able to attend out of the 15 during the year.



Chief Commissioner



Professor Brice Dickson, on secondment from his position as professor of law at the University of Ulster at Jordanstown. Appointed until 28 February 2005. Attended 15 meetings.

Commissioners



Professor Christine Bell, professor of law at Magee College, University of Ulster. Appointed until 29 February 2004. Resigned 9 September 2002. Attended seven meetings.



Mrs Margaret-Ann Dinsmore QC, a practising barrister. Appointed until 28 February 2005. Attended seven meetings.



Mr Tom Donnelly MBE JP DL, an early-retired businessman, formerly NI Area Business Manager for Proton Cars (UK) Ltd from 1998 to 2000. Appointed until 28 February 2005. Attended 13 meetings.



Lady Christine Eames, formerly World President of the Mothers' Union from 1995 to 2000. Appointed until 30 November 2004. Attended 14 meetings.



Reverend Harold Good OBE, a Methodist minister and President of the Methodist Church in Ireland from 2001 to 2002. Appointed until 29 February 2004. Attended nine meetings.



Professor Tom Hadden, professor of law at the Queen's University of Belfast. Appointed until 28 February 2005. Attended 15 meetings.





Ms Patricia Kelly, Director of the Children's Law Centre in Belfast. Appointed until 28 February 2005. Attended nine meetings.



Dr Inez McCormack, Regional Secretary of the trade union UNISON and President of the Irish Congress of Trade Unions from 1999 to 2001. Appointed until 29 February 2004. Resigned 9 September 2002. Attended six meetings.



Dr Christopher McGimpsey, a businessman and Ulster Unionist Party councillor on Belfast City Council. Appointed until 30 November 2004. Attended nine meetings.



Mr Frank McGuinness, Northern Ireland Director of the charity Trócaire from 1995 to 2002. Appointed until 29 February 2004. Attended 12 meetings.



Mr Kevin McLaughlin, Regional Development Manager of Leonard Cheshire in Northern Ireland from 1999 to 2002, a member of the Civic Forum and a freelance trainer and consultant on disability issues. Appointed until 30 November 2004. Attended 10 meetings.



Mr Patrick Yu, Director of the Northern Ireland Council for Ethnic Minorities, Deputy Chair of the Commission for Racial Equality of Northern Ireland from 1997 to 1999 and a member of the Civic Forum. Appointed until 30 November 2004. Attended 11 meetings.

OTHER WORK BY COMMISSIONERS

In their capacity as Commissioners Kevin McLaughlin sits on the Regional Steering Group for the European Year of People with Disabilities, which runs throughout 2003, and Lady Christine Eames chairs a committee on human rights within the independent review of mental health and learning disability in Northern Ireland established by the Department of Health, Social Services and Public Safety in October 2002. The Review is expected to take at least two years to complete. Professor Tom Hadden is an observer of the Democratic Dialogue Working Group on Freedom of Assembly, established in July 2002, to examine the interpretation of the European Convention on Human Rights in the context of parades in Northern Ireland.



CORE VALUES

The Commission seeks hard to adhere to seven core values in everything it does. These are:

- **Accessibility.** We encourage members of the public and organisations to visit our premises in the centre of Belfast and to consult the materials in our human rights library. We are also prepared to meet people anywhere else in Northern Ireland on human rights issues which are causing real concern. We try to make our events and publications as easy as possible for people to access.
- **Accountability.** As well as producing an annual report the Commission submits annual accounts to the Comptroller and Auditor General, answers parliamentary questions referred to it by the Northern Ireland Office and co-operates fully with any investigation that may be conducted by the UK's Parliamentary Commissioner for Administration (there was no such investigation during the year under review). The Commission also maintains a publicly available Register of Commissioners' Interests.
- **Equality.** As one of the main precepts of human rights is that everyone is equally entitled to those rights, the Commission obviously sets great store by promoting equality in all that it does, both internally and externally. We have produced an Equality Scheme (as required by Schedule 9 to the Northern Ireland Act 1998) and we have an Equality Committee to ensure that it is fully implemented (see pages 21-23 below).
- **Fairness.** We strive to deal with every issue brought to us in an objective and open-minded fashion. Often the way in which matters are dealt with is as important to the complainant as the outcome reached on the complaint. Article 6 of the European Convention on Human Rights confers the right to a fair hearing when a person's civil rights are in question; we therefore promote that right in our own work as much as we can.
- **Independence.** If the Commission is to command respect it is essential that it acts free from the undue influence of any other organisation. Having listened to or read the evidence available on the point at issue, Commissioners are at pains to apply their own personal thinking to the matter. They are not on the Commission as representatives of any institution or constituency and they do not "report back" to anyone.
- **Openness.** We aim to be transparent in all that we do. The minutes of Commission meetings, once approved by the Commission, are placed on our website (and can be made available in hard copy on request), we co-operate in every reasonable way with any person making an inquiry about the Commission's mode of operation and we have produced a Publication Scheme as required by the Freedom of Information Act 2000 (which does not come fully into force until 1 January 2005).
- **Participation.** As there is a limit to the resources and expertise within the Commission we are keen to work together with other individuals and organisations on issues where there are shared concerns. This does not mean that we will sacrifice our independence but rather that we will seek to add value to the work of others by forming strategic alliances which will be of mutual benefit.





MISSION STATEMENT, INTERNATIONAL STANDARDS AND SCRUTINY

In the course of the year the Commission re-examined the Mission Statement it had set for itself in 1999. It decided to retain the first part of the Statement intact, as set out below. The second part, which mostly referred to the Commission's core values listed above, was deleted on the grounds that it was repetitive.

The Northern Ireland Human Rights Commission will work vigorously and independently to ensure that the human rights of everyone in Northern Ireland are fully and firmly protected in law, policy and practice. To that end the Commission will measure law, policy and practice in Northern Ireland against internationally accepted rules and principles for the protection of human rights and will exercise to the full the functions conferred upon it to ensure that those rules and principles are promoted, adopted and applied throughout Northern Ireland.

"Internationally accepted rules and principles for the protection of human rights" are those which governments around the world have agreed to include in treaties, declarations and resolutions, together with those which over the years have become part of custom and practice between states (known now as "customary international law").

The best known of these international human rights documents are:

- the Universal Declaration of Human Rights (1948),
- the European Convention on Human Rights (1950),
- the UN International Covenant on Civil and Political Rights (1966),
- the UN International Covenant on Economic, Social and Cultural Rights (1966), and
- the UN Convention on the Rights of the Child (1989).



But there are many other such documents dealing with more specific issues, such as torture, the use of firearms by law enforcement officials, the status of refugees, discrimination against women, discrimination against racial groups, the position of human rights defenders, the protection of languages and of national minorities, and the rights of migrant workers. The main inter-governmental bodies which promote these documents are the United Nations, the Council of Europe, the Organisation for Security and Co-operation in Europe and the European Union.

A list of the main international documents is contained in Appendix 3 to this report. The list distinguishes between, on the one hand, those documents which contain “hard law”, *i.e.* standards which are binding on those states which have agreed to ratify them and, on the other, those documents which contain “soft law”, *i.e.* standards which all states should *aspire* to adhere to.

The Northern Ireland Human Rights Commission seeks to encourage the UK and Northern Ireland governments to incorporate as many as possible of these standards, whether hard or soft, into the law of Northern Ireland. During the year under review we specifically recommended that the UK government should ratify:

- the UN Convention on the Protection of All Migrant Workers and Members of Their Families,
- the First Optional Protocol to the UN Covenant on Civil and Political Rights (which would allow individuals to lodge petitions against the UK government in the UN Human Rights Committee),
- the Optional Protocol to the UN Convention on the Elimination of All

Forms of Discrimination Against Women (which again would allow individuals to petition the relevant UN committee),

- the Council of Europe’s Revised Social Charter, and
- Protocols 4, 7 and 12 to the European Convention on Human Rights (ensuring further protection of the right to free movement, equality in matrimonial property law and freedom from discrimination).

In addition the Commission advised the government to declare its acceptance of Article 14 of the UN Convention on the Elimination of Racial Discrimination and of Article 22 of the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (these too would allow individuals to petition the relevant UN committees).

There are still significant respects in which the existing international human rights documents are under-developed. For example, they say little about the rights of people with a disability, the rights of victims of crimes or the rights of people who are not heterosexual. Nor do they specify what rights should exist in societies which are divided by communal conflict or emerging from a sustained period of politically motivated violence. The Northern Ireland Human Rights Commission is committed to identifying and promoting best practice on these and other matters so that it can assist in the development of new international standards.

For further details of the Commission’s international work, see pages 42-44.



SCRUTINY OF THE COMMISSION'S WORK

Being a novel institution in these islands, the Commission is obviously very interesting to researchers and to others who are considering whether such a Commission is necessary. The Commission therefore readily agreed to co-operate with a research project based at the Queen's University of Belfast which is looking at the effectiveness to date of both the Northern Ireland and the South African Human Rights Commissions. The final report of that project is due to be published in November 2003.

The Commission was also pleased to take part in an inquiry conducted by the Parliamentary Joint Committee on Human Rights at Westminster into the work of the Commission. The Committee took formal evidence from the Commission at a hearing in Belfast in November 2002 and we submitted supplementary written evidence in January 2003. We look forward to reading the report of the inquiry later in 2003. Meanwhile we are anticipating a further report from the Parliamentary Joint Committee on whether there should be a Human Rights Commission for the UK as a whole. We submitted evidence to that inquiry arguing that, even if such a body were to be created, the autonomy of the Northern Ireland Commission should not be jeopardised, established, as it was, as part of the peace process in Northern Ireland.

Naturally there was a good deal of press coverage of the Commission's work throughout the year. Not all of the commentary was complimentary, or accurate, and the Commission had to spend a not inconsiderable amount of time publicly correcting misperceptions and downright untruths. It seems clear

that the concept of human rights is not one with which all people in our society, including some of our elected representatives, are yet entirely content.

The Commission also answered, at the request of the Northern Ireland Office, 18 Parliamentary questions during the year. These were all asked by Lord Laird of Artigarvan.

The Chief Commissioner spoke about the work of the Northern Ireland Human Rights Commission at a number of important events, including the joint annual conference of the Law Societies of Scotland and Northern Ireland (in St Andrews), the mid-year meeting of the Irish Association of Law Teachers (in Dublin), the annual conference of the Ulster Unionist Party (in Derry/Londonderry) and the British Council's conference on "Languages and Law" (in Belfast). On two occasions he delivered training on human rights commissions to staff at the Foreign and Commonwealth Office in London and he spoke about the contribution human rights commissions can make to the protection of human rights when he delivered the Harry Street Lecture at the University of Manchester in November 2002.

The Commission was visited by, amongst others, officials at the British-Irish Secretariat, the Lord Mayor of Belfast (Councillor Alex Maskey), the head of the Northern Ireland Civil Service (Nigel Hamilton), the Permanent Under-Secretary of State at the Northern Ireland Office (Sir Joe Pilling), the Attorney-General (Lord Goldsmith), the Vice-President of the Ethiopian Supreme Court, and groups of dignitaries from Colombia and from Georgia / Abkhazia. We also had a productive meeting at Stormont with Secretary of State, Paul Murphy MP and Minister of State, Des Browne MP.



HUMAN RIGHTS REVIEW OF THE YEAR

The year under review was, as usual, a mixed bag as far as the protection of human rights in Northern Ireland was concerned. While there were some positive developments, both in the legislative field and in the policy-making field, there were also several disappointing features. The Commission, on the whole, was not convinced that the government in London was taking human rights as seriously as it needed to in Northern Ireland.

THE COMMISSION'S RESOURCES, POWERS AND PLANS

Resources and powers

As regards the Commission's resources, after considerable lobbying the government did announce that for each of the next two financial years it would fund the Commission to the tune of £1.3 million, with an increase to £1.35 million in the third year. This is still not what the Commission feels it needs if it is to do its work as effectively as it wishes, but it is a lot better than the core funding of £750,000 which was accorded to us in the first two years of our existence and the £774,000 which we received in our third year. We will no longer be as dependent on "supplementary bids" and will therefore have more freedom to spend our allocation exactly as we ourselves see fit.

As regards the Commission's powers, the government has still not supplied a definitive response to the recommendations made by the Commission in the report it submitted (as required by statute) in March 2001. The reason for the delay is now, we are told, that the government, before making any announcement, wishes to consult with the

Executive Committee of the Northern Ireland Assembly, which it cannot do while the Assembly is suspended. It is difficult for the Commission to see the logic in this, since the Commission is answerable not to the Assembly in Belfast but to Parliament at Westminster. Besides, if the Assembly is to be suspended for a year or more, as seems possible, such an additional delay in reacting to the Commission's initial report becomes entirely disproportionate. What was envisaged by the government itself as a two-year review will in effect turn into a five-year review. We were pleased to note that the Council of Europe's Commissioner for Human Rights, Alvaro Gil-Robles, wrote to the UK government strongly supporting the Commission's call for greater powers.

The power to intervene in court proceedings

On the more positive side, in June 2002 the Commission did succeed in persuading the House of Lords, sitting as the highest court in the land, that the Commission had the implied power to apply to courts and tribunals for permission to intervene in any on-going court proceedings. A report of the case is



on the House of Lords website and can also be found at [2002] NI 236. The power to intervene is important because it allows the Commission to convey directly to judges its expert views on the relevant human rights standards to be applied to the cases at hand. To its credit the UK government (at the Commission's request) itself intervened in the House of Lords case to support the Commission's position.

This victory in the Lords (reversing the decision of the Court of Appeal of Northern Ireland) means that the Commission has been able to shift the emphasis of its casework strategy away from funding court proceedings brought by individual litigants towards a more selective interventionist approach on aspects of cases in which the Commission has a particular interest. Of course, as pages 30-32 below indicate, we must still leave open the possibility of granting assistance by funding an individual litigant's own lawyers, but the very unpredictability of this form of funding (and its tendency to become very large) means that this way of proceeding will probably be less common for the Commission than it has been up to now.

Strategic planning

Throughout the year the Commission spent a considerable amount of time developing a new Strategic Plan for the years 2003-2006. The earlier Plan, which had been due to expire in March 2002, was carried over for a further 12 month period. The planning process began with the distribution in May 2002 of a draft Strategic Plan for consultation over the succeeding four month period. In the last few months of 2002 Commissioners and staff further discussed the Plan and, with the help of a management consultant, an agreed Plan was eventually approved by

the Commission in March 2003. Printed copies were widely distributed in May.

The Plan pursues four strategic aims:

- delivering a Bill of Rights for Northern Ireland,
- identifying and addressing human rights violations,
- promoting awareness and understanding of human rights, and
- increasing the effectiveness of the Commission.

In furtherance of these goals the Commission will pay particular attention to certain rights within the European Convention on Human Rights, namely those protected by Article 2 (the right to life), 3 (the right to be free from torture and inhuman or degrading treatment or punishment), 6 (the right to a fair trial), 14 (the right not to be discriminated against in the enjoyment of rights) and Article 2 of Protocol 1 (the right to education). In addition, the Commission will remain flexible to responding to what appear to be gross violations of human rights in other areas.

Review of management structures

Another major piece of work undertaken during the year was a review of management and organisation structures. The Commission engaged a consultant to lead on this work (Roger Courtney) and in February 2003 the Commission endorsed, with only a few reservations, the recommendations contained in his report. A Steering Group comprising representatives of Commissioners and staff was then set up to oversee the implementation of the recommendations during the year 2003-2004.



THE CONVENTION RIGHTS

During the year the Human Rights Act 1998 (which came into force in 2000) embedded itself more deeply in the legal culture of Northern Ireland. It makes the European Convention on Human Rights part of the law of every part of the United Kingdom. The Commission continued to provide some elementary training on the Act, especially to professionals working in the field, such as solicitors, social workers and Boards of Visitors to prisons.

The local courts made no further declarations of incompatibility to add to the one issued by Mr Justice Kerr on 28 June 2001 in *In re McR* (concerning the law on sexual assaults). Nor were any pieces of legislation declared invalid in the courts. But on many occasions judges in Northern Ireland were obliged to take into account arguments raised by lawyers based on the Human Rights Act. The website of the Northern Ireland Court Service (www.courtsni.gov.uk/judgments/), which now carries the reports of most of the leading cases decided in Northern Ireland, is testimony to that reality, as are the figures produced by the Court Service on the number of cases in which arguments based on the Human Rights Act are raised in the first place.

The European Court of Human Rights issued judgments in 36 cases taken against the UK, compared with 30 cases during the previous year. However only two of this year's cases originated in Northern Ireland, compared with eight the previous year. In one of these two cases (*Faulkner v UK*, 4 June 2002) the applicant successfully complained of a breach of Article 8 of the European Convention (the right to a private life) when, while he was detained in Magilligan Prison on temporary transfer

from a Scottish prison, a letter he wrote to a Scottish Minister of State was returned to him undelivered. The second case was a much more important one dealing with the right to life.

The right to life

In *McShane v UK* (28 May 2002) Dermot McShane had been crushed to death by an army Saxon armoured personnel carrier (APC) during civil disturbances in Derry/Londonderry on 12 July 1996. The European Court held unanimously that there had been a breach of Article 2 of the European Convention (the right to life), not because unlawful force had been used (this is still the subject of civil proceedings) but because there had not been a proper investigation of the death. In awarding Mr McShane's widow £8,000 in compensation, the Court said that the investigation failed to meet the required European standards in the following respects:

- there was a lack of independence of the police officers investigating the incident from the officers implicated in the incident,
- the police investigation showed a lack of expedition,
- the soldier who drove the APC could not be required to attend the inquest as a witness,
- the inquest procedure did not allow any verdict or findings which could play an effective role in securing a prosecution in respect of any criminal offence which may have been disclosed,
- the non-disclosure of witness statements and other relevant documents contributed to long adjournments in the proceedings, and
- the inquest proceedings had not commenced promptly.



Like the cases of *Jordan v UK*, *Kelly v UK*, *McKerr v UK* and *Shanaghan v UK* (all decided in May 2001) the decision in *McShane* highlights basic flaws in the way in which Northern Ireland's law protects the right to life. The Human Rights Commission has therefore striven hard during the year to ensure that the government's "package of measures" aimed at addressing those flaws is completely sound. Regrettably we had to notify the government, and the Committee of Ministers in the Council of Europe, that we did not think that the proposed measures went far enough to cure the failings in the system. This is particularly so in view of the decisions of the Court of Appeal of Northern Ireland in *In re McKerr* (10 January 2003) and of Mr Justice Kerr in *In re Wright* (7 March 2003), where it was held that Article 2 compliant investigations had still not been conducted even though in those cases individuals had actually been prosecuted for the murders in question. At the end of the year the Commission was continuing to ensure that the Committee of Ministers was kept informed about the exact legal position in Northern Ireland in this vital area.

The Commission also spent time during the year inquiring into whether the systems in place for protecting people against death threats were operating in conformity with the requirements of Article 2. We met separately with the Chief Constable and with the Minister of State, Jane Kennedy MP, on this issue. Our chief concern is that whereas it is quite easy for (e.g.) a prison officer to receive protection if his or her personal details are found on the computer of a member of a paramilitary organisation, this is not the case if the details found are of individuals who do not have a role in the running of the legal system of Northern Ireland. By March 2003 the Commission

was considering whether to seek judicial review of the way in which the protection schemes are currently being applied.

Also relevant to the right to life was the decision of the European Court in the case of *Diane Pretty* (29 April 2002). Mrs Pretty, who was dying of motor neurone disease, wanted her husband to be allowed to assist her suicide without fear of prosecution. The Director of Public Prosecutions refused to give such an undertaking and the courts in England upheld this position. The European Court, likewise, held that no right to die, whether at the hands of a third person or with the assistance of a public authority, could be derived from the wording of Article 2 of the Convention. It recognised that the current English (and Northern Irish) law was in fact designed to safeguard life by protecting the weak and vulnerable, and especially those who are not in a condition to take informed decisions, against acts intended to end life or to assist in ending life.

The rights of prisoners

No-one was killed by the police or army during the year, but two people did die while in prison, both at Maghaberry. Mark Fulton was found dead in June and Annie Kelly in September. The Prison Service maintains that both deaths were suicides but the Commission has been unable to verify this because the Prison Service has not given the Commission sight of the internal reports into the deaths. At the year's end the Commission was considering whether to judicially review the Prison Service as a way of testing the powers of the Commission to get hold of information which it needs to examine if it is to be in a position to reassure the public that human rights are being fully protected in Northern Ireland.



Prisoners' rights were improved during the year too. In *Ezeh and Connors v UK* (15 July 2002) both applicants had been found guilty at adjudication hearings before prison governors of breaches of the Prison Rules. They were "awarded" 40 and 7 days of additional custody respectively. At neither hearing was the applicant allowed to have legal representation. The European Court of Human Rights held that there had therefore been a breach of Article 6(3)(c) of the Convention, although it awarded no compensation. The Court said that it had not been demonstrated by the UK government that the additional days of custody were not "appreciably detrimental". We understand that the Northern Ireland Prison Service has since adopted the practice of not awarding any additional days of custody for relatively minor infractions of Prison Rules. More serious infractions will be prosecuted through the courts.

In *Stafford v UK* (28 May 2002) the Grand Chamber of the European Court ruled that UK law contravened Articles 5(1) and 5(4) of the Convention in that it did not allow mandatory life prisoners to challenge in a court their recall to prison after being released on licence. A similar ruling was made in respect of a man who was a juvenile when detained indefinitely "at Her Majesty's Pleasure" (*Waite v UK*, 10 December 2002). The Home Secretary is currently considering how best to respond to these rulings, as well as to the judgment of the House of Lords in the *Anderson* case (25 November 2002) that decisions on how long a prisoner should remain in prison should *not* be taken by a government minister. The Northern Ireland Human Rights Commission is firmly of the view that all sentencing decisions should be taken by judges, not by ministers. There is no other way of ensuring that political

considerations do not influence the decisions.

Detention of asylum-seekers

During the year the Commission visited Maghaberry Prison to see the detention facilities used for the small number of asylum-seekers who are held in custody in Northern Ireland. We remain most concerned that such detainees are held in a maximum security prison cheek by jowl with persons convicted of serious offences. The fact, as a Home Office Minister told us, that the detainees can opt to be moved to a less restrictive environment in a centre in Scotland is not, in all cases, a reasonable alternative. At our meetings with the Director of the Prison Service during the year we discussed, amongst many other things, the duty on his agency to ensure that the religious beliefs of such detainees are respected.

Children's rights

In *E and others v UK* (26 November 2002) the European Court held that the authorities had not done enough to protect four children against sexual and physical abuse by their stepfather. The Court found a breach of Articles 3 and 13 of the Convention and awarded compensation of EUR 16,000 to each of three of the applicants and EUR 32,000 to the fourth. This highlights the extent of the duties on state agencies to ensure that children are fully protected throughout our society.

The Commission commented in detail on the Commissioner for Children and Young Persons Bill, which was eventually enacted (although without the changes we wanted made) as an Order in Council on 27 February 2003. In the absence of such a Commissioner to date, the Human Rights Commission has been seeking to play



such a role on behalf of children. We are looking forward to working closely with the Commissioner once he or she takes up the post later in 2003.

Also on 27 February 2003 the Education and Libraries (NI) Order 2003 and the Protection of Vulnerable Adults (NI) Order 2003 were made. The Commission had, again, commented on these when they were Bills pending in the Assembly (prior to its suspension). We welcomed, too, the passing by the Assembly of the Children (Leaving Care) Act (NI) 2002. Although not perfect, these new laws do improve the human rights of children in a variety of contexts. However, disappointingly, no draft legislation has yet been introduced to outlaw the physical punishment of children outside school.

The rights of transsexual people

The Commission was pleased to note that the European Court of Human Rights has significantly enhanced the rights of post-operative transsexual people (see *Goodwin v UK* and *I v UK*, 11 July 2002) and it awaits with interest the steps which the UK government will take to comply with these judgments. This development is all the more welcome in that it represents a reversal of the European Court's position consistently adopted even in very recent decisions. Unfortunately the Marriage (NI) Order 2003 did not take account of the needs of transsexual people, despite the Commission advising that it should.

OTHER RIGHTS

The Electoral Fraud (NI) Act 2002 was also enacted. This should help to ensure that elections in Northern Ireland are fully free and secret, as required by Article 3 of Protocol 1 to the European Convention on Human Rights. However the effect of

the Sex Discrimination (Election Candidates) Act 2002 – which permits political parties to give a preference to one or other of the sexes when making arrangements for the selection of a candidate for an election – has not yet been noticed in Northern Ireland. The Commission met with representatives of the Electoral Commission to discuss issues of mutual concern.

A number of social and economic rights were better protected as a result of the enactment of the Employment Rights (NI) Order 2002, the Environment (NI) Order 2002 and the Housing (NI) Order 2003. But reform of the divorce laws has been delayed because of the suspension of the Assembly as, of course, has the development of a Single Equality Bill to enhance the promotion of equality and the prohibition of discrimination in Northern Ireland. The Commission will liaise with officials and others on these outstanding matters during the next year.

In July 2002 a working group convened by Democratic Dialogue was established to examine closely the interpretation of the European Convention in the context of parades in Northern Ireland. The Commission was invited to participate in the group and agreed to do so as observers through its representatives Professor Tom Hadden and Nadia Downing. At year's end the group was due to submit a report on its findings to the government's consultation on the Review of the Parades Commission and the Public Processions (NI) Act 1998, carried out by Sir George Quigley. It was then intending to deliberate on its recommendations for a Bill of Rights for Northern Ireland and to submit a separate report to the Human Rights Commission.



CRIMINAL JUSTICE AND POLICING REFORMS

The Justice (NI) Act 2002 received Royal Assent on 24 July 2002. Throughout its Parliamentary stages the Commission tried to persuade MPs and peers to insert further clauses ensuring that international human rights standards were incorporated, but without success. While the Act implements many of the recommendations made in the Criminal Justice Review for Northern Ireland, published in March 2000, the Commission remains disappointed that a stricter duty was not imposed on the Director of Public Prosecutions to publish his reasons for not prosecuting in certain circumstances and that, in our view, the reforms on juvenile justice do not adhere fully to the requirements laid down in United Nations instruments.

In June 2002 the Commission organised a roundtable discussion of the proposed Access to Justice (NI) Order and the Order was eventually made on 27 February 2003. It changes drastically the way in which criminal (and civil) legal aid is to be administered in Northern Ireland, with a new Legal Services Commission being appointed to take the place of the Law Society's Legal Aid Department. The Human Rights Commission welcomes the bulk of the changes but continues to have concerns over the level of funding available for legal aid in Northern Ireland. We shall observe carefully as the new Commission develops its activities. We shall also keep under review the Memorandum of Understanding which we have agreed with the existing Legal Aid Department. At present this ensures that applicants for legal aid are not passed from pillar to post if the core of their application raises an important human rights issue. Representatives of the Commission also met with John Simpson,

the Judicial Appointments Commissioner for Northern Ireland.

Policing

The year also saw debates on a new Police (NI) Bill, which was about to become an Act at the year's end. The Commission is pleased that the powers both of the Policing Board and of the Police Ombudsman are to be enhanced by the legislation and that the Commission is to be made a statutory consultee for codes of practice issued by the Secretary of State on policing matters. We welcome the creation of the District Policing Partnerships and will strive during 2003 to ensure that they are kept informed of the Commission's work on policing issues. We were also pleased to see the publication of the Code of Ethics by the Policing Board in February 2003. The Commission, and other human rights organisations, were able to influence the content of this document significantly and we look forward to its being implemented from 14 March 2003, when, by new regulations, a breach of the code became a disciplinary offence.

The Commission is taking a greater interest in the use of both overt and covert surveillance techniques (especially by the police) following the European Court's judgments in *Peck v UK* (28 January 2003), *Allan v UK* (5 November 2002), *Taylor-Sabori v UK* (22 October 2002) and *Armstrong v UK* (16 July 2002). The way in which the police (and army) use informers continues to concern us (at the year's end we were awaiting the publication of the third Stevens Report into the circumstances surrounding the murder of Patrick Finucane in 1989), not least whenever the informers are under the age of 18. The Commission agreed to supply information in its possession to Judge Peter Cory, who is examining six key



cases of alleged collusion with a view to recommending whether they require a public inquiry.

During the year the Commission had several meetings with representatives of the Police Service, the office of the Police Ombudsman and the office of the Oversight Commissioner. We are trying to develop an equally good relationship with the Policing Board.

Anti-terrorism laws

The Commission maintained a watching brief on the operation in Northern Ireland of the Terrorism Act 2000 and the Anti-Terrorism, Crime and Security Act 2001. The latter permits non-British people to be held indefinitely without trial, a practice which the Commission has condemned, but fortunately the power has not yet been

invoked in Northern Ireland. We met with the overseer of the anti-terrorist legislation, Lord Alex Carlile, and reiterated our view that the time was now right to phase out the use of non-jury Diplock courts. We also met with the Independent Commissioner for Detained Terrorist Suspects, Dr Bill Norris, with the Independent Assessor of Military Complaints Procedures (Jim McDonald) – to discuss the army's use of plastic baton rounds – and a delegation from the Criminal Cases Review Commission. The Chief Commissioner spoke at a conference on terrorism in London in June 2002.





"Blue Flax" perform *Time after Time* by Kate Muldoon at the Principles of Equality conference, March 2003, Belfast.
Photo Lesley Doyle

THE COMMISSION'S COMMITMENT TO EQUALITY

Commissioners and staff have agreed to abide by an *Equality Commitment Statement*, which reads as follows:

The Northern Ireland Human Rights Commission is committed to ensuring that in everything it does it will pay due regard to the importance of promoting equality of opportunity for all persons in Northern Ireland. All individual Commissioners are determined that at all levels at which policies and decisions are made and implemented equality of opportunity will be taken fully into account as a very important factor bearing upon the content and effects of those policies and decisions.

All Commissioners and staff within the Commission pledge that they will refer to the Commission's commitment to equality at all appropriate times in meetings, presentations, document and speeches. Staff will report on their success in achieving equality of opportunity when submitting reports to the Chief Executive or to committees of the Commission.

Where a failure adequately to promote equality of opportunity is identified at any level of the organisation, steps will be taken to draw this to the attention of the Commission as a whole through the Commission's Equality Committee, of which the Chief Commissioner and Chief Executive shall be members.



This commitment is given greater force by the Commission's *Equality Scheme*, which it has produced in line with its obligation to do so under the Northern Ireland Act 1998. The Commission's Scheme was approved by the Equality Commission in July 2002 and was then published in English and Irish and circulated widely. It is posted on our website and is available in various formats on request. Following its approval, staff met to assess how best to take forward the commitments made in the Scheme and how to implement them in our day-to-day work. A report on the first year's operation of the Equality Scheme was submitted to the Equality Commission, as required by law.

In July 2002, a review was conducted of all the Commission's committees with a view to examining whether their membership and their criteria for prioritising work were in accord with the requirements of section 75 of the Northern Ireland Act 1998 (as far as promoting equality of opportunity and good relations is concerned). Some changes were made as a result. This review was followed by a management audit carried out across all of the Commission's functions. The results of the audit were presented to the Commission's Equality Committee in September 2002. It identified points to do with training and operational issues that were then dealt with accordingly.

One example is that an amended monitoring form was prepared for use at events, and for training and for recruitment purposes; this covers all nine sectors listed in section 75 but makes clear which pieces of information have to be provided by law and which are optional. Effective monitoring is kept under review by the Equality Committee as it tries to achieve a balance between, on the one hand, securing useful and

necessary information about Commission practices which affect a wide number of people and, on the other, causing offence by seeking information that is personal or private.

Procurement of services is another area where difficulties can arise with monitoring. Given the nature of the Commission's work, it often experiences difficulty in drawing upon a wide enough pool of expertise to allow any meaningful monitoring to be undertaken and yet, of course, Commissioners are keen to ensure that there is full compliance with our statutory duty in this regard. Training on equality issues remains a priority for the Commission and during the year useful sessions were provided for Commissioners and staff on sexual orientation and on proposals for a Single Equality Bill.

JOINT WORK

The Joint Equality and Human Rights Forum

The Commission is a member of the Joint Equality and Human Rights Forum, which comprises all the statutory agencies in the UK and Ireland dealing with equality and/or human rights. It meets twice yearly to share common interests in policy and practice and the Chief Executives meet on two other occasions each year. The Forum met in London in June 2002 and was hosted by this Commission in Belfast in November 2002. Much of the discussion at those meetings focused on the proposals to merge the three equality agencies in Great Britain – the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission. The Equality Commission of Northern Ireland and the Equality Authority in the Republic of Ireland provide good models of this integrated approach. In addition, the Forum prepared a report on multiple



identity and discrimination, to which each agency contributed a section. A member of the Commission's staff, Dr Christine Loudes, wrote a chapter on the experience of young lesbian, gay and bisexual people in Northern Ireland with a particular focus on their access to healthcare. The publication is due to be launched in the summer of 2003



A reception to mark Human Rights Day 2002 took place in the Commission's library.
Photo Lesley Doyle

The Equality Commission

The Human Rights Commission continues to work with the Equality Commission in furtherance of our Memorandum of

Understanding, and there are regular meetings between the Chairs and Chief Executives. No full meeting of the two Commissions took place during the 12 months under review, but one is due to be held later in 2003, probably on the impact of the EU Framework Directive on Employment Equality, part of which will be brought into force during the next financial year.

Preparation of the UK National Action Plan Against Racism has involved both this Commission and the Equality Commission and a joint seminar was held at this Commission's premises, with the Office of the First Minister and Deputy First Minister and the Northern Ireland Council for Ethnic Minorities as partners, to consult on local responses to the proposed Plan. Responses to the UK government's periodic reports under the UN Conventions on the Elimination of Discrimination Against Women (CEDAW) and the Elimination of Racial Discrimination (CERD) are also being prepared by this Commission in discussion with the Equality Commission. A shared concern as to how to control spiraling legal costs within both Commissions has led to a useful debate and co-operation on procedures that might be adopted.





The Human Rights Consortium presented a 'gift' of a Bill of Rights to Commissioners and staff on Human Rights Day 2002 at Belfast City Hall.
Photo Kevin Cooper

THE BILL OF RIGHTS PROJECT

Consultation on a Bill of Rights for Northern Ireland continued to be a key focus for the Commission during the year under review. A Bill of Rights defines the relationship between a state and its people and should be informed by the fundamental principles of dignity, equality and respect.

Under section 69(7) of the Northern Ireland Act 1998, which refers to paragraph 4 of the relevant part of the Belfast (Good Friday) Agreement, the Commission must consult and advise the Secretary of State on:

...the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and – taken together with the ECHR – to constitute a Bill of Rights for Northern Ireland. Among the issues for consideration by the Commission will be:

- *the formulation of a general obligation on Government and public bodies fully*

to respect, on the basis of equality of treatment, the identity and ethos of both communities in Northern Ireland; and

- *a clear formulation of the rights not to be discriminated against and to equality of opportunity in both the public and private sectors.*

Consistent with this paragraph, the Commission wants to ensure that the best possible Bill of Rights is procured for Northern Ireland.

Work on the Bill of Rights is overseen by the Commission's Bill of Rights Committee and is discussed at each month's Commission meeting. In practice the activities are mainly carried out by the Commission's Development Worker, Miriam Titterton. The Commission's Education, Information and Research Workers and (to November 2002) a Children and Young People Co-ordinator



have assisted the process of helping people understand international standards of human rights so that they can contribute meaningfully to the debate around the preferred content of the proposed Bill.

"PHASE TWO" ACTIVITIES

After conducting an initial phase of consultation between March 2000 and August 2001, the Commission launched its draft advice to the Secretary of State in September 2001 in the form of a consultation document called *Making a Bill of Rights for Northern Ireland*. This was widely disseminated in various formats, including a young people's version.

The Commission received over 300 responses to the document, some representing views gained from further extensive consultation by respondents themselves. All Commissioners received copies of all submissions and a series of meetings was held to consider these responses. Final agreement as to what changes should be made to the initial proposals must await completion of these deliberations. A summary of the responses is due in to be published in the summer of 2003.

"PHASE THREE" ACTIVITIES

"Phase Three" involves deepening our work with the public, and particularly with local politicians, on a number of key issues which have been identified by the Commission as particularly technical, difficult or controversial. It also entails Commissioners considering carefully the hundreds of responses to the Commission's consultation document of September 2001.

A major event to discuss phase three plans was held in Malone House, Belfast, in December 2002, chaired by Professor Kevin Boyle of the Human Rights Centre at the University of Essex. This was followed by a series of events intended to raise awareness and build understanding of some of the key issues involved.

A conference on "Economic and Social Rights" was held in the City Hotel, Derry/Londonderry, in February 2003. The speakers were Professor Paul Hunt, also of the University of Essex and UN Special Rapporteur on the Right to Health, and Les Allamby, Director of the Law Centre NI. An event on "The Principles of Equality" was held in the Odyssey Centre, Belfast, in March 2003, with a presentation by Professor Stephen Livingstone of the Human Rights Centre at Queen's University, Belfast. A joint seminar on group rights was organised with Democratic Dialogue, with presentations from Professor Rogers Brubaker from California and Malachi O'Doherty, editor of *Fortnight* magazine. Further events were planned, such as one on "Community and Identity Rights" to be held in Armagh in April 2003.

In its efforts to increase involvement by the main political parties in the Bill of Rights debate the Commission met with most of the parties on several occasions to discuss their hopes and concerns. We held fringe workshops at the Ulster Unionist Party and SDLP annual party conferences, and provided displays at and/or attended the party conferences of the Progressive Unionist Party, the Democratic Unionist Party, the Northern Ireland Women's Coalition, the Alliance Party, Sinn Féin and the Workers' Party. Parties were also invited to send representatives to Commission events.



Following a meeting on the subject in Armagh in December 2002, the Commission sent a letter to all the party leaders encouraging them to join Round Table talks on a Bill of Rights. By the year's end we were hopeful that such a Round Table would indeed be set up, although it seems that this may be dependent on whether progress can be made on other parts of the political jigsaw in Northern Ireland. While conscious of its own statutory responsibilities in this area the Commission is keen to support inter-party initiatives if these stand a chance of securing cross-community consensus on what should best be presented by the Commission to the Secretary of State as the preferred content of a Bill of Rights for Northern Ireland.



Prof Brice Dickson, NIHRC, in discussion with Prof Kevin Boyle, Human Rights Centre at the University of Essex, who chaired the Bill of Rights 'phase 3' conference, December 2002, Belfast. *Photo Lesley Doyle*

International assistance on the Bill of Rights has again been sought from (amongst others) Justice Albie Sachs of the South African Constitutional Court, the Office of the High Commissioner on National Minorities within the Organisation for Security and Co-operation in Europe and the Directorate General of Human Rights in the Council of

Europe. Throughout the next year the Commission hopes to build upon such contacts so that our final advice on the Bill of Rights is firmly rooted in internationally recognised standards.

WORKING WITH OTHERS

The Commission worked closely throughout the year with the Human Rights Consortium, a forum of non-governmental organisations (NGOs) working together to achieve a strong, comprehensive Bill of Rights. Commissioners attended a major Consortium event held in Stormont in February 2003, which aimed to inform politicians of NGO concerns such as the need to include economic and social rights in the Bill of Rights as an aid to assisting peace-building within and across communities.

The Commission continued to hear the views of a wide range of organisations. We met with, among others, Ulster Human Rights Watch, British Deaf Association, NUS-USI and the Church of Ireland's Legislation and Politics Committee. The Development Worker contributed to training and public meetings on human rights organised by, for example, Ballyhackamore Village Trust, a trades union training course, the University of Ulster and Belfast Institute of Further and Higher Education. She liaised with representatives from the so-called section 75 sectors, including carers, people with disabilities, women and young men, and also with representatives from advice, anti-poverty and rural groups. She represented the Commission at events such as the Mobility Roadshow, the relaunch of the HIV Support Centre, a Good Relations Strategy seminar, a Disability Action conference, PSNI Community Relations Fairs and events to mark the annual Human Rights Day (10 December).



The Chief Commissioner spoke about the Bill of Rights at numerous events, including a conference organised by the Orange Order, a training session for the Lay Panel Association (lay magistrates), a meeting of SDLP councillors and a debate organised by Limavady College of Further Education.

CONSULTING WITH CHILDREN AND YOUNG PEOPLE

Children and young people under 18 years of age have a human right (under the UN Convention on the Rights of the Child) to have a say in all matters affecting them. There is no lower age limit to this right.

The Commission therefore has a duty to consult all age groups. To help meet this duty we extended the Children's Co-ordinator post for a number of months. Sara Boyce worked with the Commission until late Autumn 2002, when she took up a post at the Children's Law Centre and Save the Children. During her time with the Commission she gathered views from over 1,350 children and young people. These were then summarised in a booklet entitled *What You Said*, launched in the Odyssey Centre, Belfast, in May 2002. The Commission also commissioned a

paper from Dr Ursula Kilkelly of University College Cork to enable the children's sector to argue the case more effectively for children's rights to be included in a Bill of Rights.

Lack of resources hampered the Commission's youth work to some extent. We engaged Harry Reid to support a youth panel whose members were keen to contribute their views on the Bill of Rights. The Development Worker took part in a Youth Action event for young men and spoke at Lisburn Youth Council's conference in March 2003. At the year's end the Commission was looking at what further activities need to be undertaken by it in terms of best practice in working with young people.

The Commission welcomes the establishment of the office of the Commissioner for Children and Young People. Once this person is appointed the Commission will seek to establish a Memorandum of Understanding with his or her office to ensure that appropriate collaboration takes place on matters of common concern.





Nigel Hamilton, Head of the Northern Ireland Civil Service, visited the Commission in December 2002.
Photo Lesley Doyle

LEGISLATION AND POLICY

In furtherance of its duties under ss.69(1), (3), (4) and (6) of the Northern Ireland Act 1998, the Commission monitors and promotes compliance in Northern Ireland with international human rights standards. The Legislation and Policy Committee oversees the provision of advice on legislation and policy to the UK and devolved administrations, including Parliament, the Assembly and a wide range of public authorities. It is also responsible for liaising with government on the process of reporting to treaty bodies, and submits its own reports to those bodies. During the reporting year the Committee was serviced by three research workers: Ciarán Ó Maoláin, Denise Magill (part-time until December 2002, then on maternity leave) and Nazia Latif (part-time from December 2002).

RESOURCES AND DEMAND

The Committee took advantage of enhanced staff resources, giving it 1.3 full-time equivalent posts for three months and 1.5 for the remainder of the year, to continue the previous year's pattern of increasing reliance on the in-house drafting of responses to consultations and other submissions, with a corresponding decrease in expenditure on the commissioning of draft responses from outside experts. It also saw a further increase in the number of such responses, with most taking the form of letters (often leading to constructive exchanges with officials) rather than the more formal documents that are still required for major submissions.

In addition to matters outstanding at the start of the year, during 2002-2003 some 368 new items were received, an increase of about 5 per cent on the previous year. The increase was partly attributable to an improvement in communications between the Commission and, in particular, the Northern Ireland government departments, so that most departments and their respective agencies routinely copied legislative proposals and policy consultations to the Commission. While it was not possible, following the suspension of the devolved administration, to finalise a formal Protocol with the departments, a working model was agreed with the Office of the First Minister and Deputy First Minister, and the Commission is confident that there will be



earlier and better liaison with it in future. Regrettably the Commission was not always consulted as it should have been on initiatives originating in central government, including UK-wide legislation, but steps were taken to improve the Commission's visibility on the Whitehall radar. In particular, better working relationships were established with several of the units responsible for reporting to treaty bodies. This is discussed further under International Work (see page 42).

All 368 new items received an initial assessment by staff. Where no significant human rights issues were discerned, the files were closed after referral to a Committee meeting. Otherwise staff either drafted responses on the basis of established Commission policy or brought the matter to the Committee for further discussion. The efficiency and prioritisation of work was greatly enhanced by the careful development by the Committee, and eventual adoption by the full Commission, of a set of criteria for when to undertake work on legislation and policy initiatives. These are set out in Appendix 4.

OUTPUT

In the course of the year a total of 107 responses or other submissions were issued, about 30 more than in the previous year. As usual, some items required particular attention and received more than one response – for example, there were seven separate outputs relating to the UN Convention on the Rights of the Child, since the United Kingdom was examined by the treaty body in June 2002. Thus the actual number of items responded to was 77, as against 57 in 2001-2002.

Some 25 of the Commission's responses related to Assembly legislation (both public and private Bills), the self-regulation of the Assembly, or other matters within the Assembly's competence. Another 15 related to Westminster legislation, inquiries by Parliamentary committees, and such topics. Another 20 items related to the state's international obligations; this included "shadow" reports to UN committees, and correspondence with government departments about the treaties. Ten responses related to secondary legislation, addressing such issues as powers of entry for inspectors. The remaining 37 items may be broadly categorised as policy matters, some contributing to public consultation exercises and others responding to requests for assessments of the human rights compliance of proposed policies or guidelines. In most instances the Commission's advice was published, but some responses were made in confidence, as, for example, when an Assembly member sought human rights advice on a private Bill.

In its last Annual Report the Commission discussed the difficulty of assessing the effectiveness of its work on legislation and policy. There is still no obligation on government to take heed of any advice that is offered and, even where changes are made in line with what the Commission proposes, it is rarely possible to tell whether this is even partly a direct result of the advice. While it can at times be frustrating to work in such an environment, the Commission remains committed to doing all that it can, within its resources, to ensure that law and policy in Northern Ireland protects the rights of all.





Lee Allamby, Law Centre (NI) (left) and Prof Paul Hunt, UN Special Rapporteur on the Right to Health (second right) with Brice Dickson and Paddy Sloan, NIHRC, at the social and economic rights conference, February 2003, Derry/Lderry.
Photo: Maurice Thompson

CASEWORK

The Commission's casework function takes four forms. First, the Commission receives inquiries from members of the public or from solicitors by way of telephone, letter, fax or email. Second, the Commission receives and considers applications for formal legal assistance from individuals and solicitors on the grounds specified in section 70 of the Northern Ireland Act 1998. Third, the Commission considers whether it should apply to intervene in cases or take cases to the courts in its own name. Fourth, the Commission maintains a watching brief in a number of cases where there are interesting or important human rights points involved.

The Commission's first Case Worker, Maggs O'Connor, left the Commission in November 2002 to work in private practice. The Commission very much appreciates the work carried out by Ms O'Connor in the three years she was employed by us. Since November 2002 our Assistant Case Worker, Angela Stevens, has been acting up in the Case Worker's role and we aim to employ additional staff for our casework function during the forthcoming year.

Commission's Case Workers, which included writing letters on behalf of the individual concerned to relevant authorities seeking further information, comment or mediation. The inquiries raised a very wide variety of issues, including prisoners' rights, social housing, social security, planning, access to health services, immigration, compensation and employment related matters.

INQUIRIES

During the year from 1 April 2002 to 31 March 2003 the Commission received 652 inquiries. This is a 26 per cent increase on the figure for 2001-2002 (516 inquiries). Of these inquiries at least half required further action by the

APPLICATIONS FOR ASSISTANCE

During the year the Commission considered 65 applications for assistance from individuals and granted assistance in 10 cases. This compares with 54 applications considered in 2001-2002, when assistance was granted in seven cases. The nature of the assistance granted took a number of different forms,



including providing formal legal advice, paying for the costs of solicitors and barristers in court proceedings, or paying for expert evidence to be submitted to a court. As a result of the decision by the House of Lords in June 2002 that the Commission has the power to apply to intervene in court proceedings (see page 13 above), the Commission has decided to consider offering such intervention as a form of assistance to individual applicants (as well as considering it in cases otherwise coming to the Commission's attention).

Among the cases assisted during the year, one involved the right to a fair hearing together with the right to a private and family life: it was about the procedures used by the tribunal which assesses whether a person's security vetting for sensitive jobs has been properly conducted. At the year's end this case was ongoing. Another assisted case involved the right to marry and found a family, where a couple was refused NHS-funded fertility treatment. Again this case was ongoing in March 2003.

A further case included an individual's right to a private life where his suicide attempt was filmed for broadcast on a local television programme. In this case the individual was not successful in obtaining an injunction to prevent the programme from being aired, but the BBC did agree to pixellate the film so that it would not be easy to identify the person in question.

Another case involved an individual's right to liberty and right to a fair hearing when he was detained under the Mental Health (NI) Order 1986. The individual challenged the conduct and procedure of the Tribunal and whether or not rules 11 and 12 of the Mental Health Review Tribunal (NI) Rules 1986 are compatible

with the European Convention on Human Rights. The challenge was not successful, the High Court holding that, amongst other things, the applicant had not been denied fairness simply because information had been withheld from him and that a balance had to be struck between, on one hand, the requirement that the applicant should generally have the opportunity to see and comment on all information adverse to him and, on the other hand, the applicant's well-being and safety if the detail of the information were made known to him (see *In re McGrady*, 14 February 2003, NI Court Service website). At the year's end the applicant was considering an appeal.

Throughout the year the Commission sought to make a decision on applications for assistance within six weeks from the date of the application. It also has a procedure for dealing with emergency applications and this was invoked on eight occasions during the year.

Several cases mentioned in last year's annual report were concluded this year. Amongst these was the challenge to the Mental Health Review Tribunal Rules, mentioned above. The case where the Commission is funding the mother of one of the children attending Holy Cross Girls Primary School in North Belfast to take a judicial review of policing decisions concerning protests near the school remained unresolved at the year's end. The High Court has set a date for a hearing in June 2003.

POWER TO INTERVENE

If the Commission decides, after applying its criteria, not to grant direct financial assistance to an individual applicant, it then considers whether there is any other action that is appropriate for the



Commission to take in the case. On foot of this the Commission has “intervened” in a number of cases. The legality of such interventions was confirmed by the House of Lords in June 2002 (see page 13 above), as indeed was the power of the Commission to act as an *amicus curiae* (“friend of the court”) when requested by a court or tribunal to do so. Since this ruling the Commission has decided to apply to intervene in four cases, as follows:

- A case where the prosecution was applying to the Crown Court for a direction that the venue of a criminal trial be moved to another town on the assumption that a jury drawn from the local area would be biased in favour of the defendant. The Commission was permitted to intervene to give its opinion that the defendant’s rights under Articles 6 and 14 of the European Convention were engaged. The Court took the Commission’s opinion into consideration and directed that a jury from the local area should be sworn, with the proviso that the case might still be required to be moved to Belfast for reasons to do with information technology.
- A case involving a provision in Schedule 2 to the Employment Rights (NI) Order 1996, which appears to exclude liability in many employment law claims brought by members of the armed forces against the Ministry of Defence. The Commission is arguing that the apparent exclusion has to be balanced against the applicant’s rights to a fair hearing under Article 6 of the European Convention. As at 31 March 2003 there had not yet been a substantive hearing in the case.
- A case, also currently ongoing, involving the applicability of Article 2 of the European Convention (which protects the right to life) to killings by persons other than state agents, in this instance members of a paramilitary organisation. The Commission is arguing that many of the standards required by Article 2 should apply to this situation just as much as they do to killings where state agents are involved.
- A case where the Commission is arguing that the Article 2 standards require reforms to the law of inquests. Although the case is not based on anything which happened in Northern Ireland the Commission wishes to intervene because the case is to be heard in the House of Lords and the judgment of that court will set a precedent that is binding on all courts here.

During the year the Commission did not take any cases in its own name.

WATCHING BRIEF

The Commission was maintaining a watching brief in 15 cases at the end of the year and assessments were pending in four applications for assistance.

The Casework Committee thoroughly revised all of its criteria and procedures in the course of the year and at the year’s end was awaiting counsel’s further opinion on many of them. The main sets of criteria in use in March 2003 are set out in Appendix 4.





Experts from Northern Ireland, England and the Republic of Ireland at the Commissions seminar on human rights and the curriculum, March 2003, Belfast.
Photo Lesley Doyle

EDUCATION

In the period April 2002 to March 2003 the Commission's education work has continued to focus on promoting an understanding of human rights and on keeping education law and practice under review. The Education Worker is Edel Teague.

PROMOTING AN UNDERSTANDING OF HUMAN RIGHTS

The Commission, on the recommendation of its Education Committee, has chosen to concentrate on the promotion of an understanding of human rights within police training and in schools.

Human rights training within the Police Service of Northern Ireland

In 2002-2003 the Commission focused primarily on monitoring the human rights training being given to student police officers. In November 2002 it produced a report entitled *An Evaluation of Human Rights Training for Student Officers in the Police Service of Northern Ireland*. The Commission has since then been working with the PSNI to ensure that the recommendations contained in the report are implemented. The Commission has also monitored the human rights training being received by probationary officers

(that is, student officers who have graduated) as well as the so-called "Course For All", a special course provided to all officers. Reports on these two courses will be produced in the next financial year.

Human rights and the curriculum

The Commission is contributing to the development of the human rights elements of the school curriculum by commenting on draft proposals in that regard. In addition the Commission has entered a partnership with the Department of Education and the five Education and Library Boards in Northern Ireland to promote teaching on the Bill of Rights in secondary schools.

The Commission continues to chair the Human Rights Education Forum, which met four times during the period under review. We also hosted a seminar on "Human Rights and the Curriculum" in



Malone House, Belfast, in March 2003, with contributions from speakers from Northern Ireland, England and the Republic of Ireland.

Education and training

The Commission continues to respond to requests for talks at conferences and inputs to various courses. In total it contributed during the year in question to 64 human rights education and training sessions for a range of non-governmental organisations as well as statutory bodies.

KEEPING EDUCATION LAW AND PRACTICE UNDER REVIEW

The Commission, again through its Education Committee, has prioritised reviewing education law and practice with a view to determining whether international standards on human rights are being adhered to.

Selection at age 11

The Commission was actively involved in the debate on selection at age 11, based largely on the Burns Report published in 2001. It produced and circulated a *Guide to the Post-Primary Review and Human Rights*. This was well received and secured a considerable amount of media attention. The Commission also hosted a seminar – “Human Rights and the Report of the Post-Primary Review Body” – in June 2002, which was attended by 133 people from schools, the education sector and non-governmental organisations. A report of the seminar was produced and circulated widely. The

Commission met with the Minister for Education to discuss its own submission on the Review of Post-Primary Education and has suggested that a human rights and equality adviser be appointed to any body which is established to take the issue forward.

New legislation

The Commission submitted a response to the Assembly’s Education Committee’s hearing on the draft Education and Libraries Bill (NI). The Bill was subsequently enacted at Westminster as an Order in Council. The Commission likewise submitted a detailed response to the proposals for a Special Educational Needs and Disability Bill, and held a seminar with key interested players to hear views on a draft of that response. At the year’s end there had been no further version of this legislation published.

UN Special Rapporteur on Education

The Commission met with the UN Special Rapporteur on the Right to Education, Professor Katarina Tomasevski, when she visited Northern Ireland in December 2002 and shared information with her on the right to education. We later attended a seminar organised by the Special Rapporteur (and held in our own premises) at which she sought to explain her provisional conclusions regarding the right to education in Northern Ireland. We wrote to the UN Commission on Human Rights to express some reservations about the emphases placed by the Special Rapporteur on certain issues in her report.





Prof Paul Hunt, UN Special Rapporteur on the Right to Health.
Photo Maurice Thompson

INVESTIGATIONS AND RESEARCH

The Human Rights Commission has a power to conduct investigations under section 69(8) of the Northern Ireland Act 1998. It also has a power to undertake and commission research under section 69(6) of the Act in order to promote understanding and awareness of the importance of human rights in Northern Ireland. The Investigations and Research Committee oversees these aspects of the Commission's work. The investigations workers are Christine Loudes, Virginia McVea and Linda Moore (all part-time).

Children in custody

In March 2002 the Commission published the results of its investigation into the care of children in juvenile justice centres in Northern Ireland. During the following months staff and Commissioners lobbied for the implementation of the recommendations contained in *In Our Care* with those who have responsibilities in the youth justice system. The Commission was concerned that, despite government promises to close it down, Lisnevin – a juvenile justice centre near Millisle, County Down, condemned by children's rights campaigners as unfit for the accommodation of children – was still in use at the end of March 2003. Furthermore, the Commission considers that plans to consolidate custody for children at Rathgael, near Bangor, also in County Down, are in breach of international human rights standards.

These state that detention facilities for children should be decentralised, small-scale and integrated into the social, economic and cultural environment of the community.

Articles 2 and 3 of the European Convention on Human Rights

The Commission has been involved in the debate surrounding inquests in Northern Ireland for several years and prioritised work in this field within its Strategic Plan for 2000-2002. In January 2003, the appointment of a part-time investigator enabled the Commission to allocate dedicated in-house resources to a specific investigation into the inquest system. The investigation has already benefited from considerable international co-operation and the Commission hopes to broaden this base for comparison. The investigation has considered the



implications of recent European judgements on Article 2 of the European Convention, as well as developments concerning on-going inquests and related judicial reviews. The Commission hopes to issue its report on this area during the summer of 2003.

The Omega Foundation, an independent research centre on policing and security technology, was engaged by the Commission to carry out research on human rights and the use of baton rounds (or plastic bullets) by the police and army in Northern Ireland and on possible alternatives to baton rounds being considered by government. The resulting report, *Baton Rounds*, concluded that the current baton round poses a serious threat to the right to life, especially for children.

At the year's end the Commission was preparing to publish the report and to lobby the government to commit to a binding timetable for the withdrawal of baton rounds in Northern Ireland.

The Commission also decided during the year to conduct an *investigation* into the use of baton rounds by the army. In February 2003 the Commission sought the army's approval to examine its records relating to the use of baton rounds and at the end of March was still waiting for agreement that such access would be provided. Meanwhile the General Officer Commanding the army in Northern Ireland declined to meet the Commission.

Human rights within the healthcare system

Researchers were commissioned to carry out work on the human rights of people suffering from mental illness and incapacity. A well-attended seminar was held in March 2003 to present their initial findings to an audience comprising people working in and with experience of

mental health services in Northern Ireland. Their views are being taken on board for the final document, which is intended to form part of the Commission's submission to the government review of mental health services in Northern Ireland currently underway. Lady Christine Eames, one of our Commissioners, is chairing a committee within that review that is specifically looking at the human rights dimensions to the problems.



Participants discuss human rights and mental health at the Commission's seminar, March 2003, Belfast.
Photo Lesley Doyle

In 2002, the Commission established a partnership with Help the Aged and the Office of the First Minister and the Deputy First Minister to consider older people's rights to healthcare. The research is looking at the influence of age on the care of older people through an analysis of the changing response of the NHS to the needs of older people. It is expected to be completed in the summer of 2003.

Human rights and allegations of medical negligence

A scoping study on human rights and allegations of medical negligence was commissioned from an external consultant and was submitted to the Commission for consideration.



The rights of transsexual people

The rights of transsexual people in Northern Ireland were identified amongst the areas of research falling within the Commission's Strategic Plan for 2000-2002. The Commission is currently conducting research into the extent to which law, policy and practice in Northern Ireland promote and protect the rights of transsexual people and is seeking to identify areas which are in need of further promotion and protection. Law, policy and practice are being evaluated against international standards to establish the gaps in rights protection and equality in seven key areas: birth certificates, the right to privacy, the right to marry and to have a family life, employment, social security, access to services and the criminal justice system. The review is due to be published in the second half of 2003.

The rights of young lesbian, gay and bisexual people

During 2002 the Commission took part in a project looking at multiple identity, human rights and equality. It was a joint project sponsored by the Joint Equality and Human Rights Forum (see page 22-23 above). The research being contributed by this Commission looks at the rights of young lesbian, gay and bisexual (LGB) people and their access to healthcare in Northern Ireland. It was conducted through focus groups with young LGB people and health service providers. The research highlighted the relevance of multiple identity in relation to access to healthcare services for young LGB people. The research will be published in the summer 2003.





VICTIMS

Work on the human rights of victims continued within the Commission despite a lack of dedicated funding and resources available to address this vital area. Activities are overseen by the Committee for Victims, chaired by Rev Harold Good, and serviced by the Commission's Development Worker, Miriam Titterton.

The terms of reference of the Committee include:

- to be guided by internationally accepted rules and principles for the protection of human rights as supplemented by international best practice,
- to seek to be fair, open, accessible and accountable, bearing in mind section 75 of the Northern Ireland Act 1998,
- to direct to completion the Commission's Victims' Rights project, and
- to consider what steps the Commission needs to take to promote and protect the human rights of victims in Northern Ireland.

The main focus for the year was the completion of the Victims' Rights Research Project, which was described in last year's annual report also. The Project, which brings together views of victims and survivors of conflict in Northern Ireland and views on the international standards

which should apply to the treatment of victims, has been difficult to complete due to a lack of resources and the complexity of the issues, but at the year's end it was at last nearing the publication stage. We now expect it to be published in the summer of 2003 under the title of *Human Rights and Victims of Violence*.

The Commission attended the launch of, and welcomed, the OFMDFM's Victims Strategy in April 2002. We also attended the launch of the report on perceptions regarding victims produced in August 2002 by the Multi-Agency Resource Centre (now named the Conflict Trauma Resource Centre). In July 2002 the Development Worker attended and contributed to a Commonwealth working group which produced new proposals for international standards for victims and in December 2002 the Chief Commissioner spoke at a Democratic Dialogue Roundtable on the subject of victims' rights.



In order to increase its knowledge of victims' rights issues, the Committee for Victims invited a number of speakers to attend its meetings and give presentations. Jane Leonard attended to explain the current situation regarding memorials in Northern Ireland and the Committee heard a presentation from David Bolton and Michael Duffy of the Northern Ireland Centre for Trauma and Transformation, Omagh.

The Commission has looked at issues such as paramilitary and sectarian violence, and does not hesitate to condemn breaches of human rights by non-state groups as well as by state agencies. We are concerned about all kinds of violence, such as domestic violence and child abuse, all of which represent breaches of human rights. Ms Justice Laffoy, Chair of the Commission to Inquire into Child Abuse in the Republic of Ireland, visited the Commission in September 2002 to give information about the work of her Commission and respond to questions about its powers.

The Commission supports the principle of restorative justice and the Committee continued its work of informally monitoring compliance of restorative justice schemes with human rights standards. It should be noted that the Commission cannot endorse any particular scheme in this regard, but it can advise on how schemes can better comply with human rights standards and best practice.

In June 2002 Committee members, at the request of members of a bereaved family and a local councillor, went to Enniskillen to meet with the family, councillors, clergy and representatives of social services in connection with the distress caused by the placing of a memorial in Belleek. It was acknowledged by the Committee that families of those named on memorials are also bereaved; however it was felt important that such memorials be sited sensitively. The Committee welcomed the eventual re-siting of the memorial in question.





Council of Europe's Second Round Table of NHRIs, November 2002, Belfast and Dublin - (L-R) Brice Dickson and Paddy Sloan, NIHRC, Des Browne, MP, Alpha Connelly and Maurice Manning, IHRC, Morten Kjaerum, Danish Inst of Human Rights and Pierre Imbert, Council of Europe.
Photo Lesley Doyle

THE JOINT COMMITTEE

The Joint Committee is made up of all the Commissioners of both the Northern Ireland Human Rights Commission and the Irish Human Rights Commission. It met five times during the year and has established sub-committees to focus on particular issues.

The Racism sub-committee, convened by Michael Farrell of the IHRC, has spent time meeting with relevant non-governmental organisations north and south of the border, to ascertain where the Committee's effort might be most usefully applied. The work in both jurisdictions on developing National Action Plans Against Racism has been an important role for both Commissions, following on from the World Conference Against Racism held in Durban, South Africa, in August 2001. At the Council of Europe in Strasbourg in February 2002, 41 states reported on the progress they were making on developing a National Action Plan. There is a requirement on National Human Rights Institutions to report on their activities in this regard to the International Coordinating Committee of NHRIs.

The rights of the Traveller community throughout the island, and in particular the effect of the amendment to the Housing Accommodation Bill in the

Republic of Ireland, have caused much concern. Both Commissions separately and through the Joint Committee wrote to the two governments urging that they ratify the UN Convention on Migrant Workers. The sub-committee is preparing for publication a users' guide to the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD), which it is hoped will provide assistance to those groups who wish to make comment on the governments' periodic reports, both due later in 2003.

A sub-committee was also established to take forward the Joint Committee's direction to develop a Charter of Rights for the island of Ireland, convened by Paddy Kelly of the Northern Commission. Contact was made with political parties north and south, and a pre-consultation paper prepared for circulation to a representative section of society for views prior to a full consultation on a recommended option. The pre-



consultation document will describe a range of options, taking views on how best to structure such a Charter for implementation throughout the island. It is due to be distributed within the first quarter of the next financial year.

The Joint Committee has also undertaken preliminary work on emergency legislation throughout the island of Ireland and on the accreditation of National Human Rights Institutions at international meetings. Short reports will emerge during the next financial year, designed for the most part to support a co-ordinated lobby at domestic and international levels.

As the Irish Commission appoints staff and seeks to secure premises, the two secretariats have worked closely together to share practice and planning. Joint Committee meetings provide an opportunity to discuss current business for each Commission and to consider how efforts might be pooled to enhance our individual impact. The President of the Irish Commission and the Chief Commissioner of the Northern Ireland Commission are also in regular contact. The resignation of Justice Donal Barrington as President of the IHRC in July 2002 was a loss to the Joint Committee, but he has been ably replaced by Dr Maurice Manning, who continues in partnership with Brice Dickson to give leadership to the Committee.

WORK WITH OTHER NHRIs

In April 2002 the Chief Commissioner and Chief Executive attended the Sixth Annual Conference for National Human Rights Institutions, which took place in Copenhagen and Lund. The focus of this event was on the role of NHRIs in combating racial discrimination (a follow-up to the World Conference Against Racism held in Durban in 2001).

A major event for the Joint Committee was hosting the Council of Europe's Second Round Table of National Human Rights Institutions, held in November 2002 in Belfast and Dublin. This conference was attended by representatives from 17 countries and several international organisations who came to the Hilton hotel in Belfast and to Dublin Castle to discuss the themes of the role of NHRIs in conflict prevention, the human rights of asylum seekers and the potential for greater co-operation between European NHRIs and with the Council of Europe. The Council of Europe's Commissioner for Human Rights, Alvaro Gil-Robles, attended the proceedings, as did the Council's Director of Human Rights, Pierre Imbert, and it was encouraging to have the support of the Minister of State responsible for human rights in Northern Ireland, Des Browne MP, as well as that of the Minister of State at the Department of Foreign Affairs in the Republic of Ireland, Tom Kitt TD.

As a result of the debates, the Northern Ireland Commission is responsible for convening a working group of European institutions on proposals for the reform of the European Court of Human Rights and the Irish Commission will co-ordinate a group looking at disability rights and the development of a new UN Convention on Disability. Both groups will report to the International Co-ordinating Committee of NHRIs and ultimately to the next meeting of European NHRIs, scheduled to take place in Germany in 2004.





Mary Robinson, formerly UN High Commissioner on Human Rights, one of a panel of international speakers at the British Council/NHRC conference on social and economic rights, May 2002, Belfast.
Photo Lesley Doyle

INTERNATIONAL WORK

The Commission has in previous years found it difficult to engage with government in the process of monitoring the various human rights treaties by which the UK has agreed to be bound. For example, as noted in the 2002 Annual Report, the Commission was not routinely sent copies of the official UK reports under the main treaties, much less consulted during their compilation. Some progress was made in this area, particularly towards the end of the year.

No conclusions had yet emerged from the extensive review being undertaken by the Lord Chancellor's Department (LCD) of the state's position under various human rights treaties and optional protocols. The Commission, which strongly favours further ratifications and withdrawal of derogations, reservations and restrictive interpretations (see page 11 above), participated in the LCD's Ministerial Forum on these issues as well as in the separate meetings of the major human rights non-governmental organisations (NGOs) that were members of the Forum.

UNITED NATIONS

The United Nations agreed in 1993 that, where institutions such as the Commission existed, states should consult with that institution when drafting their periodic reports to each treaty monitoring body.

These guidelines – forming part of the *Paris Principles* – were not adhered to in the early years of the Commission, so the Commission sought in 2002-2003 a more transparent and participatory process not only in reporting but in following up on the treaty bodies' conclusions. Contact was made with the various Whitehall units responsible for compiling the reports under each treaty, and with the Foreign and Commonwealth Office which co-ordinates delivery of the reports; new assurances were obtained from government that the role of the Commission would be respected.

The situation at the year's end showed some improvement. Of the three UN treaties under which the UK was to report in 2003-2004, the Commission had received drafts of two UK reports – those under the Convention on the Elimination



of All Forms of Discrimination Against Women (known as CEDAW) and the Convention Against Torture (CAT). This allowed the Commission to provide government with comments on what the drafts said, or omitted, in relation to Northern Ireland, and this ought to ensure a more accurate final report leading to a more focussed and constructive dialogue with the treaty body. In the third case, the Convention on the Elimination of Racial Discrimination (CERD), the UK report was drafted without consultation with the Commission, but a copy was at least provided soon after it had been submitted to the UN. In all three cases the Commission will make its own report to the relevant UN body on any matters not resolved through its exchanges with government.

In the year under review the UK reports under two of the seven main UN treaties were subject to examination – or, as the UN now prefers to call it, “dialogue with the State Party”. The Commission submitted “shadow” reports on compliance in Northern Ireland with both instruments, and attended pre-sessional hearings and submitted further documents to ensure that our concerns were reflected in the questioning. The Committee on Economic, Social and Cultural Rights (CESCR) held its formal hearing in May 2002, and the Committee on the Rights of the Child (CRC) in June 2002. On both occasions the Commission was represented by Ciarán Ó Maoláin.

Both UN bodies commented on issues specific to Northern Ireland; for example the CESCR called for the inclusion of economic, social and cultural rights in any Bill of Rights for this jurisdiction, and the CRC made a number of observations about the impact of the Northern Ireland conflict on children. In the same year the CRC issued a general comment, following

a consultation to which the Commission contributed, stressing the importance of national human rights institutions in protecting the rights of the child. The Commission decided to use this reporting cycle under the CRC to pilot a follow-up process in which it would seek, from each of the relevant Northern Ireland and UK government departments, a plan of action to address the points identified by the CRC Committee. This coincided with a decision within government to consult on follow-up measures and it is to be hoped that there will be a similarly constructive response to all future treaty processes.

The main outcome at national level of the 2001 World Conference Against Racism is to be the adoption of a UK National Action Plan Against Racism. The Commission contributed in 2002-2003 to government-led discussions on this document and its Northern Ireland component, but progress was slow and much work remains to be done on the Plan in 2003-2004.

EUROPE

The Commission convened a round table of NGOs to discuss those articles of the European Social Charter under which the UK was being examined in 2002, and it subsequently met the Health and Safety Executive for Northern Ireland to follow up some comments made in the Council of Europe’s report. It transpired that the key criticism raised by the examination was based on inadequate information in the UK report, and this underlined the need for transparency and consultation in the reporting process under all treaties.

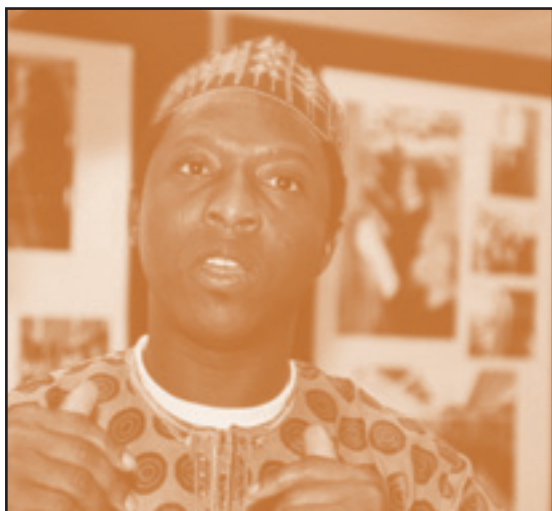
In January 2003 representatives of the Commission met with a Working Group within the Committee of Experts which monitors state compliance with the European Charter for Regional or Minority



Languages. This had to be arranged at the last minute because we were not informed of the visit by the relevant government department. Nor were we sent in advance of the visit a copy of the UK's periodic report to the Committee. Steps have been taken to ensure that such practices do not recur.

CONFERENCE AND TRAINING WORKSHOPS

In May 2002 the Chief Commissioner, on behalf of the British Council, directed a four-day international conference in Belfast on how to make the protection of social and economic rights a reality across the world. Approximately 70 participants from all over the world heard presentations from key experts, including



Muhammed Ladan, Nigerian representative at the British Council/NIHRC conference on social and economic rights, May 2002, Belfast.

Photo Lesley Doyle

the UN High Commissioner for Human Rights (Mary Robinson), the UN Special Rapporteur on the Right to Education (Professor Katarina Tomasevski), Professor Paul Hunt (then a member of the UN Committee on Economic, Social and Cultural Rights) and a leading UK barrister specialising in human rights, Lord Lester of Herne Hill QC. The participants worked together to produce *The Belfast Declaration*, a set of standards on social and economic rights to which all states should aspire. A copy is reproduced as Appendix 6 to this report.

In October 2002 the Commission, in conjunction with the British Council, ran a four-day training workshop on the UN mechanisms for protecting human rights. It was designed for members of staff from national human rights institutions in other parts of the world. In all, 14 different jurisdictions were represented, including the new Afghan Independent Human Rights Commission. The presenters included experts from England, Ireland and the UN itself in Geneva. Later in the year Paddy Kelly, a Commissioner, represented the Commission at a second training workshop, on how national human rights institutions should conduct inquiries, held in Kampala, Uganda. Patrick Yu represented the Commission at a training course on international human rights organised in China by the Centre for Human Rights at the National University of Ireland, Galway.





Carolyn Stewart, DJ, Cool FM and "Bellefire" launch *What You Said* at W5, Odyssey Centre, Belfast, May 2002. Photo Pacemaker International

INFORMATION

The Commission has a statutory responsibility to promote understanding and awareness of the importance of human rights in Northern Ireland (s.69(6) of the Northern Ireland Act 1998). The provision of information in appropriate ways is key to raising public awareness about human rights and their application to policy and practice. This year 14 publications and 107 submissions were produced (see Appendix 5) and 20 press releases were issued. The Information Worker, Nadia Downing, was assisted during the year by Michael Ardill, part-time website updater, and Samantha Faulkner, part-time library student placement.

PUBLICATION HIGHLIGHTS

A special period of consultation on a Bill of Rights with children and young people drew to a close with the publication of *What You Said*. This booklet, launched in May 2002 at a lively event in W5 at the Odyssey Centre, Belfast, involving the pop group "Bellefire", gave important feedback to those who had provided views individually or as part of a formal school or youth group.

Before the end of the year the Commission was working on a summary of the submissions received in response to its Bill of Rights proposals (published in September 2001). We intend to publish the summary in the summer of 2003.

In May 2002 a short guide to the human rights implications of the "Burns Review"

of post-primary education proved popular with educationalists and the public and usefully complemented the Commission's seminar report, *Human Rights and the Report of the Post-Primary Review Body*.

In November 2002 the Commission published a report which examined in detail the human rights training received by new recruits to the Police Service of Northern Ireland. By March 2003 the Commission was about to publish research on the use of baton rounds and the government's programme of research into alternatives.

Other publications produced were the draft Strategic Plan released for consultation in May 2002 (the final version, agreed in March 2003, was due for publication early in the next financial



year), the approved Equality Scheme in July, the 2002 Annual Report which became available in October and a new general leaflet produced in December 2002. To meet its obligations under the Freedom of Information Act 2000, the Commission produced a Publication Scheme as a guide to the type of information it holds. The Scheme received approval from the Information Commission in November 2002 and is available from the office or website.

THE WEBSITE

The website at www.nihrc.org received in excess of 107,000 hits each month during the year. Monthly visitor sessions almost doubled in the second half of the year 2002-2003, with well over 12,000 sessions recorded for the month of March 2003 alone.

Before the end of the year the Commission embarked on a project to make available, later in 2003, a website database which will allow public access to many of the submissions received on its consultation document *Making a Bill of Rights*.

The Commission was keen to realise a desire to develop the website into a more effective resource for people who are either new to, or familiar with, human rights concepts. Work on a new design structure began in the last quarter of the year. The Commission plans to have its

new website online later in 2003 and to offer a facility for visitors to register their details and receive updates on a regular basis.



Photo Lesley Doyle

THE LIBRARY

The Commission's reference library is open by appointment to anyone with an interest in human rights. To complement a full subject index, a classification system was developed during 2002 and applied to the publications, reports and other material within the library. The Commission is indebted in this context to Samantha Faulkner, a student librarian who remained on part-time placement until August 2002 when she returned to study at Cardiff University.





APPENDICES

APPENDIX 1

The Commission's Committees as of 31 March 2003

BILL OF RIGHTS COMMITTEE

Brice Dickson (Chair)
Tom Donnelly
Tom Hadden
Frank McGuinness

CASEWORK COMMITTEE

Brice Dickson (Chair)
Christine Eames
Harold Good
Patricia Kelly
Frank McGuinness
Patrick Yu

COMMITTEE FOR VICTIMS

Harold Good (Chair)
Brice Dickson
Tom Donnelly
Christine Eames
Christopher McGimpsey
Frank McGuinness

EDUCATION COMMITTEE

Frank McGuinness (Chair)
Brice Dickson
Tom Donnelly
Tom Hadden
Christopher McGimpsey
Kevin McLaughlin

EQUALITY COMMITTEE

Patrick Yu (Chair)
Brice Dickson
Kevin McLaughlin

FINANCE AND GENERAL PURPOSES COMMITTEE

Tom Donnelly (Chair)
Brice Dickson
Margaret-Ann Dinsmore
Harold Good
Patricia Kelly

INVESTIGATIONS AND RESEARCH COMMITTEE

Tom Hadden (Chair)
Brice Dickson
Patricia Kelly
Patrick Yu

LEGISLATION AND POLICY COMMITTEE

Margaret-Ann Dinsmore (Chair)
Brice Dickson
Christine Eames
Patricia Kelly



APPENDIX 2

The Commission's staff, interns and volunteers 2002-2003



Paddy Sloan - Chief Executive



Roisin Carlin - Administrative Worker



Lisa Gormley - Administrative Worker



Lorraine Hamill - Administrative Worker



Bernadette McFadden - Administrative Worker

Arlene McKay - Administrative Worker (locum)
(November 2002 - January 2003)

Victoria Orr - Receptionist (December 2002 - April 2003)



Sandra Rosbotham - Cleaner



Miriam Titterton - Development Worker

Sara Boyce - Co-ordinator, Children and Young People
(to October 2002)

Rachel Rebouché - Occasional Researcher, Bill of Rights
(April - September 2002,
January - March 2003)

Amanda Wetzel - Student intern, Bill of Rights

Maggs O'Connor - Case Worker (to November 2002)





Angela Stevens - Assistant Case Worker



Edel Teague - Education Worker



Nadia Downing - Information Worker

Michael Ardill - Website updater (part-time to December 2002)

Samantha Faulkner - Student librarian placement (to August 2002)



Dr Christine Loudes - Investigations Worker (job-share)



Dr Linda Moore - Investigations Worker (job-share)



Virginia McVea - Investigations Worker (part-time) (from January 2003)



Denise Magill - Research Worker (job-share)



Ciarán Ó Maoláin - Research Worker



Dr Nazia Latif - Research Worker (part-time)
(maternity cover from December 2002)

Julia Turley - Our Lady's Grammar School, Newry
(work experience)

Lucy Mo - Methodist College, Belfast
(work experience)



APPENDIX 3

A selection of international standards on human rights

Binding ("hard law") standards

(a) United Nations standards

Convention Relating to the Status of Refugees (1951)
Protocol Relating to the Status of Refugees (1967)

International Covenant on Civil and Political Rights (1966)
Optional Protocol (1966)
Second Optional Protocol on the Abolition of the Death Penalty (1989)

International Covenant on Economic, Social and Cultural Rights (1966)

Convention against Discrimination in Education (1960)

Convention on the Elimination of All Forms of Racial Discrimination (1966)

Convention on the Elimination of All Forms of Discrimination against Women (1979)
Optional Protocol (1999)

Convention on the Rights of the Child (1989)
Optional Protocol on the Involvement of Children in Armed Conflict (2000)
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000)

Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

Convention on Freedom of Association and Protection of the Right to Organise (1948)

Convention on the Right to Organise and Collective Bargaining (1949)

Discrimination (Employment and Occupation) Convention (1958)

Convention on Workers' Representatives (1971)

Labour Relations (Public Service) Convention (1978)

(b) Council of Europe standards

Convention for the Protection of Human Rights and Fundamental Freedoms (1950)
Protocol 1 (1952)
Protocol 4 (1963)
Protocol 6 (1983)
Protocol 7 (1984)
Protocol 12 (2000)
Protocol 13 (2002)

Convention on the Suppression of Terrorism (1977)

Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981)

Convention on the Transfer of Sentenced Persons (1983)



Convention on the Compensation of Victims of Violent Crimes (1983)
Convention on Offences relating to Cultural Property (1985)
Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987)
Code of Social Security (Revised) (1990)
Social Charter (Revised) (1996)
Charter for Regional or Minority Languages (1992)
Framework Convention for the Protection of National Minorities (1995)
Convention on the Exercise of Children's Rights (1996)
Convention on Human Rights and Biomedicine (1997)
Convention on Nationality (1997)

Non-binding ("soft law") standards

(a) United Nations standards

Standard Minimum Rules for the Treatment of Prisoners (1977)
Code of Conduct for Law Enforcement Officials (1979)
Principles of Medical Ethics relevant to the Role of Health Personnel in the Protection of Prisoners (1982)
Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)
Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") (1985)
Standard Minimum Rules for Non-Custodial Measures ("The Tokyo Rules") (1990)
Basic Principles on the Role of Lawyers (1990)
Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)

Guidelines on the Role of Prosecutors (1990)
Guidelines for the Prevention of Juvenile Delinquency ("The Riyadh Guidelines") (1990)
Rules for the Protection of Juveniles Deprived of their Liberty (1990)
Guidelines for Action on Children in the Criminal Justice System (1997)

Basic Principles on the Independence of the Judiciary (1985)

Declaration on the Rights of Disabled Persons (1984)
Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (1991)

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)
Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)
Declaration on Human Rights Defenders (1998)

(b) Council of Europe standards

Declaration on the Police (1979)
European Prison Rules (1987)



APPENDIX 4

Criteria for work on cases

Criteria for deciding whether to grant assistance to individual applicants

1. Is the application in respect of:

- a) proceedings involving law or practice relating to the protection of human rights which a person in Northern Ireland has commenced or wishes to commence?
or
- b) proceedings in the course of which a person in Northern Ireland relies, or wishes to rely, on such law or practice?

*If the answer to both question 1 a) or 1 b) is no, the application is rejected.
If the answer to either question 1 a) or 1 b) is yes, question 2 must be answered.*

2. Does the case raise a question of human rights principle, i.e. does it appear that the application relates to alleged non-compliance with a rule or principle for the protection of human rights based either in domestic law or international standards?

If the answer to question 2 is no, the application is rejected. If the answer to question 2 is yes, questions 3-10 must be answered.

3. Would it be unreasonable, because of the complexity of the case or the applicant's position in relation to another person involved or for some other reason, to expect the applicant to deal with it without this Commission's assistance?

4. Within which, if any, of the Commission's current policy priorities as set out below does the application fall?

- a) Areas of work included in the Commission's Strategic Plan as priorities for Casework.
- b) Cases alleging abuse which significantly impact on the protection of human rights (e.g. because of the number of people apparently affected, the apparent pattern of abuse or the apparent seriousness of the violation).

5. Is there another body better placed to assist the applicant?

6. Has the Commission assisted another case raising the same point of law as this application?

7. Are there any other circumstances not considered above which make it appropriate for the Commission to provide assistance?



8. a) Does the case have a reasonable chance of success?
b) If yes, is it a strategic use of the Commission's funds to assist this case?
9. a) Is assistance to be granted to the applicant?
b) If yes, what is the nature of that assistance?
c) If yes, what level of assistance is to be provided?
10. Is there any other action in relation to this matter that is strategically appropriate for the Commission to take?

Criteria for considering applications for review of decisions on applications for assistance from individuals

1. The Commission will consider reviewing an application for assistance if it receives a written request to do so within 28 days of the applicant being notified that the first application has been refused. Time will run from the date of posting of the notification.
2. The Chair of the Casework Committee will consider an application for a review in the first instance and if he or she considers that the criteria for review are met (see paragraph 4), he or she will refer it to the Casework Committee, which will conduct a new assessment of the application.
3. If in the opinion of the Chair of the Casework Committee, the criteria for review are not met, the application will not go forward to the Casework Committee but the Committee will be informed of the application for review and the Chair's decision.
4. The Casework Committee will review an application where new information has come to light since the original assessment was made or where the applicant can show that the Commission did not consider all the facts or misinterpreted them. Submissions by the applicant in this regard will be made in writing only.
5. Unsuccessful applicants will be given a copy of this policy with the letter notifying them of the refusal of their application.

Criteria for applying to intervene in court, tribunal or inquest proceedings

The Commission will seek to intervene in court, tribunal or inquest proceedings if it decides that this is the most effective way of bringing to the adjudicating body's attention information about relevant standards on human rights.

In making this decision the Commission will ask itself:

1. Do the proceedings relate to the law as it applies in Northern Ireland?
2. Is a rule or principle for the protection of human rights relevant to the proceedings?



3. Is the rule or principle one which relates to an area of work included in the Commission's Strategic Plan or to another human rights issue which could benefit from the Commission's attention?
4. Is there a possibility that if the Commission were to make a submission explaining the relevant rule or principle it might assist the court in coming to a conclusion on the matter?
5. Is it practicable for the Commission to make a submission in view of the time and resources available to prepare it?
6. Is intervention as a third party the most appropriate course of action for the Commission to take on this matter?

If the answer to all of these questions is yes, the Commission will apply to intervene.

Criteria for work on legislative and policy initiatives

For simplicity the term "consultation" is used below for all items to which the Northern Ireland Human Rights Commission might consider making a response. These include parliamentary and Assembly bills, NI Statutory Rules, UK Statutory Instruments, draft bills, consultation documents, international monitoring processes, and written or oral requests for comment, whether circulated widely or addressed directly to the Commission.

The Commission receives over 300 consultations every year, and records and considers all of them. However it has the capacity to make only 80-100 responses per year, and many items may need more than one response. (Responses can be anything from a one-page letter drafted by staff, to a large briefing document prepared with the help of commissioned researchers.)

Some items the Commission is legally obliged to respond to; others obviously do not need a response; but the majority need to be sifted against agreed criteria. These are designed to ensure that the Commission quickly identifies items where human rights issues arise, and directs its resources sensibly. The criteria are applied initially by Legislation and Policy (L&P) staff, under the supervision of the L&P Committee, and the Committee considers in detail any decisions where the criteria do not give a definite way forward. The Committee can overrule the staff assessment that a given item requires, or does not require, a response.

When it receives a consultation document, or written or oral request for comments on a legislation or policy issue, the NIHRC will ask itself two initial questions. The answers define whether the NIHRC will definitely make a response, or definitely not make one.

Must a response be made?

1. Is this a general or specific request from the Secretary of State or the Executive for advice on legislative or other measures which ought to be taken to protect human rights, or a request from the Assembly for advice on whether a Bill is compatible with human rights—



i.e. does the Commission have a statutory duty to respond under s.69 of the Northern Ireland Act 1998?

If yes, a response must be prepared.

If no, go to question 2.

2. Does the consultation fall within a category that the L&P Committee has decided not to respond to, e.g. benefit upratings, section 75 equality consultations and temporary animal health regulations?

If yes, no response is to be prepared.

If no, go to question 3.

If the answers to questions 1 and 2 are No, the NIHRC will then ask itself the following questions.

Should a response be made?

3. Is it a request (other than a formal s.69 request) from the Secretary of State, the Executive, the Assembly, an Assembly Committee, the Speaker, a political party or an elected representative for comments on proposed legislation or policy?

If yes, a response should ordinarily be made, if only to say that no human rights standards apply.

If no, go to question 4.

4. Is this an issue which is normally dealt with by the Commission as a whole or by another Committee or group of the Commission (e.g. the Education Committee, the working group on policing or the Committee for Victims)?

If yes, and there is time to do so, the matter should be referred to the appropriate Committee/staff working group for consideration and no response will be prepared by L&P staff (unless in co-operation with the other relevant staff).

If no, go to question 5.

5. Is the issue one on which an internationally accepted rule or principle exists, and/or on which the Commission has an agreed policy position?

If no rule, principle or policy exists, a response will not normally be made.

If a rule, principle or policy may be applicable, whether a response is made depends on answers to questions 6-11.

The following questions are considered by the NIHRC together (i.e. no weighting is given to one over another).

6. Is the consultation on, or designed to lead to, primary or secondary legislation?

We do not have to respond if we have not received a specific request under s.69(4)(a), but if there are human rights issues we should normally respond.

7. Does the consultation relate to the protection of the rights of members of a vulnerable group, such as those identified in the Commission's strategic plan for its legislation and policy function?

If yes, we should normally respond.



8. Does the consultation relate to the official monitoring of UK/NI compliance with international human rights standards?
If yes, we should normally respond if we believe that there is any shortfall in compliance.
9. In all the circumstances, is it practicable for the Commission to make a timely response?
If yes, we should normally respond.
If no, go to question 10.
10. Does the consultation relate to a theme that has arisen in other areas of the Commission's work, e.g. casework or investigations?
If yes, the matter will be discussed with the appropriate staff and the papers may be passed on.
11. If the Commission does not have a duty to respond, and the answers to the preceding questions do not strongly favour a response, are there particular circumstances that indicate that a response should nonetheless be prepared (e.g. potential severity of impact on the rights of those affected, or section 75 considerations in relation to the Commission's duties or those of the consulting body)?
12. In light of the responses to questions 1-11 is a response going to be made?

The reasons for all decisions taken should be recorded.
- If a response is going to be made:
 13. What type of response should be made, e.g. letter, formal submission, evidence to a Committee (by whom), lobbying work?
 14. Is it feasible to produce the response in-house given the workload and expertise of the Research Workers (and any other staff member(s) involved)?
 15. If it cannot be done in-house, is it possible to commission an external consultant to draft a response, given constraints of time and budget?
If yes, guidance shall be sought from the L&P Committee as to (a) the consultant(s) and (b) the fee.



APPENDIX 5

The Commission's publications and submissions 2002-2003

April 2002

- *Review of Approved Driving Instructor Scheme*: submission to Department of the Environment
- *Force Order on Human Rights and Police Use of Force*: submission to PSNI
- *Police Code of Ethics*: submission to NI Policing Board
- *Criminal Justice and Police Act*: submission to NIO on travel restrictions on drug traffickers
- *Nationality, Immigration and Asylum Bill*: evidence to Joint Parliamentary Committee on Human Rights (JCHR)
- *Policy on Abuse of Vulnerable Adults*: submission to Foyle Health and Social Services Trust
- *Justice (NI) Bill*: submission to House of Lords (2nd Reading)
- *UK 4th Report under International Covenant on Economic, Social and Cultural Rights*: "shadow" report to UN Committee on Economic, Social and Cultural Rights
- *Repeal of section 76 of the Terrorism Act 2000*: submission to NIO

May 2002

- *What You Said: Young People's Views on a Bill of Rights for Northern Ireland*
- *Women's Rights in a Bill of Rights for Northern Ireland*: report of a consultative conference on 14 November 2001, Armagh (jointly published with QUB, Armagh)
- *Young People's Rights in a Bill of Rights for Northern Ireland*: report of a conference for senior schools on 19 November 2001, Armagh (jointly published with QUB, Armagh)
- *Human Rights and the Report of the Post-Primary Review Body*: report of a seminar of 9 April 2002
- *The Review of Post-Primary Education and Human Rights* (a guide)
- *Report on the Human Rights Implications of the Planning Procedures and Installation of Phone Masts*, by Michael Stuckey
- *Inquiry into Derogations from Convention Rights*: evidence to JCHR
- *Role of NIHR in treaty monitoring*: submission to Foreign and Commonwealth Office
- *Code of Practice on Reports and Inquiries under ss.59-60 of Police Act*: submission to NIO Patten Action Team
- *PSNI Draft Transparency Policy*: submission to PSNI
- *Procedures for Judicial and Queen's Counsel Appointments*: submission to Commissioner for Judicial Appointments

June 2002

- *Review of the Parades Commission*: submission to Sir George Quigley's Review
- *UK Report under the UN Convention Rights of Child*: presentation to the UN Committee and two sets of written answers
- *Review of UK Position under Human Rights Instruments*: two letters of advice to Secretary of State
- *Access to Justice (NI) Order*: written submission and oral evidence to Assembly



- *Local Air Quality Management Bill*: submission to Department of the Environment (DoE), and to Assembly Committee, on entry powers
- *Area Child Protection Committees Bill*: response to sponsoring MLA
- *Code of Practice on Exercise of Functions by District Policing Partnerships*: submission to NI Policing Board
- *Northern Ireland [Parliamentary] Grand Committee*: briefing for debate on the Northern Ireland Human Rights Commission
- *Transfer of Asylum and Immigration Casework from Belfast to Liverpool*: letter to Home Secretary
- *Role of the All-Party Group on International Development*: response to sponsoring MLA

July 2002

- *Equality Scheme 2001 – 2006*
- *Briefing Paper Concerning the UK Government's Consultation Paper on the Review of Powers of the Northern Ireland Human Rights Commission*
- *Areas of Special Scientific Interest Bill*: submission to DoE
- *Assembly Code of Conduct*: submission to Assembly Standards and Privileges Committee
- *Registration Rules and Conduct Rules for Social Care Workers*: initial submission to NI Social Care Council
- *Social Security (Personal Allowances for Children etc.) Regulations*: comment to Department for Social Development (DSD)
- *Report of the Post Primary Review Body*: submission
- *Withdrawal of Benefits from Internees under Anti-terrorism, Crime and Security Act 2001*: submission to DSD
- *Resuscitation Policy*: submission to Foyle Health and Social Services Trust
- *Member's Bill on Designation of the Horse as an Agricultural Animal*: advice to sponsoring MLA
- *Member's Bill on Easement of Planning Restrictions for Farmers*: advice in confidence to sponsoring MLA
- *Access to Justice (NI) Order*: response to NI Court Service
- *Draft Pollution Prevention and Control (NI) Regulations 2003*: submission to DoE
- *Assembly Ombudsman for NI (Assembly Standards) Bill*: initial submission to Speaker
- *Social Services Human Rights Standard: People with Sensory Impairment*: advice to Social Services Inspectorate
- *Social security payments into bank accounts*: submission to DSD and Assembly Committee

August 2002

- *Review of the Provision of Healthcare Services to Prisoners*: submission to Prison Service
- *Controlled Waste Regulations (NI) 2002*: submission to DoE
- *Commissioner for Children and Young People Bill*: submission to Assembly
- *Housing Bill*: suggested amendments: submission to Assembly Committee
- *Review of the Powers of the NIHRC*: statutory report to Secretary of State
- *Role of NHRIs in Protection...of the Rights of the Child*: response to UN Committee on the Rights of the Child



September 2002

- *Equality Scheme 2001 – 2006* (Irish translation)
- *Marriage Bill*: submission to Assembly Committee
- *UK Report under UN Convention on the Rights of Child*: response to list of issues
- *Registration Rules and Conduct Rules for Social Care Workers*: further submission to NI Social Care Council
- *Police Service of NI Inspection 2001-02*: response to HM Inspector of Constabulary
- *Education and Libraries Bill*: submission to Assembly on clauses 18- 20
- *Procedures for Consent to Medical Examination and Treatment*: submission to Department of Health, Social Services and Public Safety (DHSSPS)
- *PSNI Registration of Notifiable Memberships*: advice in confidence to PSNI
- *Assembly Ombudsman for NI (Assembly Standards) Bill*: evidence to Assembly Committee
- *Member's Bill on Easement of Planning Restrictions for Farmers*: further advice in confidence to sponsoring MLA
- *Social Services Human Rights Standard: Children with Disabilities*: advice to Social Services Inspectorate
- *Inquiry into Child Protection Services*: evidence on juvenile justice issues to Assembly Committee
- *Commissioner for Children and Young People Bill*: oral evidence to Assembly
- *Pollution Prevention and Control (NI) Regs 2003*: further submission to DoE

October 2002

- *Annual Report 2002*
- *Release of Genetically Modified Organisms into the Environment*: submission to DoE
- *Commissioner for Children and Young People Bill*: advice to Secretary of State
- *Marine Wildlife Conservation Bill*: advice to sponsoring MLA
- *Local Air Quality Management Bill*: response to DoE on guidance on powers of entry
- *Firearms (NI) Order 2002*: submission to Assembly Committee
- *Health and Personal Social Services, Protecting Personal Information*: submission to DHSSPS
- *Education and Libraries Bill*: consolidated comments to Assembly Committee
- *Area Child Protection Committees Bill*: further advice to sponsoring MLA
- *Juvenile Justice Centre design brief*: submission to NIO
- *Review of International Human Rights Instruments*: advice to Lord Chancellor's Department (LCD)
- *Commissioner for Children*: advice to NIO
- *Assembly Code of Conduct*: oral evidence to Committee

November 2002

- *An Evaluation of Human Rights Training for Student Police Officers in the Police Service of Northern Ireland*, by Mark Kelly
- *Publication Scheme: A Guide to the Information Available from the NIHRC*
- *Coroners (Practice & Procedure) (Amendment No. 2) Rules (NI) 2002*: advice to NI Court Service
- *Working in Partnership: Policy Document for the Police Service*: response on s.75 and community consultation issues
- *Inquiry into NIHRC*: oral evidence to JCHR
- *UK's Initial Response to ICCPR Concluding Observations*: advice to LCD



December 2002

- General Leaflet
- *Involvement of NIHRC in treaty monitoring*: advice to Secretary of State
- *Strategy for Services to People with Visual Impairment*: submission to Southern Health and Social Services Board
- *Youth Court Guidelines for Operation and Layout*: submission to NI Court Service

January 2003

- *Review of Death Certification and Coroner System*: submission on Article 2 ECHR issues
- *Access to Justice (NI) Order*: response to LCD
- *Police (NI) Bill and "texts for consideration"*: evidence to Commons NI Affairs Committee
- *Commissioner for Children Order*: advice to an MLA on Order procedure
- *UK 5th Report under the UN Convention on the Elimination of Discrimination Against Women*: advice to Cabinet Office on the role of the Commission
- *"Persons On the Run"*: advice to NIO on relevant human rights principles
- *Measures to address ECtHR judgments of May 2001*: submission to Committee of Ministers
- *Creating a Vision for All our Children*: submission to Office of the First Minister and Deputy First Minister (OFMDFM)
- *Equality Commission Draft Corporate Plan 2003-06*: response to consultation
- *Inquiry into NIHRC*: written evidence to JCHR

February 2003

- *Health and safety inspection and reporting levels*: letter to HSE(NI)
- *Student loan system and Muslim students*: submission to Department for Employment and Learning
- *Magistrates' Courts (Sex Offender Orders) (Amendment) Rules*: submission to NI Court Service
- *Special Educational Needs and Disability legislation*: submission to Department of Education
- *Review of the Practice of Viewing Scars (Criminal Injuries Compensation)*: submission to NIO Reviewer

March 2003

- *Baton Rounds: A Review of the human rights implications of the introduction and use of the L21A1 baton round in Northern Ireland and proposed alternatives to the baton round*, by the Omega Foundation
- *Consent to Examination and Treatment*: further submission to DHSSPS
- *Race Crime and Sectarian Crime Legislation*: advice to NIO
- *UN Convention on the Rights of the Child*: follow-up letters to NIO, OFMDFM, DHSSPS and Department of Education
- *Health and safety inspection levels*: follow-up letter to HSE(NI)
- *UK 4th Report under the UN Convention Against Torture*: initial comments to LCD
- *Sexual Offences Bill, extension to Northern Ireland*: advice to Secretary of State
- *Electoral registration of persons with learning disabilities*: letter to Chief Electoral Officer
- *UK 4th Report under UN Convention Against Torture*: further comments to LCD



APPENDIX 6

The Belfast Declaration on economic and social rights (see page 44)

The International Conference on Economic and Social Rights held in Belfast, Northern Ireland, from 14 to 18 May 2002,

Recognising that we come from many different societies which have varied social and cultural traditions,

Considering, however, that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace throughout the world,

Considering that there is a duty on States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Considering that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy her or his economic, social and cultural rights as well as her or his civil and political rights,

Accepting that economic, social and cultural rights are indivisible from and inter-dependent with civil and political rights, even if cultural diversity means that all of these rights can be protected in different ways in different countries,

Recognising that women are disproportionately affected by poverty and by social and cultural marginalisation and that economic and social rights have particular significance for women,

Recognising that children, indigenous peoples and other groups have been historically discriminated against,

Noting that globalisation has adversely affected human rights, but that ethical globalisation has the potential to advance economic and social rights,

Concerned that poverty and public health crises, such as those caused by HIV/AIDS, tuberculosis and malaria, pose very significant problems for many people throughout the world,

Regretting that less developed countries are suffering from an intolerable burden of international debt,

Accepting that international financial and trade institutions and transnational corporations have the necessary resources as well as the obligation to promote the protection of the economic and social rights,

Recognising that there is an obligation on developed states to co-operate with less developed countries to advance the protection of economic and social rights,



Welcoming the efforts being made within the United Nations to develop an Optional Protocol to the International Covenant, providing for a complaints mechanism,

Realising that both legal and natural persons have obligations towards other persons, groups and the community to which they belong to strive for the promotion and observance of economic and social rights, and that the vindication of such rights can be empowering for those who claim them,

Agrees upon the following Articles:

Article 1

All States should ratify the International Covenant on Economic, Social and Cultural Rights and should strive to incorporate into their domestic law the obligations imposed on States, and the rights conferred on individuals and groups, by the Covenant, replacing, where necessary, any laws which are not consistent with the Covenant.

Article 2

All States should comply fully and effectively with their obligations under the International Covenant on Economic, Social and Cultural Rights, including the obligation to submit punctually their periodic reports to the United Nations' Committee on Economic, Social and Cultural Rights, and should strive to respond positively to the General Comments and Concluding Observations of that Committee.

Article 3

All States should guarantee to individuals and groups the right to obtain enforcement of the International Covenant on Economic, Social and Cultural Rights in their domestic courts, and/or in some other appropriate manner, against State and non-State actors and should comply as quickly as possible with judgments issued by courts on economic and social rights.

Article 4

All States, in collaboration with civil society, should provide information and training on the international standards concerning economic and social rights to all members of the judiciary, legislature, executive and administration in the State.

Article 5

All States, in collaboration with civil society, should devise, adopt and implement a national plan for the protection of economic and social rights, with targets, benchmarks, timeframes and indicators ensuring the minimum core obligations of the State and the progressive realisation of those rights.

Article 6

All States should create and strengthen independent national human rights institutions, compliant with the United Nations' Paris Principles of 1993 which are adequately resourced. The duties of these institutions should include the promotion of awareness, monitoring and enforcement of economic and social rights.



Article 7

All States should subject the enjoyment of economic and social rights only to such limitations as are legitimately determined by law and only in so far as this may be compatible with the nature of these rights and such limitations should be solely for the purpose of promoting the general welfare in a democratic society.

Article 8

All States and international financial and trade institutions should recognise that the debt burden of less developed countries is a barrier to the realisation of economic and social rights in those countries and should take steps to remove that barrier.

Article 9

All States, international financial and trade institutions and transnational corporations should refrain from activities which could adversely affect economic and social rights in any State and should promote in a comprehensive and holistic manner the protection of economic and social rights in all States where they are active, taking into account the particular conditions of each State, in co-operation with legislatures, national human rights institutions and non-governmental organisations.

Article 10

Civil society should recognise the economic, social and cultural rights protected by the International Covenant on Economic, Social and Cultural Rights.

Belfast, 18 May 2002





NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Temple Court, 39 North Street, Belfast BT1 1NA

Tel: 028 9024 3987 • Fax: 028 9024 7844 • Email: information@nihrc.org • Website: www.nihrc.org

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