

THE BILL OF RIGHTS FORUM
WORKING GROUP ON SOCIAL AND ECONOMIC RIGHTS
(INCLUDING RELEVANT EQUALITY ISSUES)
UNISON OFFICE
TUESDAY 11TH DECEMBER 2007

In Attendance

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|---------------------|---------------|
| 1. Patricia Mckeown | Convenor |
| 2. Aoife Nolan | Legal Advisor |
| 3. Maggie Beirne | |
| 4. Dermont Nesbitt | |
| 5. Chrissie McAuley | |
| 6. Jeff Dudgeon | |
| 7. | |
| 8. | |
| 9. Ayot Elizabeth | Notetaker |

Apologies:

1. Lynn Carvill

1.0 REVIEW OF MINUTES OF FRIDAY 7 DECEMBER 2007

The convenor welcomed all in attendance appreciating them for taking time off to attend the meeting. She then suggested that the meeting pick up from where the last ended. There were no comments on the record of the last meeting.

2.0 THE RIGHT TO WORK AND THE RIGHT TO HOUSING

By way of introduction reference was made to the concept of progressive realisation which requires government to make every effort to realise full economic and social rights but acknowledges that this cannot be done immediately nor can this be achieved solely by government and must be done over a period of time.

Paragraph 1 remained unchanged as there were no arising issues.

Paragraph 2 needs to be simplified. There was a discussion about the phrase “provide for” and whether this would not be misunderstood to mean that Government is obliged to provide work for the people. It was explained that the obligation of government is in respect to ensuring appropriate measures and policies as opposed to intervening at the micro level. “Support and encourage” as used in the clause draw in other stakeholders but retains governments responsibility to provide a conducive environment for these stakeholders to operate within.

A recommendation was made that the provision requiring government to provide technical and vocational training programs be maintained. In respect to the right to education, it was said that this is a collective right and there is need to clarify where this duty is located. Could this right be incorporates as a component of the right to work under provision of skill. This would be reviewed. (Dr. Aoife Nolan)

Rephrase suggested in respect to paragraph 2(a):

“Government shall support, encourage and provide for;

- (a) the continuous development of skills, knowledge and understanding that are essential for employability and fulfillment,
- (b) conditions that enable full employment”.

The rearrangement would assist in refocusing perceptions and expectations and reduce the potential for misunderstanding the role or extent of governments’ obligation by any one reading the provision.

Paragraph 3: Suggested “Just and favorable conditions of work and remuneration”. The question was whether the paragraph should be as specific as presented or more generic. The list in paragraph 3(a) was in issue. Should the provision generic wording that would be open to interpretation or should it be specific setting out what the working group has in mind? The use of “inclusive” indicates that the provision is non exhaustive, did this presuppose that something has been excluded? The majority opinion was to retain the list and tweak it into shape. This would enable persons interpreting the provision to see what the reason behind the provision was and because they cannot refer to the preparatory documents, the list would be useful. Reference was made to various international documents when drawing the lists in 3. The standards listed are representative of the core obligations. It was thought that it should then be appropriate to set out international standards and incorporate thereto provisions relevant to the Northern Ireland context without doing away with the list.

The above paragraph also needs to be distilled to take into consideration the fact that fair wages encompasses some of the listed items; e.g. food, housing, clothing, education e.t.c.

Narrowed down to a rephrase of paragraph 3(a) reading;

Every person has a right to just and favorable conditions of work regardless of status, including;

- (a) [“A right to a fair wage and equal remuneration consistent with decent standards of living for the individual, his or her family, if any, and any dependants.]
- (b) [Fair and equal remuneration for equal work,]
- (c) Safe and healthy working conditions,

Further consultation would be made about the use of family/dependants with the equality people. In addition, further consultation would be done on the most appropriate phrase, wage, pay or remuneration. (Dr. Aoife Nolan)

Comments on Paragraph 3(d) The Right to Equality of Opportunity. This clause to remain in [] to be revisited if there is no freestanding provision on Equality of Opportunity. If there is a stand-alone clause on Equality of Opportunity then there will be no need to repeat the same at the end of each right. In addition, there was concern about how this relates to the Northern Ireland Equal Opportunity law. Since the Bill of Rights is framework legislation then the specific laws of Northern Ireland would co-exist. The Bill of Rights would also reinforce the equality provisions already in existence.

Paragraph 5 is dependant on paragraph 4. However, in respect to workers with family responsibilities it was thought to consider this category as a special group would be unfair to the individual doing equal work under same conditions. This reference it was suggested was one basis upon which women were previously discriminated as men were viewed as family heads and paid more than their female counterparts. This discussion was not concluded.

Reference was made to paragraphs 6 but the discussion here was also not completed. It was stated that when this matter is discussed attention should be directed to private contracts. Emphasis was placed on the need to protect the status of all workers irrespective of their status, whether nationals or non-nationals. Everyone should be given the opportunity to access work on an equal footing and this is irrespective of any special category they fit in, women, migrant, aged or disabled.

3.0 TRADE UNIONS AND THE RIGHT TO ORGANISE

There was a question posed as to whether the Economic and Social Rights group should include the right to organise and join trade unions on its agenda. This was because the Political rights group was not handling it. Further consultation (Convener) needs to be made in this regard to determine where best this item falls and then include it in the agenda of the Economic and Social Rights group should the need arise.

4.0 WOMEN AND OTHER SPECIAL GROUPS RIGHTS

The Economic and Social Rights Group was requested to deal specifically with the rights of women in the context of economic rights.

Initial concern was expressed as to whether dealing with women as a group would not require that other special groups be dealt with specifically and what the difference between 3 and 4 is. The question of discrimination against women was determined to be a big enough issue to warrant special consideration in the Bill of Rights. It therefore would not be discriminatory to consider women without delving in the rights of other special groups. 4 and 5 should be retained with a note for further re-examination. In the meantime, CEDAW should be ignored but must be incorporated in a concise manner that is specific to the special circumstances of Northern Ireland.

Specific attention to be paid to incorporating maternity rights, discrimination, harassment, and workplace rights as they relate to women. A draft provision would be presented to the meeting covering women, children and community rights for consideration (Dr. Aoife Nolan).

5.0 STATUS OF PROVISIONS INCORPORATED THAT THE UK HAS NOT SIGNED UP TO

Whereas the UK has not signed up to certain Conventions, which the working group was referring to, this should not limit the work of the group. The Bill of Rights documents would need to be informed by the needs of the community as expressed and the current aspirations of the people variously represented by the participants in the working group meetings. The recommendations of the working group should be given due respect as they are based on best practices.

6.0 STATUS REPORT

The Convenor informed the meeting that the decision to hold two meetings back to back resulted from the call to all groups to prepare a report to be submitted to the Forum. Most groups have very preliminary reports and the idea behind the reports is not to put together a final draft but rather to ascertain progress being made in the process. The information submitted is not indicative of the final thoughts of the working group, the report explicitly would express this position, and that the text is subject to re-examination.

Dr. Aoife offered to prepare a draft to be presented to the meeting. It was the consensus that this would include the draft clauses dealt with so far and the accompanying discussions. If this generated debate from the recipients of the preliminary draft that would help facilitate the work of the group.

It was noted that the Forum is representative of the interests of the different groups and no hesitation should arise as what can or cannot be included. The group should not be viewed as merely a preparatory body in a chain of decision makers but rather as influential representation of the interests of the different communities represented.

7.0 CLOSING REMARKS

There is need to prepare a document that amalgamates the discussions from the minutes clustering key issues under distinct headings and presenting essential arguments of the working group. This would be more appropriate than attaching the minutes of the meetings, which would be indecipherable for wider use. This proposal met with no dissent.

Next meeting is set for the Thursday the 13th December 2007.

Signed:

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Patricia Mckeown Convenor