

Mr Heine, NIO Mr Tyson.

# EUROPEAN PARLIAMENT



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18 March 1994

A3-0151/94

## REPORT

of the Committee on Social Affairs, Employment and the  
Working Environment

on discrimination in the field of employment in Northern  
Ireland

Rapporteur: Mr Jaak VANDEMEULEBROUCKE

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On 9 July 1992 the President of the European Parliament announced that the motion for a resolution by Mr Balfe and others on discrimination in the field of employment in Northern Ireland had been referred to the Committee on Social Affairs, Employment and the Working Environment as the committee responsible and to the Committee on Civil Liberties and Internal Affairs for its opinion.

The Committee on Social Affairs, Employment and the Working Environment decided at its meeting of 16 November 1992 to draw up a report.

At its meeting of 26 January 1993 it appointed Mr Vandemeulebroucke rapporteur.

At its meetings of 25 November 1993 and 23 February and 16 and 17 March 1994 it considered the draft report and decided to apply Rule 99 of the Rules of Procedure.

At the last meeting it adopted the motion for a resolution unanimously.

The following took part in the vote: van Velzen, chairman; Reding and McMahon, vice-chairmen; Vandemeulebroucke, rapporteur; Alvarez de Paz, Archimbaud, Brok, Buron, Catasta, Cox (for Nielsen pursuant to Rule 138(2)), Fitzgerald (for Nianias pursuant to Rule 138(2)), Guidolin (for Deprez), Hughes, Megahy, Menrad, Oomen-Ruijten (for De Vitto), F. Pisoni, Pronk, Rønn, Schiedermeier, Spencer and Tongue.

The opinion of the Committee on Civil Liberties and Internal Affairs is attached to this report.

The report was tabled on 18 March 1994.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.



A  
MOTION FOR A RESOLUTION

Resolution on discrimination in the field of employment in Northern Ireland

The European Parliament,

- having regard to motion for a resolution B3-0629/92 by Mr Balfe and others on discrimination in access to employment in Northern Ireland,
- having regard to the study entitled 'The Directory of Discrimination. Northern Ireland 1991' by the Equality action group,
- having regard to sections 17 and 19 of the 1973 Northern Ireland Constitution Act, which ban discrimination on grounds of religious or political views,
- having regard to the provisions of the 1989 Fair Employment (Northern Ireland) Act,
- having regard to Rule 45 of the Rules of Procedure,
- having regard to the report of the Committee on Social Affairs, Employment and the Working Environment and the opinion of the Committee on Budgetary Control (A3-0151/94),
- A. whereas British fair employment legislation has not succeeded in bringing about any substantial improvement in the unemployment situation of Northern Irish Catholics over the last 20 years,
- B. whereas the Fair Employment Commission's monitoring reports clearly demonstrate that Northern Irish Catholics are at a severe disadvantage as regards their numbers in the labour force,
- C. whereas Northern Irish Catholics are more than twice as likely to be unemployed as Protestants are,
- D. whereas Catholics are more likely to suffer long-term unemployment,
- E. whereas the unemployment differential - the ratio of Catholic and Protestant unemployment rates - is affected, in an arithmetical sense, by three factors (the proportion of the economically active population who are Catholic; the proportion of those in employment who are Catholic; and the overall rate of unemployment) and whereas changes in any one of these factors resulting from relatively rapid population growth or emigration can alter the unemployment differential, so that the latter does not provide a meaningful indicator of progress towards employment equality,
- F. whereas Northern Irish Catholics are significantly under-represented in executive jobs,
- G. whereas this is true of both the private and the public sector,
- H. whereas the economic situation in Northern Ireland is extremely poor, and whereas the region is undergoing a very severe economic crisis,

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I. whereas it is also important and desirable that an overall reduction in unemployment be achieved,

J. whereas the political situation in the region - the lack of a solution to the Northern Irish problem - is a very heavy burden on the region's economic situation,

K. whereas terrorism has contributed to the serious unemployment situation in Northern Ireland over the last 25 years, particularly in those areas where the level of unemployment has traditionally been highest,

L. whereas the particular problems of the age structure and skills of the Northern Ireland workforce and the location of established industries render it extremely difficult to reduce the differential between Catholic and Protestant unemployment in the short term,

M. whereas the higher rate of unemployment among Catholics is a result of the interaction over time of a complex array of factors,

1. Welcomes the efforts made by the British Government to introduce anti-discriminatory legislation on employment;
2. Considers that this legislation is of a very high order;
3. Notes that anti-discrimination legislation over the last 20 years has not brought about any substantial improvement in the unemployment of Northern Irish Catholics;
4. Regrets the failure to set goals and timetables for the reduction of the unemployment differential which exists between the Catholic and Protestant communities;
5. Wishes existing legislation to be assessed by independent and international research units;
6. Notes that Northern Irish Catholics see the worldwide 'MacBride Principles' campaign as a great source of support in overcoming their problems and endorses the campaign's moral principles, but also acknowledges the argument that this campaign may lead to disinvestment in Northern Ireland;
7. Welcomes the Commission's assurance that money made available under the Structural Funds' Objective 1 will be deployed so as to support fair employment in Northern Ireland;
8. Is well aware that a political solution to the Northern Irish problem, to which both the Protestant and the Catholic sections of the Northern Irish population must subscribe, is a necessary precondition for a significant improvement in the economic situation in Northern Ireland, and therefore supports all efforts to encourage negotiations between Northern Irish political leaders and the British and Irish Governments;
9. Welcomes the current efforts to move towards a peaceful settlement in Northern Ireland;



10. Notes that the plans submitted for Northern Ireland for assistance under Objective 1 clearly recognize that resources must be targeted to those in greater need, whether Protestant or Catholic, and that the British Government intends to continue to ensure that all parts of the plans secure fair opportunities which, because of their particular economic situation, should assist the position of many Northern Irish Catholics;
11. Is convinced that a renewed and reinforced commitment by the British authorities to effective implementation of anti-discrimination legislation would constitute a major boost to the current talks and efforts for a peaceful settlement;
12. Instructs its President to forward this resolution to the Commission, the Council of Ministers, the Irish and British Governments and political and church leaders in Northern Ireland.

## 1. History

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EXPLANATORY STATEMENT**1. Historical background**

When direct rule from London was introduced in Northern Ireland in 1972, it was acknowledged that widespread discrimination had occurred against the Roman Catholic population. This had been felt particularly keenly in three spheres - electoral practice, the allocation of public housing, and employment. This report deals with the problem of discrimination in employment.

Discrimination on the grounds of religious belief or political opinion by Government departments and public bodies was made unlawful under the Northern Ireland Constitution Act 1973 (sections 17 & 19). This Act also established the Standing Advisory Commission on Human Rights (SACHR) to advise the Secretary of State about the need for, and effectiveness of, anti-discrimination legislation and other human rights issues.

**Van Straubenzee Report**

In late 1972, the Government set up a Working Party to 'consider what steps should be taken to counter religious discrimination where it may exist in the private sector of employment in Northern Ireland'. The Working Party was chaired by William Van Straubenzee.

The report defined two objectives - the elimination of religious and political discrimination and the promotion of full equality of opportunity in employment. The first objective involved making religious discrimination (including discrimination on political grounds) unlawful (but not a criminal offence), and the second was concerned with the introduction of affirmative action programmes to remove impediments to fair employment. The report advised against the adoption of quotas and policies of positive discrimination.

In order to meet these objectives the Van Straubenzee Report advocated the adoption of voluntary measures such as conciliation and persuasion but recommended that these should be supported by legal sanctions. The Report also recommended the establishment of an independent Fair Employment Agency with the general duty of countering religious discrimination and with the specific power to investigate both individual complaints of unlawful discrimination and patterns of employment and - where negotiation of voluntary settlements failed - to issue enforcement orders embodying remedies, including programmes of affirmative action. The Van Straubenzee Report was completed in May 1973.

**Fair Employment (Northern Ireland) Act 1976**

The Fair Employment (Northern Ireland) 1976 Act implemented most of the main recommendations of the Van Straubenzee Report. It established a Fair Employment Agency charged with promoting equality of opportunity in employment in NI between people of different religious beliefs and eliminating unlawful discrimination on the grounds of religious belief or political opinion. It covered both the private and the public sector.



There were significant deficiencies in the operation of the 1976 Act. There tended to be passive compliance by employers with the anti-discrimination law rather than an active, positive promotion of equality of opportunity. The Act also relied on voluntary compliance by employers with a Declaration of Principle and Intent in respect of fair employment. In addition, there was a conflict between the Agency's educational and promotional role and its investigatory and quasi-judicial functions. These were so closely associated that employers were discouraged from seeking advice from the Agency in case it led to formal investigation of their employment practices.

By the mid-1980s evidence was emerging that the objectives of the 1976 Act were not being achieved. Figures were emerging which showed that, in spite of the Fair Employment Act, Roman Catholics were bearing the brunt of soaring unemployment.

#### The Anglo-Irish Agreement (1985)

In the Anglo-Irish Agreement signed on 15 November 1985, the Irish and British Governments agreed to cooperate on economic, social and cultural matters and to work to promote reconciliation between the two main traditions in Northern Ireland. Article 5 of the Agreement states that the Intergovernmental Conference 'shall concern itself with measures to recognize and accommodate the rights and identities of the two traditions in Northern Ireland, to protect human rights and to prevent discrimination.'. Article 6 envisages the Irish Government putting forward 'views and proposals on the role and composition' of a number of government bodies including, expressly, the Fair Employment Agency. The agreement has for the first time given the Irish Government an active, recognized role in the field of religious and political discrimination in Northern Ireland.

#### The MacBride Principles

Sean MacBride, who died in 1988, had a long and often controversial career. He was a leader of the IRA in the 1930s but subsequently renounced violence to pursue a career in law and constitutional politics in Ireland and elsewhere. He served as Assistant Secretary-General of the United Nations, helped found Amnesty International and was awarded both the Nobel and Lenin Peace Prizes. In 1984 he put his name to nine Principles pinpointing specific action that employers could take to ensure that they did not discriminate on the basis of religion (see Annex I). The Principles call for affirmative action, which is legal, rather than positive discrimination or quotas. The MacBride Principles were directed specifically at US corporations with subsidiaries in Northern Ireland and emerged only after the British Government had persistently ignored internal calls for the strengthening of the 1976 Act.

It is widely accepted that the MacBride Principles were responsible for re-opening the question of discrimination in Northern Ireland and creating a climate in which politicians in both parts of the island could pressurize the British Government to initiate changes. But one of the most persistent and serious charges levelled against the Principles by the British Government was that they prevent new investment and can even lead to disinvestment.

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## The Need for New Measures

In January 1985, the Standing Advisory Commission on Human Rights (SACHR) undertook a review of equality of opportunity in employment; it reported in late 1987. In September 1986 the Department of Economic Development (DED) published a Consultative Document which set out a number of future strategy options. As a result of these initiatives the Government published in May 1988 its White Paper on Fair Employment in Northern Ireland. Following consultation on the White Paper the Government introduced a Fair Employment (Northern Ireland) Bill into Parliament at Westminster in December 1988. During its passage through the House of Commons in the first half of 1989 it was considerably amended. Other significant changes were introduced by the House of Lords. The Bill received Royal Assent on 27 July 1989 and the Act came into force on 1 January 1990.

## 2. The Fair Employment (Northern Ireland) Act 1989

The main provisions of the 1989 Act are as follows:

- The Act renamed the Fair Employment Agency as the Fair Employment Commission (FEC) and gave it wider and more rigorous powers. It also received increased manpower and resources.
- It placed on the FEC the duty of promoting affirmative action<sup>1</sup> in addition to the duties of promoting equality of opportunity and working for the elimination of unlawful discrimination which the FEC inherited from the FEA.
- It requires private sector employers with more than 10 employees and all public sector employers to register with the FEC, to monitor the religious composition of their workforces and to submit annual monitoring returns to the FEC. All registered employers must also conduct a review, at least once every three years, of the composition of their workforces and their recruitment, training and promotion practices and implement affirmative action where fair participation is not being afforded.
- It outlawed indirect discrimination, direct discrimination being unlawful since 1976.
- It established a Fair Employment Tribunal (FET) to adjudicate on individual cases of alleged discrimination and gave it power to award compensation of up to £30,000.
- It requires the FEC to maintain a Code of Practice for the promotion of equality of opportunity. The Code must be taken into account by the FET in any proceedings brought before it;
- It provides for the enforcement of FEC directions through the FET which can impose cash penalties of up to £30,000 on employers who do not comply.
- It empowers the FEC to declare employers who fail to comply with their statutory duties unqualified to receive public authority contracts. They may also be denied Government grants.

<sup>1</sup> Affirmative action is defined in the Act as 'action designed to secure fair participation in employment by members of the Protestant, or members of the Roman Catholic, community in Northern Ireland by means including the adoption of practices encouraging such participation; and the modification or abandonment of practices that have or may have the effect of restricting or discouraging such participation.'



The operation of the Act is being evaluated on a continuous basis and will be formally reviewed in 1995. That review will address all the factors impacting on equality of opportunity in employment.

### 3. The current state of affairs

This report arose out of a motion for a resolution tabled by 51 MEPs (see Annex 1). This resolution was drawn up after a number of MEPs had read the study 'The Directory of Discrimination. Northern Ireland 1991' by the Equality action group. This study shows, with the aid of statistics from British Government bodies, that Catholics and Nationalists in Northern Ireland are subject to very considerable discrimination in the field of employment.

Your rapporteur visited Belfast from 9 to 12 May. The aim of the working visit was to examine what the British Government is doing to combat discrimination between Catholics and Protestants in the field of employment and how political parties, trade unions, employers, churches and action groups view the problem. Another aim was to find out how the EC can exercise an influence in this area (see Annex 2).

It emerged from talks with civil servants from the Northern Irish Department for Economic Development that the statistics quoted by Equality in The Directory of Discrimination. Northern Ireland 1991 were accurate, although the presentation of the facts was open to criticism in one or two places. It is an undeniable fact that Catholic employees are subject to discrimination in both the public and private sectors.

#### Composition of the working population

Since the entry into force of the 1989 Fair Employment (Northern Ireland) Act, the FEC has published monitoring reports in 1991, 1992 and 1993, containing detailed studies of the composition of the Northern Irish labour force. The most recent report, published at the end of May 1992, gives the figures for 1992. It comes to the following conclusion: 'Overall the composition is 235 330 (60.9% Protestant, 132 694 (34.4%) Roman Catholic and 18 051 (4.7%) Non-determined. The composition of those for whom a community was determined is 63.9% Protestant and 36.1% Roman Catholic. Since 1991 there has been a 0.8% increase in the proportion of Roman Catholics. Since the beginning of statutory monitoring in 1990 there has been an overall increase in the Roman Catholic proportion of monitored employees of 1.2%.' In his Foreword, R.G. Cooper, chairman of the FEC, estimates the proportion of Roman Catholics in the labour force at around 39%. Hence, 'The 1992 figures show that the proportion of Roman Catholic males in monitored employment has increased by 1.4% from 32% in 1990 to 33.4% and the proportion of the total (including male and female) who are Catholic has increased by 1.2% to 36.1%. The under-representation in monitored employment of Roman Catholic males has therefore fallen from about 7% to about 5.6% and the overall under-representation of Catholics has fallen from about 4.1% to about 2.9%.'

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As regards women in the labour force, the report states: 'There was not a significant under-representation of Roman Catholic females among the monitored employees. There is some evidence which would suggest that Catholic women tend to be employed with larger employers and in the Public Sector and therefore their under-representation in employment, which in any case is substantially less than the under-representation of Catholic men, occurs in that sector of very small employers who are not monitored as well as amongst the self-employed.'

#### Unemployment figures

However, the share in the labour force is not, of course, the only significant criterion. In 1993, a civil service memorandum from the Department for Economic Development to the minister responsible for economic affairs, R. Atkins, was leaked to the Northern Irish press. The document is dated 3 September 1992. The civil servant responsible for this area acknowledges in this memorandum that a survey of a large number of social and economic indicators shows that Catholics are worse off than Protestants in Northern Ireland: 'On all the major social and economic indicators, Catholics are worse off than Protestants. Catholics are more likely to be unemployed (23% of Catholic males are unemployed as against 9% of Protestant males.). Catholics are more likely to experience long-term unemployment (67% of the long-term male unemployed are Catholics). Catholics are significantly less likely than Protestants to hold professional, managerial or other non-manual positions. More Catholics than Protestants leave school lacking any formal educational qualifications. Significantly fewer Catholic pupils follow science subjects to A level. There is a greater provision of grammar school places for Protestant than Catholic children. Significantly more Catholics than Protestants live in public sector housing and experience overcrowding, Catholic households have a lower gross household income than Protestant households and almost double the proportion of Catholic households are dependent on social security than are Protestant households. Catholics suffer from higher levels of disability and ill-health.'

An analysis of the key area of unemployment suggests that the unemployment differential is unlikely to alter significantly over the next decade, in spite of the strengthened fair employment legislation. This is due to:

- demographic factors which will increase the proportion of Catholics seeking employment;
- the mismatch between where Catholics live and where jobs are located;
- continuing differences in skill levels between the two sides of the community, especially amongst long-term unemployed Catholic males;
- the reluctance of Catholic males to seek employment in the security forces; and
- the loose link between changes in the number employed and the number of unemployed; new job opportunities do not automatically reduce the numbers who are classified as unemployed.'

The male unemployment rate, in particular, shows that Roman Catholics are particularly disadvantaged.



Male unemployment rates (%) 1971-1993

	1971	1981	1983/1984	1984/1985	1993
Catholic	17	30	35	31	23
Protestant	7	12	15	13	9
C/P ratio(*)	233	250	233	238	256

(\*) Number of Catholics per 100 Protestants

Sources: 1971 Census  
1981 Census  
1983/84 Continuous Household Survey  
1984/85 Labour Force Survey  
1993 Department of Economic Development

Although the statistics available must be approached with caution (unemployment rates from different sources are not always 100% comparable), the above table does show that Catholic males are over 2.5 times as likely to suffer unemployment than are Protestants. Clearly, the situation has not changed much in the past 20 years.

Catholic women are in a slightly better position than Catholic men. They are 1.5 times more likely than Protestant women to suffer unemployment.

These figures must also be viewed against the background of the overall economic situation in Northern Ireland. The Opsahl report on Northern Ireland<sup>1</sup> sums up the situation as follows: 'Northern Ireland is one of the least prosperous regions in the European Community - 126th out of 171. Since the early 1970s, the region's manufacturing sector has been in decline: between 1973 and 1990 manufacturing output fell in absolute terms by 25 per cent, and dropped from 31 per cent to 17 per cent in terms of its share of total regional output. Less than 20 per cent of the Northern Irish workforce is now employed in manufacturing.

During this period, the region's traditional industries - shipbuilding, tobacco, textiles and aircraft manufacture - fell into particularly steep decline. At the same time the multinationals, which had flooded into Northern Ireland in the 1960s - causing the region to lead the UK in annual increases in manufacturing output - began to pull out. There was a 40 per cent fall in the number of externally owned factories in Northern Ireland between 1973 - when they accounted for over half of its manufacturing jobs - and 1990. In the same period the numbers employed in indigenous small manufacturing firms also fell sharply. 'All in all, the past 20 years have seen a huge contraction in the province's industrial base'. Against that background, the public sector has come to dominate the local economy, with 44 per cent of the workforce employed directly in it and many more jobs dependent on public spending. Public expenditure outstrips locally raised taxes by nearly £2.5 billion. The UK subvention which makes up the shortfall, excluding spending on security, amounts to about £1300 per annum for each Northern Ireland resident. Thus, even with

<sup>1</sup> Opsahl, Torkel, and others, A Citizen's Inquiry. The Opsahl Report on Northern Ireland, The Lilliput Press Ltd, Dublin, 1993, p. 73.

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its economic problems, 'Northern Ireland enjoys a standard of living not warranted by the performance of the underlying economy.' However large numbers of its people do not enjoy that artificially high standard of living. Unemployment in Northern Ireland traditionally has been the highest in the United Kingdom. In April 1993 it was officially 14.2 per cent. In some official 'travel to work' areas, male unemployment rises to well over 25 per cent, and in some local communities it is as high as 70 or 80 per cent. These areas and communities tend to be where Catholics are in a majority.

The Opsahl report also notes: 'The majority of submissions on the Northern Ireland economy stressed that if the region's economic prospects were to be improved and unemployment significantly reduced, a political settlement was crucial.' (p. 74)

#### 4. Decisions

The 1989 Fair Employment Act is, technically speaking, undoubtedly one of Europe's more stringent anti-discrimination laws. The British Government never misses an opportunity to draw attention to this. The important question, however, is not whether the legislation is working, but whether its provisions are adequate to eliminate economic inequalities and promote equality of opportunity. What is at issue is the effectiveness of the legislation, and its capacity to produce measurable change within a reasonable time frame. The test of the law is its capacity to change the reality of religious discrimination in Northern Ireland. The situation seems to suggest that it is not able to do so, and that its toughness is more apparent than real.

##### Little progress

The three monitoring reports published to date show that the proportion of Catholics in the labour force is growing extremely slowly. Other figures show, with reference to the male population, that over the last 20 years Catholics have been between 2.3 and 2.6 times as likely to suffer unemployment as Protestant males! British legislation does not seem to have made any significant difference here over the last two decades. Sections of the Department of Economic Development themselves confirm in confidential documents that, despite the relevant legislation, the disparity in unemployment rates is unlikely to change significantly over the next decade!

The Fair Employment Tribunal got off to a poor start. Owing to a number of errors in the 1989 legislation, the law had to be altered again, delaying the opening of the FET until 1991. The FET works effectively, within the limits of the law. It has brought to light a large number of flagrant infringements of the law. However, action groups have pointed out that individuals need a great deal of personal courage to submit a complaint. In a number of cases, plaintiffs have been harassed at work after submitting a complaint. Nevertheless, there are many instances in which employers and employees who have submitted complaints have come to an arrangement over compensation. The FET has had to pursue the procedure to its conclusion and deliver a ruling in 17 cases only. In all other cases a mutual agreement has been reached. It is, however, important to avoid a situation in which certain offenders use public funds to pay financial compensation.

Opsahl Report on  
3, p. 73.

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### Failure to set objectives and time frames

The British Government has announced that it hopes that 25% of senior civil service posts will be held by Catholics by 1996. Catholics account for 40% of the population of Northern Ireland. According to figures for 1992 from the Fair Employment Commission, scarcely 14.6% of senior civil service posts are currently held by Catholics. The declared objective is thus an extremely modest one. Nor is there any indication of the date by which parity (40/60) must be reached. The Standing Advisory Commission on Human Rights, which drew up the report analysing the 1976 law and putting forward suggestions for the 1989 law, states in its 1987 report that it would be reasonable to reduce the 2.5/1 ratio in unemployment rates to 1.5/1 over a five-year period. The government has not adopted this suggestion and refuses to let itself be pinned down to precise time frames and objectives. This is one of the major failings of the 1989 law.

### Evaluation of legislation by independent and international research units

The British Government has promised to evaluate existing legislation every five years. This task has been entrusted to the Central Community Relations Unit. This unit, which numbers three full-time civil servants, has so far published only one document giving its evaluation criteria. The way in which the unit operates seems to us to be open to criticism. It would be a good idea to have existing legislation evaluated by independent and international research units as well.

### The MacBride Principles campaign

The MacBride Principles campaign has exercised a good deal of pressure at international level. It has proved highly successful in the United States, where a large and active group of Irish-Americans has campaigned for the active application of the MacBride Principles. They have been adopted by some 13 American states. A number of cities such as New York and Cleveland also apply the MacBride Principles as a code of conduct. Companies based in these states or cities are obliged to endorse the MacBride Principles if they wish to obtain government support.

The British Government is battling hard against the MacBride campaign in the United States. It points out that the campaign is giving Northern Ireland a negative image and is more likely to lead to disinvestment than investment. However, it cannot be denied that Northern Irish Catholics see the MacBride campaign as a source of great support in the face of their problems. An often-quoted example is the large aircraft manufacturer, Shorts, where Catholics accounted for barely 5% of the workforce a few years ago. Shorts has since been taken over by the Canadian firm Bombardier, which has large contracts with New York State. Catholic activists claim that, as a result of the influence of the MacBride campaign, *inter alia*, the Canadian firm Bombardier forced Shorts to recruit more Catholics. At all events, Catholics now account for some 14% of Shorts' workforce. In addition, an Equality Manager has been taken on, whose full-time task it is to ensure that Catholics and Protestants enjoy equal opportunities within the company.

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The European Community has other means of putting pressure on the private and public sector, in the form of the Structural Funds. Your rapporteur does not, therefore, take the view that the EC itself should apply the MacBride Principles as a campaigning tool, although we can, of course, endorse the moral principles behind the MacBride campaign without any scruples.

#### The Structural Funds

The Northern Irish authorities are currently putting the finishing touches to their plan for support from the EC Structural Funds. The plan is that Northern Ireland will receive EC subsidies to the value of some £1.5 billion over the period 1993-1997.

Northern Ireland was classified as an Objective 1 region in 1989. The Commission justified this decision at the time on the grounds of the continuing conflict there. The Edinburgh Summit confirmed this decision.

The 1993-1997 programme is the first programme covered completely by the 1989 Fair Employment Act. It thus seems to me appropriate to make EC aid conditional.

EC aid must meet specific fair employment objectives. European structural funding should be used positively to promote and develop equal opportunities, rather than to perpetuate and maintain discriminatory structures and practices. Very strict time frames must also be imposed to send a clear signal to the Catholic and Nationalist groups in Northern Ireland that EC aid has a positive effect on the distorted employment situation. Parliament can ask the Commission to make appropriate arrangements.

Employers, trade unions and campaigning groups alike drew my attention to the lack of 'additionality' where EC aid was concerned. Much was also made of the lack of democratic consultation and transparency. Action needs to be taken in this area as well.

The EC can exercise a positive influence on the situation of Northern Irish Catholics by, inter alia, making its aid conditional and emphasizing clear objectives and time frames.

The aim must be to pursue a dual policy:

- effective legislation with clear objectives and time frames;
- measures must be taken to create as many new jobs as possible in Northern Ireland.

It is also clear that only a political agreement providing a solution to the Northern Irish problem which is acceptable to both Unionists and Catholics/Nationalists in Northern Ireland will ultimately lead to a climate in which discrimination between the two communities in Northern Ireland can be eliminated and opportunities created for significant improvements in the economic situation.



# THE MACBRIDE

1. *Increasing the representation of individuals from underrepresented religious groups in the workforce including managerial, supervisory, administrative, clerical and technical jobs.*

A workforce that is severely unbalanced may indicate prima facie that full equality of opportunity is not being afforded all segments of the community in Northern Ireland. Each signatory to the MacBride Principles must make every reasonable lawful effort to increase the representation of underrepresented religious groups at all levels of its operations in Northern Ireland.

2. *Adequate security for the protection of minority employees both at the workplace and while travelling to and from work.*

While total security can be guaranteed nowhere today in Northern Ireland, each signatory to the MacBride Principles must make reasonable good faith efforts to protect workers against intimidation and physical abuse at the workplace. Signatories must also make reasonable good faith efforts to ensure that applicants are not deterred from seeking employment because of fear for their personal safety at the workplace or while travelling to and from work.

3. *The banning of provocative religious or political emblems from the workplace.*

Each signatory to the MacBride Principles must make reasonable good faith efforts to prevent the display of provocative sectarian emblems at their plants in Northern Ireland.

4. *All job openings should be advertised publicly and special recruitment efforts made to attract applicants from underrepresented religious groups.*

Signatories to the MacBride Principles must exert special efforts to attract employment applications from the sectarian community that is substantially underrepresented in the workforce. This should not be construed to imply a diminution of opportunity for other applicants.

5. *Layoff, recall and termination procedures should not in practice favor a particular religious group.*

Each signatory to the MacBride Principles must make reasonable good faith efforts to ensure that layoff, recall and termination procedures do not penalize a particular religious group disproportionately. Layoff and termination practices that involve seniority solely can result in discrimination against a particular religious group if the bulk of employees with greatest seniority are disproportionately from another group.

# PRINCIPLES (including 1986 amplification)

6. *The abolition of job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion.*

Signatories to the MacBride Principles must make reasonable good faith efforts to abolish all differential employment criteria whose effect is discrimination on the basis of religion. For example, job reservations and apprenticeship regulations that favor relatives of current or former employees can, in practice, promote religious discrimination if the company's workforce has historically been disproportionately drawn from another religious group.

7. *The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.*

This does not imply that such programs should not be open to all members of the workforce equally.

8. *The establishment of procedures to assess, identify, and actively recruit minority employees with potential for further advancement.*

This section does not imply that such procedures should not apply to all employees equally.

9. *The appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of timetables to carry out affirmative action principles.*

In addition to the above, each signatory to the MacBride Principles is required to report annually to an independent monitoring agency on its progress in the implementation of these Principles.

Sean MacBride, S.C.



## MOTION FOR A RESOLUTION (B3-0629/92)

tabled pursuant to Rule 45 of the Rules of Procedure by the following Members: BLANEY, VANDEMEULEBROUCKE, HUME, AGLIETTA, LALOR, MAHER, CASTELLINA, DESSYLAS, AMENDOLA, ANDREWS, BALFE, BARRERA I COSTA, ISLER, BÉGUIN, BETTINI, BIRD, BJØRNVIG, BONDE, BOWE, BREYER, CANAVARRO, CHRISTENSEN Ib, CONAN, da CUNHA OLIVEIRA, DAVID, DINGUIRARD, ERNST de la GRAETE, EWING, FALQUI, FITZGERALD, FITZSIMONS, FRÉMION, GRAEFE zu BARINGDORF, KILLILEA, KÖHLER Heinz, Fritz, LANE, McCUBBIN, MCGOWAN, McMAHON, MORETTI, ODDY, ONESTA, PIERMONT, POLLACK, RAFFIN, SANDBÆK, SANTOS LOPEZ, SIMEONI, SIMPSON Brian, SMITH Alex, SMITH Llewellyn, VAN OUTRIVE, VERBEEK and WILSON

on discrimination in access to employment to Northern Ireland

The European Parliament,

- A. seriously concerned at the evidence of discrimination on a religious basis in Northern Ireland, as regards access to jobs that is contained even in government-approved statistics and reports such as that of the Fair Employment Agency,
  - B. convinced that the situation so revealed constitutes an urgent problem of social policy and an infringement of basic human rights,
1. Calls on the European Commission to investigate labour market discrimination in Northern Ireland and to report its findings to Parliament;
  2. Instructs its appropriate committee to assess the need for a report on discrimination in the labour market in Northern Ireland and to make proposals on how it can be eliminated.

5. Layoff, recall and termination procedures should not impact disproportionately on religious groups.

Each signatory to the MacBride Principles must make reasonable good faith efforts to ensure that layoff, recall and termination procedures do not penalize a particular religious group disproportionately. Layoff and termination practices that involve seniority solely can result in discrimination against a particular religious group if the bulk of employees with greatest seniority are disproportionately from another religious group.



Organizations and people met by Jaak Vandemeulebroucke  
in Belfast from 9 to 12 May 1993

British Government

- . Rt Hon Sir Patrick Mayhew, Secretary of State for Northern Ireland
- . Mr Robert Atkins, Minister for the Economy and the Environment

Government bodies

- . Department of Economic Development
- . Fair Employment Commission
- . Standing Advisory Commission on Human Rights
- . Central Community Relations Unit

Political parties

- . Alliance Party
- . SDLP
- . Ulster Unionist Party
- . Sinn Féin
- . Democratic Unionist Party

Churches

- . Roman Catholic Church
- . Methodist Church
- . Presbyterian Church

The Church of Ireland was unable to take part in a meeting because of its synod in Dublin, but later supplied documentation.

Trade unions

- . Irish Conference of Trade Unions
- . Counteract

Employers

- . Confederation of British Industry
- . Equality Manager, Shorts

Action groups

- . Committee on the Administration of Justice
- . Campaign for Democracy
- . Equality
- . Women's Support Network
- . West Belfast Economic Forum

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OPINION

(Rule 120 of the Rules of Procedure)

of the Committee on Civil Liberties and Internal Affairs  
for the Committee on Social Affairs, Employment  
and the Working Environment

Draftsman: Mr M. VERHAGEN

At its meeting of 14 July 1992 the Committee on Civil Liberties and Internal Affairs appointed Mr Verhagen draftsman.

At its meetings of 6 May, 1 July and 22 September 1993 it considered the draft opinion.

At the last meeting it adopted the conclusions as a whole unanimously.

The following took part in the vote: Turner, chairman; Salisch, vice-chairman; Verhagen, draftsman; C. Beazley, Cooney, Magnani Noya, Mebrak-Zaidi, Piermont and Roth.



### Historical background

When direct rule from the UK was introduced in Northern Ireland in 1972, it was acknowledged that widespread discrimination had occurred against the Roman Catholic population. This had been felt particularly in three spheres - electoral practice, the allocation of public housing and employment. The first two areas were tackled successfully by the mid-1970s, but the problem of discrimination in employment has proved more intractable.

The first Fair Employment legislation in Northern Ireland was introduced in 1976 when it was recognized that there were major inequalities between the two communities in Northern Ireland in terms of employment opportunities. The legislation was based on a rather simplistic proposition that the major problem which needed to be addressed was the problem of direct discrimination; that is to say, the situation where an employer refuses to employ a better qualified person because of his religion.

The concept of indirect discrimination, which was only then in the process of being developed in the United States, was not outlawed.

The legislation also relied heavily on a voluntary approach and did not require employers, for example, to monitor their labour force. Broadly speaking, at that time the situation was that Roman Catholics were poorly represented in the public service, particularly at senior levels, very badly represented in the more prestigious service sections, under-represented in skilled employment, over-represented in unskilled employment and, in particular, much over-represented among the unemployed.

Roman Catholic males were approximately 2.5 times as likely to be unemployed as Protestant males.

### Fair employment acts

In the 1980s it was recognized that further measures needed to be taken to strengthen the legislation and the 1989 Fair Employment (NI) Act came into force in January 1990. It recognized that the problem was not simply the problem of direct discrimination and it was also aimed at outlawing indirect discrimination. One of the more important reasons for its introduction was that the 1976 Act depended on employers taking voluntary action to promote equality of opportunity and this did not happen to the extent that was envisaged.

In addition, it required all employers with more than 25 employees and all public sector employers to monitor the religious composition of their labour force from 1990 on and to report to the Fair Employment Commission on an annual basis. From 1992 on this was changed to all employers with more than 10 employees. It required all employers to carry out regular reviews of their employment practices to see whether or not fair participation was being provided between the two communities and to take affirmative action and to establish goals and timetables where it was not being provided. It imposed strong sanctions on employers who flouted the law. They could, for example, be fined and also denied all government contracts and government grants.

<sup>1</sup> The problem dealt with, is not related to free movement of persons or workers. it is in the first place a human rights problem.

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The legislation attempted to reconcile two different concepts. These were:

1. the need of a re-distribution of employment between the two communities;
2. no unduly penalization of individuals.

It, therefore, required employers to take various affirmative action measures to bring about fair participation but did not permit them to take religion into account at the point of selection.

Different reasons for unemployment discrepancy

It has long been maintained that a number of factors, other than discrimination accounted for employment discrepancy between the two communities. These were:

1. Regional factors  
Roman Catholics are disproportionately concentrated in areas west of the Province where there are higher unemployment rates.
2. Class differences  
Castlereagh District Council area is the only one of 26 council areas which has a higher Protestant unemployment rate than Roman Catholic unemployment rate. In that area the Protestant unemployment rate is almost twice the Roman Catholic unemployment rate. This is largely because almost all the Roman Catholics in that area are middle class where the majority of Protestants are working class. In most other district councils however the situation would be the inverse.
3. Differences in education  
There are small differences in levels of qualifications obtained by the two communities and, in particular, there tends to be a greater emphasis in the State schools (i.e. Protestant), on science and mathematics.
4. Age differences  
Roman Catholics are disproportionately young and the young are more likely to experience unemployment.
5. Family size  
It is argued that family size can influence the unemployment rate. This would be so particularly in rural farming communities where a family with one son can provide a job for that son on the farm but a family with two sons would be unable to provide work for both of them and this may increase the unemployment differential.
6. Security occupations  
Roman Catholics are massively under-represented in security-related occupations. This has been the one major employment growth area over the last ten years.

Researchers working for the Standing Advisory Commission on Human Rights (SACHR) recognized that all of these factors had an impact but they could only explain a part of the differential. Other factors are clearly the effects of present direct discrimination, the effects of indirect discrimination and the effects of past discrimination. Also other factors e.g. the reluctance of Catholics to work in an area like East Belfast and the Protestants to work in the city side of Derry could have played a role.



### Assessment of the legislation

The legislation which has been introduced is much stronger than the legislation in GB to deal with race relations and those involved with race legislation have argued for similar legislation in their field.

The Fair Employment Commission has reported that the monitoring exercise has gone well and the experience of dealing with discrimination before the Fair Employment Tribunal have been satisfactory. Levels of compensation awarded have been sufficiently high to discourage employers tempted to discriminate. Employers are taking seriously the requirements of the Act.

### Other possibilities for improvement

Change cannot solely come about through legislative means. What is required are special efforts to increase job opportunities and skills in the Roman Catholic community. Even if all discrimination were ended there would still be major residual problems which need to be addressed.

The UK Government recognizes that legislation alone cannot bring about a balanced workforce in Northern Ireland, where the issue cannot be considered in isolation from the wider economic situation. It has therefore adopted a twin-track approach to Northern Ireland's equality problems by not only putting in place strong and effective anti-discrimination legislation but also by allocating extensive resources to attract inward investment and to create additional employment opportunities where they are more needed. Affirmative action can only be fully effective when the economy is expanding and both communities are able to benefit fully from new job opportunities in growing companies.

The European Communities are able to support Northern Ireland from the European Structural Fund to improve the necessarily second track for the matter of employment for the neglected communities and to improve the education of the Roman Catholic community. It is obvious that the plain efforts of the UK Government to bring about fair employment in Northern Ireland does not mean a conditionality to the European Communities support of Northern Ireland but it speaks for itself that the EC support has to go along with the already taken initiatives to push back the higher unemployment rate under the Roman Catholic community.

The 1989-93 Community support framework document for Northern Ireland as an Objective 1 region provided for measures for categories encountering special needs in the labour market and, in particular, confined these to the handicapped and women.

No reference was made to the differences between the two religious communities.

It is crucial that under the next phase emphasis should be given to measures to remove differentials between the unemployment rates in the two communities. In particular, emphasis must be given to the injection of greater skills in the Roman Catholic community, for example, in the scientific and engineering sections and to measures helping the long-term unemployed who are disproportionately Roman Catholic. In this way a group which needs support can be helped by using objective criteria avoiding the use of discriminatory criteria.



The aim of removing the unemployment differential requires the Fair Employment legislation to be strongly enforced but also requires major initiatives to remove the structural inequalities and create internal cohesion.

Conclusions:

1. Despite the plain improvements there still is a considerable higher rate of the Roman Catholic male population unemployed compared with the Protestant male population (23% of the Roman Catholics as against 9% of the Protestant population).
2. The Fair Employment Act of 1989 is one of the strict and anti-discrimination laws in Europe.
3. The European Communities has to support the improvement of the employment situation and the education of the Roman Catholic community by the use of the structural funds. This will be possible by job creation and training initiatives in particular geographical areas which will help the under-represented community to train for an obtain employment.
4. With regard to the strict anti-discrimination law and the other initiatives of the government of the UK to bring about fair employment it is not necessary to put conditions to the EC support.
5. From the point of view of the Committee on Civil Liberties and Internal Affairs attention has to be paid to the observance of human rights within the European Communities<sup>1</sup>. Far-reaching legislation and other governmental activities against the discrimination between the Roman Catholic and Protestant communities in Northern Ireland give no reason to give further attention, on the basis of observance of the human rights, or to take specific measures.

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<sup>1</sup> The problem dealt with is not related to free movement of persons or workers.