The Countess Markievicz Memorial Lecture 2006

National University of Ireland, Galway

The Regulation of Work and Labour Standards:

"Is there a race to the bottom?"

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Introduction

On this, the 90th anniversary of the 1916 Rising, in which Countess Markievicz participated as a Commandant in the Irish Citizen Army , it is timely to recall an important element of the Proclamation relating to the principles of equal rights. It stated,

"The Republic guarantees religious and civil liberty, equal rights and equal opportunities to all its citizens, and declares its resolve to pursue the happiness and prosperity of the whole nation and of all its parts……"

(Proclamation of the Irish Republic, Easter, 1916).

As well as being the first woman elected to the House of Commons, she was appointed also as Minister for Labour in the unilaterally declared Irish Parliament in 1919. She served in this post from 1919-1922.

She was highly influential in the formulation of the Democratic Programme of that Parliament and its declaration of social and economic principles and from which I quote,

"We declare that we desire our country to be ruled in accordance with the principles of Liberty, Equality, and Justice for all……In return for willing service, we, in the name of the Republic, declare the right of every citizen to an adequate share of the produce of the Nation's labour……It shall also devolve upon the National Government to seek co-operation of the Governments of other countries in determining a standard of Social and Industrial Legislation with a view to a general and lasting improvement in the conditions under which the working classes live and labour".

(Democratic Programme of Dail Eireann, Dublin, 21st January 1919).

Historical Background

The topical subject of this Countess Markievicz memorial lecture is neither new nor unique to the world of politics and industrial relations. However, in the light of many recent developments it is important that we assess at this juncture the central considerations of the theme of evolving labour standards and practices and changes in our labour law. Though the phrase – "*the race to the bottom*" – has become quite fashionable in the modern lexicography of conflictual human resource management it is not a purely 21st century phenomenon.

The concept itself and the systematic political and legal attempts to resolve the issues of the prevention of the exploitation of labour has a long history and has given rise to many political episodes before the recognition and legislation of Trade Unions in the latter part of the nineteenth century. These range from the issues which gave rise to the Peasant's Revolt in 1381, to the establishment of the medieval trade guilds, to the more familiar efforts during the industrial revolution and its aftermath to combat the worse excesses of the exploitation of human labour. The enactment of the first Factory Acts (1819) in these islands initiated a corpus of protective employment legislation which continues to this day.

These enactments have not been without significant controversy. We may recall members of the Chartist movement in the U.K. who argued that elements of the reform of the "*work-houses*" as part of the Poor Law Act of 1834, were *"an attempt to reduce wages and create a subservient workforce"*.

Does this controversy not have a resonance in some of the information that has emerged in regard to some of the most exploitative employer provided living accommodation practices, modern bonded labour incidents and gang-master activities in some of our western industrialised economies?

A greater impetus emerged throughout the 20th century to legislate and regulate against the exploitation of labour. These developments took place against the backdrop of more enlightened political and employer attitudes, the debates surrounding the adaptation of the key International Conventions of the ILO and the then increasing power of the organised trade union movement in both jurisdictions.

It is timely to note that statutory minimum wages were first introduced nationally in Australia (Harvester Judgement) in 1907, in the USA in 1938 (Fair Labour Standards Acts 1958-1996), in France in 1950, in the UK in 1999, and in the Republic of Ireland in 2000. I will return to this issue later in this paper.

While this may be a "potted version" of the continuum of important influences in the establishment of key labour standards it nonetheless highlights the fact that the theme of this lecture has remained a core political/industrial issue throughout the centuries.

Employment Law

It is in the last 25 years that the UK, N.I and the Republic of Ireland have witnessed and experienced the most rapid and significant employment law changes, new enactments of labour and equality legislation and the establishment of new employment rights. The genesis for much of this change has been the accession of these islands to the European Union in 1973 and the subsequent adaptation and transposition of various European Directives into domestic employment law provisions. Of increasing significance and influence also is the formative role of our developing sense of human rights and the application of these fundamental rights in the workplace.

The corpus of European Law has now both direct and indirect effect upon regulations, decisions and directives in all countries of the European Union and the wider implication of which, Governments, employers and indeed trade unions ignore at their peril.

As you are aware this increasing and highly complex level of European Law and regulation, covers almost every aspect of the workplace relationship including the areas of redundancy, consultation, information, contracts, occupational sick pay schemes, pregnancy, age and sex discrimination, maternity/paternity leave, health and safety and working-time.

Alongside these employment provisions an increasing level of jurisprudence has been established both in our domestic courts and the European Courts in relation to the application and interpretations of these regulations/directives in all member states. I will refer to some recent cases of major import for employment law and practice later in this lecture.

These developments have in turn led to a more legalised system of industrial relations and have by circumstance rather than by expressed intent led to increasing difficulties in the role of the "*collective bargaining function*" in our national systems of industrial relations.

However, in defence of the continuum of the collective bargaining process, Professor William Brown (Cambridge University) states in a paper on the centenary of the Australian Arbitration system (2004) that we should not lose sight of the fact that, "*In the long run the logic of markets carries more clout than the decisions of judges*" (Third Party Intervention Reconsidered).

This observation is timely in the day to day world of enterprise bargaining on work practice changes, working arrangements, productivity, restructuring and related issues and which of course accounts for the greatest percentage of the work of the Commissions' Conciliation, Advisory Services, ACAS, the LRA and other national dispute resolution agencies.

The Shape of our National Industrial Relations System

In understanding developments over the last decade it would be important to reflect upon the subtle but definitive shifts in our national system of industrial relations. Ireland has progressively moved over the last 10 years from a system of voluntary collective bargaining to one where a substantial level of our workplace relationships in the areas of pay, pensions, working time, contracts, equity and equality are determined either by legislative prescription or by voluntary agreed binding determination within the parameters of national agreements or enterprise agreements. This applies both in the private and public sectors.

Since the Unfair Dismissal and Equal Pay Acts of the 1970's, over 25 new employment statutes/regulations have been enacted either through domestic (Irish) agreement or in response to the force of European Directives/Law (c.f. Appendices).

Similar, but varying legislative provisions have occurred in Northern Ireland and the U.K. In addition various interpretations of these Statutes by higher civil courts have led to specific directions being given to the Equality Tribunal, the Labour Court and the Employment Appeals Tribunal. These adjudications have influenced also the mechanisms, procedures and approaches taken by the Labour Relations Commission's services – Conciliation, Advisory and the Rights Commissioner and the operations of the Department's Labour Inspectorate.

On the other hand, employers, unions and Government have themselves, within the terms of various Social Partnership agreements, voluntarily agreed to binding adjudication arrangements in specific circumstances. This is particularly, though not exclusively, so in the most recent agreement – "*Sustaining Progress"* and the proposed agreement *"Towards 2016"*.

This is not to say that Collective Bargaining is not a feature and robust factor in issues relating to re-structuring, re-organisation and collective redundancy and replacement labour situations.

Added to these legislative changes are the 10 Codes of Practice issued by the Labour Relations Commission. (These are listed in the Appendices to this lecture).

Does this mean therefore that the traditional parties to the process of collective bargaining are wantonly abandoning their time honoured traditional roles in favour of judicially binding or "*voluntary*" agreed binding outcomes? Not necessarily so. Whereas many employment issues in the workplace may now be circumscribed by law, the corporate parties themselves and most individual workers and employers, prefer the voluntary dispute resolution procedures and institutions to the judicial "*winner-loser*" route. Recent High Court decisions in Ireland, particularly in relation to the Industrial Relations Acts 2001/2004 may suggest that my views on the preference for the agreed use of voluntary procedures is shared in some judicial quarters.

It would appear also that within these islands and increasingly within the European Union statutory dispute institutions are being given wider powers, roles and resources to meet their work of voluntary dispute resolution, investigation and good practice, including the provision of alternative dispute resolution mechanisms.

Minimum Wage in Europe

Professor William Brown (Cambridge) recently referred *"to a growing preference (in Europe) to voluntary, rather than judicial means of settling disputes"*. This is particularly true in the context of the national minimum wage provisions in Europe as evidenced in the recent research conducted by the European Foundation. Though there is no statutory minimum wage in Austria, Germany, Denmark, Italy, Norway and Sweden, a high coverage is provided by the collectively agreed minimum/sectoral wage agreements in these countries.

There is a minimum wage in 18 of the 25 member countries, with disparities between a statutory monthly figure in 2005 of 116 Euros in Latvia to 599 Euros in Spain to 1467 Euros in Luxembourg (Source: Eurostat). (c.f. Appendices).

In the case of Ireland and the U.K, the statutory minimum wage is finally decided by independent bodies – the Labour Court and the Low Pay Commission.

Most of these agreements in some jurisdictions cover on average over 90% of the workers in these economies. In principle it would appear that they have *"erga omnes"* applicability in their sectors. A similar situation applies in Ireland in the context of the Joint Labour Committees and of course this reality has been at the centre of some of our most recent disputes involving workers from other E.U./non – EU countries e.g. GAMA, Irish Ferries and Laing O'Rourke/ESB and all of which were resolved eventually by the intervention of the Labour Relations Commission.

In addition, while most countries have a labour inspectorate it is becoming clearly evident that their effectiveness will be undermined without appropriate legal and administrative support. There is a clear necessity in Europe and beyond to build and maintain robust institutions of dispute resolution if we are to supplement the legislative provision for enforcing, regulating and resolving disputes involving labour standards and employment rights. These institutions must be capable of providing user-friendly dispute resolution services for both collective interest and individual rights disputes and enjoy the confidence and support of Governments and the social partners. The Commission of the European Union itself must give some policy consideration to this concept if we are to have a meaningful and positive implementation of the Lisbon Agenda and the vindication of European employment policy and acceptable employment standards on an equal level throughout the European economy.

Migration, Labour Markets and the Relocation of Production

"Migrants need Europe.
But Europe also needs migrants.
A closed Europe would be a meaner, poorer, weaker, older Europe.
An open Europe will be a fairer, richer, stronger, younger Europe -
Provided you manage migration well".

(Kofi Annan, Secretary-General of the United Nations).
Brussels – January 2004.

In recent years a number of distinctive features in national economies have developed and which have given rise to the debate surrounding the "*race to the bottom*".

- Increased Migration
- Intensification of globalisation/competition
- Greater consciousness of labour standards/fair trade

The current human resource profile of Europe is one where there is a rapidly ageing population, increased unemployment, specific high skill shortages and a lack of people willing to take low wage and low status employment. Migration is seen in some economies as a mechanism to overcome these problems: The "*abolition of borders*" for migrants and for European citizens is a complex political, economic and social issue as the table in the Appendices illustrates. It has also specific concerns for Ireland in the context of the current debate on migration within and to the USA.

The recent decision to extend the European Union to 10 new Accession States has changed the employment landscape of these islands. Already this development was impacting on the workforce profile in the late 1990's but has intensified since the year 2000 (c.f. Appendices).

Ireland, the UK and Sweden did not apply restrictions on EU Accession State nationals after 2004. These three countries have experienced high economic growth, a drop in unemployment and a rise in employment.

According to the E.U. Report on the "*Functioning of the Transitional Agreements*" (May 2006), Ireland has seen relatively the largest inflow of workers.

Contrary to popular impression the construction industry sector does not stand out in terms of the numbers of non-Irish workers employed.

In Quarter 3 – 2005 there were:

- 22,600 workers of non-Irish nationality employed in the Construction Industry,
- 27,800 in Manufacturing,
- 21,200 in Health/Education,
- 21,500 in Financial Services,
- 23,100 in Hotels/Restaurants and 18,900 in Retail.

(Source "*Here to Stay*" – AIB Economic Research).

In its report, referred to earlier above, the EU concluded that:

"Enlargement has helped to formalise the underground economy constituted by previously undocumented workers from the E.U. 10, with well known beneficial effects, such as greater compliance with legally sanctioned labour standards, improved social cohesion and higher State income from tax and social security contributions. This also improves the integration of EU 10 nationals, a due change in employer's attitudes, greater opportunities to set up private businesses, better information and regulation".

Where this statement may be generally true in the "*round*" both "*anecdotal stories*" and specific documented instances of exploitation occur from time to time not just in relation to E.U. 10 nationals but in the case of those nationals from outside the European Union – Africa, Asia, South America and the Caribbean region.

Some of these were highlighted by the Labour Relations Commission in its seminal study on "*Migrant Workers and Access to the Statutory Dispute Resolution Agencies*", published in October 2005.

The Commission, inter alia, noted in this study that:

"The positive increase in our population has not always been accompanied by a seamless introduction to a positive and encouraging employment situation. For some employees it has been a difficult transition resulting in very unacceptable working environments. Such experiences reflect in a negative way upon our treatment of vulnerable migrant workers and are unacceptable in a society that aspires and legislates for equity of treatment for all".

As the study indicates, a small but steadily increasing number of migrant workers are seeking access to the State dispute resolution agencies in order either to vindicate their employment rights or to seek redress for alleged exploitative employment practices. The study highlights some of the difficulties and concerns experienced by them in accessing these services, or indeed in deciding whether or not to take any action. Apart from the initial decision to pursue a case, it is evident that the unfamiliarity with the English language, and the legal nuances of procedures, processes and time requirements present particular obstacles for this category of workers. Some of these matters are not exclusive to migrant workers but can also present difficulties for Irish employees and employers with regard to rights and obligations.

However, the employment scenario is not entirely negative. Many employer organisations, individual employers, trade unions and voluntary organisations go to considerable lengths in providing a good working environment and to provide services and assistance for migrant workers.

In a response to its study, the Commission has, for example, published guidelines and information on all its services in the following languages : Mandarin, Polish, Portuguese and Russian.

The Commission's most recent DVD production, "*Negotiating the Way Ahead*" is available on disc in five foreign languages and can be viewed on the Commissions' website.

In addition the following articles in our most recent "*LRC Review*" (LRC Review, Newsletter No. 6) refer to the ongoing debate on migrant workers : "Displacement – An Unnecessary evil?" – Mr. Mike Jennings, SIPTU, "Flexible Labour Market – Key to our competitiveness" – Mr. Danny McCoy, IBEC, "What we know and what we don't know about Immigration in Ireland" – Mr. Alan Barrett, ESRI.

These follow an earlier article by Ms. Christine Gross and Mr. Thomas Turner of the University of Limerick entitled: "*Attitudes towards Immigrants – a survey of Irish employees*" – (LRC Review, Issue 2 – 2005).

Through the work of the Advisory Services of the Commission in the processing of cases under the Industrial Relations (Misc Provisions) Acts 2001-2004 (i.e. the Voluntary Dispute Resolution process where no agreed bargaining procedures are in place) some, as yet, minor incidents have emerged of employers paying less than the agreed sectoral or industry standard rates of pay and terms and conditions of employment.

An increasing feature of the caseload of Rights Commissioners is the level of claims experience from migrant workers, who incidentally are largely successful in the vindication or redress sought as is instanced in the outcome of cases reviewed by the Commission.

Three of the major collective bargaining disputes in which the Commission was involved in resolving and which involved migrant workers were Irish Ferries, GAMA Construction (included the Labour Court) and Laing O'Rourke. In the case of Irish Ferries it related to the company restructuring, a redundancy package and a replacement largely non-Irish workforce; in GAMA it referred to a series of issues relating to the pay/conditions of an exclusively Turkish workforce employed by a Turkish construction company and more recently the dispute between a Serbian sub-contractor engaged by Laing O'Rourke on an ESB contract and its Serbian workers over the issue of pay.

Are these cases symptomatic of a wider trend towards the "*race to the bottom*"? Not necessarily so, as each of these major cases had particular features unique to their individual circumstances. What must be of concern however is the increasing frequency of such cases.

In the case of the latter two disputes and by extension to the future employment of non-Irish labour in the case of Irish Ferries, it is clear that an underlying concern was present that potentially the trade union movement and Irish workers face the growing threat due to international competition that lower pay and employment standards in other EU/non-EU countries will undermine higher labour standards here or in the UK. Herein lies the crude and not entirely isolated reality of the "*race to the bottom*" and the response of trade unions to that challenge.

These specific issues were also at the heart of the recent controversy over the "*Services Directive"* and the country of origin principle/convenience, or as some have described it *"rampant casino capitalisation"*. *(John Monks, General Secretary ETUC).*

For now at least a workable compromise has been agreed on this Directive between the European Council/Commission and the Social Partners i.e. on the basis of no discrimination against overseas companies but no undermining of national/sectoral collective agreements and employment standards and "s*ocial dumping*".

May I finally refer to one further aspect of the issue of the "*race to the bottom*" focusing upon popular misconceptions which may exist in regard to migration of workers from the Accession States (E.U. 10).

A recent Report (May 2006) from the Swedish Institute for European Policy Studies entitled :

"*Freedom of Movement for Workers from Central and Eastern Europe – Experiences in Ireland and Sweden*", stated;

"In relation to the '*welfare tourism*' debate there is no evidence from Sweden or Ireland that Accession State nationals are in any way over-represented in the welfare state schemes. In relation to Ireland, the evidence suggests that displacement of Irish workers by lower paid immigrants is not a source of disturbance in the labour market. To the extent that there has been displacement in some sectors it could be accounted for, at least in part, by the normal dynamics of the labour market in which Irish workers move to better-paid jobs and are replaced by lower-paid immigrants".

“The Race Abroad”

Though not unduly minimising the concerns which we should have and express regarding any evidence emerging of a “*race to the bottom*” instances of more concern to me currently are symptomatic of what I term “*The Race Abroad*”.

The Commission over the last number of years has responded to many trade unions and individual employee requests for assistance in resolving disputes surrounding redundancy payments (additional to statutory entitlements) and the phased closure of enterprises where there is complete, partial or phased transfers of industry to other locations.

Concerned as we all are with appropriate conditions of remuneration, employment and productivity. In these islands, we have to be more conscious and fearful of the nature of the rapidly intensifying global competitive labour market. It is relentless in a sometimes brutal marketplace and it is truly universal.

It has produced a new lexicography in the world of human resource management – “*relocation, off-shoring, de-localisation, offshore outsourcing, replacement units, economically beneficial employees*”.

Part of this process in industrial relations terms results in new collective bargaining arrangements which seek to mitigate relocation decisions by the conclusion of agreement to new pay and working practice arrangements. However, all too often in recent times the corporate decision to relocate is final and no amount of bargaining or compromise can meet the opportunities presented in countries with less employee rights, labour standards or regulation.

This is what the European Foundation describe as "*Regime Shopping*" in the context of the bargaining power of multinationals with the resulting pressures on governments and trade unions to accede to demands for deregulation of labour markets, trade or sectoral agreements and reduced labour protection.

Indigenous employer representative bodies are then caught in an industrial relations "*cleft stick*" between supporting Social Partnership type institutions and creating a level playing pitch for all employers on the one hand and the pressure to meet the demands of multinational enterprises on the other. Governments throughout Europe face similar dilemmas.

Whereas Ireland has long been a preferred destination for relocations or new starts particularly in the ICT, Pharmaceutical/Medical products sector and in services, it is now haemorrhaging low skill and labour intensive manufacturing, I.T. and electronic production facilities.

For example in a sample of 10 enterprise closures involving the Conciliation Service of the Commission in 2005, four were relocating to China or the Far East, 2 to Central America, 2 to North Africa and 2 to Eastern Europe. This trend has continued into 2006 and is repeated throughout most E.U. States and in the USA.

Whether new developments in E.U. legislation will hasten this process is hard to determine at present but the trend is definitely towards outward mobility in various sectors of the economy.

As stated earlier the inevitable logic of markets will drive this employment scenario – one where the "*race to the bottom*" is not about "*replacement workers*" but invariably about the ultimate form of displacement – enterprise closure.

Responses to the Threat of Lowering Employment Standards

In the UK, recent research (published Oct 2005) was undertaken for the Dept. of Trade & Industry by the Universities of Warwick and Sheffield on the impact of employment relations legislation enacted since 1997. This research was conducted against the background of the *'New Labour'* commitment towards ensuring *"the fair treatment of employees within a flexible and efficient labour market"*.

In their evaluation the researchers refer to the fact that;

"The Labour Government since 1997 has made a different assessment to that of its predecessor in its attempt to balance the interests of social justice, curb abusive employer behaviour and provide minimum standards on the one hand, and the desire not to jeopardise entrepreneurship, growth and competitiveness on the other. Nonetheless there are echoes of previous Conservative Governments' arguments for deregulation in Labour's expressed concern with avoiding overburdening employers and with not hampering employers' flexibility and in the reluctant implementation of various EU-driven measures, such as protectors for part-time workers (McKay 2001)".

They further state that;

"A different role for regulation in pursuit of competitiveness is to have extensive Government action to provide a skilled, educated and 'committed' workforce (conductive to internal flexibility) and to steer business towards most efficient practices based on innovation in product and process rather than exploitation of low cost labour. Elements of this latter approach can be seen in the Labour Government's thinking. There is provision of minimum standards designed to prevent a 'race to the bottom' and direct employers away from the 'low road' to competitiveness as well as to provide 'a very minimum infrastructure of decency and fairness around people in the workplace'. More recent legislative change has been presented as part of achieving 'a high skill, high productivity economy achieved through high performance workplaces, where employers and employees work together in partnership'.

Finally, they conclude that;

"The working out in practice of the balance and relationship between fairness/security and flexibility/competitiveness in the post-1997 legislative package remains to be investigated".

This of course mirrors the current Irish approach in Social Partnership negotiations and an extension of the concepts and principles encapsulated in the European Social Chapter.

Of more recent note, in May 2006, after 14 months of negotiation, Spanish trade unions, employer organisations and Government signed an agreement on tackling the widespread abuse of fixed-term work contracts or *"precarious work"*. In the case of Spain it was estimated that up to one-third of work contracts were of a temporary nature.

If I may finally come to refer to recent developments in the Irish Social Partnership process as they relate to preventing the "*race to the bottom*".

In the new proposed 10 year Framework Social Partnership Agreement – *"Towards 2016"* considerable commitments and outline agreements have been given to a large number of procedural administrative, staffing and legislative initiatives all of which are designed to achieve a new compliance model, including the establishment of a new statutory office dedicated to employment rights compliance – Office of the Director for Employment Rights Compliance – ODERC.

The overall objective of these new measures affecting most of the dispute resolution bodies – the Rights Commissioner Service of the Labour Relations Commission, the Labour Inspectorate, the Labour Court and the Employment Appeals Tribunal is:

"*to secure greatly increased public confidence in the system of compliance on the basis of an informed and empowered working population, who will have simple, independent and workable means of redress, underpinned by the need for fairness and impartiality, with adjudication and if needs be, enforcement available to them, in a reasonable length of time"*.

*(*Towards 2016 – Ten-Year Framework Social Partnership Draft Agreement 2006-2015*).*

Apart from the modernisation of the Joint Labour Committees, arising from a review undertaken for the LRC/Department of Enterprise, Trade & Employment by the University of Limerick, there will be improved regulation of employment agencies and agency workers including a Code of Practice governing standards of behaviour of these agencies. In addition, in a revolutionary new development, the Commission will be asked to develop a Code of Practice on the employment rights of persons working in other people's homes. Major increases have been agreed also in the penalty levels to be applied in amended legislation for the breach of employment rights and improper record keeping.

Conclusion

So is there a "*race to the bottom*"?

Currently in a number of the European States there are undoubtedly severe competitive and labour market pressures which are challenging established pay and employment standards. Alongside this pressure is the economic and social disparity in the European Union itself and beyond its borders in Central and Eastern Europe and the migratory pressures from Africa, South East Asia and China.

Allied to these factors is the declining trade union membership density, though this decline is not necessarily reflected in the influence of unions themselves within the European Union or in national States.

What we have to remember is that the workers in Europe have some of the highest labour standards in the globalised economy especially when compared to the truly frightful conditions which some workers are forced to tolerate in the sweatshop industries around the world. Over 12 million workers worldwide are victims of forced labour practices and children represent 40% - 50% of all forced labourers (I.L.O.).

The I.L.O. Convention on Forced Labour (1930) is one of its oldest Conventions – it is still one of its most abused Conventions!

What concerns me however in outlining this position is that a considerable volume of this trade is driven by the mass consumerism of western society with its incessant demand for consumer goods at highly competitive prices without sufficient cognisance of the circumstances or labour practices of the country of origin. We need to enhance and encourage our view of the "*fair trade*" concept.

Overall however, within the economies in which we work and operate it has to be observed that with more robust forms of inspection, employment rights and user-friendly dispute investigation/resolution institutions the low number of high profile incidents of workers' exploitation, particularly of migrant workers, should diminish.

Certainly the recent highlighting of such cases in both jurisdictions should enhance the vigilance of trade unions, employers and State institutions.

Increasingly, the civil courts in Ireland also are more conscious of employee rights as I have instanced earlier in this paper.

Some recent adjudications/rulings of the European Court of Justice also give ground for some confidence that established norms or cases involving the positive interpretations of employment entitlements will be upheld e.g.

- the recent judgement in relation to upholding the entitlement to paid annual leave (April 2006) – The Netherlands.

- the unlawful practice of rolled up holiday pay (March 2006) – the U.K.

- the requirement for meaningful consultation with employee representatives on collective redundancies (January 2005) – Germany.

- the principle of seniority in the application of appointment whilst on maternity leave (February 2006) – Spain

- the rejection of offsetting maternity leave against overall sick leave entitlements (September 2005) – Ireland.

Since the early nineteenth-century, Irish emigrants have had access to some of the biggest labour markets in the world – US, Canada, UK and Australia. Theirs was a mixed experience between religious, ethnic and political discrimination and subsequently access to the institutions of economic and political power. This historical Irish diaspora and its history should inform and alert us to the necessity of building an inclusive and multicultural society capable of sustaining a diverse and non-discriminatory society.

Ireland has benefited to an extraordinary degree from the enlargement of the European Union and has contributed in no small way to its political, economic and social development and the Irish Presidencies to important Treaties and Protocols.

As a result also, over the last ten years "*the Irish economy has achieved almost full employment, at very real wage levels by international standards*" – Professor John Fitzgerald, 14th Lovett Memorial Lecture, 2006.

In summary, therefore, what are the challenges?

- Ireland must ensure that the principle of equality of treatment becomes not just the application of the law but also the cultural norm in our society.

- It must embrace the diversity and social enrichment that continuous migration to our country will provide over the decades ahead.

- It must recognise that economic integration requires social, cultural, educational and community integration and that greater planning and support to achieve these objectives is required.

- We must be conscious of and supportive of original country values/traditions and their economic/social effects in our employment relations.

- We must recognise the changing face and structure of our own society which in the future will increasingly be of non-Irish descent.

And finally if I may return from whence I began, namely, the founding statements of this Republic. Article 45 of our Constitution of 1937, specifies the Directive Principles of Social Policy:

- The right to seek and find employment and fair remuneration
- Fair distribution of resources in the community
- Control of the excesses of free competition
- Favouring private enterprise
- Protecting the public from unjust exploitation
- Safeguarding with especial care for the weak in our society
- Protecting the health and welfare of employees

Though the language and method of expression may appear or sound somewhat dated, the views, sentiments and aspirations are central to most of the ideals sought and fought for by the revolutionary whose memory we celebrate by this lecture series.

As she said in her own words;

"*I did what was right and I stand by it*".

Hers was a formidable challenge and hopefully we will prove equal to it in this and future generations.