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Subject: Consultation on the Reform of the State's Employment Rights and Industrial Relations Structures and Procedures

Consultation on the Reform of the State's Employment Rights and Industrial Relations Structures and Procedures

I agree that the "resolution of grievances and disputes as close to the workplace as possible and as early as possible after they arise" is a worthy objective. In my experience, however, there is no will on the part of certain employers to resolve disputes locally. Where I work, it is incumbent on the employee to try to resolve the matter by corresponding and meeting with local management and the Department of Human Resources, before initiating a formal Grievance Procedure. Delaying tactics are employed, in the hope that the employee will lose heart and give up. The employers response is always ultimately negative, and recourse to external dispute resolution is inevitable. This is a daunting prospect for employees, and further deters them from seeking redress.

It is unsatisfactory that an employee might win a case at the LRC, only to have it overturned by the Labour Court. Employees rarely have the means to appeal to the High Court, whereas certain employers do have the means. Consequently, there is an inequality inherent in the system as it currently exists. There should be one decision and one appeal route, equally accessible to employee and employer.

The increasing tendency of the Labour Court to refer grievances back to the employer for further discussion and resolution is pointless. This strategy is partly due to the government's Moratorium on Recruitment and Promotion in the public sector, which has seriously hampered the ability of the Labour Court to resolve certain issues. I strongly feel that this moratorium should be abandoned forthwith, or at the very least, modified, so that it does not have to be applied in blanket fashion.

I agree that there should be "one website covering all employment rights and industrial relations matters". This website should contain clear guidelines for employers, advising them on when it would be wise to resolve an issue locally.

I also agree with the notion of early settlement through intervention. Once a grievance has been initiated, and local discussions have failed to yield a resolution, parties should be able to meet informally with a mediator who could advise on the best course of action to resolve the issue.

The aim of achieving a "simple and efficient institutional structure", "a single point of entry and a single body of first instance", would need to take into account the complex nature of some claims. More than one piece of legislation may be relevant to a particular case, and if an employee fails to achieve resolution through one avenue, it is understandable that he or she might choose to pursue the claim through the other viable avenue(s). Ideally, a case should be assessed in its entirety, and all aspects taken into account when a formal adjudication is made. If this were standard practice, then employees would not need to have recourse to different bodies, disparagingly referred to throughout this document as "forum shopping".

The proposal to establish "different channels dealing with (a) disputes of interest (b) disputes of rights and (c) equality issues" is problematic. Rights and equality issues are relatively clear-cut, and might be given precedence over "disputes of interest", which are more contentious. Adequate resources should be devoted to the resolution of "disputes of interest", which must have grown significantly in number as a result of the government's Moratorium on Recruitment and Promotion in the Public Service.

I do not think that there should be a time-limit for initiating complaints/claims. It would not be fair that an individual should be prevented from making a legitimate claim simply because the claim falls outside a given time-limit. Employees would not necessarily be aware of such a time-limit until they needed to make a claim.

I agree that there should be a "consistent method of enforcing awards of employment rights bodies". This could consist of penalties or prosecution.

Elizabeth Noonan