

# Bill of Rights Criminal Justice and Victims Working Group

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13<sup>th</sup> September 2007

# Introduction

- Defence Lawyer
- Human Rights NGO
- ECtHRs
- Criminal Justice Inspectorate

# Why are international standards important?

- Countries have signed up to the standards
  - diplomatic consequences
- Relationship between domestic and international standards

# The relevant standards

- “Hard” law – ICCPR, UNCAT, UNCRC
- “Soft” law - Code of Conduct for Law Enforcement Officials 1979, the Guidelines on the Role of Prosecutors 1990, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- Regional standards – European Convention on Human Rights
- Minimum Standards

# Human Rights Act

- ECHR incorporated into UK law
- Human Rights Act 2000
- Directly applicable in UK law and by courts in NI.
- Status of other instruments in domestic law

# The Right to Liberty

- Article 9 ICCPR

*“[E]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”*

# Freedom from Torture

- Article 7 ICCPR

*“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”*

- UNCAT
- Absolute right

# Right to be informed of reasons for arrest

- Article 9 ICCPR
- The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Article 5 ECHR

# The Right to a Lawyer

- Basic Principles on the Role of Lawyers
- What does access to a lawyer mean?
- What does ECHR say on this?

# The right to be brought promptly before a judicial officer

- Article 9(3) of the ICCPR:  
*“Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power”*
- Human Rights Committee comment

# The right to release pending trial

- Article 9(3) ICCPR states that an accused person:

*“shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.”*

# Presumption of Innocence

- Right to representation
- Adequate time and facilities
- Use of an interpreter

# Right to Silence

- Human Rights Committee, General Comment 13, Article 14 ICCPR

*“In order to compel the accused to confess or testify against himself frequently methods which violate these provisions are used. The law should require that evidence provided by means of such methods or any other form of compulsion is wholly unacceptable.”*

# Right to a Fair Trial

## Article 6 ECHR

- In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
- Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
- Everyone charged with a criminal offence has the following minimum rights:
  - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - (b) to have adequate time and the facilities for the preparation of his defence;
  - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
  - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

# Is there a gap in protection?

- Legislative protection in NI a lot better now than in previous years
- Right to silence
- Length of time in custody – anti-terrorism legislation – UK wide
- Deferral of access to lawyers and interference with confidentiality
- Age of criminal responsibility?

# QUESTIONS