

Bill of Rights Forum

7th meeting, Calgach Centre, Derry/Londonderry

12/13 October 2007

Present

Chris Sidoti, Chair

Martina Anderson MLA,
Sinn Féin

Father Tim Bartlett,
Churches

Paula Bradshaw, UUP

Sheri Chamberlain,
Children and Young
People's Sector

Brian Crowe, UUP

Neil Faris, Business Sector

Stephen Farry MLA, Alliance

Aideen Gilmore, Human
Rights NGO Sector

Simon Hamilton MLA, DUP

Derek Hanway, Ethnic
Minority Sector

Colin Harper, Disability
Sector

Eilis Haughey, SDLP

Rev. Dr. Samuel
Hutchinson, Churches

Dolores Kelly, MLA, SDLP

Seamus Lynch, Older
People's Sector

Chrissie McAuley, Sinn Féin

Mairead McCafferty, Sexual
Orientation Sector

Patricia McKeown, Trade
Unions

Alban Maginness MLA,
SDLP

Thomas Mahaffy, Trade
Unions

Dermot Nesbitt, UUP

Domhnall Ó Cobhthaigh,
Sinn Féin

Rena Shepherd, Business
Sector

Margaret Ward, Women's
Sector

Ben Lee, Human Rights
Advisor

Gillian Preece, Secretary

Gareth Wright, Secretariat

Alternates

Elaine Campbell, Older People's Sector,
Paddy Kelly, Children and Young People's Sector
James Knox, Sexual Orientation Sector
Patrick Yu, Ethnic Minority Sector

Official Observers

Kevin Hanratty, Northern Ireland Human Rights Consortium
Hanna Munter, WAVE
Miriam Titterton, Colin Harvey and Ann Hope, NIHRC
Sinead Ryan, Dept of Foreign Affairs

Apologies

Annie Campbell, Women's Sector
Anna Lo MLA, Alliance
Nelson McCausland MLA, DUP
Peter Weir MLA, DUP
Monica Wilson, Disability Sector

INTRODUCTORY SESSION: 10:45am 12 OCTOBER

Gerry Kelly MLA, Junior Minister at OFMDFM

1. The Chair welcomed the Minister, who addressed the Forum. A copy of the Minister's speaking notes is attached to the Minutes.
2. In open discussion with the Forum, Minister Kelly was asked questions on: the status of the Single Equality Bill, OFMDFM's children's strategy, the role of the OFMDFM Junior Ministers in promoting equality of rights and equality of

persons, and the position that OFMDFM would take on the Northern Ireland Assembly motion on the Forum's work scheduled to be considered on Monday, 15 October 2007.

3. In response to questions the Minister clarified that while human rights was an excepted matter, and therefore not the formal responsibility of the Assembly, the Assembly remained very interested in the Forum's work.

4. Minister Kelly also stated that the Junior Ministers could promote the development of a rights-based society by being as vociferous as possible about their commitment to equality for everyone. He also stated that every minister, regardless of their personal views, had an obligation to adhere to executive positions and policy, including equality policy.

5. In answer to the question on the Assembly motion, Minister Kelly stated that the Executive had not decided whether it would participate in the debate but that it hoped that the Forum could assist it in dealing with the many different views in the Assembly on the Bill of Rights process.

EXPERT DIALOGUES: 12th AND 13th OCTOBER

During the course of the residential the Forum received presentations from the following experts and entered into dialogue with them: Professor Olivier de Schutter (Economic and Social Rights), Professor Michael O'Flaherty (Equality),

Professor Christine Bell (the Bill of Rights and the Particular Circumstances of Northern Ireland), Francesca Klug (the Human Rights Act), and Philip Leach (the ECHR).

FULL PLENARY SESSION: 2:00pm, 12 OCTOBER 2007

6. The Chair welcomed Colin Harper as the new Disability Sector representative and Paula Bradshaw as the new UUP representative.

Minutes of last meeting

7. The minutes of the last meeting were agreed and adopted.

Matters arising

8. There had been some progress on the gender balance of the working groups. There were now three women and seven men on the Civil and Political Rights working group, and three men and seven women on the new Children and Young People's working group. The new Women's working group had only one man (and nine women), however, and the Culture, Identity and Language working group still had only one woman (and nine men). The Chair again asked members to examine their delegations.

Outreach

Recruitment of outreach workers

9. The Chair updated the Forum on progress in appointing two outreach workers on secondment. Despite broadcasting the secondments widely, there had been only two applicants, neither of whom had proved suitable for appointment at interview.

10. In discussion the following points were made:

- It could be possible to appoint four outreach workers on a half-time secondment basis rather than two full-time workers.
- The appointment of four outreach workers could allow for each worker to handle 3-4 of the target groups identified by the Forum. Applicants could be asked to indicate the groups that they would prefer to work with based on their professional experience.
- The letter to be distributed to organisations inviting applications to the outreach positions should also be circulated to the Community Foundation of Northern Ireland (CFNI) mentors.
- The previous advertisement for the outreach posts had placed too much emphasis on human rights experience. Any new notice should place emphasis

on previous work with social issues within a community context rather than on human rights experience.

- Sectors should continue to undertake their own outreach work.
- It is important that outreach workers work within the existing structures of the various target groups.
- A sub-group of the Forum should be established to draw up a work programme for the outreach workers so that they can hit the ground running.
- The sub-group could also continue as a sounding board for the outreach workers.
- The Forum would need to decide whether the outreach work would shape working groups' conclusions, or whether each working group's conclusions would form the basis of consultation. It was suggested that good practice would require both approaches.
- Gathering knowledge of what is already happening would be an important task and could be begun straight away. The sub-group would need to be

able to advise the outreach workers on work that was already in-hand/completed.

- Processing information as it was received was part of the role of the working groups' human rights legal advisors.
- It is up to the working groups, to an extent, to determine how they gather evidence. The same model (e.g. having hearings, taking written representations) might not be appropriate for all working groups.
- Working groups would need to develop a system to process the material that they receive from the outreach workers and other sources. All material produced and collected by the outreach workers would be catalogued by the Secretariat.
- The Forum should make a formal commitment to pay due regard to all submissions received.
- The Forum should be committed to transparency. Where the Forum departs from a view strongly supported in submissions, there should be an explanation of the reasons for this departure.
- The Forum should also be open to its decisions being challenged.

11. It was agreed that a sub-group on outreach would be established and that the sub-group would draw up a work programme for the outreach workers. The sub-group would comprise one representative from each of the Forum's seven working groups plus one member of the Secretariat.

Nominations should be submitted to the Secretariat within a week.

12. It was agreed to reissue the letter inviting nominations toward outreach worker appointments. This letter would clarify that outreach workers could be appointed on a full-time or half-time basis. The deadline for the submission of applications would be one week after the distribution of the letter. Forum members would be proactive in both circulating the invitation and encouraging individuals to apply. The invitation would also be circulated to the CFNI mailing list.

13. It was agreed that the reference to human rights experience that appeared in the original outreach worker advertisement would be removed from the essential competences listed in the new letter.

14. It was agreed that the Secretariat would take responsibility for cataloguing evidence/submissions etc provided to working groups.

15. It was agreed that the Forum would be open to challenge, would respect and seriously consider all views put to it, and would be transparent about how final decisions were made.

Brochure

16. The brochure was now available for distribution by Forum members, with 15,000 copies printed.

Working groups

17. The issue of poor attendance at working groups was raised. Organisations, and particularly political parties, were asked to consider how more regular attendance by their representatives could be secured.

18. The details of the human rights advisors would be circulated to Forum and working group members.

19. The Chair reminded the Forum that he had asked convenors to consider attending Bill of Rights related events where he was unable to attend.

20. The Chair also asked convenors when speaking at such events to distinguish between comments made as a working group convenor and their personal opinion.

Working groups: Convenors' reports

Women's Rights working group

21. The group as reconstituted held its first meeting on 11 October 2007. Procedures had been discussed and two further dates set (8 and 28 November). It had been agreed to take evidence and get presentations on baseline international standards, from NIWEP (Northern Ireland Women's European Platform) and from a representative from the Village. The working group also wants to engage with traveller, rural and migrant women as well as women from both of Northern Ireland's main communities.

Preamble, Enforcement and Implementation working group

22. Attendance and engagement at the group were good. Looking at the UK Human Rights Act, the group had considered whether to recommend repealing, amending or leaving it as is. While the working group had decided not to repeal the Act, the option of amending it remained open. The working group had also discussed 'the particular circumstances of Northern Ireland'.

Criminal Justice and Victims working group

23. The group had met three times. The first meeting had focused on victims, with a presentation from Brian Gormally (Justice Associates). Some of the questions raised by the working group considered: the definition of 'victims'; whether victims have rights; whether child victims should be given priority above other victims; and whether the group

should only consider victims of the conflict, given that there are many other kinds of victim.

24. The second meeting had looked at criminal justice, with a presentation from Paul Mageean (Criminal Justice Inspectorate). Issues highlighted for the group to consider had included the right to silence, the age of criminal responsibility, deferral of access to lawyers, and confidentiality during lawyer/client consultations while in custody.

25. The third meeting had looked at areas of overlap between working groups and had agreed to refer matters relating to immigration to the Civil and Political Rights working group and matters of juvenile justice to the Children and Young People's working group. The group has also decided to organise an event in November 2007 to enable victims' organisations to contribute to its thinking.

Economic and Social Rights working group

26. The group had had the second of its two brainstorming sessions. Issues raised had included the right to an adequate standard of living, the right to work, the challenge of relative and absolute poverty, and the definition of 'adequate' in Northern Ireland. The group's advisor was looking at international standards and what good practice in other countries had to offer. Cross-cutting issues had also

been raised - for example, within the right to work there were issues of gender rights in the workplace, and the question of whether the right to strike was an economic and social issue or a civil and political one.

27. Two further meetings were already planned (18 October and 14 November 2007) the second of which would last all day. The group was going to discuss the progressive realisation of economic and social rights, and examine other socio-economic rights in international standards.

Civil and Political working group

28. The group had met the previous week but turn out had been low. The group had looked at the report of the Northern Ireland Human Rights Commission's (NIHRC) Equality working group and had disagreed on a number of issues. However, the legal advisor was to come up with some alternative forms of words to consider. The right of ex-prisoners to equality was also identified as a divisive issue. The group was working through the European Convention on Human Rights (ECHR) one article at a time, looking at what to extend or develop and whether anything extra was needed.

29. Issues that had been discussed included the right to life, the State's obligation to investigate deaths, deprivation of life, forced labour, the prohibition on torture and the right

to liberty (which overlaps with the Criminal Justice and Victims working group). The group was finding it comparatively easy to make progress as civil and political rights are already relatively well developed. It stated that it was well on its way to achieving its deadline but that it would face serious difficulties in achieving consensus on its draft recommendations.

Children and Young People's working group

30. The group had been reconstituted and now had a more balanced membership. Turnout at the last meeting had been poor, and the responsibility of the Secretariat in promoting working group attendance was highlighted. Each working group member had been given ownership of a specific area, such as health and education. Further, the working group had already prepared a series of recommendations which were to be discussed at a longer meeting of the working group on 19 November 2007.

Culture, Identity and Language working group

31. The group had not met since the last Forum meeting as the planned meeting on 8 October 2007 had had to be cancelled. The working group had been considering the Framework Convention on National Minorities, the United Nations Convention on the Rights of the Child, and cross-cutting issues.

Assistance to the working groups

32. The Chair informed the Forum that £1000 would be allocated to each working group from the Forum budget to allow groups to hire rooms if necessary, to obtain administrative assistance (i.e. note takers) and to provide refreshments as appropriate (i.e. tea and coffee).

33. The Chair also promoted Forum member attendance of upcoming Bill of Rights related events to be hosted by CoSO, NICEM and WAVE.

FINAL SESSION: 1:30pm 13 OCTOBER 2007

34. The final session allowed for a recap of the main issues raised during the two day residential. It also allowed Forum members to provide feedback on the residential. Comments included the following:

- There is a need to hold further discussions on 'the particular circumstances of Northern Ireland'.
- There was uncertainty surrounding the suggestion by some that the Forum's recommendations should support a 'transitional' Bill of Rights. Does this mean that a review mechanism should be built in to the Bill of Rights? That the wording should be flexible enough for the Bill of Rights to

continue to develop? Or does 'transitional' refer only to the implementation of the Bill of Rights?

- Some members reinforced the need to commit to producing recommendations on time, others pressed the importance of not being restricted by a deadline.
- The Forum's recommendations must be adequate and reasonable.
- The Bill of Rights must not undermine the Assembly's right to set its budget.
- The rights to (for example) housing, health, education etc already exist as the British and Irish Governments are both committed to minimum standards. The Forum's job is to articulate how the standards should be met.
- Part of the role of the outreach workers will be to ensure people have realistic expectations of the Bill of Rights.
- There were conflicting views about whether achieving a Bill of Rights would result in more money for Northern Ireland from the British Government.

- The Bill of Rights must not make political decisions that bind the Assembly (for example by limiting choice over whether to spend money on health or housing).
- Forum members do not have time to waste on a process that is not going to achieve anything.
- The dialogue model, that was the basis of the UK Human Rights Act merited further discussion.
- The concept of multiple minorities within communities was also very useful.
- The Bill of Rights should offer solutions to shared problems. It must also ensure the past is not be repeated.
- People need to be able to obtain remedies and redress under a Bill of Rights.
- The Forum has not yet addressed the prospect of a Charter of Rights for the island of Ireland.
- Forum members must be committed to working together to resolve issues that cause concern within the Forum.

35. Concluding, the Chair said it was still difficult to understand what the implications of 'the particular

circumstances' for human rights were for each of the sectors/parties. He asked Forum members to submit their views in writing, so that the various lists could be discussed at the next meeting and some decisions made on what members did and did not agree on.

36. An agreed form of words is still needed for the 'two communities'. The Chair stated his belief that it is impossible to achieve parity of esteem for the two communities without achieving parity of esteem for all individuals in Northern Ireland.