

Bill of Rights Forum
8th meeting, Interpoint Centre
2 November 2007

Present

Chris Sidoti, Chair	Chrissie McAuley, Sinn Féin
Father Tim Bartlett, Churches	Nelson McCausland, MLA, DUP
Paula Bradshaw, UUP	Patricia McKeown, Trade Unions
Elaine Campbell, Older People's Sector	Alban Maginness MLA, SDLP
Sheri Chamberlain, Children and Young People's Sector	Thomas Mahaffy, Trade Unions
Brian Crowe, UUP	Mark Mullan, Sinn Féin
Neil Faris, Business Sector	Dermot Nesbitt, UUP
Aideen Gilmore, Human Rights NGO Sector	Domhnall Ó Cobhthaigh, Sinn Féin
Simon Hamilton MLA, DUP	Ian Parsley, Alliance
Colin Harper, Disability Sector	Rena Shepherd, Business Sector
Rev. Dr. Samuel Hutchinson, Churches	Peter Weir, MLA, DUP
Dolores Kelly, MLA, SDLP	Patrick Yu, Ethnic Minority Sector
James Knox, Sexual Orientation Sector	Ben Lee, Human Rights Advisor
Anna Lo, MLA, Alliance	Gillian Preece, Secretary
Deirdre McAliskey, Women's Sector	

Alternates

Sorcha McKenna, Children and Young People's Sector
Mairead McCafferty, Sexual Orientation Sector

Official Observers

Kevin Hanratty and Louise McNicholl, Northern Ireland
Human Rights Consortium
Hanna Munter, WAVE
Ann Hope, NIHRC
Eithne Ryan, NICCY
Paula Molloy, Dept of Foreign Affairs
Patrick Lynch, NIO

Apologies

Martina Anderson, MLA, Sinn Féin
Pauline Buchanan, Union sector
Annie Campbell, Women's Sector
Stephen Farry, MLA, Alliance
Derek Hanway, Ethnic Minority Sector
Eilis Haughey, SDLP
Michael Hughes, Community/Voluntary Sector
Paddy Kelly, Children and Young People's Sector
Seamus Lynch, Older People's Sector
Margaret Ward, Women's Sector
Monica Wilson, Disability Sector

Chair's opening comments

1. The Chair opened the meeting by making reference to the [statement](#) he had issued on 16 October addressing the discussion of the Forum at a meeting of the Northern Ireland Assembly. He said that in his experience Forum members had acted with integrity, commitment and generosity and he

hoped that this would continue. The Forum needed to move forward, to honour its mandate, and to deliver a solid proposal for a good Bill of Rights for the people of Northern Ireland.

Minutes of last meeting

2. Subject to two drafting amendments, the minutes of the last meeting were agreed and adopted.

Matters arising

3. A number of submissions on the consequences of 'the particular circumstances of Northern Ireland' had been received. To ensure that the Forum could have a full discussion, the Chair invited those who had not yet submitted anything to do so. The Secretariat would draft a paper on the basis of the submissions, for discussion at the Forum meeting on 7 December.

4. The Outreach Sub-group had been established and had held its first meeting (see below).

Working groups: Convenors' reports

Preamble, Enforceability and Implementation working group

5. The working group had held two further meetings, looking at standing, applications and remedies. It had agreed that the Human Rights Act definition of 'victim' was too narrow.

The group's legal advisor was working on a definition that ensured access to justice but that was not cast too widely.

6. Problems relating to the definition of 'public body' and functions devolved to private bodies had also been discussed.

7. Discussion of remedies would be linked to enforcement, which the working group would not be in a position to discuss fully until the recommendations of other working groups had been received.

8. The group had also discussed incompatibility of legislation with the Bill of Rights, considering the extent to which the judiciary should be able to declare UK-wide legislation incompatible.

9. The working group is now about half way through the issues it identified at the start. Some of the bigger issues needed to be left to the end as they were dependent on the other working groups' recommendations. The preliminary report was expected to be ready by the end of November, but it would not be able to cover everything the group was going to consider.

Discussion

- The Secretary of State for Justice would be putting forward a proposal in response to the YL case. It

was unlikely the Human Rights Act would be amended.

- A Bill of Rights should have different application tests for what is contained in the Human Rights Act
- British Government ministers had been making comments on the proposal for a Bill of Rights for the UK; the Forum must not work in a vacuum
- Those comments, however, related only to one aspect of enforcement. Northern Ireland's Bill of Rights could lead the way for the UK as a whole.

Children and Young People's rights working group

10. The working group was continuing to make progress through its list of identified issues. It was liaising with the Economic and Social rights working group to identify areas of overlap. The group's legal advisor was looking at migrant workers and changes in international standards, and the issue of access in relation to the provision of education.

11. There have been sticking points within the group around economic aspects of access (such as payment for transport).

12. The working group was also liaising with other working groups on language to be used – for example the Preamble, Enforcement and Implementation working group (and legal advisor) had been consulted on ‘state’, and ‘public authority’ was now being used.

13. Three further meetings were planned, on 9, 16 (full day) and 28 November. The meeting on 9 November will look at adequate standard of living, juvenile justice and the age of criminal responsibility.

14. The working group will be in a position to submit its draft recommendations to the Forum proper in December.

Discussion

- There was overlap with the Criminal Justice and Victims working group on the age of criminal responsibility. The fact that both groups had the same legal advisor was helpful.

Civil and Political rights working group

15. The working group was now meeting fortnightly, with better attendance. There was still a problem with engagement in between meetings and the representative from one organisation had yet to attend a single meeting of the working group.

16. The working group's next meeting (afternoon of 2 November) would hopefully conclude discussion on the European Convention on Human Rights (ECHR). Future meetings would then turn to issues not covered by the ECHR. The third meeting would try to tie discussions together and bridge the gaps between working group members' positions.

17. The working group requested that a more effective mechanism be developed for liaison with other working groups on issues such as children, young mothers in prison and a range of civil and political rights.

Discussion

- The DUP delegation agreed to look into the attendance of its representative at the working group.
- On issues of overlap, the Chair encouraged working group convenors to get their legal advisors to liaise with each other. This would reduce the Convenors' workloads. .

Economic and Social Rights working group

18. The working group would meet straight after the plenary session and again on 14 November.

19. At the meeting on 18 October equality and non-discrimination had been discussed. The group had considered the options from a general overarching clause attachments to individual provisions. Working group support was moving towards an overarching provision with a strong, clear definition. The group was liaising with the Preamble, Enforceability and Implementation working group.

20. The group's legal advisor had been asked to provide advice on progressive realisation, including looking at how it has been addressed in other jurisdictions (including South Africa), and on how socio-economic rights had been addressed in human rights treaties.

21. Other issues being discussed included social security, social services, rest and leisure (with discussion of carers), workers not covered by UK legislation (including migrant workers), and the linkage between the legal protection of carers and rights in the home.

22. The meeting on 14 November would last all day and would address the collection of disaggregated data, case law, terms and definition specific to economic and social rights, and the UK Human Rights Act.

23. As for the meeting to be held following the plenary session (2 November), each member would be asked to identify the types of economic and social rights that they

believed should be included in the Bill of Rights. Each person would also be asked to identify issues that they found problematic.

24. The working group's legal advisor had been asked to start drafting language on some issues, to be considered by the working group.

Discussion

- Dermot Nesbitt's paper on aspects of the ECHR would be forwarded to members of the working group.

Criminal Justice and Victims working group

25. The group had met once since the last Forum meeting, with a second meeting planned for straight after the plenary session.

26. The legal advisor had given a presentation on the age of criminal responsibility, focusing on international standards, and the group had discussed preventing criminality, anti-social behaviour, problems relating to children in care involved in the criminal justice system, and the lack of cost effectiveness in the current system.

27. Victims' organisations had been invited to make submissions to the working group and a full day meeting

was being held on 16 November for groups to make presentations.

28. Other issues that had been raised included hate crime, ethnic minority representation in the legal profession and judiciary, and immigration detention. The working group is liaising with other groups on issues of overlap.

Discussion

- Discussion on the age of criminal responsibility: There would need to be discussion in the Forum proper on this issue.
- The Directive Principles in the Irish Constitution are a good reference point for the consideration of age of criminal responsibility. These Principles, however, do not reflect Irish society as it is now.
- In relation to the protection of non-nationals, NICEM was planning a conference on 6 December.
- Issues relating specifically to women had not been raised yet.
- The Chair intended to approach NICVA to ask them to nominate a representative from a victims' organisation to take up the 'spare' seat on the working group.

Women's working group

29. The working group convenor was unable to attend the plenary session. The working group was meeting for a full day on 8 November, and again on 28 November. Drafting would start at those meetings

Discussion

- The working group was discussing the Convention on the Elimination of All Forms of Discrimination against Women.

Culture, Identity and Language working group

30. The group had not been able to meet since the last Forum meeting but a series of dates was being discussed with the legal advisor and group members.

Working group discussion points

31. It was agreed that the working group draft reports to the plenary, due in December, should incorporate what had been discussed in the working groups, with indications of levels of support. Reports did not have to be limited only to those issues that had achieved consensus.

32. A number of cross-cutting issues had arisen. This emphasised the need for convenors and legal advisors to exchange information regularly.

Outreach subgroup

33. The Chair reported that four people were to be offered posts as outreach workers (on secondment). Offers would be made that day or the following Monday.

34. The outreach subgroup had been established, consisting of a representative from each working group and the Secretary to the Forum. The Civil and Political rights working group had yet to nominate a representative.

35. At its first meeting the sub-group had agreed a workplan for the outreach workers, and a workload that would ensure fair division of the identified target groups (six overarching groups, seven requiring a more focused approach) between the four outreach workers.

36. Forum members were invited to provide contact details to the Secretariat of specific groups for the outreach workers to begin contacting. Forum members were also asked to be prepared to be approached directly by the outreach workers when their specific expertise was required.

Discussion

- It was agreed that 'TSN' would be used in place of 'low socio-economic areas'.

- The need for protocols for working with children was noted. This also involved discussion of Protection of Children and Vulnerable Adult (POCVA) checks.
- How the £45,000 provided for outreach was to be allocated, and the need for its robust management, remained to be discussed by the sub-group.
- Generic information would be fed back to the Forum at the end of the consultation process, but key information would be shared as and when it was received.

37. The sub-group's paper was endorsed by the Forum.

Any other business

38. Three conferences were highlighted: WAVE on 7 November, COSO on 17 November and The Future Together on 10 December.

39. The dates of the plenary sessions until the middle of February 2008 were confirmed (7 and 14 December 2007, 1 and 8 February 2008. All but 7 December will be full day meetings). The principal focus of the meeting on 7 December will be 'the particular circumstances of Northern Ireland' rather than working group reports. It was agreed to

invite the Chief Commissioner of the Northern Ireland Human Rights Commission to address the Forum on any preparatory work the Commission was doing in advance of receiving the Forum's advice.

40. It was agreed not to invite any other speakers to address the Forum at present, due to the amount of work that remained to be done.

41. It was agreed to change the Forum's dates for plenary sessions in March 2008 to 12 and 18 March (both full day meetings) with a provisional final meeting on 28 March if required.