

Bill of Right Forum
Working Group on Criminal Justice and Victims
Minutes of Meeting held on Friday 16th November 2007
Parliament Buildings, Stormont, Belfast

Convened by: The Very Reverend Dr Samuel Hutchinson.

Present: Edel Quinn (Include Youth), Ellis Haughey (SDLP), Alex Maskey (Sinn Féin), Stephen McIlveen (DUP), Stephen Nicholl (UUP)

Apologies from: Marian Killen (ICTU), Annie Campbell (Women's Aid Federation), Barry Fitzpatrick (CoSo), Dr Linda Moore (Human Rights Advisor), Mary O'Rawe (Human Rights Advisor), Peter Munce (UUP)

In attendance: Lesley Macaulay (Outreach Worker) Richard Barklie (Note-taker)

1. The Convenor welcomed everyone and discussed the agenda and the format of the day's proceedings, the groups which were confirmed as attending were announced and a number of logistics were discussed surrounding the management of the day's general progression. (a copy of the list of speakers is attached at Appendix A)
2. Leslie Macauley highlighted that she had managed to contact 26 out of the 40 victim's group list which she had been provided at the previous meeting. She also told the group that at a meeting for outreach workers during the course of this week, her instructions were to target and focus on 18 groups, an 'over-arching' group encompassing the like of children's groups, older person groups, women's groups, rural groups. She also stated that she had contacted the CFNI and CRC regarding broadening the victim's group list already in her possession, both these organisations highlighted Data protection issues

surrounding their disclosure of such a list. Leslie Macauley indicated that Mick Beyers from Coiste na n-Iarchimí and Jim Auld from Community Restorative Justice would be attending. A written submission was handed to the group from Restorative Action Following the Troubles (RAFT), (a copy is attached at Appendix A).

3. Ellis Haughey stated her concerns in not contacting the 40 names on the victim's group list, the recommendations of the group were clear on this issue and she expressed concerns of disparity emerging no matter how you try to select a cross section of the community. Ellis Haughey wanted this issue recorded and stressed the importance of contacting the 40 groups on the list which had been discussed before. Stephen McIlveen added the negative press which could be derived from not including a wider scope of groups and the lack of impetus in the selling of the Bill of Rights this could potentially create. Edel Quinn also stated that the list of 40 was not enough and she was aware of two groups not on the list who voiced interest at the WAVE conference in what was ongoing, but had no invitation for participation or were just not aware of the developments currently ongoing. These groups were CRJI (Community Restorative Justice Ireland) and Teach na Failte.
4. The Convenor discussed the list of speakers and went through the order of speaking. It was added that Jennifer Cornell (Northern Ireland Alternatives) had promised a paper but she had been busy during the week in Brussels.
5. Leslie Macauley mentioned that the CFNI had grants available for those groups who had not developed proposals. Stephen McIlveen confirmed being aware of this fact, but time was moving on as proposals are to be submitted by the end of November. The Convenor agreed that time is of the essence it had moved on considerably; he asked if anything else could be achieved to reach out to other groups. Stephen McIlveen suggested that the group forward a letter to the Chair of the forum seeking more time. It was highlighted that the Legal Advisor was a late appointment, as was the Outreach

Worker, all of which has slowed the progress. Ellis Haughey stated that the Outreach Worker was being employed to March, she suggested that the Outreach Worker continues to contact groups and that a formal day of discussions take place in January on a pre-consultative basis. Edel Quinn mentioned that the Pre-amble working Group is getting an extension to look at drafts, she re-iterated the concerns of the group, that extensive outreach work still needs to be undertaken in order not to damage the credibility of the forum. Stephen McIlveen asked what occurs once the groups draft has been submitted, do they refer it back, he highlighted that there is no real guidance and that producing the perfect draft within the time-scale is a difficult one.

A discussion centred on the issue of the mechanisms which take place following the submission of the draft proposals. Ellis Haughey attempted to clarify these issues by ringing Gillian Preece, Secretary, Bill of Rights Forum. The Convenor mentioned that she was very busy at present. The Convenor also asked if anyone was aware as to what happens during the consultation stages, who contacts the community, and how these matters are going to be raised for discussion. All of these issues The Convenor said would be referred back to the Secretariat.

6. The Convenor asked if the minutes could be confirmed from the last meeting on 9th November 2007. Stephen McIlveen asked for a change at paragraph 12 The Community Offenders Order should read Treatment of Offenders Order 1978. He also raised the issue of criminal responsibility particularly the mention of 18 years which was to be amended in the groups Youth Justice draft proposal, it had not been mentioned in the minutes. Edel Quinn mentioned a change to paragraph 2, Youth and Children's Group should be Children's Bill of Rights Working Group. The Convenor stated that as time was moving on the minutes would be passed to later in the afternoon if agreeable, all agreed.

7. The Convenor went through the role of the Chair for the oral submissions and the order in which the submissions would follow.
8. The Convenor welcomed those attending and offered refreshments prior to commencement. Light refreshments were provided including tea & coffee.
9. Those in attendance included Susan Reid & Fiona Greene from the Victims Support NI, Sis Carbine & Marie Close from the Victims & Survivors Trust, Mick Beyers from Coiste na nIarchimí, Gordon Knowles Disabled Police Officer's Association, Pat McCauley, Liam Hamill & Mark Kelly MBE from WAVE and Jennifer Cornell from Northern Ireland Alternatives. (It should be noted that these attendees arrived at different times throughout the proceedings.)
10. The Convenor introduced himself and made those attending aware that he would be chairing the day's events; Introductions were carried out amongst the Working Group and attendees. The Convenor outlined the history of the Working Group, he pointed out that arising out of the Belfast Agreement 1998 motions were sent in place for a proposed Bill of Rights for Northern Ireland. Then arising out of the St Andrews Agreement, a forum was set up to oversee the implementation of a Bill of Rights. The forum was represented by fourteen political groups and fourteen representatives from civil society. The Convenor highlighted that if anyone had knowledge of any other group who would like to participate to make them aware of the CJ & V Working Groups' work. They could get in touch as we are keen to hear as wide a view as possible. Alex Maskey asked why no Victims Groups were on the forum. The Convenor stated that it was with regret that no Victims Group was represented on the forum. However, he stated that Victims Group voices will be listened to by this group through days like today, and their views will be put forward to the forum in the form of the CJ & V's written proposal. Sis Carbine asked how was the selection process done and who it was carried out by. The Convenor replied that he could not speak authoritatively as he had entered the process

whilst it was up and running. Eilis Haughey stated that Chris Sidoti had been asked the same question, and he had difficulty in filling various sectors of the fourteen civil society groups. He had to strike a balance that was acceptable to the wider society. This was a particularly difficult area where Victims Groups were involved. This issue has been contested by many Victims Groups, so it is imperative that this Working Group works closely with all Victims Groups in order for their voices to be heard. Alex Maskey said we should note the concerns of others today and make submissions on their behalf.

11. The Convenor invited Susan Reid and Fiona Greene from Victims Support NI to present their oral submission. A draft proposal was submitted to the group and both Susan Reid and Fiona Greene led the Working Group through their proposals (A copy of the draft proposals are attached at appendix A). References were made to the European Forum for Victim Support, a range of legal instruments currently in place, although not in each member state. A particular reference was made to a 2006 Victim Support document currently in force in England and Wales but not in Northern Ireland. Susan Reid stated that there was now an opportunity through a statutory instrument in the Bill of Rights for victims to eradicate the current disparity within the rest of the UK. Three documents were drawn to the attention of the Working Group, 'The social rights of victims' of crime', 'Statement Of Victims Rights in the process of criminal justice' and Statement of victims' rights to standards of service', (copies are attached at appendix A). Three key principles were highlighted 1. Rights of the victim of a crime to be no less than that of the offender/defendant. 2. The process of the offender must not add to the stress of the victim. The victim must be appraised at all stages of the process. 3. The victim is protected from secondary victimisation as the judicial procedures progress, bearing in mind the adversarial processes of the present Criminal Justice System, research by Dr Michael Duffy University of Ulster, Jordanstown has highlighted that this of major importance. It was emphasised that the Bill of Rights provides an opportunity to go one step further than the European instruments in protecting victim's rights. Victim support had perused WAVE's proposals and had agreed with them in principle but pointed to

some adjustments including the insertion of a 'fairness' clause alongside social care & support. It was highlighted that it has to be the right of victims to have free support to services and they advocated a cross/border/state development were victimisation arises bearing in mind the changing diverse society in which we are now living. Victim support had also wanted to insert 'witnesses' in the definition of the 'victim'.

12. Discussion around this submission: Stephen McIlveen asked how 'fairness' developed upon the issue of 'compassion and respect'. Susan Reid highlighted that within the Criminal Justice System there are a myriad of autonomous organisations, many of which only pay lip service to victims. The system she argued is not designed or geared towards victims, there was no parity of esteem between victim and offender and the word 'fairness' should be included within the definition when treatment of victims is discussed. Stephen McIlveen pointed to the WAVE submission, previously acknowledged by Victim Support as being an agreeable submission, and noted that at 1(d) Victim Support had not amended to include 'fairness'. Susan Reid stated that they needed more time to work on their document and a further need to consult on this point. Stephen McIlveen asked if it would be advantageous if Victim Support had some help to go through documents as WAVE have had. Yes was the reply.

13. A discussion centred around Issues of support afforded to victims, a pilot scheme carried out recently at 'The Old Bailey' was introduced and discussed by Susan Reid, not only the support provided to victims, but the participation of victims, to have their say at the stage of sentencing following trial was raised. Victim Support advocated and supported the victims' right to have their say, when it best suits them. Stephen McIlveen also asked if witnesses are to be included as victims, and victims have to be afforded legal representation throughout a Criminal Justice process; this could be a costly exercise, it may well be unrealistic in terms of coming to fruition. Legal meanings of the terms representation/consultation was discussed. The position of Victim Support was put forward that the witness should be provided the necessary legal guidance

consultative or representative depending on the particular circumstances of the situation. But that during any process they should be an inclusive participator if it is their choice to do so, they should not be ignored.

14. Ellis Haughey raised the issue of 'acknowledgement' the right of any victim to have their suffering and pain acknowledged and posed the question of where it can fit in to a definition. She stated that there is a broader need for society to take a step back and listen to the victims of the 'conflict'. Victims do need to be listened to, above and beyond the confines of the Criminal Justice system. Susan Reid and Fiona Greene agreed. Ellis Haughey had concerns about the word 'fairness' in a definition based on the various implied interpretations that could conjure up in a legal context, it could prove a difficult yardstick. It was again discussed that the 'fairness' terminology was to include the victim's being made fully aware of the situation during the progression of cases through the Criminal Justice system.
15. Alex Maskey stated that 'acknowledgement' is a stand alone concept, and a very important one. Victims should not in anyway be treated less equal than an offender/defendant, bearing in mind that the defendant gets a fair trial. Information is crucial to the victim as to what is happening – he agreed that the Criminal Justice system is an adversarial one, however it needs to be changed to equally benefit the victim.
16. Edel Quinn raised points 2 & 3 on the submission and queried the distinction suggested between 'victims of the conflict' and those who commit 'ordinary crime', she particularly highlighted the position of children who commit so-called 'ordinary crime' but which may well be related to the 'conflict'. The issue of abuse of women was also raised. Susan Reid made references to a debate within the UN which had looked at victims of terrorism during conflicts and they had debated whether there should exist a special category of victims. Susan Reid pointed out that the needs are different and that

there was a difficulty determining or making a distinction between the two types of victim. Further analysis and research would have to be carried out to make a fairer informed assessment. Edel Quinn said that the group would like to hear more on this issue.

17. Stephen Nicholl referred to the 2006 document referred to in the submissions, the Council of Europe Recommendation (2006) on Assistance to Crime Victims (2006) and asked if a 'Rights based' approach could best be established in legislation i.e. is it clear that this works? The issue of compensation was raised in particular regarding victims and if there could be significant changes made through legislation to accommodate a better compensation package for victims in Northern Ireland. Susan Reid discussed the ratification of the above Recommendation and by a wide range of member states; she particularly highlighted the success of the French compensation system for victims but was critical of the Northern Ireland Compensation system which was more a 'tariff- tick boxing' exercise as opposed to any careful consideration towards the victims needs. A totally contrary system to the victim centred approach carried out in France.
18. The Convenor brought the discussions to an end and thanked both Susan Reid and Fiona Greene for their input and for attending. He asked if they had any questions. They both indicated that they would like time to review what had come out of the discussions and would like an opportunity to clarify some issues at a future date.
19. The Convenor invited WAVE to the table, Pat McCauley, Liam Hamill & Mark Kelly and also the representative of the DPOA, Gordon Knowles. All were warmly welcomed. WAVE was invited to start with their submission.
20. Mark Kelly outlined the historical background to the WAVE organistaion and its aim in taking part in the Bill of Rights process. He said that the aim of WAVE working group is to ensure through a statutory instrument, equality for all people in a Northern Ireland

society, a respect for the diversity of needs of those people within our society for the future, particularly for those who have been a victim. He stated that they had looked to the NIHRC (Northern Ireland Human Rights Commission) draft on Victim's rights for the Bill of Rights and they looked to see if they could challenge it to meet the needs of Victims. On issues of legalities, it was pointed out that a member of their group Hannah Munter was unable to make today's meeting; this would be her area of expertise. The representatives talked their way through the WAVE submission which was before the group. It was pointed out that the ethos of the WAVE submission had been based on a consultative process with dialogue with many victims of the Northern Ireland conflict. They highlighted that they had presented their proposals at a recently organised conference in Belfast which had been very engaging and had offered many other groups in the N.I. society an arena in which to discuss a range of important issues surrounding victims and these very proposals (A copy of the draft proposals are attached at appendix A).

21. Alex Maskey stated that the proposals encompassed several rights; he asked how best practices are introduced or managed to deal with witnesses. A discussion also developed around a hierarchy of victims. Mark Kelly expressed a need for statutory agencies to acknowledge the needs of victims. It was mooted that unless we encountered a major incident, we then get a much wider and statutory supported response. A smaller incident gets less attention and little response, creating that hierarchy of victims, this needs to be challenged, there should be no differential treatment, and all victims should be treated with dignity, respect and with the same equality. We demand this right on behalf of victims.

22. Ellis Haughey thanked WAVE representatives and said that it had been a helpful presentation, she raised the issue of including explicit and coherent entitlements which victims would be entitled, victims could look to a document and clearly see in black & white what their rights and entitlements are, this needs to be looked at. Ellis Haughey

asked if points at d & e need to be further refined and or defined. Stephen McIlveen stated that 'person' would suffice as opposed to group; the person would cover all in the Criminal Justice process. A discussion took place around this wording in subsection f of the document. Alex Maskey felt that this should stand as it is, perhaps it could be looked at later. Ellis Haughey also pointed out that recognition of the suffering of all of the victims would be best covered in the Pre-Amble document. This was agreed by the group

23. Stephen Nicholl questioned whether or not 1(b) created a hierarchy of needs with issues of housing, special needs and finance being distributed in some situations. A discussion took place surrounding the 'hierarchy' definition and interpretation. Mike Beyers contributed to her understanding and interpretation of this definition. Stephen McIlveen said in his experience he believes there is a need for specialists in many areas and accepts that the current systems have failed in the past. Pat McCauley provided examples of those suffering PTSD who have been failed or re-traumatised by the current state systems.
24. Edel Quin agreed with Alex Maskey that there are many aspects of the Bill of Rights which can be applicable to victims, it is therefore incumbent upon this group to reach out and hear the many other victims groups which are out there.
25. The Convenor thanked WAVE for their contribution to a very useful presentation. He then welcomed Gordon Knowles and invited him to speak.
26. Gordon Knowles presented an overview of the workings of the DPOA; he placed it in an informative historical context. He stated that the DPOA would like a closer link and working relationship with the PRRT (Police Retraining and Rehabilitation Training) (documents included at Appendix A relating to DPOA overview).

27. Alex Maskey asked if anything would help which had been proposed by the WAVE document. Gordon Knowles replied that funding would greatly help his organisation to cater for those who had suffered at the hands of terrorism. Alex Maskey asked if in the WAVE document at 1(b) would this assist and cover the members of the DPOA, would the DPOA have any issue with this. Gordon Knowles stated that he would have to have more time to consider all of the documents and would have to discuss this with his fellow committee members. Ellis Haughey stated what is clear is that there are gaps in the system and that there are clearly government deficiencies. She remarked that the WAVE proposals do though cover after-care and social needs. Edel Quinn asked if the DPOA would be submitting proposals, Gordon Knowles said he would return and consult with his committee first. Stephen McIlveen made it known that it is important to get as wide a range of proposals as possible from society, he encouraged that the DPOA express their views as they had been targeted for so many years. Stephen McIlveen asked why the DPOA had such small numbers; (Gordon Knowles had expressed around 300 members to date) bearing in mind the huge number of complainants in the PTSD claim around 3500 applicants, could this be explained? Stephen Nicholl replied that that people just will not come forward. This is an issue and should be addressed in a rights based process of reaching out to and getting these people to come forward. Gordon Knowles agreed.

28. The Convenor thanked Gordon Knowles and invited any future input whatsoever from the DPOA. The meeting was adjourned for lunch. Stephen Nicholl stated that he had to leave as he had another engagement.

29. Following lunch The Convenor welcomed everyone back and extended a welcome to Jennifer Cornell and invited her to the table to provide her presentation. A draft proposal was placed before the group (A copy of the draft proposals are attached at appendix A).

30. Jennifer Cornell apologised for the late submission of her written proposals; she stated that she had only become aware of this process whilst attending the WAVE conference on the 7th November. Jennifer Cornell outlined the background of her groups work, Northern Ireland Alternatives. This she highlighted was covered in the 1st page of her document. She talked through her proposals and outlined that they were based around the need for flexibility, but that key rights are inserted. The proposals are based on pragmatic working experiences of her group. What is clear is that people don't know all of the mechanisms which are available to them; it was the desire of her group and endorsed in their proposals to put this right. She stated that a number of other groups share the core principles of what Northern Ireland Alternatives are seeking for victims, including WAVE.
31. Alex Maskey thanked Jennifer Cornell for her presentation, he asked if the proposals were endorsing the same ethos as the WAVE proposals, there were a lot of similarities, he asked if it was the case that rights for victims should be the same level as rights afforded to defendants, as laid out in the WAVE proposals at page 1. Jennifer Cornell disagreed that she read this proposal in the same manner as being described. She went on to point out the differing needs that these two groups of people would have, and said there could not really be an equilibrium in this context between victims and defendants/offenders. She did however agree that it was good that no explicit discrimination was being displayed in the proposals towards either group. Alex Maskey asked if there should be more rights encompassing social care. Jennifer Cornell replied that yes there should but their language would be in a broader definition than in the WAVE document.
32. Ellis Haughey pointed out that during the course of the day we had heard a lot regarding 'acknowledgement', 'equality', 'equal 'Rights' for victim and defendant. She felt that it was not right to compare victims and defendants/offenders that they should not even be talked about in the same way or context. What has been highlighted is that

the 'victim' should have no less 'Rights' than the perpetrator. Ellis Haughey stated that the voices of the victim must be heard within the correct framework within the Criminal Justice system either in a court or through alternative restorative interventions. Jennifer Cornell agreed and elaborated on the need to hear the voice of the victim if that is their choice to do so. It was discussed that this could occur in a court at the stage of sentencing after the defendant has been found guilty and not before as this could well colour the judgment of those involved in the trial. Edel Quinn asked what happens if the victim has not been made amenable. Jennifer Cornell replied that most of their cases apply to the conventional system and in her experience people had not been told or informed of any development of their individual cases, this needs to be addressed, even when people have not been apprehended.

33. Edel Quinn asked regarding 10(1)(c) in the proposals, should it be a 'blanket right', Jennifer Cornell stated that this should be the victims choice, Edel Quinn challenged this on the basis of cases of sexual abuse where the victims are under the age of 18 years of age. Jennifer Cornell acknowledged this difficulty but suggested that the child could make an informed choice through parental guidance on what course they wished to pursue. Edel Quinn expressed concerns particularly in extreme case such as sexual abuse cases and would advocate some form of protectionist clause to safeguard children in these types of crimes.

34. Stephen McIlveen discussed the issue of 'no limit on healing process' and asked when does the victim exercise his/her right to participate e.g. if punishment was handed down by the court would it be viable to include in an order being made by the court that the defendant participates in some form of restorative process if the victim so wishes and if they should not agree that they receive a longer sentence. Jennifer Cornell said that she would have discomfort in this form of coercion taking place. She advocates that the victim should have the right to take part in the proceedings when they feel it is right for them to do so.

35. The Convenor thanked Jennifer Cornell for her submissions and participation and encouraged their continued participation.
36. The Convenor remarked that the day had been a very helpful and informative one and that it had raised a lot of issues for future discussion The Convenor referred the group to earlier business and asked Stephen McIlveen if he would undertake to write a letter to the Chair of the Forum regarding dissatisfaction at the deadline date for the groups draft submission, dissatisfaction at recently only being appointed an Outreach Worker & Legal Advisor. Highlight that we do not wish to undermine the Bill of Rights process as this could be detrimental to progress in the long term. The group feels that it has been somewhat disadvantaged and more time is required. Stephen McIlveen agreed to draft a letter and forward it as soon as possible. All agreed to this action.
37. The Convenor indicated dates for further meetings the 23rd & 30th November 2007. The Convenor asked if the 30th should be set aside for another formal meeting, to hear more groups if this can be arranged. Edel Quinn stated that realistically more time would be required to organise this. Groups need the time to see what the process is about and to be able to formulate proposals.
38. The Convenor stated that much work still needs to be carried out including Criminal Justice and Victims; Children's Justice was well underway. He was hoping for a consensus on Youth Justice very soon. Ellis Haughey said that some writing up could commence on items covered to date. The Convenor stated that the group would meet at 2.00pm on the 23rd November and that the 30th was earmarked for supplementary hearings of submissions. Edel Quinn stated that it would be advantageous to get moving on Criminal Justice issues as soon as possible. The Convenor said that he would contact Mary O'Rawe and try to get the Criminal Justice paper which she was currently writing up, he remarked that it would be beneficial to have this before the next meeting.

39. Alex Maskey stated the need to look at the remaining groups which had not been contacted on the previously discussed list of 40 victims groups. This was agreed by the group, all groups remaining should be given an opportunity to speak on the 30th November at Interpoint. The Outreach Worker is to carry this out.
40. The Convenor confirmed the group was in agreement; the meeting of the 23rd to be dedicated to looking at Criminal Justice matters, a clarification on whether Mary O'Rawe has drafted a paper for that meeting will be undertaken by The Convenor. On the 30th November other groups are to be encouraged to participate in discussions at Interpoint, this meeting may well last all day.
41. The Convenor asked if there was any other business. No other business was discussed. The Convenor thanked everyone for attending and thanked Ellis Haughey for organising the room and for refreshments.

APPENDIX A

1. List of speakers for the 16th November 2007
2. Victim Support Northern Ireland, (written submission and appendix)
3. Victim Support Northern Ireland, 'GAP BETWEEN PROVISIONS FOR VICTIMS & WITNESSES IN NORTHERN IRELAND'
4. Victim Support Northern Ireland, 'The social rights of victims of crime'
5. Victim Support Northern Ireland, 'STATEMENT OF VICTIMS' RIGHTS in the process of criminal justice'
6. Victim Support Northern Ireland, 'Statement of victims' rights to standards of service'
7. Northern Ireland Alternatives, (written submission)
8. WAVE, (written submission)
9. Restorative Action Following the Troubles, R.A.F.T (written submission)