

Bill of Rights Forum
Working Group on Culture Identity and Language
Minutes of Meeting held on Wednesday 21st November 2007
Interpoint Centre

Convened by: Nelson McCausland MLA

Present: Gearoid O'hEara (Sinn Féin), Brian Syminton (RNID)
Stephen Nicholl (UUP), Lee Reynolds (DUP)

Apologies from: Willis McBriar (ICTU), Patrick Yu (NICEM)

In attendance: Dr Elizabeth Craig (Human Rights Advisor), Mary Lafferty
(Bill of Rights Forum Outreach Worker)

Observers: None

1. The Convenor opened the meeting by noting that the minutes of the previous meeting were not yet available. Dr Craig subsequently distributed her record of the meeting for information and also provided copies of her previously distributed discussion paper. The Convenor also noted that quorum was not met.
2. Dr Craig believes that the examination of the Framework Convention for the Protection of National Minorities [FCPNM] is only the starting point and encouraged the identification of issues to be addressed by working group members, noting that some may already have been explored by other working groups.
3. Lee Reynolds stated that it was agreed at previous meetings to examine the FCPNM, the UN Convention on the Rights of the Child [UNCRC] and the European Charter for Regional or Minority Languages [ECRML]. The working group would then identify whether to establish general principles from them or explore options within domestic legislation or explicitly list specific articles within a Bill of Rights.

4. In response to Dr Craig's question on whether or not it was the group's intentions to establish minimal, general or more specific provisions, the Convenor responded that from previous convenor meetings the consensus was to develop broad principles.
5. Turning to her discussion paper, Dr Craig stated that three Council of Europe experts had suggested that a provision could be included stating that commitments on language rights made in the Good Friday Agreement, the Framework Convention and the Languages Charter would be developed through legislation. They had also suggested that a general provision could be included requiring the law to give effect to the Framework Convention.
6. Lee Reynolds believed there was a need to address what is not covered within the ECHR and that further examination was needed in terms of what the "particular circumstances of Northern Ireland" means in this area. Dr Craig undertook to examine and provide an analysis of the ECHR for the group.
7. Lee Reynolds raised the fear, held by many in Northern Ireland, of not being able to communicate their culture to the next generation. He stated that the State made it difficult for this to occur and reiterated the need for fair treatment and the need to protect individuals from an identity being forced upon them.
8. Gearoid O'hEara stated that an individual should be allowed to practice their own culture and made it clear that he supports the right of an individual to Education in their language. Mr O'hEara accepted there were funding issues with this approach and noted that a perceived lack of demand was often used as a barrier to education by Government.
9. Lee Reynolds agreed. He felt that it wasn't the ECRML that created a barrier to education but the interpretation, by Government, of the obligations contained within it. Mr O'hEara stated that he would agree with the extension of the same level of protections already in place for the Irish Language to all other languages. The Convenor stated that the ECRML covers indigenous languages and that every child should be taught about their background. Stephen Nicholl believed that the issue could be addressed by the development of a new model of delivery within schools rather than the establishment of new schools.
10. The Convenor cautioned against the further creation of schools teaching in more minority languages. The Convenor believed that this would create the potential for further fragmentation of the existing delivery model of education within Northern Ireland. The Convenor believed that as long as a right existed for a child to have access to their culture and language through education then how it was delivered was not a matter for this group.

11. Gearoid O'hEara agreed that in some cases, the "total immersion" route may not be the most practical method of delivery. He agreed that there was a need to safeguard "intergenerational transmission" of culture and believed that this would address the fear many held over the potential for the loss of their cultural identity.
12. Brian Smyington reiterated the need to protect "deaf culture" and felt that it didn't receive the same level of attention within the Good Friday Agreement. Mr Symington agreed with the Convenor that the maintenance of an individual's language and culture was paramount to Northern Ireland's future.
13. All members of the group expressed their concern over the timetable ahead and it was agreed that to move the work of the group forward, Dr Craig was to receive, from all members, a list of issues they wished to discuss. Dr Craig undertook to then provide a gap analysis of existing protections and in so doing would refer to the HRC's earlier recommendations.
14. The Convenor expressed his concerns that to use the NIHRC documentation would, in a sense, be a step backwards. Dr Craig understood the concerns but felt it was necessary to do so, in terms of continuity and recognising the work previously carried out in this area.
15. Discussion moved to the issue of enforceability and justiciability. Dr Craig explained that the FCPNM, the UNCRC and the ECRML were not created with specific enforcement provisions. Lee Reynolds reiterated his earlier point that the Government has failed and continues to fail in providing the right of a child to the transmission of culture through education. Dr Craig asked if the state should have a role in enforcing this and agreed to construct a paper to develop the concept of "intergenerational transmission"; the right to education in a minority language; and the development of a cultural ethos within formal education (Article 29.1(c) of the UNCRC refers).
16. Gearoid O'hEara reiterated his earlier position that in dealing with language, an erroneous demand led approach by Government policy makers exists, rather than establishing a basic right to service provision without limitations. Dr Craig responded that there would be obvious resource implications in the establishment of fully enforceable language rights as described by Mr OhEara and that even if no limitations or qualifications were explicitly stated; the courts would read some limitation in.
17. Lee Reynolds expressed sympathy with any community that demonstrated sufficient demand for their education services in their "mother tongue". The Convenor reiterated that he was drawn to establishing broad principles in this area that would not explicitly create delivery methods. It was agreed that this

was an area which required further discussion following the gap analysis by Dr Craig.

18. Stephen Nicholl reported that the central issue in this area flowed around whether or not there should be a provision of education in a certain language as opposed to the education of a certain language within schools. Mr Nicholl also stated that education provision in other languages has the potential to create other issues within employment rights and could create the potential for discrimination.
19. Lee Reynolds recounted the need to include the right to self identification and referred to the development of an intercultural identity. In response, Dr Craig agreed to distribute the explanatory reports to the Framework Convention and the ECRML which both refer to intercultural identity.
20. Lee Reynolds went on to say that there were other issues to be explored by this group in the areas of Broadcasting and Parading. Mr Reynolds believed that, in theory, the European Convention on Human Rights [ECHR] should provide adequate protection in the area of parading, but that in practice, it didn't; this area was a major issue for his party. Mr Reynolds believed that the previous work by the Human Rights Commission was inadequate and wished to see a presumption of a right to parade (and to play music) and stated that he believed the reverse was the reality in Northern Ireland. Mr Reynolds stated he would like to see the Goldstone recommendations implemented in full in Northern Ireland. The Convenor agreed that the parades issue was of iconic significance and that potential lessons could be learned from South Africa in this area.
21. The Convenor returned to a previous meeting's discussion on what was meant by "communities" and asked if the theme of "a shared future" could be included within the preamble. Lee Reynolds believed that this process was a real opportunity to break down the barriers for those he described as living in "closed communities" and in so doing fulfil the potential to create a "broader functioning society".
22. It was agreed that all members of the working group would create a list of issues they wished to see addressed by the group by Friday 23 November and that Dr Craig would provide preliminary work on those identified issues on Monday 26 November. Dr Craig would also examine the ECHR, particularly article 2 of protocol 1 on the right to education.
23. The next meeting will be held in Room 144 of Parliament Buildings on 29 November 2007.