

Bill of Rights Forum  
Working Group on Culture and Identity and Language  
Minutes of Meeting held on Tuesday 8<sup>th</sup> January 2008  
Interpoint Centre, York St., Belfast

Convened by: Cllr Nelson McCausland MLA (DUP)

Present: Patrick Yu (NICEM), Fr. Tim Bartlett (Catholic Church), Lee Reynolds (DUP), Rev. Patricia Ann McBride (Irish Council of Churches) Stephen Nicholl (UUP), Barry McElduff MLA (Sinn Féin) Willis McBriar (ICTU), Brian Symington (RNID)

In attendance: Dr. Elizabeth Craig Legal Advisor,  
Gareth Wright (Forum Secretariat)

Observed by: Drew Nelson & Jonathan Mattison (Orange Order), Paula Molloy (DFA), Michael Johnston (Centre on Human Rights for Disabled People)

1. The Convenor opened the meeting by welcoming the observers. He advised that the group would be examining Article 11 of the European Convention on Human Rights (freedom of assembly), noting that this Article had also been explored by the Civil and Political Rights working group.
2. The Convenor also noted the contents of three documents<sup>(1)</sup> supplied to all members prior to today's meeting. He also reported on his earlier meeting with the Strategic Review of Parades (SRP) noting their keen interest in rights which may have an impact upon or conflict with Article 11, such as Article 3, 8 and Article 1 of the first protocol to ECHR.

(1) "Guidelines on Freedom of Assembly", OSCE (2007)  
"Parades, Protest & Policing", NIHRC (2001)  
"A report on the regulation of gatherings", Commission of Inquiry on the Prevention of Public Violence and Intimidation, South Africa (1993)

3. Father Bartlett asked if any international parallels existed in the area of parading which cited freedom of religion. Dr Craig saw the issue lying firmly within the context of freedom of assembly but undertook to examine this issue further and revert.
4. In response to Barry McElduff's query on a legal definition of "peaceful assembly", Dr Craig and the Convenor reported on the need for "peaceful intentions" by the organizers, in addition the term "peaceful" should be further interpreted to include conduct which may annoy or give offence.
5. In relation to the rights of non-participants, the Convenor advised that a peaceful assembly must, by definition, be of a temporary nature. Father Bartlett asked if there was a qualitative difference between one off and annual events. Dr Craig advised that this issue could be "fleshed out" in further discussions with the Strategic Review of Parades.
6. The rights of non-participants were further considered with particular reference to the potential to give offence and the conflict between the right to peaceful enjoyment (of one's property). Dr Craig advised that case law in relation to the right to peaceful enjoyment does not seem to place particular emphasis on this right. Freedom of assembly was and is "held up" as an important element of a democratic society.
7. Drew Nelson, upon invitation, reported his opinion on the regulatory burden his organisation was under and believed that a cultural disparity existed. There needed to be accessible, transparent and consistent decisions taken in this area by the regulatory body. He further contended that there needed to be (and looked forward to) a set of guiding principles for all assemblies.
8. Dr Craig asked if the group supported the additional wording on Article 11 from the Civil and Political Working Group report. Father Bartlett was concerned about the parallel nature of the current task and that of the

Strategic Review of Parades. Dr Craig reported that there has been an element of co-operation with the work of the SRP and the work of this group may also serve to complement and inform their work.

9. Discussion returned to the rights of non-participants and centred on the difference between the causing of offence and harassment. Patrick Yu reported on the aspects of harassment within the Criminal Justice Order 1977 and the need to respect others before exercising your own rights. It was accepted that any assembly may cause offence and annoy but could still be peaceful, however the group needed to further explore the potential of a harassment provision.

10. The Convenor outlined four options for the group to consider,

- Leave Art 11 ECHR as it is;
- Accept the reference to harassment proposed by the civil and political rights group;
- Examine other possible additions to the wording in Art 11;
- Fully endorse the OSCE Guidelines

Dr Craig would examine the above options and elaborate on potential wordings for the group.

11. Stephen Nicholl believed that finding a middle ground on this issue would not be an easy task and that it was important that any recommendations in this area be seen as aspirational. Lee Reynolds suggested that the way to finding agreement would be for all concerned not to approach the issue as a "sectarian zero-sum game". Barry McElduff looked forward to progressing the debate further at the next meeting.

12. Dr Craig, following a request from Lee Reynolds, will explore how Canada monitors the religious nature of their workforce.

13. The Convenor drew the meeting to a close. The next meeting of the working group will take place on Friday 25<sup>th</sup> January 2008 from 9:30am at Stormont. This meeting will focus on the issues of education and the right to freedom of peaceful assembly with a further meeting to be held on Wednesday 30<sup>th</sup> January 2008. At this meeting the group will reconsider some of the issues addressed in the working group's progress report, including language rights, a right to self-identification as well as general identity, cultural and religious rights.

[signed]

Gareth Wright  
Bill of Rights Forum Secretariat