

Culture, Identity and Language Working Group  
Progress Report  
13 December 07

## Progress to Date

The working group has had seven meetings to date, four of which took place after the appointment of the legal advisor. This report highlights some of the proposals that have been considered by the group for possible inclusion in the Bill of Rights and identifies a number of issues to be discussed in future Working Group meetings.

## Specific Proposals Considered by the Group

### 1 A General Right to Cultural Identity (adapted from Art 27 of the International Covenant on Civil and Political Rights)

Two possible formulations of a general right to cultural identity have been identified by the group with more discussion needed on whether a negative or positive formulation of the right would be preferable. Further discussion is also needed on potential limitations to this right.

A1 Persons belonging to a cultural, ethnic, religious or linguistic minority or community shall have the right, individually and with other members of that community, to enjoy their own culture, to profess and practise their own religion and to use their own language.

A2 Persons belonging to a cultural, ethnic, religious or linguistic minority or community shall not be denied the right, individually and with other members of that community, to enjoy their own culture, to profess and practise their own religion and to use their own language.

There is some support within the group for the inclusion of a provision drafted in similar terms to Article 5 of the Framework Convention with more discussion needed on the distinction between rights intended to be justiciable and provisions imposing programme-type obligations on the state.

B Public authorities shall promote the conditions necessary for persons belonging to cultural, ethnic, religious or linguistic minorities or communities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

Without prejudice to measures taken in pursuance of the State's general integration policy, public authorities shall refrain from policies or practices aimed at assimilation of persons belonging to cultural, ethnic, religious or linguistic minorities or communities against their will and shall protect these persons from any action aimed at such assimilation.

## 2 Right to Self-Identification (based on Art 3 of the Framework Convention)

1. Every person belonging to a cultural, ethnic, religious or linguistic minority or community shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.
2. Persons belonging to cultural, ethnic, religious or linguistic minorities or communities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the Bill of Rights individually as well as in community with others.

There is widespread support within the group for the inclusion of such a provision in the Bill of Rights. However, it should be noted that dissent has been expressed by one member of the Working Group.

### 3 Provision giving effect to the Framework Convention

The law of Northern Ireland shall give effect to the Framework Convention for the Protection of National Minorities.<sup>1</sup>

The view of Working Group members is that the term 'national minority' is problematic. The UK has based its reports under the Framework Convention on the definition of the term 'racial group' under the Race Relations Act 1976. The group would like to see protection under the Framework Convention extended to all cultural, ethnic, religious and linguistic minorities and communities in Northern Ireland, including persons using sign language, possibly through the inclusion of an interpretation clause in the Bill of Rights. The group has also considered the following proposal as a possible alternative:

The law of Northern Ireland shall guarantee the rights conferred on minorities, and on individual members of minorities, by the Framework Convention for the Protection of National Minorities.

Further discussion may be needed on the significance of the fact that the Framework Convention contains mostly programme-type provisions rather than directly applicable rights.

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<sup>1</sup> This is an adaptation of the formulation suggested by three Council of Europe experts during a visit to Northern Ireland in 2004 (DG II (2004) 4, para 55).

## D Provision on Language Rights

Language rights will be protected through legislation giving effect to the commitments made under the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.<sup>2</sup>

There has been some discussion within the group about whether or not reference should be made here to the commitments in the Good Friday Agreement and in the St Andrews Agreement but there is no consensus on this.

## E Provision on Interculturalism (based on Art 6(1) of the Framework Convention)

Public authorities shall take effective measures to promote mutual respect and understanding and co-operation [and good relations] among all persons living in Northern Ireland, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

## Further Issues to be Discussed

The group has identified a number of other issues that they would like to see addressed specifically in a Bill of Rights that reflects the particular circumstances of Northern Ireland. Many of these issues relate to the area of education, including the provision of minority language education, a right of parental choice, educational aims and objectives and the need to ensure respect for religious and philosophical convictions in the State system. Other issues can be related to the rights to freedom of expression, association and peaceful assembly, including the use of symbols, flags and emblems and the parades issue. These two areas will be the

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<sup>2</sup> Ibid para 75.

main focus of discussions at the Working Group's next meeting on 8 January 2008.