

DUP Paper

Particular Circumstances of Northern Ireland

In considering the response to how we should interpret such a clause, the DUP holds to the straightforward view that this must be answered using both the context of the phrase and the application of it in terms of our remit.

The context of this phrase, and indeed the remit for the whole Bill of Rights process, and consequently for the role of the Forum itself lies with the Belfast Agreement. This is not a document that the DUP particularly favour, but despite our distaste for it, there is no escaping the fact that it is this document that establishes the parameters of our remit. The wording of the relevant paragraph has been well rehearsed and does not bear repeating, but it is abundantly clear that the phrase in context clearly establishes a limited role for the Bill of Rights, and the particular circumstances of Northern Ireland. Firstly, the need for a Bill of Rights is clearly put in the context of the incorporation of the ECHR into domestic law. In 1998 this was assumed to be imminent, as indeed turned out to be the case. Thus any need for a local Bill of Rights was put in the context of supplementary rights to the ECHR. By clear implication there was no need to reinvent the wheel, and those rights already covered in the ECHR do not need to be separately legislated for by any NI Bill of Rights.

Secondly, and crucially the additional need for a Bill of Rights is framed within the context of the particular circumstances of Northern Ireland. The phraseology is clearly significant here in its intentions. The wording for example is not phrased in terms of what would be beneficial to people in Northern Ireland, but in terms of those circumstances that are particular to Northern Ireland. In case there is any doubt, as has been pointed out by Neil Farris and others, the already restrictive phrase is further refined by the reference to it relating to the problems that have arisen by the clash between the two main communities in Northern Ireland. While the DUP is prepared to accept a wider definition of community in Northern Ireland, to include those who include the ethnic minorities, any wider interpretation would clearly go against the intention of the draftsmen. We believe that we have no scope to go beyond this narrow but clear interpretation of our remit.

Against this background, the DUP would apply the phrase "particular circumstances of Northern Ireland" as a common sense test of what supplementary rights should be included. Clearly it is intended to cover issues that have arisen or derive from the Troubles such as victims issues, emergency laws and intercommunal conflict. Beyond the key test for any proposed right should be does it have a particular applicability to Northern Ireland which wouldn't apply to other parts of the British Isles. Thus if a particular right is applied to a person in Belfast, which

may well benefit an individual or group, the key test should be whether that is uniquely beneficial to someone in Northern Ireland. If the same additional right was given to an individual in Birmingham, Banff or even Bantry in their respective jurisdiction, and it would similarly benefit them as well as the individual in Belfast, then it could not be argued that this was a right particular to Northern Ireland. Such a provision provides a logical test for the phrase that is consistent with our scope and remit. While national and international comparisons should never be ignored, it is clear that there are certain issues that seem relatively easy to examine should be examined on the basis that they are particular to Northern Ireland such as the culture of parading. Similarly, while this does not automatically preclude issues being put forward for discussion, and ultimate inclusion, it means that a wide range of issues such as many of those contained in the economic and social field, will have a very steep hill to climb to persuade us, or indeed be seen objectively as being particular to the circumstances of Northern Ireland.