

Bill of Rights Forum
2nd meeting, Europa Hotel, Belfast
4 April 2007

Present (in order of seating)

Chris Sidoti, Chair	Dermot Nesbitt, UUP
Ben Lee, Human Rights Adviser	Esmond Birnie, UUP
Alan Sheeran, Mencap	Arlene Foster MLA, DUP
Elaine Campbell, Age Concern	Peter Weir MLA, DUP
Paddy Kelly, Children's Law Centre	Nelson McCausland MLA, DUP
Mairéad McCafferty, COSO	Anna Lo MLA, Alliance Party
Sam Hutchinson, Irish Council of Churches	Stephen Farry MLA, Alliance Party
Tansy Hutchinson, NICEM	Dolores Kelly MLA, SDLP
Aideen Gilmore CAJ	Alban Maginness MLA, SDLP
Thomas Mahaffy, Unison	Brian Barrington, SDLP
Father Tim Bartlett, Catholic Church	Chrissie McAuley, Sinn Féin
Neil Faris, Business Sector	Martina Anderson MLA, Sinn Féin
Annie Campbell, Women's Aid Federation	Steven Corr, Sinn Féin
Brian Crowe, UUP	Gillian Preece, Secretary

1. Chair's welcome and introductory remarks

2. The chair, Chris Sidoti, welcomed the participants to the second meeting of the Bill of Rights Forum, the first that he had chaired. He conveyed the apologies of the Minister for Human Rights, the Hon David Hanson, for his unexpected inability to attend to meeting, for personal reasons. The chair hoped to invite the Minister to a future meeting of the Forum.

3. The chair conveyed his personal sense of excitement about the Forum's work. There had never been such a good time to be discussing human rights in Northern Ireland with a view to developing a Bill of Rights. He briefly set out his own background: 30 years as a human rights lawyer working with official and non-governmental organisations in Australia and internationally, with experience in general human rights work, children's rights, social welfare, socio-economic rights and so on. He had been the first director of the Australian Human Rights Commission and subsequently the Australian Human Rights Commissioner. He had also been the Australian Law Reform Commissioner. He had experience in the development of both human rights law and general law. The Forum provided an opportunity to bring both areas of his experience together.

4. The chair also said he had experience of working through similarly complex processes and hoped to bring

that experience to bear too in this process. What he lacked, however, was in-depth knowledge of Northern Ireland; here the experience of the Forum members would be vitally important.

5. The chair outlined for the information of Forum members the composition and role of the Secretariat. In Belfast there would be a Secretary (Gillian Preece) and an Executive Officer to provide necessary administrative support. Both would be civil servants selected for their experience and expertise in management and administration within a public sector context. In Geneva, Ben Lee would be working half time on the Forum, providing research and providing legal advice and also acting as the principal avenue for communication between Forum members and the chair. In addition a human rights lawyer would be recruited as soon as possible to work full time, based in the Belfast office, again undertaking legal research and providing human rights advice.

6. The chair then described his own role. The Minister's letter of appointment referred to him 'chairing' and 'leading' the Forum. He was not, therefore, responsible for the success of the process: for that, the members were collectively responsible. The Forum had a common task, would hopefully identify common objectives and had shared responsibility. Much had been achieved already in Northern Ireland, particularly in recent weeks, and the

Forum had the potential to play a significant part in taking that progress forward in the human rights area. Bringing the members of the Forum together around the one table was an achievement but it was not enough in itself – the Forum needed a result, a good report with a good Bill of Rights to provide better human rights protection and promotion in Northern Ireland. Having begun together, the chair was determined that members of the Forum would finish together.

2. Introductions and expectations

7. The chair invited each member of the Forum briefly to outline his or her expectations and objectives of the process.

8. Alan Sheeran (Mencap: alternates with Disability Action) emphasised the importance for the people with disability not only of political and civil rights but of socio-economic rights: health, housing, access to employment, education and so on. He was interested in particular in looking at how the new International Convention on the Rights of People with Disabilities, which the United Kingdom had supported but not yet ratified, could be incorporated into the Bill of Rights (BoR) and at the rights implications of the Banford Review of Mental Health.

9. Elaine Campbell (Age Concern: alternates with Help the Aged) also expressed an interest in socio-economic rights and highlighted the matter of multiple identities. The

Forum needed to look at how existing equality legislation would fit into the BoR, the impact of the Banford Review and how the BoR would fit the future. Forum members needed flexibility, adaptability and a willingness to be challenged. The Bill must address both what Northern Ireland is and what it has potential to become.

10. Paddy Kelly (Children's Law Centre: alternates with Save the Children) had very high expectations for the BoR. The BoR provides a unique opportunity to incorporate children's rights on a constitutional basis. Children and young people were denied their rights on a daily basis, for example, in relation to mental health issues, access to education and the rights for those with special needs, due at least in part to the lack of a comprehensive framework for children's rights. The BoR needed to build on international standards, mainstream children's rights, acknowledge the particular circumstances of Northern Ireland, be justiciable and include socio-economic rights. Process needs to facilitate the voice of children and young people being heard.

11. Mairéad McCafferty (CoSO: alternates with second CoSO rep) reiterated CoSO's commitment to working with everyone. In light of the increase in homophobia, CoSO looked forward to contributing to creating conditions for a genuinely shared future. The BoR was an opportunity not only to devise a model outcome but also to demonstrate a

model process. CoSO expected previously unprotected rights (socio-economic and equality rights) to be enshrined in the BoR.

12. Sam Hutchinson (Irish Council of Churches) referred to the contribution of the churches in the voluntary sector, through, for example, provision of youth work, care for the elderly, work with addicts and prisoners. He hoped the BoR would provide a fair balance between what could be seen as conflicting interests and that it would both fall in line with international standards and be appropriate for Northern Ireland. He hoped the Forum would capitalise on the air of spring and renewal that was permeating so much that was happening locally.

13. Tansy Hutchinson (NICEM: alternates with An Munia Tober) explained that the ethnic minority sector was represented alternately by an umbrella organisation and a single issue organisation. The existence of the ethnic minority sector in Northern Ireland had simply been denied for many years and so too, therefore, had the existence of racism. NICEM saw the invitation to join the Forum as recognition of ethnic minority societies and their different needs. She highlighted the need for recognition of socio-economic and political and civil rights for ethnic minorities but also pointed out that the communities were still building their own capacity and so efforts must be made to engage with them. The BoR should be relevant to

all Northern Ireland society, building on existing international standards.

14. Aideen Gilmore (CAJ) expected a BoR of international reputation that would set the standard for other countries. The process of debate was as important as the product. Nothing should be seen as off the agenda. Members should be fully committed, should show respect towards each other and should get away from the table to involve their own communities. There was need for an early understanding of what human rights are.

15. Thomas Mahaffy (Unison: alternates with NICTU) supported increased cross-community debate. The process and the outcome are both of benefit. The inclusion of socio-economic rights would have a positive impact on the most disadvantaged. Opportunities to develop discussion outside the Forum should be taken. The BoR must represent society at its broadest and must unite.

16. Father Tim Bartlett (Catholic Church) welcomed the new political atmosphere. He hoped the work of the Forum would contribute to the culture of human rights in Northern Ireland and responsible participation for the common good. Members would inevitably learn from the diversity at the table. The Forum needed quickly to agree on the scope of the BoR and how consensus would be achieved. He asked about the status of the final proposal

and whether the NI Human Rights Commission had an obligation to consider it.

17. Neil Faris (Business Sector) explained that the CBI, that had nominated him, had a wider interest than just protecting employers' rights and interests. It had no particular agenda and approached the Forum with an open mind. The Confederation was open to making its own submissions to the Forum where appropriate.

18. Annie Campbell (Women's Aid Federation: alternates with Women's Resource and Development Agency) highlighted the breadth of the women's sector that was entirely behind the BoR process. At the start of the Troubles there had been agreement that a BoR was needed. Now finally we seemed to be closing the circle. The women's sector was diverse, covering issues of age, sexual orientation, disability, socio-economic need and so on, and the issues were wide ranging: the effect of conflict on women, violence against women, health and reproductive rights, socio-economic rights. Poor women were among the most marginalised in society. The Forum must produce the core of an inclusive, aggressive BoR, based on international standards, and then a strategy for its implementation. There was need for a fast learning track on what international human rights. Building respect for rights was part of building peace.

19. Dermot Nesbitt (UUP) said that, although the genesis of the rights problem was British/Irish, all the people of Northern Ireland were citizens of Europe. Effective democracy and observance of human rights were fundamental to society. The UUP should not be seen as entrenched in its views. It was firmly in favour of a BoR that would not be applied in a restrictive manner. The party supported reference to 'all communities' rather than 'both' in the terms of reference, although the Forum must acknowledge that the Good Friday Agreement (GFA) was why it was here. Protection of rights was of central significance to a lasting settlement. The BoR must be reasonable and justifiable. It was not for parties to negotiate what was and what was not acceptable. Rights were determined by international standards, such as the European Framework Convention for the Protection of National Minorities.

20. Brian Crowe and Esmond Birnie (UUP) endorsed the UUP position presented by Dermot Nesbitt, reiterating the value of the Framework Convention.

21. Arlene Foster MLA (DUP) informed the Forum that she would not be remaining as a member as she would be taking up an inconsistent position. Human rights and common sense were the same side of the coin: there was an opportunity to craft a BoR that demonstrated that. The Forum should not spend time doing what had already

been done. A good knowledge of existing international and domestic standards would be vital. The first thing the Forum might agree on would be to move on from the reference to two communities.

22. Peter Weir MLA (DUP) expressed the Party's ambitious hope to create a situation where the controversy is taken out of human rights. History shows that if proposals are not bought into across the community, they fail. So the BoR must be based on consensus and reality. Achieving something of benefit to Northern Ireland should take priority over developing something ground-breaking. Northern Ireland has come on a historic journey but is still fragile. Space is needed to allow political stability and relationships to develop.

23. Nelson McCausland MLA (DUP) said rights and responsibilities were important everywhere. The BoR must be appropriate to, and respected across, Northern Ireland. The Forum must find the right way to come to consensus on conflicting rights. The process should be inclusive and lessons should be learnt from previous attempts to secure support.

24. Stephen Farry MLA (Alliance Party) stressed the need to be realistic about what could be achieved. The Forum was not a negotiating body and should seek to work in cooperation with the NI Human Rights Commission. The BoR should be aspirational but implementable, justiciable

and consistent with international standards. It should primarily protect the most marginalised. It must be flexible, neither hostage to the past nor only applicable to today, but reflective of a changing society. The language of 'both communities' should not be used. Many of the issues cut across the traditional 'two community' divide and many people have multiple identities. It was important to engage the public.

25. Anna Lo MLA (Alliance Party) highlighted both the reality of multiple identities and the resulting scope for multiple disadvantage. The ethnic minority communities, both settled and new, tended to be alienated from the democratic process. They needed to be engaged with, but also to be assisted as they developed their own capacity to become involved. The voluntary sector was likely to find resources for engagement difficult but without it the process will not be inclusive.

26. Dolores Kelly MLA (SDLP) thought the Forum a fine example of participative democracy. It provided the best chance to get a BoR that reflected international standards but built on them to address the increasingly diverse society of Northern Ireland. Members needed to reflect the Forum's discussions back into their own sectors. The intention to hold public meetings was a good one. The SDLP was committed to the guarantees of the Good Friday Agreement. The BoR was not temporary but for the

present and the future. The Party were committed to participation and to the inclusion of socio-economic rights. The BoR must be responsible, practical and realistic and must address poverty. It would be beneficial to get submissions from civic society and also to have a Forum session looking at existing standards.

27. Alban Magenniss MLA (SDLP) recognised a great opportunity for progress on the BoR. He hoped the Forum would, through consensus or sufficient consensus, reach agreement on rights, including socio-economic rights, and would advance the various sectors in society. The prospect was exciting. The reality was that society was divided. If there were only one community, the Forum would not be needed. There were two main political traditions but that did not mean there were not a number of other communities. Society might become united through political consensus and reconciliation but it was not there yet. The BoR needed to be based on reality, not denial.

28. Brian Barrington (SDLP) agreed with the SDLP position.

29. Martina Anderson MLA (Sinn Féin) had high expectations of the process and did not want it de-railed by a return to old arguments about wording. The Forum needed to acknowledge both the existence of minority communities and also the historic context that had led to

the Good Friday Agreement. There was now an opportunity to reach across the two communities at grassroots level. Engagement must be built into the process. The journey to date had been protracted. Now there was an opportunity to move it forward. The Forum needed a process that was outreaching and respectful and that resulted in a strong and enforceable BoR. It would be watched by the international community, particularly in the context of the proposed all-Ireland charter.

30. Steven Corr (Sinn Féin) thought the voluntary sector would not allow the Forum to be anything less than a beacon for the development of human rights. The main issues outlined in the Good Friday Agreement (the right of free political thought, to freedom and expression of religion, to pursue democratically national and political aspirations and so on) were still pertinent.

31. Chrissie McAuley (Sinn Féin) expected the process to be open and inclusive. The BoR was only one of the steps to the human rights commitments in the Good Friday Agreement. The stronger it was, the stronger the potential all-Ireland charter could be. The Forum should benefit from the real life experiences of the participants, all of whom should embrace the opportunity to take the process out of the meeting room so that the voiceless could engage with and take ownership of the BoR.

32. The chair welcomed the contributions. There was a great deal of commonality, although that was not to underestimate the difficulties that lay ahead. He said that a number of areas of consensus were already apparent and could be declared. The Forum agreed that

- a Bill of Rights was needed to provide strong legal protection for human rights for the people of Northern Ireland
- the BoR should reflect universal human rights standards, neither undercutting them or being contrary to them, but it should also reflect the unique Northern Ireland situation
- the BoR must be effective, realistic and implementable
- the BoR must address the needs of the poorest and most marginalised, a BoR for everyone but assisting the poorest as the surest way of helping everyone
- while the past could not be ignored but must be taken into account, the present spirit of optimism and hope should be reflected in the Forum's work and the BoR should also be aspirational and look to the future.

33. The chair expressed the personal view, endorsing the views of many Forum members, that the Northern Ireland BoR could be a model for others. Internationally Bills of

Rights are evolutionary. They address the local context but build on what has gone before, learning and developing from earlier attempts at ensuring better protection for human rights in legislation. This BoR can be the international next step, a state of the art instrument, standing as a positive international contribution from Northern Ireland arising out of its troubled past.

34. In response to questions and comments from Forum members the chair said that the Good Friday Agreement required the NI Human Rights Commission to provide advice to the Secretary of State on a BoR. The Forum had been established and given the task to advise the Commission so that it could advise the Secretary of State in accordance with the requirements of the Agreement and its own statute. He expected that advice to be given publicly, not privately, in view of the Forum's accountability to the people of Northern Ireland. The Commission could not be expected to rubber stamp the Forum's recommendations nor could the Secretary of State be expected to rubber stamp the Commission's recommendations but both can be expected to respond in public to the recommendations given. It has been made clear that the Forum's recommendations are entirely in the Forum's hands. Every recommendation will be seriously considered, and there were no 'no-go' areas. And the breadth of the Forum's membership added weight to them.

35. The chair said that it was too soon to decide whether a draft Bill would be the right product. This could be a positive result but other issues needed to be addressed first.

36. Addressing the process of the Forum, the chair said that his objective was for the final product to be approved by consensus but no part of the Forum could be allowed to hold it hostage. He had no intention of putting anything to the vote or of letting anything through on a small majority, but the clear agreement of a strong majority could not be held back.

37. The chair said that a number of words had been used frequently: when Forum members stated their expectations and objectives: respect, dignity and equality. He applauded these commitments and saw them as providing a basis for the Forum's work, both its final recommendations and its processes. Relationships within the Forum, among its members, should model what the kind of human rights respecting society that Forum members said they wanted.

3. Forum processes

Terms of Reference

38. The chair referred to the many comments made at the Forum's December meeting on the wording of the terms of reference (ToR) and specifically to the use of 'both communities'. He proposed that the Forum agree to leave the ToR as they were, given their derivation from the Good Friday Agreement, but with agreement to proceed on the basis that there were other communities whose rights needed to be addressed in the BoR.

39. Stephen Farry accepted that the language derived from the Good Friday Agreement but had two concerns: locking into the language of 'two communities' would not work for the future and did not acknowledge multiple identities; and an increasing number of people do not identify with either of the main communities. Further, rights are for individuals as members of communities, not for communities as such.

40. Dermot Nesbitt endorsed Alban Magenniss's earlier position. If the Northern Ireland community were not divided into two, the Good Friday Agreement would not have been needed. But other communities also needed protecting. The Forum should respect what was said in 1998 but without prejudice to the fact that other groupings existed.

41. Martina Anderson endorsed the chair's proposal as being in line with the Good Friday Agreement while recording that all the political representatives had acknowledged the needs of other communities. The historic basis of the Agreement was the conflict between the two communities. That past should never be capable of being repeated.

42. Sam Hutchinson suggested that in future 'different sections of the community' might be a possible form of words.

43. Peter Weir thought the Forum should be able to develop an acceptable form of words but that this should not be done around the table.

44. Nelson McCausland said that, even in political terms, 'both communities' over-simplified the reality. Cultural and political communities were not necessarily coterminous and rights extend beyond these boundaries anyway.

45. Alan Sheeran wanted the focus to be on inclusion, as that was the only way to protect everyone's rights.

46. Tansy Hutchinson also endorsed the chair's proposal. The Good Friday Agreement should be acknowledged but so too should the reality of the current situation and the impact of multiple identities.

47. The chair suggested this might be an issue for a smaller group to discuss. It was agreed, however, that instead he would draft and circulate a form of words for Forum members to consider.

[ACTION: chair]

Timeframe

48. The chair explained that the Forum had been tasked to present its recommendations by the end of the year. He was planning on that basis but acknowledged that three months had been lost because of the Northern Ireland election. It was important, however, to maintain the existing momentum.

Process

49. The chair said he would prepare a paper for the next meeting to outline his proposals for the Forum's internal processes. He expected that much of the work would need to be done in smaller groups or committees but serious discussion was needed on how to constitute those and how the work would be divided up. The committees would be expected to develop consensus conclusions to bring back to plenary. They would be chaired by Forum members and every member would be expected to be on at least one committee. Membership would be for the chair to determine but nominations or expressions of interest would be welcome. Balance would need to be

respected but it was to be hoped that not every committee would have to have ten members.

50. Peter Weir thought that the committees needed to be flexible enough that they did not put too much burden on a relatively small number.

51. The chair replied that he was open to including on committees outside experts from parties and organisations represented on the Forum provided that the representative on the Forum itself accepted whatever the outside expert of that party or organisation agreed to in the committee. Plenary sessions were not opportunities for those parties and organisations on a committee to re-open the committee's consensus decisions.

52. The chair explained that some sectors and organisations had nominated two representatives, who would alternate participation. He welcomed this but on the understanding that both representatives were expected to attend all meetings and to play full roles in the working groups.

53. The chair reported to the Forum the concern expressed by the Democratic Unionist Party that the Orange Order, evangelical churches and Ulster Scots sectors were not represented directly on the Forum. He had given this careful consideration and could understand the concern. However, given the size of the Forum and the need for new appointments to be balanced, he was

not minded to seek to extend membership further. He asked whether it might be appropriate for these sectors to be involved in the committees.

54. After discussion it was agreed it might be better to invite these organisations to make submissions and provide evidence. Concerns were expressed about the limited capacity of the voluntary sector and the possibility that such co-opted members would not have the same responsibility as Forum members.

55. Martina Anderson asked how many committees there would be, stressing the need for their individual terms of reference to include a responsibility to engage with the broader community.

56. Paddy Kelly pointed out the need for the outreach process to be considered separately from the committee process. The chair invited thoughts from members on how this could be taken forward, building on their own local expertise. It would be a challenge to do this effectively, given the Forum's time and resource limitations and the hiatus there had been since the NIHRC's consultation.

57. Paddy Kelly responded that the voluntary/community sector would be key to the outreach work but that resources were stretched. More should be requested. Nelson McCausland added that groups outside the formal voluntary sector would also need resources.

58. It was agreed that the chair would circulate a paper outlining both the Forum's internal process and Forum members' proposals for outreach, for discussion and decision at the next meeting.

[**ACTION: Forum Members** to provide suggestions within next two weeks; **Chair** to draft paper for next meeting]

Observer Status

59. It was agreed that Forum meetings would be open to observers but that four organisations – the Equality Commission, NI Human Rights Commission, NI Commission for Children and Young People and the Human Rights Consortium – should be accorded formal observer status.

4. Timetable

60. The next Forum meeting will be on 11 May, at a venue to be confirmed, from 9:30 to 3:30. The agenda will include consideration of the process paper and setting the legal context. The timetable for the rest of the year will also be agreed then. Chris Sidoti will be in Northern Ireland for the week and it is intended to arrange three public meetings, in Belfast, Derry and Armagh. The meetings will be an opportunity to brief the public on the Forum's work and to invite views.

61. In this context, Chrissie McAuley highlighted the need for a publicity strategy.

62. The following meeting is likely to be held on 29 June. This will be discussed and confirmed at the May meeting.

Gillian Preece
5 April 2007