

## **Bill of Rights for Northern Ireland – progress and next steps**

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On 23rd May 1998 people in Northern Ireland went to the polls, not this time for one of our all-too-regular electoral outings, but for the remarkable task of giving the popular verdict on a peace deal, after nearly thirty years of violent conflict.

People here responded positively to the efforts of Northern Ireland political parties and the UK and Irish Governments in reaching the Belfast / Good Friday Agreement.

With a Northern Ireland turnout of 81%, 71% of people here - including a majority of the electorate from both the main sides of the community - endorsed the deal. That agreement is unequivocal in its insistence that equality, social justice and rights formed a cornerstone of the new society we committed to building.

From the Declaration of Support, with its reference to the human rights of all, to the specific sections on rights and equality, this is an Agreement with an understanding of what a better and fairer Northern Ireland might look like.

Discussion of a Bill of Rights for Northern Ireland goes back much further than 1998. Through the 60s, 70s, 80s, and 90s, the idea was there, often debated and pretty well backed by parties of many hues. At one point the holy grail for some was the incorporation of the European Convention on Human Rights. Others envisaged a home-grown Bill of Rights: ECHR-plus. For many, a Bill of Rights for Northern Ireland needed to be part of any constitutional arrangements that would be required to bring us out of a period of violence and worsening division.

Which brings us to 1998 and the Agreement. Part of the vision of the Agreement was a Northern Ireland Bill of Rights. We can parse and re-interpret the specific wording if we like, but it seems pretty clear that the Good Friday Agreement did envisage a NI Bill of Rights and that this amounted to more than simple incorporation of the European Convention on Human Rights.

Let's just revisit that wording, as it seems to be such a cause of controversy, picked apart and left bereft of meaning by those who, frankly, might prefer that Northern Ireland does not get its own Bill of Rights.

Indeed let me quote Baroness Garden of Frognal, a government spokesperson in the Lords, from 28th February this year:

"The Belfast agreement states that the Northern Ireland Human Rights Commission will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights to reflect the particular circumstances of Northern Ireland, and these additional rights, together with the ECHR, to constitute a Bill of Rights for Northern Ireland.

She continued:

"The joint declaration of 2003 also states that, after consultation with the parties, the British Government are committed to bringing forward legislation at Westminster where required to give effect to rights supplementary to the ECHR to reflect the particular circumstances of Northern Ireland."

In between those two dates, 1998 and 2003, the Human Rights Consortium came into being, as a vehicle first for encouraging involvement in the NIHRC consultation process and then as a campaign coalition to give effect to its member organisations' wishes to see a strong and inclusive Bill of Rights

As the NIHRC consulted and drafted, and some political parties dragged their heels about properly engaging in the process of planning a NI Bill of Rights, the Human Rights Consortium threw its support behind the idea of a Bill of Rights Forum which would bring together representatives of all parties and strands of civil society to attempt to build consensus on the Bill.

The St Andrews Agreement 2006 - endorsed this time by the DUP, the only party to have rejected the GFA - provided the political basis for the establishment of a Bill of Rights Forum. Lobbying by the Human Rights Consortium ensured that the Forum of 28 members had equal representation from political parties and civil society, with 14 representatives from each, including quite a number from organisations which are members of the Consortium.

The Forum was chaired by Chris Sidoti, and reported in March 2008. The final report listed its recommendations with levels of support indicated and while the many diverse strands of civil society achieved a remarkable level of agreement, the parties reflecting our political divisions failed to sign up to a shared view in the final report. Yet, that failure to agree at the end of the process hid from public view a high level of constructive engagement by parties behind the scenes in the committee rooms of the working parties. That constructive engagement gives me hope today that a more focused process of political negotiation, with a sense that the parties were engaged in the end-game of the Bill of Rights agreement process, rather than just another staging post in the long years of consultation, prevarication and publication of drafts, could indeed lead to an agreed Bill.

The NI Human Rights Commission submitted its very comprehensive advice to the Secretary of State on 10 December 2008.

The Commission concluded that:

- Existing provisions of the ECHR could be supplemented, for example, the right to liberty and security of the person and the right to a fair trial.
- The Bill of Rights should respect the internationally recognised principle of indivisibility of rights, through the inclusion of justiciable social and economic rights (health, adequate standard of living, accommodation, work, and social security rights).
- A Bill of Rights for Northern Ireland should take care not to undermine existing guarantees and protections.

- A Bill of Rights should build on, and not undermine, the Human Rights Act 1998.

- Oversight of a Bill of Rights was not merely for the courts. The Commission recommended the creation of a new Assembly Committee on Human Rights, as well as a periodic review mechanism.

The then Secretary of State, Shaun Woodward gave the advice a frosty reception.

The NIO response was published on 30th November 2009. To say that its content was disappointing would be inaccurate, for the word disappointment does not do justice to the level of anger felt by many across the community at the contempt with which they felt they and their views and the whole process of consultation were being treated.

But that anger was turned into a magnificent campaign which saw the Human Rights Consortium warn the public, through billboards and mailshots, not "to be done out of their rights." The public responded in unprecedented numbers for a government consultation. Instead of the few dozen or few hundred responses which a Government consultation normally generates, 36,492 responses were submitted, overwhelmingly from individual members of the public and organisations rejecting the government's position and backing that of the Consortium, that is that Northern Ireland should have a credible, effective and enforceable Bill of Rights.

For instance, in their submissions, groups representing the interests of ethnic minorities in Northern Ireland - including NICEM - noted the importance of the inclusion of Economic and Social rights in any proposed Bill of Rights.

The Indian Community Centre stressed that the right to housing and that cultural and language rights were especially significant.

An Munia Tober emphasised the need for a right of respect for Irish Traveller culture, and the right to freedom from discrimination and negative stereotyping in both public and private spheres. Additionally they called for a right to education, equality in the criminal justice system and policing, the right to practice and enjoy culture and the right of access to health services and play and leisure facilities.

Extensive polling, commissioned by the Human Rights Consortium and carried out independently by Northern Ireland's main polling company, demonstrated overwhelming support for a NI Bill of Rights among the Northern Ireland public, with 70% and 80%-plus figures - from right across the main community division - supporting a Bill of Rights, including one that protects social and economic rights.

Yet the incoming Secretary of State Owen Paterson has been, if anything, even frostier, suggesting that if there was any need for a NI Bill of Rights - and that he was far from convinced there was, a paragraph or two in a British Bill of Rights would probably suffice.

At least that's how he, Minister of State Dominic Grieve articulated their position before and just after they came into government. They appeared content to see the process stalled with some Northern Ireland parties expressing opposition or little enthusiasm for

a Bill and the UK government showing no interest in bring forward the work of the previous 12 years.

Yet, when I met the Secretary of State a couple of months ago, he appeared to me to have changed his tune, or at the very least, his tone.

I have reason to believe that, with ongoing public support for a NI Bill of Rights and in the face of determined campaigning by civil society, led by the Human Rights Consortium, we may be in a position of increased confidence about the future of the Bill than we have had reason to be for some time.

This last year has seen an ever-increasing number of questions being asked of the Government in both the Commons and Lords, about when and how they are going to make progress on delivering a NI Bill of Rights.

We have seen a new Irish Government come into office, which despite the many economic concerns with which it must contend, has reiterated its support for a NI Bill.

We have seen support gathering in Capitol Hill, with members of Congress writing to the PM asking him to deliver on the Agreement with respect to the Bill.

We have seen public support in NI, as indicated in opinion polling, increase in support for a Bill of Rights, not diminish, despite the slowness of progress and a general anti-human rights climate in sections of the print media.

The Secretary of State is now saying that he recognises that the UK Government has an undelivered commitment from the Agreement in terms of the Bill of Rights. That in itself is very significant.

He indicated that he wants to fulfill that commitment. That is reassuring.

He said that he thinks that a parallel Northern Ireland process to the one now happening UK-wide re a possible UK Bill of Rights is a way forward. That is both promising and concerning. Promising in that it shows the Government is thinking about a way to achieve delivery. Concerning, as the current UK Commission on a Bill of Rights may not get very far, given its background, terms of reference and make-up.

He said that he thinks a UK piece of legislation, subsequent to these parallel processes - and encompassing any new UK Bill of Rights and a NI Bill of Rights - could be delivered within the lifetime of this government. That too, I think is both promising and concerning. Promising as it may offer a possible way out of the cul de sac of some parties here only being interested in a UK Bill, with others focused on the achievement of a NI Bill. Might such a way forward be a possible way to square that circle?

I don't know, but there are other changed or changing circumstances which might also provide a context for negotiation and agreement.

A new NIHRC is about to come into office. It can build on the work of the Commissions under Professors Brice Dickson and Monica McWilliams, but could also provide an opportunity for fresh thinking and fresh engagement by Commissioners, the local parties and civil society.

With elections years away, parties here can get on with the business of tackling some difficult tasks without looking over their shoulders at political rivals. They have successfully found agreement on much more intractable problems than the Bill of Rights over the years of the peace process. There is no reason why they can't use the next couple of years to reach agreement on this too.

And events of the last few weeks should serve as a reminder that the process of constructing peace is not complete.

Divisions in our community are as deep as ever. Violence can still erupt, upsetting the tidy narrative that all is rosy. As the shock of the economic crisis starts to make itself felt locally, it is the same sections of our community which will feel the pain hardest, that felt the pain of conflict hardest during the preceding decades.

A Northern Ireland Bill of Rights is needed now, just as much as in 1998.

We should look forward with renewed determination and hope that we can complete this particular constitutional project. Through the work of civil society groups and others, we have kept the Bill of Rights on the agenda, we have built and maintained public support and we have ensured there are voices in London, Dublin, Washington and throughout NI being raised in its support

We now need to see the UK Government show real leadership on this issue and put together a process, with the local parties and the Irish Government, which will lead to an agreed Bill of Rights for Northern Ireland.

We still need a Bill of Rights for Northern Ireland. Not simply any Bill of Rights, but one worthy of the name and that respects how we as a society, with particular circumstances and particular experiences and history want to forge our future.

If we are successful, we will have helped make NI a better, fairer place for our children. Not a bad ambition.

Thank you.