

Draft Response to the Northern Ireland Human Rights Commission's consultation on a Bill of Rights for Northern Ireland

The Institute for Conflict **Research**, as an independent charitable organisation with a mission to achieve positive social change through the use of research and scholarship, wishes to make the following response to the consultation on a Bill of Rights for Northern Ireland.

1. The underlying principles for a bill of rights, namely the equality of all citizens before the law, and the protection of all citizens' rights to equal treatment and guaranteeing essential services, is set in the context of Northern Ireland's past, where a denial of rights, and even contests about the existence of rights have been both factors and products of civil conflict, unrest and violence. Therefore, as an organisation concerned with the peaceful resolution of such conflict, arrival at a consensual statement about the rights of citizens must be a positive advance in relation to issues of conflict.

However, we have two concerns in relation to the human rights agenda in Northern Ireland. First, we note that contests continue about the existence of certain 'rights' in the first instance, and indeed about the overall 'ownership' of the human rights agenda itself. It is perhaps inevitable that, in a divided society, any emerging field of legislation becomes yet another territory to be contested and won by one or other party to the conflict. Nonetheless, such perceived 'ownership' of the human rights agenda and indeed the lack of consensus about specific rights does not augur well for either the human rights agenda, nor indeed for the prospects of peace in the community.

Our second concern is related to this. We are also concerned about the way in which a human rights approach to issues such as parades in Northern Ireland has, in effect been antithetical to a conflict resolution approach to such issues. This is, in part, due to the absence of the emergence of any substantial consensus about the nature and extent of rights of individuals and communities. However, it is also perhaps attributable to the nature of the rights agenda itself, which tends to see rights as associated with individuals and groups, without contextualising rights in a wider set of relationships, responsibilities and considerations. It is the lack of this wider contextualising that leads the rights agenda to be implicated in contests between parties to the conflict.

As a result of our concerns, we would propose that any bill of rights for Northern Ireland must be firmly contextualised:

- a. in the divided society that comprises Northern Ireland, and
- b. in the corresponding duties or responsibilities that accompany citizens' rights.

Furthermore, it seems to us that such contextualisation allows for rights of individuals and sub-groups within the community to be subject to the dual test of

- a. the extent to which contribute to the common good of a divided society
- b. the extent to which the rights have associated with them a corresponding set of obligations and responsibilities to recognise and support the rights of others, particularly those in the 'other' community.

We would propose a preamble to the Bill of Rights that sets it in such a context, and establishes such tests for all the rights that follow. Such a preamble should be inspirational, aspirational, brief, and set out the overarching principals within which the Bill of Rights is located. The most successful such preambles are written by poets or revolutionaries rather than lawyers, researchers or civil servants.

2. A further area of concern is the extent that the rights agenda has been developed as a result of 'bottom- up' activity in the community. A worry about the peace process in general has been the extent to which it has been a process engaged in by elites in the society, with many grass roots organisations and sections of the population marginalised and alienated **from** the process, consequently lacking ownership of it. This, too, is a worry in relation to the rights agenda. We recognise that the **NIHRC** have made strenuous efforts to maximise participation in the process of developing the Bill of Rights. Nonetheless, it remains a concern that the debate and process remains detached from many citizens.

3. We would wish to add some specific comments on the Commission's preliminary proposals on the rights of victims of the conflict. The Commission refers to the 'right of all victims to the conflict' to 'the highest possible level of social care and support in accordance with their needs. . . '. We are concerned that the needs of victims of the conflict are not prioritised over the equivalent pressing needs of other citizens for health and social care. In the context of scarce resources within health and social services, where many sections of the population face long waiting lists and delays in accessing services, we think that the meaning of this recommendation should be clarified. We would oppose any 'fast-tracking' of those whose needs were due to the conflict, when those with equivalent needs that are not **conflict-**related receive less favourable treatment.

In our experience, the provision of services to those affected by the Troubles, whilst valuable, is often insufficient without some acknowledgement of the cause of the suffering or need in the first instance. Those affected by the Troubles may have their physical or other needs met, but a silence prevails about how the needs arose, or the understanding of the political context in which they are interpreted. Some service providers (North and West Belfast Health and Social Services Trust, Northern Ireland Voluntary Trust and the Northern Ireland Housing Executive) are beginning to address the 'culture of silence' within which services are delivered to those affected by the Troubles, amongst others. Acknowledgement by service providers of the nature and origins of the need, alongside the provision of health or social care can be an important contribution to the re-integration of victims of the Troubles.

Marie Smyth
Chief Executive Officer
On behalf of the Board of Directors
Institute for Conflict Research
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