

CORI COMMISSION FOR NORTHERN IRELAND

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NI Human Rights Commission
Temple Court
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RE: Progressing a Bill of Rights for Northern Ireland – An Update

Dear Commissioners,

We in CORI(NI) are committed to a Bill of Rights for Northern Ireland and to that end are members of the Human Rights Consortium, co-convened by CAJ and Amnesty International. We are aware of, and appreciate, the huge amount of work and the dedication of the members of your Commission - often in difficult circumstances. However we are concerned by the politicization of the debate on a Bill of Rights for Northern Ireland and the inability of the Commission to secure all-round political or civil support for the proposals outlined in the recent up-date. We therefore urge the out-going Commission to leave to its successor both the finalization of proposals and the submission of final advice to the Secretary of State.

Unfortunately the proposed roundtable forum was one of the casualties of the current political stalemate. We suggest that the Commission urge the Secretary of State and the Irish Minister for Foreign Affairs to establish a Roundtable consisting of representatives of political parties and civil society, under the chair of an independent expert. The incoming Human Rights Commission, while retaining its independence of the Roundtable, would be well placed to offer expert advice to this body.

With reference to the update, it was disappointing to discover that the document is not very user-friendly or presented in such a way as to re-ignite enthusiasm for this great venture of producing a Bill of Rights for Northern Ireland. On the contrary, many people have felt that the task of getting to grips with the proposals contained in this publication is too daunting. How then are we to achieve widespread public ownership and support for a Bill of Rights?

Preamble:

We support the idea of a principles-based preamble to the Bill of Rights. We would like these to be more uplifting and visionary. It would help if the wording were such that the preamble could be easily memorized and recited. Think, for example, of the wording of the American Declaration of Independence.

Democratic Rights:

Representative democracy is what this section offers. Why have principles such as subsidiary, participation and grass roots involvement been jettisoned? In particular, 2:3 adopts an out dated paternalistic attitude to women. Women are no longer content to wait until the state takes 'all appropriate measures' on their behalf. Women demand access to power as a right.

Identity and Community Rights

CORI is disappointed with the emphasis on the problematic aspects relating to identity in this section. The over-emphasis on the negative tends to feed and keep this attitude alive and active. This is particularly obvious in the Commission's treatment of cultural rights with its emphasis on, and detailed spelling out of, limitations to be imposed (#3:5). We note that the Council of Europe experts comment that 'these limitations appear to go beyond the limitations provided in the ECHR and those contained in the Human Rights Act' and ask why this is deemed to be necessary? In #3:4 We propose that the addition of 'and give effect to' after 'guarantee' would strengthen this provision. Overall, we think that more discussion and debate is required if we are to reach that broad societal consensus around the inclusion of the right to self-identification in a Bill of Rights - as the experts propose as foundational.

The Right to Equality and Non-discrimination

We suggest a review of this section - which succeeds in capturing the nucleus of the issue of equality - in the light of Northern Ireland's progress to date, the work of the Equality Commission and a review of its impact on Section 75.

The Right to be Protected Against Violence

We regret that the clause about prevention and elimination of physical, mental and emotional violence against women and girls, as contained in the Commission's 2001 draft, has disappeared from the present document. This omission would allow the continuance of the tendency to push to the margins and into the domain of silence the particular problems of gender-based violence in Northern Ireland.

The Rights of Children

It was with surprise and a growing sense of dismay that we read this section on the rights of children. The reduction in length and the weakening and dilution of provision for the protection of children and young people is hard to understand – especially in light of the 2001 proposals which the Commissioners originally offered. We fully endorse both the response of The Children and Young People's Sector Bill Of Rights Group, of which CORI is a member, and Dr Ursula Kilkelly's assessment and critique of the NIHCR's most recent proposals.

Social, Economic and Environmental Rights

This section has the advantage of offering three possible versions for consideration. Version 1 offers the minimum formulation. The Commission claims that this version reflects the minimum rights now recognized by the UN's Committee on Economic, Social and Cultural Rights. Comparisons of the two, however, indicate that the provisions outlined here lack clarity and are considerably weaker than that of the parent document.

Version 2 is much more comprehensive but likely to scare off the politicians. It fails to distinguish between rights enforceable through the courts and those aspects of such rights Government would be obliged to progressively realize.

Version 3 is our preferred option yet it merits a mere three lines. There would be merit in discussion and public debate aimed at achieving consensus around agreeing a set of minimum rights enforceable through the courts and that range of additional rights, which are to be progressively realized. We would like to see education rights take its place in this section alongside health, housing, work etc.

Conclusion

The over-riding concern of CORI is that any Bill of Rights for Northern Ireland promotes equality for all, provides recognizable gains, especially for the most disadvantaged and represents the diversity of Northern Ireland. We expect in to incorporate current international/regional human rights protections and move beyond the ECHR to include socio-economic rights. It will offer effective enforcement mechanisms.

Sr Brighde Vallely
Director CORI(NI)