

PROGRESSING A BILL OF RIGHTS FOR NORTHERN IRELAND (An Update)

Craigavon and District Trade Union Council and Lurgan Branch of the Amalgamated Transport and General Workers Union response.

Craigavon and District Trade Union Council and Lurgan Branch of the Amalgamated Transport and General Workers Union takes this opportunity to commend the Commissioners, Project Workers, Staff and Employees of the Human Rights Commission for all the work and effort under very difficult circumstances that was required to produce the **PROGRESSING A BILL OF RIGHTS FOR NORTHERN IRELAND (AN UPDATE)**.

We will take the opportunity to comment on the contents of this document; there are however, areas where we believe that it has falling short of what we expected. Overall, we found the document to be progressive and detailed in most areas. However an area of particular concern to us is continuous non-compliance of national and international core labour rights, and the rights of migrant workers on the part of governments and employers not just in Northern Ireland but worldwide. While we recognise that there are implied references to UN and ILO labour standard commitments within this document, we believe that it must be made clear that government, employers and employees have a duty and responsibility to comply with International human and labour rights. Despite national, European and International legislation, the effective right to join a trade union and to have that right recognised, is still being ignored or undermined by employers, leaving thousands of workers in Northern Ireland without the representation and protection of which they are entitled. It is estimated that there are five million workers in Britain denied this fundamental right.

The growth in economic, social, cultural, and political, globalisation and the promotion of neo-liberal political policies and ideology by the international financial institutions and western Governments, coupled with the power of the TNCs, is having a negative effect on human and labour rights worldwide. The United Nations and the International Labour Organisation have recognised that to secure lasting peace, there must be human rights, social justice, and internationally recognised core labour standards as set out in the ILO Declaration of Fundamental Principles and Rights at Work. In 1998 the ILO in recognition that Labour rights, despite 60 years of Core Labour Standards and 80 years of National and International employment legislation, is still being undermined and ignored by Governments and Employers, reaffirmed their commitment to the Declaration of Philadelphia by adopting the Declaration on Fundamental Principles and Rights at Work and its follow up reporting mechanism.

We accept that the European Charter of Human Rights Article 12 provides for the Freedom of Association and the right to form or join a Trade Union, however there is no provision within the Charter to enable workers to have these rights recognised or realised. As Trade Unionists, we have been struggling over the past 30 years with employers and Government for the fundamental rights of workers as set out in the ILO Core Labour Standards, in particular Freedom of Association and the Effective Right to Collective Bargaining (ILO conventions 87 and 98). We believe the Bill of Rights must draw on the most effective available international standards to protect the rights of its Citizens, in this case the thousands of working people whos rights are not recognised. In ratifying these conventions the British and Irish Governments have a duty not only to implement them but to promote the principles as members of the International Labour Organisation. Given the widespread anti-Europe sentiment expressed by British society and political parties, and the lack of enthusiasm of successive government to fully embrace European human rights legislation, we believe that the

Internationally recognised human rights standards of the UN and ILO would be the better option for the Bill of Rights regardless of Britain's future commitments to the European Union.

The Trade Union Movement has a long tradition of campaigning for Human Rights, Social Justice and Equality. The Trade Union Movement has a proud 100-year history of fighting the scourges of sectarian hatred, xenophobia, racism, poverty and discrimination. During the darkest days of the past 35 years when communities were living in fear and despair, the Trade Union Movement brought tens of thousands of workers, from across the political and sectarian divide, onto the streets to protest against the sectarian violence that was taking place on a daily basis, a protest that led to the paramilitaries re-assessing their position and support within their own communities, which in turn led to the cease-fires of 1994. In the absence of an effective working class political voice in Northern Ireland, the Trade Union Movement has been the only representation of working people for a long time. Despite the Trade Union Movement's positive and stabilising influence on communities and society as a whole and the determined campaign to secure a just and lasting peace, trade unionism is still being marginalized and excluded, while labour rights are still viewed as irrelevant by politicians, statutory organisations and some sections of society.

By ensuring the rights of workers to trade union representation, the trade union movement can and will play its part in ending poverty, promoting equality and non-discrimination and generally building a fair and just society for all.

The Bill of Rights must make it clear that the rights contained within it are **MINIMUM STANDARDS** and that statutory bodies, employers and voluntary organisations can improve on these standards.

We would strongly recommend that a copy of Bill Of Rights when adopted by the Assembly or the Government be sent to all employers and each household as to leave no one in N. Ireland in any doubt of their rights and responsibilities.

Interpretation Section 1

While recognising that we live in a religiously and politically divided society, we believe that there is too much emphasis put on the two main communities to the exclusion of others. The last N.I. census shows that almost 20% of the population have designated themselves as other religious philosophies or non. There is also a growing number of people that while they belong to the Catholic or a Protestant faith would not wish to be associated with either community, for example migrant workers and members of the Travelling Community. Taking into account Equality Commission standards and Employment Legislation, religious and community affiliation is perhaps one area that the Bill of Rights could attempt to mainstream with the inclusion of text from the ILO Declaration of Philadelphia; *All human beings, irrespective of race, creed, or sex have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.*

Democratic Rights Section 2

- The right to inclusive and equitable governance must be included in the Bill of Rights if we are to build on the existing peace and inspire confidence in the political system amongst our community in particular the disenfranchised and minority communities. We are all very aware of effects of exclusion and unfair governance.
- The rights of all to participate in Government should be guaranteed in any democratic system. The exclusion of anyone from participating in government, whether elected officials

our individuals can diminish the role of democratic representation, and disenfranchise sections of the population.

- Proportional representation as a voting system would help ensure minority communities have a say in the democratic process. The choice of voting system is perhaps an issue that could be resolved at a later stage by referendum.
- The issue of elected representatives with links to terrorism is an issue that will be very difficult to deal with. If Legislation banned those with direct or indirect links to paramilitary organisations, this would exclude most of our elected politicians. Almost every political party in Ireland has evolved from an armed organisation. There is also the question of the definition of the word terrorist. Perhaps at this stage, the text from the Prevention of Incitement to Hatred Act (1970 NI) article 1 could be included for preventing those that incite violence or hatred from holding office. Perhaps the commitment undertaken by politicians at the signing of the Good Friday to use only peaceful and democratic means to further their aims should be included for all candidates standing for public office.
- Asylum seekers and refugees under an inclusive democratic system must be afforded the same rights as any other foreign national in terms of playing their part in the democratic process in their host country. There are no references to the rights of asylum seekers, refugees or migrant workers included in international legislation or guidelines, probably because not all host countries are governed under a democratic system.

The state must play a greater role in promoting the democratic process, amongst the ethnic and disenfranchised population, in particular migrant workers, young people and the travelling community.

Identity and Community Rights Section 3

While the right to choose to identify oneself as Irish or British or both is to be welcomed, many people born in Northern Ireland might not identify themselves as either. As with religion there are a growing number of people who prefer not to be categorised. For example, a growing number of people throughout Ireland now prefer to be identified as European, some might see themselves as internationalists and reject nationalistic labels, while those born in Northern Ireland of migrant parents might see themselves as Northern Irish. We believe that anyone whether born in Northern Ireland or elsewhere is entitled to parity of esteem regardless of the nationality they choose to identify with.

The state has a responsibility to ensure just and equal treatment for the identities, ethos and aspirations of all the citizens regardless of what community they belong including those outside the two main communities. While we recognise that there is still religious and political division, we believe that the way forward is to mainstream the rights of the two main communities. For too long we have been preoccupied with sectarianism that we ignored the fact that we were also living in a racist society.

The Right to equality and Non-discrimination Section 4

Equality and non-discrimination are the basic principles on which the Trade Union Movement was founded. As a movement, we have been at the forefront of challenging discrimination and

inequality in all its forms. Giving the discrimination that Trade Unionists activists and members face when applying for jobs or promotion, we suggest that trade union membership or affiliation is included in section 4(3). It must be made clear that all the rights in this section apply to private, social, political and working life.

The Right to Life Section 5

Both the Universal Declaration of Human Rights and the European Charter of Fundamental Rights adequately protect the right to life. Again, we would wish to see reference to these International Rights.

The Right to be protected against Violence Section 6

The right to be protected against violence is one area where rights could be mainstreamed but with extra provision for the protection for the most vulnerable, Children, Migrants and Asylum Seekers, Older People etc. The text of article 5 of the Universal Declaration of Human Rights could be included in this section.

The Right to Liberty Section 7

The right to liberty is a basic right recognised in the European Charter and by the U.N. and I.L.O. These rights must be extended to Asylum Seekers and Refugees, who very often spend long periods in mainstream prisons, particularly in Northern Ireland, for the crime of being an undocumented foreign national.

The Right to a fair trial Section 8

As with section 7 The Right to Liberty, there is a requirement for legislation to be put in place to protect Asylum Seekers and Refugees from spending long periods in prison without recourse to a quick and fair trial. The criminalizing of asylum seekers and refugees is unacceptable in civilised society and a breach of basic human rights and human dignity.

The Rights to a Family life and a Private life Section 11

The right to a family life and to live within a family unit of one's choice is a basic right that society and state must recognise. There are however issues regarding the rights of migrant workers and the reunification of their families in host countries. The UN Migrant Rights Convention addresses the issue of family reunification within migrant communities. Although not yet ratified by the British or Irish Governments, we believe the Commission should use its influence to lobby any future assembly to sign up to the principles of the UN migrant rights convention.

The rights of children

Child labour is a growing problem not just in developing nations, but also in the industrialised west particularly within the informal and agricultural sectors. The informal sector is the fastest growing area of employment with undocumented migrant workers making up a large percentage of the workers. Employers increasingly recognise the potential benefits and vulnerability of undocumented migrant workers and their children. The ILO estimate that 8% of work related deaths in the USA

and Europe are of children below 14 years, and that many of the large food producers in Europe and the USA employ only Undocumented Migrant workers and their children. Unfortunately, this is not just happening in the rest of Europe or USA, it is a growing problem in N.Ireland. Despite the ILO core convention on child labour and UN Convention on the rights of the child, the practise of employing children as a form of cheap labour continues to grow. As Trade Unionists we would ideally like to see a situation whereby no one under school leaving would have to work, but giving the levels of child poverty in N.Ireland it is understandable why some children find it necessary to work. For those children that are working it is important that they be afforded the same rights as adult workers, including the right to trade union representation and protection. We would suggest that the Bill of Rights contain references to the ILO core labour standards and the principle of **The Abolition of the Worst Forms of Child Labour**.

Social, Economic and Environmental Rights Section 15

The rights and responsibilities as set out in this section are of particular concern to us as an organisation that has as its core values, equality and rights for all. While Version 2 would be our preferred option, it is our opinion that this version still falls short in its duty of care for minority and vulnerable groups, in particular the Travelling Community and undocumented Migrant Workers.

The ILO Declaration of Philadelphia (1944) requires all member states including Britain and Ireland to provide access to adequate level of social protection to all their citizens. The ILO also recognise that many of the members fall short of the principles and ideals of the declaration.

The right to health care;

The physical and mental health of migrant workers especially those in an undocumented state and those from the travelling community is an issue that requires special provision for the monitoring of their well-being. Migrants and Travellers are less likely to have access to health services or to seek medical advice and are more vulnerable to mental health problems due to the isolation from the rest of society. The various health boards and trusts have recently produced impact assessments or reports on the issue of health care of ethnic minorities and the travelling communities. While most Trusts and Boards advocate the mainstreaming of health care, they recognise that at this stage, the most vulnerable in society require special provision for their health and well-being.

The right to an adequate standard of living.

Poverty leads to all sorts of human rights issues, social exclusion, and ill health, both physical and mental. Given the level of poverty in our society, (22% of our school children are receiving free school meals) particularly within ethnic and travelling communities, pensioners, single parent families, part time and casual workers, and those unable to work through disability or ill health, and the fact that we are part of one of the richest nations in the world, the right to an adequate standard must be a priority for the British government or any future Assembly.

The right to housing.

The right to adequate accommodation must include facilities for travellers. Under international legislation, local governments are required to provide such facilities. Despite many years of legislation, most of N.Ireland's local authorities have failed in their obligations.

The right to work.

The right to decent and productive employment in freedom, equality, dignity and security must be one of the priorities of governments. The ILO InFocus programme offers advice and assistance on all aspects of job creation and training and development. With informal employment being the fastest growing sector of the world economy, the ILO has recognised that an ever-growing number of workers are outside formal protection of labour legislation. Because of this, the ILO has adopted

The Home Workers Convention. This Convention is intended to protect all workers in the informal economy, not just home workers. To date only four countries have ratified this convention, Ireland being one of them. We would suggest the Commission use its influence to have this convention ratified in N.Ireland.

CONCLUSION

As Trade Unionists we believe that the human rights of working people requires the strongest possible protection and therefore it is essential that the NIHRC uses its influence to persuade governments to implement the International Labour Conventions that they have ratified. Given the changes in the make-up of our society, and the number and diversity of foreign born workers in our workplaces, we would also call on the NIHRC to use their influence to have the UN Migrant Rights Convention ratified by both the Irish and British Governments.

Gerard Devlin