

Human rights should be central to any principled new vision for Ireland, North and South. Easy to say, of course, but there is an established basis for it and much unfinished business. Rights will not provide all the answers, and there are other values and principles, but if they do not inform new thinking about the future of this island, then we should all be troubled. The global recession is rightly encouraging a return to the search for social justice. In this context, it is vital that any new social justice agenda includes our international, regional and national human rights aspirations and obligations.

Human rights were intended to be at the heart of the new beginning in the North. The Good Friday Agreement reflected a commitment to values, just as much as process and institutions; peace and stability as well as a better society and a truly shared future. Conflict management, yes, but the aim was also a transformative one, in the sense of institutions, relationships and society. The extent to which rights figured in the Agreement can still be underplayed; everything from incorporation of the European Convention on Human Rights and a Bill of Rights, to the creation of new institutions, such as the Northern Ireland Human Rights Commission. That Agreement in 1998, and the referendums North and South, were defining 'constitutional' moments. A vision of peace, stability and prosperity was agreed, but also the values that would underpin a better society. There is a real risk that this might be forgotten, or that the delicate balances achieved taken for granted, or even disrespected by new political configurations.

The Northern Ireland Human Rights Commission submitted final advice on a Bill of Rights to the Secretary of State on 10th December 2008. The 60th anniversary of the Universal Declaration of Human Rights proved an appropriate time to deliver a document that united civil, political, economic, social and cultural rights. The extensive process has yet to gain the attention it merits throughout Ireland. Although many predictable features were on display, in at times heated debates, it did result in discussion of what sort of values should underpin the society we want to construct in the North.

Launched in both Derry and Belfast on 1 March 2000, the process owes its current origins to the Good Friday Agreement. The Agreement gave the Human Rights Commission the task of formulating advice. The remit itself was subjected to exhaustive analysis, with the phrase 'particular circumstances of Northern Ireland' attracting detailed attention. The process included conferences, seminars, working groups, consultations, international interventions, a Bill of Rights Forum (involving political parties and civil society), articles, papers and submissions. At over eight years, this was not a rushed job. The problems experienced by the Commission during the process are now well-documented, by 2003-04 things were badly stalled. With a newly constituted Commission appointed in 2005 (including the appointment of a new Chief Commissioner, Professor Monica McWilliams), and wider political progress, momentum picked

up again. The Bill of Rights Forum, which was established in December 2006 (following the St. Andrews Agreement), reported in March 2008. Although it did not provide the agreed recommendations expected, it did encourage sustained debate between the parties and civil society. If this only served to confirm established positions - and the nature of agreement/disagreement - that was an achievement. In entering the final phase, the Commission opted in June 2008 for an agreed methodology as a guide to interpreting its mandate. Over the six months that followed the Commission worked tirelessly to conclude its advice. The final document secured the support of eight Commissioners, with two dissents.

What did the Commission recommend? The Commission proposes an inclusive range of civil, political, economic, social and cultural rights – from health, education and environmental protection to equality, democratic rights, identity and culture. These reflect international experience, but are carefully tailored to the particular circumstances of the North. These are not abstract and vague aspirations. The proposals are precise and their enactment would assist the wider project of changing the North for the better, by helping to empower and transform communities and therefore change lives.

How would they be implemented? There are many scare stories about rights. The rights proposed by the Commission are intended to be implemented and enforced effectively, but they are not absolute. The advice includes a general limitations clause. Most of the economic and social rights are subject to an obligation of progressive realisation. There is clear acceptance of the importance and role of other values and the wider needs of society. Despite what critics of rights-talk often claim, at its core this is about encouraging a political and legal culture of reasoned and public justification. The advice recognises the vital role of the Northern Ireland Assembly and Executive in demonstrating leadership on rights protection and promotion. This is not about handing power over to the judiciary, or ignoring our responsibilities. The proposals offer clarity about what our rights should be, and the role of different branches of government in implementing them. A Bill of Rights - such as the one proposed - would in fact bring focus to debates around, for example, social justice, and ultimately enrich and strengthen democratic life. It is one of the tragedies of current perceptions of rights, that their basis in respect for and recognition of others is so often neglected. Not so much, what rights do I want or have, but what sort of society do we want to live in and what rights do we wish to give to each other. It is a pity that the essentially ‘social’ basis of human rights is so often ignored in the public debate.

The advancement of human rights was not confined to the North. The Irish Human Rights Commission was established in 2001, and the European Convention on Human Rights Act 2003 gives further effect to Convention rights; in the context of a well-established Irish tradition of constitutional rights. This also reflected one of the delicate balances within the Agreement, that there would be an equivalence of rights protection on this island.

The Agreement envisaged a Joint Committee of the two Commissions to examine, among other things, a charter of rights for the island. Sensibly, more extensive work on the charter has awaited progress on the Bill of Rights in the North - although some advances have been made. The time now appears right to begin a conversation again about this charter, and thus one of the more underexplored legacies of the Agreement.

This is perhaps where the Lisbon Treaty referendum may provide a further basis for renewing the debate on rights and principles. The Charter of Fundamental Rights, which includes a range of protections, crosses old divisions and categories. It confirms and largely reflects a modern understanding of rights, for example, in its provisions on solidarity rights. The Charter thus forms one basis for a progressive argument in favour of the Lisbon Treaty, but should also prompt further debate on enhanced national protections.

While relatively stable government is in place in the North for now, there is no Bill of Rights or Charter of Rights for the island. The risk is neglect of the values which should guide good governance, and perhaps results from an understandable feeling in the North that stability of sorts is to be treasured in its own right. With the devolution of justice and policing routinely described as the last 'piece in the jigsaw', we are left with an uneasy sense of neglect of the Agreement's positive values and vision for the North - and this island. More than ten years after the Good Friday Agreement it is still right to ask: What sort of new Ireland do we want?

This is an appropriate time to debate values and vision, to discuss what sort of society we want for ourselves and our children. A moment of national reflection provides an opportunity to imagine a better future. Anchoring ourselves securely in human rights will not resolve all our problems. Balances will be required, sound practical judgement always needed in politics and law. Further embedding a culture of rights, giving life to the values which infused that constitutional moment in 1998 and realising the promise of the Good Friday Agreement, these are all part of a positive vision of a desirable future in the North, and for all the people in this island. As the craving for a new social justice agenda gathers pace, in the wake of global financial collapse, human rights can offer us hope that we might construct our collective futures on more secure and responsible ethical foundations.

Professor Colin Harvey is Head of the Law School at Queen's University Belfast, and a Commissioner on the Northern Ireland Human Rights Commission. This article is written in a personal capacity only.