



A Bill of Rights
for Northern Ireland

Through the years

- the views of the political parties

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INTRODUCTION

The Committee on the Administration of Justice (CAJ) is an independent cross-community non-governmental organisation which seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. Established in 1981, its mission is to work for a just and peaceful society in Northern Ireland where the human rights of all are protected.

As such, CAJ has long campaigned for a Bill of Rights for Northern Ireland, and one of its early publications addressed “Ways of Protecting Minority Rights in Northern Ireland” (1985). This publication focused on a Bill of Rights for Northern Ireland and included a whole section devoted to the position of a range of political parties. A CAJ report in 1990 (Making Rights Count) updated this material and again explored the position being taken by the different political parties. The debate however moved from a somewhat abstract one to a very concrete phase when the Good Friday/Belfast Agreement of 1998 required the newly created Northern Ireland Human Rights Commission to consult about a Bill of Rights for Northern Ireland. CAJ has participated fully in the subsequent consultation process, both in our own capacity and as a member of the Human Rights Consortium – a coalition of over one hundred community groups, NGOs and trade unions campaigning for a strong and inclusive Bill of Rights.

To facilitate dialogue around a Bill of Rights across the political spectrum, CAJ asked a volunteer¹ to compile a summary account of the position taken over the years by Northern Ireland’s political parties on the idea of a Bill of Rights. This paper is the result of that research, and draws upon party statements, manifestos and other policy documents.

CAJ has taken longer than hoped to finalise the paper. The information herein is correct as of Autumn 2002, and its accuracy was checked at that time with the different parties concerned. It is likely that further material has been prepared since. Anyone wanting an up-to-date assessment of the views of political parties is encouraged to study the party websites directly.

CAJ has prepared the attached document not in an attempt to give a snapshot of the debate around a Bill of Rights at any particular time, but with a view to showing how the debate has evolved over the years. We hope that a study of this document will further enrich that particular debate and that, more importantly, it will contribute to the campaign for a strong and inclusive Bill of Rights that will make Northern Ireland a safer and fairer place for all.

¹ Many thanks are due to Lisa Yu from the United States who conducted this research while studying for her Masters at Queens University.

ALLIANCE PARTY

The Alliance Party has been an advocate of a Bill of Rights since the 1970's. In a statement of the Alliance Party's position for its September 1972 Constitutional Conference, it put forth that a guarantee of equality of rights could not be compromised. In the section entitled "Human Rights" it was stated:

"Alliance considers that in any legislation passed at Westminster to set up a new structure of government for the province there should be incorporated a Bill of Rights, guaranteeing to all citizens their fundamental human rights based on the Universal Declaration of Human Rights."²

In 1977, Alliance peer Lord Dunleath spoke in the House of Lords in support of a proposal to introduce a Bill of Rights for the United Kingdom, which would extend to Northern Ireland. He said:

"The protection of individual human rights is a very important issue and is an essential ingredient of any healthy democracy. My party has been strong in its advocacy of the need for a Bill of Rights particularly for Northern Ireland . . . This point has widespread support in Northern Ireland itself. It would be a mistake to believe that the introduction of a Bill of Rights for Northern Ireland would be the panacea or some sort of instant solution for all our problems. It would however be an important part of any solution. A Bill of Rights would be the foundation stone for any new Constitution."³

In a 1984 document "Alliance proposals for Political Progress," the party saw the enactment of a Bill of Rights for Northern Ireland as an element of a negotiated settlement. Under the section "Bill of Rights" it was stated:

"Alliance would also like to see the enactment of a Bill of Rights enforceable through the Courts and based upon the principles of the European Convention on Human Rights."

In "Ways of Protecting Minority Rights",⁴ the Alliance Party outlines a Bill of Rights as one of four proposals that would be crucial for a negotiated settlement for Northern Ireland. They suggested incorporating the European Convention on Human Rights (ECHR) as the basis for this Bill, with a Commission to be established monitoring compliance with the Bill. They also recognised that Westminster could legislate for a Bill of Rights independent of a constitution for Northern Ireland so that it was not necessarily part of a settlement.⁵

² Alliance Party, Statement of Alliance Party's Position for Constitutional Conference, 25-27 September 1972, pg 5.

³ Newtownards Spectator, "Alliance Support Bill of Rights", 11 February 1977.

⁴ CAJ pamphlet no.7, June 1985 – a report including a compilation of position statements by various political parties.

⁵ CAJ, "Ways of Protecting Minority Rights", June 1985, pg 3.

The party once again made the call for a Bill of Rights based on the ECHR in a 1994 party manifesto for the European Parliament elections. The party held that such a bill should be enforceable directly by citizens in Northern Ireland courts.⁶

An Alliance manifesto from 1998 stated the party's commitment to:

“A Bill of Rights for the whole of the United Kingdom, through the incorporation of the European Convention of Human Rights. Equal respect for human rights both North and South of the border. Establishing a new Human Rights Commission for Northern Ireland to enforce the Bill of Rights.”⁷

A speech by the party's President at their April 2000 conference discussed the opportunity to widen the debate on human rights. The President highlighted that the debate on human rights in Northern Ireland has had a narrow focus and that the ECHR is based almost exclusively on civil and political rights. She went on to highlight that the international debate had progressed significantly since 1948 and that there were now numerous Conventions relating to, for example, economic, social and cultural rights and the protection of minorities. This seemed to signify a change in policy in that it suggested a Bill of Rights might go beyond the ECHR to include more social and economic rights.

In its October 2000 submission to the NIHRC Bill of Rights consultation, Alliance once again applauded the incorporation of the ECHR into UK domestic law, but went further to say that even more extensive rights, particularly social and economic rights and the protection of minorities, must be included. It was stated:

“Alliance believes that the ECHR in itself provides a comprehensive set of rights, and thus should remain central to the protection of human rights. However, Alliance does recognise that, as the Convention is fifty years old, it may carry some deficiencies in terms of the protection of social and economic rights, and of persons belonging to minorities. Alliance accepts that the latter may be a particular concern in a deeply divided society such as Northern Ireland.”⁸

They expressed their concerns over the use of the term ‘ethos of two communities’, suggesting that the NI Human Rights Commission should interpret ‘two communities’ in the widest terms possible to reflect the diversity and pluralism of Northern Ireland.

⁶ Alliance Party, “Our Future Together in Europe” Party manifesto for European Parliament, 9 June 1994, pg 7.

⁷ Alliance Party, “It's Time for Tomorrow. . . Together” Manifesto 1998.

⁸ Alliance Party, “NIHRC: Consultation on the Compilation of a NI Bill of Rights – Initial Response of the Alliance Party” October 2000.

The party also suggested that other European and international conventions should be incorporated into Northern Ireland domestic law, either in full or in part, to target rights such as equality, education and language. On the issue of equality, the submission suggested that the Fair Employment and Treatment Order (1998) and the Disability Equality Act (2000) be consolidated in one single Equality Act.⁹

Again in January 2001, Alliance expressed its concerns that the ECHR did not go far enough to protect the people of Northern Ireland. The party's Justice and Human Rights Spokesman, Stephen Farry, said on the Party's website:

“We recognise [the ECHR's] limitations, particularly regarding social and economic rights and protections for minorities. Alliance therefore welcomes the initiative to create a further NI Bill of Rights.”¹⁰

In its 2001 Westminster Manifesto, Alliance reiterated its commitment to the creation of a Bill of Rights. However, the party had concerns that the requirement that the NIHRC reflects the ethos and identity of both communities would further “entrench the simplistic ‘two communities’ notion at the expense of genuine pluralism and genuine choice over identity.” Alliance also maintained its concerns that the Commission is only required to ‘have regard’ to international standards rather than to comply with them.¹¹

The Alliance Party's November 2001 response to the Human Rights Commission's consultation document expressed concerns about the absence of sufficient references to persons with disabilities. On the matter of social & economic rights, it was stated that they were:

“...supportive of further measures to protect social, economic and environmental rights within Northern Ireland. These should be directed towards equality of opportunity, equality of treatment, equality of access, equality under the law, and minimum standards in terms of labour conditions, health, education and the environment, for all sections of the community. Those from disadvantaged sections, such as persons with disabilities, should be mainstreamed rather than treated as special categories.”¹²

⁹ *ibid.*

¹⁰ Alliance Party, “Bill of Rights should be up to international standards” 2 January 2001. www.allianceparty.org

¹¹ Alliance Party, Westminster Manifesto 2001.

¹² Alliance Party Response to the NI Human Rights Commission's Draft Bill of Rights, November 2001.

DEMOCRATIC UNIONIST PARTY (DUP)¹³

A DUP document “Proposals by the Ulster Democratic Unionist Party, Northern Ireland Assembly Group, for progress toward full devolution in Northern Ireland” (1984) made reference to a Bill of Rights as follows:

“The UDUP, while holding that a Bill of Rights is desirable for the whole of the United Kingdom, would be prepared to accept a proposal for a Northern Ireland Bill of Rights which would incorporate a range of statutory safeguards against abuse of power.”¹⁴

The DUP has also emphasised individual rights, as seen in its 1992 manifesto, which called on unionists to achieve “a Bill of Rights safeguarding individual liberties.”¹⁵ However, the document did not give specifics about which rights should be safeguarded and why. At a 1993 DUP Conference, a resolution put forward called for the drafting of a “Statement of First Principles” that would take effect in Northern Ireland as a regional Bill of Rights.¹⁶

In a 1993 constitutional manifesto, the DUP proclaimed that a Bill of Rights would underpin arrangements for the administration of Northern Ireland and would serve to safeguard individual rights.¹⁷

At a meeting of the Northern Ireland Forum for Political Dialogue in September 1997, Ian Paisley Jnr of the DUP introduced a motion that put forward the party’s position on the Bill of Rights, which argued that it holds great importance for unionists as well as nationalists. In declaring his support for a Bill of Rights, he also stated that there are responsibilities that go along with rights:

“A Bill of Rights is about defining and upholding the duty of the state towards the citizen and the duty of the individual towards the state. Liberty, equality and freedom are entitlements, but they have not been delivered and cannot be maintained without recognition of their great value.”¹⁸

Ian Paisley Jnr. also pointed out that “a rights culture will be beyond our grasp until we finally eradicate terrorism.”¹⁹ He confronted the fear of some that a Bill of Rights for Northern Ireland would have adverse implications for the rest of the UK. He noted:

¹³ At the time of going to print, the DUP had just made a submission to the Human Rights Commission, this is available on the party’s website www.dup.org.uk.

¹⁴ This document is quoted in “Ways of Protecting Minority Rights” June 1985, CAJ, page 4.

¹⁵ Democratic Unionist Party, 1992 Election Manifesto, pg 3.

¹⁶ Democratic Unionist Party, Resolutions document from 1993 party conference, pg 5.

¹⁷ Democratic Unionist Party, Constitutional Manifesto 1 February 1993 pg 6.

¹⁸ Northern Ireland Forum for Political Dialogue debate, 19 September 1997.

¹⁹ *ibid.*

“They argued then – and I have seen little to suggest that the current administration have a different opinion – that many fundamental rights are already enshrined in separate pieces of legislation, rendering a bill of rights unnecessary. I do not believe that anyone in this Chamber thinks that fair-employment or equal opportunities legislation is any substitute, and it is wrong for the government to hide behind that fig-leaf.”²⁰

Speaking about the importance of equality, Ian Paisley Jnr. said:

“A Bill of Rights is necessary, even if only to clarify and consolidate the law. More importantly, it would plant the seed for the development of what has been called a rights culture, in which equality and liberty would be seen as being not just for certain sections of the community, not just those who are politically motivated and better organised, perhaps in groups, but for the great mass of the people. All men and women equal under the law, and all men and women equally subject to the law – that should be the guiding principle.”²¹

The DUP focused on individual rights in this same motion. It stated:

“With regard to Northern Ireland, [the nationalist] view is that a Bill of Rights should protect communities and their linguistic, cultural and religious rights and that means fair-employment legislation and reconstitution of the police service and the judiciary. Although I am not opposed to reforms where they are necessary, I reject the notion of simply protecting group rights. We have to look at individual rights. We must consider the individual’s responsibility to the state and the state’s responsibility to the individual.”²²

Ian Paisley Jnr. also addressed which rights should be included in such a Bill. He stated:

“Ideally, there would be a Bill of Rights for the citizens of the entire United Kingdom. In the recent past, the government have been making some interesting sounds. They may be considering incorporating the recognised international standard for a Bill of Rights – the European Convention on Human Rights – into United Kingdom legislation. Failing that, my party believes the government should not stand in the way of a Northern Ireland Bill of Rights. . . . A Bill of Rights for Northern Ireland should recognise the right to life, the right to freedom of expression, the right to freedom of thought and religion and culture, and, indeed, the right to parade peacefully.”²³

²⁰ *ibid.*

²¹ *ibid.*

²² *ibid.*

²³ *ibid.*

In a document discussing an alternative to the Good Friday/Belfast Agreement, the DUP, together with the UKUP, put forward proposals to include “a Bill of Rights for all our citizens.” Few details on the possible content of such a Bill of Rights were available, and the DUP did not mention whether the incorporation of the ECHR should be part of this Bill of Rights or, if it was, whether that would be sufficient.

The DUP’s 2001 Westminster manifesto did not specifically advocate a Bill of Rights, but made reference to human rights and equality. It stated:

“We believe in real and meaningful equality for women and ethnic minorities. We hold that this principle should be built into mainstream government policies and not relegated to token programmes or projects”²⁴

In the same manifesto, the party recognised that there would be a Bill of Rights and emphasised rights for persons with a disability. It highlighted that:

“People with disabilities must have their rights recognised and enshrined in the new Bill of Rights.”²⁵

In the September 2001 Assembly debate on a Bill of Rights, DUP members were among those who saw the Human Rights Commission as going outside of its remit. MLA Edwin Poots found some of the work the Commission had done to be offensive, including the publication of the document “Enhancing the Rights of Lesbian, Gay and Bisexual People in Northern Ireland.” On the issue of language rights, he also claimed that if the government had to implement every proposal put forth by the Commission, there would not be enough money for other public services, like health and housing.²⁶

However, other members have come out in support of social and economic rights more clearly. In a letter to the Organisation of the Unemployed NI (a member of the Human Rights Consortium) in May 2001, DUP MLA and MP Nigel Dodds stated:

“I fully agree with the need for social and economic rights to be included in the forthcoming Bill of Rights for Northern Ireland. My own constituency experiences high levels of unemployment and social disadvantage and therefore I agree with the broad thrust of what is being advocated by your organisation.”

²⁴ Democratic Unionist Party, “Leadership to Put Things Right!” Parliamentary and District Council Election Manifesto 2001.

²⁵ Ibid. pg 11.

²⁶ Northern Ireland Assembly debate 25 September 2001.

NORTHERN IRELAND WOMEN'S COALITION (NIWC)

The Northern Ireland Women's Coalition has strongly supported the creation of a Bill of Rights for Northern Ireland since their formation in 1996. In addition to the political needs of Northern Ireland, the NIWC believes that people's social and economic rights need to be addressed. In the party's opening statement to the 1997 Multi-Party Negotiations, they said:

"In relation to civil and political rights, we also see social and economic rights as human rights, particularly in the context of the serious social and economic disadvantage which has haunted Northern Ireland for so long."²⁷

A document from these talks contained a long section under the topic of rights. It was all relevant to the debate on the Bill of Rights and stated:

"Northern Ireland needs its own Bill of Rights. In this respect the incorporation of the European Convention of Human Rights into UK domestic legislation is very welcome, but it will not be sufficient to meet the needs in Northern Ireland. The Coalition is therefore of the view that a Bill of Rights should be negotiated, and implemented, which responds to the very specific circumstances and concerns which arise among the different sections of the community in Northern Ireland and provides them with a real sense of confidence that their rights will be fully and fairly protected.

The Northern Ireland Women's Coalition envisages the concept of rights – which all states may now be regarded as under an obligation to protect – as including the following categories: (1) individual civil and political rights; (2) individual social and economic rights; and (3) a range of collective or communal rights. The Coalition accepts that all human rights must be regarded as universal, indivisible and interdependent, and that new effective procedures for monitoring and enforcing rights are needed."²⁸

The NIWC believed international instruments could help act as a guardian of rights. In their Strand 2 policy paper, under "Principles and Requirements of Institutions and Arrangements", it was stated:

"There must be compliance with EU and other international obligations and protection for civic, political, social and cultural rights. However, it is the opinion of the NIWC that the province needs more than the European Convention on Human Rights to protect the rights of the people of Northern Ireland."²⁹

²⁷ Northern Ireland Women's Coalition, Opening Statement to Strand 1 of the Multi-Party Negotiations on Northern Ireland, 7 October 1997.

²⁸ Untitled document, Strand 1 Talks, October 1997.

²⁹ Northern Ireland Women's Coalition, Opening Statement on Substantive Negotiations On Strand 2, 7 October 1997, pg 2.

The NIWC's manifesto stated:

“Whilst the Women's Coalition welcomes the government's adoption of the European Convention on Human Rights, we also believe that the special circumstances in Northern Ireland require more than the minimum standards. We welcome the inclusion of rights pertinent to Northern Ireland's circumstances in the Agreement and will work for the development of a Northern Ireland Bill of Rights.”³⁰

The NIWC was founded on the principles of inclusion, equality and social justice. As such, these issues are central to the NIWC's agenda for the future of Northern Ireland. The party's manifesto for the 1998 Assembly elections held:

“These are the foundations upon which a future that is both peaceful and stable can be built: Human Rights Commission; Bill of Rights; Targeting Social Need; Equality Commission; Department of Equality.”³¹

In their initial submission to the Human Rights Commission's consultation process, the party stated:

“...we commit ourselves to working within and outwith the Assembly to mobilise support for the Bill of Rights. The key, we feel, is to demonstrate that the Bill has relevance, if not import, for all members of our society. We believe it will be important to build a broad base of indigenous political leadership to support the Bill at Westminster.”³²

In their response to the NI Human Rights Commission's consultation document, they reiterated their support for a broad and comprehensive Bill of Rights:

“The Agreement was reached by the majority of political representatives of the people of Northern Ireland, and the Bill of Rights must follow on from that. The people of Northern Ireland deserve, after so many years of pain and suffering, to move towards normality, and an explicit and thorough Bill, setting out the human rights of all members of this society, is an essential step forward.”³³

³⁰ Northern Ireland Women's Coalition, undated manifesto.

³¹ Northern Ireland Women's Coalition, “A New Voice for New Times” Manifesto summary, Assembly elections 1998.

³² Northern Ireland Women's Coalition Response to Bill of Rights Consultation, March 6th 2001, p.9

³³ “Making a Bill of Rights for Northern Ireland” – A response by the Women's Coalition, December 2001, p1.

PROGRESSIVE UNIONIST PARTY (PUP)

The PUP was formed in 1977 and since then, it has stated its commitment to respect for the rights of all, regardless of religious, cultural, national or political inclinations.³⁴ A 1981 PUP document envisaged a Bill of Rights as part of the way to peace in Northern Ireland. It stated:

“A Bill of Rights for all United Kingdom citizens should be drawn up and ratified by the Westminster Parliament, guaranteed by the European Court of Human Rights and the United Nations Commission for Human Rights.”³⁵

The PUP has regularly put forth one of its basic principles as the dedication to “a written Constitution and Bill of Rights for Northern Ireland which would enshrine stringent safeguards for individuals, associations and minorities.”³⁶ This was reiterated in the 1995 party manifesto, wherein the PUP stated its commitment:

“...to campaigning for a written Constitution for Northern Ireland which will embody a Bill of Rights along the lines of the European Convention on Human Rights. Such a Bill of Rights would include guarantees against discrimination. In order to ensure a working of the system in both minority and majority interests, there should be a broad committee of eight judges – two from the United Kingdom, two from the Republic of Ireland, two from Northern

Ireland and two from the European Court – to oversee any Bill of Rights.”³⁷

The PUP’s manifesto in 2001 stated that it was committed to campaigning for a written constitution for Northern Ireland that would embody rights along the lines of the European Convention on Human Rights. It stated that such a Bill of Rights would include guarantees against discrimination. While it did not say specifically what type of discrimination they were referring to, earlier in the document it is stated:

“The Progressive Unionist Party upholds the right of each individual regardless of gender, race, colour, religion, political opinion, age, marital status, sexual orientation, disability, prison record or social background to be treated with equality, dignity and justice in all aspects and spheres of human life.”³⁸

³⁴ Progressive Unionist Party, website: www.pup-ni.org.uk

³⁵ Progressive Unionist Party, “Proposal for a New Initiative to Achieve Peace and Democracy in Northern Ireland” Issue III, January 1981.

³⁶ Combined Loyalist Military Command, undated statement.

³⁷ Progressive Unionist Party, manifesto, February 1995.

³⁸ Progressive Unionist Party, manifesto 2001.

In their party manifesto, the PUP did not address the issue of social and economic rights in great detail, except as these rights pertained to women. The manifesto stated that:

“We will continue to actively campaign for the right of women to enjoy full and equal rights and representation in every aspect and sphere of social, political, professional and cultural life.”

It then went on to state that justice for women included equal pay for work of equal value, improved rights for part-time workers, improved childcare benefits and nursery facilities, more benefits for working married mothers and adequate levels of welfare benefits.³⁹

In the September 2001 Assembly debate on the Bill of Rights, David Ervine of the PUP was critical of some of the other unionist parties for their “abject hostility” towards the Human Rights Commission. He was also concerned at the unionist community’s failure to take ownership of the human rights debate, as this made it more difficult to sell the concept of human rights to their respective constituencies.⁴⁰

It should be noted that while in an undated manifesto the party welcomed the British Government’s decision to incorporate the ECHR into Northern Ireland law, it was not clear whether they felt the ECHR alone would be a sufficient Bill of Rights for Northern Ireland. However, reference was made to economic, social and cultural issues in that the party stated under the heading ‘human rights’ that they were endeavouring to facilitate the social, economic and cultural transformation of Northern Ireland.⁴¹

At its most recent party conference (Autumn 2002), a resolution was overwhelmingly passed, calling for changes in the draft proposals by the NI Human Rights Commission regarding the provisions for economic and social rights. Concerns were expressed about the extent to which poverty would be effectively addressed by the proposed text, and there was a request to the party leadership and the membership to work to ensure strong socio-economic rights provisions be included in any future Bill of Rights for Northern Ireland.

³⁹ Progressive Unionist Party, undated manifesto.

⁴⁰ Northern Ireland Assembly debate 25 September 2001.

⁴¹ Progressive Unionist Party, undated manifesto.

SINN FEIN

In “Making Rights Count”, a CAJ publication issued in 1990,⁴² an unsourced quote from Sinn Fein stated that:

“Sinn Fein supports the view that a Bill of Rights is an essential part of the legal and judicial structure of any state.”

The context made it clear that the party invested no expectation in such an instrument in the near future, given their assertion that “a democratic state can only exist and function where the people of the state, collectively through their system of government, have unfettered control of their political, economic, social and cultural destiny. The six county state – whose very existence is dependent upon a life support system of 30,000 armed British Forces – could not, now or ever, measure up to the definition of democracy”.

In its submission to strands 1 and 2 of the multi-party talks in 1997, Sinn Fein outlined its views on constitutional issues and argued for some formulation of incorporated or entrenched rights. In this submission the party stated that:

“A common raft of civil, political, economic, social, cultural, environmental, developmental and group rights should be formulated on an all-Ireland basis and entrenched in a manner which is legally and constitutionally appropriate.”⁴³

The submission continued:

“The International Covenant on Civil and Political Rights and the European Convention on Human Rights should be incorporated into domestic law. The UK should ratify the Optional Protocol to the International Covenant on Civil and Political Rights.”⁴⁴

At Sinn Fein’s Ard Fheis of April 1998, the party once again stressed the importance of justice and equality in the future of the island of Ireland. It called for cultural rights and language equality in addition to economic and employment rights, and for the establishment of a Bill of Rights and an all-Ireland Constitutional Court responsible to a North/South Council.⁴⁵ Thus, while the language on what form a Bill of Rights should take has varied, there has been clear support for a Bill of some kind.

Since the Good Friday/Belfast Agreement, Sinn Fein has focused on the specific issue of equality and furthered its calls for a Bill of Rights. While the Agreement called for the incorporation of rights supplementary to the ECHR, Sinn Fein supported the incorporation of other international instruments into domestic law.

⁴² CAJ pamphlet no.17 – report including statements on a Bill of Rights by a variety of political parties.

⁴³ Sinn Fein, “For a Future as Equals”, submission to Strands 1 and 2 of the peace talks, 10 November 1997, pg 14.

⁴⁴ Ibid. page 14.

⁴⁵ Sinn Fein, “At the Centre of Irish Politics” Ard Fheis, 18/19 April 1998.

Sinn Fein made a comprehensive submission to the Bill of Rights consultation in February 2001. The party viewed a Bill of Rights as an essential part of conflict resolution and as such the current debate was seen as a central component of the Good Friday Agreement, as was the proposed all-island charter of rights. This is reflected in their initial submission:

“After more than 30 years of conflict, with suffering and human rights violations perpetrated on all sides, Sinn Fein strongly advocates the creation of a free-standing comprehensive Bill of Rights that is rooted in impartial implementation and enforcement mechanisms.”⁴⁶

The submission also noted that, through the party’s own consultation process, it became clear that:

“A Bill of Rights must be comprehensive, not minimalist, and must include social, economic and cultural rights as prescribed by the Good Friday Agreement . . . A Bill of Rights must not be an ‘add on’ to the ECHR but a strong instrument to uphold rights and strengthen the emergence of a democratic society.”⁴⁷

Sinn Fein not only recognised that social and economic rights were vital, but that the party viewed these rights as being indivisible from and interdependent with civil and political rights. It was stated:

“Thankfully attitudes are changing and [social, economic and cultural] rights are now recognised in the UN and Europe as being integral and indivisible links between all human rights.”⁴⁸

The party’s submission went on to state that social, economic and cultural rights encompass:

“The right to just and favourable working conditions for all, with special emphasis on the rights and protections of women and children at work; labour relations, i.e., the right of workers to form and join a trade union of their choice; the right to bargain collectively, dignity at work; employers rights; education rights. . . the right to protection of health; to social security and to benefit from social welfare services; to affordable housing adequate to their needs.”⁴⁹

The Party’s Westminster election manifesto of 2001 echoed these sentiments. In the September 2001 Assembly debate on the Bill of Rights, Sinn Fein supported an SDLP amendment and MLA Dara O’Hagan stated:

⁴⁶ Sinn Fein, submission to Bill of Rights consultation, 27 February 2001, pg. 5.

⁴⁷ Ibid. page 3.

⁴⁸ Ibid. page 7.

⁴⁹ Ibid. page 8.

“[The Bill of Rights] was to cover rights that would reflect and address the North of Ireland’s particular circumstances. Those rights include socio-economic rights, children’s rights, the rights of the elderly and women’s rights. Furthermore, it was to be a free-standing Bill of Rights that built on, and went further than, international instruments. . . Human rights are not about nationalist or unionist rights, they are about the rights of every single individual in this society.”⁵⁰

Again, in the party’s response to the Human Rights Commission’s consultation document, it stated that it was:

“...committed to the creation of a broad ranging Bill of Rights for the north of Ireland as the first step towards enhancing and harmonising human rights standards throughout the island as established in the Good Friday Agreement.”⁵¹

⁵⁰ Northern Ireland Assembly debate 25 September 2001.

⁵¹ Sinn Fein’s submission on a Bill of Rights, December 2001.

SOCIAL DEMOCRATIC AND LABOUR PARTY (SDLP)

The SDLP has always considered the establishment of mechanisms that can ensure equal rights, justice and parity of esteem to be at the centre of the party's agenda.

In 1977, Sean Farren – while noting that legislation alone could not bring an end to conflict – called for the enactment of a Bill of Rights based on the European Convention of Human Rights, but enacted within the context of a constitutional settlement that would have widespread support.⁵²

A statement from the chairperson of the party in 1988 asserted that the party supported in principle the introduction of a Bill of Rights but had no precise views on what shape the Bill should take. They felt that a Bill of Rights:

“... would allow for a development of human rights law within the Northern Ireland legal system and would be a welcome development in public life. The SDLP will continue to work towards the establishment of a Bill of Rights and a society in which civil liberties are deeply cherished.”⁵³

In 1990, an SDLP discussion paper entitled “Rights & Wrongs” noted:

“If, instead of discussing a Bill of Rights in the context of a ‘constitutional settlement’, we could discuss it as a form of guaranteeing rights for everyone in the North, no matter what the current or future political arrangements, then the framework of politics here might start to change... We need specifically to address what kinds of rights we wish to see protected and not to confine ourselves to the traditional “civil liberties” perspective. Those rights are important, but equally relevant are the kinds of rights outlined in the UN Covenant on Economic, Social and Cultural Rights, which include rights to education, to housing, to a decent standard of living... The development of the equal opportunities legislation and the problem raised by discrimination make it necessary to include in such a discussion the right to work and freedom from discrimination.”⁵⁴

The SDLP advocated strongly for a Bill of Rights in the multi-party discussions and, since the Agreement, have gone on to stress the importance of human rights. A discussion document for the SDLP's 30th Anniversary Conference, November 2000, showed the party once again committing itself to supporting a Bill of Rights with as broad an interpretation as possible. It stated:

⁵² Sean Farren, “SDLP Commitment to Human Rights Bill” (letter to the editor) Irish News 11 May 1977.

⁵³ Quoted in “Making Rights Count”, CAJ, 1990, pg. 38.

⁵⁴ SDLP, “Rights & Wrongs” SDLP Discussion Paper on a Bill of Rights, 16-18 November 1990, pages 5 & 6.

“The adoption of a Bill of Rights will send out a message to the world that we have begun to make the fresh start promised in the Good Friday Agreement.”⁵⁵

In February 2001, the SDLP held a conference to address the development of an all-island dimension for human rights protection. At this conference, SDLP members emphasised the importance of drafting a Bill of Rights that is wide in scope. Tommy Gallagher, MLA stated:

“As the Good Friday Agreement confirms, protection of human rights is at the core of resolution of our conflict. That is why we have an Equality Commission and Human Rights Commission and that is why we need a Bill of Rights for Northern Ireland that is inclusive and expansive in terms of the range of rights to be protected.”⁵⁶

The party’s support of social and economic rights and its endorsement of international human rights law was also clear in its May 2001 submission to the Bill of Rights consultation which stated:

“A future development of some importance will be a Bill of Rights. There are many political advantages to such a measure. The effective entrenchment of basic rights must be weighed against the increased role this will give to the judiciary. We are concerned that important issues of economic and social policy are not determined by a narrow band of non-experts. . . . The Bill of Rights must reflect the Good Friday Agreement but more importantly must be viewed as a living instrument tied to best international standards and practice so that the legal culture achieves standards which are transparently fair to all.”⁵⁷

In this document, while the SDLP endorsed the incorporation of the European Convention into UK law, it acknowledged that the particular circumstances in Northern Ireland demanded the articulation of further rights. The submission also outlined what rights must be included in a Bill of Rights - including criminal justice, equality, freedom of information, environment, housing, education, victims, language, children, employment, health, persons with disabilities and the elderly.

In the party’s 2001 Westminster manifesto, the SDLP stated that its priorities for the Bill of Rights were: 1) to protect rights such as the right to parity of esteem and equal treatment for the identity, ethos and aspirations of the two main communities; 2) to be broad-ranging and promote social and economic rights as well as civil and political rights; 3) to be based on best international practice; and 4) be protected by a new human rights court.⁵⁸

⁵⁵ SDLP, “A Bill of Rights for Northern Ireland – An SDLP Discussion Document” November 2000, pg 11.

⁵⁶ SDLP, Press release “SDLP Holds Major Bill of Rights Conference” 27 February 2001.

⁵⁷ SDLP, “A Bill of Rights for All of Us: Delivering the Good Friday Agreement” 22 May 2001.

⁵⁸ SDLP, Westminster Manifesto 2001 “It’s working - Let’s Build on It” pg 15.

In the September 2001 Assembly debate on the Bill of Rights, SDLP MLA Alex Attwood defended the work of the Commission and rejected UUP criticism of the Commission's emphasis on socio-economic rights. He noted:

“The proposed Bill of Rights says that, given that the communities of the North have a common need and a common agenda in regard to economic and social guarantees and protections, these should be protected and enhanced . . . Rather than saying that the Bill of Rights proposals should not guarantee economic and social rights, I suggest that in a society which is emerging from conflict and based around difference in that conflict, we should actively seek opportunities to promote common agendas and common needs. The Bill of Rights enables that to be addressed, to make the fresh start promised in the Good Friday Agreement.”⁵⁹

In its response to the Human Rights Commission's consultation document in January 2002, the SDLP renewed its commitment to “an expansive Bill of Rights which delivers the promises contained in the Agreement.”⁶⁰ In reference to the need for a broad bill, the party went on to state:

“The Bill of Rights should reflect the particular rights which arise as a result of conflict and division in Northern Ireland. These include socio-economic rights as well as democratic rights. Central to this will be express recognition of the conflict of national identity which underlies our historic problems, through the incorporation of community rights.”⁶¹

⁵⁹ Northern Ireland Assembly debate 25 September 2001.

⁶⁰ SDLP, “Response to ‘Making a Bill of Rights for Northern Ireland: A Consultation by the Northern Ireland Human Rights commission’” pg 3.

⁶¹ Ibid. page 3.

ULSTER UNIONIST PARTY (UUP)

In a document entitled “The Way Forward” 1984, the Ulster Unionist Council accepted that a case could be made for the entrenchment of citizens’ rights as a component of a package for devolved government in Northern Ireland. The document recognised that it may be in the interests of the people of Northern Ireland as a whole to have the rights of individuals explicitly set out in legislation of the British parliament conferring devolved government on Northern Ireland. The document referred to the ECHR but commented that it would have to be adapted to the particular circumstances of Northern Ireland.⁶²

However, a statement from party leader Jim Molyneux MP in April 1988 changed the position somewhat. He argued that the Anglo-Irish Agreement had all but extinguished the possibility of such a development - that with Westminster rule continuing in the immediate future, a Bill of Rights would have to apply to the UK as a whole. He noted:

“We would not object to a Bill of Rights covering the British Isles, which would be in line with the theme of “totality of relationships” expressed by Mrs. Thatcher and Mr. Haughey in December 1980. However, that is probably not realistic given the tension and public disagreement between the two governments caused by the Anglo-Irish Agreement in its present narrow and selective form.”⁶³

From then on, manifestos and policy documents spoke in terms of either the incorporation of the ECHR into UK law, or a Bill of Rights defining the rights and responsibilities of all citizens of the UK.

Speaking at a conference in November 1996 with Albie Sachs and others on the role of a Bill of Rights, Jeffrey Donaldson, MP, said that a Bill of Rights “has to be one of the cornerstones of any new political agreement”. He went on to say that the process of debating and introducing a Bill of Rights “could be an important catalyst in breaking down mistrust” and “is a very important ingredient in drawing people together and dealing with the underlying issues here.”⁶⁴

The party’s proposals for the three strands of the multi-party negotiations also welcomed the incorporation of the ECHR into UK domestic law and the government’s ratification of the Framework Convention for the Protection of National Minorities. The UUP also called upon the Irish government to likewise incorporate the ECHR and Framework Convention.⁶⁵

⁶² This document is quoted in “Making Rights Count”, CAJ, October 1990, pg 36.

⁶³ *ibid*, pg 37.

⁶⁴ “Bill of Rights – Charter 88 – and Albie Sachs” Just News, CAJ, November 1996 pg 6.

⁶⁵ Ulster Unionist Party, Press Release “Proposals for the three strands: Multi-Party Negotiations” 11 February 1998, pg 4.

The UUP's 1998 manifesto also stated that in line with the ECHR, the United Nations International Covenant on Civil and Political Rights (ICCPR) and the Organisation for Security and Co-operation in Europe, the party opposed any denial of the religious and civil liberties of groups and individuals.⁶⁶ This manifesto looked at a number of social and economic issues such as employment, housing and social security, and stipulated a number of areas under these headings that needed to be improved. For example, under the heading 'Disabled persons' it was stated that "[the UUP] do not believe the Disability Discrimination Act goes far enough in its provisions to remove discrimination in the workplace."⁶⁷

While the 1998 manifesto made reference to a number of international instruments that have been used to protect religious and civil liberties, the 2001 manifesto did not elaborate on which, if any, rights supplementary to the ECHR and other international instruments should be included in a Northern Ireland Bill of Rights.

On the party's website, under the "Understanding the Agreement" section, it is stated:

"The fundamental guiding principles of Ulster Unionist policy in regard to human rights remain equity of treatment and equality of opportunity for all the people of Northern Ireland. The two sections of the Stormont Agreement dealing with Rights, Safeguards and Equality of Opportunity incorporate many ideas that have been UUP policy for a considerable time. The UUP welcome the commitment in the Agreement to the incorporation of the European Convention on Human Rights."⁶⁸

In May 2001, David Trimble stated that the incorporation of the ECHR into UK law would "in many ways . . . give ownership of the Convention to domestic courts to, in a sense like devolution, permitting us to take our own pragmatic decisions, taking account of our regional diversity".⁶⁹ The UUP does not seem to have elaborated on what rights additional to those enshrined in the ECHR should be present in the Bill of Rights.

Although the UUP has recognised the importance of having a Bill of Rights for Northern Ireland, the party has been critical of the manner in which the drafting of the Bill of Rights has proceeded. In September 2001 the UUP tabled a motion in the Northern Ireland Assembly to declare that the Human Rights Commission had overstepped its remit, particularly by recommending rights that were not particular to the circumstances of Northern Ireland as mandated in the Agreement. MLA Esmond Birnie stated:

⁶⁶ Ulster Unionist Party, "Together Within the Union" Ulster Unionist Party Manifesto 1998.

⁶⁷ Ibid. pg 5.

⁶⁸ Ulster Unionist Party website, "Understanding the Agreement" 7 May 1998, www.uup.org.

⁶⁹ Trimble, David quoted in "UUP Critical of Human Rights Commission" Ulster Unionist Party Press Statement 17 May 2001.

“Every Member of the Assembly should be concerned about such deprivation – low wages, unfit housing, sickness rates, lack of basic numeracy and literacy, etcetera. We should all strive for improvement, as was said in the Budget debate. However, Northern Ireland is no longer uniquely deprived.”

It is his belief that the Commission’s suggestion that social and economic rights be included in a Bill of Rights is an indicator of its “maximalist interpretation of human rights”.⁷⁰

Yet, in correspondence with the Northern Ireland Public Service Alliance (a member of the Human Rights Consortium) in October 2001, Dr Birnie said: “It is of course entirely right to be very concerned at various aspects of Northern Ireland’s social and economic performance. My question is simply whether entrenched ‘social economic rights’ are the best way of improving that performance.”

Jeffrey Donaldson echoed similar concerns in a Belfast Telegraph article, but also commented that:

“My party and I have long advocated such a Bill [of Rights for Northern Ireland]. As a parliamentarian, I recognise the fundamental significance of a Bill of Rights for any truly democratic, representative and accountable society.”⁷¹

Other party members have at different times advocated many of the rights a Bill of Rights would work to uphold. For example, in the Women into Politics Dialogue Across the City on 25 May 2001, UUP representative Diana Peacock noted that a Bill of Rights was important in civic society in that it led to respect for the rights of citizens. She added that a Bill of Rights could also clarify the responsibilities of the government vis-à-vis the rights of citizens. At a celebration of Human Rights Day 2001, Belfast’s Lord Mayor Jim Rodgers stated:

“Whatever our religion or politics, human rights offer a framework to help us make the world a better place. The Universal Declaration of Human Rights tells us that whoever we are and wherever we are in the world, we deserve the same rights – among them are the right to a roof over our heads and to have food in our stomachs, the right to a vote, the right to marry and the right to practice our religion. These human rights belong to us all – that is a message which needs to be spread – in Northern Ireland and world-wide.”⁷²

⁷⁰ Northern Ireland Assembly, debate 25 September 2001, <http://www.ni-assembly.gov.uk/record/010925.htm>.

⁷¹ “A common sense Bill of Rights for Northern Ireland” Belfast Telegraph, 1st October 2001

⁷² Lord Mayor, Rt Hon Cllr Jim Rodgers, Opening address, Multi-Faith Celebration to mark Human Rights Day, 10 December 2001.

Most recently, the UUP has begun a series of seminars within their party in an effort to promote unionist interest in human rights. Lady Hermon, the party's Westminster spokesperson on human rights, said:

“Our party is keen to see that the human rights provisions contained within the Belfast Agreement are properly implemented since the majority of people in Northern Ireland endorsed them in the 1998 referendum.”⁷³

U I S T E R U N I O N I S T

⁷³ As reported in the Newsletter, 26/6/02 “Unionists urged to embrace rights”

CONCLUDING REMARKS

The focus of this paper has been on the position taken on a Bill of Rights for Northern Ireland by the local political parties, but the attitude of both governments is also relevant, given their commitment to human rights in the Agreement. Any eventual Bill of Rights for Northern Ireland has to be defined in Westminster legislation, so the UK government attitude is of particular importance. At the same time, the Irish Government is obliged in the terms of the Agreement to “ensure at least an equivalent level of protection of human rights as will pertain in Northern Ireland”, so the passage of a Bill of Rights for Northern Ireland at Westminster should have an immediate impact on the protection of rights in the Republic. Moreover, both governments committed the Human Rights Commissions (north and south) to consider establishing a charter of rights “reflecting and endorsing agreed measures for the protection of the fundamental rights of everyone living in the island of Ireland”.

The attitude of the UK government is of immediate relevance because any draft must be submitted to Westminster and in this regard, it is worthy of note that the Labour Party has traditionally been sceptical about the added value of domestic rights instruments. This stance has changed somewhat since incorporating the European Convention on Human Rights, by way of the Human Rights Act. It is however true that the Home Secretary and other senior ministers have at different times expressed frustration with the limits that such an instrument places on their powers. These attitudes may affect the debate around a draft Bill of Rights for Northern Ireland, although the government has consistently said that it will await final advice from the Human Rights Commission before coming to any decisions.

Notwithstanding this position of principle, the UK government has on several occasions highlighted the potential problems they foresee with a Bill of Rights for Northern Ireland. These were most recently enunciated in a June 2002 Northern Ireland Grand Committee debate in Westminster devoted to discussion of a Bill of Rights.⁷⁴ In this debate, the Parliamentary Under-Secretary of State, Des Browne, raised what he saw as five “issues of principle” that needed to be fully explored and debated as the Commission was preparing its advice. These were:

- The role of a Bill of Rights in achieving reconciliation and rapprochement;
- The relationship of a Bill of Rights with the European Convention on Human Rights;
- What was meant by ‘the particular circumstances of Northern Ireland’;
- Where the balance lies between good policy and justiciable rights;
- Enforcement mechanisms.

⁷⁴ <http://www.parliament.the-stationery-office.co.uk>

Conclusion

It would seem from examining various public statements on this issue that the government has particular qualms about including economic, social and cultural rights in any Bill of Rights. Yet, there is a strong commitment to the principle of the interdependence of human rights in the UK's foreign policy objectives:

“Some governments argue that respect for certain civil and political rights must be withheld until the country has reached an adequate level of development. They believe that economic and social rights must come first. The UK Government takes the view that this is a false distinction, and that all categories of human rights are of equal importance and interdependent.”⁷⁵

Given this statement, and given the requirement under the Agreement that the Republic of Ireland enjoy the same level of rights protection as in Northern Ireland, it will be interesting to monitor how pro-active both governments will be in the debate.

Also relevant to the position likely to be taken by both governments is the opinion of the wider public. In the Northern Ireland Social Omnibus Survey (RES, October 2001) carried out for the Human Rights Commission, a majority of people of the two main communities were in favour of a Bill of Rights: 64% of the Protestant community and 83% of the Catholic community thought a Bill of Rights was essential or desirable. Particularly notable was the cross-community support for socio-economic rights: for example, 87% of the Protestant community and 91% of the Catholic community felt a right to healthcare was essential or desirable.⁷⁶

This paper has sought to indicate that support for effective protection of rights has indeed existed across all the main political parties for many years. CAJ looks forward to this support coming to fruition in a comprehensive and strong Bill of Rights.

⁷⁵ FCO, “Economic and social versus civil and political rights”, <http://hrpd.fco.gov.uk>,

⁷⁶ Research and Evaluation Services, NI Social Omnibus Survey, October 2001. Available on www.nihrc.org

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