

# **Evidence to Ad Hoc Committee on a Bill of Rights 19<sup>th</sup> November 2020**

## **Opening Remarks – Brian Gormally**

Good afternoon and thank you for this invitation to address the Committee. My name is Brian Gormally and I've been Director of CAJ since 2011. I'm accompanied today by Dr Anne Smith, who is a member of our Executive but also part of the Bill of Rights Project referenced in our written evidence.

At the outset, I suppose I should make a declaration of interest. In 2008 I was an independent consultant and I worked with the Human Rights Commission in developing its Advice on the Bill of Rights. I attended every meeting of the Commission considering its Advice and had a particular hand in developing its criteria for deciding whether a given right arose out of "the particular circumstances of Northern Ireland." I thought then, and I think now, that the 2008 Advice, while not perfect, was the basis for a workable and effective Bill of Rights which would have benefitted all our people.

The evidence we gave a few weeks ago, as part of the Equality Coalition, focused on how the Bill of Rights could have helped in the solution of long-lasting, divisive issues that this Assembly has faced. Only last week, controversy arose over the use of the St Andrews veto and we have just published a briefing on how a Bill of Rights could have impacted on that situation. We can talk more about that if you wish.

However, the focus of our evidence today is on the future – how a human rights approach, formalised in a Bill of Rights, could bring focus, stability and direction to our path over the next, very difficult and complex, months and years.

There can be no return to the "old normal" in 2021. Whatever happens about a Brexit deal, Northern Ireland will be in a unique situation on 1<sup>st</sup> January and will have to find home-grown solutions to new, arising problems. Our people are unlikely to accept a post-pandemic return to the old normal of an under-resourced health and social care service dependent on the work of the lowest-paid and which fails the old, the poor and the ethnic minorities. Are the devolved institutions to lurch from crisis to crisis with long-term planning impossible? Will the failure to deal with the legacy of conflict continue to leak poison into our society and will we sleepwalk into a constitutional crisis that emphasises only division?

The alternative is a new normal that is based around a coherent and uniting set of principles. Human rights benefit everyone and cannot be used to oppress anyone. They are not an alternative to politics, but give a unifying and coherent direction.

Take the task of preparing a Programme for Government. If a human rights approach is adopted, it will be based on the principles of identifying the neediest members of society and remedying their situation, participation of those affected, equality and non-discrimination, transparency and accountability and clear benchmarks. It would also be given direction by specific rights, recognised in international law, such as the rights to health, education, housing, food, work and equal access to justice. A Bill of Rights would craft these into achievable and relevant laws for our particular circumstances.

There is plenty of room for political debate and decision on various ways in which the desired ends might be achieved. There is plenty of room for technical expertise and the input of those who will have to deliver what politicians decide. But there would be a common, unifying direction.

So where are we in this debate about a Bill of Rights? Very often a human rights approach is derided and dismissed as naïve and the advantages of a *realpolitik* attitude lauded instead. This implies deals and horse trading, bribes and inducements or repression – the carrot and stick, zero-sum approach of the “real world.” In fact, this approach is uniquely unsuited to divided societies where people have incompatible national aspirations and allegiances. In split societies like Northern Ireland, a zero-sum approach, where the only choices are supremacy or submission, leads inevitably to conflict. Where national aspiration is one of the interlocking distinguishing features that determine identity, respect and fairness are much more negotiable currency than carrot and stick.

Is there a consensus in this Assembly on a comprehensive Bill of Rights? Perhaps not. Is there a majority for it? Perhaps so. Whatever the position, this Committee has the responsibility to recommend the best way forward – to its peers and to the UK Government. We urge that to be in favour of a workable, effective and comprehensive Bill of Rights.