



Professor Monica McWilliams,
Chief Commissioner, NIHRC

Stand up for human rights

The recent criticism by members of the UK government on aspects of the Human Rights Act has prompted the Commission to write to the Prime Minister urging him to stand up for human rights. In this article, Professor Monica McWilliams outlines why this is so important.

The Northern Ireland Human Rights Commission, created in 1998 by Parliament at the initiative of the UK and Irish governments, was given duties including advising on legislative and other measures that ought to be taken to protect human rights, and promoting understanding and awareness of the importance of human rights. Its establishment as

an independent statutory institution, closely modelled on the United Nations' Paris Principles, marked a very significant advance in the approach to human rights.

Since its establishment, the Commission's work in these areas has been greatly assisted by the impact of the UK government's achievement in the domestication of the European Convention on Human Rights through the Human Rights Act 1998. That Act and our own statute, the Northern Ireland Act 1998, were of course intimately linked in that the Belfast (Good Friday) Agreement, and the corresponding international agreement, expressly committed the government to "complete incorporation into Northern Ireland law of

the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency".

The Human Rights Act was genuinely transformative. In placing clear duties on public authorities, it gave much better access for everyone to these human rights standards and made them enforceable in the courts. The Act underlined the UK's subscription to the core values of the Council of Europe and of the European Union, both of which regard the Convention as so fundamental that it is a non-negotiable condition of accession or continued membership.

In that context, it was very heartening to read in the Personal Minute of the Prime Minister, sent in May 2006 to Lord Falconer (on the occasion of the latter's acceptance of reappointment as Secretary of State for Constitutional Affairs and Lord Chancellor), that one of the priorities for his Department was that it should "devise a strategy, working with the judiciary, which maintains the effectiveness of the Human Rights Act, and improves the public's confidence in the legislation".

The members of the Northern Ireland Human Rights Commission agree that the Prime Minister correctly identified the three

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Welcome...

Welcome to the summer issue of this magazine produced by the Northern Ireland Human Rights Commission. We've been delighted with the response received to the publication to date and thanks to all those who have forwarded comments – keep them coming!

In this issue, we focus on the proposed Bill of Rights for Northern Ireland with key note articles from Justice Albie Sachs from the South African Constitutional Court, and leading academics, Colm O'Cinneide and Colin Harvey. The views of our NGO community are also well represented by the Human Rights Consortium.

Readers will be aware, the reconstituted Commission has prioritised the formulation of advice to

government on a draft Bill of Rights as charged under the Belfast (Good Friday) Agreement. As our Chief Commissioner, Monica McWilliams stated in our last issue, it is hoped that we can re-energise the debate on the scope and content of this charter of rights, particularly on whether social and economic rights can be included within its remit.

We also want to explore – with local political parties and the two governments – whether it is feasible to convene a political Roundtable of political and civic leaders to reach a consensus on this potentially powerful, legal instrument.

The Commission has organised one of the largest and most detailed consultation exercises yet seen in Northern Ireland. To

date the Commission has received approximately 650 submissions on the proposed Bill and consulted with thousands of individuals and groups (including over 1,350 children and young people). Almost 1,000 facilitators were trained to stimulate debate on this issue and three public opinion surveys were commissioned which revealed widespread support for the concept of an expansive Bill of Rights in Northern Ireland. Over 60,000 publications have been circulated describing our proposals with two major consultation documents released for public comment.

Despite this level of work, the Commission is keenly aware that much more needs to be done in securing public support for a comprehensive and

enforceable Bill of Rights. We hope that our local parties can come together with representatives from civil society to convene a Round-table to assist the Commission in this important work.

Elsewhere in this issue we showcase a number of contributions from our interns, who have assisted the work of the Commission in recent months. Our lead researcher on immigration and race issues, Dr Nazia Latif, brings us up to date on the Commission's work in these fields and we introduce a regular feature where we profile one of our Commissioners – in this case, Jonathan Bell.

I hope you find this edition of interest. Don't hesitate to contact us if you have a suggestion or comment.

Peter O'Neill, Editor

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key elements of a strategic approach to the defence of human rights.

Firstly, “working with the judiciary”: maintenance of the rule of law, and a relationship of separation, mutual respect and due deference among the executive, legislative and judicial branches, are essential preconditions for the success of the strategy. It is therefore deeply regrettable, and runs directly counter to the strategy, when government ministers allow themselves to impugn the integrity and independence of the judiciary by describing the most carefully reasoned judgments, based solidly on the treaty obligations of the state as further entrenched by an Act of Parliament, as “abusing common sense”.

Secondly, “maintain[ing] the effectiveness of the Human Rights Act” correctly identifies the danger that the Act could become less effective in certain circumstances, and deserves and requires action from government to bolster its effectiveness. When the Act comes under attack, whether from opposition quarters or from within elements of the executive who find it frustrating to constrain their actions within a human rights framework, it is incumbent on the Prime Minister and other ministers to maintain an effective defence of the Act.

Thirdly, for the Department for Constitutional Affairs to “improve the public’s confidence in the legislation”, one obvious requirement is for Lord Falconer, in his public pronouncements and in

private, to offer confident and consistent support for the Convention and the Human Rights Act, and to resist calls for amendment, withdrawal or repeal from media or political opponents of the Convention and the Act.

Readers will be more than familiar with the erroneous characterisation of the promotion and protection of the fundamental human rights of everyone as, in some sense, a barrier to individual safety or national security, and a means to protect those who break the law. We believe it is deeply regrettable for any member of the UK government to lend any support to the misrepresentation of the role of human rights law as benefiting criminals and terrorists at the expense of victims. ■

Immigration and asylum in Northern Ireland

by Dr Nazia Latif, NIHRC

Increasingly in its work, the Northern Ireland Human Rights Commission is seeing how it is non-citizens of the UK and Ireland living in Northern Ireland that are among the most vulnerable groups in our society, whether they be migrants or asylum seekers.



nationals who commit offences are not, in the same way, referred to as “illegal citizens”. It often seems that by according migrants and asylum seekers any rights the UK is bestowing special favours.

Yet human rights from their philosophical starting point were never meant to protect only citizens against their governments, but all human beings simply by virtue of being human. The Commission is finding that this very simple moral starting point is not always an easy one with which to win hearts and minds.

The Commission has found that the problems and prejudices faced by both migrants and asylum seekers begin from the moment they arrive in the UK. Immigration Services routinely stops, questions and subsequently authorises the detention of migrants and asylum seekers if it believes that the person questioned will not keep up with any reporting

requirements to the authorities. They have the power to do so under legislation enacted in 1971, but there are serious questions over how some individuals come to be detained and others do not.³ The arbitrariness of the decision making process, with regards to detention, is of great concern to this Commission and it is for that reason that it will be conducting an investigation into how immigration officers decide, on the basis of an interview, that a migrant or asylum seeker cannot be trusted to keep up with any reporting requirements. When an immigration officer decides that a person is to be detained they are then transported by ferry to Dungavel, a detention facility in Scotland, where conditions are far from satisfactory and, indeed, an arrangement that is far from satisfactory for persons, such as asylum seekers who have committed no criminal offence.

Another major problem identified by the Commission and specialists in the area of migration has been the distinct lack of information available to migrant workers. The Commission was made aware of migrant workers experiencing difficulty in accessing health care, social security benefits, housing and a range of other entitlements they have when in the UK. In some cases such entitlements

were simply being refused by service providers; in others, migrant workers were unsure of what their entitlements were. After discussing the issue with a range of Black and minority ethnic organisations, the Commission decided there was a desperate need for widespread dissemination of easily accessible information to migrant workers outlining rights and entitlements in the UK. It decided to publish a series of guides outlining those rights and entitlements in a range of languages. The Law Centre (Northern Ireland) and ANIMATE came on board and without the expertise in both those organisations it would have proved extremely difficult, if not impossible, to press ahead. The Office of the First Minister and Deputy First Minister (OFMDFM) provided vital funding for the project. The guides are being published as a series of three. Two will be completed by late summer and the third shortly after.

The implementation of the Racial Equality Strategy launched by OFMDFM in summer 2005 will be monitored closely by the Commission to ensure that all those with the power potentially to discriminate against the migrant and asylum seeker population and, indeed, those with the power to help, both respect and accord fully the human rights that everyone has when in Northern Ireland.

There is important work to be done at the international level also. The UK’s report to the International Committee on the Elimination of Racial Discrimination is now due and this Commission will be submitting its own report, which will inform the Committee of the status of rights of ethnic minorities in Northern Ireland. That report would not be complete without information on the non-citizen population. The Commission hopes to help non-governmental organisations engage in the UN treaty monitoring process also. This Commission is striving to ensure that the Northern Ireland Administration in all its legislation, policy and practice fully respects the rights that all migrants and asylum seekers have. It must also fully recognise and show appreciation for the contributions that migrants and asylum seekers are making to the cultural richness of society in Northern Ireland. ■

footnotes:

1. *Paraphrasing a speech by Enoch Powell, then Shadow Secretary of State for Defence for the Conservative Party.*
2. *Karpf, Anne “We’ve been here before” The Guardian, June 8 2002.*
3. *These powers are conferred under The Immigration Act 1971.*

What saved us in South Africa - The Bill of Rights process

by Justice Albie Sachs



Albie Sachs' career in human rights activism started at the age of 17, when as a second year law student at the University of Cape Town, he took part in the Defiance of Unjust Laws Campaign. Three years later he attended the Congress of the People at Kliptown where the Freedom Charter was adopted. He started practice as an advocate at the Cape Bar aged 21. The bulk of his work involved defending people charged under racist statutes and repressive security laws. Many faced the death sentence. He himself was raided by the security police, subjected to banning orders restricting his movement and eventually placed in solitary confinement without trial for two prolonged spells of detention.

In 1966 he went into exile. After spending 11 years studying and teaching law in England he worked for a further 11 years in Mozambique as law professor and legal researcher. In 1988 he was blown up by a bomb placed in his car in Maputo by South African security agents, losing an arm and the sight of an eye. After recovering from the bomb he devoted himself full-time to preparations for a new democratic Constitution for South Africa. In 1990 he returned home and as a member of the Constitutional Committee and the National Executive of the ANC took an active part in the negotiations which led to South Africa becoming a constitutional democracy. After the first democratic election in 1994 he was appointed by President Nelson Mandela

to serve on the newly established Constitutional Court. In this article, he shares his thoughts on the development of the South African Bill of Rights.

* * * *

"What saved us in South Africa was the fact that the situation was so disastrous." I say. "We on the liberation movement side could have gone on fighting and we would have won ultimately, but would have inherited a ruined country. For their part the apartheid government could have stayed in power for some years more, only to lose everything in the end. It was in this setting that a Bill of Rights played an extremely important role."

I am not speaking about Northern Ireland, yet I am speaking all about Northern

Ireland. "We found that the best time to negotiate a Bill of Rights was when everyone was feeling insecure. I recall vividly speaking one day to some law students, almost all of them black, at the University of the Western Cape, about a Bill of Rights. Their eyes shone. To them a Bill of Rights meant opportunities to do things they and their parents had never been able to do, to vote, speak freely, own a house, travel and be treated with dignity and respect. The very next day I gave the same talk to the mainly white students studying law at the University of Cape Town. As future lawyers what appealed to them was that at last law and justice would be coming together, but clearly what registered most strongly was the fact that a Bill of Rights would

protect them from being arbitrarily deprived of the homes, education, and opportunities for travel that they and their parents had been able to take for granted. It was a wonderful discipline for me to present the same concepts to audiences on opposite sides of the divide. A Bill of Rights has to speak in one voice to everyone. That is its strength, its appeal to a universal sense of what is right and fair in a decent society. Yet its meaning in practice can be quite different for different sectors of the community." I am not speaking about Northern Ireland, yet I am speaking all about Northern Ireland.

It was drizzling in Dublin. Nothing unusual in that. What was remarkable was that my host and colleague on the Constitutional Committee, Kader Asmal, did not light up a cigarette once in his house for a whole weekend. Soon after I had come out of hospital, and as a gesture of solidarity that turned out to be a major aid to my recovery, the Constitutional Committee had met specially in London to enable me to participate. Now, at the request of Oliver Tambo and the Committee, I was working with Kader on a draft Bill of Rights for South Africa. The ANC had first proposed a Bill of Rights in 1923, and then again in 1944. The Freedom Charter, adopted with acclamation and song as the police moved in on us at the Congress of the People at Kliptown in 1955, embodied the vision of a free and democratic South Africa which 'belongs to all who live in it, black or white.' What was needed

now in 1988 was a text that would translate the claims of the Freedom Charter into constitutionally protected rights. We decided that I would work on the substantive rights to be protected, while Kader would focus on the manner of protection and then we would swap notes.

It was an exultant moment. Sitting alone at a wooden table with blank pieces of paper and a ballpoint pen, I felt that I was taking a direct part in history. I insisted on having no books or documents with me. A Bill of Rights should write itself. It should have a self-evident feeling of truth about it. If rights are truly fundamental they will proclaim themselves in the clearest of language so as to be immediately understandable by all. Later, when our draft was complete, we could check it against the texts of great human rights instruments, such as the Universal Declaration of Human Rights. Now was the moment not to copy but to let all the dreams of justice and right of all the years of struggle, all the hopes and fears articulate themselves spontaneously. In South Africa, with its long history of racial oppression, it was clear where a Bill of Rights had to start. I hadn't yet learned to use a computer, so, beginning one of the most joyous activities of my intellectual life, I picked up the pen in my left hand and wrote in a shaky new scrawl the heading: Equality.

Adapted from Sachs, A. and September, V. **The Free Diary of Albie Sachs**, Random House, South Africa, Chapter 2. ■



The need for a Bill of Rights in Northern Ireland

by Professor Colin Harvey

Colin Harvey is a Commissioner at the NIHRC and the Director of the Human Rights Centre at Queen's University Belfast. This article reflects his personal views on the proposed Bill of Rights for Northern Ireland.

The Bill of Rights debate in Northern Ireland continues. The argument that a Bill of Rights is required has been around for some time and precedes the latest process. However, people often meant different things by this. Some believed that incorporation of the European Convention on Human Rights into domestic law would suffice; others suggested that a Bill of Rights should be crafted with the particular circumstances of Northern Ireland in mind and thus include a broad range of rights more in tune with international developments. The picture has now changed following the reforms of the last decade. The Human Rights Act 1998 gives the European Convention on Human Rights further effect in domestic law. The Act has even been referred to as a "Bill of Rights". The implication being that this might be the end point for domestic human rights protection. This is, of course, not the case. The Bill of Rights process has now made perfectly clear that the European Convention is not enough. Northern Ireland needs a Bill of Rights that builds on the Convention, reflects best international practice and is tailored to its particular circumstances. The mandate governing the current Bill of Rights process is well known, although discussion continues on the precise meaning and implications of aspects of it. There are a number of elements which merit comment here.

To advise on the scope for defining

The Northern Ireland Human Rights Commission is tasked with providing final advice to the Secretary of State. There is ongoing debate on the meaning of the phrase "scope for defining". It is now reasonably clear and generally accepted that this does not exclude comprehensive and detailed final advice. There is a practical side. When offering advice it is essential to be precise about what you are suggesting. It must be assumed that you want the person to follow your advice. No one should be in any doubt about what is required from the final advice submitted to the Secretary of State.

Westminster legislation

The Bill of Rights will be an Act of the Westminster Parliament. This means that work will not end when the final advice is submitted. Experience suggests that considerable effort will be required to guarantee that the substance of the advice is fully and accurately reflected in law. Co-operation will be necessary between individuals and organisations to ensure that the common objective of securing an effective Bill of Rights is achieved.

Rights supplementary to those in the European Convention on Human Rights

A Bill of Rights for Northern Ireland must supplement the European Convention on Human Rights. The Human Rights Act 1998 is in force in Northern Ireland. It gives further effect in domestic law to Convention rights. The Bill of Rights process has provided greater clarity on the weaknesses of the Convention and the rights which merit inclusion. Social and economic rights provide a useful example. Much more could be done through a Bill of Rights to make sure that the indivisible and interdependent nature of all human rights is recognised in practice.



A Bill of Rights would reflect a collective commitment to a set of common values to guide us into the future



To reflect the particular circumstances of Northern Ireland

The Bill of Rights process was intended to be tailored to the particular circumstances of Northern Ireland. There is ongoing discussion on what the "particular circumstances of Northern Ireland" might be. It should not be forgotten in these discussions that we are dealing with a new human rights instrument and a "constitutional" process. In other words, an inclusive and generous interpretation is permitted. The fact that the mandate arises from a "peace agreement" containing principles for the future governance of Northern Ireland, reached after a period of protracted conflict, is one important frame of

reference. This does not mean a search for what is unique. It does mean that the Bill of Rights process is particular to Northern Ireland and an intrinsic part of working together towards a peaceful future.

Drawing as appropriate on international instruments and experience

Human rights debates in Northern Ireland cannot and should not be considered in isolation from international human rights standards and institutions. This includes comparative experience from other jurisdictions. The opportunity is there and should be taken to ensure that any Bill of Rights reflects and endorses best international practice.

Principles of mutual respect for the identity and ethos of both communities and parity of esteem

There is no ambiguity here. This is central to the Bill of Rights mandate. Respect for the identity and ethos of the two main communities and recognition of the concept of parity of esteem must form part of the Bill of Rights.

These are only some of the key issues relating particularly to the mandate. The Bill of Rights process was launched by the Northern Ireland Human Rights Commission in March 2000. Since then there have been: working groups; publications; seminars; conferences; training sessions; international visits; meetings with political parties and others; as well as a number of consultation documents outlining progress. The debate has been extensive and of a high standard. As should be expected there is disagreement; given the significance of the debate this is unsurprising.

Organisations such as the Human Rights Consortium remain very active in the debate and have contributed enormously to drawing public attention to its importance. It is now agreed that the best way forward for the process is a Round-table Forum consisting of an international chair, independent secretariat, and representatives of political parties and civil society with the aim of forging consensus on the content of a Bill of Rights. The Round-table will have to address the many difficult questions that must be answered before the submission of final advice. What precise form should the Bill of Rights take? How will it relate to the Human Rights Act 1998? What are the particular circumstances of Northern Ireland? Which rights will be included? How will the Bill of Rights be enforced? The Northern Ireland Human Rights Commission must retain its independence during this process and ensure it is in a strong position to scrutinise the results of the Round-table with reference to international human rights standards and best practice generally.

There is much still to be resolved. However, we should not forget the basics. Northern Ireland needs a Bill of Rights. A Bill of Rights would reflect a collective commitment to a set of common values to guide us into the future. The message would go out that we are moving forward. The Bill of Rights should be a "constitutional document" we are all proud of and works in practice to bring individuals and communities together. A strong and inclusive Bill of Rights should improve the lives of those who need rights most, but if we get there it will make Northern Ireland a better place for everyone. ■

What a Bill of Rights can and cannot achieve

by Colm O’Cinneide, University College London

Since 1945, country after country across the world has adopted its own bill of rights. The vast majority of democratic states have now some sort of rights charter, having modified the original blueprint, the 1787 US Bill of Rights, to suit their own histories, cultures and values. Many regions, provinces and federal states within countries have done likewise: one of the earliest bill of rights in the world is the Virginia Declaration of Rights, and the German Länder, Canadian provinces, Spanish regions and US states have their own well-developed rights instruments.

Over time, these bills of rights often acquire immense symbolic significance. They come to be seen as embodying and giving expression to core values of democracy, equality and respect for basic liberties. In societies in transition, or which face intense internal disagreements, or which are developing new political cultures, bills of rights often act as a cohesive ‘glue’. They express and protect underlying values that all parties share and respect, and which serve as fundamental principles that can provide a shared point of reference even in times of strong political turbulence. For example, the German Basic Law, the Canadian Charter of Rights and the rights provisions of the South African Constitution have provided invaluable in providing a point of cohesion in times of great political transition. Bills of rights are often initially controversial when first introduced: however, they usually provide to be remarkably durable and popular (see Darrow and Alston, 1999).

All of this comparative experience is obviously relevant in the context of Northern Ireland. In a period of change and transformation, a Bill of Rights could provide a symbolic and legal framework of basic rights. This could help establish a shared common sense of the minimum degree of dignity, status and respect that should be accorded to everyone in Northern Ireland.

However, before a Bill of Rights for Northern Ireland is going to come into existence, it is essential that some serious issues be addressed. To start with, the language of human rights is often seen as a tool that can be hijacked and used for political ends. In particular, ‘rights talk’ is sometimes viewed as a form of rhetoric that only benefits certain communities and which can act as a Trojan Horse for particular political beliefs. Nevertheless, the language, symbolism and legal protection of a Bill of Rights can become common property, if it is framed by a shared and participative drafting process in which all the elements of Northern Irish society have engaged.



Without this common civic engagement in the drafting process, a Bill of Rights could be crippled. Any rights charter that is seen as imposed, or framed by lawyers and civil servants alone, will always run the risk of being damaged goods. However, the chance to draft a Bill of Rights is also a tremendous opportunity for the people of Northern Ireland to articulate shared values and fundamental norms. Rather than being another fiercely contested by-product of the Belfast Agreement, it could become a positive statement of the aspirations and values of the people of Northern Ireland. It remains to be seen whether this opportunity will be grasped.

A Bill of Rights could also have the practical impact of empowering individuals, groups and communities. It can provide a way for them to push for change to laws and administrative practices that they regard as unduly oppressive, onerous or unfair. It could offer legal remedies for oppression, inertia or negligence by public authorities: it could do the same for some denials of basic entitlements and state inaction in the face of acts by third parties. New avenues for legal challenges can be opened up, which were previously closed off. New forms of argument and conceptual debate can be infused into the legal system, which can refresh stale approaches and stagnant rules. Groups such as the disabled can be given new methods of fighting for better treatment. Even if these legal routes will not always produce good results, the debates stirred up can in themselves be invaluable for the democratic and civic process.

However, a Bill of Rights can also offer more than new tools for litigants and pressure groups. Often, rights charters are viewed just as a lawyer’s plaything. This negative impression obscures how bills of rights can be drawn upon as a symbolic statement of values by groups and communities, when they try to articulate their case for more resources, respect or protection. This can open up political debate to new forms of rights-based arguments, which can gradually shift the parameters of public policy. Of course, rights language can be used in political debate, even in the absence of a Bill of Rights. However, its existence can sharpen the focus on the claims of disadvantaged groups. A Bill of Rights is a commonly-agreed statement about the values a society aspires to respect: therefore, arguments that these values are not being given their due can have greater resonance in societies with rights charters than those without. ■

Around the table on a Bill of Rights

by the Human Rights Consortium

The Human Rights Consortium (a coalition of 111 organisations) has been actively campaigning for a strong and inclusive Bill of Rights for Northern Ireland since 2000. We have organised many events including an open discussion at Stormont between civil society and politicians and produced many publications including the very popular 'Frequently Asked Questions about a Bill of Rights'. We also put together a case study leaflet of eight personal stories of individuals who feel a Bill of Rights would be of practical benefit to them.

One such person is Claire McCambley, a young person and a wheelchair user who says a Bill of Rights: "...would mean society would have to start listening to young people and listening to those with disabilities. If our voice was heard and our wishes acted on more often, our quality of life would improve hugely."

We have commissioned research papers, held media launches and regularly meet with politicians, the two governments and other stakeholders to press for a strong and inclusive Bill of Rights. In the next few months we will be making some internal changes to our governance structure and more excitingly, will be hiring a full-time campaigner and part-time admin staff to fully realise our goals over the next two years.

The Consortium recently met with Ministers of the British and Irish governments to push for movement on establishing the proposed Roundtable Forum of political parties and civil society to push the Bill of Rights forward. We feel the Roundtable is an essential next step in securing a strong and inclusive Bill of Rights and are delighted the NIO are finally planning to move ahead with this.

A Roundtable Forum is clearly a unique opportunity to bring political parties and civil society together to discuss the rights the Consortium would like to see protected in a Bill of Rights, and as such will also serve as an effective way of encouraging debate among wider society about this important issue. However, there is work to be done in deciding how the Roundtable should operate. Important questions such as how will civil society be represented? who will chair it?

how will decisions be made? - will all need to be answered in the immediate future to ensure that the Roundtable operates in as effective and productive a manner as possible.

The Consortium has developed a set of principles to inform this discussion and has distributed these widely. In summary, these principles are:

Aims of Roundtable Forum:

- Civil society and political parties to reach agreement on rights and values for Northern Ireland's future.
- Consensus among the political parties and civil society
- Draft provisions of a Bill of Rights for NI and give to the Secretary of State.

The Roundtable Forum will:

- Engage political parties and civic society (the latter to be adequately represented)
- Have an independent chairperson.
- Be adequately supported and resourced, with own independent secretariat.

The Chair of the Forum should:

- Have an established international reputation.
- Have knowledge and experience of human rights principles.
- Be experienced in political negotiation and the implementation of reform.
- Be independent of both governments.

Process:

- Guided by principles of openness, transparency, inclusiveness, and accessibility.
- Hearings should be held in public, in a variety of locations – with oral testimony to help reinvigorate the debate and develop ownership of the process.

Decision-making:

- No one participant or group should be allowed to 'veto' proposals.
- Decisions should be made on the basis of broad agreement and on the basis of the following criteria:
 - No undermining of current international/regional protections.
 - Recognisable gains, especially for the most disadvantaged.
 - Effective enforcement mechanisms.
 - Represent the diversity that is Northern Ireland.
 - Promote equality for all.
 - Move beyond the ECHR to include in particular socio-economic rights.

Role of NIHRC:

- Remain independent of the Roundtable process.
- Forum builds on the work carried out by the Commission to date.
- Commission could comment on the final Roundtable proposals from a legal and technical perspective in presenting to the Secretary of State its final advice.

Role of Government:

- Listening brief.
- Provide adequate resources to the process.
- Commit themselves to implement the Forum's proposals where these have widespread support and meet the criteria outlined above.

For a full copy of the Consortium's Roundtable principles, details of its activities or if your organisation would like to become a member, please contact info@billofrightsni.org or telephone (028) 9096 1128.



Enquiring into the past

In our last issue Alan Brecknell of the Pat Finucane Centre wrote authoritatively on Article 2 of the ECHR and dealing with the past, specifically addressing the establishment of the Historic Enquiries Team (HET) within the PSNI. The government has so far only addressed the subject through our criminal justice system, in the form of policing. Yet, unlike other jurisdictions such as France, we have no time line for the closure of police files and closure therefore, for the over 2,000 unsolved killings which the PSNI has always been under a statutory duty to investigate. It could be argued that the government has, in funding this team, merely released funding to make it practicable for the police to fulfill what was already their duty.

Alan in his article, explained that the Chief Constable had made considerable efforts to refer to the HET as a criminal justice tool and not a truth and reconciliation mechanism. Indeed, he initially referred only to 'evidential potential' as the driver of this team, in that, officers would only look for unexplored evidential opportunities which might lead to further investigation. However, more recently the HET has promoted itself as focusing on the objective of 'maximum disclosure'. It is of concern that this objective comes without the superstructure of a truth recovery system or specific truth and reconciliation legislation, which assisted other countries in their transitions from conflict. It is difficult to see how the families will have access to the 'truth' that they seek when the PSNI will remain legally bound on key points of disclosure such as the identities of those involved in their inquiries. Furthermore, the PSNI has a very tight time focus to its work meaning that each week a set number of cases, presumed to be in double figures, must be dealt with. Additional human rights concerns are raised by the

prospect of cases being passed from the HET to the Police Ombudsman for Northern Ireland, operating with different, time lines, protocols and disclosure.

Much has been added to the Commission's understanding of 'dealing with the past' by a recent UN workshop on conflict and post-conflict situations hosted by the Commission in June for National Human Rights Institution's. The workshop, covered issues such as the role of national human rights institutions, impunity, accountability, the role of state and non-state actors and securing public confidence. Interestingly, all delegates took the time to stress the vital pre-requisite of national human rights bodies being established on Paris Principles. We, in Northern Ireland, were at a clear disadvantage compared to most of the national human rights institutions represented as we continue with efforts to secure our powers. Delegates discussed amnesties and postponing accountability for individuals in the securing of peace. Recognising that there is no single or uniform practice internationally in relation to amnesties, the Namibian spokesperson advised that concern for the constitutional compact caused a move away from accountability and, whilst peace was secured, it had left the country 'haunted' by the issues of the disappeared. Guatemala too reported that it was now paying a high price for impunity with over 20,000 homicides per year – ten years after its peace agreement was signed.

The Commission is currently investigating the potential of hosting a number of seminars in the autumn on the current criminal justice response to dealing with the past and the absence of other recovery mechanisms, and was hugely encouraged in this aim by the collective wisdom shared at the UN event. ■

by Virginia McVea,
NIHRC



The Human Rights Consortium represents a variety of sectors and thousands of people across Northern Ireland:

Action on Medical Negligence Association
Advice NI
Age Concern NI
AI-Nisa Association NI (Women's Group)
Amnesty International
Ballee Environmental Project
Barnardos
Belfast and District Trades Council
Belfast Carers' Centre
Belfast Travellers Education and Development Group
Belfast Unemployed Resource Centre
Belfast Women's Training Services
Carers NI
Centre for Global Education
Child Care NI
Children's Law Centre
Chinese Welfare Association
Coalition on Sexual Orientation
Committee on the Administration of Justice
Community Change
Community Development and Health Network
Community Dialogue
Confederation of Community Groups Newry
Community Restorative Justice Ireland
Conference of Religious of Ireland
Conflict Trauma Resource Centre
Corrymeela Community
Council for the Homeless NI
Democratic Dialogue
Dennett Interchange
Derry Trades Council
Disability Action
Ely Centre
Ex-Prisoners Interpretative Centre (EPIC)
Family Planning Association NI
Foyle Friend

Greater Shankill Alternatives
Groundwork NI
Help the Aged
HIV Support Centre
Housing Rights Service
Include Youth
Indian Community Centre
Institute for Popular Economics
Intercomm
Latinoamérica Unida
Law Centre NI
Linc Resource Centre
Low Pay Unit (Ireland)
Making Women Seen and Heard
Mencap
Multi-Cultural Resource Centre
MS Society Foyle Branch
Nexus Institute
NIACRO
NI Attention Deficit and Hyperactivity Family Support Group
NI African Cultural Centre
NI Anti-Poverty Network
NI Association of Citizens Advice Bureaux
NI Business Education Partnership
NIC – Irish Congress of Trade Unions
NI Council for Ethnic Minorities
NI Council for Voluntary Action
NI Public Service Alliance
NI Women's Aid Federation
NI Women's European Platform
NI Youth Forum
NUS-USI
North West Community Network
NW Consortium on Human Rights
NW Forum of People with Disabilities
Old Warren Partnership
Omagh Forum for Rural Associations

Organisation of the Unemployed NI
PAKT (Lurgan)
Parkanaur College
Pat Finucane Centre
Peace People
POBAL
Relate NI
Restorative Justice NI
Rethink Severe Mental Illness
Rights in Community Care
Rural Community Network
Save the Children
Simon Community NI
Social Economy Agency
Soroptomist International
Springboard
South Tyrone Empowerment Programme
Springfield Inter-Community Development Project
STEER Mental Health
Traveller Movement NI
Ulster Human Rights Watch
Ulster People's College
UNISON
Upper Springfield Development Trust
Victim Support NI
WAVE Trauma Centre
West Belfast Economic Forum
West Belfast Partnership Board
Willowbank Community Resource Centre
Women's Information Group
Women into Politics
Women's Resource and Development Agency
Women's Support Network
Women Together Moving On
Workers Educational Association
Young Citizen's in Action
Youthnet

Have human rights gone too far?



by Hanna Munter, NIHRC Intern
summer 2006

In the past few months, journalists, as well as politicians, have portrayed human rights as a potential threat to public safety. At times it has been argued that human rights have 'gone too far'.

Not only are such statements erroneous, but they are also often made by people who have little understanding of human rights and of what these rights entail. Hence, such statements are misleading and allow the general public to question the rationality behind human rights.

Because of such sensationalist news headlines and official announcements, some people conclude that human rights can be contrary to public safety and that human rights are being abused by criminals to have their sentences reduced. Even the UK government has vilified human rights by portraying "the Human Rights Act as an obstacle to the effective fight against terrorism and other forms of crime."¹ One high profile case involves the murder of a woman by Anthony Rice, a convicted offender who was on parole and who, according to news coverage, had recently 'won' back his freedom on human rights grounds.² Some news articles depicted this story as if the murder happened as a direct result of the criminal's individual rights being weighted against, and consequently, valued higher than the rights of the victim and society in general.

However, this is misleading. In the UK, human rights are safeguarded by the 1998 Human Rights Act. This Act embraces 15 fundamental rights and freedoms, basic, yet very important rights including the right to a fair trial, the right not to be tortured, and the right to freedom of thought, conscience, and religion. It is important to note that the only absolute right is the right not to be tortured. This means that all other rights can, if necessary, legally be limited to strike a "fair balance between the general interest of the community and requirements of protection for the individual's human rights."³ Convicted criminals who still pose a threat do not have a human right to have their sentences reduced. Anthony Rice did not have a human right to have his sentenced reduced.

According to a report by Her Majesty's Inspectorate on Probation, Rice was set free due to mistakes and misjudgments.⁴ Human rights law does not put the interests of rapist or terrorists above the rights of victims. On the contrary, human rights impose duties on the government to protect society against serious crimes such as murder and rape.

Moreover, human rights law has often played an important part in protecting the rights of victims.⁵ As has been the case here in Northern Ireland, human rights advocates have long fought to provide bereaved relatives with the right to have an independent and public investigation into the deaths of their loved ones. It is up to the government to implement competent law enforcement that secures public safety without jeopardising individual human rights. One does not cancel out the other. Ensuring that criminals have human rights does not endanger public safety.

Human rights are not about letting criminals out on the streets. Human rights involve a difficult balancing act between the rights of the individual and the best interests of society. Safeguarding human rights, which means the rights of everybody, including criminals, is not contrary to public safety. Quite the opposite, "public safety is a fundamental part of human rights protection."⁶ To claim that human rights are used as a means to protect those who break the law and that human rights are a barrier to public safety is a distortion. In short, the 15 rights and freedoms protected by the Human Rights Act have by no means been taken 'too far.' ■

footnotes:

1. Northern Ireland Human Rights Commission press statement, "Commission criticises government attack on human rights culture", 24 May 2006. Accessed at www.nihrc.org
2. See BBC News, "Mother sue's over killer's release", June 2, 2006, <http://news.bbc.co.uk/1/hi/england/hampshire/5041120.stm>
3. As footnote 1. above
4. "The Human Rights Act: Exploding the myths." Liberty, May 2006. Accessed at <http://www.liberty-human-rights.org.uk/issues/the-human-rights-act-exploding-the-myths.PDF>
5. As above
6. As above

New website goes live



The Human Rights Commission has recently launched its redesigned website – www.nihrc.org. The new resource marks a dramatic improvement in the appearance, navigability, accessibility and usability of the website, which has proved to be very popular with a 43% increase in visitor numbers since last year. All sections have been redesigned and reorganised in the first phase of an ongoing project aimed at improving and updating the Commission's web presence.

The Commission recognises that an attractive and easy-to-use website is essential for the development of its information, education, and public affairs work. The site has been warmly received by visitors keen to explore the range of new features and content that have been added to the site. The development of the new site is being carried out by leading Internet agency Net-finity, with staff from the Commission.

New features include:

- Regularly updated information on the Commission's activities including a comprehensive resources section, current press releases, full news archive, and education programmes.
- Downloadable resources including screensavers, e-postcards, and posters.
- A special focus section currently examining death investigations and the right to life.
- Links to new content and a range of local and international human rights agencies.

Peter O'Neill, NIHRC Head of Information, Education and Development, said: "Over the past six months a lot of time and energy has been devoted to evaluating the effectiveness of our old site and constructing a more dynamic and interactive version. We've achieved a great deal but there is still a lot more to do and I'm very excited about some of the items we are planning to deliver in the next phase."

This initiative is part of the unveiling of a new visual identity for the Commission, which has been used to brand the site and a new range of promotional and corporate materials. If you have any comments on our new website, please don't hesitate to contact us on information@nihrc.org. ■

www.nihrc.org

New strategic plan

by Peter O'Neill, NIHRC

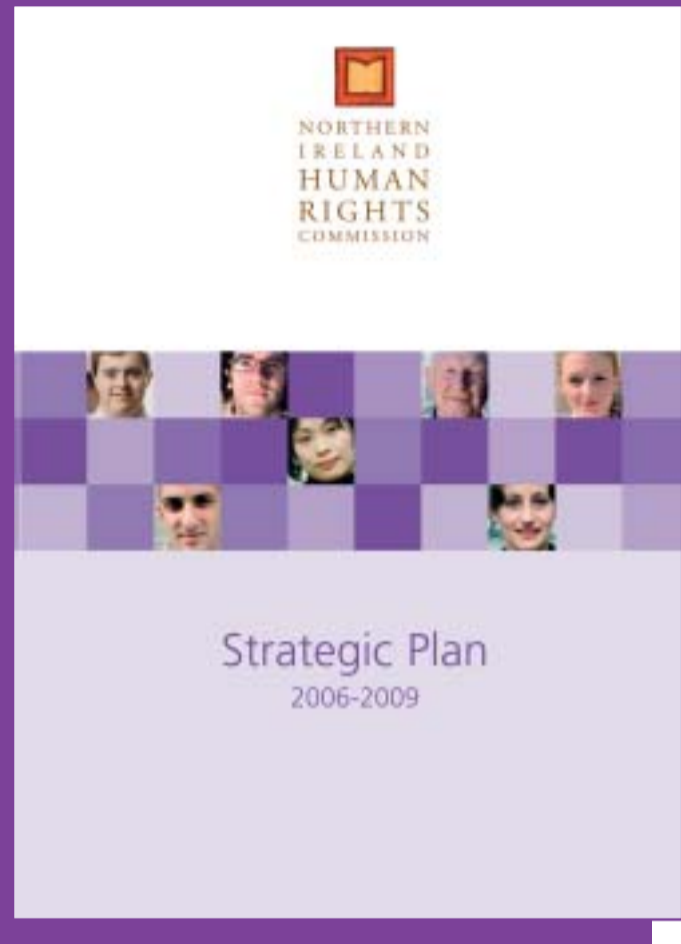
The Northern Ireland Human Rights Commission has published a new strategic plan which outlines proposed activities for the period 2006-09. The plan was developed following a wide-ranging consultation process and focuses on four key aims:

- Building a human rights culture in Northern Ireland
- Challenging and preventing human rights abuse
- Building support for a Bill of Rights and working in partnership with others for its implementation, and
- Building a strong and effective Human Rights Commission.

Established on 1 March 1999, through the Northern Ireland Act 1998, the Commission is moving into a new phase of consolidation and development as outlined in this third Strategic Plan. Based on a significant body of work from the past six years, the plan sets the priorities for the next three years and outlines the thinking of the newly reconstituted Commission. The strategy will govern the work of the Commission through its annual business planning process, to secure key objectives and to link those objectives to budgetary allocations. Progress on meeting the targets set will be reviewed and reported on an annual basis by the Commission.

The plan highlights the need for the Commission to identify a clear and distinct role in an increasingly crowded field of regulatory bodies and to work in partnership, where possible, for added impact.

With the Review of Public Administration, the shape of the public sector and how it is supported looks set to change significantly. In addition, the creation of a Commission for Equality and Human Rights in Britain and a Scottish Human Rights Commission will also have a bearing on how this Commission conducts its business, particularly at the international level. The accreditation of 'Paris Principles' compliant human rights institutions at the United Nations determines the level of access available at that level. Good relations, mutual support and a clear understanding of roles will be important with our new colleagues in this field. Moving from the position of the only statutory human rights body in the UK, it will be important that the Commission consolidates and builds on its current standing and level of representation.



Key to the planning process is clarity on the revised powers of investigation and access to places of detention proposed by the Commission in its Review of Powers document of March 2001. A consultation document from the Secretary of State was published on 16 November 2005 concerning proposed amendments to the governing legislation and we hope that these will be forthcoming in the next parliamentary session. In the interim, contact with Westminster departments will be a priority to ensure that the Commission has a voice in the development of legislation and policy affecting Northern Ireland, in particular on issues such as anti-terrorism proposals and the associated potential for further erosion of civil liberties in the UK.

The Commission has rightly been subject to significant scrutiny and advice in recent years. Further scrutiny will take place in the autumn of 2006, as the Commission is subject to a 'Landscape Review' by government of its purpose and activities. Three public opinion surveys have been undertaken by the Commission since 1999, setting benchmarks and assessing progress and a fourth is scheduled in 2006. The development at the United Nations of a framework for evaluating National Human Rights Institutions also provides support for a structured review of effectiveness to be undertaken.

Throughout the implementation process for this plan, Commissioners will engage effectively and listen closely to the advice of stakeholders as they seek to give focus to the wide range of demands and human rights concerns in Northern Ireland.

Priorities for action in the incoming period will be determined in light of commitments evolving from previous work, such as that on women in prison, the Bill of Rights and monitoring the Human Rights Act, and will also be shaped by new issues that have been brought to our attention through casework inquiries or research. Priority will be given to those issues which can best be accommodated in the clear and distinct remit given to this Commission.

The Commission has benefited from the advice of key stakeholders through various processes in the past and from the feedback of several independent reports. A new strategy for managing stakeholder relationships and a communication strategy are currently being implemented, which will enhance the opportunity for such constructive feedback and, provide an important touchstone for Commissioners as this plan is put into effect. The Commission would like to thank all those individuals and organisations who contributed to the consultation process on this plan, copies of which are available from our office or via the website www.nihrc.org ■

What hope for human rights?

by Hakeem Yusuf, NIHRC intern, summer 2006



By the time this article is published the newly established Human Rights Council (HRC) of the United Nations will have entered its first session. It replaces the erstwhile UN Human Rights Commission (the Commission).

The major criticism against the now laid to rest Commission is its membership. The Commission had members who were reportedly from some of the worst rights-violating countries. This, as the argument goes, compromised the Commission's decisions.

A lot of cheer and optimism has greeted the newly formed HRC. But is this optimism not misplaced? It is certainly early days yet to make definitive statements about the HRC. However, there are reasons to express grave caution about its ability to promote and protect human rights in the international arena.

Firstly, it is arguable that a new body was not necessary in the first place. If the weakness of the Commission was its membership, it was remediable through the democratic process. The tenure of the Commission's members was not permanent. A pragmatic approach was to simply vote them out at the end of their terms.

Secondly and related to the first argument, the mandate of the HRC is essentially the 'promotion' of rights through 'periodic reviews' and 'close co-operation with governments'. These were hallmarks of the now much maligned Commission. They all contributed to what is admittedly its major weakness of non-enforceability of its decisions. How the HRC will overcome this in view of its similar mandate remains to be seen.

Thirdly, is the vexed issue of membership. The position that human rights-violating countries are not 'fit and proper' to sit on this 'august' body is appropriate to secure the moral credibility of the HRC. However, the criteria to be applied in arriving at that decision are now more than ever, very controversial. In the light of the 'war against terror', critics now claim that America and her allies (principally the UK) have joined the league of gross violators of human rights. The UK is now sitting on the membership of the HRC. So is the Federation of Russia, despite the country's appalling record in the repression of Chechens. 'Rights upholding' China, as well as North Korea, have remained members.

My fourth argument is, the fact that nothing has changed. A study of the 'main themes' and 'special procedures' developed by the erstwhile Commission reveals they have now been repackaged as the 'new' role of the HRC in UN Resolution A/Res/60/251. The major difference appears to be that while the former reported to the Economic and Social Council, the latter makes its recommendations to the UN General Assembly. This development should ordinarily be something to cheer. It suggests concerted efforts backed by international political will could thus be harnessed for dealing with rights-violating states. However, the power of veto constituted in the UN Security Council leaves little hope for drastic measures being taken against rights-violating states who are either super-powers or 'Big Brothers' for such violators.

The question then is, where does the emergence of the HRC leave human rights in the international forum? Presumably pretty much on the same spot. What is required for the advancement of human rights is not a body recast from the same materials as the old. While the focus of the HRC education remains germane, it was one of the cardinal functions of the Commission. A clear departure from the traditional education and recommendations body is needed.

The HRC can yet justify the optimism that has accompanied its establishment. However, in order to bring this about, it is necessary at the level of the United Nations to sincerely address the position of human rights. Do we want an international human rights regime at all? If the answer is in the negative, that consensus dictates abolishing existing rights mechanisms including treaty bodies. But, if, as one suspects, the answer is in the positive then it is high time pragmatic decisions to ensure enforceability are taken. The existing regime of 'toothless' mechanisms has to give way.

The United Nations General Assembly ought to get it right this time before a lot of resources, human and material, are again committed to the HRC. After more than fifty years the UN human rights watch-dog should be vested with enforceable powers against violators. Hundreds of millions of people in different parts of the world continue to suffer human rights deprivations of every description. They deserve no less. ■

Learning for tom

"Ask the children to imagine that they are in a playground with many swings, climbing frames and other activities. There are many children in the playground all eager to play on all the equipment. Ask the children to suggest how they could make sure that everyone enjoyed their right to play?"

In late 2004 the United Nations (UN) General Assembly issued the proclamation of the World Programme for Human Rights Education, to be focused on primary and secondary school education systems. Here, in the Republic and Northern Ireland, the LIFT OFF programme was already established.



Fair play: Promoting children

by Carol Staunton,

The 2006 FIFA World Cup is done and dusted and the world will once again reflect on one of the biggest sporting events in the world, second only to the Olympic Games. A dearth in qualifiers from the British Isles left some fans here perplexed as to what team to support. Whatever the decision may be, it remains indisputable that this year's tournament was nothing less than an incredible showcase of extraordinary talent, team spirit, and a spectacle definitely worth the obligatory four year wait. Yet, unknown to many, the impact of the World Cup tournament was even more sacred for millions of other fans worldwide.

For many, including the legendary Bill Shankly, football is more important than life or death, and FIFA has recognised this, combining with UNICEF in recent years to endorse football as a tool for ensuring children's human rights. As the most popular sport in the world, football goes beyond the realm of globalisation and has been the pastime supreme of millions of children for many years already. Its consistency as a 'universal language' that unites children, and adults, of all backgrounds, classes, age and gender has ensured it continues to be played under, what UNICEF terms, the most amazing circumstances.¹ In times of war and even post-war, football has been successfully relied on to provide youths with a sense of normality, physical recuperation, leisure and, most importantly, hope. This has manifested itself clearly in the participation of the four African nations that made their World Cup debut at this year's tournament – Ghana, Togo, Ivory Coast, and Angola, the latter three having only recently emerged from war or internal conflict.

Tomorrow: The National Children's LIFT OFF Initiative

by Carol Staunton, NIHRC intern, spring 2006

The LIFT OFF programme is a cross-border partnership project between the Irish National Teachers' Organisation, the Ulster Teachers' Union, Amnesty International (Irish and UK sections) and Education International, which aims to mainstream human rights education in primary schools across the island. Aided by an amicable character named "Croc", an alien sent on a mission to learn about human lives and living, the initiative explores key rights concepts. These concepts are vital to understanding and dealing with the significant demographic and social change that the world, and the island of Ireland, is currently undergoing. Participating students are expected to understand not only their rights, but also their associated responsibilities, as set out in the Universal Declaration of Human Rights and the UN Convention on the Rights of the Child.

The project began in 2001 with twenty schools from both sides of the border participating. Each year the number of participating schools continues to rise, with the cumulative number reaching over sixty for last year alone. Success can be gauged not just in terms of the project's ambition and pioneering aspects, but also by feedback from participating students and teachers. One Principal from Northern Ireland

noted, in reference to the project, that "when children and adults use the language of human rights in their everyday lives and practise it in the classroom and throughout the school there is less likelihood of bullying and other conflict".² Similarly, a pupil from the Republic was also positive, that on "such a small island that has experienced so much conflict and political controversy, peace is the only way forward. I think human rights education is needed in all schools to educate children about peace and human rights for now and for the future of this country."³

The early interest and success of the LIFT OFF programme was underlined at a human rights education conference: "Teaching; Learning; Living Human Rights", convened at Dublin Castle in October 2005. Elena Ippoliti representing the UN Human Rights Commission, who outlined why this programme is prioritised at an international level in improving participation and overall quality of the schooling of children through human rights education, said: "by supporting the social and emotional development of the child and by introducing democratic citizenship and values [human rights education] contributes to social cohesion and conflict prevention."

Plans for the 2006 Conference on Human Rights Education, due to take place in Belfast on 20 October, are well under way. Like the conference before, it will be jointly hosted by the Irish Human Rights Commission, the Northern Ireland Human Rights Commission, as well as the LIFT OFF initiative. It aims to link with and develop the content of last years assembly to 'engage, inform, inspire, and equip' its teachers, policy makers and others concerned with this issue. The 2006 Human Rights Education Conference will not only highlight the achievements of this cross-border initiative, but also equip practitioners with the knowledge and skills to make human rights education a reality in schools in which they work.

For further information on the initiative and directions on how to participate, consult the LIFT OFF website: www.liftoffschools.com ■

footnotes:

1. Taken from "LIFT OFF: Introducing Human Rights Education Within The Primary Curriculum".
2. http://www.liftoffschools.com/news_article_one.html
3. <http://www.comhlamh.org/training/303>

Children's human rights through football

NIHRC intern, spring 2006

The previous World Cup held in Japan and South Korea was the first to be completely dedicated to a humanitarian cause; in this instance dedicated to children's rights under the banner, "Say Yes for Children". The aim of the campaign was to turn attention to children's rights issues by advertising their plight to the huge audience the World Cup boasts. For example the 2002 World Cup claimed a viewership of almost 30 billion (throughout the whole tournament) in 213 countries² – such is the influence the sport has worldwide. FIFA's dedication to the cause was punctuated by football initiatives worldwide during the tournament such as a mini-world cup in Afghanistan, a mini-final in Sierra Leone, a penalty shoot-out in the United States and football tournaments in Bangladesh. Overall, the message highlighted by the FIFA/UNICEF alliance in 2002 was that every child has the right to play football and to grow up in good health, peace, and dignity.

The importance of the sport as an instrument in children's rights has been cited for quite some time. It is a valuable education tool, providing a familiar setting in which to bring potentially life-saving information to hard-to-reach youth, such as in Kenya, where half-time team talks include lectures about the hazards of unprotected sex and HIV/AIDS. As well as this it has been deemed a powerful instrument to promote peace among young people, as cultural differences and political agendas dissolve with

the passion and team responsibility the game provides.³ The ever-growing popularity of the sport has also ensured that gender stereotypes are fast being eroded. Brandi Chastain, whose penalty kick won the Women's World Cup for the US team in 1999, has said that "football games give girls the opportunity to play in public and the encouragement to succeed."⁴ But most importantly perhaps, this emphasis on children and football strengthens the right to play that the Convention on the Rights of the Child includes as one of the fundamental rights of all children.⁵

That this FIFA/UNICEF initiative will reap the rewards remains to be seen. The World Cup has provided the global audience with the launch of another high calibre football festival, but also signalled the launch of the alliance's latest

children's rights initiative. Under the official emblem of this year's tournament, "The Celebrating Faces of Football", the world once again unified in the love of the beautiful game, while exposing itself to the plight of children worldwide, an act that can only benefit the dual-partner initiative and continue to help transform the lives of young football fans internationally. ■

footnotes:

1. <http://www.unicef.org/football/>
2. <http://www.fifa.com/en/marketing/newmedia/index/0,3509,10,00.html>
3. <http://www.unicef.org/football/>
4. <http://www.unicef.org/football/2002/players/chastain.html>
5. <http://www.unicef.org/football/2002/why/index.html>



Human rights in conflict resolution

A unique conference examining the role of human rights institutions in conflict resolution took place in Belfast during 20-22 June 2006. The event organised by the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the Northern Ireland Human Rights Commission attracted 35 participants, representing 24 different national human rights institutions.

According to Mr Orest Nowosad, Co-ordinator of the OHCHR National Institutions Unit:

"The overall objective of the conference was to provide a forum for National Human Rights Institutions to address their role in situations of conflict and post-conflict. Through the sharing of experiences and best practice, different approaches to conflict and post-conflict situations will be assessed in relation to the effective protection of human rights. The discussion was based on the existing approaches to conflict resolution by national institutions, providing participants with the opportunity to develop practical strategies in the protection and promotion of human rights in conflict situations."

The Conference, which was funded by OHCHR through support offered by the European Commission, was held in Belfast to allow participants to see at first hand the challenges of protecting human rights in a society which has experienced communal violence and political instability, situations common to most of the participants.



UN conference participants

Professor Monica McWilliams, the Chief Commissioner of the Northern Ireland Human Rights Commission commented:

"National Human Rights Institutions are at the cutting edge of the work of the international community in ensuring the protection of human rights at the national level. They are often the best placed to help prevent and resolve conflict as they possess the necessary insight and knowledge of the historical and cultural contexts to effectively address such issues in their respective societies."

"I hope that, as a result of hosting this prestigious event in Northern Ireland, we can learn from the international experience of peace-building. We are very grateful to the United Nations Office of the High Commissioner for Human Rights for making this event possible, and particularly to the many participants who have travelled so far to be here."

A report of the conference is available from the NIHRC. Please contact us for details. ■

New international initiative to

The Northern Ireland Human Rights Commission has welcomed a new initiative from the United Nations to prevent the use of torture and inhuman or degrading treatment or punishment.

The Optional Protocol to the UN Convention against Torture (OPCAT), a new international measure to prevent maltreatment in prisons and other places of detention, came into force on 22 June 2006.

According to Professor Monica McWilliams, Chief Commissioner:

"Prisoners, people detained for psychiatric treatment, and other people who are held in custody for any reason, are human beings who need to have their rights and welfare protected. Any state can sign up to a human rights treaty, but there is added value when they also agree to practical, independent monitoring arrangements."

"This initiative is an important development for the prevention of torture and mistreatment. We welcome the entry into force of the Protocol. We are glad that the UK was one of the first signatories and we hope that other states ratify this new instrument. The Northern Ireland Human Rights Commission has a strong record of working on the issue of detention and is keen to contribute to the monitoring process as part of the UK's national preventive mechanism."

Each country that ratified the OPCAT, including the UK, agreed to allow places of detention to be monitored by an independent "national preventive mechanism". This can be an existing or new body, or a group of agencies such as prison inspectorates and human rights institutions. The system will be overseen by a sub-committee of the UN Committee Against Torture.

The UN Subcommittee and national mechanisms will be able to access any form of detention where people cannot leave at will, such as prisons, police

stations or psychiatric hospitals. These bodies will have access to all information on the treatment and conditions of prisoners and detainees, whom they will be able to interview in private.

It is not yet known how the OPCAT system will be implemented in Northern Ireland, but it has to be established within one year. The Human Rights Commission has worked extensively on prison issues, and expects its powers to be extended soon to allow it access to places of detention. It already reports regularly to UN human rights bodies, and liaises with the Council of Europe's Committee for the Prevention of Torture. There are other bodies in Northern Ireland with inspection and oversight roles, and the Commission is in discussion with them and with the government about how the new arrangements can be made to work effectively and efficiently.

The Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) was adopted on

Meet our Commissioners

In this regular feature we profile an individual Commissioner and for this issue we focus on Jonathan Bell.

Jonathan Bell is a graduate of Queen's University Belfast with a BA (Hons) Psychology (1991) and Master of Social Work (1996). He also holds a Diploma in Social Work - CCETSW 1996.

Jonathan was a Councillor for Craigavon Borough Council during 1997-2005 and was elected to Ards Borough Council in 2005. He is a member of the Northern Ireland Local Government Association, a Director of the Local Government International Bureau and professionally practices as Senior Practitioner in an adolescent social work team. He was appointed as a part-time member of the Northern Ireland Human Rights Commission in June 2005.

What prompted you to apply to be a Commissioner?

I can trace back my interest in human rights to my education at Sullivan Upper in Holywood. Particularly in History, a very gifted teacher Dr Rodney Brown motivated us to critically analyse major historical events and honed our debating skills. I chaired the Politics Society - there the Principal at the time, John Young, encouraged us to broaden our thinking and encouraged the international dimension in our debates. Many of our guest speakers, such as Chris Patten, went on to play major international roles. I applied for the Northern Ireland Human Rights Commission because I feel that I have an important

contribution to make to a society that is grounded in human rights principles.

Have you always had an interest in human rights?

Critical for me were two periods when I worked as an English language assistant for UNESCO in Hungary and Poland. There, I had the opportunity to meet many people who had a positive commitment to upholding and sustaining human rights principles.

When in Poland, I visited the Warsaw ghetto and Auschwitz and learned much about one of the greatest abuses of human rights the world has ever known in, what has correctly been termed, the Holocaust.

As a value base, being brought up as a Minister's son in Park Avenue Free Methodist Church, I learned invaluable lessons concerning the sanctity of human life and, as a Christian I carry the value that each and every human life was important enough for the Lord Jesus Christ to die for and that everyone is precious in His eyes.

How do you, as a Unionist, perceive human rights?

As a Loyalist who is committed to my Ulster-Scots culture and British heritage, I am proud of the rights tradition dating back to Magna Carta and following through to the Glorious Revolution and subsequent Bill of Rights in the late 17th Century. I have enormous respect for



my fellow countrymen, who, through two major world wars sacrificed so much for the freedoms and rights that we enjoy today.

In your current profession as a social worker, do you encounter human rights issues?

I took a Masters Degree and professional Diploma in Social Work and currently practice as a Senior Practitioner in an Adolescent Social Work team. Human rights issues pervade all aspects of my work in the family and child care practice. Principally we have the abuse of children manifested in sexual, physical, emotional abuse and neglect. There are major issues when deciding upon a care order and dealing with young people in the juvenile justice system. There are also major issues when deciding upon and following through on a secure accommodation order, where a child is at risk of significant harm and where no other accommodation is deemed suitable.

There was some controversy from within Unionist circles regarding your appointment. How do you think you are perceived within your community now as a Commissioner with the NIHRC?

I have had many people supportive of my role as a Commissioner and equally about as many critical – some vociferously so. I am content to be judged on the role I have played and the contributions made. If, at the conclusion of my time as a Commissioner, there is a greater understanding of human rights in Northern Ireland, and as a society we are operating effectively on human rights principles, I will regard it as time well spent. ■

prevent torture



18 December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199. The Protocol was available for signature, ratification, and accession from 4 February 2003.

On 23 May 2006, Honduras and Bolivia ratified the OPCAT, which brought the total number of States Parties up to the necessary 20 ratifications to bring it into force on 22 June 2006. The UK government was one of the first to ratify it in December 2003. This has been one of the fastest ratification processes of an international human rights treaty. ■

International human rights: UK reporting obligations

Treaty	Department / Contact	Reporting Cycle	Date of next UK report and/or examination	Date of next UK report and/or examination
International Covenant on Civil and Political Rights (ICCPR)	Department of Constitutional Affairs	5 years	6th report due November 2006	Available on www.unhchr.ch Document References: UK (Metropolitan Report): CCPR/C/UK/99/5 OTs (4/5th report): CCPR/C/UKOT/99/5 Concluding Observations on CD report: CCPR/C/79/Add. 119 Concluding Observations on UK's 5th report and combined 4th/5th OTs report: CCPR/CO/73/UK; CCPR/CO/73/UKOT
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Department of Constitutional Affairs	5 years	4th report submitted January 2001; examination May 2002; 5th report due 30 June 2007	Available on www.unhchr.ch Document references: OTs (Fourth report): E/C.12/4/Add. 7-8 Metropolitan and CDTs (Fourth report): E/C.12/4/Add 7-8
UN Convention on the Elimination of Racial Discrimination (ICERD)	Home Office	2 years	Two combined UK and OTs report 6 April 2006	Available on www.unhchr.ch Document references: UK (Metropolitan and CDT) fifteenth periodic report: CERD/C/338/Add.12 Part 1 OTs fifteenth periodic report: CERD/C/338/Add.12 Part 2 Concluding Observations: CERD/C/304/Add.102
UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW)	Women and Equality Unit	4 years	Dependent on discussions, provisional May 2007	Fourth periodic report available on www.unhchr.ch Document references: - UK's fourth report: CEDAW/C/GBR/4/Add 1-4 - Concluding observations: A/54/38 paras 278-318
UN Convention against Torture(UNCAT)	Department of Constitutional Affairs	4 years	2008	All available on www.unhchr.ch Document references: UK third periodic report (whole): CAT/C/44/Add. 1 Concluding Observations: A/54/44 paras 72-77
UN Convention on the Rights of the Child (UNCRC)	Department for Education and Skills	2 years	Combined UK 3rd/4th report due 15 July 2007	UK second periodic report available on www.doh.gov.uk All other reports available on www.unhchr.ch Document references: - OTs concluding observations: CRC/C/1 5/Add. 13 5 - OTs initial report: CRC/C/41/Add.7 - Falklands initial report: CRC/C/41/Add.9

Source: DCA

Health and human rights

by Virginia McVea, NIHRC

As we reported in our first issue of this magazine, since 2003 the Commission has been investigating deaths in hospital in regard to Article 2 of the European Convention on Human Rights.

The initial report produced in 2004 by the Northern Ireland Human Rights Commission, and authored by Professor Tony McGleenan, committed the Commission to meet separately with all the range of interest groups. Throughout 2005 we met with bereaved families, Coroners, health professionals, the PSNI, the Regulation and Improvement Authority, lawyers and other representatives of the bereaved. We further benefited from a discussion with then Deputy Chief Medical Officer Dr Ian Carson (the new Chair of the Regulation and Quality Improvement Authority).

Following a study tour in Australia in late 2005, the Commission hosted two events in 2006 the first of which, in February was on the subject of clinical governance and patient safety, with Professor Allan Spigelman from Australia as a keynote speaker. The second seminar, on barriers to patient safety, was a landmark event as it was the first time that all interest groups had met together in Northern Ireland to publicly discuss shared concerns. That event featured a superb presentation from Professor Paul Barach and was held in the Long Gallery at Stormont on 25 April with the support of all political parties. From the responses received to the evaluation questionnaire we would appear to have achieved our objectives of broadening international understanding of the barriers to patient safety, engaging with politicians and facilitating dialogue between the different interest groups for the first time. One evaluation remark summed up the responses to the Commission which, without exception, asked us to continue this work:

"I feel that the Commission's work on the subject of patient safety is very worthwhile and should definitely continue. Almost everyone will have contact with the hospital services at some stage. Hence, this is an area which can truly be said to affect the lives of all."

In stressing the high proportion of admissions to hospital of people who suffer preventable adverse events, our speakers at these events called for more 'forced functions' to protect life, by way of protocols and check lists because, as many speakers have stated, "unless you identify a process of failure you can't deal with it". Speakers elaborated on the idea that although you cannot stop human error, you can minimise the potential for harm to result. In this discussion, Paul Barach, in particular, referred to a number of international studies which highlighted the 'lessons

learned from one or less' and criticised the notion that swathes of cases creating a pattern must be involved before lessons can be learned. The impact of system failures on health care providers themselves was raised, as were systems of personnel development and appraisal. Paul praised the Commission for linking patient safety with human rights and encouraged us to continue arguing for a human rights dimension to decision-making in health care.

The Commission hopes to host another event in October, this time with Graeme Johnstone, a senior coroner from Melbourne, to discuss the role of prevention in investigations, and we intend to hold the first Northern Ireland conference on health and human rights in the near future.

We would like to thank all those who have taken the time to add to our

knowledge and general understanding of the issues involved. We appreciate that the candid exchange of experiences, which has proved invaluable to our work often comes at a considerable cost to individuals and families.

If you are interested in engaging with the Commission on this subject or receiving further information on the events referred to in this article, please contact Virginia McVea at the Commission. ■

Essay prize winner



The Northern Ireland Human Rights Commission annual prize for the best human rights essay in the Law Faculty at Queen's University of Belfast, was this year won by Emma Logue, currently attending the Institute of Professional legal Studies.



Screensaving our rights



Chief Commissioner Monica McWilliams with the winners of our "screen saving our rights" awards scheme (left to right) Matt Evans, Bradley Wright and Alison Parks at the launch of the exhibition on 29 March 2006

Review of police training

The Northern Ireland Human Rights Commission recently launched a report examining human rights training in the Police Service for Northern Ireland (PSNI).

Since 2000, the Commission has carried out work in monitoring the human rights training of police officers. There are many circumstances in which the police may legitimately interfere with a person's human rights in order, for example, to protect the rights of others. It was therefore important for the Commission to prioritise the monitoring of the training provided for this professional group as opposed to others.

The Commission has worked closely with the Police Service to promote compliance with human rights standards through its

training programme. The Commission has produced a series of four reports documenting human rights monitoring work in this area. This present report is the fifth in the series and focuses on Stage Two of the Probationer Training Programme – The Tutor Constables Scheme (TCS).

The Commission was invited by the PSNI to look at the training materials and to observe training sessions taking place with participants at various locations across Northern Ireland. The Tutor Constable Scheme (TCS) is a ten-week "tutorship" period, which constitutes the second stage of the PSNI's Probationer Training Programme. The Commission's report provides a description of the main features of the TCS, and outlines the ways in which a probationer's tutorship experience may

vary, according to whether she or he is attached to a "tutor unit" in the PSNI's urban region or a District Command Unit (DCU) in its rural region.

The evaluation of this particular training programme concludes that, although there are a number of weaknesses, in general, the training programme for Tutor Constables is progressively incorporating a human rights framework.

According to Professor Monica McWilliams:

"The Commission welcomes this engagement with the PSNI on how to improve its training programmes. In doing so, we recognise that placing human rights at the heart of policing is a dynamic process. The Human Rights Commission sees its role as one of ensuring along with

others, including the PSNI itself, the future development of a human rights based approach to policing."

The Commission is grateful to Mark Kelly, the independent human rights

consultant, who carried out the research, and to our staff involved in the project.

The report can be obtained by email or in hard copy from the Commission's office and is available online at www.nihrc.org. ■

