

# **Written Evidence to the NI Assembly Ad Hoc Committee on the Bill of Rights**

## **A Bill of Rights for Northern Ireland**



### **The Workers Party**

The Workers Party has stated its demand and campaigned for a Bill of Rights for Northern Ireland for over 50 years. We are still at the "consultation" stage.

It is particularly disheartening, after the people of Northern Ireland have been subjected to state and paramilitary violence, sectarian terror and economic and social deprivation, given that the Belfast (Good Friday) Agreement indicated that a Bill of Rights should form part of a lasting settlement, and after the Northern Ireland Human Rights Commission conducted a lengthy consultation and made recommendations to Government on a Bill of Rights for Northern Ireland, that the citizens of Northern Ireland are still waiting.

#### **Relationship between citizens and the state**

The Workers Party's attachment to the concept of a Bill of Rights is not based on sentiment or on some abstract philosophical position. We believe that the purpose of a Bill of Rights is to establish and guarantee the relationship between citizens and the state and must form the basis for democratic rights as the guarantor of the civil liberties of all citizens and of the political rights of all political parties, groups and individuals and expressly guarantee that everyone in Northern Ireland is equal before the law and has equal rights. Such a Bill must enshrine fundamental principles constituting a clear statement about the nature of any political institutions established and operated in Northern Ireland.

The Bill of Rights would operate as a mechanism to permit political life to flourish and would act as a solid foundation for the democratic process. To that end a Bill of Rights must provide a positive statement of the rights which each citizen can expect and demand of the state and it must provide the means whereby those rights will be protected and enforced if they are infringed.

## **Social and economic construction**

The Workers Party has previously expressed concerns that the inclusion of social and economic rights in a Bill of Rights in the context of an increasingly market oriented economy may constitute a mere sop by formulating those rights on a minimalist basis requiring only that the State uses its best efforts within the resources available or which leaves the interpretation of what is "adequate" to the bourgeois state, its agencies and its courts. We believe that the protection of civil and political rights cannot be effectively guaranteed in any meaningful fashion without a full programme of social and economic construction.

While the Workers Party is fundamentally and unequivocally committed to establishing social and economic rights, we believe that this can only be achieved by the implementation of a radical and progressive socialist programme. If, however, a robust framework of economic, social and environmental rights which advances such demands for the working class can be articulated in a manner which addresses its concerns the Workers Party would support the inclusion of these rights in a Bill of Rights.

## **"The two communities"**

The Workers Party has historically resisted and has serious reservations about the language and content of any proposal to which might entrench an electoral system to provide for "both main communities" in Northern Ireland. The Workers Party has consistently objected to the concept of "the two communities" in Northern Ireland. This language consolidates and promotes sectarian division and to place such a concept at the heart of Bill of Rights diminishes the concept of citizenship on which rights should be based and institutionalises the sectarian division in perpetuity. The architecture of the GFA has already contributed to the consolidation of sectarianism at the heart of government.

A commitment to anti-sectarian politics is fundamental to the political programme of the Workers Party. We supported the Belfast Agreement at the time but with serious reservations given the sectarian edifice upon which it was to be constructed.

The Workers Party challenges the institutionalised architecture of sectarianism reproduced in the Belfast Agreement and given flesh in the current devolved administration through its all-class tribal alliances. We are committed to a political system where the majority of the population, the working class, regardless of communal background, is properly and fairly represented in all aspects of political life. A Bill of Rights should reflect and underpin that ambition.

The Workers Party, while content with a requirement in a Bill of Rights to take effective measures to promote mutual respect and understanding (or “parity of esteem”) wishes to make clear that is not taken as an opportunity to promote and celebrate sectarian division rather than encouraging that which unites. Opinions which espouse fascism, sectarian, gender, or race hate or homophobia should not be protected.

The Workers Party believes that in relation to language rights, public authorities must, as a minimum, act compatibly with the obligations undertaken by the UK Government under the European Charter for Regional or Minority Languages in respect of the support and development of Irish and Ulster-Scots.

### **Freedom from violence and harassment**

The Workers Party supports the inclusion of a right to be free from all forms of violence and harassment and refers, in particular, to violence and harassment which is domestic, sexual, gender-related, sectarian or motivated by hate. While we agree that a right to freedom from sectarian violence or harassment or a duty on public authorities to ensure such freedom cannot alone bring about the end of sectarianism it would provide an important building block in the campaign to defeat sectarianism.

Northern Ireland remains a deeply divided society. Children are educated separately. There is a polarisation in terms of where people live. The brutal in-your-face manifestation of sectarianism which sees people assaulted or driven from their homes because of their perceived religious affiliation (or race or sexual orientation) is the mere tip of the iceberg. Beneath the surface lies the deep, hidden, dangerous body of sectarianism which infects society at large and which poisons both the body politic and civil society.

The Workers Party believes that there is one community in Northern Ireland, fractured and divided by sectarianism. Our ideology is founded on the politics of class. We subscribe to the creation of a working class, united and indivisible, which has sufficient power and political class consciousness to transform the society in which we live.

Every step or action that encourages, incites or promotes division is an obstacle to building a united working class and a gain for the politics of division. The politics and culture of division lacks a programme for social and political transformation. It reinforces the existing social and economic order, especially in its class relations.

The Workers Party promotes the ideology of class politics and repudiates the politics of tribal identity.

### **Equal citizenship**

A Bill of Rights grounded on a concept of equal citizenship will play a valuable role in the struggle to end sectarianism.

The Workers Party also supports the inclusion of a right that no one may be forced out of their home by threats or harassment or evicted without an order of a court and that public authorities must take all appropriate measures to ensure the protection of this right.

The Workers Party believes that the rights of "victims" must be protected ensuring that all victims require protection including rights to redress and to appropriate material, medical, psychological and social assistance.

Given the revelations about the widespread abuse of children (including institutional abuse) public authorities must take all appropriate measures to ensure the right of every child to be protected and to appropriate support.

### **Fundamental civil rights**

Northern Ireland has the experience of power remaining in the hands of one political group for the greater part of the life of the state. This experience and the subsequent period of direct rule witnessed the abuse of political power and the violation of civil and political rights. It is not sufficient for the people of Northern Ireland to remain dependent on the goodwill of the government of the day. Fundamental civil rights should be clearly formulated, unambiguous and should not be conditional upon the whim of the State.

Northern Ireland has been subjected to emergency legislation since the inception of the state and the apparatus of the state has been enveloped in a shroud of secrecy in which civil and human rights were accorded little importance. The advantage of a Bill of Rights lies partly in its ability to provide reassurance in circumstances where society is undergoing change, particularly political change and uncertainty.

The great test for a Bill of Rights is likely to arise in circumstances where the state believes or purports to believe that the exigencies of a particular situation require the state to derogate from its obligations. For those reasons the Workers Party supports the view that any derogation clause should be strictly limited and certainly more limited than the derogation clause which the HRA applies to Convention rights.

A Bill of Rights should afford an expeditious remedy to those whose rights have been infringed. Section 6 of the HRA makes it unlawful for a public authority to act in a way which is incompatible with Convention rights unless it is required to do so to give effect to primary legislation. The HRA does not define "public authority" but expressly includes "courts and tribunals" and "any person certain of whose functions are functions of a public nature". Under the provisions of the HRA a person is a victim of an unlawful act only if that person would be a victim for the purposes of Article 34 of the ECHR if proceedings were brought in the European Court of Human Rights.

In terms of representative actions or public interest litigation the Convention approach is more restrictive than the approach adopted in judicial review proceedings where an applicant for review must show a "sufficient interest" to obtain standing.

### **Defining 'public authority'**

The Workers Party believes that individuals and organisations in addition to victims and the Human Rights Commission should be able to commence human rights cases against public authorities under the provisions of a Bill of Rights and that there should be a more wide-ranging definition of "public authority" for the purposes of the Bill of Rights. Access to a remedy for infringement of a right would be a positive development and the courts have no particular problem dealing with the concept of "sufficient interest" in judicial review proceedings.

The Workers Party agrees that the rights in a Bill of Rights should be justiciable. A Bill of Rights should contain fundamental principles which would constitute a political statement about the nature of the political institutions established and operated in Northern Ireland. It must commit unequivocally to a secular society.

The Workers Party believes in a society where citizens are free to practise their religious beliefs subject to respect for the rights of others, to change their religious affiliation or to choose not to hold any religious belief. No church or religious belief should be endorsed or conferred with any special rights or privileged position by the state. Politicians, elected to public office, should not use that office to endorse or express religious views or preferences in the course of their public duties. The Workers Party demands complete separation between church and state and by that we mean there is no place for a special position of any church, denomination or religious belief in the public life or institutions of the state. This must be stated explicitly in a Bill of Rights.

### **Secular, democratic society**

The Workers Party is committed to the primacy of a secular democratic society based on principles of equality and justice and supports the need to defend the state against all those who seek privileges and special treatment on the grounds of their religious belief, whatever that belief.

The Workers Party believes that it is the duty of the state to create public institutions and spaces which are religiously neutral and this includes schools, hospitals and places of work. Faith based schools, of whatever religion, serve to divide youth and foster difference. Children should be educated through and in a properly integrated, secular, coeducational, comprehensive, state-funded system of education. The state should abolish religious instruction in schools and ensure that school courses are taught free from the influence of particular religious beliefs. The State should be constantly vigilant against any church-state agreement or arrangement which might attempt to impose a position or stance on political decision-making. The Bill of Rights must reflect secular values.

### **Women, families and reproductive rights**

A Bill of Rights must also address the rights of women and, in particular, family planning and reproductive rights, including the right to abortion, and the right of women to full and equal participation in political decision-making and public life. It must address the rights of workers and encompass core international standards of trade union rights. The rights of workers must not be left to the whim of government. Workers must have the right to organise, to freely establish their own governance and rules of procedure, to freely organise their administration, activities and programmes of work, to organise in workplaces and engage in collective bargaining on behalf of trade union members, to strike in defence of their own interests and in solidarity with other workers.

The creation and implementation of a Bill of Rights remains an urgent priority and must not be further delayed or diminished.

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