Northern Ireland Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Civil Service (Special Advisers) Bill: Briefing from Professor Peter Shirlow

16 January 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Daithí McKay (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mrs Judith Cochrane
Mr Leslie Cree
Ms Megan Fearon
Mr Paul Girvan
Mr John McCallister
Mr Mitchel McLaughlin
Mr Peter Weir

Witnesses:
Professor Peter Shirlow

The Chairperson: I welcome Professor Peter Shirlow from Queen's University Belfast. You are very welcome.

Professor Peter Shirlow: Thank you.

The Chairperson: Do you want to make a quick opening statement?

Professor Shirlow: There are several things. Hopefully, the information is available. It is important, at the outset, to say that there is no unified victims' voice. We have to realise that there are multiple voices regarding victimhood. That is crucial.

Some comments were made about voicelessness. We have seen, through funding, media coverage, etc, that there is no voicelessness of victims; victims' issues are very well articulated in our society. They come from disparate backgrounds and have different interpretations, but they are most certainly there. I agree that the funding should have been given; over £70 million has been given to victims' groups. The idea from some of the representations that are made that there is no funding, there is no place for victims, or that they are voiceless, is untrue. I understand the emotions of that; I understand that, privately, many people feel that their concerns and desires are not listened to. One of the problems in this society is that the issue of victims creates so much noise that we do not get to grips with solutions, and we do not actually articulate and work our way through what would be progressive and meaningful for this society.

I think that it is also important to understand that victims' voices do not just fall between the orange and the green. I have spoken to police officers who are very supportive of conflict transformation among former paramilitary prisoner groups, and I have spoken to clergy across the ideological divide

who are also very supportive of that. What is very regrettable is this broad-brush approach that every person who was convicted of a conflict-related offence is the same. I think that, within those organisations, there is a broad constituency of people with different motivations, different experiences and, most certainly, different understandings of how they look upon their own past.

One of the things stated this morning should be corrected. There is massive exclusion of former prisoners from our society. It is legally enshrined in fair employment legislation that a person with a conflict-related conviction can be dismissed by an employer without any recourse, which many of us can seek through equality agencies and so on. So, I think that we have to correct that. I do not say that as either a republican or a loyalist. I say that as someone who has done detailed research on those communities and constituencies.

My argument is that we, as a society, should be engaged in conflict transformation. Conflict transformation is dirty, difficult and grinding. Sometimes it is successful, but sometimes it is not. I point to the fact that there has been no loyalist reaction to dissident violence as an example of transformation in loyalism. I point to the fact that people involved with former prisoner groups are working against dissidents. They have appointed groups such as Alternatives, which is doing excellent restorative justice work in Protestant working class areas. I also point to Lisburn PSP, a major social economy project for former UDA prisoners. So, a significant contribution has been made by former prisoners in the context of conflict transformation. My argument, as an academic, is how we measure and analyse that. I would not sit here and say that that work had taken place unless I had adequately measured it. I do not come here as a fellow ideological traveller. I come here as somebody who believes in conflict transformation.

Victims are always seen as those at the harsh end of violence in this society. However, one of the things that we forget is that there is also victimhood in community, which was a great driver and motivation for violence. I do not think that violence is legitimate, but, at the same time, we have to realise that there are multiple forms and effects of violence.

In some research that we did some years ago among republican and loyalist prisoners, we found that one third had lost a family member. If we look at the structure of Northern Irish society and at victimhood here, we see that that level of loss is mirrored by only the prison officer/security force community. That is way beyond the knowledge or experience of other people whose family members were killed. Around 50% of republicans and loyalists have also lost a relative. By "family member", I mean a direct family member: mother, father, brother or sister. So, when we have these debates, I think we have to be aware that victimhood is embedded in these communities. It is not just simply a case of perpetrator and victim.

One of the other important things that we found from our research was that one third of republicans and loyalists were intimidated out of their home. That is much greater than the figure for the average population in society. I am not condoning or condemning violence or the motivations therein. What I am arguing is that we cannot simply dismiss the fact that many houses and homes were affected by the perniciousness of violence in society.

I also point to our research on victims and our work, yet again, on republicans and loyalists. The vast majority agree that civilians were victims of the conflict and that those on the other side were victims of the conflict. I point out that, in the republican community, former prisoners were twice as likely as other members of their community to state that the police, the British Army and prison officers were victims. So, the idea that there is just one body, one ideology and one experience is incorrect. If we begin any argument or debate that is not factually linked to evidence, we do not go anywhere.

One of the things we have to appreciate is that significant consequences come from being part of a paramilitary organisation involved in a conflict. You made the point about hurt and so on. Thirty-five per cent of republicans and 50% of loyalists are on sedatives and tranquilisers. That is five or six times greater than the figure for the standard population in Northern Ireland. They are six times more likely to be on antidepressants. With sedatives and antidepressants more generally, we work out that it is three, four or five times more likely. With any measure for mental ill health or well-being, we find that former political prisoners or former terrorists, whatever you want to call them, suffer multiple forms of mental distress. Over one third of former prisoners have considered suicide and are four times more likely — 12 times more likely among women — to suffer from alcoholism than the standard population in Northern Ireland. That is perhaps contrary evidence to much that has been said so far. It gets beyond the idea of heroes because that is not exactly what is represented by that type of evidence.

Questions have been asked about international examples. At a general level, we know that DDR is successful when it is based on inclusion. Any form of demobilisation, disarmament and rehabilitation works through inclusion and not by excluding people from society. For you as politicians, that is a difficult situation because significant sections of society feel harmed and not listened to, but, at the same time, we have to make decisions. I point to that body of successful transformation work in the former prisoner constituency as an example of how the vehicle of conflict transformation is moving forward. I think that the flags protest would be much worse if it was not for some of the leadership and activities within loyalism. I feel that quite strongly.

Conflict transformation is the reason why I am here. I believe in that. The Bill is quite clearly contrary to that. I also chaired the review panel on employers' guidance on recruiting people with conflict-related convictions, and we found very few people in industry who wanted to perpetuate fair employment legislation that could disbar former prisoners. If the Bill were to come into law, it would be another bar on those people, irrespective of many of the moral issues that are thrown up. If a constituency is prepared to engage, move forward and challenge itself, it should be included in society.

The Chairperson: Thanks very much for the documentation that you provided. It is very useful, especially the report of the review panel. The report refers to dissident groups that use exclusion of ex-prisoners as a means for negative and hostile propaganda. Can you elaborate on how that could undermine the peace building that is under way?

Professor Shirlow: Within loyalism and republicanism, I have had conversations, through research, with many people who, in many ways, lick their wounds, and they are concerned because they feel either betrayed, forgotten or marginalised. In many ways, those people would not necessarily be sympathetic to dissidents in either section but would state uncertainties about their commitments and allegiances. Most people do not feel that for ideological reasons, but they say to me that they feel excluded from society. We are talking about a community in which 50% or 60% have told us in survey after survey that they have been turned down for jobs and have not had interviews when they have been the best person for the job. That sense of fatalism or frustration comes in.

I was speaking one day to a guy from a loyalist background who was in prison for five or six years. He would be affected by this legislation, and I do not think that he would ever end up being appointed. That man was in prison and joined the Christian Fellowship. When he came out of prison, he got a job with a gentleman who was involved in the Christian Fellowship and worked for 25 years in that man's place of work. He was promoted on multiple occasions, was a good citizen, ran a youth club and intervened in all sorts of youth activities in his community. The company went bust, and he could not find work. I understand the emotions of the McArdle issue, but a broad brush whereby everybody is the same is not conflict transformation. Are we seriously talking about excluding people such as that? Are we seriously talking about excluding a middle-aged person? That man cannot get a job. He has been a good citizen, but society tells him that he is not. A political maturity has to kick in, in many ways. To answer your question: prisoner groups go into schools and youth clubs, and they tell people that the allure of violence is wrong. The argument that loyalism makes is that you go to prison, you lose your wife, you lose your income, you come out, and you are put on the scrapheap. That work is crucial in diverting people away from conflict. It challenges the voice of those who are irredentist and want to take this society back to where it was. It is crucial, as are the voices in this room and elsewhere that condemn the dissidents and those who engage in that type of violence.

The Chairperson: We have not had any representation from loyalism or loyalist ex-prisoner groups on the Bill. Is that a sign that they are resigned to the fact that they will never be in a position such as this? Is it because, as you say, they feel excluded from the process, and so they think, why should they even participate? Is that —

Professor Shirlow: I can only guess. I assume that it is perhaps because it seems like a Sinn Féin issue; that might have been a disincentive. It could also be a sense that, for example, the Progressive Unionist Party may never get into government and, therefore, will not appoint a special adviser. People could think, what is the point in engaging with that? I do not know the answer; I can only imagine what the answer would be. I could not say definitively.

Mr Mitchel McLaughlin: You are very welcome. I found the information to be very constructive and helpful. What gets lost in this is the process that we are involved in. You talked about the resolution of the conflict and the issues that perhaps caused the conflict in the first instance. Of course, even the agreement, substantial though it was, could not deal with those issues. There is formula, and

commitments are given by participants. There is a recognition that, over a period of time, attitudes may change and very substantial change will flow as a result.

If I fast forward to the circumstances around the flags issue, you see some of the consequences when society has not prepared itself to accommodate or manage that change. Even the political leaderships had difficulty in coming up with an appropriate and timely response to all that. Clearly, it is a work in progress. It has to be accepted that there is a very uncomfortable relationship among those who were non-combatants and were unwilling spectators or victims of some of the consequences of the conflict. Sometimes, when the opportunity provides, you attempt to understand that this is a conflict that none of us who is alive today and may be involved in political leadership or government, for that matter, had any responsibility in starting. It began before we were born; we were born into conflict, in other words. It is going to take a long time to work that out of our DNA.

In those circumstances, the principle of inclusion has proved to be very valuable. It has proved its worth by giving us a better form of politics than we had previously because there used to be issues of domination, subjugation and resentment. Perhaps there was also complacency: the view that that was the way that it was always going to be rather than a malign intention to victimise people. The consequence was the conflict that engulfed us.

To that extent — this might be seen as controversial, but it is not intended to be — we were all victims. People will deny that we were all victims because they are still in the process of pointing the finger and allocating blame. However, that will not give a solution to the people who are in jeopardy of being re-traumatised because this or that happens, or a face reappears from the past. If we operate on the basis that people are entitled to change, we will have to pay the price. For people from my community, that might mean accepting that there will be no judicial or legal accountability. The British Government are in a position to make sure that that does not happen, and they appear to be exercising that power.

If we were to look at individual circumstances around issues such as the Finucane case, you can see how difficult it is. That should not stop us, which leads me into my question. We might have to rely on international experience, and although I have never heard anyone argue that there are perfect examples that fit perfectly to our circumstances, there are lessons from all of those. There are lessons from the failures as well as from the successes, if only to remind us that we are not the only society that is riven and divided in our aspirations or on how we can manage this process. From your studies of other peace processes and conflict resolution processes, are there particular case studies that would be helpful to us in these circumstances? There are clear party political positions on the issue of special advisers and perhaps on the fact that this issue affects one party on the Executive only. It is fundamental to addressing the many other issues that we have to solve as we go along.

Professor Shirlow: Although it may be strange to people in this room, we are now held up as the exemplar of conflict transformation. People in this room may laugh or giggle at that, and they may be right to laugh and giggle.

Mr Mitchel McLaughlin: I do not think so.

Professor Shirlow: Our way is now the direction. There is a sore in this society, which is that the unionist community thinks that the issue of victims is one way, and that needs to be attended to. In the case of the Saville inquiry, someone will say, "What about Kingsmills?", or whatever else, not that these things should not happen.

Mr Mitchel McLaughlin: I hear that.

Professor Shirlow: If we aspire to the notion of equality, whatever model we adopt must recognise that. It cannot simply be that we ask one section of society to expose its perpetuation against another side. Although the Bill may be reflective of that to some extent, that is still a major lifting process in this society. It is where unionists feel —

Mr Mitchel McLaughlin: It is the response to that sore and that itch rather than the solution.

Professor Shirlow: Whether those comments by unionists are right or wrong, when they look at Saville and other issues, they feel that this is a one-way process. We do not need a model from outside for that to change. We need to have the right framework to engage in a proper debate, and that framework has to work only if we do not go down the route of prosecuting people. That is the

model from other societies that works. Many people here will decry the funding of prisoner groups and say that that was a great assault against the victims of the conflict. Other countries are now looking at that model. One of the problems in other DDR processes is that you fight the war, say to people that it is over and give them €50 for their Kalashnikov and say, "away you go". Those people go away and sit at home, and, a year later, say that they are still on the dole and not included so they are going back to war.

One reason why our process was successful is that it did things that were counter to what public opinion probably wanted. One of those was to fund the former prisoner model. We have a good model of transformation. At times, we do not realise that, but whatever we do on victims — of course we can point fingers — it cannot be based on a process of putting people back in prison. We will not get the generosity that is required to move this society forward if we are simply going to imprison people for the past through, for example, the HET. I do not think that that works. The problem that is thrown in then is that victims say that that is not fair and that they want these questions to be answered.

I am not answering your question very well. The argument is that we have not arrived at a place where we have the right structure and process, and some people are still using victims as a political football. The victims of the conflict whom I know need medical care, emotional support and someone to come and hold their hand. We have missed out on the emotive terrain of victims in this society because we turned it into an ideological battle as opposed to what we should have been doing. Why in Northern Ireland do we have more people on antidepressants than in other societies? It is because we went through a conflict. When I do my research, the stories that I hear are that x is unwell and cannot see a psychiatrist for six months and that y is unwell and all the doctor does is give him or her tranquillisers. I do not think that we did that nurturing capacity of victims as well as we could have done. That might have taken a lot of heat out of the debate in this society. So of course it will be political. That is the nature of our society. We really should have focused our concerns there. I do not think that it is too late to do that. That is very important.

Mr Mitchel McLaughlin: You kind of addressed my point. I wonder whether our process of truth recovery, victims' issues of retribution, justice, truth, or whatever would actually help them to heal. The South African process had many faults and also many lessons. One was the issue of getting or accepting corporate responsibility, whereby someone, on behalf of an organisation or Administration, would step forward and say: that was our responsibility.

Professor Shirlow: On the day that the Saville report was launched, one of the biggest cheers was when the Prime Minister, in some way, evoked those ideas that you mention. There was a generosity on both sides; on one side, that it was said and, on the other, that it was accepted. In any society that you study that has gone through a truth recovery process, of course it will have been difficult because we are talking about people who were killed. It cannot be anything other than difficult. However, that is not a reason not to do it.

Mr Mitchel McLaughlin: What was interesting and, perhaps, sad, given how long and how resiliently the families had worked together in solidarity, was that they were divided immediately between the clear majority who said that they had got the truth; that was enough and was what they needed: to clear their relatives' names. A minority wanted to pursue the idea of legal retribution or justice. The result is that they still march on Bloody Sunday. The issue has not gone away.

Professor Shirlow: Does that not illustrate the point? I have found it from conducting research. Everyone in this room will have spoken to victims. Say, for example, there is a family of five or six siblings, there will be five or six opinions, so it reflects wider societal problems. In a family, one member will say, "I just want to leave that. I want it to go away. I want to get on with my life." Others will want retribution, retribution, retribution. Even at the scale of a family, there will sometimes be a diversity of opinion about the best way to move forward.

Mr Mitchel McLaughlin: With regard to the family and wider society — this is my final point — the uproar and media coverage on Mary McArdle's appointment deals with an absolutely microscopic example in terms of the scale of suffering. That is not to diminish it in any way at all. I have engaged with Ann Travers, so I know exactly what that poor woman has experienced. However, the Bill will not deal with the issues that we discuss. It might, if the Assembly goes along with it, result in adding another layer of resentment when there is enough already. It will not resolve the kind of pain that victims experience.

Professor Shirlow: That goes back to my original point, which is that there is no uniform victims' voice. That is the point. Legislation such as this will not create a uniform voice. That is the reality.

Mr Mitchel McLaughlin: Thanks very much.

The Chairperson: Peter, the report reflects on the key findings on the impact of the employers' guidance. Why was there not greater buy-in to that? You referred to a number of councils, a major public sector employer and a major retailer, which is of interest. However, why was there not further buy-in?

Professor Shirlow: I cannot say this definitively, but I think that the councils fell between, as I referred to in shorthand, orange and green. That might have been the case. However, Belfast City Council, which, of course, in our view, is mixed — perhaps becoming more fragmented as we speak — and shared — or unshared; whatever day it is today — was one of the groups to ratify it.

One of the fundamental problems of being the chair of the review panel on those guidance principles was that there was no real investment in the principles themselves. As I recall, if we had made it more evident that the guidance principles were there, we might have had much greater uptake, the point being that, obviously, all the uptake was positive. Anybody who thinks that there is not exclusion and that that legislation excludes is wrong. It is as simple as that. They are just wrong. Of course, there are multiple exclusions.

The Chairperson: Obviously, a number of organisations endorsed the principles: the Irish Congress of Trade Unions, the Confederation of British Industry, the chambers of commerce and other organisations. Did they do anything to follow through or did they simply endorse the principles?

Professor Shirlow: They endorsed the principles, promoted them and encouraged others to accept them. They have done that very publicly. The guidance was important to them. It was not simply tokenistic. It was not as though they were forced to do that, and it was certainly voluntary. They supported it very strongly. Again, it is another complexity of our society that industrialists can support the inclusion of former prisoners. I am sure that some of those businesspeople were probably victims of the conflict in many ways. So there is also a generosity in that constituency.

However, one thing about the guidance is that it is now sitting on a shelf. Our recommendations are sitting on a shelf. I will say no more. They are sitting on a shelf, as much of my research is. *[Laughter.]*

The Chairperson: Do you agree that, from your perspective, the mistake was that the principles should have been put on a legislative footing?

Professor Shirlow: That is our argument: maintain article 2(4), but the onus would be on how the conviction related to the job, which would be no different from legislation throughout Europe — for example, you would not have paedophiles working with children. I know that that has been brought up in some of your discussions. I mentioned the example of the person who was in the Christian Fellowship, who said that he could not even get a job putting bolts in a piece of wood. Some employers recognise that those people have skills and abilities. Sometimes, they make very good employees, as do many people who are in long-term unemployment. They make good employees because, when they get jobs, they are enthusiastic to get them.

I should point out that the issue also affects families. I have spoken to former prisoners who have told me that even their nieces and nephews have been unable to gain work. In some cases, they did not even know their nieces or nephews. Say, for example, I go to prison and my brother shuns me. He has nothing to do with me. He does not speak to me. I do not even know my nephews and nieces. However, they are also being impacted on by that type of legislation, so it runs into generations. It does not simply affect prisoners themselves. In some cases, it also affects their families.

Society has a choice. It can either say that it is good or, as business leaders are saying, it is not helpful. There are more positive ways to include people.

The Chairperson: Peter, thank you very much.