

**Ad Hoc Committee Bill of Rights on the
15th April, 10am
Conradh na Gaeilge**

Before I begin this discussion, I should mention, and I'm conscious of my colleagues and fellow activists who have been here in previous weeks giving evidence across a broad range of issues from social housing, the bill of rights, the LGBT community, the women's sector, and others. We are privileged to work alongside them as a part of the equality coalition and support the initiative for a rights-based return to the institutions and in the introduction of a Bill of Rights here in the north.

As you know, the focus of our talk, discussion, and submission today relate to the question of language rights here in the context of a bill of rights.

In the Good Friday Agreement of 1998, a new era of equality was promised for the Irish language in the north. Specific and strong commitments were given regarding the promotion and protection of the Irish language, including:

In the context of active consideration currently being given to the UK signing the Council of Europe Charter for Regional or Minority Languages, the British Government will in particular in relation to the Irish language, where appropriate and where people so desire it:

- *take resolute action to promote the language;*
- *facilitate and encourage the use of the language in speech and writing in public and private life where there is appropriate demand;*
- *seek to remove, where possible, restrictions which would discourage or work against the maintenance or development of the language;*
- *make provision for liaising with the Irish language community, representing their views to public authorities and investigating complaints;*
- *place a statutory duty on the Department of Education to encourage and facilitate Irish medium education in line with current provision for integrated education;*
- *explore urgently with the relevant British authorities, and in co-operation with the Irish broadcasting authorities, the scope for achieving more widespread availability of Teilifís na Gaeilge in Northern Ireland*

Despite these commitments, the Irish-speaking community has continuously been obstructed in using the language and continuous attacks have been made on those who choose to live their daily lives through Irish. As a result of that, pressure came from the community to ensure Irish language rights are enshrined in law and to achieve Irish language legislation for the first time ever in the north. Arising from those efforts, as part of the Saint Andrews Agreement of 2006 it was clearly promised that "The [British] Government will introduce an Irish Language Act reflecting the experience of Wales and Ireland and work with the Executive to enhance and safeguard the development of the Irish language." This commitment has never been implemented.

Unfortunately, by the time of the Assembly Election in 2016, no fewer than 3 opportunities to introduce an Irish Language Act were lost in those 10 years. The question came before the

assembly three times, and public consultation was held on the subject three times; on each occasion, there was support from a large majority for Irish Language rights, but progression was hindered and blocked in the Assembly itself. Thanks to the efforts of the Irish-speaking community and Conradh na Gaeilge we managed to encourage a majority of the parties in the Assembly to support a stand-alone Irish Language Act, and 50 out of 90 Members across 5 different parties.

At this point, the 'An Dream Dearg' campaign began, which reinforced the #AchtAnois campaign, and drove it to the very centre of the political discourse in the north, and put language rights at the top of the agenda of talks in the negotiation processes between 2017 and 2020. In January 2020 a new commitment was achieved for Irish language legislation in the "New Decade, New Approach" Agreement and through this legislation the Office of Language Commissioner and "best practice" language standards would be established. Even though the agreement didn't contain everything we lobbied for, and while it falls short of what is expected from the governments to ensure protection for minority languages, it is a historic achievement that will provide statutory protection of the language in the north and a huge achievement for those that campaigned for many years on how to ensure change is meaningful. Many of the provisions included in the legislation are based on recommendations made by Conradh na Gaeilge to the parties and the two governments over the years. We have included our recommendations as part of this submission for what could be included for language protection and promotion in a Bill of Rights.

It was promised that the language legislation would be in force within 100 days of the agreement being agreed to. This hasn't happened. A commitment was also made that an Irish Language Strategy, also part of the Saint Andrews Agreement of 2006, would be in force within six months. This still hasn't happened. Conradh na Gaeilge in recent weeks has instructed its solicitor to send a pre-action protocol letter to the executive office asking questions on why the delay has taken place concerning progressing the development of the strategy and does it plan to bring it to the executive for agreement. They had 21 days to reply which is next week.

More than a year on from that Agreement the Irish language community is still waiting on these commitments to be fulfilled. The Irish Government and the British Governments are co-authors and so-signatories of this agreement, The Executive itself is responsible to implement those commitments, however, the two governments have a central role in fulfilling these commitments without further delay. If these commitments are not fulfilled very soon, there is a serious possibility that Irish language legislation will not be introduced by the end of the mandate. This would do huge damage to the Irish language and the Irish-speaking community. We wish to avoid that. That can be done by implementing the legislation promised in the NDNA agreement without further delays and if not will create a new crisis of confidence in the institutions to deliver on Irish language rights.

Often talked about before NDNA was the issue of sustainability. A touchstone issue for the sustainability of the institutions has been the implementation of commitments and the frameworks in the peace agreements for the Irish language. Since 1998 it has been a rarity that commitments such as resolute action or policies as part of international treaties are implemented by regional and local governments. In fact it has been the opposite.

Members will be aware the European Charter for Regional and Minority Languages was ratified by the British Government for Irish here in 2001. Since then the committee of experts, COMEX, the Council of Europe oversight body that monitors the member states' implementation of the European Charter on behalf of the languages in their regions, has been consistent in its overwhelming criticism of the British Government and in turn the devolved administration here regarding the full implementation of the Charter.

In their most recent report, which was their 5th monitoring cycle since 2001, published on the 1st July 2020, part 2.1 specifically deals with the Compliance of the United Kingdom with its undertakings under the European Charter for Regional or Minority Languages concerning the protection and promotion of Irish. COMEX here assesses the implementation of the core 35 provisions the UK Government committed to regarding the language, namely education, public services, media, judiciary, policy and legislation provision. COMEX concludes with a series of extremely blunt recommendations for immediate action; including:

The Adoption of a comprehensive law and a strategy on the promotion of Irish in Northern Ireland; alongside 20 recommendations for the attention of the British Government and the devolved administrations at Stormont. The vast majority of these recommendations remain unfulfilled, and many largely ignored in full.

As a response to this report, the British Government published an update on their work on the Charter and the regional languages under inspection; a 38 page document containing detailed information on Welsh, on Scots Gàidhlig, etc. In total, out of the 38 page report, less than a single page was dedicated to Irish. This represents a total failure of both the UK Government and our own Government regarding the Charter.

Finally, in March of this year, 2021, COMEX responded to the UK Government's report, reiterating in full the need for full implementation of the Charter. Moreover, COMEX has concluded that the language legislation promised within NDNA does not fulfill the "Irish language Act" committed to in St Andrew's, simply because it does not confer the same rights to Irish speakers here as the Welsh language legislation does for Welsh speakers.

COMEX concluded:

However, the measures set out in the January 2020 agreement, including the aforementioned amendments, whilst welcome, do not offer the comprehensive approach a law and strategy would provide. For instance, there are no measures foreseen on education, access to public services, or cultural activities...

Therefore the Committee of Experts reiterates that an Irish Language Act would provide the basis for comprehensive and structured policy for the promotion of Irish in Northern Ireland, which would enable resolute action on the protection and promotion of Irish, in line with the United Kingdom's undertakings under the

Charter. In this context, the Committee of Experts considers that, even once the measures contained in the January 2020 agreement are enacted, there remains a need for a comprehensive Irish Language Act.

A Bill of Rights, as a bare minimum, should include in full the provisions of the European Charter as previously ratified by the UK Government in 2001. Secondly, the Bill of Rights should make provision in domestic law for the protection and promotion of the language as laid out in the COMEX recommendations. This is the base-line for protections as laid down by the leading international experts in this field. The fact that the UK Government has already signed up to this agreement should mean this is a straight forward addition. However, the lack of progress and implementation from the UK Gov and Stormont highlights how rights can be abused, ignored and Irish speakers excluded if those provisions are not adequately enshrined in local legislation.

Líofa

The decision to cut the modest Líofa Grant scheme is known for its direct role in the collapse of the devolved institutions in 2017. Minister Givan did not equality screen this decision and mysteriously found these funds for Líofa on the morning a protest was to take place outside his office, despite defending the decision in the days before.

There were however also other failures to comply with duties towards the Irish speaking community and there are a range of examples of policy decisions that would have been untenable and challengeable had the Bill of Rights been in place with protections for the Irish language. This includes decisions by several Councils to place significant obstacles in providing bilingual English-Irish street signage. Implementation of the European charter and other international agreements and protocols are virtually absent in the north and monolingual policies exist across many council areas. Public authorities and councils are comfortable making regressive decisions and introducing policies undermining the language because it's often enough decisions grounded in sectarianism are taking place at the heart of government.

Documents emerged in 2017 showing the extent to which Arlene Foster and her special adviser intervened in a policy row over Irish language tourism signs and objecting to such signs. They are shown to have intervened in requests for Irish language tourism signs from two local councils while Arlene Foster was at the helm of the Department of Enterprise, Trade, and Investment (DETI), advising the North's Tourist Board (NITB) to refuse to fund the signs and adhere instead to an English Only Policy.

The Intervention over Irish language signs stemmed from plans by Down District Council and Newry and Mourne District Council to erect bilingual tourism information panels along St Patrick's Christian Heritage Trail.

An email from Arlene Foster's private secretary Andrew Crawford said: "Please note that the Minister has instructed that NITB policy...should be adhered to and that NITB should not consider funding bilingual signage outside of this policy."

<https://thedetail.tv/articles/files-link-arlene-foster-to-irish-language-row-and-show-dup-failed-to-equality-test-lifafa-cut>

Some Stormont Department's also adopted 'single language' policies (i.e. 'English only' policies) to remove Irish language provision, which would also have been unlawful under the Bill of Rights.

Prior to September 2016, the Department of Education had an extensive Irish language policy providing broad provisions in line with international standards. Within a month the policy had been subject to review and an entirely new draft 'languages policy' had been produced. No consultation or equality screening took place and no records were kept as to what prompted the review and re-writing of the policy. The Department stated that the new policy changed the language for the administration of the department's functions from English and Irish to 'English only' and a monolingual logo was adopted. It received Ministerial approval in July. Before it was published in September 2016 a further amendment was made to remove a commitment (referencing the statutory duty to promote Irish medium education) for certain official documents to be provided to Irish medium schools in Irish. Consequently, material that had already been translated into Irish for Irish medium schools (the school omnibus survey) had "to go in English only."

The above example demonstrates the extent to which standards that are not directly legally enforceable – as they would be in a Bill of Rights - can risk being bypassed and ignored by government departments, local councils, and public bodies. NDNA, a Bill of rights should and could isolate the Irish language community from decisions rooted in sectarianism in the future and ensure the executive is implementing its legal duties to promote and encourage the Irish language.

Recommendations:

- We recommended a Bill of Rights including rights under the European Charter for Regional Minority Languages and The Framework Convention for the Protection of National Minorities added into a bill of rights therefore actionable in a domestic court to ensure the Irish language community has access to legal processes ensuring protection from dangerous and sectarian decisions. This should fully implement the most recent COMEX report regarding the implementation of the Charter and the areas for immediate action.
- We recommend for a Bill of Rights to include a commitment on declaring "official status" for Irish, similar to what is applied in Wales and the south of Ireland.

This should read:

Official Status 1.1 It is affirmed that Irish is one of the official languages in the North (English as the other.)

For comparison, in Wales, with regards to the official status for the Welsh language: Official status of the Welsh language (From Welsh Language Commissioner's Website) The Welsh language has official status in Wales. This is set out in the Welsh Language (Wales) Measure 2011. The Measure does not affect the status of the English language in Wales and the treatment of the Welsh language no less favorably than the English language;

Niall Murphy gave his legal opinion concerning the official status of the Irish language in the NDNA.

“In relation to the status of the Irish language, my view is that the Irish language is given official status by s.78F. My view is that the legal effect of that status is limited to the provisions on an Irish Language Commissioner and best practice standards (in addition to the already existing provisions eg s.28D Northern Ireland Act 1998 and Article 89 of Education (Northern Ireland) Order 1998, etc). I do not think that the official status provides any legal rights other than those mentioned in s.78F. The Welsh Language Measure is declaratory and unambiguous and indicates (at s.1(2)) that official status is a general principle, but there is no equivalent indication in s.78F.”

In 2020, 5 parties signed up to the NDNA and promised a new era, and a new approach. We have seen in recent weeks how quickly parties can use the Irish language to deny rights and deny speakers access to important services that facilitates citizens being able to live their lives through Irish.

This is far short of what was expected after 23 years of unfulfilled promises. However, what we have seen in recent weeks is not out of tune with the past 23 years. A Bill of Rights must include the recommendations above to ensure recognition and respect for speakers of Ireland's indigenous language and to ensure that Irish speakers in 2021 feel that they can access services and provisions available to Irish, Welsh and Gaelic speakers across these islands.

We recommend a Bill of Rights includes not only the recommendations above but all the Conradh na Gaeilge recommendations that we have attached in detail. Included in this are provisions which concern the Official status of the language; Irish in the Assembly, in Local Government, and in Public Companies; Irish and the BBC; Irish in the Department of Education; a Language Commissioner, Place-Names and increased visibility of the language underpinned by official status for the language additionally to English.

Together, through a Bill of Rights, the language legislation committed to in NDNA, the full implementation of a comprehensive Irish language Act as laid out in St Andrews, and through fully embracing the vision of “resolute action” for the language laid down in the Good Friday Agreement, Irish speakers should fully included as equals here, with official status underpinned by effective legislation and effective rights, coupled with the political will to ensure all of our agreements and charters are implemented in full as soon as possible.

