



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

COMMITTEE FOR

H4

07 MAY 2013

F 4 9

3 May 2013

Mr Shane McAteer
Committee Clerk
Committee for Finance and Personnel
Room 428, Parliament Buildings
Ballymiscaw, Stormont
BELFAST, BT4 3XX

Dear Sir

Defamation Act 2013

For the Committee's information, please find attached copy of a letter of today's date from the Chief Commissioner of the Northern Ireland Human Rights Commission to the Minister for Finance and Personnel.

Yours sincerely

Angela Stevens
Legal Services, Northern Ireland Human Rights Commission

Chief Commissioner: Professor Michael O'Flaherty ■ Director: Virginia McVea



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

3 May 2013

Mr Sammy Wilson MP MLA
Department of Finance and Personnel
Rathgael House
Balloo Road
BANGOR, BT19 7NA

Dear Minister

Defamation Act 2013

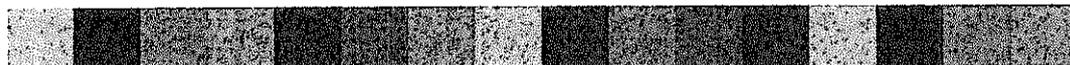
In its 2008 concluding observations on the sixth periodic report of the United Kingdom the UN Human Rights Committee stated:

"The Committee is concerned that the State party's practical application of the law of libel has served to discourage critical media reporting on matters of serious public interest, adversely affecting the ability of scholars and journalists to publish their work, including through the phenomenon known as "libel tourism." The advent of the internet and the international distribution of foreign media also create the danger that a State party's unduly restrictive libel law will affect freedom of expression worldwide on matters of valid public interest."

Following sustained international criticism of libel laws in the United Kingdom the Westminster Government introduced the Defamation Bill to Parliament. This legislative initiative was highlighted by HM Government during the Second Universal Periodic Review of the United Kingdom by the UN Human Rights Council. In its report to the UN Universal Periodic Review of 8 March 2012 the UK Government stated:

"The [Defamation] Bill reflects the Government's view that the law needs to be rebalanced to secure more effective protection for freedom of speech and to stop the threat of long and costly libel proceedings being used to stifle responsible investigative reporting and scientific and academic debate.... The core aim of the Bill is to get the balance right, so that free speech is not unjustifiably impeded by actual or threatened libel proceedings, while ensuring that people who have been libeled are able to protect their reputation. With this in mind, the Bill contains a range of measures to support freedom of expression."

Chief Commissioner: Professor Michael O'Flaherty ■ Director: Virginia McVea



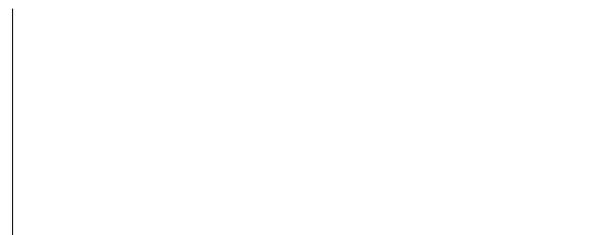
The Joint Committee on Human Rights reported on the Defamation Bill during its passage through the Houses of Parliament. The Committee acknowledged that the Bill addressed significant human rights issues and that a rebalancing of the law on defamation in favour of the right to freedom of speech in Article 10 of the European Convention on Human Rights was “much-needed”.

I welcome the enactment of the Defamation Act 2013. I note with concern however that there are no plans to review the law on defamation in Northern Ireland. I respectfully recall that the concerns of the UN Human Rights Committee as well as the domestic and international human rights community regarding the UK’s libel laws remain applicable with regard to the law in Northern Ireland.

As the Human Rights Committee affirmed in General Comment 34, freedom of opinion and freedom of expression constitute the foundation stone for every free and democratic society and form a basis for the full enjoyment of a wide range of other human rights. There does of course have to be a proper and effective balance between freedom of expression and such other rights as the right to privacy and reputation; the current balance tips too far at the expense of freedom of speech. It is my view that the current law in this jurisdiction imposes unnecessary and disproportionate restrictions on the right and hinders the free exchange of ideas and information.

It is my considered view that the law on defamation in Northern Ireland may not comply with the Executive’s obligations with regard to international human rights law. It is in this context that I write to ask you to consider how the law might be considered in light of the concerns of the UN Human Rights Committee and others.

Yours sincerely



Professor Michael O’Flaherty
Chief Commissioner

Cc: The Rt Hon Theresa Villiers MP, Secretary of State for Northern Ireland
The Committee for Finance and Personnel