



Northern Ireland  
Assembly

Committee for Finance and Personnel

# OFFICIAL REPORT (Hansard)

Civil Service (Special Advisers) Bill:  
Briefing from Dr Máire Braniff and Dr Cillian McGrattan

16 January 2013

# NORTHERN IRELAND ASSEMBLY

## Committee for Finance and Personnel

Civil Service (Special Advisers) Bill:  
Briefing from Dr Máire Braniff and Dr Cillian McGrattan

16 January 2013

**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 David McIlveen  
Mr Mitchel McLaughlin  
Mr Peter Weir

**Witnesses:**

Dr Máire Braniff  
Dr Cillian McGrattan

**The Deputy Chairperson:** We have an evidence session with two academic witnesses. This session will be recorded by Hansard, so I remind you to switch off any electronic devices. The relevant documents are contained in your Bill folder. The witnesses are Dr Máire Braniff of the University of Ulster and Dr Cillian McGrattan of Swansea University. I welcome you both to the meeting and ask you to make an opening statement.

**Dr Máire Braniff:** Thank you, Chairman and members, for giving us the opportunity to speak to you in this forum. We sent our submission late in the day, so we greatly appreciate you taking the opportunity to invite us here today. We hope that you have had the chance to read it. We appreciate that you have heard from legal scholars, victims and victims' representatives, and ex-paramilitary prisoners and their representatives. Our submission is primarily drawn from the perspective of political science.

Much has been said in a very nebulous way about the politics of this Bill. In our reading, this is often referred to party politics, but we hope to speak to the more general political principles that are inherent in this debate. Our point of departure in thinking about this Bill was that it seemed to encapsulate a central dilemma of political thought and democracy, namely that good government should be simultaneously for and of the people. In tackling this problem at the end of the 18th century, James Madison held that, unless government got the balance right, it could end up oppressing a section of its people. This present case reflected that balancing act, for the problem that the Bill seeks to address arose from the belief that Sinn Féin had, in acting for one section of the people — its own support

base or party personnel — simultaneously oppressed others, namely that section of society that has been marginalised or rendered almost voiceless by the experience of political violence or terror.

In her evidence to this Committee, Ann Travers spoke eloquently and movingly about how this occurred. Her hearing of the appointment of Mary McArdle as special adviser caused her to relive the trauma that has, in her words, been haunting her for almost 30 years. Ann Travers' recounting of this echoes research in political science about the relationship between politics and trauma. Jenny Edkins, for example, argues that trauma involves more than just a feeling of powerlessness and that it incorporates a betrayal of trust:

*"What we call trauma takes place when the very powers that we are convinced will protect us and give us security become our tormentors: when the community of which we considered ourselves members turns against us and is no longer a source of refuge but a site of danger."*

That is a problem that Northern Ireland has to deal with. After all, prisoners were given early release under the 1998 agreement, and much has been said in the Committee about the requirement that the state has to try to rehabilitate and reintegrate those people. However, the Good Friday Agreement also stated that the best way to honour the dead is to:

*"dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust ... of all."*

We see the Bill as a belated attempt to honour that pledge. We would argue that, focusing on its potential and the responsibility that you, as legislators, have towards us, the citizens, the tired and circular debate over conflicting rights can be surmounted. As such, we defend the Bill for the following political reasons.

First, the Bill redresses an ongoing sidelining of victims. That sidelining takes many forms, from the idea that everyone was in some way responsible and, therefore, no one is culpable, to the idea that the onus for truth recovery lies within the British and Irish Governments, thereby ignoring the fact that the IRA was to blame for the vast majority of the killings. Secondly, the Bill sends out a signal that reconciliation is not just about moving forward but that it also has a historical dimension. The Bill has been dismissed as divisive and anti-peace process. We contend that that is only true if we equate peace to amnesia and if we equate justice to amnesty. Finally, the Bill represents a first step towards Madison's advice: either the Government can be trusted to govern for everyone or else it is made to. The Bill is saying that political murder was indefensible. That message is shared across many political parties. People from diverse backgrounds, such as Austin Currie to John Alderdice and William Craig to John Hume, have all argued that violence was not worth a single life. We believe that politicians should grasp the opportunity to say to future generations that violence is not reasonable or an ethical option, and politics and democracy can be seen to work.

The Bill is a test, therefore, of Northern Irish governance, Northern Irish democracy and the kind of values that we, in Northern Ireland, are seen to cherish.

**The Deputy Chairperson:** Thank you. Dr McGrattan, do you have anything to add?

**Dr Cillian McGrattan:** Yes, just one point. We also highlighted in our submission the idea that it is imperative that legislation and policy-making take into account the broad institutional context in which they operate. We suggested that the institutional context of devolved governance in Northern Ireland contains opportunities to make political capital out of symbolic issues. The Bill tackles that problem as regards the sensitive area of political patronage, and the point has only been referred to fleetingly in the evidence that has been presented so far, namely that the Bill deals with an area of direct but ambiguous political importance; that is, the ability of Ministers to appoint special advisers. That power is general throughout liberal democracies, but the problem in Northern Ireland is that the appointment of certain individuals has traumatised victims and the fallout from the McArdle controversy showed that those appointments can break generally accepted beliefs regarding politicians, duty of care and duty of responsibility to wider society. For that reason, we feel that the Bill is an opportunity to address those areas.

**The Deputy Chairperson:** Thank you both. Does anyone have any questions?

**Mr D McIlveen:** Thank you for coming today. Máire, I have met you on a couple of occasions. Cillian, it is the first time that we have met, so it is nice to see you here. Given the heavy weight of evidence

that we have had, I felt that a couple of academic perspectives might help us to draw everything together. For that reason, I have taken a lot of interest in what has been said.

A balancing act has been created as a result of the Bill, going from some of the evidence that we have got. In one regard, the argument is that people who have, to some extent, although arguably, committed the crime and done the time should not be unnecessarily stigmatised for sins of the past, so to speak. That having been said, in your view, as far as the research is concerned, do you believe that society should include everyone for every position, particularly in the public sector? Some arguments have been put forward that suggest that you could find evidence that what we are effectively making an issue about is perhaps not an issue somewhere else. Given your research, I would be interested if you could shed any light on that.

**Dr Braniff:** Thank you for your question. Based on the academic literature and research that has been conducted, I would say that the Bill speaks to the ideas of reintegration and rehabilitation. Nobody is denying anyone the right to work nor are we denying that anyone has the right to be rehabilitated, but the literature lets us question exactly what is being rehabilitated and who or what are we rehabilitating. If we look internationally, we can see international norms emerging from Kofi Annan, who talks a lot about disarmament, demobilisation and reintegration (DDR) processes where we have reintegration. However, within that process of rehabilitation, we need to consider, especially, proportionality; so, what is acceptable now and what is the norm now. Are we saying that the violence was acceptable? Are we saying that it was legitimate? If we just stick with rehabilitation, we would argue that it becomes relativist. Literature and research also show that we need an acceptance that this was wrong, and the Bill speaks to that. We need there to be an acceptance that the bloodshed was wrong. Rehabilitation is one thing, but there is a danger that we rehabilitate the conflict at the expense of restitution. Do you want to add anything, Cillian?

**Dr McGrattan:** I just want to underline that last point. From a political science perspective, the debate over the balancing of rights, although it is an important debate, could potentially defer consideration of other areas. It gets caught up in the one debate, and those other areas relate to ideas about legislators' responsibility to society and what values you, as legislators, want to pass on to society. As Máire said, rehabilitation is one thing, but the danger is that we focus on rehabilitation at the expense of ideas such as restitution or reconciliation.

**Mr Mitchel McLaughlin:** Thank you for your evidence. In your paper, you referred to the motivation for Jim Allister in bringing forward the Bill as being the controversy — I think that you referred to it as a crisis, which I find an intriguing word. I do not think that the political system was about to collapse, which is what I would call a crisis, but there was a huge public furore. What prompted your late submission?

**Dr Braniff:** As an initial response, the reason for our submission was that these are areas that we research and that we are very concerned with. We saw an opportunity to speak to the Bill, and we thought that we would take that opportunity and submit something in the hope that, in some way, we could make a contribution to the debate. We were particularly moved by the recent flurry of activity around the debate. We were watching it very keenly and reading through the transcripts, and, in hindsight, we thought that, as academics who are writing about this stuff and researching it, we could provide a written submission and give our views on it.

**Mr Mitchel McLaughlin:** You were not requested to make a submission?

**Dr Braniff:** No.

**Mr Mitchel McLaughlin:** In preparing the submission — and it is quite an interesting perspective — did you consider international experience? I suppose that I am thinking specifically about South Africa, because there is some reference to it, where, again, combatants and non-combatants combined to agree a political response. I think that you have raised, particularly in this morning's submission, very clear moral and ethical issues as opposed to political issues, if I could put it that way. With the political issues that we deal with constantly, although they do not always achieve the necessary balance or compromise, that is, very often, how agreed positions emerge. So, no one gets everything.

**Dr McGrattan:** That last point links in to your original comment — in my mind, anyway. What we, as political scientists, tend to look at is the relationships and the idea that people can agree. We talked

about crisis because, in this specific instance, societal and political relationships gave rise to what we perceived to be something that was out of step with normal and accepted beliefs about what is ethical and moral. Where that was revealed particularly — and the spur for what we were doing — was in Ann Travers' testimony to the Committee.

Perhaps, I could link in the idea of relationships and moral crises to the idea of South Africa. What that case and others, such as Latin America, seem to suggest is that there is model out there for truth recovery and dealing with victims. The problem with South Africa and Latin America is that the state was primarily responsible for the majority of killings. That is not necessarily the case here. Where we see the moral crisis coming up here is where the political playing field is being slanted away from that basic historical fact, namely that the state or state forces are being held to one version of morality that does not necessarily apply to ex-paramilitaries. So, we perceived that a moral crisis surrounded that fudging of the political playing field. It was creating political and moral confusion. I think that that was the impulse for our intervention.

**Mr Mitchel McLaughlin:** I want to discuss that further with you, but may I just make an observation? Is it not interesting that 15 years after the signing of the Good Friday Agreement, the only party to put forward a formal proposition for an independent truth-recovery process is the republican movement?

**Dr McGrattan:** Well, that is not something that we could answer. Your colleagues round the table would have to respond to that. I am not too sure whether it is interesting. If you look at other cases, such as Germany or Spain, you see that these things can take generations. Each generation looks at it differently. If you take that kind of perspective, the problem is the lessons that we are passing on to future generations. As educators, we are particularly concerned with that. You, as politicians, should be concerned with that as well.

**Mr Mitchel McLaughlin:** You have brought me precisely to what I wanted to discuss with you. In your paper, you present a high analysis of politics and the standards of democracy to which we should all aspire. Clearly, however, we are a society in transition. Whether we have made sufficient progress, even with regard to conflict resolution, is arguable. We certainly have a very disappointing track record on reconciliation processes. In other words, we are a long way from the type of idealistic democratic standard that you describe or analyse in your paper. We have to accept that there is a process involved in moving from a society that was pretty much at war for 30 years, with a huge legacy of bad government before that, to a significant process of building up political confidence and competence, and, I suppose, sufficient trust in each other, where we begin to empathize properly and respond appropriately to the hurt that we have caused one another.

Do you accept what I am saying, which is that what we need is, in fact, analysis of what we are doing in the here and now, which is a relatively short period of time in trying to build up a political process and form a government and democracy? I suppose that the flags dispute, in its most graphic way, demonstrates that, even though that particular situation, in itself, might be described as having been brought about by a democratic process. We have seen the consequences on our streets. So, we are a long way from the type of democracy that you describe.

**Dr Braniff:** Your comment speaks to the notion and duty to move forward and to move through the process by looking forward. For us and the research that we are doing, it shows that it will be a difficult process, as you have rightly pointed out. It is something that we have to move through.

We are about to mark the fifteenth anniversary of the Good Friday Agreement. Previously in these sessions, we have said that we are 13 or 14 years into a process. We need to move on. Both Cillian and I educate at university level. We are keenly aware of the challenges with which our students are engaged. We have first-time voters, who have no direct experience of the conflict. We and you have to be conscious of the values that you are passing on to the next generation. What are we moving forward with? Politicians need to consider those questions.

**Dr McGrattan:** From an academic point of view, the literature of peace building talks to those issues that you raise. It talks about ideas of negative peace and positive peace. Negative peace is simply the absence of war. Positive peace relates to something more; it is to do with social cohesion and social justice. The danger is that we institute only the negative peace — that of division and segregation. The Bill provides an opportunity to link peace with justice; to say that certain things are acceptable and others are beyond the pale. I see the Bill as helping to move forward. I see it as an opportunity to move forward towards the kind of society that you are talking about.

**Mr Mitchel McLaughlin:** Even though we are addressing a post that is, at most, reflected in a tiny group of, perhaps, 13 or 14 people, you think that it would make that amount of impact, while we ignore all the rest?

**Dr Braniff:** The testimony that you have already heard in this Committee is illustrative of the impact that it has made across society. It has been felt and has resonated, not only for us as academics, but for the victims' sector, the legal sector, and those who are involved in rehabilitation and reintegration. Everyone has been concerned by that appointment.

**Dr McGrattan:** It would send out a signal that politicians recognise their duty of care and responsibility. So, although you might say that it deals only with a small number of cases, as you say, symbols are important in this society. It would send out an important message at a symbolic level.

**Mr Mitchel McLaughlin:** Yet, not just the participants, but widespread international opinion, which was a key element in the peace process — that which made this imperfect democratic structure possible — was actually contributed to hugely by people who were, in fact, combatants — people who had hurt people. They found and seized the opportunity for a peaceful and democratic way forward. So, in a sense, does that not require the democratic process to continue to not only acknowledge that but provide opportunity for further contribution rather than close doors?

*(The Chairperson [Mr McKay] in the Chair)*

**Dr McGrattan:** That idea has been voiced, and the evidence has been given. As academics, we have to try to unpack the idea and the narrative that you have spoken of. For us, the idea of that narrative is that peace is a privilege not a right, and, if we start to enshrine the idea that we should be thankful to paramilitaries for calling off their war or to self-appointed community spokespersons for shouldering the responsibility for peace and we refuse to tackle that narrative in legislation, we will say something very dangerous about the types of values that we see our society following.

Academically speaking, the narrative seems to imply that peace is a privilege, and you, as legislators, need to take the opportunity to say, "No; it is a right".

**Mr Mitchel McLaughlin:** I am not coming at it in that way, and all the issues that you have described are equally important. Your perspective sounds more like a moral judgement on the situation than the application of political science. We have to deal with the reality.

**Mr Girvan:** Thank you for your paper; it is very helpful. It is about the perception of what one community or one group deems to be ethically correct or not ethically correct. How does that weigh up with social justice? I appreciate that that might not always mean the same thing to every group, and I appreciate that your paper gives a very clear view of what is and is not socially and ethically acceptable in any society. I am not talking about Northern Ireland but any society.

**Dr Braniff:** We will come at that from a political perspective as opposed to a legal perspective. We have sought to highlight the political implications of this debate and these types of debates. As Cillian pointed out, the political implications of the debate on social justice and what is acceptable and what is not with the balance of rights defer deeper consideration of the issues of what is enshrined in the state, what role the state plays and what responsibilities politicians see themselves having towards wider society. There is a second point related to that, which speaks to the central conceit surrounding acknowledgement and understanding; that is, that everyone's opinion is valid. That leads to the idea that everyone is a victim and everyone is a perpetrator and, therefore, that no one is responsible. We need to confront that idea, and that is the challenge for you.

**Mr Girvan:** It is interesting that you say that because, yesterday, we had a debate in the Chamber, and Mitchel made a comment about heroes and said that somebody's hero is, to another person, a murderer. In fact, the same term was used on both sides of the Chamber: one called them heroes and others called them murderers.

**Mr Mitchel McLaughlin:** Nelson Mandela said it before I did.

**Mr Girvan:** I appreciate that, from a social point of view, we have to say that each society sees those things totally differently. It is about the overview, as seen from the outside, when you put people who have perpetrated heinous crimes in the past in power or in key positions. Is that exonerating them and

saying that it was perfectly OK to do it? Nobody is saying that it was ever perfectly OK to do it. We are looking at it from an ethical point of view. I think that ethics have to be looked at and measured on the same scale by both sides. Until there is recognition of that by both sides, salt will continually be rubbed into wounds. I think that that has to be met.

**Dr McGrattan:** I will come back on that. You talked a lot about ethics. What we are concerned about is the political effect of this. The political effect is to give advantage to one ethical perspective over another. You mentioned the question of political power. I think that that has been addressed before by other people, in that there are free and fair elections here, and if you do not like who is elected, fair enough. However, we are not essentially talking about elections but political appointments. It is about political patronage and what the Assembly is to society and to the international sphere.

**Dr Braniff:** We are conscious that a lot of our research has been conducted internationally. Regardless of where we go, people ask, "How did you do this in Northern Ireland?" You are asking me for our perspectives on South Africa and Latin America, but we need to be conscious that people look to us for guidance as well. So, we should be outward-looking too.

**Mr Girvan:** I appreciate that. Thank you very much indeed.

**The Chairperson:** Apologies for being late. I had another event with 30 schoolchildren from Dunloy, and I could not keep them waiting.

This is an interesting piece that I read through last night. The question that comes to my mind is, given the Northern Ireland context and what is happening in Belfast and the greater Belfast area, how does the Bill fit in with how we move this society forward? In any society, even one that has not come through the conflict that we have, I think that we still need to reintegrate prisoners, no matter the reason why they were in jail. Where do you stand on the prohibition of ex-prisoners for this post? Should that apply to other posts? In what context do you take that position?

**Dr McGrattan:** As I understand it, Sir George Quigley and Sir Nigel Hamilton spoke about the private sector and such posts, and they compiled research on that. I think that that is outside our remit. You mentioned reintegration, the riots and everything that is going on. As political scientists, we would emphasise the duties that politicians have as political elites and leaders. You have a special position that is over and above that of normal citizens. You have responsibilities to question what is going on in society and to show leadership. As regards what is going on in east Belfast, in particular, I think that it falls on you to stand up. I certainly come at it from that perspective. Political science would ask, "What are the politicians doing?"

**Dr Braniff:** I will come in on this as well. As regards the narrative, effect and discourse of moving forward and moving on, it is imperative that the state does not move forward in a way that abdicates its responsibility to some of its most vulnerable citizens — the victims of our conflict. I pointed that out in the initial submission and here.

**The Chairperson:** I am conscious that I was absent for the previous conversation. What view do you take of international processes, such as the one in South Africa?

**Dr Braniff:** Without repeating ourselves, my PhD research was on the Balkans, so I will speak a little about Serbia and Croatia. They have struggled with similar sets of issues, yet there is a very different dynamic there because there is an international presence in the form of the European Union and the United Nations International Criminal Tribunal for the former Yugoslavia (ICTY). The internationalisation of these issues creates a different dynamic from what we have here. It is a collectivisation of blame and guilt, apportioned through the processes of conditionality, where your reward is incentivised by turning over your heroes/war criminals. Through indictments and transfer to the criminal court, this process of heroes/criminals is internationalised. It is incentivised by greater reward, for example, accession to the European Union.

There are two things that particularly link and are similar to the experiences that we see here. There is now greater nationalism around these issues in Serbia, and a fissure is emerging in Bosnia, where we can see the stagnation, almost, of the political institutions. From international experience, we have to be careful about what we take as our point of comparison, but, at the same time, there are issues that bear some similarity.

**Mr D Bradley:** Good morning again, from a different perspective. Some people might say — perhaps some have touched upon this — that you live in a rarefied atmosphere, in an ivory tower, and that you look at political science from that perspective while other people have to dirty their hands in getting on with the practicalities of making agreements and constructing structures that will work for democracy and lead to peace. In those circumstances, unfortunately, it may not always be possible to uphold the type of high standards that exist in the ivory towers. How would you respond to that?

**Dr McGrattan:** I have a couple of responses to that. First, you have a choice about pushing the Bill forward or not. That is the responsibility that lies with you as legislators.

**Mr D Bradley:** I am thinking more about what brought us here and how people were able to be appointed as special advisers before this. Obviously, there was certain agreement around that, and it seemed to work, and it enabled the process.

**Dr Braniff:** As I said, we are about to mark the fifteenth anniversary of the Good Friday Agreement, so it is fitting that we start to appraise what the Good Friday Agreement was, what it has meant and how we progress it forward. By virtue of us being here today, we are taking ourselves out of our ivory towers, which you suggest we live in. Our research is not driven by an ivory-tower mentality. We seek to very actively engage, and we are very actively concerned with the political process that is going on in Northern Ireland. I restate that the research that we have is outward-looking. It seeks to engage, and it seeks to have practical outputs. We engage publicly, and these issues are spoken about in public forums outside of this Building as well. This is the opportunity to, perhaps, insert, for want of a better word, some morality into our peace process.

**Mr D Bradley:** You referred to Ann Travers's testimony to the Committee. I think that everybody will agree with you that it was extremely moving and powerful. She differentiated between special advisers, who are not elected, and people who may hold ministerial positions, which are higher than special advisers — so we are told — and who are elected. If we continue the logic of your paper, should we not also put some sort of prohibition on those who stand for election?

**Dr McGrattan:** I do not see that as being the logic of the paper. We are asking about the broad political culture that is coming out. We are not questioning the way in which democracy is set up in Northern Ireland; we are saying that democracy is set up in such a way in Northern Ireland that there can be dangers that political capital can be made out of different issues. We are not questioning what the institutions are or what the rules are; we are just suggesting that, sometimes, those issues might arise. This represents one opportunity to tackle the potential problems.

**Mr D Bradley:** Do you think that the Bill is the best or only way to do it?

**Dr McGrattan:** We are not legal scholars. I am not too sure whether it is the best or only way. I think that it would be a positive way forward.

**Dr Braniff:** We speak again to the idea of a process. If this is part of the process of discourse and debate around what Northern Irish governance should be and what kind of values we seek to cherish in Northern Ireland, we need to take different steps to say to our students that these are the values that we uphold. Hopefully, that will go some way to speaking to wider issues that we will continue to deal with as we work through our past.

**Mr D Bradley:** That is grand. Thank you very much.

**The Chairperson:** Cillian and Máire, thanks very much. Your comments will help the Committee to sign off on its final report, which, hopefully, it will do shortly.