



CHURCH of IRELAND GENERAL SYNOD CHURCH in SOCIETY COMMITTEE

CHAIRPERSON RESPONDS TO DRAFT BILL OF RIGHTS FOR NORTHERN IRELAND

The Church of Ireland welcomes the opportunity to respond to the document: *Progressing a Bill of Rights for Northern Ireland - An Update*.

The legislative approach

The Church of Ireland's first submission to the HRC suggested concerns with the legislative approach recommended in the first consultation paper on a Charter of Rights. However, the current document adopts an approach that is both legislated and heavily defined.

The Church's overall response to the *Progressing* paper is that if rights are to be closely defined, then the 'value' of the right, implementation of the right and the ability to enforce the right will require significant legislation to make the system workable.

Specific concerns regarding the legislative approach

Where the HRC has indicated that options exist on how policy is framed, the Church's view is that the approach adopted by the government in the Republic of Ireland of making gradual progress towards objectives, while slow in certain areas, enables progress to be made at a societal level. It also enables government to prioritise certain areas where access to rights may require training of specialised personnel or the allocation of structural funding to provide services.

Similarly, combating the negative attitudes and behaviours resulting from racism or sectarianism will require more than legislation. The Church is currently engaged in research exploring the systemic nature of sectarianism and other negative expressions of difference in and the types of intervention that may result in more positive relationships.

A legislated approach will require that access to the courts is affordable to those who are likely to need to avail of it and come from vulnerable social groups.

The concept of being able to appeal every decision (Section....) contradicts the underlying principle of the HRC's approach. Defining rights and adopting a legislative approach should create a high degree of certainty within the system, which will make it easily (if expensively) administered. A succession of appeals should only be necessary in 'Test Case' circumstances.

The Church of Ireland maintains its original concern that installing a Bill of Rights that is rigidly defined and suddenly there will be costly, may promote excessive litigation, and may not be able to justly allocate scarce resources to all who are entitled to them.

Access to rights: some concerns with definitions

The second issue raised by the Church of Ireland in 2003 related to the development of rights in Northern Ireland that are not available in the rest of the United Kingdom or the Republic of Ireland. The *Progressing* document clearly states that this will be the case (See pages 14 & 15 Social and economic and health rights). Also that these rights must be funded out of the existing NI budget without call upon

central UK funds.

The Church of Ireland finds the implications raised by some of the statements made in relation to social and economic rights in the current document to be very concerning, not because we disagree with the moral aspiration, which we find admirable, but because of the consequential issues raised in terms of practicalities.

- If those born in NI are either/and British or Irish, upon what basis are NI rights accessed?
- Are all British or Irish citizens entitled to come to NI and access social and economic rights, or other rights?
- If the answer to this is yes, surely there are broader funding implications and policy issues for the remainder of the UK and the Republic of Ireland.
- If the answer is that rights are based on regional residency, rather than citizenship, surely this raises another set of questions regarding the rights of NI residents when travelling in the rest of the UK or Ireland?
- It also raises questions about the overall thrust of this document in the European context.
- Is this document moving towards describing rights based on regional residency rather than on citizenship?

With respect to access to economic and social rights, which the Church sees as central to developing strong, healthy communities into which newcomers can become integrated, we did not understand the particular use of the term 'nationality' in Section 3 (Identity and community rights). *Section 3.7 refers to the duty of Government and public bodies to adopt effective and appropriate measures to... (b) preserve the essential elements of the identity of variously defined communities including their "nationality".* Does this reference imply that these people are not part of the group that can access social and economic or other rights?

The Church particularly welcomes...

The Church welcomed the section on rights of *victims, children's rights* and the overall thrust of the section *on identity and community rights*. Victims would no doubt welcome more information on the objective referred to at Section 8.9 which looks to a future where custodial sentences are used as a last resort. In the Northern Ireland context, the prevalence of intimidation and bullying within the community over the years perhaps tends to make people more anxious about how such issues are to be handled. The Church would welcome additional comment from the HRC about mechanisms to protect people from intimidation and to create positively focused communities.

**The Rt Revd Michael Jackson,
Chairman of the Church in Society Committee and Bishop of Clogher**