

## Conference Report

### Getting the Bill Right – An Update Panel 2: Women’s Rights

**Margaret Ward, Women’s Resource and Development Agency/ Convenor of Forum Working Group:**

We used international standards as our guide. We had a member of the Northern Ireland Women’s European Platform come to speak to us because they were preparing a shadow submission on CEDAW, the Convention on the Elimination of all forms of Discrimination Against Women. So we are able to look at what the key issues were and the key inequalities for women in Northern Ireland based on NIWEP’s Shadow report.

We also had a woman who worked in a Loyalist area of Belfast who gave us an understanding of what the issues were for working class Loyalist women or women living in a Loyalist area, in order to have that to inform our discussion.

So, we took a very strategic approach rather than do a whole shopping list of demands. We focused very much on key inequalities relating to women in Northern Ireland and what we felt were related to the particular circumstances. There was a lot of agreement within the group around those particular circumstances.

We mainstreamed a lot of it. There was a lot of cooperation between the Legal Advisors of the different Working Groups and general insurrection. We thought that we did not need to isolate every single issue so we worked both separately and cooperatively and collectively within the Forum.

In terms of equality, we had a standalone gender equality clause and a general equality one but we were determined that we would have some kind of

equality clause there. We felt if we had two, then we had chance of having one put in, which was the case.

The main focal point of our discussion and of the recommendations in our report related to the rights of physical integrity, which, in the final report, include psychological integrity and that included domestic violence, sexual violence, harmful traditional practices, and sexual harassment. And, we went on also about reproduction and security and control over one's body.

There was a lot of discussion around reproductive rights and there was not a general agreement at all within the group in terms of abortion.

We decided was that we did not want to be that specific but a lot of us wanted to have something that would allow for some provision of abortion rights eventually to women in Northern Ireland. We talked about the fullest range of reproductive care hoping that this would be enough. It obviously became extremely contentious when it was brought to the Forum itself. And, we talked about the right to security within one's own body.

When the report came to the Forum the Chair, as he was phrasing it to be debated by the Forum members, he put in the clause 'within the law.' So, it is a moot point as to what 'within the law' means in terms of abortion rights. Would that mean within the 1967 Act as it links into GB or not? We agreed in order to gain some kind of consensus that we would agree to that qualification. In terms of health, there was another stab at reproductive rights in terms of lawful reproductive health care, which is recommended by the Social and Economic Rights Group. We agreed with them on that, again through the liaison.

Regarding women in work and childcare, there are barriers to women who were in part-time, low-wage employment. We felt all of those issues were very much linked to the particular circumstances, the consequence of years of conflict, which has led to the neglect of issues relating to women and children.

There are two elements to the right to participation, both public authorities taking full measures to facilitate the participation of women in political and public life. That is very much related to what the Good Friday Agreement pledged in itself. But that was very much the kind of soft law—there is no hard law there—there is no mechanism that has translated into reality.

We wanted to see some judicious way of making sure that there would be positive action measures to change that in the future. We were concerned with international standards and UN Resolution 1325 on countries coming out of conflict and ensuring equal participation of women in all of those institutions related to peace building.

We talked about women, equal participation and the maintenance and promotion of peace and security. This was the most contentious issue when it came to the Forum. It was more contentious than with regards to reproductive rights in some extent.

The rest of the clauses with respect to women are mainstreamed throughout the report of the Forum. But there are very fundamental issues that we did manage to get into the report where the Forum are very pleased that we did, even if we did not get complete consensus about them. They are there for people to see and to build on in the future.

What is really important, if we are talking about two communities or two main communities or how we look at it, is that we also gender that notion and we realise that women are part of both of those communities. Women themselves have specific needs and issues that have to be put into a future Bill of Rights.

**Aileen McColgan, King's College London / Legal Advisor to Working Group:**

We took the view that law was there to serve need and we were driven by what we perceived that need to be, both through the internal—the knowledge of the members of the group and also the external views that we sought from the off. It became apparent to us that there were huge issues around domestic violence, sexual assault and the aftermath of sexual assault, both in terms of prosecutions. Even health care, subsequent sexual assault, real issues around rural women and access on the part of rural women to health care and reproductive health care in situations of confidence. We understood that transport was a significant factor in the lives of many women or the lack of easily accessible transport.

We discussed education, lifelong education and access to education for women living in very economically deprived areas where many men were in prison or had been in prison in the past and were themselves economically inactive.

We took a fairly broad approach to what were the particular circumstances of the women in Northern Ireland. We took the view that particular economic deprivation, particular absence of women in public life, and particular issues around access to the economy were particular to the women of Northern Ireland. This was not simply a case about marching and the like, but that our understanding of what were the particular circumstances was broad because of what we were hearing were the particular problems that women faced in Northern Ireland.

We found that very much of what we needed to address was fairly well covered by CEDAW which is the Convention on the Elimination of all forms of Discrimination Against Women. That became a very important legal tool. Although we also took into account South Africa and Canadian Constitutional provisions and the ICCPR and Economic and Social Cultural Rights Convention.

From the combination of legal provisions and understanding of Northern Irish women's needs, we came up with about ten proposals which covered areas, particularly a very detailed equality provision, which found its way, in some form, into the final report. Not in exactly the same form. Both our general equality provision and our gender equality provisions placed considerably more significance on positive action and proactive obligation on the state to ameliorate disadvantage and reduce inequality. We were probably stronger on that aspect of equality than the final provisions were.

We placed more emphasis on the needs of carers and rights based responses in the field of employment and beyond to the needs of carers. It is true that the employment provision in the final draft did talk about carers but we had more emphasis on that.

We addressed women in prison and the ways in which the treatment of women in prison in Northern Ireland is not compatible with international standards. My reading of the final report maybe does not give that as much strength or importance as we saw it in the group.

We dealt with trafficking and the need for positive obligations to be imposed in relation to responses to trafficking and not criminalising victims of trafficking. We spent more time on trafficking than was perhaps evident from the final report.

## **Bronagh Hinds, Queen's University, Belfast:**

As well as CEDAW, we need to also think about other measures that have come up at international level, the Beijing Platform for Action in 1995 and the UN Security Resolution 1325 on woman and conflict. Through all of those measures, there are similar things raised about the burden that women face in terms of poverty, which links directly into our social and economic agenda.

Absolutely throughout the inequality between men and women in the share of power and decision making, it is interesting to note when you look at the report that the Beijing Platform for Action calls for measures to ensure women's equal access to and full participation in power structures and decision making. Even political parties and member states are asked at that international level to remove barriers, develop special initiatives and incorporate gender issues into their political agendas. We have lots of coverage on women and conflict, which is specific in UK to Northern Ireland and references to insufficient mechanisms to promote the advancement of women.

We can look at one of the statements that was made in an international commitment made by the United Kingdom Government in Beijing in 1995 and trace back whether or not that commitment has been implemented in Northern Ireland and whether or not that raises then a particular circumstance here. Regarding the issue of childcare, the British Government promised to do stuff in the UK on childcare and actually in England and Scotland and Wales that is being followed through. The Law Centre is now looking at the position whereby new employment legislation will require lone parents to specifically be in employment if they have children over 12 and in a couple of years, with children over seven.

Negotiations are going on as to whether or not that piece of policy can apply in Northern Ireland because there is no one single government department here yet willing to take responsibility for a childcare strategy in Northern Ireland. Yet, we had a UK Government Minister make an international commitment on that issue and you can see where that actually tracks through to the issue of economic and social rights. I would argue that is a particularity about Northern Ireland in the implementation of an international commitment.

In terms of UN Security Council Resolution 1325, the United Kingdom has actually driven that policy in the security level. It is one of the leading Governments in that policy but it is being taken on at the level of the Foreign and Commonwealth Office, the Department for International Development and the Ministry of Defence. It is being seen as being outward looking in terms of UK interventions in other regions of conflict and conflicts internationally. The issue is what is that applicability in Northern Ireland? The applicability has to be as a model through the Northern Ireland Office and through the Northern Ireland Executive.

So, there are commitments that have been made internationally by the UK Government to ensure that gender elements are incorporated at a range of levels to assist in increasing the number of women at senior decision-making levels in conflict resolution and peace building. And what are we talking about in the Bill of Rights but that and its foundational document, which was the Good Friday Agreement, and a peace building initiative. So, how is that being followed through in terms of women's participation and delivery to women? Other areas that the government promised internationally, promoting justice for women and tackling gender-based violence in post-conflict situations and continuing dialogue on gender related issues.

The last time the UK Government overall was examined—because it has to be a national member state—it was examined because CEDAW does have international applicability. National governments are answerable to the UN on their progress of CEDAW. The last time it was examined was in 1999. At that time the Committee noted with concern that the Abortion Act, 1967 does not extend to Northern Ireland and recommended at least a public consultation on the reform of that legislation. It raised specific attention to the issue of violence and women affected by violence. It also persistently focused on the issue of women in prisons. Actually, the issue of women in prisons has gotten worse and not better since that period as there is no specific women's prison.

On the 10<sup>th</sup> of July 2008, the UK Government is being examined once again. I know the Human Rights Commission may well be raising the issue on prisons. That is where we can see the direct relationship and tie in.

Peace treaties like the Good Friday Agreement or Belfast Agreement, are general documents which are aspirational and have constructive ambiguity. What we are looking for in a Bill of Rights is something that will follow through

on some of those elements that were promised in the Good Friday Belfast Agreement, that actually have not been picked up elsewhere.

The advancement of women to have full and political participation in public life has really not been advanced. If you look at the commitments that are made at international level, if you look at the commitment that was made in that Agreement to that specific aspect and you look at the reservations of our political parties even to take and apply UK permissive law in terms of the Sex Discrimination Election Candidates Act of 2002, to enable them to take specific positive action measures to redress imbalances of women, you will see the resistance that we are facing. We really need to be looking to the Bill of Rights to be picking up some of those issues that were promised in the peace agreement and needs to be followed through in post-conflict transformation.

The issue about the absence of women, the absence of the representation of women, the issue of the two parts of the community and parity of esteem must not actually blind us to the other areas that need to be contained within the Bill of Rights. If this is being moderated by the Human Rights Commission, and I would argue that the Human Rights Commission is about setting a standards of rights. It is actually probably up to the Secretary of State to handle the political job about how this gets negotiated between different traditions. But, I would still argue at that level because this will also be a responsibility of the British and the Irish Governments about what is being allowed to actually increase that diversity on both sides of the community. It cannot only be a dialogue between the main political parties, particularly when we see the visibility of women at that level.

## QUESTIONS

**Geraldine Alexander, NIPSA:** Will the Bill of Rights, in seeking to involve women to a greater extent in public and political life, be advocating positive discrimination? How would they seek to encourage political parties and public bodies to proactively promote the participation of women in this area?

**Deirdre McAliskey, Women Into Politics:** We had some discussion and concerns about the sense of a need within the group to reach a consensus or reach a compromise before the report went forward and we wonder if that hasn't weakened or put in danger of being weakened some of the central arguments? How strongly did the group centralise childcare in terms of its

debates? In terms of a comment on the violence against women being the only stand alone issue, what the reasoning behind that?

**Bronagh Hinds:** It is quite depressing that political parties have not sought to use the legislation that is there because I understand one of the debates that came up within this Working Group and other Working Groups about having sympathy for some issues, for example, violence against women, but feeling that it could be better taken care of it was under legislation rather than in a Bill of Rights.

In the issue of positive action to redress under-representation, something that is required at international level, something with the UK Government has now introduced and no take up in Northern Ireland and therefore, that makes it a particular circumstance. It seems to me that when you have legislation of a voluntary nature and it is not taken up voluntarily, there may be something about introducing that area in the Bill of Rights.

**Aileen McColgan:** There was certainly not unanimity within the Working Group on this, but there was a strong section of the Working Group which would have taken very, very strong measures on participation in public life. Certainly, I would have absolutely no hesitation in strong positive action measures.

There was a lot of debate in the Assembly about political parties being forced by the state to have women, but that is not the way that it would operate. But, you could certainly have targets and quotas for women in public life generally and mechanisms by which parties would be strongly encouraged to push women forward.

The term positive discrimination is a slightly difficult term because it encourages people to decry it. I tend to use the term positive action.

The only issue on which the group made a deliberate decision that we would not get agreement on was abortion because it was absolutely clear that the Working Group was never going to come out with a provision around or a call for instituting a right to abortion.

Some people thought there should be a right to childcare. The general view was that it should be slightly weaker than that.

Regarding the criminal justice issue being the only standalone provision, we did not suggest that criminal justice should be a standalone. We suggested that women in criminal justice should be mainstreamed. We had other standalone provisions. We had women in economic life and women in political participation as standalone provisions, although, we would have preferred most issues to be mainstreamed.

Putting something as a standalone provision or a mainstreamed provision makes it weaker or stronger. It is a question of what is more suitable for the particular provision. But certainly the final report having that one issue as a standalone issue for women was not what the Women's Working Group suggested.

**Chris Flack, Youthnet** While the Working Groups prepared their papers and submitted them to the Forum, would the group feel that they have lost anything and how then does the group believe that we can make that document real?

**Elaine Campbell, Age Concern NI:** Is there anything tactically or strategically you would do different if you were reconvening the group?

**Margaret Ward:** The Working Group report in its entirety is on the website. It has not been lost and all the recommendations are there. When the Women's Sector representatives are meeting with the Human Rights Commission, it is the Women's Working Group report that we are referring to as opposed to the final Forum report. I do not see it as being lost and I would see that as being a kind of foundation for people to use in terms of women's issues.

Some of the issues had been weakened when it came to the Forum and one of the key parts would be positive action measures. Some of that is in the Forum report but maybe not as strongly as we would have put it in the Women's Working Group. The political parties, or some of them, are very unhappy with but it is a key issue that we need to keep fighting for, because if we do not have that, we will never have any kind of change.

When I went to the Forum I never had any sense that I was going to end up being a Convenor of the Working Group. Because we did not get full engagement, could we have done anything else to have greater engagement? What I felt was a pity was that when the final report was being circulated, we suddenly got some very negative comments that had never been expressed in the group. So, the group had never been able to deal with them. That is a

regret but it was not something either myself, or the group, could have done anything about. The plenary sessions did not really enable us to engage with those members of the Working Group who had been there. I am sorry that we were not able to maybe convince some people of some issues.