

FÓRAM UM SHÍOCHÁIN AGUS ATHMHUINTEARAS

Fundamental Rights and Freedoms

Submission by Sinn Féin, Conference Centre, Dublin Castle, 24ú Márta 1995

In Ireland today there exists a potential for change which can be of benefit to everyone living on this island. In the current climate of debate, discussion and negotiation we all have an opportunity to create an Ireland which safeguards the rights of all its people. The fundamental rights and freedoms of the populations of Ireland and of Britain have been abused, curtailed, undermined and diminished as a consequence of the failure to resolve the conflict in Ireland and between these islands and so it is to everyone's advantage that we should address the question of rights.

The conflict in Ireland stems from the denial of rights, including the fundamental right to national self-determination. Until such time as all can enjoy the same fundamental rights and freedoms the potential for conflict will be ever present. We can eliminate the potential for conflict by making the best use of the current potential for change and we can ensure, in doing so, that the wishes of all of the people of Ireland are given due respect and consideration. We can ensure, for the first time, that all can enjoy the same fundamental rights and freedoms.

Rights are not in the gift of governments or political parties. They are what they are - rights. They are not to be bestowed or withheld according to prevailing political prejudices but are fundamental human requirements which should be safeguarded at all costs. The denial of rights leads to oppression, fear, injustice, discrimination and to conflict. We are all aware of the tragic consequences of attempting to sustain a society born out of a denial of democratic rights. Inevitably, the attempt failed and now we must face the challenge of creating real democracy in Ireland. It is time to replace conflict with rights. Not partial rights, not vague undertakings or half-hearted aspirations. Not concessions. Rights.

Several key issues have to be addressed and many basic human rights have to be accepted as a minimal standard in the context of resolving the conflict. Some issues can be addressed immediately, others require careful consideration in the context of international conventions and protocols. The following rights and freedoms are obviously of considerable importance:

- **The right to life, liberty and security of the person.**
- **Freedom from torture, or cruel, inhuman or degrading treatment or punishment.**
- **Freedom of opinion and expression.**
- **The right to a fair and public hearing.**
- **The right to justice without discrimination.**
- **The right to self-determination.**
- **Respect for private and family life.**
- **The right to equality of participation in public affairs and in the public service.**
- **Right to freedom of movement.**
- **Equality of social and economic rights without discrimination.**
- **Language and cultural rights.**
- **Freedom of thought, conscience and religion.**

The denial of these basic rights has caused or certainly contributed to the continuation of conflict in Ireland. The resolution of that conflict is inextricably linked to the provision of guaranteed rights. The complete demilitarisation of the Six Counties, the creation of an accountable and acceptable police service and the restructuring of the judicial system will obviously help to eliminate conflict, but in order to prevent its reoccurrence and in order to build upon the peace process there are other issues which must be immediately addressed.

The repeal of all oppressive legislation should be given effect immediately. The right to liberty and security of the person has been abused and diminished by various pieces of legislation enacted in Britain and in Ireland. While the Dublin Government has taken some tentative steps to remedy this situation the British State not only retains the offending legislation but has recently seen fit to renew the racist Prevention of Terrorism Act for yet another year.

The deficiencies in the sphere of criminal law which have undermined the right to a fair and public hearing should be acknowledged and remedied. The Diplock Courts and Special Criminal Courts never provided fair and public hearings, and the allegedly fair procedures in the Coroners Courts in the Six Counties have been a travesty of justice.

The abuses which led to the loss of freedom from torture, cruelty and inhuman and degrading treatment should also be acknowledged and their consequences remedied. The experiences of many of those imprisoned or subjected to interrogation by the British police, the R.U.C. and the British Army are a powerful testimony to the fact that British adherence to these fundamental human rights has been largely illusory.

The immediate repeal of oppressive legislation in Ireland and in Britain, and the implementation of positive steps to redress the defects of a legal system founded on human rights abuses will help to create a political climate geared not for repression but for dialogue and negotiation. An acknowledgment that all prisoners are victims of the conflict, and an appropriate response, will also serve to build upon the peace process.

However, demilitarisation and legal reform alone will not be sufficient to create a climate where all the people of Ireland can feel that their rights are both acknowledged and safeguarded.

The potential for good which lies in the achievement of a just standard of rights for all of the people of Ireland is too great to permit its loss, by default, to British inadequacies or British domestic considerations. British self interest cannot be allowed to stand in the way of the people of this island establishing their own fundamental rights.

Sinn Féin believe that in the context of personal rights, human rights and constitutional rights a number of people with expertise in these fields should be brought together to work as a special sub-committee, not just in the context of this Forum but in the broader negotiations.

The whole question of rights requires expert input and should not be an exercise conducted simply at the behest of the Dublin and London Governments. There is a need for a National Human Rights Tribunal that can examine the issue of human rights abuses arising as a consequence of the conflict with a remit to make binding recommendations, together with a mechanism to protect rights in the future. Consideration should be given to the establishment of a 32 County Human Rights Commission with independently verifiable enforcement procedures.

The establishment of a truly pluralist society will call for a greater degree of mutual respect for difference and the rights of others than any of us have yet known in Ireland, but this mutual respect is essential if we are committed to living together in peace. We cannot demand rights while denying them to others - either we are all equal or we have failed to create a just society.

The Framework document gives a clear indication of intent to introduce a system of rights but both Governments have been careful to make such rights subject to the sovereign power of their own jurisdictions. The record of both governments in this regard - but in particular the British - prejudices the notion of guaranteed fundamental rights.

Rights that are agreed should have a guaranteed Constitutional dimension which is beyond derogation or amendment by the State and which can be protected and enforced by an international dimension.

We have an opportunity to make a new beginning and to turn our backs on the failures of the past. A new beginning gives us an opportunity to think more imaginatively about the kind of society we want to see and about the kinds of mechanisms we require to make that society acceptable to all the people of Ireland.

We don't need impediments, we need solutions.