Northern Ireland Assembly

Ad Hoc Committee on a Bill of Rights

OFFICIAL REPORT (Hansard)

Briefing by the Equality Coalition

22 October 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Ms Emma Sheerin (Chairperson)
Mr Mike Nesbitt (Deputy Chairperson)
Ms Paula Bradshaw
Mr Mark Durkan
Miss Michelle McIlveen
Mr Christopher Stalford
Mr John O'Dowd

Witnesses:

Mr Daniel Holder	Equality Coalition
Ms Patricia McKeown	Equality Coalition

The Chairperson (Ms Sheerin): We have Daniel Holder and Patricia McKeown attending via StarLeaf. We are having some technical issues that mean that Patricia is not with us yet, so we will begin with Daniel.

Daniel, welcome to the meeting. Thanks for joining us this afternoon. Please begin your briefing.

Mr Daniel Holder (Equality Coalition): Thank you very much. Patricia will hopefully be able to join us soon. I am the deputy director of the Committee on the Administration of Justice (CAJ), and we co-convene the Equality Coalition with UNISON. I should declare that, prior to starting at the CAJ in 2012, I worked in the Human Rights Commission (HRC), including at the time that it produced the bill of rights advice, although my role in the commission was limited to that end.

You have already introduced us. We are a network of over 90 NGOs and trade unions working across the different equality grounds. We provide a forum for unity among different sectors and have a long track record of campaigning for the implementation of the rights-based provisions in the peace agreements, including the bill of rights.

In April 2019, we issued 'Manifesto for a Rights Based Return to Power Sharing', in the context of the absence of the Stormont institutions. It recalled that the bill of rights and other key rights-based commitments in the peace agreements were safeguards to counter and prevent abuses of power, discriminatory decision-making and rights deficits. We highlighted the fact that we felt that the Executive had collapsed in the context of such safeguards not having been implemented and that there was a risk that the institutions would collapse again for similar reasons if that remained the case. For us, the bill of rights has been a safeguard that would underpin the power-sharing institutions and put them on a much more sustainable footing.

We feel that the bill of rights could not have prevented the renewable heat incentive (RHI) inquiry but could have prevented many of the other issues that destabilised power-sharing and contributed to its collapse. Those issues include some legislation and policy that would just not have been lawful had the bill of rights been in place, as well as issues around the diversion of Executive business into repeated attempts to enact rights-based provisions, many of which had come from previous agreements but had then been blocked and that therefore otherwise would have already been in place had the bill of rights been there. That time would therefore have been saved. We also recalled how the petition of concern was very much tied to the bill of rights.

One of the long-term concerns that we have had, and it has been raised by some of your other contributors, is that, in some debates on a bill of rights, there are basic misunderstandings as to the implications of its provisions, particularly around economic, social and cultural rights. Sometimes, we feel that there is still a bit of an influence of an exceptionalist approach, more common in English political circles, that insists that economic and social rights cannot be enshrined in bills of rights in the way in which other civil and economic rights can be. We do not agree with that view. I know that you have received evidence from others that deals with that issue, but economic, social and cultural rights are operating in many other jurisdictions without any of the problems that have been put forward. The UK has long committed to the rights in question as a matter of international law, and those rights have been quite well codified, in the same way in which civil and political rights often have been.

From our perspective, a second area of misconception is the focus on misconstruing the nature of economic and social rights. An example that I will focus on briefly is the right to housing. Contrary to popular myth, that does not require the state to build housing for the entire population or otherwise provide everyone with a house. That is neither practical nor necessary. It does, however, place positive obligations on states to take reasonable steps to prevent homelessness, to provide equal and non-discriminatory access to housing and to focus on those most in need, which is helpful in our specific circumstances.

It also places negative obligations on public authorities to prevent undue interference in the right to housing. For example, you cannot not build houses in a particular area just because most of the people who are likely to live in them are from the other side of the community. You cannot fail to provide housing to meet the identified objective housing need of a particular group, whether that be addressing identified inequalities, like there are for Catholics and nationalists, or failing to make provision for groups with specific needs, whether they be Travellers, former service personnel, refugees etc. Funnily enough, it would not be compatible with the right to housing not to provide housing because it might affect the results of an election. The issues around gerrymandering would not be compatible with subjecting housing provision to permission from representatives of another community or with providing public housing where it is least rather than most needed. For example, you could not retain peace lines just to stop people moving to live on the other side of them.

The point that I am trying to make is that the right to housing and the way in which it should be framed is not something that would upset a Minister's policy or housing policy in general. It is really a safeguard against rather extreme actions in the housing sphere that, sadly, relate closely to the particular circumstances of Northern Ireland.

I must apologise for the lateness of our written evidence. What with other priorities and being so busy, we completed it and were able to provide it only this morning. It focuses on the example of how the bill of rights, had it been in place, would have precluded a number of the problems that have impacted on the sustainability of the institutions in recent years. That includes issues such as Brexit, which had not happened when the Human Rights Commission last issued its advice. We have always noted that a hard Brexit could not have happened in the North if a bill of rights had been in place.

A second significant change in the 20 years since the Belfast/Good Friday Agreement has been the demographic change. We are no longer in a simple majority/minority dynamic. That type of framing no longer holds. We have always pointed to how the equality of treatment and parity of esteem provisions would protect the rights of both main communities as well as the rights of others.

I will leave it at that. There are other things that Patricia had wanted to add. Overall, we see the bill of rights as being an essential safeguard to the functioning of power and the institutions, as well as being a baseline for resolving a lot of issues that have clearly become quite intractable but were not meant to be, because the institutions were supposed to operate in that way from the outset.

The Chairperson (Ms Sheerin): Thank you, Daniel. I think that Patricia has now joined us. We have got a blank screen.

Ms Patricia McKeown (Equality Coalition): Can you hear or see me?

The Chairperson (Ms Sheerin): We can hear you, but we cannot see you.

Ms McKeown: I do not know why. I have been in the waiting room for a long time. My apologies to the Chair and the Committee and to Daniel for having to start without me. He has covered the core of our position, but I want to highlight a couple of points.

First, we were very clear, 20-odd years ago, when we were campaigning for these kinds of provisions in both the peace agreement and the subsequent Northern Ireland Act 1998, that the power to legislate for a bill of rights should be vested in Westminster with the UK Government. The reason for that was that we did not anticipate that it would be easy to get political consensus here. That is still very much our position. Ironically, the fact that we do not have political consensus was given back to us by the UK Government consistently as their reason for not acting on the bill of rights over the years.

Secondly, the most recent time that we had a detailed engagement with our own political system was at the point of the year-long Bill of Rights Forum, which had many positive aspects. It did not result in the kind of agreement that we could have hoped for, but it was important that that exercise explored issues such as the progressive realisation of rights. There was a fear among some, particularly in political parties, that what we were seeking in a bill of rights would in some way diminish their ability to be decision makers. That was never the case.

The Chairperson (Ms Sheerin): Is that you, Patricia?

Ms McKeown: I think that Daniel has captured the essence of the rest of it.

The Chairperson (Ms Sheerin): That is 100%. Thank you very much. No need to apologise: technology is a battle that does not discriminate. It can affect us all. I have been there. I am not sure what happened, so apologies. It may have been something on our side that kept you in the waiting room. I thank you both for your time this afternoon and for the presentations, verbal and written.

I have a question or two. In your written evidence, you referred to the changes since 2008, not least in the context of Brexit. You referred to the recommendation to incorporate a provision in the bill of rights to ensure the right of the people here:

> *"to hold British or Irish citizenship".*

You state:

> *"Had this provision been in place it would have most notably precluded the imposition of a 'hard Brexit'"*

in the North. You go on to say that, as things stand, British citizens here:

> *"face detrimental and differential treatment compared to Irish citizens".*

Can you expand on that? What are the risks as we come into this phase of leaving the EU?

Mr Holder: I am happy to pick that up. There are detriments and differences for British citizens and Irish citizens. They are just different. In our written evidence, we outline the fairly obvious issue that Irish citizens in Northern Ireland will retain EU citizenship and some basic EU free movement rights, although they will lose most of the EU rights, and British citizens will not. That is the first differential.

It is important to note that the citizenship provisions were not just about which passport you could have but about the very important principle, which was going to be written in the bill of rights, of equality of treatment, regardless of the choice that the UK Government have emphasised during the Brexit process. In fact, the legislative basis that underpins equality of treatment between British and Irish citizens has been EU free movement law. That has been the legislative basis, and it is going to be stripped away, which leaves Irish citizens in a fairly precarious position, whereby all that is left are non-binding and, at times, fairly vague political promises that there will be equality of treatment owing to the common travel area. Those are non-binding and apply only in certain areas, however.

To give you some practical examples of that, one of the areas that we were looking at was the Civil Service nationality rules. A lot of this is coming to light only now. There are some Civil Service posts that are available only to British citizens and some that are open to British and EU citizens. The logic of Brexit, although the Government are not clear on their position, is that that could be changed to restrict the posts to British citizens. Commonwealth citizens is another category. That came up recently with the recruitment, directly linked to Brexit, of Border Force officers, where the Home Office recruited here but restricted the posts to British citizens. If you are not a British citizen, you cannot be the equivalent of a constable in the Border Force but you can be the Chief Constable of the PSNI, because you do not have to be a British citizen to be the latter. That is just one of the areas in which that issue could come up. Another area is non-cash benefits from health trusts. I am thinking of those who work as home helps or in residential care. Those benefits are normally restricted to either British citizens or people who are exercising EU treaty rights. Where will Irish citizens and citizens of other EU countries stand when EU rights are no longer being exercised?

A final example, which is the other way around and demonstrates the impact on British citizens, links to the Irish Government's role. As a matter of policy, the UK Government have said that there will not be any passport controls whatsoever on the land border. They have failed, however, to give that guarantee on the sea border, saying that there will not be any "regular" passport controls. My concern is that that will mean irregular controls, which, alarmingly, tend to mean checks that are conducted on the basis of racial discrimination. There will essentially be a border in the Irish Sea, but it will be one that affects black people and other ethnic minorities.

The Irish Government's legislation is inherently discriminatory. It exempts Irish citizens and other people who are exercising EU treaty rights from having to carry passports to cross the land border. Of course, British citizens and Northern Ireland-born British citizens will cease to exercise EU treaty rights post-Brexit and therefore, as the law stands, will have to carry passports to cross the land border as of next year. If something were enshrined in a bill of rights that precluded passport controls in the common travel area for travel to and from Northern Ireland, you would then look to the equivalent provisions that the Irish Government have under the Belfast Agreement to try to make a reciprocal provision. Otherwise, we are walking into a whole load of things for which there is no proper legal underpinning of the right to equal treatment between British and Irish citizens, and the impacts of that will begin to come to light as the transition period ends.

The Chairperson (Ms Sheerin): Thanks, Daniel. That is a really broad overview. There are all sorts of conversations happening about the risks of Brexit. The Equality Commission and the Human Rights Commission issued a joint statement with the Twenty-six Counties' Irish Human Rights and Equality Commission last week or the week before on their fears over some of the amendments to the Internal Market Bill, which is going through the House of Lords at the minute.

Do you guys have specific fears about the Internal Market Bill and the risks that it might pose to the rights of people in the North post Brexit?

Mr Holder: Yes. Our position is the same as theirs. Essentially, it is a breach of the Good Friday Agreement, in that it diminishes the incorporation of the European Convention on Human Rights (ECHR) into Northern Ireland law, which is a core provision of the agreement, insofar as the Bill would disapply that for the issues that are covered, on state aid and goods etc. That was the case before the Bill was amended, and it is even more expressly the case now that that specific position has been put into the Bill. You have to recall that that is aligned with the UK Government having agreed, in the withdrawal agreement and the protocol, that there would be a guarantee of no diminution of certain Good Friday Agreement rights that incorporate the provisions of the ECHR. There are other Bills that are already diminishing commitments in the agreements, but the Internal Market Bill is particularly worrying, because it would set aside the ability to enforce the ECHR through the powers that the agreement gave to the Equality Commission and the Human Rights Commission.

Patricia may have more to say on this. I will highlight other areas in which the only legal underpinning, in the absence of the bill of rights, was through EU law. I think of areas such as workers' rights and equality rights, which now risk being repealed or amended as they are no longer requirements of EU law post-Brexit.

Ms McKeown: Over the years, those who opposed an inclusive, enforceable bill of rights for Northern Ireland argued that one was not necessary because the ECHR and the Human Rights Act 1998 were both in place. Quite clearly, as Daniel said, the Internal Market Bill diminishes the ECHR, but we are also dealing with the fact that the current UK Government have stated their position — they are on

record several times — as wishing to dismantle the 1998 Act. Of course, it was that Act that give effect to the commitments in the Good Friday Agreement and the Northern Ireland Act. It is a very disturbing time.

The Chairperson (Ms Sheerin): I do not disagree with a lot of what you said. Thank you very much.

Mr Nesbitt: Daniel and Patricia, you argue that a bill of rights could have a significantly positive impact on the way in which the coalition Government at Stormont operate. In fact, in paragraph 4 of your paper, you state:

> *"It is notable that the Bill of Rights could have prevented many of the issues that de-stabilised power sharing and contributed to its collapse".*

Can you expand on that for me, please?

Mr Holder: I can start on that, Patricia, if you want. A number of examples are given in the written evidence. Some of them relate to the Brexit issues that have been very destabilising. We have just had a good rattle at that, so I will pick out some other examples.

The second example that we placed in the paper relates to minority rights, including provision for the Irish language and things like that. That created huge controversy and destabilisation within the institutions. The Líofa decision is perhaps the one that is most associated with the collapse of the institutions, but a number of Departments adopted single language policies — that is, English-only policies — that would have been unlawful had the bill of rights been in place. The whole climate around the lack of respect for the rights of the Irish language-speaking community was one of the major issues that not only destabilised power-sharing but made it very difficult to get power-sharing re-established. We include an example of that in the paper.

Another area is housing, which I mentioned in my opening remarks. There were examples that fall into the category of fairly extreme actions by public authorities. We have a number of examples of requests for housing being refused until the other side's political representatives agreed, which was, in essence, a sectarian veto on housing. That created considerable tensions.

One particular Department for Social Development programme had among its criteria for regeneration schemes not indicators of housing need as such but criteria such as significant levels of empty properties and areas that had experienced decline in housing need, and even places that were in proximity to areas where there was housing need. Those were the types of issues. Although that was investigated by the Equality Commission, and a breach of the equality scheme was found, there would have been much better remedies under the bill of rights. Without bringing up the issues about past Governments — every political constituency has a fear of what some of the political parties that represent other groups may do when in power — the starting point may be to ask, "What are your fears about how power would be exercised?". I know that Albie Sachs in particular made that point in his evidence. That is the type of thing that could shape a bill of rights.

We could elaborate on many other areas. The final example in the paper is the destabilisation prior to the collapse that was created by the UK Government's welfare reform agenda. The bill of rights itself would not prevent changes being made to social security policy per se, but it would have a very minimum floor that would protect against regressive steps that were either arbitrary, that unfairly deprived individuals of support or that put people in a state of destitution. There were certainly elements of the welfare reform provisions that would have crossed that threshold, as, indeed, the mitigations package recognises. The hand of the Executive in negotiating with the UK over the impact of welfare reform would have been strengthened if implementation of an equivalent of the Welfare Reform Act for Northern Ireland had been, de facto and de jure, unlawful.

Ms McKeown: We have to go back 20-odd years to our hopes and aspirations at the time of the peace agreement and the commitments in it and to that interlinked relationship between equality and human rights. Our hope was that our new Government would operate within an equality and rights-based framework and that that would move this society forward. Had we had a bill of rights at an early stage, it would not have been a panacea. We believe, however, that it, coupled with the political will, for example, to implement section 75 of the Northern Ireland Act, would have put us in a better space. For example, we might, by now, 20 years on, have tackled some of the worst of the health inequalities in this society. We might be in better shape to deal with the pandemic. We still have hopes that our returning Government will agree to start to operate within an equality and human rights-based

framework, but, frankly, given the tensions that there have been on the Executive over the years, the difference that a bill of rights would make is that everybody would operate to the same standard without having to argue whether it should be a standard in the first place. That is particularly true for social and economic rights.

Mr Nesbitt: You gave the example of the Líofa grant. I just wonder whether that is the problem or whether it is a consequence of the problem, with the problem itself being a breakdown in relationships in the partnership Government. If it is the latter, will the bill of rights fix that?

Mr Holder: We —.

Ms McKeown: *[Inaudible.]*

Mr Holder: Sorry, go ahead, Patricia.

Mr Nesbitt: It must be the technology, because Patricia would not go silent *[Laughter.]*

Mr Holder: I will proceed. Clearly, the bill of rights will not resolve all governance issues or the issues that have become intractable. Another example is the incomplete nature of our equality legislation, which has been fiercely argued over. Among other things, there are gaps in provision on sexual orientation, age, goods, facilities and services, and conflict-related convictions. All of those issues would have already been dealt with by a bill of rights. It would not have dealt with everything, but a lot of the breakdown of relationships over things like Irish language rights would have been on issues that would have already been addressed.

To give a comparator, can you imagine how difficult it would have been for the Assembly, on the devolution of justice, to take forward the Patten report on police reform at that point, rather than as a matter that was already settled by reforms as part of a package from the peace settlement? That was what the bill of rights was supposed to be. It was supposed to be in place and to have resolved a number of those issues. To give equality law as an example, it would have already required, as a matter of law, a lot of those issues to have been dealt with. The countless hours of energy, including the exhaustion from civil society, of constantly having to go back and battle over improvements to equality law, and also the political energy that was spent on that, would not have been lost, because all that would have already been part of the legal framework provided for in a bill of rights.

It would have also constrained some of the more controversial elements of political power. It would have shaped, of course, the governance issue of the petition of concern, in that that would have been, as intended, a tool to scrutinise whether a particular piece of legislation or measure would have engaged and unduly interfered with the rights of any section of the community, rather than what it became, which was, essentially, a political veto without set criteria and something else that damaged the governance relationships.

So, we are not saying that it is going to resolve every issue, but we think that, had the Good Friday Agreement been thought through, it was very much thought that this particular safeguard would be key in ensuring the effective functioning of the governance arrangements and making this jurisdiction work.

Mr Nesbitt: At paragraph 16 of your paper, you talk about the Líofa grant and you say;

> *"The decision to cut the modest Líofa Grant scheme is known for its direct role in the collapse of the devolved institutions in 2017."*

Whether that is accurate or not is debatable. Would a bill of rights have meant that the Minister could not have made the decision to cut the grant?

Mr Holder: That particular decision was one that was cited with regard to the then deputy First Minister's resignation as the straw that broke the camel's back, which is why it is cited in that context *[Inaudible.]* Yes, a bill of rights would have constrained the ability of a Minister to make a decision if that decision was grounded in discrimination on the basis of it being an Irish language scheme. Of course, you would have to go into the detail of why the decision was made, and we know there are virtually no records. In fact, they were released under a freedom of information request, and the Minister's response was simply, "No scheme", without giving a reason. Look at that decision in

context; officials produce a paper about this modest scheme and list all the benefits it, and then a decision is made, without explanation, to cut it. If that constituted discrimination on the grounds that it was an Irish language scheme, as certainly appears to be the case, then, yes, that would not have been possible. It would have been unlawful under a bill of rights, as it would have constituted an Executive act that was discrimination on the grounds of language — something that is not, presently, in law.

Mr Nesbitt: To pursue that, Daniel, and we are using this as an example; I am not arguing that the decision to cut the grant was right. The Minister said that he was cutting the grant because he could not afford it. If that is the case, and we also support progressive realisation of rights, does that not take away from political power, because you are suggesting that, inevitably, you will end up in the courts with a judicial review of that decision?

Mr Holder: If the decision, genuinely, was taken because it was unaffordable and in the context of efficiency savings, as had been claimed at the time, then it could have been a lawful decision. I am trying not to get into the nitty-gritty too much, but we know, from that freedom of information request, that not a single piece of paper existed that suggested that the decision was taken because the Department was considering efficiency savings when it took that decision. The onus would be on the Minister to prove whether the decision was taken on those grounds or not. After the decision had been taken, it was reversed in the mouth of judicial review proceedings that were taken on other grounds. Now, whether they would have been successful or not, we do not know, but it is a reminder that decisions are already constrained by the type of standards and propriety that Ministers are to abide by.

A bill of rights provides a much clearer framework as to what is acceptable and what is not acceptable. We would hope that, within that framework, Ministers and other decision-makers would regulate their behaviour and conduct in their decisions to make sure that they are compatible with the human rights standards within a bill of rights. A Minister would not be able to take a decision that was discriminatory on the basis of language. A Minister could, of course, take a decision to cut a particular grant for other very good reasons.

Mr Nesbitt: Right. So, controversial decisions can still be taken, but there is an onus on the Minister and his Department to be able to give an evidence base that proves that they took those decisions on solid ground.

Mr Holder: Yes.

Mr Nesbitt: OK. I have one last point, just for clarification. Are you, as a coalition, suggesting that we combine the Human Rights Commission and the Equality Commission?

Mr Holder: No.

Ms McKeown: No. We never have.

Mr Nesbitt: OK. Thank you.

Ms Bradshaw: Good afternoon, everybody, and thank you for coming today. It does not feel that long since you came to brief us for the talks to try to restore power-sharing.

I will follow in the channel that Mike went down in relation to your position on the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and access to abortion services. The flip side of what Mike was talking about is a Minister's inaction to deliver on the law. It is now lawful to provide abortion services, but those have to be commissioned. How do you feel that a bill of rights could strengthen women's rights without it ending up in the courts again? Obviously, that is the position that we are in at the minute. How could a bill of rights being in place strengthen the rights of women?

That very much leads into how this issue, Líofa and others in the past have been kicked from the Department in which they sit into the Executive, and then there are issues around the cross-community vote and the petition of concern. There has been the rise of the Alliance Party, but our votes do not count in a petition of concern. How can we protect people who are not green or orange but want to sit in the middle? I am really asking about the chain through to ministerial decision-making.

Ms McKeown: I will say a word about abortion rights first. We were told, at the end of that year-long Bill of Rights Forum, way back in 2010, that one of the core reasons that there was failure to get political agreement was the issue of abortion. The world has moved on since then, and the UK Government have had to comply with the recommendations in CEDAW. They had two years in which to do that, and they did so. They brought forward legislation when we did not have a functioning Assembly here. Now that that is the law, we expect the system to comply with the law and to give effect to that law by ensuring that the proper regulation is brought forward to make the services available. There is a real danger that the Minister and the Northern Ireland Executive, unless they bring forward such regulations, will be culpable, because the UK Government would have to step in. I cannot see that they would permit a devolved Government to put them in the dock on an international issue. Mind you, given some of the decisions that they have made recently, they might not care very much about that. That is where we are.

In work on a bill of rights, way back when, there was a specific working group on reproductive rights that made some very sound recommendations. At that time, the recommendations did not go anywhere. However, had we had some buy-in at that stage, there would not have been another decade-long campaign that ended with the UK Government taking action. We would have had some sensible decisions from our own Executive.

Back then, when I was doing intensive work with our politicians, I realised that there were some very strong misconceptions about what a bill of rights actually meant. They really did think that it was going to interfere with their own personal beliefs, ethics and morals. They thought it might interfere with their ability to make resource allocation decisions. We worked through a very important process that demonstrated that it did not have to be that way. There were absolute rights, and there were rights that could be progressively realised. We have lost an extraordinary *[Inaudible]* collective working of our politicians and cross-departmental working that was necessary to get us into a better place.

I have covered the first element, and I will ask Daniel to come in.

Mr Holder: The second part of your question was about the array of vetoes. We would very much like to go back to what was in the Good Friday Agreement. The Agreement has vetoes — if you want to call them that — or safeguards that are based on equality and human rights criteria, of which the ECHR and the bill of rights were to be the core instruments within the petition of concern mechanism to scrutinise legislation and other measures. As part of our manifesto of a rights-based return, which we mentioned earlier, we would like to see the removal of vetoes at Executive level that are based on lay criteria that do not relate to equality and human rights; for example, specifically, an issue being significant or controversial. The problem is that many human rights issues, such as reproductive rights, LGBT rights and Irish language rights, can be controversial. It is a Humpty Dumpty thing, as Lewis Carroll might have said, as, essentially, "controversial" can mean whatever people want it to mean.

Human rights cannot mean whatever people want it to mean, as you cannot make human rights up. Human rights are defined in law by the United Nations and in the Council of Europe human rights instruments which have become increasingly codified over time. Therefore, if you are scrutinising legislation against those standards, there is an objective measure. Whereas, if you are scrutinising legislation against whether something is controversial or not, that can become a veto to block anything on political, sectarian or any other grounds. We would certainly like to see a return to what was intended in the Good Friday Agreement, which is that those types of safeguards or vetoes would be grounded in equality and human rights.

I take your point that the scrutiny criteria do not fully address the designation issue. We want the designation issue to be reviewed. Should designation be tied to issues such as citizenship, community background or criteria other than political affiliation to solve the problem that those who designate as "other", essentially, have no vote? However, that can be discussed within the framework of governance structures that would flow from a bill of rights, such as the recommendations on equal participation, that may prompt the re-examination of the designation issue. Certainly, the bill of rights should go back to the framing of scrutiny tools around objective criteria.

Ms Bradshaw: Thank you very much, that was a good answer.

Mr Durkan: Thank you for the presentation and the submission. The submissions contained a lot of interesting reading and listening. The conversation has touched on lessons that could have been learned here over the past ten or twenty years. What lessons could be learned from other jurisdictions on what would be the best and most suitable model for a bill of rights here?

Ms McKeown: Oh, dear. We have spent nearly 30 years looking at international models. We have benefited from a lot of the input of people from other jurisdictions — South Africa, Canada — and CAJ. CAJ has been so very important in giving us all access to the experience of other jurisdictions and how their bills of rights have worked. I would like to think that we can still capture all that work, particularly that of the past 20-odd years, because the models are there.

Daniel, this is so much the territory of CAJ.

Mr Holder: Yes, there are a lot of international comparisons to add to some of those that the Committee has heard evidence on. It is well worth looking at some of the more recent constitutional developments that have taken place in rights, over the past couple of decades, in South America, for example, particularly economic, social and cultural rights. Bolivia is topical, because there has just been an election there. Looking at the institution on recognition — they called it plurinational — it was more about the co-existence of different ethnic groups, different cultural and linguistic traditions etc and how they could be modelled. There are further developments internationally that could be drawn on, as well as the codification of economic and social rights.

It is not an international example, but we should also be cognisant of the UK Government's position originally to the commission's bill advice, saying, "Well, we have to look at how things are done in different parts of the UK", which is, of course, not the mandate of the bill of rights particular to Northern Ireland.

The idea of the UK as a unitary state is a last-century concept. If you look at the UK in the 21st century, you see specific developments, some of which the Committee has been apprised of, in Scotland and Wales, for example, as to how rights protection, including economic and social rights, can be incorporated. If anything, we here are becoming the anomaly in that we are so far behind in how those protections can be enshrined.

There is a lot of international learning that can be picked up on, and some of it is more recent.

Mr Durkan: OK. Thank you, Daniel and Patricia. I have finished for now.

Mr O'Dowd: Thank you, Daniel and Patricia, for your commentary thus far. I do not know if you had an opportunity to see or hear last week's Committee, although it is riveting viewing for many in the general public. Dermot Nesbitt gave a presentation. Without putting words into his mouth, he said that the Human Rights Commission had mission creep in terms of the draft bill that it published and that it actually misinterpreted paragraph 4 of the Good Friday Agreement and went beyond that to incorporate rights that were never intended. What are your views on that?

Mr Holder: I did not have a chance to listen to the evidence, although I did read Dermot's written submission. Dermot engages a lot with the Equality Coalition. He would be at a lot of events, and we would be familiar with his take on this and, indeed, on the framework convention.

We take a very different view. Starting with the particular circumstances, the issue is what is written in the international treaty, the Good Friday Agreement, and what you want to achieve with a bill of rights. As we have said a number of times, its core purpose is really as a safeguard to prevent rights from being abused in a way that fuels conflict and division — the right of housing being an example. You have to include those.

We do not see the mandate for a bill of rights being restricted to just a number of consociational identity rights. That is too narrow to prevent some of the problems that have bedevilled this jurisdiction in terms of the exercise from the onset.

Ms McKeown: As Daniel said, I give Dermot credit for consistently engaging with us over time. That has not been a bad thing. I think that even Dermot would, today, accept that some of the arguments that he made in the past about there not being a necessity for a broad-based bill of rights here lay in the fact that we had the ECHR and the Human Rights Act, and, of course, both are now very seriously in jeopardy. I imagine that he is concerned about that too.

Mr O'Dowd: In fairness to Dermot, I accept the fact that he has engaged over many years in the rights debate, and that is a good thing. Like others, I very often find myself in disagreement with him, but at least he will step forward and debate the issues.

The other point is that rights can be a very distant idea to people. When you are working to try to keep a roof over your head and you have childminding responsibilities — all those things that make up people's daily life — rights can be a very distant idea. People will say, "What has that got to do with me?". How do we make the issue relevant to everybody's daily life?

Even though I fully accept that someone's life has to be protected in one way or another through the protection of their human rights, how do we make this relevant to our citizens so that they will take on board the importance of the work that we are trying to achieve?

Ms McKeown: First of all, I commend the work that has been undertaken over time by the Human Rights Consortium. The CAJ found that a bill of rights was such a substantial issue that it promoted the creation of the consortium. What the consortium did, for a considerable time, was direct work on the ground, particularly for the most disadvantaged communities, to the extent that, when the commission on a UK bill of rights visited Belfast, it was able to hear evidence from representatives of very disadvantaged loyalist, nationalist and republican communities, who all argued for the necessity of a bill of rights and who put a particular emphasis on social and economic rights.

Some time ago, the consortium conducted a poll of the electoral base of our main parties. There was no statistical difference produced, but, in very large numbers, people in this society said that we needed a bill of rights and identified the most important rights: the right to health; the right to social care; the right to jobs; the right to social security; the right to education; the right to housing; and the right to a healthy environment. Those were the top issues identified by ordinary people in the community, who understand, if we have the conversation in the right way, that we need to pay some attention to such fundamental human rights.

The trade union movement would say to you that its membership has had no difficulty, over the years, in realising that women's rights are human rights and that workers' rights are human rights. When the conversation takes place in the right way, there is a big groundswell of desire for a bill of rights from *[Inaudible.]*

Mr O'Dowd: OK. Thank you.

The Chairperson (Ms Sheerin): All right, John?

Mr O'Dowd: Yes. Thank you.

The Chairperson (Ms Sheerin): Thank you very much, Daniel and Patricia. Sorry, Christopher, I did not see you indicating.

Mr Stalford: I just want to ask one question. Daniel, you referred to there being examples of good bills of rights in South America: which countries do you have in mind?

Mr Holder: Quite a few countries have gone in through constitutional reform. Bolivia is one and Ecuador is another, but there may be others. I would be happy to gather together some information, if that would be of assistance.

Mr Stalford: It is just that I am mindful of the fact that Venezuela undertook significant drafting of a bill of rights, yet it is now a country where people are being forced to eat their pets because of starvation. Whilst the regime might highlight, "This is our expansive bill of rights", the actual capacity for it to deliver on those rights for the people has clearly been very limited.

Ms McKeown: That is true, Christopher. However, we have growing numbers of food banks in this country, which, if ever you needed proof, points to the need for a bill of rights. A bill of rights, in conjunction with our commitments on equality, is needed to be able to address that. The real challenge is with society. It is shocking that, all these years after the peace agreement, this is now a more unequal and poorer society for many people.

The Chairperson (Ms Sheerin): All right, Christopher.

Thank you both for your presentation and for joining us this afternoon. We will let you go now. Thank you.