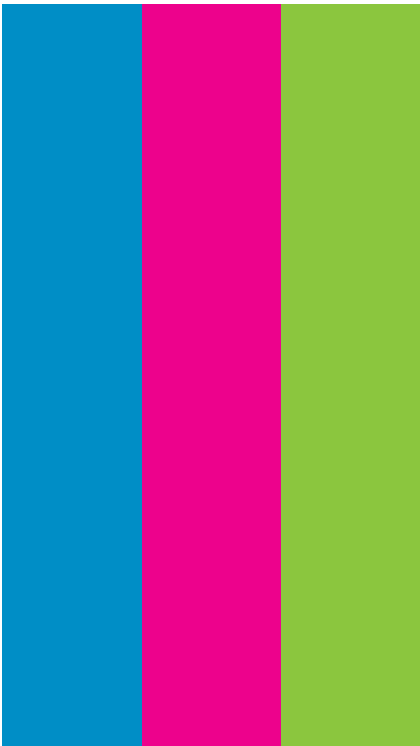




RIGHTS IN A NEW IRELAND

**Report of 'Rights in a New Ireland'
St Comgalls - Ionad Eileen Howell
3rd May 2024**



The Commission on the Future of Ireland was established by Sinn Féin in July 2022. Its remit is to undertake a grassroots consultation with the people of Ireland and internationally on the future of Ireland. This will be achieved through the hosting of People's Assemblies across the country and internationally; through the collection and publication of written contributions; through hosting sectoral meetings and through private engagements.

A final report will be compiled at the culmination of the project.

This is a report of the Rights in a New Ireland discussion which took place on 3rd May 2024 in St Comgall's - Ionad Eileen Howell, Divis Street, Belfast

The meeting was addressed by Declan Kearney MLA.

A video of Rights in a new Ireland is available on YouTube: <https://www.youtube.com/watch?v=wT4lj94yHjE>

The Commission on the Future of Ireland has received written contributions from a broad range of interested individuals and groups. It is important to note that contributions can still be made to the Commission at commission@sinnfein.ie or via the following webpage www.sinnfein.ie/futureofireland

Thus far the Commission has hosted 14 public events.

Upcoming events include Lurgan People's Assembly on 11th June and Irish Unity and the All Island Economy in the Europa Hotel Belfast on 28th June.



Declan Kearney MLA is Chairperson of the Commission.

Senator Lynn Boylan is Deputy Chairperson of the Commission

INTRODUCTION

Opening remarks were delivered by Sinn Féin MLA Declan Kearney

Declan welcomed the panel and audience to the meeting saying;

“Sinn Féin is for a citizen centred, rights based society. Equality and fairness and justice must be at the heart of a new Ireland.

These issues of rights and equality are at the heart of our collective efforts to end the divisions and conflicts of the past and to build a new future – a new Ireland for all our people.

The historical reality in Ireland is that for centuries rights have been contested and in many instances violently denied. British dominance in Ireland over the centuries has relied on coercion and repression.”



Speaking about the importance of the Good Friday Agreement underpinning rights Declan said;

“When the Good Friday Agreement came to be negotiated the issues of equality and human rights were central to its provisions.

Under these there was to be a Bill of Rights for the north, a Civic Forum, and an All Island Charter of Rights. There was a powerful opportunity for harmonisation of rights across the country. However, instead of looking at best practice around the world and using that to quickly produce a Bill of Rights the British government prevaricated, waffled, and delayed. The Irish government did nothing to encourage.

26 years after the Agreement there is No Bill of Rights; No Civic Forum in the North; No all-Ireland Civic Forum and No all-Ireland Charter of Rights.”

Declan concluded by remarking on the rights abuses in the southern state and of the opportunity that we now collectively have to design a better future for everyone

“Over recent years society in the south has changed radically and as a result some of the more religious elements of that constitution —the ban on divorce, the abortion prohibition, the ban on marriage equality, the blasphemy offence—have been removed.

However the southern state’s treatment of women in particular has been reprehensible, the Magdalene Laundries, Mother and Baby Homes, Illegal Adoptions, the Cervical Check scandal and the historic denial of reproductive autonomy have all impacted negatively on all women.

These abuses must never happen again.

But we must go further – Bunreacht is currently silent on the Right to a Home, the Right to Water, the Right to a clean Environment, the Right to Medical Treatment this needs to change and I believe the best platform upon which to build a rights based future is a united Ireland and all of us moving forward together.

There is a heavy onus on all of us to put in place strategies that promote understanding as well as a robust, internationally compliant human rights system of laws and governance that incorporate rights, freedoms and responsibilities that guarantee civil and political rights; democratic, social, economic and cultural rights; children’s rights; language and cultural rights; environmental and developmental rights.”

MAIN DISCUSSION

The panel for Rights in a new Ireland consisted of Independent **Chairperson Ailbhe Smyth**

Ailbhe is currently Chair of Women's Aid and also of Ballyfermot STAR Addiction services. She is a director of Age Action and of the Women's Global Health Network Ireland, and Patron of the Women's Collective Ireland (WCI). Among other campaigning activities, she is a founding member of Le Chéile: Diversity not Division, a cross-sectoral alliance challenging far right extremism.

Ailbhe was joined on the panel by **Daniel Holder** - Director of the Belfast based Committee on the Administration of Justice and Co-Convener of the Equality Coalition. **Dr Shannonbrooke Murphy** - Endowed Chair and Associate Professor in Human Rights at St Thomas University in New Brunswick, Canada and **Professor Colin Harvey** - Professor of Human Rights Law in the School of Law, QUB and member of the management board of Ireland's Future.

Ailbhe opened the discussion by asking the panel '**Do we currently live in a rights based society?**'

To which **Shannonbrooke** replied that she believed that currently there is a pretence to rights in Ireland and in other Western countries which perpetrated or were shaped by the colonial conquest.

Shannonbrooke said; "One result of this has been a refusal to take economic, social and cultural rights seriously. Not to down play the crucial importance of equality and diversity rights, or civil and political rights, much less the superordinate right to self-determination, without which all rights are illusory.

We need to urgently look at the universal human rights, food, clean water, housing, healthcare and a healthy environment and a healthy standard of living.

That will make real the promise of the UN Declaration of Human Rights 75 years ago – this can be our common goal we can all take ownership of.

Shannonbrooke continued to speak about the outworking of the failure to entrench economic social and cultural rights which has led to growing alienation, extreme wealth, the monetarisation and commodification of almost everything in modern society.

She said constitutional change was an opportunity to make wholesale changes through a new Constitution and Bill of Rights.

Daniel Holder responded making three points:

He spoke about the right to have this discussion on constitutional change in the first place saying that although the Committee on the Administration of Justice takes no constitutional stance, they have a right to be part of the discussion.

Daniel remarked that; “26 years on from the Good Friday Agreement, a lot of people involved in this discussion are receiving harassment and intimidation for doing so. The climate for this is shaped by those in high political office who describe these conversations as ‘provocative.’”

The second point made by Daniel is that we do have rights here that were long fought for, employment rights, sex discrimination rights. On the back of the Good Friday Agreement the incorporation of the European Convention of Human Rights into law was transformational. He paid tribute to legacy campaigners who showed that the ECHR was beginning to work. Daniel believes that is why it was closed down with the British government seeking to threaten these rights. Daniel said “Take this week for example, interning refugees into camps as part of its Rwanda policy.... and then running down the clock on legacy inquests and finally shutting them down.”

Daniel’s final point concerned the lack of rights based structures within the Assembly, he said; “Constraints on Ministers and legislators were meant to be objective legal standards that would protect everybody’s rights, it was called the Bill of Rights but this has been obstructed by UK governments who made up



the prerequisite of all party consensus which hands the opponents of rights a veto.”

In responding to the same question **Colin Harvey** stated that we do not live in a rights based society. Colin said: “Today we are essentially talking about improving the lives of everyone on the island, we’re talking about basic issues of justice and on those measures no, we have an unequal society.

“There has been some progress, but the last 15 years has been about trying to hold onto what we already have against the Government in London that is trying to undermine the protections that are here.

We in the north have been trying to mitigate what’s been happening. There have been little victories – the Human Rights Act is still there and progress has been made in a range of areas but we are doing what we can.

We want to build a new society but the tool box is half empty. There are structural impediments, hardwired into the place where we live, that prevent us from progressing forward. The opportunities are there and when we talk about a pathway to change human rights must be central to that.”



Thomas Quigley - Tar Isteach, North Belfast Republican Ex-Prisoners group said;

“Since the GFA Tar Isteach has been advocating for equality of rights for political ex-prisoners. There is still to this day obstacles for ex-prisoners accessing employment etc – They don’t have equal rights in today’s society.”

Frank Martin – Tyrone

“Sinn Féin has created a platform for this debate. The British have tried to obstruct everything. The Irish government have been no better. The future will depend on how well our leadership delivers. We have to deliver on housing, policing etc and I have no doubt we will take it to the next level. It is down to the people on the ground, in this room with Sinn Féin leading.”

Audience contribution

“During the pandemic these discussions were hybrid (in person & on zoom) Since the pandemic has ended they are now exclusively in person which leaves those with complex needs out. Is it possible to make these discussions & future discussions more accessible for those with complex needs?”

Eileen Weir – Community development worker;

“I can guarantee you every community worker in the north of Ireland is delivering but unfortunately we haven’t got our rights within the community these conversations are happening at grassroots level but there is no recognition of it. A lot of people I work with believe it should be a human right to have food on the table for you and your children. Unless we address the social and economic issues of this country we are not going to go very further in a new Ireland. We have a Bill of Rights sitting on the shelf from 2002, the only thing grassroots and particularly women are saying is that the poor are getting poorer and the rich richer, and that’s what you need to address.”

Emma Jane Faulkner – Human Rights and Criminal Law Firm

“There are structural blockages every day within the courts system that denies prisoners’ rights but also their families. For example, lack of access to housing when prisoners are being released, lack of rights for families getting into the prisons, lack of access to legal teams throughout cases.

People don’t realise how much the state tries to undermine an individual’s rights because sometimes it sees those people as undesirable or unworthy.

In a new Ireland we need a grassroots destructuring of what the rights currently look like. It needs to be built up from the bottom. Every individual on this island deserves equal access to housing, legal teams, education and healthcare. Its fighting little injustices every day that then cause massive human rights injustices at a state level.”

PANEL FEEDBACK

Shannonbrooke Murphy

“The level of consensus that was built due to the work of the Human Rights Consortium around the common interests that we all have in having those rights fulfilled to build up the quality of life for people from all communities.

“Those rights are a unifier and have a lot of potential to identify common interests and build a new Ireland that serves everybody.”

Daniel Holder

“It strikes me how many of the rights based sections of the peace agreements that haven’t been implemented were meant to address many of the issues raised so far.

The rights of prisoners with convictions was meant to be dealt with by the Bill of Rights, it would have outlawed discrimination against people with conflict related convictions. It hasn’t been put into place.

The St Andrew’s Agreement 2006 placed a very clear legal duty on the Executive to develop an anti poverty strategy based on objective need. This also has not been put into place despite being desperately needed.

The Committee on the Administration of Justice won a Judicial Review in 2015 stating that the whole Northern Ireland Executive had acted unlawfully. 4 out of the 5 Executive parties welcomed the judgement against them, all except the DUP.

We strongly suspect the anti poverty strategy was being blocked due to the rejection of the very concept of objective need.

We have these peace process provisions which haven’t been implemented. What we clearly need is that anything put in place has to be legally binding and enforceable, if it isn’t it doesn’t happen.

This week the British government reneged on part of the Common Travel Area and nothing can be done about it. A discussion on free movement between people on these islands needs to happen.

Institutional reform is needed, we have had some reform of policing and justice in the north but this hasn’t happened in the south. Accountability needs to be factored in to all discussions.

Colin Harvey

“We need to think about now & where we are going next.

Why don’t we have single equality legislation that addresses some of the points around existing discrimination? Why don’t we have a Bill of Rights?

Because the British Government won’t set it and it gets blocked by a political party.

Polling at Queens shows that the majority of people want change & a commitment to equal rights. So we have to name the impediments to change.

I'm on the management board of Ireland's Future and we've produced a document and threaded through that is a commitment to equality and rights.

Perception determines how you are treated in this society. Sometimes people don't even read our documents, we have a right to be part of that discussion, it's included in the Good Friday Agreement

There's a timeframe in our document, we want to see real change legislated for.

There are people on this island who know this is coming, and they're not sitting in public meetings having the discussion, they're meeting in private clubs in Dublin looking at ways to prevent real change so we must encourage civic society to be part of that conversation on transformative change.

AUDIENCE CONTRIBUTIONS

Siobhán McCallin – retired teacher

One of my roles in school was implementing the Rights, Respect in School Award, it takes a lot of work but its based on the UN Conventions on the Rights of the Child. Should we make this compulsory in education? In light of the British government's Legacy Bill, how much can we depend on a labour government to repeal this legislation?

Orla – Sinn Féin member

We need to bring this discussion into a wider forum & we need to figure out how we build & harness support. This discussion is classist at the minute, it should be open to all. How can we build a movement towards what we want? I think talking & engaging with people is key. It's about asking people, do you want equality for your children in school? When you sell the idea of rights people can see that a united Ireland is a way to achieve them.

Female audience contributor

I've been doing cross community cross border work, it's tough work

To get the level of conversation going there are a number of barriers for these groups, one issue is funding for grassroots initiatives, there are barriers around the language that we are using. I urge anyone interested

in conversation to not build everything around a Citizens' Assembly, additional spaces need to be created for this discussion.

Eileen Weir – Community development worker

Regarding the papers that come out of universities, we need easy read documents that people on the ground can easily understand, not hundreds of pages full of jargon that people at the grassroots level can't interpret. If you're serious about getting civic society involved, you need to change the documents. I need bullet points to have discussions. This happened with the Windsor Framework, I had to get Katy Hayward out to explain it to women who wanted to understand. And we need to get away from 'cross community'. I represent women from across all communities. We need to include everybody, not just the orange and green.

James – Queens University Student

What makes the south a republic is that the people get a say. There is a popular sovereignty in the south.

Earlier Declan used the phrase that the "southern state imposed a religious ethos on people" when in actual fact the people wanted that. The people chose to include the 8th Amendment.

Its important to be aware of these differences north and south.

The kind of society we want in a UI must be:

- Rights based, there are massive problems especially in the north
- In a united Ireland republic popular sovereignty should be maintained
- The 1922 & 1937 Constitutions were elite led, there's a danger that people could be marginalised in drafting a new constitution. There will need to be compromises, and the decision shouldn't be made by elites
- People need to be given a choice on each change within a new Constitution
- People need to be aware of their responsibilities as well as their rights

RESPONSES FROM PANEL

Shannonbrooke Murphy

I'm inclined to think beyond the current constraints towards the coming

Referendum and what happens after that, the preparation needs to start now. We need to imagine the future, if we really want to shape and change it.

In terms of best practice, there is United Nations guidance on constitution building and their conclusion is that there is no one size fits all – there is no best model to make this process smooth and easy but we can build on examples of what has already worked here in the recent past. The very good work of the Human Rights Consortium, the process of building consensus (around a Bill of Rights) was hugely valuable.

The first Constitutional Convention brought political people, ordinary citizens and experts together in a really constructive process, one of the most important products of which was the Marriage Equality Referendum and the passing of that.

The urgent need for plain language documents that people can understand is crucial – we have an excellent model in the South African process, they had legal versions of documents and popular versions in many different languages.

There are good models around but the best model for here in Ireland is going to come up from the experience of the people today.

Daniel Holder;

Economic and social rights were meant to be a part of the Bill of Rights. It is notable that there have been in the north 3 major civil rights mobilizations in the last decade that have had a degree of success. One has been Dream Dearg, driven by young people, utilising social media, getting buy in etc from the wider public. Another was for same sex marriage and the reproductive rights campaign. There's a lot to learn from them.

Back to the lengthy papers about rights, there is a lot to be done on that front, not a lot has been done. How do we codify the rights of Irish speakers, linguistic minorities, migrant rights, how would you ensure the human rights of unionists are maintained? Is that one through citizenship as the Good Friday Agreement states you can be Irish, British or both? That is to outlive a unity referendum, that means there has to be provision for those who wish to be only British.

We are in a pretty awful global climate at the moment. A few decades ago there were good examples of constitutional reform processes across South

America. The most recent examples are scary. The mobilisation of the populist right managed to sink a progressive constitution in Chile that would have torn down Pinochet's constitution.

In terms of whether we can trust the Labour party to repeal the Legacy Act? Only time will tell but that commitment has been repeated so often, so it is definitely something to hold feet to the fire. Dublin's feet need to be held to the fire as well, regarding the interstate case which they took. So, with a new British government there'll be a degree of compromise or settlement after this case. We can't stop campaigning until the Act is fully repealed.

Colin Harvey:

The Irish Government have been problematic when it comes to planning for the future. They have failed to plan at all. We need much more from the Irish Government.

More than a decade ago the Constitutional Convention recommended that the franchise in Presidential elections be extended to people in the north. That was not implemented.



Constitution, was that implemented? No

The Irish Government hasn't delivered either, so there has to be a focus on London and Dublin

In relation to children's rights the starting point for me is that this is about children. The Scottish Government has just incorporated the UN Convention on the Rights of the Child into law. There needs to be further work done here. The children of Ireland should not have the script of their lives written by their postcode. If people are written off because of their background, where they live etc we will have failed in this project and other projects as well.

Ireland's Future has put civic engagement front & centre. In our new document we tried to use different language because we are listening to meetings like today, we are learning. Many of us are trying to do this in our spare time but we are listening and trying to find language that people are comfortable with. People will be central to the outcome of this discussion.

Jane Suiter has produced some excellent work on deliberation as part of the ARINS project. This will be central to what happens next is how we design the mechanisms for inclusion.

I want to acknowledge the work that's ongoing by many people in this room, governments will come in later and claim all the credit but the work has been started now.

Esther – Grassroots activist

"I'm a grassroots activist and the biggest fear that I am hearing is that people are afraid of what benefits they will lose when they go into a new Ireland. I think they need educated as to what benefits they will have."

Response from Professor Mike Tomlinson

"I'm very glad the point has been raised about benefits, it's absolutely fundamental to the discussion. Something like 28-30% of the budget in the republic is spent on benefits, it's more in the north. It's the fundamental question about taxation and redistribution of income. We can write all the constitutional law that we want, but what many people want to know is; What fiscal framework am I going to be living under? What benefits am I going to be receiving? What tax will I have to pay?"

I was part of the anti-poverty strategy expert working group set up by then Minister Deirdre Hargey and it very quickly became clear that we do not have the fiscal autonomy or sovereignty to do the kinds of things that are needed to implement an anti-poverty strategy. We just don't have the power to implement it – Westminster does.

We need to be part of a new framework that can financially deliver on social rights, but it's a straightforward sovereignty question, we do not have the power."

Ailbhe then asked each panellist how they see the future developing from now? What's the most important thing that we need to do now in order to open up the future for us?

Colin Harvey:

"We need to face into what we are doing today, we need to encourage everyone on the island whether they're in a civic society group, statutory body or public group to join in that discussion. Too many people are facing away from it and that includes government.

I am positive, optimistic and hopeful. It's an absolute privilege to be here and to be part of this discussion.



We can transform this society, what an opportunity. I'm serious about the point on children, too many children on this island, their lives are written off from the start and I'm involved in this discussion to change that.

Everyone should join in and be part of this."

Daniel Holder

"Few people 10 years ago would have predicted the changes that have happened and the lesson is that change can come quickly. The trajectory at the moment, although CAJ doesn't take a position, it looks like we are close to meeting the legal test for the referendum to be triggered. Before that the process needs to begin to develop the blue print will need to be put together and voted on. That's a process that the rights sector needs to feed into.

Any new island will inherit the current rights deficits, there's a lot to be done."

Shannonbrooke Murphy

"If we are looking at a future Bill of Rights to take full advantage of the constitutional moment that a successful referendum might present us with, we need to look at things that have the potential not just to reassure - we need to look at constitutional protections which would address reported unionist post-unification fears of dispossession, violent retribution, political and economic domination, exclusion, cultural assimilation etc.

We need to discuss measures to assuage those fears but we also need to have discussions that with excite and inspire people. We need to make sure that a future BOR addresses past injustices but also responds to the emerging human rights needs and demands of new generations coming up.

I think it's very exciting to look to the future and that process."





CONCLUSION

In bringing the meeting to a conclusion **Ailbhe said:**

“It’s Incredibly exciting, the most exciting thing to be part of a process where you’re rethinking and planning how a society should work and how it can work and trying to bring that into being.

It fills me with awe, sometimes fear, but fundamentally hope. I’m sure everyone in the room is trying to make this place that we live in better, to make people’s lives more dignified with better opportunities, trying to make it equal for all kinds of people.

Trying to iron out unequal differences. We have a golden opportunity but it is hard work. There’s a huge amount of work to be done in the south, where there is a slightly laissez faire attitude without the realisation of the work and mobilizing that we need to do, because unity doesn’t happen between two sides, we have to work together.

I hope the Commission on the Future of Ireland looks at how we can organise and mobilise together north and south. How do we build those relationships at mass level?

Thanks for contributions from floor and excellent panel, it was hugely insightful. We do want to and need to talk about this.

Please continue these conversations in your own circles”.



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