

# NORTHERN IRELAND WOMEN'S COALITION

## STRAND 1 SUBMISSION

### JUSTICE, RIGHTS AND SAFEGUARDS

The Northern Ireland Women's Coalition believes that the issues of justice, fairness and rights have played a key role in both the causes of the conflict in Northern Ireland, and the nature of that conflict itself. Consequently, a focus on resolving these issues can of itself contribute to the resolution of the wider conflict, and to a growth in confidence and trust. It can also provide a genuinely shared project for both political parties and civil society in Northern Ireland.

#### 1. JUSTICE

1.1. Any peaceful society depends on securing the rule of law and the effective delivery of justice to everyone within its jurisdiction. People in Northern Ireland have a shared need to be treated with justice, and this shared need provides a basic starting point on which to begin working for a political settlement. The Northern Ireland Women's Coalition believes that justice must be seen to operate in practice without fear or favour.

1.2. Immediate steps should be taken to repeal the emergency legislation that is currently enacted. The Northern Ireland Women's Coalition wish to see the repeal of the Emergency Provisions Act and the Prevention of Terrorism Act. It is our view that the powers available under the Police and Criminal Order are more than adequate.

1.3. While the Northern Ireland Women's Coalition welcomes the announcement that the power to intern people without trial will be removed from the statute book, it is concerned that the United Kingdom Government continues to derogate from the European Convention on Human Rights and the International Covenant on Civil and Political Rights in relation to its seven days detention powers. The Government should immediately withdraw its derogation and should stop holding people for periods which breach the minimum standards set by the European Court. Related to this, the Coalition calls for the closure of the special interrogation centres where people arrested under the emergency legislation can be detained. The Coalition notes the severe criticism made of such centres by various United Nations and European agencies.

1.4. In order to create a climate of credibility for the rule of law and the exercise of justice, the Coalition believes that it is important to deal with the legacy of the past. Action is urgently required to ensure that there are expedited arrangements to deal with the reported miscarriages of justice which have arisen over the years, and which involve people from both sections of the community. In this regard we suggest that additional resources be given to the Criminal Cases Review Commission in order to ensure that these cases are given prompt attention.

1.5. There are a number of incidents inherited from the past that need to be addressed by Government and other organisations involved - the issues of alleged collusion; disputed killings and disappeared relatives - all which require an acknowledgement of the underlying right to truth. The specific issue of Bloody Sunday must also be addressed with the institution of a new inquiry into events surrounding that occasion and its subsequent investigation.

1.6. It is the belief of the Northern Ireland Women's Coalition that there should be a wide ranging review of the criminal justice system, drawing on contributions from the political parties and civil society, to ensure that it fully complies with internationally agreed human rights standards.

1.7. Any consideration of justice requires reference to policing. The Coalition is of the view that new policing arrangements are essential if we are to effectively secure the consent and support of those policed - which in our opinion is the sine que non of an effective police force. Clearly the current arrangements do not adequately deliver this goal. The Coalition would suggest that there should be a group of international experts tasked with the challenge of developing recommendations for the re-

structuring of policing, and consulting widely on its findings. The aim of this study would be to create an accountable, representative and responsive police service, which respects human rights, and which will be capable of commanding cross-community support, together with being effective in upholding the rule of law. Any programme of work in this area will have to tackle the ethos and culture of policing; recruitment; training; structures; composition; powers and mechanisms to ensure public accountability on a cross-community basis.

1.8. The Northern Ireland Women's Coalition would wish to see consideration of decentralisation and different levels of policing (such as exists in almost every other country outside of the Republic of Ireland and the United Kingdom). In the interim the Coalition welcomes the recent community based initiatives in the area of restorative justice and alternatives to punishment beatings. It is particularly important that such models are based on a respect for human rights and a commitment to non-violent approaches.

1.9. The Northern Ireland Women's Coalition calls for the immediate cessation of the use of plastic bullets as a method of crowd control and deterrence. It also seeks the demilitarisation of Northern Ireland in line with the continuation of the Loyalist and Republican ceasefires.

1.10. In Northern Ireland all scheduled offenders are held, by legal definition, to be politically motivated. The Northern Ireland Women's Coalition believes that all scheduled prisoners must be considered, in the first instance, for release. It is the understanding of the Coalition that international research demonstrates that some agreement on prisoner release must be part of any settlement of a violent political conflict which involves negotiations that include ex-combatants. Once violence has ceased, the circumstances in which politically motivated offences were committed have disappeared, so reviewing sentences imposed when violence was continuing appears reasonable. The Coalition accepts that there are a range of possible release mechanisms covering a continuum from amnesty, to executive release, to sentence reduction, to an amplification of existing temporary release mechanisms. Of immediate concern to the Coalition is the need to review the position of life sentenced politically motivated prisoners, and particularly those who have served 10 years or more.

1.11. It is clear that the views and feelings of victims must be taken into account in the debate surrounding early release. However it is important that the views of all victims - and not just those victims of paramilitary organisations - are taken into account, and that the views of victims in all their diversity be recognised. The Northern Ireland Women's Coalition believes that it is a simplistic and dehumanising view to suggest that the pain of victims is reduced in inverse proportion to the pain inflicted upon perpetrators. We believe that victims, just like society as a whole, have interests in justice, in peacebuilding and in achieving a situation where there will be no more victims of political violence,

1.12. The Northern Ireland Women's Coalition would seek to ensure that any proposed reviews of the criminal justice system and of policing will take into account the need to introduce strong preventative measures and sanctions against violence against women, and will ensure the adoption of an investigative as opposed to the current adversarial approach to the treatment and hearing of sexual abuse and domestic violence cases.

1.13. The Northern Ireland Women's Coalition calls for the abolition of the practice of strip searching in both prison and non-prison situations.

## 2. RIGHTS

2.1. The Northern Ireland Women's Coalition is concerned that rights should not be seen as concessions to one side of the community or another, but rather as the benchmark and basis for the development of relationships characterised by equity, inclusion and respect for individual and communal rights within Northern Ireland.

2.2. Northern Ireland needs its own Bill of Rights. In this respect the incorporation of the European Convention of Human Rights into United Kingdom domestic legislation is very welcome, but it will not be sufficient to meet the needs in Northern Ireland. The Coalition is therefore of the view that a

Bill of Rights should be negotiated, and implemented, which responds to the very specific circumstances and concerns which arise among the different sections of the community in Northern Ireland, and provides them with a real sense of confidence that their rights will be fully and fairly protected. We believe that society at large should have an active part in the development of such a Bill of Rights, and that the benefit of international help and expertise should also be drawn on. The coalition urges the establishment of a Commission to develop a mechanism for widespread public participation in the elaboration of a Bill of Rights, with the involvement of appropriate international experts who can help draft the document.

2.3. The Northern Ireland Women's Coalition envisages the concept of rights - which all states may now be regarded as under an obligation to protect - as including the following categories -

- (1) Individual civil and political rights;
- (2) Individual social and economic rights; and
- (3) A range of collective or communal rights.

The Coalition accepts that all human rights must be regarded as universal, indivisible and interdependent, and that new effective procedures for monitoring and enforcing rights are needed.

2.4. It is clear that an appropriate balance between individual and communal rights must be established in the formulation of a Bill of Rights for Northern Ireland. However, equally, given the divided nature of society in Northern Ireland there is a need for the effective recognition of a range of communal rights and the development of the concept of equity of treatment and respect.

2.5. The Northern Ireland Women's Coalition believes that energy must be invested in creating a strong Human Rights culture in Northern Ireland to ensure the effective application of a Bill of Rights. In particular it should be noted that changes will be required in the judiciary to ensure that it embodies such a culture, and are genuinely representative of the wider Northern Irish society. At present there are no women represented in the higher levels of the judiciary in Northern Ireland. Equally, the development of a Human Rights culture will require that such a culture becomes a feature of the formal and informal structures and procedures of governance, at every level, and is sustained by the active involvement of non-governmental organisations (NGOs).

2.6. As an extension of the Human Rights culture, the Northern Ireland Women's Coalition believes in the right to active citizenship and the identification and development of structures and opportunities that will facilitate extended political activity and political responsibility throughout local communities and civil society as a whole.

2.7. The Northern Ireland Women's Coalition would see it as being essential that the discussion of rights that will be promoted through the proposed Commission set up for the purpose, will pay particular attention to the individual and collective rights of women; minority ethnic groups; people with disabilities; and other specific groupings within society that have experience of both direct and indirect discrimination.

2.8. As an immediate issue, the Coalition feels that the Government should consider, and take action on, the 156 recommendations from the Standing Advisory Commission on Human Rights (SACHR), which were the result of an extensive process of research and consultation. Active consideration should also be given to the recommendations for change that have been proposed by the Equal Opportunities Commission (NI) and the agenda for action to remedy deficiencies in the legislation on disability.

### 3. SAFEGUARDS

3.1. It is considered essential that the current Government, and any new legislative and administrative structures in Northern Ireland, recognise and accept their obligation to ensure equality and non-discrimination. As an immediate indication of commitment the Coalition is of the view that the Government should move quickly to implement its commitment to the Policy Appraisal and Fair Treatment guidelines on a statutory basis. Appropriate information and training with regard to these guidelines should also be put in place.

3.2. The Coalition accepts the need for the monitoring of rights in Northern Ireland by an independent Human Rights Commission. If the Standing Advisory Commission on Human Rights is to carry out this role it should be reconstituted as a formally independent body with statutory powers to carry out investigations on matters of concern; to take legal action either in its own right or on behalf of individuals or groups; and to engage in educational or promotional activities with a view to contributing to the general Human Rights culture. Its members and staff should be clearly representative of all sections of the community, and formal linkages should be established between the Commission and other appropriate anti-discrimination agencies, such as the Equal Opportunities Commission (NI), the Fair Employment Commission, etc.

3.3. Consideration should be given to the establishment of a new Human Rights Court for Northern Ireland. This would require the appointment of at least one judge from outside Northern Ireland - preferably a nominee of the European Court or Commission of Human Rights. The Coalition also supports the proposal to create a Judicial Service Commission which would have the power to supervise judicial appointments, on the model adopted in South Africa,

3.4. Alongside the legal and judicial frameworks, adequate provision should be made available to ensure the re-integration of those marginalised as a result of the political conflict in Northern Ireland, back into society. Victims' organisations should be resourced and supported for this purpose, and so too should the organisations supporting politically motivated ex-prisoners. Specific re-integration projects ought, in general, to be self-help initiatives which can be facilitated by statutory and voluntary agencies, where appropriate. Practical support should also be made available to non-governmental organisations that are actively contributing to the development of a Human Rights culture for Northern Ireland.