

SUBMISSION TO US HOUSE SUB-COMMITTEE ON EUROPE, ENERGY, THE ENVIRONMENT & CYBER.

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I welcome the opportunity to address the members of this Sub-Committee on Foreign Relations in a discussion of such importance to Northern Ireland and Irish/British relations. As someone who was involved in negotiating the Good Friday Agreement, the peace agreement that we achieved has not only saved many lives but also offers a firm basis for future stability on the island of Ireland, both north and south. It is also an accord that is regarded as important for those involved in peace building in other contested areas of the world. I would like to put on record my acknowledgement of the consistent expressions of support for the Good Friday Agreement by US political leaders from across the political aisle and the attention paid to the implementation of the Northern Ireland-Ireland Protocol and the new Trade and Co-operation Agreement resulting from Brexit.

The US contribution to the peace process in Northern Ireland has been and continues to be crucial. The next four years will be critical for peace building – the centenary of Northern Ireland in 2021; the 50th anniversary of Internment without Trial in 2021; the 40th anniversary of the Republican Hunger Strikes in 2021; Assembly Elections in 2022 (at the latest); census results in 2021/2022 which may increase demands for a referendum to be held on whether Northern Ireland should remain in the UK (as mandated by the Agreement); and an Assembly vote on the Northern Ireland-Ireland Protocol in 2024. This is potentially a perfect storm that needs judicious and careful handling.

Protecting Rights and Equality

Many civic society groups and organisations have been extremely concerned by the impact that Brexit is having on the protection of the rights and equality provisions in the Good Friday Agreement given that the European Union, and the legislation therein, has been such a critical support for such rights. The Good Friday Agreement is a basis for ensuring no reoccurrence of the breaches of human rights and equality that were contributory factors to the conflict. Securing guarantees for these rights was, and still is, a cornerstone of the Agreement and is intrinsic to the relative peace that we have enjoyed over the past two decades. Much work has been undertaken by civil society NGOs in Northern Ireland along with the Northern Ireland Human Rights Commission and has helped to ensure – as far as possible – that there will be no diminution of rights as a result of Brexit.

I presented the final advice on a Bill of Rights for Northern Ireland to the Secretary of State in 2008, as drafted by my fellow Human Rights Commissioners and myself, but it has been left to stagnate for the past thirteen years despite commitments by the UK government to bring forward legislation at Westminster. The UK Government's lack of commitment to introduce a Bill of Rights for Northern Ireland remains an outstanding concern. The New Decade, New Approach Agreement in January 2020 led to the restoration of devolved governance in Northern Ireland and a commitment that there should be a Stormont Assembly Committee on the Bill of Rights. The political parties have now formed this Committee but it remains the case that the Agreement did not require the UK to wait for consensus to be achieved on the contents of a Bill of Rights before proceeding to legislation. Indeed the see saw nature of the Assembly, resulting over the contestation of rights, including the right to an Irish Language Act reflects the absence of consensus on many of these issues. Further concerns are now raised by the UK Government's review of the operation of the Human Rights Act (1998) and the consequences for its adherence, or lack of, to the provisions of the European Convention on Human Rights (ECHR). Any diminution of these rights is to be viewed as a step backwards.

My successor as the NIHRC Chief Commissioner, Les Allamby, recently told the Stormont Committee -

“A Bill of Rights remains an unfinished piece in fully implementing the 1998 Agreement. The need for overarching rights protections that provide safeguards for everyone in Northern Ireland remains one of the essential tools for a durable, peaceful society and are never more important than during times of political or economic uncertainty.”

Following the UK's withdrawal from the European Union we are all operating within an increasingly complex framework of international obligations. A Bill of Rights for Northern Ireland would provide clarity and reassurance for the public on what their rights are and what level of protections they should expect in the future.”

The EU-UK Trade and Cooperation Agreement contained only weak commitments on labour rights, social protections and environmental standards. The US Government should make clear that it expects to see adherence to these standards with regard to rights in any future trade agreements between the US and the UK.

Community Buy-In to the Good Friday Agreement

The Northern Ireland Women's Coalition, of which I am a founding member, was a party to the Good Friday Agreement negotiations and adhered to three principles throughout the process - respect for human rights; equality and inclusion. Social and economic inclusion has come back into focus as a result of the recent disturbances. The reality is that Catholic/Nationalist/Republican and Protestant/Unionist/Loyalist single identity areas that were the most economically disadvantaged, and suffered the brunt of the Troubles, have benefitted least from the 'peace dividend'. That is

particularly the perception in loyalist/unionist areas. For this reason, there needs to be a much clearer analysis of the economic opportunities that can be opened up on the basis of Northern Ireland remaining in the EU Single Market, as provided for by the Protocol.

Concerns have been raised more recently about the negative impact of the renewed disturbances on the streets particularly in relation to any future investment in these particular hotspots. The positive side was much less reported. Community activists were able to maintain cross-community contact and defuse potential violence inside these local communities. Youth workers were on the streets engaging with young people and persuading them not to take part in any action that could lead to court prosecutions and prison sentences. There was less of a spotlight on hotspots where disturbances were prevented, which showed the investment in community development had paid off. Groups funded under the International Fund for Ireland's Peace Walls initiative, which receives support from the US Government, continue to work together on an inter-community basis and continue to take preventative measures to minimise disturbances. This is the type of peacebuilding work that needs to be extended since it builds trust through communication. Church leaders from a range of denominations stood together at the interface to symbolise their solidarity following the recent disturbances. Building trust, between the communities as well as at the political level, is the key to sustainable peace.

There is a problem where people – and particularly young people – feel that politics is not delivering for them and where they also feel their identity to be under threat. Awareness needs to be built amongst young people about how important a working democracy is in their lives. In that context, it is important that there are no party political threats to withdraw from the legislative Assembly again. There is an opportunity now to deal with concerns about identity in a more positive and proactive manner. One of the core elements of the Good Friday Agreement was to guarantee the right of people in Northern Ireland to either an Irish identity; a British identity; and/or both. There is also a guarantee that irrespective of any future constitutional changes on the island of Ireland, in response to the will of the majority of people in Northern Ireland that a continuation of a British identity will be guaranteed. Work on what this would mean in practice needs to begin without accelerating further fear and friction within the unionist community.

An aspect of political inclusion that also needs to be considered is how to increase the involvement of civil society in the current discussions. The Good Friday Agreement proposed a way forward through the establishment of a Civic Forum which would act as an advisory body to the Northern Ireland Assembly on social, economic and cultural matters. If this were to be re-instated, it could hold hearings

on sensitive issues such as identity and symbols, as well address the commitment in the Agreement to integrated schooling, mixed housing and other important matters. In addition to re-establishing a Northern Ireland Civic Forum, some thought could also be given to be the initiation of District Civic Forums in each of the District Council areas as a way to enhance inter-community dialogue and understanding, as well as acting as a vehicle for government agencies and local politicians to hear community/civic society views particularly with relation to breaking down the divisiveness that has arisen over Brexit. The proposal in the Agreement to establish a North-South Forum has not been brought forward by the Irish government because of the absence of the Civic Forum in Northern Ireland. Increasing the civic dialogue to involve all these streams is much needed.

Navigating Current Tensions

The importance of long-term investment and consistent momentum in peace building are key to conflict resolution. Vacuums, both in terms of politics and community engagement, are dangerous in volatile circumstances. They allow misinformation, rumour and disinformation to circulate freely. One of the issues currently of concern is the use of fake accounts on social media to spread destabilising rumours and to arrange protests. Young people, particularly during the pandemic when other forms of communication were not as easily accessible, became more susceptible to this phenomenon. Support or strategies to address this issue in a more proactive manner, especially through shared expertise with others who have similar experiences in the USA would be beneficial.

A strategy needs to be put in place and resourced to provide diversionary programmes for marginalised young people over the usual volatile summer period in Northern Ireland along with training and employability opportunities for the longer term. The situation where provision for youth facilities is closed down over the summer needs to be reversed as these are the times when this kind of provision is most needed. A positive note is that the US supported AMBIT programme focusing on youth leadership has had excellent outcomes in terms of resilience strategies to deal with the recent crisis. A programme focusing on women's leadership within these areas is also showing good outcomes for what has become known as Communities in Transition.

Two issues that are feeding in to the current tensions are the very difficult question of how to deal with the legacy of the Troubles and the need to review the effectiveness of community policing (as envisaged in the Patten Report on the Future of Policing in Northern Ireland that was supported by the US Government). The Stormont House Agreement (2014) provided a roadmap on the legacy issue. There are current concerns that the UK Government might introduce a different approach

on a unilateral basis. Given the delay in creating a Legacy process to address Troubles related victims, and not just a UK government focus on protecting the legacy of British army veterans, any major deviation from the Stormont House Agreement has the potential of aggravating community level and party political tensions in Northern Ireland. Operation Kenova, dealing with death investigations into cases where the police and other state actors were involved, is a positive development and has helped to build confidence amongst the victims most affected. It has opened a space on how a legacy process might be developed – one that is seen as acting with legitimacy and is also human rights compliant. As a member of the Kenova Governance Board, I have been encouraged by the independent external reviews of these investigations that have noted how highly they have been rated.

The police reforms introduced as part of the Good Friday Agreement were taken forward by PSNI (Police Service NI). These were a critical aspect of the peace process and regarded as a good model for security sector reform for a society transitioning from conflict to peace. More recently concerns have been raised that the PSNI has reverted from a situation of community policing to a situation where perceptions have arisen of inconsistency in policing approaches and the lack of interface protocols (grounded in past experience and learning) and clear strategic direction. As a result of the work that was invested in policing reforms in the earlier years of the peace process, US political representatives will appreciate how important it is that community confidence and goodwill be maintained – and restored in areas where it has decreased. The police will not resolve the current difficulties alone – it requires an integrated government response and the support of politicians. A positive note is that the Policing Board, incorporating both political and independent/lay members, has continued to work throughout the current crisis to ensure the appropriate oversight is in place.

The mixed messages that have been received from the UK Government on the Brexit-related Northern Ireland-Ireland Protocol and the overall negative messaging have overridden the potential positive aspects of the Protocol. This is feeding into a compilation of grievances that is being expressed in Unionist/Loyalist communities specifically together with the continued reference to a 'border' in the Irish Sea. It is important to disaggregate those elements of the Protocol that are causing genuine difficulties, so that we can identify what elements of these difficulties are technical in nature and what are political and respond to these accordingly. From reports in Northern Ireland, the EU has adopted an overly legalistic interpretation of customs/trade regulations as compared to its working relations with other neighbouring non-Single Market European states. There needs to be intensive work to identify and come to an agreement as to how to deal with these issues in a manner that does not disadvantage either consumers and/or traders/manufacturers in

Northern Ireland. Where responsibility lies with British traders who feel that the Northern Ireland market does not justify the adaptations that are required, then this needs to be made clear.

Arguably there is also need for a more consultative structure – alongside formal structures such as the Northern Ireland Specialised Committee – to feed in views (that will be listened to) in Belfast, Brussels, London and Dublin. There is a strong feeling that all agency has been withdrawn from Northern Ireland as to the impact of the operation of the Protocol and that British Government representation of the EU-UK relationship is less than trustworthy. Representatives from a range of civic society organisations in Northern Ireland are engaged in meetings to work up such proposals.

Summary

- The importance of the US government continuing to push for the Agreement to be fully implemented, to re-iterate its importance and oppose any attempts to cherry-pick or misrepresent what has been agreed to date.
- The US government should argue for the delivery of a Bill of Rights for Northern Ireland and the Charter of Rights for the island as proposed in the Agreement to prevent any diminution of rights as a result of changes to the Human Rights Act or resulting from Brexit.
- Ensure a space for civic dialogue, to include the reinsertion of a civic forum, and district council civic forums, to advise on the contested issues of identity and the issues resulting from the UK/Ireland Protocol.
- Make available information and support from US experience with regard to the effective management of cyber networks to mitigate the disinformation and misinformation augmenting the current inter-community tensions.
- Maintain US interest in the development of a process to respond to the legacy of the past, given the stalemate and difficulties experienced.
- The US Government should use its position in any trade negotiations with the UK Government, the Irish Government and the EU to seek resolution of

difficulties being experienced in terms of the rollout of the Northern Ireland-Ireland Protocol.

- The US administration should consider the appointment of a US Envoy to Northern Ireland, given the special circumstances arising from Brexit to act as a contact point on social and economic policies involving Brussels, London, Dublin, Belfast and Washington DC.

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