

The Northern Ireland Human Rights Commission: An Interview with Chief Commissioner, Professor Monica McWilliams.*

The Northern Ireland Human Rights Commission (NIHRC) came into existence on 1 March 1999. It was created by Section 68 of the Northern Ireland Act 1998, in compliance with a commitment made by the British Government in the Belfast (Good Friday) Agreement of 10 April 1998. The Agreement was a political settlement between the governments of Britain and Ireland, Northern Ireland's political parties, and civil society organisations, and sought to bring an end to thirty years of violence in which more than 3,500 people had died.¹

The Commission has a full-time Chief Commissioner (Monica McWilliams) and nine part-time Commissioners. Its role is to promote awareness of the importance of human rights in Northern Ireland; to review existing law and practice; and to advise the Secretary of State for Northern Ireland and the Executive Committee of the Northern Ireland Assembly on what steps need to be taken to fully protect human rights in Northern Ireland. In September 2005 Michele Lamb, Executive Editor of the *Essex Human Rights Review (EHRR)*, met with Monica McWilliams and was granted the following interview.

EHRR: Human rights were a central concern of the 1998 Belfast (Good Friday) Agreement, which established the Northern Ireland Human Rights Commission. What do you see as being the main task of the Commission?

MM: The Commission's main purpose is to address human rights violations of all kinds. Cases connected to the civil and political consequences of the Northern Ireland conflict come to us all the time and are clearly an important aspect of our work. But we are also involved in current human rights issues that are not limited to the two main communities that were in conflict.² Northern Ireland is an increasingly diverse society and we undertake investigations into violations affecting everyone; we take cases to court, and make submissions to the UK government on all of their policies to ensure they are not breaching any aspect of the 1998 Human Rights Act.

Our second purpose is to ensure that all policies and legislation in Northern Ireland meet international standards on human rights, and in this respect a consultation paper has just been published which recommends that our existing powers be strengthened, giving us the right of access to places of detention, such as prisons, police stations and mental health institutions, and also the power to compel evidence and witness statements. In reality we have already gained these powers because we recently undertook a wide-ranging research study into conditions in women's prisons in Northern

* Monica McWilliams was appointed full-time Chief Commissioner for Human Rights in Northern Ireland in June 2005 and took up her position in September 2005. Previously, she was Professor of Women's Studies and Social Policy at the University of Ulster and served as a Member of the Legislative Assembly in Northern Ireland from 1996 to 2003. She was an elected member of the Multi-Party Peace Negotiations and a signatory to the Belfast (Good Friday) Agreement in 1998. During the negotiations following the Agreement, she was the Chairperson of the Human Rights Sub-Committee until 2003.

¹ The full text of the Good Friday (Belfast) Agreement is available on www.nio.gov.uk.

² The 'two communities' referred to are the Nationalist, mainly Catholic, community, and the Unionist, mainly Protestant, community. In 1968 tensions between the communities spilled over into violence resulting in approximately 3,500 fatalities. A comprehensive source of further information on the conflict and its background can be found on the CAIN Web Service (Conflict Archive on the INternet) on www.cain.ulst.ac.uk

Ireland, (entitled 'The Hurt Inside'³), and in particular their rights under Articles Two and Three of the European Convention on Human Rights (ECHR). The report's findings highlighted a number of potential breaches of Article Three, as well as of the UN Convention on the Rights of the Child. However, to complete the research we had to go to court to gain access to the prison. Having won that case, we don't have to wait for the legislation to go through, however the big issue is how public places of detention are designated, and there may be some situations in which public authorities will still want to restrict our powers. But we are hoping that there will be a positive response to the consultation paper, which will indicate a substantive willingness to extend our powers.

Our third main task is to look to the future and see how we can promote a culture of human rights in a way that prevents the mistakes of the past. This has a number of strands that arise from the Good Friday Agreement. We are working on the development of a Bill of Rights for Northern Ireland, which is an important way in which we can ensure there is no return to past practices. We also sit together on a joint commission with the Human Rights Commission in the Republic of Ireland. Recently we met for the first time since I took up my post, and had a really excellent meeting in which we discussed issues of mutual cross-border concern, particularly the position of migrant workers and immigration issues.

Human rights education is crucial in this, and we need to work with teachers to assist them in dispelling some of the fears that communities have about human rights not being applicable to them. We need to create a curriculum which will embed human rights into the mainstream of children's education, whatever their background. For example, we have a Bill of Rights Project that goes into schools at the moment, and there are some excellent videos that show young children talking of their experiences, and their understanding of human rights.

EHR: One of the ongoing controversies in Northern Ireland has been the perception that human rights have been appropriated by the Nationalist community, and that Unionist concerns have been marginalised. Do you have a strategy to promote greater participation and understanding of human rights in both communities?

MM: Because human rights usually address abuses by the state, some members from the Unionist community may feel that human rights have little to offer them. But we have to help people see that the protection of human rights benefits everyone, and that their human rights are also being addressed. One of the difficulties we face in Northern Ireland is whether human rights are applied to individuals or groups. If groups are protected as well as individuals, it can seem as though the protection of one group will be to the disadvantage of the other. The challenge is to get people to see that human rights protects all, not just one side. This tension is not limited to societies coming out of conflict. When we talk about anti-terrorist legislation in Britain or homeland security in the United States, for example, some want emergency legislation and to feel the state is defending them, and others say their rights are being violated. These needs can be in tension, but what has to be shown is that human rights, applied equally to all people, benefit the whole community and also create the space for public debate in the process.

Another important issue is to demonstrate to people that the Commission itself is impartial. I think it's important to be authentic to the community from which you come because that's how people identify you. But equally you can embrace the diversity of other communities. To make an analogy with a tree's roots and branches, I don't think anyone should be expected to deny their roots, but the wisdom of your life is what kind of branches you have, which comes from mixing with a wide range of people. I find that

³ Full report available on www.nihrc.org

by going into very difficult places and being challenged, I learn. It's difficult because each commissioner could be perceived as belonging to one community, or reflecting the opinions of their communities. The reality is very different, and the new Commissioners have been able to reach consensus. For example on how to take forward the Bill of Rights and on the UK Government's Anti-Terrorism Bill. This is important because it shows that, regardless of background, the Commissioners share a common vision and commitment to human rights, and can reach out to all communities. At the same time, for us to do our job well the various communities need to invite us in to enable us to be part of their discussions.

EHR: One of the principal projects of the Commission is the Bill of Rights for Northern Ireland. How is that progressing?

MM: Firstly, we aim to make sure that the final Bill of Rights is informed by international standards, but it will also address the particular circumstances of Northern Ireland, and give due regard to the two communities in terms of mutual respect and identity. This is a very important piece of legislation, not only for Northern Ireland, but also because of its implications for the future of human rights legislation in Great Britain, so consultation is a key aspect of its progress and obviously a lot of consultation has gone on over the last few years. Additionally, we are the only extant human rights commission in the UK, so the approach we take will be widely analysed.

With the appointment of the new commission in September 2005 completed, we are now pressing ahead with designing the framework for a process and timeline to bring the Bill of Rights to fruition. The framework pays due regard to the work done to date, but the new Commissioners have reached a consensus on how we want the advice presented, and on accompanying the legislation through each stage at Westminster. Because of its significance we expect it to be scrutinised clause by clause in both Westminster and in the Northern Ireland Assembly if there is a return to devolution. We would hope that a round table would be convened by the government which would include political representatives and civil society, so that they work in parallel with the Commission on the Bill. Since the Assembly is not currently sitting, convening this round table and having collective discussion is proving more difficult. We are mandated to produce advice on the Bill of Rights as part of the Belfast (Good Friday) Agreement, and we will be lobbying very hard with the Northern Ireland Affairs Committee, with representatives of all political parties, and in both houses at Westminster, to achieve this.

EHR: How much is the lack of an effective Northern Ireland Assembly and political process impacting on the work of the Commission?⁴

MM: It will of course make gaining consensus over the Bill of Rights more difficult. However, it is also important for human rights generally for the Assembly to be sitting, as we would then have more of an opportunity to demonstrate publicly to politicians that the Commission is able to give expert, impartial and independent advice. Also, legislation going through the assembly could be scrutinised more closely and ensure its compatibility with human rights standards. There is a debate in Northern Ireland about the extent to which social and economic rights interfere with decisions made by the executive. However, the reality is that litigation, particularly on social and economic rights, is already happening and is therefore influencing public policy. Around forty per cent of the cases we deal with are on social and economic issues, and often political representatives come to the Commission with these problems. If the Assembly were sitting, such issues would be debated there, which would raise awareness and make people more knowledgeable about the implications of human rights for public policy.

⁴ The Northern Ireland Assembly was suspended in 2002 and returned to direct rule from Westminster following the refusal of the leading Unionist party to enter into government with the nationalist Sinn Fein.

EHR: The Commission has complained in the past that the Government's obligations under the Paris Principles⁵ are not being met. What is the current status?

MM: Once we receive the new powers to access places of detention, we will be fully compliant with the Paris Principles. There is also the issue of whether we are a sub-national human rights commission or a national human rights commission. We see ourselves as the only human rights commission in the UK, and therefore we want accreditation with the highest possible status, as this determines the level of access we have to international bodies such as the United Nations. We are also a very different commission to most national human rights commissions because we're mandated to work with our sister commission across the border in the Republic of Ireland. We also work with the proposed Scottish Commission on Human Rights, and with those who are involved in the establishment of a future human rights and equality commission in England and Wales. We also make submissions to the UN on matters of UK human rights policy generally, and respond to committee reports, so it's very important for us to have the highest accreditation. The NIHRC is a local, national, and international institution, and what we do will have a significant impact on the future of human rights protection in the UK. For example, the extension of our powers will have an impact across Great Britain. I think that's one of the reasons why it was scrutinised so closely for so long.

Given the amount of work we are called upon to do, we have to take a strategic view, and set clear priorities, particularly in the area of litigation, as we clearly do not have sufficient funds to do everything we would like to. We are currently reviewing our strategic plan for the next three years, so that we can target funds appropriately, and people can understand the budgetary limitations we work within. A lot of the cases we receive are connected with town planning applications, and unless it becomes a strategic priority for us, we will not be able to respond. Clearly something needs to be done at the policy level on planning and environmental issues because significant numbers of people feel that their human rights are not being taken into account. One reason that planning is so problematic is that at the public appeals developers are often represented by highly paid barristers, whereas citizens generally do not have such resources, so they feel they have not had a right to a fair hearing. Because they feel disempowered by the system, they turn to human rights and to us.

EHR: How important is the use of litigation in your work in securing human rights protection?

MM: Litigation, or at least its threat, is an important tool in influencing ministerial decisions. One example of a recent success has been the decision of the NIO Health Minister to make the drug Herceptin more widely available to women in early stages of breast cancer in Northern Ireland. A number of patients were recently granted the treatment in England after threatening to take their local primary care trusts to court when they were refused access to the drug. This didn't go to court as the local trust caved in.

Following the English cases, a number of women in Northern Ireland came to us for help. I raised this with the Minister, informing him that we may be supporting these women and testing it through courts, but that I would much rather he would make a decision. Two days later he made a statement saying he would make the drug available so it was a good success for us.

⁵ The Paris Principles were agreed in October 1991 and consist of guidelines on the role, composition, status and functions of National Human Rights Institutions. They were adopted by the United Nations General Assembly on 20 Dec. 1993 under G.A. Res. 134, UN GAOR, 48th Sess., UN Doc. A/RES/48/134 (1993).

Of course the downside is that no additional budget was attached so although clinicians have been given permission to allocate the drug, the money may come out of the budget for other drugs. But it is clearly a decision in which policy was changed as a result of human rights implications.

EHRR: Some of the most frequent causes of ongoing violence between the two communities in Northern Ireland take place over the issue of the annual marching parades⁶. How can the Commission and human rights ideals generally contribute to resolving these disputes?

MM: Dealing with parades is the role of the Parades Commission, which was established in 1997. They were tasked with the job of deciding which parades should go ahead, placing restrictions on them if necessary, and monitoring their compliance. Certainly, parades have been an increasing source of tension and there is clearly a lot of work to be done. People unfamiliar with Northern Ireland may find it difficult to understand why the annual parades are so contentious. Around 3,500 parades take place every year, the majority of which pass off peacefully. However, the number has been increasing over the last ten years, and there have been many occasions in which violence between the communities has erupted. Whilst for some people they are seen as part of their historical and cultural tradition, for others they are perceived as a source of provocation and the opportunity to intimidate the other community, particularly on the interfaces.

The parades issue highlights an ongoing debate in Northern Ireland about the relationship between conflict resolution and human rights. In our strategic plan we put forward the view that they both have a lot to offer each other, but they have not always worked in harmony in the past. We are currently working on a project with a leading conflict resolution organisation in Northern Ireland which will address this issue. We are also considering the possibility of trying to convene a round table that would bring together all the agencies involved: the Parades Commission, the Equality Commission, the Human Rights Commission and the Community Relations Council. Obviously it is for the Parades Commission to make determinations on the issue, but each Commission has something to offer from the perspective of their own experience. Rather than duplicating each other's work, the idea is to see what we can learn from each others approach, and hopefully enable those tasked with making the difficult decisions every summer to do so in a more informed way. I think it's good to have discussion and facilitate greater inter-agency dialogue on parades issues than perhaps there has been hitherto. There are Memorandums of Understanding between us and a number of these other organisations so that we do not duplicate each other's work, but we can also see what we have to offer each other.

EHRR: There is clearly a huge debate in the UK currently over terrorism and human rights. What can the experience of Northern Ireland, and the Commission bring to this debate?

⁶ Editor's note: Parades are one aspect of the cultural tradition of both communities in Northern Ireland, but have developed more recently into a form of political expression. The vast majority of Northern Ireland's parades are organised by Unionist organisations and hence can be perceived as anti-Catholic. Demographic and social changes in Northern Ireland often mean that traditional Unionist routes increasingly go through Nationalist neighbourhoods. Many Unionists argue that marching is part of their cultural tradition and they have the right to march wherever they want. This is countered by Nationalist communities who argue that the marches, which often celebrate historical events such as the victory of the Protestant King William III over the Catholic King James II at the Battle of the Boyne in 1690, are both triumphalist and intimidating. As a result, there is often tension leading to violence at the scenes of some of the parades.

MM: The Commission was invited in November 2005 to attend an informal sitting of the Joint Committee on Human Rights, and a formal closed session with the Northern Ireland Affairs Committee. At both we presented our findings on the draft Terrorism Bill currently before Parliament. We opposed the proposal that would extend the period that someone can be detained without charge to ninety days, and expressed concern about the alternative 28 days proposal. We were also particularly opposed to the return of deportees to countries where torture takes place.

In relation to Northern Ireland specifically, these measures would have a considerable impact and it is ironic that, at a time when Northern Ireland is moving towards normalisation, the UK government is moving towards increasing such provisions. In particular, we were concerned about proposals in the government's latest Terrorism Bill 2005 for an offence of encouraging or 'glorifying terrorism'. This bill has been extremely controversial, particularly with regards to the definition of what constitutes 'encouraging' or 'glorifying terrorism'. Such an offence will clearly have implications for Northern Ireland. We still have a large number of paramilitary organisations, some of which still hold symbolic services annually in which they refer to the actions of former paramilitaries. This could be interpreted as a way of keeping them on board with the peace process, but it could also be seen as 'glorifying terrorism', and it could be de-stabilising if there was a rigorous application of the proposed laws. Recently, the first person to be tried for 'international terrorism' was convicted in a Northern Ireland Court. We are following this case closely, as well as two other cases currently at the European Court of Human Rights. For all of these reasons we have elaborated our concerns to the government.

EHR: Do you think there is anything significant that, as a woman, you can bring to women's human rights and to the Commission?

MM: I think I can make a contribution to women's human rights because for 25 years I've had experience of violence against women. I'm convinced that legislative change on domestic violence would never have occurred had those who were affected by it, and those who were advocating on their behalf, not joined together to pressurise for change. Until then violence against women was not understood as a human rights violation in its own right that needed a coordinated approach by all agencies. As a result, women were being re-victimised by the system. So I understand how important it is to listen to women's voices, and to bring practical real life experience together with professionals and academics so that people providing systems are trained and educated in human rights. That's also how we create a culture of change. Rather than just holding people to account after the event, we have to create a culture where people understand violence against women is unacceptable and work to prevent it.

More generally, I also think I understand the necessity of the Commission being accessible and sympathetic; the need to combine empathy with expertise. You can be a wonderful expert but if the individual feels that you've listened, you've understood, and that you may now be able to do something, then that is very important. Of course we cannot assist all the people who come to us. We get 600 enquiries a year, of which we assist about 50 – but we wouldn't want the other 550 to go away thinking that we have nothing to offer them, so we try to give them advice or refer them to the most appropriate services. The way we approach people, the need not to immediately take an adversarial position, which is so often the way people and institutions relate, is something that I have learnt through experience, though not necessarily because of my gender socialisation.

EHR: Thank you.