

HRC Initial analysis of the New Decade, New Approach Agreement

10th January 2020

Below we have highlighted some of the main positives and negatives from the new agreement to restore the Assembly and Executive.

There are clearly a range of policy, programmatic and financial commitments that will do much to advance outstanding issues that relate to the protection of rights in Northern Ireland.

However, many of these commitments are simply addressing issues which were themselves hostage to the Assembly and Executives historic inability to deal directly with rights issues in the ten years prior to the Stormont collapse of 2017. While these commitments are very welcome, addressing them now in a one-off deal does not significantly alter the framework within which decisions about human rights will be taken in the future. Indeed, beyond provision for new languages legislation there is little evidence of positive progress in advancing the legal protection of rights formally. In fact, the provisions for a Bill of Rights for Northern Ireland themselves seem destined to create further inaction and debate.

This is an initial analysis and we hope to add to this in the coming days and weeks.

Positive commitments/proposals

- UK Government to provide additional funding for the Executive in 2020/21 and address its priorities, such as **delivering parity with England and Wales for nurses' pay** - bringing an end to the ongoing nurses' pay dispute.
- Development of an **Anti-poverty Strategy**.
- **Extension of existing welfare mitigation measures** beyond March 2020.
- Publication of a **Childcare Strategy** and identification of resources to deliver extended, affordable and high-quality provision of early education and care initiatives for families with children aged 3-4.
- Introduction of **parity in financial support to victims of contaminated blood** in Northern Ireland with those in England.
- Provision for a longer **24-week period before an Assembly election must be called** if there is danger of Stormont collapse.
- Legislation to create a **Commissioner to recognise, support, protect and enhance the development of the Irish language** in Northern Ireland and to provide official recognition of the status of the Irish Language in Northern Ireland.
- Proposal for new **legislation on sign language**.
- Move **to ban zero hours contracts** and that powers to **set minimum wage levels** should be made a devolved matter.
- **An Age, Goods and Facilities and Services Bill** should also be brought forward as basis for ensuring that no one is discriminated against because of their age.
- The Executive to **bring forward a Climate Change Act** to give environmental targets a strong legal underpinning.
- The Executive will **establish an Independent Environmental Protection Agency** to oversee this work and ensure targets are met.
- The UK Government will publish and introduce legislation in the UK Parliament to **implement the Stormont House Agreement, to address Northern Ireland legacy issues**.

- Introduce a package of measures to **strengthen transparency and governance arrangements in the Assembly and Executive** in line with international best practice.

Negative commitments/proposals

- **Failure to properly protect the B/GFA right to identify as Irish, British or Both.** Executive to establish a new framework both recognising and celebrating Northern Ireland's diversity of identities and culture and accommodating cultural difference. The guiding principles of this framework will be set out in legislation and establish that public authorities must in exercising their functions have due regard to the principles. The principles includes a series of confusing references to freedoms for all people to identify in their chosen nationality/community, respect for parity of esteem, mutual respect etc but makes no reference to establishing formal legal rights for those who wish to identify as Irish, British or both.
- **No significant reform of the Petition of Concern.** There will be some further limits placed on the use of the PoC (Needing two parties to trigger, a 14-day period of consideration, not being available for questions of Minister or MLA conduct etc) but the threshold for triggering remains at 30 votes, the requirement to utilise Special Procedures Committees is not highlighted and even if it were the vital mechanism of a Bill of Rights to scrutinize PoC questions against continues to remain unavailable.
- **No delivery of a Bill of Rights.** An Ad-Hoc Assembly Committee will be established to consider the creation of a Bill of Rights. This proposal gives no solid commitment to legislating for a Bill of Rights or to an agreement on the scope of its contents. A panel of five experts will initially seek to advise the Ad-Hoc Committee on what constitutes our "particular circumstances" drawing upon, but not bound by, previous work on a Bill of Rights and will review and make recommendations on how the UK's withdrawal from the EU may impact on our "particular circumstances". It outlines that the establishment of cross party and cross community support will be critical to advancing a Bill of Rights. While the focus on the implications of Brexit is welcome and merited there is a real danger that there will be no consensus, and therefore no progress, on this essential human rights instrument which would continue to be hostage to political agreement. So, while the positive commitments above are clearly advancing elements of rights protections they remain gradual changes in comparison to the levels of protection that could and should be afforded by a properly developed Bill of Rights. Therefore, the real challenge to come for political parties will be to ensure that these Bill of Rights proposals actually deliver a meaningful set of rights outcomes rather than being the latest section of a long running process.

