

Rt Hon Theresa Villiers MP
Secretary of State for Northern Ireland
Northern Ireland Office
11 Millbank
London
SW1P 4PN

11 May 2015

Dear Secretary of State

Clarification of Government Policy on HRA 1998 and compliance with GFA

As you will be aware the Committee on the Administration of Justice ('CAJ') is an independent human rights organisation with cross community membership in Northern Ireland and beyond. It was established in 1981 and lobbies and campaigns on a broad range of human rights issues.

I am writing to seek urgent clarification of the new Government's policy in relation to the European Convention on Human Rights (ECHR) insofar as it relates to Northern Ireland. The ECHR is given further effect in law through the Human Rights Act 1998 (HRA 1998), yet government now plans to take forward legislation in the forthcoming Queen's Speech on the 29 May to repeal the Act. As you will be aware, unless its provisions are simultaneously re-introduced for this jurisdiction, repealing the Human Rights Act in so far as it has effect in Northern Ireland would constitute a flagrant breach of the Belfast/Good Friday Agreement.

The Agreement, in addition to being approved by referendum, was incorporated as a treaty between the UK and Ireland and lodged with the UN (UK Treaty Series no. 50 Cm 4705). Article 2 of the treaty binds the UK to implement provisions of the annexed Multi-Party Agreement which correspond to its competency. Paragraph 2 of the Rights, Safeguards and Equality of Opportunity section of this Agreement states:

The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency.

This commitment was given legislative effect through the HRA 1998. The Agreement also commits to safeguards to ensure the Northern Ireland Assembly or public authorities cannot infringe the ECHR. You will also be aware in relation to other provisions of the peace settlement the HRA 1998 is, for example, also key to the

framework for the human rights compliance of policing in Northern Ireland. One of the important functions of the Northern Ireland Policing Board, as set out in s3(3)(b)(ii) of the Policing (Northern Ireland) Act 1998, is to monitor compliance with the Human Rights Act 1998. The PSNI Code of Ethics, provided for under s52 of the same Act is also designed around the framework of the ECHR as provided for by the HRA 1998.

Given this CAJ would ask for urgent clarification that the Government does not plan to breach the Belfast/Good Friday Agreement through a repeal of the HRA 1998 in relation to Northern Ireland in the above manner.

I have copied this correspondence to the Irish government as co-signatories to the treaty and other interested parties.

Yours sincerely

Brian Gormally
Director



cc

Minister of Foreign Affairs, Charles Flanagan TD
First and deputy First Ministers, Northern Ireland Executive
Joint Committee on Human Rights
Northern Ireland Human Rights Commission
Human Rights Consortium

The Agreement was previously
published as Ireland No. 1
(1999) Cm. 4292

IRELAND



Treaty Series No. 50 (2000)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Ireland

Belfast, 10 April 1998

[The Agreement entered into force on 2 December 1999]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 2000*

ARTICLE 2

The two Governments affirm their solemn commitment to support, and where appropriate implement, the provisions of the Multi-Party Agreement. In particular there shall be established in accordance with the provisions of the Multi-Party Agreement immediately on the entry into force of this Agreement, the following institutions:

- (i) a North/South Ministerial Council;
- (ii) the implementation bodies referred to in paragraph 9 (ii) of the section entitled "Strand Two" of the Multi-Party Agreement;
- (iii) a British-Irish Council;
- (iv) a British-Irish Intergovernmental Conference.

ARTICLE 3

(1) This Agreement shall replace the Agreement between the British and Irish Governments done at Hillsborough on 15th November 1985¹ which shall cease to have effect on entry into force of this Agreement.

(2) The Intergovernmental Conference established by Article 2 of the aforementioned Agreement done on 15th November 1985¹ shall cease to exist on entry into force of this Agreement.

¹ Treaty Series No. 62 (1985) Cmnd. 9690.

ANNEX 1

AGREEMENT REACHED IN THE MULTI-PARTY NEGOTIATIONS

RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY

HUMAN RIGHTS

1. The parties affirm their commitment to the mutual respect, the civil rights and the religious liberties of everyone in the community. Against the background of the recent history of communal conflict, the parties affirm in particular:
 - the right of free political thought;
 - the right to freedom and expression of religion;
 - the right to pursue democratically national and political aspirations;
 - the right to seek constitutional change by peaceful and legitimate means;
 - the right to freely choose one's place of residence;
 - the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity;
 - the right to freedom from sectarian harassment; and
 - the right of women to full and equal political participation.

United Kingdom Legislation

2. The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency.
3. Subject to the outcome of public consultation underway, the British Government intends, as a particular priority, to create a statutory obligation on public authorities in Northern Ireland to carry out all their functions with due regard to the need to promote equality of opportunity in relation to religion and political opinion; gender; race; disability; age; marital status; dependants; and sexual orientation. Public bodies would be required to draw up statutory schemes showing how they would implement this obligation. Such schemes