

Pat Finucane Centre
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Derry BT48 0LZ

Submission re Draft Public Assemblies, Parades and Protests (Northern Ireland) Bill

1.0 Introduction

1.1 Over the past fifteen years, members of the Pat Finucane Centre, alongside its staff and volunteers, have been involved in the parading issue. They have acted as observers at many parades in Derry, Portadown, Dunloy, Belfast and elsewhere. The Centre was also involved in advising the Dunloy Residents Group. One of our members has been a member of the Bogside Residents' Group since its formation in 1995.

1.2 The Pat Finucane Centre itself was established in 1989, initially as the Bloody Sunday Initiative. Following the decision to establish the Bloody Sunday Justice Campaign in 1992, it was agreed to name the Centre after Pat Finucane, a well known lawyer, who had been murdered by Loyalist gunmen, under the direction of British Security Forces. The Centre is a human rights group and has consistently campaigned for the development and protection of human rights in Ireland and internationally. Currently, much of the Centre's work is focused on legacy and truth recovery issues which have emerged from the years of violent conflict from which Ireland is emerging.

2.0 Background

2.1 Given the history of contentious parading within Northern Ireland, the Pat Finucane Centre believes there is a need for a proper legislative framework which focuses on these parades. We believe such legislation should be framed in a manner which is fully consistent with the European Charter for

Human Rights, and where the focus is on mediation and accommodation. Such legislation should be seen as affirming the right of all sections of our community to parade, march or assemble in public places in a peaceful and non-threatening manner. Such legislation should clearly uphold Article 11 of the charter. Nothing should be done which imposes unnecessary and burdensome requirements on people who wish to assemble peacefully and freely. Such restrictions should be minimal.

- 2.2 Equally the Centre believes that all communities have a right to live their lives free from the fear of violence and sectarian harassment. Parades which are seen as such should not be allowed into areas where they are not wanted and where their parading is seen to constitute a form of sectarian harassment. The legislative framework should encourage such parades to use alternative routes for their demonstrations, if accommodation is not possible.
- 2.3 The number of "contentious" parades in Northern Ireland is small. They are almost exclusively associated with parades carried out by the Loyal Orders in areas which are either mixed or predominantly nationalist in composition. It is estimated that approximately 3% of such parades are "contentious". The vast majority of Loyal Order parades are not contentious.

3.0 The Draft Legislation

- 3.1. The Pat Finucane Centre has a number of very serious reservations about the proposed legislation. It is our view that the generality of processions, assemblies and protest meetings should not be subject to the proposed legislation. The vast majority of parades, marches and public assemblies in Northern Ireland are conducted peacefully, do not involve sectarian harassment and are generally welcomed by the wider community. There is also a well established and widely supported tradition for the right to

demonstrate about a range of public issues and concerns. This is seen as being a fundamental right within a democratic society. We believe legislation should support such rights, not restrict them.

- 3.2. The current proposals allows the First and Deputy First Ministers to exclude certain processions and meetings from the requirements of the legislation. In our view this is unsatisfactory. Such a right should not be in the hands of people who are seen as political partisan. Legislation should be framed to facilitated those parades and assemblies which are perceived as causing sectarian harassment (and are therefore "contentious") to be dealt with by a separate mechanism along similar lines outlined in the draft legislation. Such a proposal would allay fears that legislation designed to deal with a small number of contentious parades could be used to restrict the rights of free assembly within a democratic society.
- 3.3. As a method of dealing with a small number of contentious parades, the proposed legislation is broadly acceptable. We believe it is right that time should be given to allow a mediation process to proceed and the 35 day period could actually be extended given our suggestion that this legislation should only apply only to contentious parades. All the parades which are seen as being contentious, for example, are known about months, if not years, in advance.
- 3.4 With regard to the establishment and independence of the Adjudication Body, we note the concerns expressed by the Northern Ireland Human Rights Commission and ask that any legislation should reflect those concerns.
- 3.5 The Centre believes future legislation must establish clearer grounds for decisions by any Adjudication or Parades panel to place conditions on such contentious parades, such as re-routing etc. We acknowledge the difficulty this will involve given the political complexion of the Executive and Assembly,

but believe it is in the public interest to be clearer on the rights of all communities to be able to live their lives free from the threat of violence and sectarian harassment. As it stands neither the Draft Legislation nor the Code of Conduct give legally enforceable definitions of what constitutes sectarian harassment.

3.6 We do not believe it is appropriate to use imprisonment as a punishment for infringing parades legislation. We accept there will be sanctions against those who break the law or the proposed code of conduct but believe imprisonment is inappropriate for such offences.

3.7 We note the proposals to limit the right of the state to prohibit public assemblies. We believe that the Northern Ireland Human Rights Commission should, wherever practicable, be consulted before making any prohibition order.

3.8 The Pat Finucane Centre believes any evaluation procedure following a decision made by an Adjudication body in respect of a proposed assembly should be open to any person who wishes to be a part of the evaluation so to do, subject to practicality.

3.9 The Centre believes the proposed powers of arrest under the draft legislation are too wide. A constables powers of arrest without warrant should be limited to clear public order offences.

4.0 **Conclusion**

The Pat Finucane Centre recognises the difficulty there is in framing legislation which is broadly acceptable to all sections of our diverse community. Such legislation must be firmly rooted in a affirmative culture of human rights. This must include the right to public assembly, as well as the

right of people to be free from the perceived threat or reality of sectarian harassment. We have made a number of comments and proposals which we believe reflect this commitment.