

TYR-GWYR-GWERYN

(“Land – Truth – People”)

A Further Response to the United Kingdom Government’s

2nd Compliance Report

With regard to the

Council of Europe’s

Framework Convention

For the

Protection of

National Minorities

and the UK State’s continuing refusal

to acknowledge and include

the

Cornish National Minority

Submitted direct to the COE Advisory Committee Delegation

At a meeting on Thursday 22nd March 2007

Held at the Commission for Racial Equality, London, England, GB

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Annexed Document:

The International Protection of Minority Rights

(F W de Klerk Foundation August 2001)

http://www.fwdklerk.org.za/download_docs/01_08_Minority_Rights_Protection_Publ_PDF.pdf

Reflections on the previous Advisory Committee Visit

It would appear that those that have the least are expected to pay the most. Perhaps this is reflected also in why we, the Cornish Delegation, have again had to make the journey to London to meet (very briefly) the Advisory Council, rather than on our own territory within Cornwall. It is assumed that this has been organised by the State Government and further reflects the State's desire to deprive 'the Cornish' of any semblance of acknowledgement and recognition.

At the last visit of the Advisory Committee, in June 2001, we were - along with others, at that time! - feeling hopeful that the Council of Europe, the home of Human Rights, would prove to be a positive turning point in our seemingly interminable struggle to achieve some measure of recognition and rights as the Cornish national minority. We were grateful that the Advisory Committee, in its "Opinion" (30th November 2001), on the UK 1st Compliance Report sought to encourage the UK Government to give some consideration to the Cornish situation both with regard to recognition as a national minority and the comment on the 2001 Census. **We still have to fight for unambiguous recognition on the 2011 Census.** A proper attention to which, would facilitate invaluable statistics for the monitoring of compliance with the Framework Convention – particularly in respect of the Cornish.

For the first time in our campaigns for recognition, we were not summarily dismissed and ignored as irrelevant and dispensable to the interests of the Imperial English national majority. This was a feeling that we had never experienced before but this was sadly short-lived, when the UK Government gave its response to the Advisory Council's "Opinion" on the crucial matter of education relating to Article 12, which "Opinion" stated:

78. The Advisory Committee has received a number of representations from the ethnic minority communities, Roma / Gypsies and Irish Travellers and also from the Ulster-Scots and the Cornish that more should be done to foster knowledge of their culture, history, language and religion. The Advisory Committee therefore encourages the Government to examine this issue further to see how the concerns of the different groups can be reflected both within and outside of the curriculum.

The State's response to this on 18th April 2002 was to comment on the Gypsies, Travellers and Ulster-Scots but **no mention of the Cornish.** The Advisory Committee seems to have accepted this without further comment or query!

Unless we, the Cornish national minority, are recognised, our existence will remain invisible to others, and we shall continue to be intellectually, territorially and numerically destroyed! **Those who seek to destroy us control and manipulate our future, to further marginalize the true Cornish voice of protest.** This organisation points once again to the various processes of genocide – as defined by

Raphael Lemkin. There are those who, in ignorance, condemn any use of the word genocide with regard to the Cornish because of its contrived association solely with visible atrocities. Whilst there can be no direct comparison, with this ‘physical’ form of genocide, there is a strong parallel to be drawn in the degree of subtlety and sophistication applied. This was recognised by Lemkin himself when he lists the various ‘techniques of genocide’. Can genocide be tolerated, however it might be applied?

We genuinely appreciate the Advisory Committee’s very difficult position in dealing with the various participating States, in the absence of a formal definition of ‘national minority’. It seems, however, that the Advisory Committee accepted the totality of the UK response without any further comment regarding the position of the Cornish national minority. Indeed, the plaudits of the UK approach to the Framework Convention leading up to, and within, the Resolution to adopt the UK Compliance Report on the 13th June 2002 were, from the point of view of the Cornish national minority, confusing. Dare we contemplate that this might suggest that the Advisory Committee, itself, does not consider the Cornish to be a ‘national minority’?

Our reason for our ‘confusion’ is over the tacit acceptance, in the case of the Cornish national minority, of either a ‘no response’ to a question/suggestion (for example, Education), or such unsubstantiated dismissive weasel word statements as, “*we do not consider*” (1st Report) etc. from the State. These are the very reasons why we are demanding our right for recognition and respect as a national minority within the Framework Convention, and we feel it is wrong that any party should treat such matters so dismissively. We believed, rightly or wrongly, that the existence of the Framework Convention is to hold to account those States that can be shown to exercise processes of discrimination (to put it kindly!) over a national minority – in our case an ‘indigenous’ national minority. If the State can dismissively deny the existence of such a group, then what is the value of the Framework Convention, or its monitoring?

Some Practical Advice!

“18. We welcome the Advisory Committee’s commendation of this wide interpretation of the Framework Convention. We have noted the Advisory Committee’s suggestion as to the possible extension of the Framework Convention’s application on an article-by-article basis, and also the fact that the Advisory Committee provided no further practical advice on how this could be done without putting the Government in the position of having to select which minority groups were covered.” (UK 2nd Compliance Report)

It is clear from this paragraph that this overwhelming **endorsement** of the 1st Report, by the Council of Europe, has reinforced the resolve of the UK Government to maintain its anti-Cornish discrimination. We sincerely hope that the Advisory Committee will now seek a substantive response to the State’s weasel word comment in paragraph 19 of the 2nd Report (see page 11 below) that it “*has not been convinced*”, to which we shall be given the opportunity of a response – rather than have to wait another 5-8 years for an opportunity. It seems at odds with the concept of human rights to have a consultative exchange but then to be denied any process of explanation, response, or accountability.

Perhaps we may be permitted to offer some suggestions, which could be offered as ‘practical advice’, on how the UK Government may extend the Framework Convention to genuine ‘national minorities’? Three, probably four, possibilities come to mind:

- a) By recognising the many genuine attempts made to define ‘national minorities’. This would, of course, be the most simple and would circumvent an article-by-article approach. The suggestion here, within a sincere British context, would be to look at factors such as being an indigenous group with an indigenous language within a historic territory – alongside the many discarded definitions! The Cornish people existed on this island before the arrival of what has become the national hegemonic majority (the English) and it was the actions of the English settlement and expansion that caused the British/Brythonic language to evolve into, what today is, Welsh, Cornish and Breton.
- b) The article-by-article route would essentially revolve around Article 12 and ‘education’ (currently a mechanism of forced assimilation) since this needs to be closely allied to the language but would need, also, to extend further in order to ensure the true **intellectual protection** of the Cornish people – thinking here also about Article 16 and stemming the existing processes of (to be kind!) marginalisation.
- c) Acknowledge the true *de jure* constitutional status of the Duchy of Cornwall as the legitimate territorial unit for the indigenous Cornish national minority.

It can be seen that the relegation of Cornwall to the status of an English county is now being used by the English hegemony to deny the Cornish national minority its historic rights. It appears difficult, even impossible, to know what to add to the body of evidence already submitted (on behalf of the Cornish national minority), to the UK Government and copied, all or in part, to the Advisory Committee during both the first and second cycles. It is to be hoped that the Advisory Committee will confirm that all such evidence will be retained as an 'active' and 'relevant' resource for what appears to be the continuing need for the State to properly address the 'Cornish Question'? The fourth possibility (preferred by this organisation) is:

The Framework Convention is legally binding on participating states and we consider that it is irreconcilable with its principles for the Cornish Case to be artificially delayed, by failure to properly address and quickly resolve the issues in an open and transparent manner. This organisation, therefore, respectfully asks the Advisory Committee whether the Council of Europe would/could consider appointing a Rapporteur to provide an independent investigation into the grievances of the indigenous Cornish national minority?

National Minority definitions

“17. The UK therefore ratified the Framework Convention on the understanding that it would be applied with reference to ‘racial groups’ within the meaning of Section 3(1) of the Race Relations Act 1976, which is to say any groups defined by ‘colour, race, nationality or national or ethnic origins’. For the purpose of the Framework Convention it would of course also be necessary for the group to be a minority in the UK.” (UK 2nd Compliance Report)

There does not seem to be a record of this ‘Declaration’ on the COE website against the ratification by the United Kingdom. Such a declaration was not made in the 1st Compliance Report, merely a statement of intent, and one can only ask the Advisory Committee for some form of clarification. Also, was the United Kingdom one of the States that objected to the original intention, in 1993, to include a definition of ‘national minority’ into the European Convention on Human Rights?

It is noted that the United Kingdom was a signatory to the Conference on Security and Cooperation in Europe (Final Act, Helsinki 1975) that includes references to ‘national minorities or regional cultures’. One wonders what the UK considered to be the meaning of the following? :

“In Section VII - The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.”

“On Cooperation - National minorities or regional cultures. The participating States, recognizing the contribution that national minorities or regional cultures can make to co-operation among them in various fields of culture, intend, when such minorities or cultures exist within their territory, to facilitate this contribution, taking into account the legitimate interests of their members.”

The whole concept of the Framework Convention derives from the inability of the States’ to accept the Parliamentary Assembly of the Council of Europe (PACE) **Recommendation 1201 (1993)** which attempted to provide a definition of “national minorities” **on an additional protocol on the rights of national minorities to the European Convention on Human Rights.**

In fact you will be more than aware that A S Akermark’s (the first vice-president of the Advisory Committee) basic definition was:

“A non-dominant institutionalised group sharing a distinct cultural identity that it wishes to preserve”

“**The International Protection of Minority Rights**” is eminently discussed within a special report compiled in August 2001, for the F W de Klerk Foundation by Deon Geldenhuys and Johann Rossouw. This special report so encapsulates the Cornish situation that it has been annexed, in full, to this submission. There is a clear distinction between ‘Indigenous’, ‘Ethno-cultural’ and ‘National Minority’ groups, and the use of existing legislation and argument that only provides for the rights of ‘**individuals**’, irrespective of any group. The Cornish equate to both the Indigenous and National group (although denied this as an official status) but observe the third, ‘Ethno-Cultural’ group (from immigration) as being treated considerably better than themselves. The special report makes a significant point relating to a perceived neglect in identifying and defining ‘minorities’ (for which the UN and EU are specifically noted), and which is especially relevant to the Cornish Case, namely:-

“A plausible reason for this neglect is that the lack of a definition could be used by states as an excuse not to deal at all with potentially contentious minority issues at home by claiming that the relevant group was not a ‘minority’ and had no special rights, but was simply part of the broader national population. (page 5)”

The Cornish Case is indeed contentious! There are serious constitutional issues relating to the Crown and UK Government, in collusion with the Duke of Cornwall, relating to the perceived abuse of rights over the **territorial** Duchy of Cornwall. This relates to the way that the latter is ‘denied’ and ‘dishonestly presented’, to the detriment of the rights of the Cornish national minority. Cornwall is considered, by the State, to be an ‘English’ county and ‘in England’ but the existence of the Duchy of Cornwall, based as it was in 1337 on the mediaeval European model, can be shown to be significantly more than is officially portrayed. What passes for education within Cornwall, therefore, totally bypasses the specifically ‘Cornish’ aspects of history, geography, sociology and, coercively, imposes the destructive external influence of the English hegemony, as we are compelled, against our will, to become members of that ‘majority’ group!

It is essential that we be fully acquainted with the constraints imposed upon the Advisory Committee so that this organisation, and others, might better understand, how those responsible for the Framework Convention, and monitoring compliance, can acknowledge the State’s dismissive approach to the Framework Convention in such glowing terms. The United Kingdom Government has succeeded in pointing to the obvious, whilst obscuring the one British national ‘indigenous’ minority that is being wilfully destroyed by a Government, and which it only acknowledges, **cynically**, with the words, “*The Government is very much aware of the strength of feeling about Cornwall’s separate identity and distinctiveness*”.

A press report on Friday the 17th March 2007, gives a clear example of such Government cynicism, of which the following is an extract (this author’s text highlighting):

“Patriotic Cornish people can now show their true colours as a Government U-turn allows them to fly St Piran's flag without risking a fine.

*New guidance **slipped out** by ministers on Thursday confirmed **county** emblems would join the list of permitted flags that can be flown without planning permission.*

*It follows a major outcry in the Westcountry after the Government confirmed last summer that anyone could hoist the flag of any country - but not their own **county**.*

*The Department for Communities and Local Government said the provision for **saint's** flags to be flown had been included specifically to cover the St Piran's emblem...”*

*“...A Department for Communities and Local Government spokesman said: "Many people want to show support for their **county** and uphold **local** traditions through the display of flags, like the flag of St. Piran. That is why we have changed the out-of-date and overly bureaucratic regulations so people can display flags without fear of prosecution."*

The national flag of Cornwall would continue to be flown, in defiance, irrespective of what the Government considers to be legal! The Cornish flag of St Piran was not included in the Government's new law in 2006, to make the flying of national flags legal. This decision was very publicly challenged within Cornwall. The new law on national flags was directly as a consequence of the English majority (specifically the sports supporters) suddenly re-discovering the relevance of the English flag of St George (following devolution to Scotland and Wales!). Hitherto, they had incorrectly used the flag of the Union. The cynicism is not only the fact of the timing of this 'leaked' change of heart (to coincide with the Advisory Committee's visit?), but also that it has been used, by the State, as 'an opportunity' to categorically reinforce perceptions on the disputed status of Cornwall, by reference to "**county** emblems" and "**local** traditions".

Individual Rights does not mean Group Rights

*“16. The term ‘national minority’ has no legal meaning in the UK and so there is no mechanism under any of the UK’s legal jurisdictions to grant ‘national minority status’ to any particular group nor is it proposed to introduce such a mechanism. The UK’s discrimination laws **protect all individuals** from being treated less favourably on racial grounds, whether they belong to a ‘minority’ group or a ‘majority’ group. There is no comprehensive list of ‘recognised’ groups. **Any individual** who believe himself or herself discriminated against unlawfully can bring proceedings against the alleged discriminator.”*

The recognition of the Cornish language, for example, relates to a linguistic group (the Cornish national minority) and it (language not the group!) is now protected under the appropriate State legislation as a consequence of the State ratifying the European Charter for Regional or Minority Languages (ECRML). Similarly, the inclusion of general aspects of Cornish studies into the official schools curriculum, would also be applicable to ‘the group’. How, therefore, can ‘individuals’ make the case for being taught fundamental aspects of Cornish Studies that are relevant to a ‘minority group’ that has no official recognition? The current education process within Cornwall is destructive to the Cornish sense of identity and designed to assimilate them, against their will, into the hegemonic ‘English majority’ group!

Attempts, by others, have been advised by the courts that such a matter is for the High Court as a matter of ‘public interest’ and therefore must be subject to a Judicial Review. We know, from the past 50 years, and current State intransigence, that the Cornish national minority will **never** receive any form of justice through the ‘English’ legal system, let alone being able to pay for it! There is currently no reliable facility, within the UK, for taking out a legal ‘class action’ but this could only become viable for a ‘national minority’ to take such a course of action, if there were to be some claim for financial compensation against the “*alleged discriminator*”, namely, the Queen, her Parliament and her son, the Duke of Cornwall, on the grounds of historic discrimination, misrepresentation and psychological genocide.

The UK Government repeatedly fails to acknowledge the points where we have continually identified what we are being denied. In the 1st Compliance Report, it was:

*“48. “The Government has received representations from a number of individuals from Cornwall, including MPs and MEPs **seeking recognition of the Cornish as a national minority** under the Convention. The Minister responsible for Race Relations, Mike O’Brien, has also met with an MP and academic from Cornwall to discuss these concerns. We maintain the view that **we do not consider** that the people of Cornwall constitute a ‘national minority’. We are not aware of any rights granted under the Convention which are being denied to any **individual** in Cornwall.”*

And in the 2nd Compliance Report 22nd February 2007:

*“19. ...The Government has considered the arguments put forward for the inclusion, but **has not been convinced** that a move away from the definition of racial group in Section 3(1) of the Race Relations Act 1976 can be justified. The Government considers that the UK’s enormous diversity, embracing individuals of many different (and sometimes multiple) ethnic, national, cultural and faith identities is a matter for celebration and a source of national strength. **The Government is very much aware of the strength of feeling about Cornwall’s separate identity and distinctiveness.** The fact that **some groups may not meet the definition of racial group from the Race Relations Act 1976 has not been a barrier to the UK’s many communities being able to maintain and celebrate their distinct identities...**”*

We note the change of emphasis between the 1st Report (para 48) and the 2nd Report (para 19), from which one may draw the inference that:-

*‘The State is determined to simply ignore the Cornish Question and, whilst **now** aware of its discrimination against the Cornish, there is no chance of the Cornish meeting the definition of racial group.’*

The Cornish qualify as an ‘indigenous’ national minority by any of the definitions that have been brought forward and dismissed by the participating Imperial States, and are the only indigenous group within the United Kingdom being subjected to wilful acts of psychological genocide. We are not only a minority within the State, but also now a minority within our own country – the Duchy of Cornwall! If the Framework Convention is being denied to us, where do we go next? Some of us already feel that they know the answer to that! It is, however, worth bearing in mind that it has been the strength of the Cornish identity that has directly benefited others (for example, the flag item above), but continues to deprive us of our rightful equality with truly comparable groups, and, before the law. This deprivation is not, however, because of the weakness of the Cornish arguments but simply because of the closed minds, and hidden agenda, of those in control of the Imperial State.

The above-mentioned ‘special report’ concludes its section on “Justification for minority rights” with the following observation:

*“In short, minority rights are **supplementary** to traditional (individual) human rights, ‘designed to ensure that men and women who live in a specific minority situation can safely and fully enjoy their human rights’, in the words of the Declaration. **For far too many minorities, left ‘without the additional protection and fortification by minority rights’, human rights are at best a piece of paper.**”*

E J Pengelly for “Tyr-Gwyr-Gweryn”

Thursday 22nd March 2007