

# A Bill of Rights for Northern Ireland



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

**An important consultation about the future rights of everyone in Northern Ireland has begun. The government is inviting views on A Bill of Rights for Northern Ireland and this is your chance to say what you think.**

The proposal for a Bill of Rights for Northern Ireland was a key commitment of the 1998 Belfast (Good Friday) Agreement. It was further endorsed by our local politicians at St Andrews in 2006. The idea, however, had been around for much longer. Throughout our troubled history all shades of political opinion have at one time or another advocated a Bill of Rights.

The reason why this idea has been around for so long is because having our rights guaranteed and gathered together in one document, where everyone can see them, is crucial for peace and democratic stability. While the Agreement set out how politicians should behave towards one other, a Bill of Rights will set out how, in a new Northern Ireland, the government should behave towards us, the people.

When the Human Rights Commission was created, it was asked to advise the government on whether there should be a Bill of Rights and, if so, what it ought to include. We consulted widely on this question with all sections of our society, young and old, women and men, Protestant and Catholic, ethnic minorities, disabled people and many others.

Taking into account the full diversity of views, the Commission gave its advice to the Secretary of State on 10 December 2008.

We recommended that there should be a Bill of Rights for Northern Ireland, reflecting the particular circumstances of our society, and that it should provide an extensive set of protections. You can find more details in this special supplement, which also summarises what we think should be in a Bill of Rights, how it ought to work and what the outcomes would be if our recommendations are implemented.

The government has now responded to the Commission's advice and wants to know what you think. The Northern Ireland Office is conducting a public consultation and it is important that as many people as possible respond.

## Inside...

- Background to the Bill of Rights?
- Q&A
- What a Bill should protect
- Example of how a Bill could work

# Background to the Bill of Rights

**Q** What are human rights?

**A** Human rights are the protections and freedoms that everyone should have.

**Q** Who has rights?

**A** Everyone.

**Q** Can my rights be taken away?

**A** No, but they can be limited. If, for example, you break the law you may be imprisoned restricting your right to liberty.

**Q** Who has the duty to protect my rights?

**A** The government and public authorities, such as schools, hospitals, the police and local councils. A recent change in the law also means that voluntary organisations and private companies funded by the government to provide residential care for older people have a duty to protect human rights.

**Q** Where can I find human rights?

**A** Human rights are found in domestic laws, like the Human Rights Act; European laws, like the European Convention on Human Rights; and international laws like the United Nations Convention on the Rights of the Child.

**Q** What is a Bill of Rights?

**A** A Bill of Rights is an agreement between the people and their government which lists the protections and freedoms everyone is entitled to have. It sets out how the government and public authorities should treat people.

**Over a decade since the Belfast (Good Friday) Agreement, community divisions and the legacy of violent conflict remain. The history of Northern Ireland continues to influence many aspects of our daily lives. What happened here has an impact on the human rights of everyone. Even today, when it might not always be so obvious, your rights are affected.**

In 1998, the Agreement provided for an independent body tasked with promoting an awareness of the importance of human rights in Northern Ireland, to review existing law and practice and to advise the government on what steps need to be taken to fully protect people living here.

With this purpose in mind, the **Northern Ireland Human Rights Commission** was created. One particular job we were asked to do, was to advise the Secretary of State on the possibility of there being a Bill of Rights. We were told to consider the particular circumstances of Northern Ireland, and identify rights that would supplement those already contained in the European Convention on Human Rights. Where appropriate, we were also to draw on international instruments and experience.



To ensure that the government received the best and most considered advice possible, we engaged in a comprehensive consultation. This began on 1 March 2000, and, in the intervening years, over 650 formal submissions were made by individuals and groups, with many hundreds more letters and oral evidence received.

In 2006, following the St Andrews Agreement, a forum was established to help the Commission's process. All of the main political parties, community and voluntary organisations, trade unions, the main churches and business sector were represented on the forum. There was much expected disagreement, but the forum did nonetheless successfully conclude on 31 March 2008 and recommended that a Bill of Rights "is needed to provide strong legal protection for human rights for all the people of Northern Ireland; should be in accordance with universal human rights standards, reflecting the particular circumstances. . . must be effective, realistic and implementable; must address the needs of the poorest and most marginalised. . . should be aspirational and look to the future".

Having received these recommendations, we announced that we would complete the process before the end of 2008. A detailed methodology, was formulated to explain how any conclusions would be reached. **On 10 December 2008 (International Human Rights Day and the 60th Anniversary of the Universal Declaration of Human Rights), we gave our advice to the government. This supplement explains our advice.**

# A Bill of Rights for Northern Ireland should protect...

It is usual for an introductory section, called a Preamble, to be included in a Bill of Rights. The preamble describes the values on which a Bill of Rights is based.

## Preamble

Founded on the principles of full respect for, and equality of, civil, political, economic, social, and cultural rights and of freedom from discrimination it:

Recognises that a just and equal society is best maintained by a stable and functioning democracy and the common observance of human rights;

Acknowledges the dignity and worth of every person and the equal and inalienable rights of all;

Reiterates an absolute commitment to exclusively peaceful means of resolving differences;

Addresses the legacy of the past and the special needs of victims and survivors of the conflict;

Enshrines the entitlement of all to the full range of human rights and fundamental freedoms, safeguarded by the rule of law;

Strives to ensure that every child will grow up safe and secure;

Values the role of women in public and political life and their involvement in advancing peace and security;

Cherishes our common humanity and advocates freedom from fear and want;

Seeks to protect our common heritage and natural environment for future generations;

Accepts the commitment to mutual respect and the religious and civil rights of everyone;

Welcomes the rich variety of languages, beliefs and traditions which is the cultural wealth of our society;

Upholds the existing rights and protections of individuals and groups especially those that guarantee free and fair participation in economic, social and political life; and

Is dedicated to the achievement of reconciliation and the vindication of the human rights of all.

**The Commission advised that there should be a Bill of Rights for Northern Ireland. It set out recommendations for rights to be included that reflect the particular circumstances of our society. It also advised how the rights could work in practice. These are the recommendations.**

**1** the **right to life** and ensure all deaths relating to the Northern Ireland conflict are effectively investigated, complying with international law.

**2** the **right to freedom from torture, inhuman or degrading treatment**

**3** **democratic rights** to vote in free and fair elections, subject to proportional representation for the Assembly and local councils, overseen by an independent authority. There should be equal opportunity to take part in public service. Public authorities should be representative of society and take effective steps to enable full and equal participation of women in political and public life.

**4** the **right to equality and prohibition of discrimination.**

Affirmative action should be allowed. Public authorities should help older and disabled people to live independently and take a full part in community life.

**5** **children's rights**, ensuring that everyone under 18 years old, without discrimination, has their best interests protected and given the highest consideration in all actions concerning them. The government must take all necessary measures to protect children from all forms of abuse and exploitation as well as from the dangers posed by conflict. Special protection and assistance should be given to children who don't live with their family. Children should have access to safe play and leisure facilities. Government must ensure that children know their rights and that their views are taken seriously in all relevant matters.

**6** the **right to health**, ensuring that everyone has the highest possible standard of physical and mental health, including free, prompt, appropriate services.\* No one should be refused emergency medical treatment and essential primary healthcare. Women and girls should have gender-sensitive and appropriate healthcare and information.

**7** the **right to an adequate standard of living.\*** No one should be allowed to become destitute.

**8** the **right to respect for private and family life**

**9** the **right to education** and ensure all children can access the full curriculum. Education should promote human rights, dignity of the person, equality, respect for diversity and tolerance.

**10** **freedom from violence, exploitation and harassment** including domestic, sexual, gender-related or sectarian violence, sexual exploitation and trafficking. All appropriate steps should be taken to ensure these protections.

**11** the **right to found a family**

**12** the **rights of victims**, ensuring access to appropriate material, medical, psychological and social help. They must be kept informed about investigations and legal proceedings. These rights must also be protected in separate legislation for victims of the Northern Ireland conflict.

**13** **freedom of thought, conscience and religion**

**14** the **right to a fair trial or public hearing and no punishment without law** and ensure trial by jury for serious offences and the right to waive it. Evidence obtained through torture or inhuman and degrading treatment or by breaching any of the rights in the Bill of Rights cannot be used in the trial. The best interests of children and vulnerable adults should be specially protected. Witnesses, jurors, the judiciary and lawyers should be protected in carrying out their duties.

**15** **liberty of movement and freedom to choose where to live**

**16** the **right to identity and culture** including a choice to be Irish or British or both without discrimination. Public authorities should treat the identity and ethos of both main communities equally and encourage mutual respect, understanding and co-operation. Minorities should be able to enjoy their culture, practice their religion and use their language, in private and public. No one should be made to take an oath in Northern Ireland contrary to their religion or belief.

**17** **environmental rights**, including a duty on public authorities to limit pollution, promote conservation and secure sustainable development.

**18** the **right to civil and administrative justice** including access to information held by public authorities. Public authorities must make fair decisions within a reasonable time, provide reasons and allow for the decision to be appealed.

**19** **freedom of assembly and association**

**20** **language rights**, ensuring that minorities can learn or be educated in their own language, when there is enough demand. Essential services should be accessible by communicating in a language (including sign language) you understand. Public authorities should support Irish and Ulster-Scots, as committed to under the European Charter for Regional and Minority Languages.

**21** the **prohibition of slavery or forced labour**

**22** the **right to accommodation**, appropriate to your needs.\* Public authorities should take all appropriate steps to ensure no one is forced out of their home by threats or harassment or evicted without a court order. No one should be denied emergency accommodation.

**23** the **right to own property and peaceful enjoyment of possessions**

**24** **freedom of expression**

**25** **social security rights**, including access to social assistance, social insurance and a pension\*.

**26** the **right to work.\*** Just and favourable working conditions without discrimination should be protected. Workers should be able to strike and to bargain collectively. Carers should have respite from their caring responsibilities.

**27** the **right to marry or to enter civil partnership** and to end both.

**28** the **right to liberty and security** and ensure that anyone arrested or detained can speak privately with a solicitor and have them present during questioning, which must be recorded. A family member should be able to visit under supervision. Medical help, if needed, should be given without delay. Anyone detained or in care should be helped to reintegrate into society. No one should be imprisoned because of their inability to fulfil a contractual obligation. Children or vulnerable adults who are arrested or detained should have special protections. Children should be treated in a way that considers their age, needs and understanding. They should only be detained as a last resort for the shortest time possible, separately from adults, in conditions appropriate to their age. When a child is the victim of crime they should be given special assistance to help them give evidence and supported throughout the process.

\* Government must take steps to ensure that these rights are realised over time as fully as possible.

All these rights can be limited if it is fair, reasonable and proportionate to do so.



## Example of how a Bill could work

### Supporting the victims of crime

The Commission has recommended that every victim of crime should have his or her rights protected by a Bill of Rights. Consider, for example, a victim of child abuse. In Northern Ireland, there are currently more children on the child protection register, per head of population, than anywhere else in the United Kingdom. The number of incidents recorded is high in Northern Ireland and research has also shown that the number of children being abused is much higher because many cases are never reported.



Even when a child does report a crime, they face the possibility of being re-traumatised by the investigation and any subsequent court case.

### So what could a Bill of Rights do?

A Bill of Rights should include a guarantee that if you are a victim of crime you will be provided with appropriate support services. If, for instance, a girl is raped, the Bill should guarantee that she has the right to receive necessary specialist health care and information.

The police and prosecution service should be required to keep her informed of any developments throughout their investigation. If the case goes to trial, the victim should be supported to give evidence, if necessary, using video link, as well as receiving any appropriate material, medical, psychological and social assistance afterwards.

### What the Commission says

- The government should take all necessary measures to protect children from all kinds of abuse.
- Women and girls should have the right to specialist health care and information.
- Every victim of crime should have the right to be informed throughout the case and to have any decisions explained to them by the authorities.
- Every witness should have the right to necessary support at all stages of the court process.
- Every victim of crime should have the right to a range of support measures.

**Q** Who would be protected by a Bill of Rights for Northern Ireland?

**A** Everyone.

**Q** Why have a Bill of Rights for Northern Ireland?

**A** A Bill of Rights will enable everyone to know what rights they have by referring to one document. Northern Ireland should have its own Bill because it will help us deal with the legacy of conflict and build peace for the future by ensuring that everyone is treated fairly and guaranteeing protections that reflect the particular circumstances of our society.

**Q** What is the Northern Ireland Human Rights Commission's role in this?

**A** Following the Belfast (Good Friday) Agreement, the Human Rights Commission was asked to provide advice to the government on whether there should be a Bill of Rights for Northern Ireland and what should be in it.

**Q** Will there be a new human rights court?

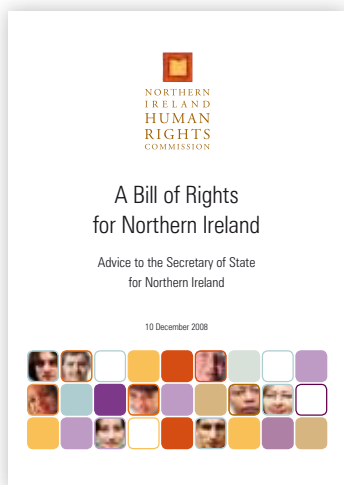
**A** The Commission does not believe this is necessary. At the moment, human rights cases are brought within the existing court and tribunal system. The same process should apply to a Bill of Rights.

**Q** Will a Bill of Rights result in lots more court cases?

**A** Similar fears were raised when the Human Rights Act was introduced. These fears were proved wrong. There is no reason to suggest that a Bill of Rights would be different.

# Consultation now on

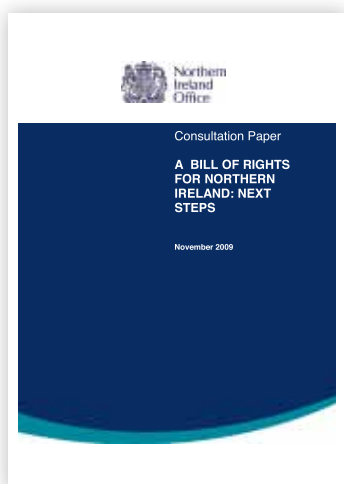
How to find out more and tell the government what you think about a Bill of Rights



**To find out more about the Human Rights Commission's advice on a Bill of Rights for Northern Ireland**

**www.nihrc.org/bor**

**or contact:** NIHRC, Temple Court,  
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**To find out more about the government's consultation**

**www.nio.gov.uk**

(select Public Consultation)

**or contact:** Bill of Rights Consultation,  
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**Q** In a recession, how realistically can the government spend more money on protecting rights?

**A** In a recession, threats to public expenditure make interference with your rights more likely. It is exactly at times like these that we need to reaffirm and strengthen human rights to ensure that increasingly vulnerable people and families are protected.

**Q** What is the role of politicians in this process?

**A** The Westminster Parliament will make the law creating a Bill of Rights for Northern Ireland. On devolved issues, such as education or health care, the Northern Ireland government may be asked for its views. The Commission has recommended that once a Bill is created any changes should require cross-community support in the Northern Ireland Assembly.

**Q** What about responsibilities?

**A** A Bill of Rights, like all human rights instruments, holds states accountable for their actions. However, individuals asserting their rights must recognise the rights of other people. Not respecting the rights of others could mean that you are breaking the law. Some of your own rights may be limited as a consequence.

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