

Have your say: Human Rights in Northern Ireland

Consultation on the creation of a Bill of Rights for Northern Ireland

This consultation was set up by the Northern Ireland Assembly's Ad Hoc Committee on a Bill of Rights. The Committee wants to hear your views and understand how you feel about the creation of a Bill of Rights in Northern Ireland.

Why was the Ad Hoc Committee on a Bill of Rights set up?

The Ad Hoc Committee on a Bill of Rights was set up following the New Decade, New Approach Agreement in early 2020. The Committee is tasked with considering the creation of a Bill of Rights for Northern Ireland. That includes looking at the implications of a Bill of Rights here and what rights it might include. The Committee has discussed and received briefings from a wide range of stakeholders and experts in human rights in recent months, but a crucial part of its evidence-gathering is listening to those who are directly affected – you.

What is the consultation about?

This consultation is about the Committee getting your views, listening to what you think and taking on board how you feel about the creation of a Bill of Rights in Northern Ireland. The results of the consultation will provide valuable information to the Committee and help inform its forward work programme. The survey is completely anonymous and confidential. If you choose to provide contact details, so you are kept informed of the Committee's work, these details will not be linked to your responses.

Why should I get involved?

This is your chance to say what you think and how you feel. Your views and opinions are as important as anyone's. To get an understanding of what people who live here think about the creation of a Bill of Rights for Northern Ireland, we need to hear from lots of different people. By getting involved you'll help to ensure that the Committee's report is reflective of society across Northern Ireland.

How do I get involved?

You can complete the consultation survey attached.

Complete our survey

This short survey should take less than ten minutes to complete. The results will provide valuable information to the Committee.

The survey is completely anonymous and confidential. If you choose to provide contact details they will not be linked to your responses.

1. Views on Human Rights

This first set of questions looks at your general view on human rights.

a. To what extent do you agree that everyone in Northern Ireland today enjoys the same basic human rights?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly disagree
- F. Don't know

b. Why do you feel this way?

1. Since the repeal of Sections 58 and 59 of the Offences Against the Persons Act in October 2019, the unborn in Northern Ireland no longer enjoy protection in law of the most basic human right, **the right to life**. As unique human individuals, CARE NI believes that the unborn should be protected in law from the moment of conception and afforded the same right to life as persons who are born.
2. Article 2 of the European Convention on Human Rights provides that “[e]veryone’s right to life shall be protected by law.”¹ Article 2 does not define the temporal limitations of this right, and the European Court of Human Rights has held that when this right begins is within the margin of appreciation that individual States may decide (Vo v. France [GC], § 82).² When the Abortion Act was made in 1967 this was not extended to Northern Ireland with the effect that approximately 100,000 people are alive today who might otherwise have been aborted, an estimate that has been independently verified by the Advertising Standards Authority.³ With this background in mind, CARE NI believes that a distinctive Bill of Rights for NI should extend the right to life to everyone *from the moment of*

¹ Article 2 of the ECHR,

² [Guide on Article 2](#) of the Convention – Right to Life, European Court of Human Rights, Section II D 1., page 17.

³ [Both Lives Matter - ASA | CAP](#)

conception, to ensure that equal dignity is afforded to all regardless of stage of development. This protection should ensure that there is no discrimination in the womb on the basis of gender or disability. CARE NI believes the current law does not meet these criteria.

3. CARE NI recognises there will be cases where a woman faces life threatening complications because of her pregnancy. In such cases ending a pregnancy prematurely may be necessary, and it may not be possible to preserve the life of the child. Here the good faith decision of the clinician that a termination of pregnancy is necessary should be sufficient defence against a perceived breach of the right to life of the fetus.
4. It is now recognised that individuals can suffer life changing impacts from early adverse experiences, *including those occurring prior to birth*. Current domestic law in NI, which only attributes ‘legal personality’ at birth, fails to provide adequate protection against these early harms which may have life changing consequences. The [UN Convention on the Rights of the Child](#), whilst not going as far as extending full legal personality before birth, *does* recognise that the child “...needs special safeguards and care, including appropriate legal protection, before as well as after birth”.
 - a. A 2018 report produced by NHS Highland considers the nature and impact of adverse childhood experiences (ACEs) across an individual’s life course and recognises that these experiences can occur before, as well as after birth.⁴
 - b. A number of studies have shown that maternal experience of intimate partner violence during pregnancy can increase the risk of low birth weight and preterm birth, which are associated with poor outcomes for the neonate.⁵
 - c. Research has also shown that maternal stress during pregnancy impacts the fetus and is a predictor for later sleeping difficulties for the child, and higher cortisol levels.⁶
 - d. Researchers have also demonstrated that preconception parental trauma has resulted in epigenetic changes evident in both parent and offspring in where the

⁴ [DPH-Annual-Report-2018 \(web-version\).pdf \(scot.nhs.uk\)](#)

⁵ Shah PS, Shah J. Knowledge synthesis group on determinants of preterm/LBW births. Maternal exposure to domestic violence and pregnancy and birth outcomes: A systematic review and meta-analyses. *J Womens Health (Larchmt)* 2010;19:2017–2031. Murphy CC, Schei B, Myhr TL, Du Mont J. Abuse: A risk factor for low birth weight? A systematic review and meta-analysis. *CMAJ* 2001;164:1567–1572. Kiely M, El-Mohandes AA, Gantz MG, Chowdhury D, Thornberry JS, El-Khorazaty MN. Understanding the association of biomedical, psychosocial and behavioral risks with adverse pregnancy outcomes among African Americans in Washington, DC. *Matern Child Health J.* 2011;15: S85–S95. Silverman JG, Decker MR, Reed E, Raj A. Intimate partner violence around the time of pregnancy: Association with breastfeeding behavior. *J Womens Health (Larchmt)* 2006;15:934–940. El Kady D, Gilbert WM, Xing G, Smith LH. Maternal and neonatal outcomes of assaults during pregnancy. *Obstet Gynecol* 2005;105:357–363. Alhusen JL, Ray E, Sharps P, Bullock L. Intimate partner violence during pregnancy: maternal and neonatal outcomes. *J Womens Health (Larchmt)*. 2015 Jan;24(1):100-6. doi: 10.1089/jwh.2014.4872. Epub 2014 Sep 29. PMID: 25265285; PMCID: PMC4361157.

⁶ van den Heuvel MI, Hect JL, Smarr BL, Qawasmeh T, Kriegsfeld LJ, Barcelona J, Hijazi KE, Thomason ME. Maternal stress during pregnancy alters fetal cortico-cerebellar connectivity in utero and increases child sleep problems after birth. *Sci Rep.* 2021 Jan 26;11(1):2228. doi: 10.1038/s41598-021-81681-y. PMID: 33500446; PMCID: PMC7838320. Molenaar NM, Tiemeier H, van Rossum EFC, Hillegers MHJ, Bockting CLH, Hoogendijk WJG, van den Akker EL, Lambregtse-van den Berg MP, El Marroun H. Prenatal maternal psychopathology and stress and offspring HPA axis function at 6 years. *Psychoneuroendocrinology.* 2019 Jan;99:120-127. doi: 10.1016/j.psyneuen.2018.09.003. Epub 2018 Sep 7. PMID: 30223193.

parent was subject to severe trauma, findings which give insight into possible intergenerational effects of severe psychological trauma more widely.⁷

- e. The NI Public Health Agency has expressed a commitment to supporting early childhood development, saying ‘The international evidence from economists, psychologists, child development specialists and others suggests that we should prioritise investment in services that provide intensive support during pregnancy and the first five years of life.’⁸
5. Concerns relating to the transgenerational transmission of trauma, whether through biological mechanisms impacting prenatal development or after birth through psychosocial or other means, are particularly pressing in the NI context in view of the recent history of prolonged conflict. A report produced on behalf of the Commission for Victims and Survivors in NI highlights: the significance of the first three years of life to a child’s long term mental wellbeing; that “[t]here is a sub group of the Northern Ireland population who have been affected by years of violence in Northern Ireland, whose children may be at increased risk of experiencing toxic stress;” that “[c]hildren who experience toxic stress are at increased risk of developing poor health; and that “[t]he effects of the years of violence had a specific impact upon particular groups of children. Children of victims and survivors, ex-paramilitaries and police officers have been impacted directly as a result of their parents’ experiences.” This report highlights that ‘potentially 60% of the population (up to 127,800 adults) with mental health problems directly related to the Troubles have not received treatment,’ i.e. this is not a historic problem.
6. In addition, CARE NI believes that the **right to freedom of religion or belief** – as well as the **right to freedom of expression** – should be carefully considered in discussion around any Bill of Rights for Northern Ireland and that this protection needs to, at minimum, align with the international standards. For further information on this point, please refer to paragraphs 5-6 in answer to question 2 of the survey below.

⁷ Rachel Yehuda, Nikolaos P. Daskalakis, Linda M. Bierer, Heather N. Bader, Torsten Klengel, Florian Holsboer, Elisabeth B. Binder, Holocaust Exposure Induced Intergenerational Effects on FKBP5 Methylation, *Biological Psychiatry*, Volume 80, Issue 5, 2016, Pages 372-380, <https://doi.org/10.1016/j.biopsych.2015.08.005>.

⁸ [Give every child the best start in life | HSC Public Health Agency \(hscni.net\)](https://www.hscni.net/give-every-child-the-best-start-in-life)

2. Protections

In your view, do people in Northern Ireland need more protection for their human rights in relation to any of the following areas?

Choose as many as you like.

- A. Age
- B. Caring responsibilities
- C. Community background
- D. Criminal record
- E. Cultural background
- F. Disability
- G. Economic status or income
- H. Ethnic group
- I. Family or civil status
- J. Gender
- K. Health status
- L. Language
- M. National identity
- N. Political or other opinion
- O. Pregnancy and maternity
- P. Property
- Q. Religion or belief
- R. Sexual orientation
- S. Don't know
- T. None of the above
- U. Other- Freedom of Expression

CARE NI believes the following categories require protection for human rights:

1. **Disability:** Human rights on the basis of disability should apply before, during and at the end of life. At the moment human rights for the unborn after the point of the viability do not exist. An unborn child at gestation later than 24 weeks cannot be aborted on the basis unless the mother's life is at risk or the unborn child has a disability.
 - 1.1. Regulation 7 introduced within the new [Abortion Regulations](#) in Northern Ireland is contrary to the non-discrimination provisions in the UNCRPD, and its introduction into NI law is a concerning development with respect to the right to life of persons with disabilities. In the most recent UNCRPD Committee report on the UK (which introduced a similarly discriminatory provision in 1990), the Committee expresses concern *"about perceptions in society that stigmatize persons with disabilities...and about the termination of pregnancy at any stage on the basis of fetal impairment...The Committee recommends that the [UK] amend its abortion law accordingly...without legalising selective abortion on the ground of fetal deficiency."*⁹ The Disability Rights Commission (now the Equality and Human Rights Commission) have said the disability abortion provision in the 1967 Act *"is offensive to many people; it reinforces negative stereotypes of disability... [and] is incompatible with valuing disability and non-disability equally"*.¹⁰
 - 1.2. **The new abortion regulations in NI implement the same legislation both the UNCRPD and the DRC rejected.** In 2019, the Special Rapporteur on the UNCRPD said *"The right to life includes the right to survive and develop on equal basis with others. Disability cannot be a justification for termination of life."*¹¹
 - 1.3. On 2 June 2020, the NI Assembly rejected (in a non-binding vote) Regulation 7b that *"extends to all non-fatal disabilities"*¹² after hearing from Heidi Crowter a woman with Down's Syndrome, who argues that it is *"deeply offensive"*¹³ and discriminatory to allow abortion up birth for babies with disabilities compared to able-bodied babies who cannot be aborted after 24 weeks. After the NI vote, she called *"on the government not to ask MPs and peers to vote for regulations that contain discriminatory provisions that tell people like me that we should not exist."*¹⁴ The existence of different gestation limits in Great Britain is currently being challenged in a judicial review by two families (including the Crowter family) with children who have disabilities.¹⁵ The Supreme Court has also given a non-binding judgement that there is no human right for women to have an abortion on the grounds of the disability of a child who can survive birth.¹⁶
 - 1.4. Since the NI Assembly has expressed the clear will of the people of NI that

⁹ CRPD/C/GBR/CO/1, October 2017, paragraphs 12 and 13

¹⁰ <http://news.bbc.co.uk/1/hi/health/1502827.stm>

¹¹ Report of the Special Rapporteur on the rights of persons with disabilities, December 2019, A/HRC/43/41, para 48, page 12

¹² <https://undocs.org/pdf?symbol=en/A/HRC/43/41>

¹³ <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2020/06/02&docID=301413>

¹⁴ <https://youtu.be/tiCcWQPNliA>

¹⁵ <https://www.belfasttelegraph.co.uk/news/northern-ireland/disability-rights-activist-urges-mps-to-reject-northern-ireland-abortion-regulations-39256609.html>

¹⁶ 23 February 2020, <https://www.thetimes.co.uk/article/mothers-of-downs-children-fight-to-stop-late-terminations-td3s538jp>

¹⁶ Lord Kerr at paragraph 331, [\[2018\] UKSC 27](#), See also [Press Summary](#) and Lord Mance at paragraph 133

discrimination against disabled persons prior to birth is unacceptable, any Bill of Rights going forward should both support the right to life of persons with disabilities in the same manner, but critically it should also be developed in conversation with persons with disabilities to appreciate where further protections are necessary to remove barriers to the full participation and integration in society of persons with disabilities.

2. **Family:** Protections should encompass adoptive parents, and special recourse to support may be necessary in recognition that in most, if not all cases adopted children will have significant exposure to traumatic experiences even where they have been adopted at a very early stage. See also our comments under pregnancy and maternity.
3. **Sex:** CARE NI believes there should be explicit protection for unborn girl children. Since the decriminalisation of abortion in Northern Ireland in October 2019, there is now no protection in law for the unborn girl child against sex-selective abortions.
 - 3.1. In the rest of Great Britain abortion is only legal on the basis of certain grounds, none of which is that the baby is the “wrong” sex. When the Isle of Man introduced early abortion without conditionality in 2019, they **explicitly outlawed abortion on the grounds of the sex of the baby** unless the child would have a genetic condition dependent upon the child’s sex.
 - 3.2. Since 2015, new non-invasive prenatal testing (NIPT) can identify the **sex of the baby between 7 and 10 weeks**.¹⁷ The potential for early abortions to be on the grounds of sex-selection is no longer theoretical. In this context, an NI Bill of Rights should ensure that the girl child in Northern Ireland enjoys the right to non-discrimination both before as well as after birth.
 - 3.3. To allow abortions on the grounds of sex selection is contrary to many statements made under international law which require prohibition of sex-selective abortion:
 - 3.3.1. UN Commission on Human Rights Resolution 1996/49 and UN General Assembly Resolution 52/106 calls upon states to “*enact and enforce legislation against... prenatal sex selection*”¹⁸
 - 3.3.2. The International Conference on Population and Development called to “*eliminate all forms of discrimination against the girl child*” which include prenatal sex selection.¹⁹
 - 3.3.3. The Beijing Platform for Action said: ‘*Eliminate all forms of discrimination against the girl child...which result in harmful and unethical practices such as prenatal sex selection ...often compounded by the increasing use of technologies to determine fetal sex, resulting in abortion of female*

¹⁷ Bowman-Smart H, Savulescu J, Gyngell C, Mand C, Delatycki MB. Sex selection and non-invasive prenatal testing: A review of current practices, evidence, and ethical issues. [Prenatal Diagnosis. 2019;1-10](#) and [Non-invasive prenatal testing: ethical issues](#), Nuffield Council on Bioethics, March 2017, page 4,

¹⁸ UN Commission on Human Rights, The elimination of violence against women, 19 April 1996, E/CN.4/RES/1996/49

<https://www.refworld.org/docid/3b00f22f18.html> UN General Assembly, The girl child, 11 February 1998, [A/RES/52/106](#)

¹⁹ UN, Population and Development: [Programme of Action](#) Adopted at the International Conference on Population and Development, Cairo, Sept. 5–13, 1994, New York: Department for Economic and Social Information and Policy Analysis, UN, 1995.

*fetuses*²⁰

3.4. In response to the Urgent Question on the 4th June 2020 when the question of sex selective abortions was raised, the Government said, “*The UK Government take the issue of sex-selective abortions very seriously...The regulations for Northern Ireland do not make any reference to sex-selective abortion and they follow the same approach as the UK on this issue.*”²¹ On 8th June the Government went further. In response to a PQ, the Government said “[a]n **abortion** on the grounds of sex-selection is not one of the lawful grounds for a termination of pregnancy under the **Abortion (Northern Ireland) (No. 2) Regulations 2020.**”²² This does not, as stated above, preclude an abortion on the grounds of sex selection under Regulation 3.

3.5. In the House of Lords, the Government initially said, “*I make it clear...that the abortion regulations do not allow abortions on the grounds of sex selection.*”²³ However one week later the Government said, “[t]urning to sex selection... *medical practitioners are under no obligation to provide treatment in all cases under Regulation 3, irrespective of the absence of an express requirement for the woman to meet a legal test for gestations up to 12 weeks,*” thus tacitly acknowledging that the previous assertion had been inaccurate, and therefore that sex-selective abortion is not, in fact, prohibited under the regulations up to twelve weeks. The minister went on to say that “*in Northern Ireland under the NHS, scans to detect the sex of the foetus take place between 18 and 21 weeks’ gestation,*” at which point abortion is no longer available without conditionality. However as stated above, whilst NHS scans to detect the sex of the fetus may occur past the 12 week cut-off point, NIPT testing to determine the sex of the fetus is available in NI much earlier in pregnancy, therefore sex-selective abortion in NI is now a real and concerning possibility.

4. **Pregnancy and maternity:** All women should be protected and supported during pregnancy and they should have recourse to generous maternity pay/allowance regardless of the nature of their employment.

4.1. In the Northern Ireland context, where substantial transgenerational impact is still being felt in the wake of the prolonged period of conflict during the Troubles,²⁴ investment in wider social support for pregnant women and young families is also crucial to break the cycle of generational trauma. As set out in the Children and Young People’s Strategy 2020-2030, “[i]t is important ... that through pro-active prevention both in pre-natal services and services from the earliest point in a child’s life we provide positive awareness raising and knowledge [of childhood adversity

²⁰ https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf

²¹ <https://hansard.parliament.uk/commons/2020-06-04/debates/6919CB43-4007-4B85-889B-79B1D216295D/AbortionRegulationsNorthernIreland>

²² <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-06-03/54088/>

²³ https://hansard.parliament.uk/pdf/Lords/2020-06-08_col_1626

²⁴ Emily Fitzgerald, Mark Given, Maighread Gough, Linzi Kelso, Victoria Mcilwaine And Chloe Miskelly, [The Transgenerational Impact of ‘the Troubles’ in Northern Ireland](#), School Of Psychology, Queen’s University Belfast, 2017.

and its impacts] for children and parents, and provide them with early help and support; that the people working in public services are trauma-informed regardless of the model or intervention they use; and that, when necessary, services intervene early to respond to childhood adversity and provide children, young people and parents with advice, support and protection, building the skills they need to cope with and mitigate the effects of adverse experiences.”²⁵ [Research](#) conducted by the University of Ulster finds that, in NI, “prevalence and impact of economic adversity on PTSD was found to be particularly high,” that “...social support and strong relationships may buffer the impact of traumatic events,” and “that childhood adversities also played a very significant role” in psychopathology in the population. The PHA states that “investment in early years brings significant benefits later in life across areas such as health and wellbeing, education, employment, and reduced violence and crime,” and highlights that modest investment in the early years can achieve wide ranging economic and social benefits.²⁶

4.2. There are promising initiatives in NI aimed at tackling social inequality through a focus on pregnancy and maternity, such as the Family Nurse Partnership – an intensive preventative program for young parents from deprived areas and/or with complex social and emotional needs.²⁷ A 2018 Report into the initiative concludes that “FNP is an example of how the right to family life as outlined in Human Rights legislation and the United Nations Convention on the Rights of the Child (UNCRC) is being respected through safe, effective and compassionate practice.” Any NI Bill of Rights should uphold such rights to family life and, in a context where there are clear and substantial transgenerational impacts of conflict leading to cycles of multiple adversities within families, it should seek to safeguard and bolster investment in interventions focussed on pregnancy and maternity to ensure the right to family life and the rights of children to protection from neglect, maltreatment and all forms of physical and psychological abuse.

5. **Religion or belief:** The right to freedom of religion or belief is protected in Article 9 of the European Convention of Human Rights (ECHR) which states that:

‘Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.²⁸

²⁵ Children and Young People’s Strategy 2020-2030, Department of Education on behalf of the NI Executive, January 2020, [Children and Young People’s Strategy 2020-2030 | Department of Education \(education-ni.gov.uk\)](#), Section 2.6.

²⁶ [Give every child the best start in life | HSC Public Health Agency \(hscni.net\)](#)

²⁷ [Family Nurse Partnership Transforming Lives in Northern Ireland](#), Public Health Agency, Health and Social Care, June 2018.

²⁸ Article 9 ECHR

- 5.1. The right to freedom of religion or belief is also protected in Article 18 of the Universal Declaration of Human Rights (UDHR) and Article 18 of the International Covenant on Civil and Political Rights (ICCPR).
- 5.2. CARE NI believes that the right to freedom of religion or belief should be included in any Bill of Rights for Northern Ireland and this protection needs to, at minimum, align with the international standards. The protection of the right to freedom of religion or belief must be broad enough to include not only practicing religious belief at home, behind closed doors, but also in the public square. This means being able to express your deeply held religious beliefs in the public square, being able to practice your religious beliefs in community with others, and being able to run your business in accordance with your religious beliefs. If the right to freedom of religion or belief is so narrow that it must be left at one's doorstep, it is not comprehensive enough.
- 5.3. In cases where an employee may face challenges in combining their work duties with their religious beliefs, they should be able to do both, rather than choose between them. To ensure that these are not exclusive, any Bill of Rights should align with the principle and practice of reasonable accommodation to ensure better protections of the right to freedom of religion or belief. Examples of reasonable accommodation include time off for religious holidays, breaks during the day for prayer, adjusting work duties to ensure that they do not conflict with your religious beliefs, as far as reasonably practicable. Whilst reasonable accommodation may have been informally adopted in some cases, no formal mechanism of reasonable accommodation currently exists in Northern Ireland. Introducing a formal mechanism of reasonable accommodation would help promote greater regard for the right to freedom of religion or belief in the workplace and add greater clarity and consistency to the existing piecemeal approach.
6. **Other- Freedom of Expression:** The right to freedom of speech is protected in Article 10 of the ECHR which states that:

'Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary,'²⁹

²⁹ Article 10 ECHR

- 6.1. The right to freedom of expression is also protected in Article 19 of the ICCPR and Article 19 of the UDHR.
- 6.2. CARE NI believes the right to freedom of expression should be included in any Bill of Rights for Northern Ireland and this protection should, at minimum, align with international standards. A failure to ensure the right to freedom of expression could result in people being compelled to expressions that are contrary to their own deeply held religious beliefs. The 2018 Ashers' Bakery case is an example of this, where the owners of the bakery declined an order for a cake decorated with a message which conflicted with their religious beliefs. The Supreme Court found in favour of Ashers' Bakery, concluding that:

*'The bakery could not refuse to provide a cake - or any other of their products - to Mr Lee because he was a gay man or because he supported gay marriage. But that important fact does not amount to a justification for something completely different - obliging them to supply a cake iced with a message with which they profoundly disagreed. In my view they would be entitled to refuse to do that whatever the message conveyed by the icing on the cake - support for living in sin, support for a particular political party, support for a particular religious denomination. The fact that this particular message had to do with sexual orientation is irrelevant to the FETO claim.'*³⁰

³⁰ <https://www.supremecourt.uk/cases/docs/uksc-2017-0020-judgment.pdf>

3. Values

In your view, which of the following values, if any, would make appropriate foundations for rights in Northern Ireland?

Choose as many as you like.

- A. Community
- B. Human dignity (everyone deserves respect)
- C. Fairness
- D. Freedom and democracy
- E. Justice
- F. Mutual respect (respect for each other)
- G. Parity of esteem (valuing all traditions equally)
- H. Respect for culture, identity, traditions and aspirations
- I. Peace and reconciliation
- J. Don't know
- K. Other

1. **CARE supports the inclusion of human dignity** as a fundamental value that should undergird all rights going forward. Moreover, human dignity should be understood as an inviolable function of being human, not something which is linked to stage of development or age, race, capacity, gender or any other attribute of an individual. Human dignity should be accorded to all.

4. Bill of Rights

Human rights are freedoms and protections belonging to everyone. A bill of rights contains human rights protections for everyone - it is a list of the laws a country agrees to make to protect all the people who live there.

a. How important, if at all, do you think a bill of rights is for Northern Ireland?

- A. Very Important
- B. Important
- C. Moderately important
- D. Slightly important
- E. Not important at all
- F. Don't know

b. To what extent, if at all, do you agree that a bill of rights for Northern Ireland should set out an aspirational vision based on guiding or foundational values?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly disagree
- F. Don't know

c. Civil and political rights can include freedom from discrimination; the right to privacy; freedom of expression, assembly, religion and movement; and the right to a fair trial. To what extent, if at all, do you agree that a bill of rights for Northern Ireland should include civil and political rights?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly disagree
- F. Don't know

d. What, if any, political and civil rights would you like to see in a bill of rights for Northern Ireland?

1. CARE NI believes that one of the core human rights which should be included in any Northern Ireland Bill of Rights is **the right to be protected against slavery, servitude, and forced or compulsory labour** recognised in the UN's Universal Declaration of Human Rights (Article 4), the International Covenant on Civil and Political Rights (Article 8) and the European Convention on Human Rights (Article 4) as well as specific treaties and conventions.³¹ Northern Ireland was the first jurisdiction in the United Kingdom to pass comprehensive legislation on human trafficking and modern slavery in the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.³² Including protection against human trafficking and slavery in a Bill of Rights would be in keeping with the Act's legacy and Northern Ireland's continuing determination to tackle this criminal abuse.
2. International understanding and interpretation of the terms 'slavery', 'servitude', and 'forced or compulsory' labour has developed since the establishment of the original international conventions, in response to contemporary manifestations of slavery. CARE in NI recommends that in drafting text for a protection against slavery consideration should be given to the Ballagio-Harvard Guidelines on the Legal Parameters of Slavery produced by experts in international human rights law in 2012.³³ These Guidelines provide guidance for understanding the concept of 'ownership' which is intrinsic to international definitions of 'slavery'. For example the Guidelines clarify that *"the exercise of 'the powers attaching to the right of ownership' should be understood as constituting control over a person in such a way as to significantly deprive that person of his or her individual liberty, with the intent of exploitation through the use, management, profit, transfer or disposal of that person."*³⁴ The Guidelines also clarify that *"physical constraints will not always be necessary to the maintenance of effective control over a person. More abstract manifestations of control of a person may be evident in attempts to withhold identity documents; or to otherwise restrict free movement or access to state authorities or legal processes; or equally in attempts to*

³¹ Such as the UN Slavery Convention 1926, and the ILO Force Labour Convention 1930 (with 2014 Protocol)

³² <https://www.legislation.gov.uk/nia/2015/2/contents>

³³ https://www.researchgate.net/publication/301671974_2012_Bellagio-Harvard_Guidelines_on_the_Legal_Parameters_of_Slavery_-_from_Slavery_in_International_Law

³⁴ Ibid. Guideline 2

forge a new identity through compelling a new religion, language, place of residence or forcing marriage.”³⁵

3. In incorporating the right to protection against slavery into a Bill of Rights for Northern Ireland CARE NI recommends that the text also include specific protection from human trafficking. The European Court of Human Rights has ruled that human trafficking falls within the scope of Article 4 of the European Convention (in the case of *Rantsev v Cyprus and Russia*), provided all three aspects of the international definition of human trafficking as found in the UN’s Palermo Protocol and the Council of Europe Convention on Action against Trafficking in Human Beings (i.e. the ‘act’, the ‘means’ and the ‘exploitative purpose’) are present (set out in the case of *S. M. v Croatia*).³⁶ However, the references in the international definition of human trafficking of an exploitative purpose including ‘forced labour or services, slavery or practices similar to slavery, servitude’ make this a rather circular and ultimately unsatisfactory protection. Unless a new Northern Ireland Bill of Rights makes specific reference to either the rulings of the European Court or the inclusion of human trafficking in the slavery prohibition it will be unclear whether human trafficking would be within scope.
4. Greater clarity would be achieved by including a right to be protected against human trafficking in the Bill of Rights in addition to the prohibition on slavery, servitude, and forced or compulsory labour. In so doing CARE NI recommends that the international definition of human trafficking is used in accordance with Northern Ireland’s international obligations under the UN Palermo Protocol and the Council of Europe Convention on Action Against Trafficking. It is particularly important that the definition of exploitation used should be non-exhaustive, as is the case in the international definitions of human trafficking.³⁷ This is in order to respond to the changing nature of this crime. CARE NI recommends that the text be based on the most recently composed international definition that in the EU Anti-Trafficking Directive, which includes specific recognition of exploitation for begging and criminal activities in addition to the other forms of exploitation:

“Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.”³⁸

Using this definition as part of a non-exhaustive list will ensure that the Bill of Rights protection against human trafficking will offers the fullest possible protection against all types of exploitative purpose in which traffickers may engage in.

e. Social and economic and cultural rights can include rights around standards of living, health, social security, victims, education and language. To what extent, if at all, do you

³⁵ Ibid. Guideline 3.

³⁶ https://www.echr.coe.int/documents/guide_art_4_eng.pdf

³⁷ For example, the UN ‘Palermo’ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Council of Europe Convention on Action Against Trafficking in Human both begin their definitions of exploitation thus: “Exploitation shall include, at a minimum...”

³⁸ Directive 2011/36/EU Article 2.3

agree that a bill of rights for Northern Ireland should include social, economic and cultural rights?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly disagree
- F. Don't know

f. What, if any, social, economic and cultural rights would you like to see in a bill of rights for Northern Ireland?

g. To what extent, if at all, do you agree that a bill of rights for Northern Ireland should include the right to a healthy environment?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly disagree
- F. Don't know

h. Do you have any other comments?

5. About You - Section 75

This section contains Section 75 questions. These questions allow us to ensure that we are carrying out our work with due regard to the need to promote equality of opportunity and good relations in respect of religious belief, political opinion, gender, race, disability, age, marital status, dependants and sexual orientation.

You do not need to complete this section but the more information we can collect the better we are able to monitor our responses.

All information will be kept completely anonymous and confidential. If you choose to provide contact details they will not be linked to your responses.

Only complete this section if you are happy to answer the Section 75 questions.

a. What is your gender?

- A. Female
- B. Male
- C. Prefer not to say

b. Age Group

- A. Under 18
- B. 18 - 24
- C. 25 - 34
- D. 35 - 44
- E. 45 - 54
- F. 55 - 64
- G. Over 65
- H. Prefer not to say

c. How would you describe your national identity?

Choose as many as you like

- A. British
- B. Irish
- C. Northern Irish
- D. English
- E. Scottish
- F. Welsh
- G. Prefer not to say
- H. Other

If you selected 'Other', please let us know how you would describe your national identity:

d. What is your ethnic group?

Select one only.

- A. White
- B. Chinese
- C. Irish Traveller
- D. Roma
- E. Indian
- F. Filipino
- G. Black African
- H. Black Other
- I. Mixed ethnic group
- J. Prefer not to say
- K. Other

If you selected 'Other', please let us know your ethnic group:

e. Religious Belief

- A. Protestant
- B. Roman Catholic
- C. Other Christian
- D. No religious belief
- E. Prefer not to say
- F. Other

If you selected 'Other', please let us know your religious belief:

f. In terms of political outlook would you describe yourself as broadly...

- A. Nationalist
- B. Unionist
- C. Prefer not to say
- D. Other

If you selected 'Other', please let us know how you would describe your political outlook:

g. Which of the following best describes your sexual orientation?

- A. Heterosexual/Straight
- B. Gay or Lesbian
- C. Bisexual
- D. Prefer not to say
- E. Other

If you selected 'Other', please let us know how you would describe your sexual orientation:

h. Disability

A person has a disability if s/he has “a physical or mental impairment which has a substantial and long-term adverse effect on his/ her ability to carry out normal day-to-day activities” (Disability Discrimination Act 1995).

Choose as many as you like.

- A. I have a physical disability
- B. I have a sensory disability
- C. I have a learning disability
- D. I do not have a disability
- E. I have a mental health condition
- F. I have a long-term health condition
- G. Prefer not to say

i. Dependants

Choose as many as you like.

- A. I have personal responsibility for the care of a child (or children)
- B. I have personal responsibility for the care of a person with a disability
- C. I have personal responsibility for the care of a dependent older person
- D. I do not have any dependants
- E. Prefer not to say

7 - Are you willing to be contacted again (for example, to take part in further consultation)?

- Y. YES
- N. NO

If 'Yes', please enter your email below. We will only use your email to contact you in relation to the work of the Ad Hoc Committee on a Bill of Rights.

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