

Have your say: Human Rights in Northern Ireland

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

Context for our Response

TransgenderNI has, since our founding, been strongly supportive of the creation of a fit-for-purpose Bill of Rights in Northern Ireland. When looking at it from a trans community perspective, there are significant gaps in our equality and human rights legislation, which have the potential to be resolved or partially addressed through the introduction of a Bill of Rights. As such, we have worked with the Human Rights Consortium to advocate for this position, and have worked to hold the Ad Hoc Committee accountable for meaningfully engaging with communities on the ground and creating a successful and accessible public consultation process.

Unfortunately, as we have attested in correspondence with the Ad Hoc Committee, we do not believe that this consultation has been carried out in accordance with best practice, from the lack of framing context, convoluted wording of questions, to the fact that the consultation period spanned the Christmas break. These faults have added, once again, to the workload of community and voluntary organisations in our attempts to disseminate this survey, engage with communities on the ground, and break down the actual meaning behind these questions so individuals feel able to respond for themselves.

Human rights should be accessible to all. Due to the framing of this survey, the people whose rights are currently not respected or adequately protected in Northern Ireland - such as disabled people, young people, migrants & refugees (especially those who speak little/no English) - may not feel confident responding to this survey or engaging with this process.

We recommend that, in future, best practice guidelines for the writing and dissemination of public consultations are followed, and marginalised groups are actively involved in this process to ensure that it is accessible to as many people as possible.

Prior to writing this response, we held a consultation workshop with some of our service users run by the Human Rights Consortium, using the experiences and views of the folks in attendance to shape our own response. We endorse the responses from the Human Rights Consortium and the Women's Policy Group, of which we are also members.

Survey Response

1. Views on Human Rights

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

Strongly disagree

b. Why do you feel this way?

Currently, there are significant discrepancies between access to rights for different communities in Northern Ireland. While the political class may focus on issues of orange and green, the more prevalent concerns affect, in particular, racialised communities, disabled folks, LGBTI+ communities, and other marginalised/minority groups.

The past year, between the disproportionate policing of Black people at the Black Lives Matter protest last June, inequalities in access to healthcare - in particular, gender affirming healthcare for trans people - and in access to education through the switch to home learning, it has become abundantly clear that there are particular groups and communities in NI who do not have equal access to their rights.

For many disabled young people, especially those in mainstream education, home learning has been inadequate and has not provided them with the best educational experience. This issue is exacerbated by the worrying levels of digital poverty in the region, leaving many families without access to internet or computers in a time when everything, from education to work life, has been moved online.

Looking at trans communities in particular, there are countless areas where our human rights are not respected or enjoyed in the same way as the wider cisgender population. Our only regional gender identity service collapsed in early 2018, and trans people in NI have been left for three years without adequate access to healthcare and, as a knock-on effect, legal gender recognition. Further, the equality legislation we currently have does not apply to schools, leaving trans pupils open to institutional discrimination and denial of rights with no recourse to justice.

When this question was presented to a group of trans service users in our Bill of Rights workshop it was met with laughter and derision. There is a very clear need for an implementable Bill of Rights to provide concrete assurances to trans communities that their human rights and dignity will be respected.

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

All of the above, except 'community background'

We recommend the inclusion of all of these areas except 'community background', as we couldn't find any allegory in international human rights frameworks, and fear that it could be used as a political football between nationalist and unionist parties despite religious belief and national identity being protected regardless.

Within gender, we must be clear that this extends to cover trans individuals of all genders and expression. Discrimination on the basis of gender, trans identity, and differences in sex characteristics should be covered under the Bill of Rights in line with international human rights standards. Many UN human rights treaty bodies have confirmed that SOGIESC (Sexual Orientation, Gender Identity & Expression, and Sex Characteristics) are included among prohibited grounds of discrimination under international human rights law. This position has been confirmed repeatedly in decisions and general guidance issued by treaty bodies, including the UN Human Rights Committee, the Committee on Economic, Social, and Cultural Rights, the Committee on the Rights of the Child, the Committee Against Torture, and the Committee on the Elimination of all forms of Discrimination Against Women.

We believe that NI should be moving to align with the UN on issues of human rights, and would support the wholesale adoption of UN conventions and international treaties upholding human rights including: ICESCR, ICCPR, ICERD, CEDAW, CAT, CRC, & CRPD. Without the meaningful adoption of these treaties into domestic law, and the operationalisation of people's rights, human rights will continue to be a mere concept to most people, and not something that improves their everyday lives.

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

All of the above

We believe that all of these values would make appropriate foundations for rights in Northern Ireland. However, it is imperative that this Bill and human rights more broadly are

not merely 'values-based' and aspirational but are tangible, actionable rights, which serve to hold statutory authorities and the state more broadly accountable.

We also need to consider, definitionally, what these concepts represent. For many, the concept of 'justice' as an underpinning principle represents carceral justice, punitive justice, and 'law and order'. For others, it represents freedom from oppression, restorative justice, and constructive accountability. We believe that, especially in light of the Black Lives Matter protests and other glaring injustices which have reared their heads through the coronavirus pandemic, carceral justice has held Northern Ireland back and continues to contribute to recruitment among violent paramilitaries and the subjugation of already marginalised communities.

As such, taking a values based approach may be tempting to avoid putting specific accountability processes in place, but this could raise more questions than it answers. We support the inclusion of these values as long as there is an expansive set of actionable human rights in the Bill.

4. Bill of Rights

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

Very important

We believe a Bill of Rights is essential for all communities in Northern Ireland to be meaningfully on the same footing in terms of basic rights and access to goods and services. It was essential when it was agreed in 1998, and subsequently ignored for 23 years, and it is essential now. We believe that it is incumbent on the Ad Hoc Committee on the Bill of Rights to work constructively to produce a Bill that works for all the disparate people and communities in this region.

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?

Strongly disagree

As we attested above, it's extremely worrying that there's such a heavy focus on 'aspirational visions' and 'guiding values' when there are groups in Northern Ireland today who are having their human rights abused on a daily basis. There is currently very little access to healthcare & legal recognition for trans people in Northern Ireland, disabled communities have been severely harmed by the rollout of PIP and the wider adoption of Universal Credit, and migrants are being held in Larne detention centre in the middle of a global pandemic.

What is needed now is not an 'aspirational vision' and some guiding values. We need meaningful action to address the widespread human rights abuses in the region and bring all communities in Northern Ireland forward, respecting and upholding their rights, and providing redress for historical and contemporary injustices.

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?

Strongly agree

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

We would like to see an extension of the jurisdiction of the European Court of Human Rights in the Bill of Rights, solidifying access to an international avenue through which human rights abuses can be challenged. We would also like to see the provisions of the International Covenant on Civil and Political Rights, alongside other relevant standards from international law including those referenced in response to question 2.

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

Strongly agree

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

We support the incorporation of the International Covenant on Economic, Social and Cultural Rights into domestic law through the Bill of Rights, alongside other relevant standards from international law including those referenced in response to question 2.

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?

Strongly agree

h. Do you have any other comments?

We object to the division between Civil & Political Rights and Economic, Social & Cultural Rights, as we believe that all these human rights are inextricably linked. The right to freedom from discrimination - a 'civil & political right' - is shown to not be upheld in Northern Ireland through widespread underemployment and poverty in minority communities in the region, including the trans community. Further, the right to 'the highest attainable standard of physical and mental health' - an economic, social, and cultural right - has been abandoned in NI for some communities, with institutional discrimination leading to trans communities not having access to statutory gender affirming healthcare services for around the past 3 years.

These rights intersect and are interdependent: we cannot have civil and political rights, without the economic, social and cultural ones to support them, and vice versa.