Introduction

The following is the submission of the Human Rights Consortium to the UK Commission on a Bill of Rights. It includes some background information to inform you about the Human Rights Consortium and the process for a Northern Ireland Bill of Rights which has been ongoing since the signing of the Belfast (Good Friday) Agreement in 1998. We believe the process in Northern Ireland can provide a valuable learning tool to the Commission as it considers the possibility of a UK Bill of Rights.

About the Human Rights Consortium

The Human Rights Consortium is a coalition of 193 organisations which actively campaigns for a strong and inclusive Bill of Rights for Northern Ireland. The Consortium was established in 2000 to encourage widespread community participation in the Bill of Rights consultation. Provision for a Bill of Rights for Northern Ireland was originally included in the Belfast (Good Friday) Agreement in 1998.

The Consortium has, over the years, developed into a campaigning organisation, focusing on the need for a strong and inclusive Bill of Rights for Northern Ireland. Its strength comes not only from its ever increasing membership of non-governmental organisations, trade unions and community groups who represent thousands of people across Northern Ireland from a diverse range of constituencies and communities; but also from the members’ firmly held belief that a strong and inclusive Bill of Rights can play a key role in the creation of a better, more just, inclusive and shared Northern Ireland.

The Human Rights Consortium works to promote awareness of and participation in the Bill of Rights process and debate. Its aim is to mobilise widespread popular and political support behind a strong and inclusive Bill of Rights. The Consortium campaigns and lobbies for this in order to protect all in society – particularly the most vulnerable. The Consortium holds monthly member events aimed at building capacity to engage, lobby and debate on the Bill of Rights along with conducting seminars, training and workshops with all sectors of society empowering people to adopt a rights based approach to their work and the issues they face in their communities.

The Consortium keeps the Bill of Rights on the political agenda by meeting frequently with both the British and Irish governments and political parties across Ireland and the UK. It also engages at an international level through conference participation, treaty engagement and political lobbying. The Consortium informs the debate for a Bill of Rights through conferences, seminars, publications, online
resources and regular opinion polling which continues to show high levels of cross community support for a Bill of Rights for Northern Ireland.

Our submission

The Consortium wishes only to address two issues in its response;
1. that Northern Ireland should have a separate and specific Bill of Rights as provided for by the Belfast (Good Friday) Agreement 1998;
2. that existing human rights protections across the UK, in particular the Human Rights Act, should be maintained and built upon in line with international treaty obligations.

1. Northern Ireland should have a separate and specific Bill of Rights

The history

This section will provide an overview of the Bill of Rights process to date in Northern Ireland and present the argument and evidence for the provision of a separate Bill of Rights for Northern Ireland.

The debate about a UK Bill of Rights is in its infancy compared to the debate for a Northern Irish Bill of Rights which can be traced back to the late 1960s and beyond. In that time the people of Northern Ireland have come a long way in embracing and debating human rights in particular throughout the lengthy and devastating period of conflict. The context of the debate in a world apart from that of the UK Bill of Rights which appeared to emerge in an effort to constrain civil and political rights against the backdrop of unpopular European Court rulings about prisoner votes and sex offenders. By contrast the discourse of rights in Northern Ireland goes to the heart of the causes and consequences of our conflict in particular looking at such issues as discrimination, inequality and social and economic deprivation. For these reasons the commitment for a Bill of Rights was included in the Belfast (Good Friday) Agreement 1998 as an important part of the package to address the past and secure the future of the people of Northern Ireland. For these reasons, and others outlined in this document, Northern Ireland should not be sidestepped in favour of an all inclusive British Bill of Rights but instead should have its own separate and specific Bill.

The Northern Ireland Bill of Rights Process

Under the 1998 Belfast/Good Friday Agreement, the Northern Ireland Human Rights Commission (NIHRC) was asked to consult with people in Northern Ireland and advise the Secretary of State on the scope for defining rights supplementary to the European Convention of Human Rights. Such rights were to reflect the particular circumstances of Northern Ireland and, taken together with the Convention, would constitute a Bill of Rights for Northern Ireland.

The Bill of Rights Forum was set-up by the Northern Ireland Office in December 2006. It is tasked with making recommendations on the content of a Bill of Rights. These recommendations will be submitted to the Northern Ireland Human Rights Commission and the Secretary of State by 31st March 2008. Following on from this,
the next stage in delivering the Bill of Rights will likely be the legislative process through Westminster.

The Bill of Rights Forum consists of 14 members of civic society and 14 political representatives. It also has an independent Chair, making the final count of the ‘Forum’, 29 people. The Human Rights Consortium has observer status at the Bill of Rights Forum meetings, allowing them to observe and report back to the wider membership and further afield on what is happening at the meetings. Many of those sitting on the forum were representing organisations which were also Consortium members.

The timeline below sets out the chain of events.

**Timeline of the Northern Ireland Bill of Rights Process**

1998- Good Friday Agreement
1999- Northern Ireland Human Rights Commission established to advise on the content of a Bill of Rights
2000- Public launch of consultative phase; establishment of Working Groups; call for submissions (deadline for responses to NIHRC — 28th February 2001).

*Sept 2001 — NIHRC issued draft Bill of Rights for consultation*

*December 2001 — Public debate; submissions to the NIHRC in response to their first draft*

*December 2002 — NIHRC considered submissions and identified issues requiring further clarification. Launched Phase 3, which involved deeper exploration of these issues and increased political contact.*

*Oct 2006 — Following political negotiations (Oct 2006), proposals for a Roundtable Forum on a Bill of Rights were included in the text of the St Andrew’s Agreement.*

*December 2006— The Bill of Rights Forum held its first meeting in December 2006. The Forum was made up of fourteen representatives from the main political parties, fourteen members of civic society and representatives from the Churches and business sector. An independent chair, Australian human rights lawyer Chris Sidoti, was also appointed.*

*March 2008— the Bill of Rights Forum handed over its final report to the Northern Ireland Human Rights Commission, which is responsible for making recommendations on a Bill of Rights to the Secretary of State.*


16th December 2010 – NIO released the responses to the consultation

**NIO Consultation**

The Northern Ireland Office (NIO) launched their consultation on a Bill of Rights for Northern Ireland which was widely rejected by civil society.

The Consortium pressed the Northern Ireland Office to carry out a submissions analysis in respect of the responses received however they declined to do so with
the result that the Consortium carried out its own analysis which is included for your review.

According the Ministerial Statement, **36,492** responses were submitted to the consultation. This is an unprecedented level of response to any Northern Ireland consultation and would be equivalent to 1.2 million responses being received to a consultation in England and Wales. This included mail shots, 168 organisations (89 of which were Human rights consortium members) and 66 individual responses. These have been analysed respectively in the analysis document provided. Organisational responses have been divided into HRC Members’ submissions, NGO non-member submissions, religious organisations’ submissions, Government/Non departmental public bodies submissions, and submissions from political parties.

In summary, out of the **36,492 submissions received at least 34,843 called for a strong Bill of Rights: that is 95% of all submissions.**

Other key findings:

- 91% of members stated that the NIO document failed to deliver on human rights protections and for that reason they chose not to respond to the document but gave broader responses.
- 75% of members referred the NIO back to the Northern Ireland Human Rights Commission (NIHRC)’s advice on a Bill of Rights for Northern Ireland. They wished the NIO to use this advice as a starting point for discussion on what should be included in the Bill of Rights.
- 82% of members called on the NIO to rethink and redraft their proposals for a Bill of Rights for Northern Ireland.
- 51% of members insisted that the recent UK Bill of Rights and Responsibilities process should not interfere with the decade-long process here. Many members stated that this would be a clear violation of the Belfast/Good Friday Agreement.

Public Support for a Northern Ireland Bill of Rights

Support for a Bill of rights in Northern Ireland can be seen in many ways; the 193 strong member organisations that form the Human Rights Consortium, the 34,843 people who responded to the NIO consultation in favour of a strong Bill and the public who respond to polling questions.

The Human Rights Consortium uses independent companies to carry out annual polling on support or lack of support for a Bill of Rights. The figures have steadily increased over the past number of years to the extent that in July 2010 Milward Brown Ulster found that 82% of people felt a Bill of Rights for Northern Ireland was important. This was true on a cross community scale as 83% of Protestants and 81% Catholics supported a Bill of Rights.

The UK government has displayed continued reluctance to progress the Bill of Rights for Northern Ireland despite the overwhelming consultation response citing lack of cross party support. In an effort to challenge this Consortium engaged Ipsos MORI as part of its Omnibus survey of a 1,000 sample to once again poll for support to opposition to a Bill of Rights but to also ask about party political affiliation and support. Despite the lack of all party support at an official level the survey found that
there is no statistical difference in the support of Sinn Fein, DUP, UUP, SDLP or Alliance voters for a Northern Ireland Bill of Rights. The polling results are provided in the attached documents however the key findings are:

Importance of a Bill of Rights by party support:
Sinn Fein (95*) 88%
SDLP (106) 86%
DUP (178) 84%
UUP (70*) 83%
Alliance (79*) 81%

The figures provide will be released publically on the 14th November 2011 and will demonstrate an indisputable level of support for a Bill of Rights among the constituents of each party providing a clear mandate for multi party negotiations on the progress of a Bill of Rights.

Why Northern Ireland should have a separate Bill

Northern Ireland would benefit from a Bill of Rights because of our unique history. A Bill of Rights could help us progress as a society emerging from conflict and would establish social and economic rights not currently protected by the HRA. The Human Rights Act 1998 integrated many of the rights set out in the ECHR into UK law. However, the HRA does not include the European Convention in its entirety, nor does it include rights not mentioned in the Convention. The ECHR is now sixty years old and while it is strong on civil and political rights, it is very weak on equality, social and economic and cultural rights. Indeed, the Convention has already been updated and supplemented at a European level by the European Social Charter but this document is not enforceable in domestic law. A Bill of Rights could allow people living in Northern Ireland to build on the strengths of the European Convention and the HRA to consider the particular needs of Northern Ireland and at the same time update our protections with some of the important rights issues which have emerged in the past five decades.

Provision for a Bill of Rights was included in the Good Friday Agreement in recognition that as a society we would benefit from setting down a shared set of rights. As we continue to be a society in transition, developing a Bill of Rights is still as relevant today as it was then. Creating a new legal framework and rebuilding confidence in the legal system has proven to be an essential element of transition in societies all around the world. Various international examples from countries emerging from conflicts – like South Africa and Central America – and also post communist societies in Central and Eastern Europe, indicate that the process of creating a rights-based instrument represents an important ‘fresh start.’ Countries in transition have almost universally created new constitutions or rights instruments and Northern Ireland can learn much from these experiences. These processes, like the Bill of Rights debate here, can allow all sections of a divided society to come together and voice their views about what rights need to be protected in their post-conflict lives. However Bills of Rights do not only emerge from conflict and at times of transition. A Bill of Rights is also a normal part of the constitutional furniture of most mature democratic systems. Most societies have a document such as this which sets out in a clear and accessible way the constitutional limits to the exercise of
power by the government of the day. Northern Ireland (and the UK generally) is an exception to the rule in this regard. It is time for Northern Ireland to join the international mainstream by adopting a Bill of Rights.

**Particular Circumstances**

The Belfast (Good Friday) Agreement states that a Bill of Rights should address the particular circumstances of Northern Ireland. This term is open to interpretation but the Human Rights Consortium interprets it in the broadest sense, encompassing the political, civil, cultural and socio-economic factors that are specific to Northern Ireland. It is widely agreed that a Bill of Rights for Northern Ireland needs to address the specific realities of our society. Few could disagree that Northern Ireland is a society where people have experienced an abuse of their basic human rights over a long period of time. This is a society of great inequalities and divisions. As many as one in five people has a disability and people with a disability are twice as likely to be unemployed. One in three children here lives in poverty and the infant mortality rate among the Travelling community is unacceptably high. Sectarian attacks continue in Northern Ireland and over 500 older people die of cold here every year. The security situation in Northern Ireland has had a dramatic impact on the criminal justice system as well as on day to policing. Our land border with the Republic of Ireland presents a number of challenges as does our geographical position in relation to the mainland UK.

Moreover, we should not ignore the legacy of the past. In a relatively small population of one and a half million people, over 3,600 individuals have been killed and many thousands injured in the last 30 years of violence. Thousands of people, mainly young males, have passed through the prison system at some point or other. At the same time, many other individuals have been excluded from the mainstream of society. Society’s focus on the political conflict has meant that many vulnerable groups and individuals, for example, have suffered even greater marginalisation than they might have in more stable societies.

A Bill of Rights that adequately meets the needs of Northern Irish society must address all of these aspects of our society’s ‘particular circumstances’ as we emerge from conflict. A broad understanding of the ‘particular circumstances of Northern Ireland’ would avoid creating a ‘hierarchy of suffering’ in which some people are made to feel that their experiences have not been as bad as others, but on the contrary, that society wants to address the different human rights needs of different groups.

Recognising a common set of rights in a document that all can identify with and commit to is thus an important element in building a new society. For this reason, it is important that the rights identified should not be too narrow in their focus. The narrower the range identified, the less likely it is that individuals will identify with the bulk of rights on the list. In particular, the more the rights specified are seen to appeal across different communities, the more likely it will be that rights can be seen as something that binds the community together, rather than divides it.

For this reason, it might be misguided to focus a Northern Ireland Bill of Rights only on those rights which address specifically Northern Ireland concerns in a narrow
way. Such a Bill of Rights would focus only on issues of language, discrimination, minority rights and so on, rather than providing a vision that unites across communities. It would reinforce the idea that human rights are only a trade-off between those communities. It separates rather than offering a vision of shared common values. Perhaps the broader the definition of protected rights, the more it specifically addresses Northern Ireland’s circumstances.

The 193 member organisations and their service users of the Human Rights Consortium each have their own story to tell about their particular circumstances and of the gaps in human rights protection that negatively impact on the people of Northern Ireland day in day out.

What should the Bill of Rights contain?

Considering the diversity of the Human Rights Consortium’s membership, the Consortium does not take a position on individual rights to be included in the Bill of Rights. Instead it campaigns for a ‘strong and inclusive Bill of Rights for Northern Ireland.’ The Consortium has developed this concept further and produced a number of key principles to further its campaign work:

A Bill of Rights for Northern Ireland should include the highest possible standards of human rights protection possible. It should include a combination of social, economic and cultural rights (e.g. education, an adequate standard of living and language) and civil and political rights (e.g. religion and voting rights).

The 193 members of the Human Rights Consortium campaign for a strong and inclusive Bill of Rights. That means:

Strong:

No undermining of current international/regional human rights protections
  • International human rights law sets minimal standards which a Bill of Rights for Northern Ireland build upon. These are standards that are designed to apply in countries as varied as Canada and Chad, so a ‘developed’ region like Northern Ireland should aspire to improve upon these standards.

Recognisable gains, especially for the most disadvantaged
  • While a Bill of Rights is in some respects an aspirational document, setting out the vision of a peaceful and just society, there is no point in having a Bill of Rights that does not have an actual impact on improving the lives of the most disadvantaged in society, not merely those who can afford access to justice.

Effective enforcement mechanisms
  • Any Bill of Rights needs an enforcement system which is transparent and accessible. Taking a valid case to protect your rights should be simple and affordable. The general public needs to be educated on what their rights are and how they can have them protected in the courts. The language in the Bill of Rights must be clear and accessible. Representative groups should be supported to provide advocacy, advice and support for potential litigants. Legal aid should also be provided for people who need to use the court/legal system.
Inclusive:

Represents the diversity that is Northern Ireland
- Members of the Consortium represent all sorts of people, including, but not limited to, children, older people, people with dependents, minority ethnic communities; and
- people with disabilities. The Bill of Rights must address the rights of everyone in Northern Ireland.

Promotes equality for all
- The Bill of Rights should enforce equality between all citizens. While other equality legislation, such as Section 75 (NI Act 1998) and the proposed Single Equality Bill will be more detailed pieces of legislation, the role of the Bill of Rights is to ensure peoples’ rights to full and effective equality.

Moves beyond the European Convention on Human Rights (ECHR) and the Human Rights Act (HRA) to include, in particular, socio-economic rights
- The ECHR is an important document but is now sixty years old and was designed with a particular post WWII context in mind. A Bill of Rights for Northern Ireland needs to reflect more recent developments and as such should incorporate social and economic rights, examples of which include the right to an adequate standard of living, the right of access to accommodation and the right to the highest attainable standard of healthcare. These rights are about guaranteeing a basic standard of living for everyone that is consistent and fair, providing protection for the most marginalised in society and giving them dignity and respect. Social and economic rights are concerns that are shared across all communities and protecting them in a Bill of Rights would contribute greatly to a shared vision of the future.

To this end the Human Rights Consortium believes that the NIO and local political parties should take the advice of the Northern Ireland Human Rights Commission as its starting point for the development of a Northern Ireland Bill of Rights.

2. Existing human rights protections across the UK, in particular the Human Rights Act, should be maintained and built upon in line with international treaty obligations.

The Human Rights Consortium as its primary objective wishes to secure a strong and inclusive, separate and specific Bill of Rights for Northern Ireland. However Northern Ireland is also part of a wider constitutional context and as such existing UK wide rights also have a bearing on the people who reside here. For this reason we believe that existing human rights protections across the UK, in particular the Human Rights Act, should be maintained and built upon in line with international treaty obligations.

The Human Rights Consortium believes that every state should clearly enumerate the rights of its people. As a country without a written constitution a Bill of Rights provides the opportunity for the UK to provide a comprehensive list of rights and protections individuals can rely upon. There has been much talk about rights and responsibilities but human rights are inherent and not something which can be
bargained for or removed as punishment by the state. However individuals do have a responsibility to respect the rights of others and yet how can they do so without a written, disseminated and accepted document stating what these rights are. This is particular important during times of emergency and conflict and in Northern Ireland during the Troubles the European Convention on Human Rights held incredible value in the protection of civil and political rights.

It is important to remember that the Human Rights Act contains only a fraction of the rights to which the UK is subscribed under European and international human rights law. Therefore any thoughts of interfering with the Human Rights Act should be completely dismissed. The Human Rights brings a small number of the rights that we enjoy as residents of the UK home but there are so many more rights that we do not readily enjoy despite various treaty obligations. Therefore the Human Rights Consortium strongly believes that any UK Bill of Rights should take the Human Rights Act as a minimum and add to it the existing human rights obligations which the UK area party to including full incorporation of the ECHR and all international treaty obligations. What is the point of eth UK being a party to these international obligations on paper along, the development of a UK Bill of Rights provides a vital opportunity to fulfil these obligations in a real and meaningful way.

Conclusion

In relation to a Northern Ireland Bill of Rights

The Human Rights Consortium asks the Commission to:

- recognise the repeated UK government commitment for a separate process for a Northern Ireland Bill of Rights which has been ongoing and building momentum from the bottom up since 1998.
- listen to the 34,843 people who responded to the NIO consultation in favour of a strong Bill of Rights and to the 83% of the public who believe a Bill of Rights for Northern Ireland is important
- support our call for implementation of the Belfast Good Friday Agreement through the progression of a Northern Ireland Bill of Rights
- advise that a strong and inclusive Northern Ireland Bill of Rights should be progressed without delay
- acknowledge that any consultation on a UK Bill of Rights is no substitute for the widespread acceptance by referendum of the terms of the Belfast (Good Friday Agreement), including a Bill of Rights, by the population of Northern Ireland.
- use the advice of the Bill of Rights Forum and the Northern Ireland Human Rights Commission along with the material provided to you by the Human Rights Consortium to inform your decision making and final report.
- recognise the repeated UK government commitment for a separate process for a Northern Ireland Bill of Rights which has been ongoing and building momentum from the bottom up since 1998.
- listen to the 34,843 people who responded to the NIO consultation in favour of a strong Bill of Rights and to the 83% of the public who believe a Bill of Rights for Northern Ireland is important
• support our call for implementation of the Belfast Good Friday Agreement through the progression of a Northern Ireland Bill of Rights

In relation to the Human Rights Act

The Human Rights Consortium asks the Commission to;
• ensure that the Human Rights Act and its outworkings remain intact
• provide additional protections to the whole of the UK by
• building on the existing provisions of the Human Rights Act and taking into account the UK’s obligations under the ECHR and the international covenants
• encourage the UK government to educate and empower people about their rights.

Thank you for considering this evidence from the Human Rights Consortium.