



Northern Ireland
Women's European Platform

Submission to the Ad Hoc Committee on a Bill of Rights for Northern Ireland

February 2021

Introduction

1. Northern Ireland Women's European Platform (NIWEP) welcomes the opportunity to share evidence with the Committee.
2. NIWEP is a membership organisation of women's NGOs in Northern Ireland. Established as the Northern Ireland link to the European Women's Lobby, the EU's expert body on women's rights and gender equality, NIWEP also has special consultative status with the UN. A key role for NIWEP is promoting gender responsive policy and decision making at local, regional and national level taking account of the state's international obligations, while also ensuring women and girls are engaged in policy and decision making. NIWEP also works to share information and good practice at international level with local members and stakeholders, and highlight local learning and good practice internationally.
3. NIWEP's core objectives involve raising awareness and promoting implementation of key international human rights treaties and initiatives, including the Convention on the Elimination of All Discrimination against Women (CEDAW). NIWEP views implementing the recommendations of CEDAW as a clear roadmap and mechanism to ensuring women's human rights are fully met and upheld in Northern Ireland. The comments in this submission are made within this context.

Summary

4. **Importance of a Bill of Rights:** NIWEP welcomes the process exploring a Bill of Rights, and believes that establishing a strong Bill of Rights is important for the future of Northern Ireland. NIWEP views a Bill of Rights as a vehicle for securing existing rights in legislation; it can play a particularly important role in ensuring existing rights are realised equitably for everyone in Northern Ireland through clear and comprehensive legislation.
5. **International human rights standards:** NIWEP believes that a Bill of Rights should be based on existing international human rights instruments, as this provides a robust and internationally consistent framework for legislation. The process provides an opportunity to incorporate core UN human rights treaties in domestic legislation, which would give Northern Ireland an internationally leading position in upholding human rights. As the UK has ratified the treaties, the provisions within them are already binding on the UK and incorporation in

domestic legislation would therefore not introduce new rights, but focus on ensuring effective implementation and ensuring everyone can enjoy rights in an equitable manner.

6. **Implementation of human rights: de jure and de facto equality:** NIWEP believes that the core function for a Bill of Rights lies in supporting implementation of legislation in order to achieve *de facto* equality in the realisation and enjoyment of human rights. From a gender perspective, current legislation complies with the broad aim to prohibit discrimination, ie. *de jure* equality. However, in practical terms, women and girls are unable to enjoy their human rights, as barriers to the realisation and enjoyment of human rights is not fully addressed through policy and practice. A core example is the right to be safe from violence, which is not fully realised in the absence of a strategy on violence against women and girls based on the recognition that gender based violence is a significant problem and the vast majority of victims of domestic abuse are women and girls. Another example is the lack of legislation on the gender pay gap, which is required to realise the right to economic independence.
7. **Gender inclusive agenda:** For clarity, NIWEP incorporates everyone who identifies as female in the term 'women and girls', and all references to 'women and girls' should be read in this context throughout the submission. NIWEP is also cognisant of the multiple and intersecting inequalities that all LGBTQIA+ people face, and is urging for a Bill of Rights to engender and establish a fully inclusive framework.

Importance of a Bill of Rights

8. NIWEP believes that a Bill of Rights forms an important part of developing a prosperous, equal and peaceful future Northern Ireland. A Bill of Rights provides a robust framework that clearly sets out a rights based approach to legislation and policy making, and thus provides certainty for all stakeholders, including residents of Northern Ireland who through a Bill of Rights can have confidence in a fair and equitable human rights approach. NIWEP believes that such an approach can create a basis for further development of a Northern Ireland consisting of diverse but cohesive communities, while also providing a mechanism for addressing current issues and barriers to effective realisation of human rights for everyone in Northern Ireland.
9. NIWEP was established to act as the Northern Ireland coordination to the European Women's Lobby, and is an NGO in consultative status with ECOSOC since 1999. A core role for the organisation is coordinating the Northern Ireland civil society response to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and NIWEP has represented Northern Ireland civic society at examinations of the UK under CEDAW over several reporting cycles. In this capacity, NIWEP has developed a strong understanding of both the international human rights standards, and the application of these standards to Northern Ireland, specifically with regard to gender equality and the rights of women and girls.
10. Building on work in relation to CEDAW, NIWEP believes that a Bill of Rights is essential to ensure human rights are realised in full for all women and girls in Northern Ireland. The shadow report to the CEDAW Committee in 2019¹ identified a long term lack of progress with regard to implementation of the UK's international obligations within Northern Ireland,

¹ Northern Ireland Women's European Platform (2019) [Shadow report to CEDAW](#)

and an interim report to CEDAW being prepared at the time of writing this highlights a subsequent lack of action. This includes a lack of action on key recommendations made by the CEDAW Committee in the Concluding Observations on the examination of the UK.²

11. The CEDAW shadow report from 2019 stressed that progress on gender equality has stalled. It noted that the last Gender Equality Strategy officially expired in 2016³, and a work towards new Strategy was only announced in September 2020, as part of a suite of social inclusion strategies included as a proposal in the New Decade, New Approach agreement⁴. Meanwhile, the Programme for Government has no gendered perspective and no reference to gender equality. Northern Ireland has no childcare strategy, no carers strategy, and no gender pay gap strategy. These policy gaps compound difficulties already experienced by women, especially rural women, in accessing services, employment and education.
12. The shadow report also noted that Northern Ireland has fallen significantly behind the rest of the UK in terms of gender-based violence. There is no Violence Against Women strategy, the domestic and sexual violence strategy is gender neutral, and many laws implemented in Britain have not been introduced here. This was a core concern highlighted by the CEDAW Committee in the Concluding Observations, and a central recommendation was to ensure that protections for women and girls in Northern Ireland are put on an equal footing with those for women elsewhere in the UK.⁵
13. The interim report to CEDAW, due to be submitted in coming weeks, stresses that there has been no meaningful or focused action to secure gender equality since 2019. The 2019 examination or the Concluding Observations have not been raised in any form in public policy making or debate, and there is no evidence that the recommendations have informed action at policy level. There is virtually no mention of gender in the New Decade, New Approach agreement that underpinned the return of devolved institutions in January 2020⁶. In Northern Ireland, the need remains for equality law to be harmonised and simplified to address significant inconsistencies and anomalies. Differences with other nations within the UK remain, such as such as the absence of protection against discrimination and harassment by public bodies on grounds of sex when carrying out their public functions. In addition, gaps in legislation relating to other grounds have a potential impact on women. For example, there is no protection on the ground of age beyond the workplace.

Framework based on international human rights standards

14. NIWEP would urge for a Bill of Rights to build on the existing international human rights framework, and take the opportunity to incorporate international human rights standards into legislation. This reflects a current recommendation by the Scottish Social Renewal Advisory Board, which emphasises that incorporation of international human rights standards in Scottish legislation offers the potential to transform practice in the design, delivery, and resourcing of public services, the formulation of public policy and finance decisions in a way that underpins the wellbeing of everyone. It is also anticipated that a forthcoming report by the National Taskforce on Leadership in Human Rights in Scotland will make the same recommendation.⁷

² CEDAW Committee (2019) [Concluding Observations on the 8th periodic report of the United Kingdom](#)

³ Department for Communities [Gender Equality Strategy 2006-2016](#)

⁴ [New Decade, New Approach agreement](#) 8 January 2020

⁵ CEDAW Committee (March 2019) [Concluding Observations on the 8th periodic report of the UK, recommendation 15\(a\)](#)

⁶ [New Decade, New Approach agreement](#) 8 January 2020

⁷ Scottish Social Renewal Advisory Board (January 2021) [If not now, when?](#)

15. The core UN human rights treaties form the backbone of this framework, while the European Convention on Human Rights (ECHR) provides a European interpretation of these standards. Within the UN framework, the following (with Optional Protocols, where those have been adopted) are the core human rights instruments, which are highly relevant to the Bill of Rights:

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)⁸
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁹
- Convention on the Rights of the Child (CRC)¹⁰
- Convention on the Rights of Persons with Disabilities (CRPD)¹¹
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)¹²
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families¹³
- International Convention for the Protection of All Persons from Enforced Disappearance¹⁴
- International Covenant on Civil and Political Rights (ICCPR)¹⁵
- International Covenant on Economic, Social and Cultural Rights (ICESCR)¹⁶

16. The initial seven frameworks set out an agenda for realising the human rights of specific population groups, deemed in international law to require specific provisions. As such, the core treaty framework as a whole provides a comprehensive equality and human rights to underpin a Bill of Rights aligned with both international standards and with the international obligations of the UK as a State Party to each of these treaties. NIWEP recognises that some of the treaties were ratified a number of decades ago and as such may require enhancement with regard to intersectionality in particular. However, this provides a further opportunity for an open dialogue with stakeholders and offers potential to develop leading edge practice locally.

17. CEDAW is often referred to as a 'Bill of Rights for women'. It not only sets out standards for gender equality, but also provides a comprehensive agenda for achieving gender equality in all areas of women's lives by setting out core areas of action, from prevention of violence and ensuring access to healthcare, to equitable treatment in employment including equal pay for equal work and ensuring women's participation in public life. Therefore, it provides a clear roadmap not only for legislation, but for policy that contributes to eradicating discrimination and harassment in practice as well as at the level of legislation. Examples of how CEDAW has influenced legislation are available from countries including the UK, and the CEDAW Committee has repeatedly called for incorporation of CEDAW into domestic legislation as a key action to advance gender equality in the UK.¹⁷

⁸ [International Convention on the Elimination of All Forms of Racial Discrimination](#) 1965

⁹ [Convention on the Elimination of All Forms of Discrimination against Women](#) 1979

¹⁰ [Convention on the Rights of the Child](#) 1989

¹¹ [Convention on the Rights of Persons with Disabilities](#) 2006

¹² [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) 1984

¹³ [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) 1990

¹⁴ [International Convention for the Protection of All Persons from Enforced Disappearance](#) 2006

¹⁵ [International Covenant on Civil and Political Rights](#) 1966

¹⁶ [International Covenant on Economic, Social and Cultural Rights](#) 1966

¹⁷ [Concluding Observations](#) 2019, 2013, 2008 on examinations of the UK under CEDAW

18. The ICCPR and ICESCR set out the core civil and political rights, and economic, social and cultural rights that flow from the Universal Declaration of Human Rights. While civil and political rights are extensively included in domestic legislation at present, incorporation of ICCPR in full would provide the strongest basis for an inclusive Northern Ireland in the future. ICESCR, meanwhile, focuses on economic, cultural and social rights that are more diffuse and therefore will require implementation through specific mechanisms, which have been explored for example by the Human Rights Consortium with leading local academics¹⁸. ICESCR include issues around health and education, which are critical from a gender perspective, and incorporation of ICESCR would significantly strengthen the basis for implementation of effective gender equality policy and practice.
19. It is critical to note that the UK has ratified all of these, and therefore is already obligated in international law to implement the provisions of these frameworks. The ECHR is already incorporated in UK legislation through the Human Rights Act 1998, providing a relevant model for incorporating international instruments in domestic legislation. The UK is also monitored by the UN on the implementation of the core frameworks, through regular reporting and examination cycles. Reports and concluding observations have repeatedly recommended strengthened legislation to ensure effective implementation of the UK's international obligations. For example, the UK was examined under CEDAW in 2019, and a core recommendation in Concluding Observations from this examination was that rights and protections for women in Northern Ireland must be put on an equal footing with those for women elsewhere in the UK¹⁹.
20. Incorporating these standards in Northern Ireland legislation would therefore not amount to introducing any new rights, but would provide a vehicle for effectively implementing international obligations locally. This would not only contribute to creating a strong and clear legislative framework locally, but would also highlight Northern Ireland as an international leader. Currently, the Rights of Children and Young Persons (Wales) Measure 2011²⁰ places a duty on Welsh Ministers to have due regard to the Convention on the Rights of the Child, while Scotland is preparing for incorporation of CEDAW into Scottish law²¹. By incorporating international standards into a Bill of Rights, Northern Ireland would therefore follow a direction already set by others, and indicate its commitment to a rights based approach to policy and decision making.

Implementation of human rights: de jure and de facto equality

21. NIWEP believes that the core function for a Bill of Rights lies in supporting implementation of legislation in order to achieve *de facto* equality in the realisation and enjoyment of human rights. From a gender perspective, current legislation complies with the broad aim to prohibit discrimination, ie. *de jure* equality. However, in practical terms, women and girls are unable to enjoy their human rights, as barriers to the realisation and enjoyment of human rights is not fully addressed through policy and practice. A core example is the right to be safe from violence, which is not fully realised in the absence of a strategy on violence against women and girls based on the recognition that gender based violence is a significant problem and

¹⁸ McCrudden, C et al (November 2020) [Economic and Social Rights in Northern Ireland: Models Of Enforceability](#). Belfast: Northern Ireland Human Rights Consortium.

¹⁹ CEDAW Committee (March 2019) [Concluding Observations on the 8th periodic report of the UK, recommendation 15\(a\) Rights of Children and Young Persons \(Wales\) Measure 2011](#)

²¹ Scottish Government (2019) [Scottish Government's Response to the National Advisory Council on Women and Girls](#)

the vast majority of victims of domestic abuse are women and girls. Another example is the lack of legislation on the gender pay gap, which is required to realise the right to economic independence.

22. NIWEP believes that a Bill of Rights can play a very positive and important role in shaping a future Northern Ireland. It will provide a robust and clear basis for human rights, which sets enables everyone in Northern Ireland to be clear about their rights and have confidence that they can fully realise and enjoy these rights, in an equitable manner.
23. From a gender equality perspective, a Bill of Rights provides an opportunity to streamline existing gender equality provisions, as well as strengthen full and effective implementation. A key issue with regard to gender equality in Northern Ireland is that while *de jure* equality is achieved in relation to non discrimination and equality in front of the law, this does not translate to *de facto* equality, as current policy and practice does not fully address the barriers women and girls face eg. in accessing employment and securing equal pay, participating in public life, accessing the full range of health care and being protected from violence. NIWEP believes that a clear Bill of Rights can help address this, by creating the context within which strengthened gender competence training, gender sensitive policy analysis and effective implementation of existing protections can take place.
24. NIWEP would welcome particular attention to women's participation in public life, closing the gender pay gap, tackling gender based violence and ensuring policy and decision making is based on adequate, gender disaggregated data and evidence.