

Women's Sector - scoping paper on women's rights in a Bill of Rights for Northern Ireland

Background

Women in Northern Ireland constitute a diverse group in terms of age, social class, life experience, racial and ethnic background, sexual orientation, disability and religious and political belief. We respect that diversity.

Our hope for the Bill of Rights is that it will become a living instrument whereby the most marginalised, the most overlooked and oppressed groups are protected and empowered to flourish in a new Northern Ireland.

The topics we will be raising have concerned women for decades, indeed centuries. Women individually and collectively, have made huge gains, however society in Northern Ireland doesn't come near to being equal for women – not in the home, not in the workplace, not in political or public life.

International dimension

The 1979 Convention on the Elimination of Discrimination Against Women (CEDAW) is an international human rights convention aimed specifically at addressing the inequalities and gender-specific issues faced by women. The UK is a signatory to this Convention.

Within the development of the Bill of Rights to date there has been an acknowledgement of international conventions in setting a standard for human rights for particular groups, such as the Convention on the Rights of the Child. We welcome and support this. We are concerned, however, of the absence of a commitment to reflect in the Bill of Rights internationally recognised standards pertinent to women.

The following are the main areas of CEDAW we consider require particular emphasis in a Bill of Rights for Northern Ireland:

Principles of CEDAW:

Non-discrimination: a comprehensive definition of discrimination is given which then applies to all the provisions of the Convention.

Equality: this is not just about equal treatment of people who may be unequal; as that could perpetuate the discrimination. The definition includes equality of opportunity, equality of access to the opportunity, equality of results and legal equality - equal treatment before the law.

State obligation: Member states parties must eliminate all forms of discrimination against women and take active steps to bring the principle of equality between men and women into their national constitutions and other legislation; including eliminating the legal basis for discrimination by reviewing existing laws and labour and penal codes.

Together the above principles make up the framework of women's human rights.

CEDAW Promises:

CEDAW calls for member states to overcome barriers of discrimination against women in the area of legal rights, education, employment, health care, politics, finance and family life. It calls for measures against sex slavery and exploitation, domestic violence and trafficking of women, and equal responsibilities of men and women towards their children, and addresses equality for specific groups of women, such as rural women. Equality of outcome – actual as well as legal equality - is stressed.

The particular circumstances of Northern Ireland

It is generally accepted that most international instruments reflect the minimum consensus of agreement between State parties who ratify any subsequent agreement. As a result of this, we would greatly welcome recognition of the international importance and overall ethos of CEDAW coupled with a determination to both reflect and build upon the standards laid down by the Convention.

Within the Bill of Rights debate to date there has been little acknowledgement of the particular circumstances of Northern Ireland in terms of the material reality of women's lives. There is no acknowledgement that the conflict has impacted on women's lives in many ways, affecting their under-representation in public and political life; violence against women; mental health issues in communities; the impact on women's life opportunities in education, employment and training opportunities. Measures such as UN resolution 1325 have made no impact on this.

The following are the main areas of concern for women in Northern Ireland:

- **Democratic Rights**

In the political and public sphere women are seriously under-represented. 18 of our newly elected Assembly of 108 members are women.

By any measure women do not have full and equal participation in political and public life and access to power and decision making.

A commitment to positive action could have compelled political parties to select equal numbers of male and female candidates. No positive action measures have been introduced to deal with this and at the present rate we will all be into the next century before a critical mass of women in politics is reached.

The women's sector would like to advance the case that this situation is so fundamentally undemocratic that the Bill of Rights must promote and protect women's rights in this sphere.

- **Violence Against Women: The right to dignity and physical integrity**

Within the debate to date the gender -specific nature of domestic violence and sexual violence has been obscured. There is no 'gender parity' in terms of who is most affected by gender-based violence. In her report to the Economic and Social Council of the United Nations, 2 February 1996, the Special Rapporteur on Violence Against Women stated very clearly that 'the language of law must be clear and unambiguous in protecting women victims from gender-specific violence within the family and intimate relationships.'

Women are currently at threat of violence in the home, and society at large and little recognition or resources have gone into dealing with this onslaught.

We need an acknowledgment of the problem and its impact on the lives of women and girls and an explicit commitment to eliminate gender-based violence.

This should reflect the standard laid down in the 1993 UN Declaration on the Elimination of Violence Against Women, asking states to pursue by all appropriate means and without delay, a policy of eliminating violence against women.

- **Health issues**

Because of women's particular reproductive capacities, access to sexual and reproductive health services is critical to their health and well-being. Adequate resources for sexual health services, including family planning and reproductive rights is essential. Without a guarantee of access to these rights all other rights for women become contingent.

- **Social and economic rights**

Women view the inclusion of socio-economic rights generally within a Bill of Rights as essential. There has been an abject failure in this society to promote the equality of women in society in socio-economic terms eg. pensions, pay, social security etc.

Much of this inequality stems from the lack of acknowledgement and (financial) value attached to the 'caring role' appropriated to women leading to blatant inequalities being faced by lone parents, carers and women pensioners, eg lack of affordable childcare.

The establishment of a culture of socio-economic rights could fundamentally lift the position of women in society - and thereby also lift many of the families and groups in society who are suffering from the dual nightmare of poverty and inequality.

Case for a specific chapter on women's rights

This proposal was originally suggested in the first round of discussions around a Bill of Rights. In the initial consultation on a Bill of Rights the NIHRC's Consultation Document, 'Making a Bill of Rights for Northern Ireland' (September 2001) included Chapter 5 'The rights of women'. That section drew attention to the necessity for clauses on equality between women and men; the right to

reproductive health; freedom from gender-based violence; the right to full, fair and effective participation.

However, the 2004 version omitted a separate chapter for women. We will be arguing for its retention in a Bill of Rights. In light of what has been detailed above, we feel strongly that any mainstreaming of women's rights throughout a Bill of Rights will fail to positively address the issues pertinent to women. Women face inequality because they are women – additional identities such as race and disability may result in further additional forms of discrimination but gender of itself requires protection. It is not a case of developing a hierarchy of rights. The Bill of Rights, while setting down legally enforceable rights, is also a vehicle for change at policy, economic, political, civil and social level and as such should send out a strong message as to the type of society the people of Northern Ireland should strive for. A separate section on women would reflect the well established fact that women are discriminated against because of their gender to an extent and at a level no longer acceptable in Northern Ireland.

The suggestion of a separate section for women's rights in a Bill of Rights reflects internationally accepted approaches to creating a document specific to the needs of the people it is drafted to address. For example, the Bill of Rights contained in the South African Constitution, lends particular emphasis to the issues of "property" rights and "labour relations" as these were issues of historic abuse and therefore of particular significance in South African's post conflict environment. Similarly, the Bill of Rights must reflect the particular circumstances of Northern Ireland. The particular inequality of women is a circumstance in Northern Ireland.

The Belfast (Good Friday) Agreement 1998 states that a Bill of Rights should not only reflect the particular circumstances of Northern Ireland but should include rights "supplementary to the European Convention on Human Rights". The existence of the ECHR, and the ability to enforce the rights contained therein at domestic level since 2000 by virtue of the Human Rights Act, has not resulted in any significant societal shift in the treatment of women. It is also of note that CEDAW is not domestically justiciable and is deemed "soft law" as a court may consider the provisions of CEDAW but an individual cannot directly enforce any "rights" contained within it. A section on women's rights in the Bill of Rights is therefore vital to send out a strong and legally enforceable message that discrimination against women is wrong. As the South African Bill of Rights succeeded in addressing the particular issues facing that country, so must a Bill of Rights for Northern Ireland address the gender inequalities and discrimination that exists.

Within this context, we consider it essential that the gender inequality within the judiciary in Northern Ireland charged with enforcing any provisions within the Bill of Rights should be addressed. There are currently no women at High Court level or above in Northern Ireland. A court charged with enforcing a Bill of Rights must be reflective of the whole of the population in Northern Ireland. For this to be achieved, we consider that affirmative action measures will be necessary.

Women's Aid Federation Northern Ireland
Women's Resource & Development Agency
Women's Support Network
Women into Politics
Northern Ireland Women's European Platform

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