

include YOUTH

Response to the UK Bill of Rights Commission's Second Consultation on a Bill of Rights

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Include Youth

Include Youth is an independent nongovernmental organisation that actively promotes the rights, best interests of and best practice with disadvantaged and vulnerable children and young people. The young people we work with and for include those from socially disadvantaged areas, those who have poor educational experiences, those from a care background, young people who have committed or are at risk of committing crime, misusing drugs or alcohol, engaging in unsafe sexual behaviour or other harmful activities, or of being harmed themselves.

Involvement in the Bill of Rights for Northern Ireland process

Include Youth has long been committed to the establishment of a strong and inclusive Bill of Rights for Northern Ireland. We view the Bill of Rights as enshrined in the Belfast/Good Friday Agreement as an important opportunity to establish children's rights at a constitutional level in Northern Ireland and to consolidate children's rights standards in one binding and enforceable document. We also believe that a strong and inclusive Bill of Rights would help to protect, respect and fulfil the rights of those most vulnerable and disadvantaged young people who experience breaches of their rights on a day and daily basis, including in the spheres of education and training, health, youth justice and policing.¹

We were actively involved in the lengthy consultation process conducted by the Northern Ireland Human Rights Commission and were active members of the Children and Young People's Ad Hoc Working Group co-convened by Children's Law Centre and Save the Children, which engaged very closely with this consultation process.

We also participated in two of the Northern Ireland Office's Bill of Rights Forum's Working Groups, namely those on Criminal Justice and Victims and on Children and Young People. We subsequently made a written submission to the Northern Ireland Office's consultation in 2010, outlining our serious concerns with the proposals contained in that consultation document, believing them to represent a totally inadequate attempt to increase human rights protections in Northern Ireland generally and for children and young people in particular.² In our view the advice provided by the Northern Ireland Human Rights Commission in December 2008 to the Secretary of State for Northern Ireland, while certainly not meeting all requirements from a children's rights perspective, provided a good basis for the development of the Bill of Rights for Northern Ireland.

We continue to be active members of the Human Rights Consortium and fully endorse its campaign for a strong and inclusive Bill of Rights for Northern Ireland.

¹ Please refer to the following two key documents produced by Include Youth for detailed information on young people's experiences within the education and training and youth justice systems :
http://includeyouth.org/i/Response_to_the_Department_of_Employment_and_Learning's_Consultation_on_Pathways_to_Success_July_2011.pdf and
http://includeyouth.org/i/Include_Youth_Submission_to_the_Youth_Justice_Review_Team_FINAL_19_Apri1_2011.pdf

² http://includeyouth.org/i/Response_to_NIO_Bill_of_Rights_Next_Steps_March_2010.pdf

While we did not respond to the UK Bill of Rights Commission's first consultation due to lack of capacity at that time we would like to take this opportunity to provide the following response to its current consultation.

We should note at the outset that we were somewhat surprised that the Commission chose to hold a second consultation so soon after the end of its first. This is particularly so given that the analysis of consultation of previous submissions conducted by the Human Rights Consortium would indicate that many of the questions posed in the second consultation paper seem to have been addressed pretty definitively.

As the UK Bill of Rights Commission will be fully aware the Belfast/Good Friday Agreement (1998) contains a commitment to the development of a Bill of Rights for Northern Ireland:

*"...to consult and to advise on the scope for defining, in Westminster legislation, **rights supplementary to those in the European Convention on Human Rights**, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience. **These additional rights** to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and – **taken together with the ECHR [European Convention on Human Rights] – to constitute a Bill of Rights for Northern Ireland.**"³ (emphasis added).*

The Northern Ireland debate has therefore taken as its starting point the existence of the Human Rights Act (since this Act puts into practical effect the European Convention on Human Rights). **This Act must be added to, not amended or weakened. Include Youth was very concerned to see a number of questions included in the consultation document which in our view raised the possibility of amending or weakening the Human Rights Act.**

In response to Question 2 regarding the extent to which the ECHR should or should not remain incorporated into our domestic law, Include Youth believes that this question is outside of the terms of reference of the Commission, which was asked to investigate a Bill of Rights that incorporated and built upon all of the ECHR obligations. **We therefore believe that there should be no question of amending the current incorporation of the ECHR into domestic legislation, and that the Commission would be acting out with its authority to suggest otherwise.**

We would also point out that the ECHR and its enactment into domestic legislation formed one of the central human rights protections contained within the Belfast/Good Friday Agreement⁴. To undermine or remove this domestic level protection of ECHR rights would therefore represent a serious violation of an international treaty by the British government as one of the two signatories.

Worryingly there is little acknowledgement in the consultation document of the separate nature of the Bill of Rights process in Northern Ireland and more worryingly still no clarifying statement that signals the Commission's clear intention not to interfere with or

³ *Northern Ireland Act 1998*, section 69(7).

⁴ Belfast/Good Friday Agreement (1998) Rights Safeguards and Equality of Opportunity paragraph 2

undermine in any way this on-going process. **We urge the Commission to state in its recommendations their recognition of the distinct Northern Ireland Bill of Rights process, its centrality to the on-going peace process and their clear intention not to interfere in that process or to make any recommendation/s that could be interpreted or used in such a way as to interfere with or delay the Northern Ireland Bill of Rights process.**

The Human Rights Consortium's analysis of the submissions made to the Commission's first consultation clearly indicated that the overwhelming number of submissions from Northern Ireland clearly stated that the Northern Ireland Bill of Rights process should be kept separate from any UK Bill of Rights process. While the consultation document does make reference to these views there is no suggestion made for a model of a UK Bill of Rights that clearly allows any consideration about rights for Northern Ireland which are supplementary to the Human Rights Act to be dealt with via the Bill of Rights for Northern Ireland. **We would urge the Commission to state in its recommendations that the Bill of Rights for Northern Ireland process is the best way in which to introduce rights additional to the Human Rights Act to Northern Ireland.**

We hope that our comments have been helpful. We look forward to receiving feedback on the outcome of this second consultation and on the Commission's final recommendations in due course.