

FOURTH REPORT OF THE UNITED KINGDOM
UNDER THE INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Submission by the
Northern Ireland Human Rights Commission
to the United Nations
Committee on Economic, Social and Cultural Rights
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1. The Northern Ireland Human Rights Commission (NIHRC) is grateful for the opportunity to convey its views through this brief paper to members of the Committee on Economic, Social and Cultural Rights, in relation to compliance in Northern Ireland with the ICESCR.
2. The Commission respectfully requests that the Committee consider reviewing its procedures for the examination of State party Reports with a view to ensuring that national human rights institutions (NHRIs), and sub-national institutions such as the NIHRC, are routinely invited to provide briefings or comments in a way distinct from that available to non-governmental organisations. This Commission is properly appreciative of the role that NGOs have played as human rights defenders in Northern Ireland, and we frequently find ourselves agreeing with the main NGOs on particular human rights issues. However, we think that it is undesirable that official human rights institutions should encroach on the time that the Committee generously provides for NGO briefings. Furthermore, many of the more than 50 recognised NHRIs can offer the Committee an especially valuable critique of the Reports—even those, regrettably including the NIHRC, that are not at present able to comply fully with the Paris Principles.¹ In the absence of an Optional Protocol to the ICESCR establishing a complaints procedure, it is all the more important that the monitoring process be informed by those institutions with specialist knowledge of the human rights situation in their respective states. For our part, we will endeavour to respond in a more detailed and timely manner to future UK Reports, and in the interim we offer our full co-operation to the Committee and its members in their work. This being our first opportunity to contribute views to the Committee, we will limit ourselves to what we regard as key points.
3. To begin on a positive note, we wish to draw the Committee's attention to the establishment of the Northern Ireland Human Rights Commission (on 1 March 1999) by the Northern Ireland Act 1998. Surprisingly, this is referred to only very briefly in the Fourth Report of the United Kingdom (at paragraph 2.18). In fact, the creation of this Commission is among the most significant developments in the human rights field since the United Kingdom was last examined, as it is the first and to date the only statutory independent human rights institution in any UK jurisdiction. The Commission reviews the adequacy and effectiveness in Northern Ireland of law and practice relating to human rights; advises on the compatibility of legislation and policy with human rights (see paragraphs 5(h) and (i) below), and promotes understanding and awareness of human rights. We assist individuals in legal proceedings where human rights issues arise, bring proceedings involving law or practice concerning the protection of human rights, and conduct research and investigations. The Commission also informs international treaty-monitoring bodies of the state of human rights in Northern Ireland. To that end we have made submissions to the UN Human Rights Committee, to the UN Committee on the Elimination of Discrimination Against Women, to the UN Committee on the Elimination of Racial Discrimination and to the Council of Europe's Committee on Economic and Social Rights. We wish to assure your Committee that the NIHRC is committed to securing, defending and advancing the full range of Covenant rights within Northern Ireland. We will work to the best of our ability to encourage

¹ The non-compliance is in relation to the inadequacy of our powers, a matter referred to below.

and monitor compliance in our region with all of the United Kingdom's international obligations in the areas of economic, social and cultural rights. We comment below on some of the factors that inhibit our effectiveness in that regard.

4. In the interests of brevity our further remarks are confined to (i) some matters raised in the Committee's Concluding Observations in respect of the Third UK Report (1997); (ii) a small number of additional matters referred to in the Fourth Report; and (iii) the opportunities, in respect of the realisation of economic, social and cultural rights in this part of the United Kingdom, presented by this Commission's ongoing involvement in developing proposals for a Bill of Rights for Northern Ireland.

5. 1997 Concluding Observations

(a) The Committee noted (at paragraph 4(b) of its Concluding Observations) that the proposed enactment of the European Convention on Human Rights (ECHR) into domestic legislation represented a departure from the past practice of non-incorporation of human rights treaties. This proposal, given effect in the Human Rights Act 1998, was indeed a major step forward and has already had a significant impact in advancing a human rights 'culture' within public authorities. It is regrettable that the enactment did not encompass Article 13 of the ECHR, the right to an effective remedy. The opportunity was also missed to develop from Article 14 a free-standing right to freedom from discrimination, by building a suitable provision into the Human Rights Act and/or by acceding to Protocol 12 of the ECHR. We note the Committee's suggestion (at para 21) that the incorporation model be adopted in respect of the ICESCR, but from what we have said about the Human Rights Act it will be seen that this Commission is open to the more creative approach of taking the treaty texts as a baseline and enacting domestic legislation that sets an even higher standard. In the context of the UK Government's recently announced review of its position under international human rights treaties, this Commission will advocate an approach that would give *effective* access at *national* level to all treaty rights. Incorporation, or other enactments entrenching and/or expanding on treaty rights in domestic law, would address the problem identified by the Committee (at para 10) of the United Kingdom tending to regard the Covenant provisions, in the main, as mere principles or programmatic objectives rather than as legal obligations.

(b) The Committee noted (at para 5(b)) the UK commitment to apply the European Social Charter. The Revised European Social Charter, which offers more extensive and effective guarantees of economic and social rights, has not yet been ratified by the United Kingdom, nor has the 1995 Additional Protocol providing for a system of collective complaints (a mechanism with considerable potential for advancing those Covenant rights that are covered by the Charter). We believe that the United Kingdom should ratify and adhere to the Revised Charter, and invite the Committee to inquire into the United Kingdom's position on ratification of the Revised Charter and the Protocol.

(c) The Committee noted (at para 6) "significant progress" in meeting the educational needs of certain minorities. We have to say that this is emphatically not the case in respect of one of the largest ethnic minority communities in

Northern Ireland, the Irish Traveller community.² There are still extremely high levels of illiteracy among Travellers, 92 per cent leave education with no qualifications³, and the majority of Traveller children do not attend school regularly after primary education. Measures introduced to date in Northern Ireland, such as race equality legislation, the equality duties in section 75 of the Northern Ireland Act⁴, and the Targeting Social Need Strategy have plainly failed to reduce the extraordinary levels of multiple deprivation experienced by Travellers. This is not limited to educational disadvantage but is reflected in, for example, a 70 per cent unemployment rate and an infant mortality rate around ten times that of the rest of the population. The United Kingdom should be asked to take urgent measures (beyond those very welcome initiatives described in the Fourth Report, at paras 13.130-131) to improve the educational participation and attainment, and reduce the social exclusion, of Travellers in Northern Ireland.

(d) The Committee correctly identified (at para 9) a particularly high level of poverty in Northern Ireland, and that remains the case.⁵ It recommended (at para 22) that particular attention be directed at targeting social assistance to alleviate poverty among various especially disadvantaged sectors of the population, among which it included Catholics in Northern Ireland. It expressed its alarm (at para 12) that the rate of unemployment among Catholics in Northern Ireland was approximately twice that of Protestants, and it may now wish to revisit that issue: in fact in respect of Catholic males, that ratio has changed little over the past 30 years. The Committee's recommendation (at para 24) that "more effective steps" must be taken to combat discrimination is one that we endorse, although we would make the point that it is not only Catholics who suffer employment discrimination in Northern Ireland. The United Kingdom should be asked to account for the failure of legislative and other measures taken to date to remedy the continuing unemployment differential. We would be grateful if the Committee could express its views on the nature and extent of affirmative measures that are permissible, within a human rights ethos, to redress persistent inequalities especially where those have arisen from past discrimination. It may wish to ask the United Kingdom to describe the extent to which affirmative action is already permitted within Northern Ireland law; the extent to which it has actually been applied; and the reasons why serious inequalities persist. It is certainly entitled to ask why the UK Report fails to record the persistence of inequalities, limiting itself to a recitation of various legal and policy measures as if they had solved the problems (but with no mention of affirmative action).

(e) The Committee expressed the view (at paras 20 and 32) that the Irish language in Northern Ireland was unjustifiably disadvantaged and should receive the same degree of financial support and status as Scots Gaelic and Welsh in the respective jurisdictions. There has been a substantial improvement in the provision of Irish-

² The references to Travellers in the Concluding Observations (at para 6) and in the UK Report (e.g. at paras 13.24-25) are to Gypsies, 'New Age' and other Traveller groups in Great Britain, whereas we use the term to refer to Irish Travellers, a quite separate minority community indigenous to both Irish jurisdictions.

³ At GCSE or equivalent, or higher, level: compare with the figure given at paragraph 13.142 of the UK Report showing that only 5.3% of all school leavers have no GCSEs.

⁴ See paragraph 2.14 of the UK Report.

⁵ The Fourth UK Report indicates, at paragraph 11.01, that per capita GDP in Northern Ireland is 80% of the UK average, with a corresponding disparity in disposable income.

medium schooling in Northern Ireland, as noted in the UK Report (at paras 13.124-127). Further positive developments have included the creation of official cross-border bodies to promote the Irish language, and Ulster-Scots and the associated cultural forms, in both of the island's jurisdictions. The formal status of Irish has also improved with the United Kingdom's application of the European Charter for Regional or Minority Languages (as recorded in the Fourth UK Report at para 15.32). However, the Committee should note that although the UK has identified 36 Charter paragraphs which it intends to apply to Irish (compared with 59 for Welsh), these are (where options are available within the Charter framework) the minimal provisions in each area, and even then they have not been implemented in full.

(f) In relation to the educational structure in Northern Ireland, the Concluding Observations were mainly concerned (at para 18) with the continuation of religious segregation in education. This, however, is not a segregation imposed by the state, nor would it be desirable for the state to impose, rather than facilitate, integration. We respectfully caution the Committee against a simplistic analysis that risks confusing the causes and the consequences of conflict: schools do not deserve to be blamed for our ills. Northern Ireland is, regrettably, a deeply divided society and it will take time to overcome the legacy of violence. At present it is a fact that most Catholic parents wish to send their children to Catholic schools, and that most Protestant parents wish to send their children to schools with a Protestant ethos, or to state schools that are *de facto* Protestant schools. The international human rights standards require that parents should be free to send their children to schools that are in conformity with their own beliefs, and this Commission therefore believes that public funding should be made available on an equitable basis to schools in all sectors. Equitable in this context does not mean equal: there should be additional funding where required to target social need, to redress the historic underfunding of many schools, and to meet the start-up costs of new schools, for example in integrated and Irish-medium education (the main 'minority' sectors). We would wish to see a situation where every family that wanted to avail of integrated or Irish-medium education had the right and the freedom to do so. However we have not identified widespread human rights abuses in terms of the state declining equitable funding, or denying individuals access, to schools of a particular religious character (the integrated schools, it should be noted, also have a Christian ethos).

(g) Where human rights concerns certainly do arise in relation to the educational structure in Northern Ireland is in the persistence of a selective system that tests most children at age 11 and assigns the majority to secondary schools and a minority to the better-resourced grammar schools. There is evidence that this selection perpetuates socio-economic inequalities, in effect determining the future academic attainment of children.⁶ There is a proven link between poverty and lack of educational attainment, and the selection process does nothing to challenge that. The testing process in itself may harm both those children who take the test (in terms of the stress placed upon them, and the psychological impact of the outcome) and those who do not take it (in that they may receive less teaching

⁶ T. Gallagher & A. Smith (2000), *The Effects of the Selective System of Secondary Education in Northern Ireland*, Bangor (Northern Ireland): Department of Education.

during their final two years of primary school). The selective system is currently under review and the Northern Ireland Human Rights Commission would wish any new system to be such as to guarantee effective education for all children, to address the best interests of each child, and to allow all children to enjoy the right to education without discrimination. These notions are fully consistent with the resolution (E/CN.4/2002.L.39) on the right to education, adopted by the UN Human Rights Commission on 22 April 2002. In assessing whether the Article 13 right to education is being provided in Northern Ireland, the Committee may have something to say about the recent appalling events at Holy Cross Girls' Primary School in Belfast. The Northern Ireland Human Rights Commission is supporting a court case arising from the incidents at Holy Cross, in which the right to effective education is a central issue.

(h) The Northern Ireland Human Rights Commission unequivocally supports the Committee's recommendation (at para 33) that legislative and policy initiatives should be accompanied by a human rights assessment. This Commission was established by the UK Parliament as a consequence of the 1998 Belfast (Good Friday) Agreement. The Agreement demanded "arrangements to provide that key decisions and legislation are proofed to ensure that they do not infringe the [European Convention on Human Rights] and any Bill of Rights for Northern Ireland". This is partly addressed by section 75 and schedule 9 of the Northern Ireland Act 1998, which impose wide-ranging duties on all public authorities in relation to the delivery and monitoring of equal treatment, and it should be said this Commission regards equality standards as a vital aspect of human rights proofing. The Agreement's requirement is also reflected in the tasks set for the NIHRC. One of our statutory functions is precisely that of providing human rights assessments, on request or at our discretion, in relation to legislation that has effect in Northern Ireland. We are also routinely consulted on a very wide range of policy initiatives, and endeavour to respond in every instance where we have identified human rights concerns. The Committee should, however, note that we are not consulted on *all* legislation, even where there are clear human rights concerns, and when we do make recommendations they are much more often than not disregarded.

(i) For an authoritative assessment of the human rights compliance of legislation and policy it is at least desirable that reference of such initiatives be made by the executive or legislature to an appropriately empowered and resourced independent human rights institution. As noted below, the Northern Ireland Human Rights Commission falls somewhat short of that definition, but we endeavour to fulfil the assessment function in respect of our sub-national jurisdiction. There is no comparable body at UK-wide level or in Great Britain, other than a small parliamentary committee that is able to examine only a very small proportion of proposed legislation, and that parliamentary forum is not, in any event, comparable with our Commission nor with NHRIs in other states. We invite the Committee to renew its recommendation on the need for human rights assessments and, in so doing, to make specific reference to the institutional arrangements needed to ensure effective and authoritative scrutiny.

6. The Fourth Report of the United Kingdom

- (a) The disability discrimination legislation referred to in the Report (at paras 2.08 and 2.13) does not have effect in Northern Ireland in relation to providers of education, so that there is no effective protection in this part of the United Kingdom against the unjustified less favourable treatment of pupils, students and trainees who have disabilities. Although many educational institutions strive to act within the spirit of the legislation, the Disability Discrimination Act 1995 does not actually confer rights in this area. The Committee may consider that there is a need to explain why people with disabilities have been accorded more extensive rights in Great Britain than in Northern Ireland.
- (b) The shortcomings of anti-discrimination and employment equality measures in Northern Ireland (at paras 2.13-15 and 7.28) include long delays, lack of legal aid and consequent inequality of arms at Tribunal hearings, and the difficulties that arise in proving discrimination on combined grounds (for example, against someone as a black male) when these grounds are covered by separate laws. The proposed replacement of the current panoply of legislation with a Single Equality Act affords an historic opportunity to address these matters, and to reduce and harmonise the large number of exemptions from the current laws. More importantly, the harmonisation between the different enforcement regimes must be upwards, so that what emerges is a rigorous and consistent approach to combating discrimination across the various categories. What Northern Ireland develops in the Single Equality Act might serve globally as a model of anti-discrimination law for the new century. It is therefore disappointing that the proposals are not even mentioned in the UK Report; this may be because equality law is a devolved matter in Northern Ireland, whereas common legislation applies across the Great Britain jurisdictions. It is even more unfortunate that the timetable for the consolidating legislation has been repeatedly pushed back, so that the Bill may not be presented for several years. It would be helpful to have the Committee's views on the urgency of legislating for a consistent and effective prohibition of discrimination on all the grounds stipulated in Article 2(2) of the Covenant.
- (c) As already noted, the Report mentions only in passing (at para 2.18) the creation of the Northern Ireland Human Rights Commission. Unlike its sister Commission in Ireland, established under the same Belfast (Good Friday) Agreement, this Commission has not been endowed with the full range of powers and resources required to comply with the UN *Principles relating to the status and functioning of national institutions for protection and promotion of human rights* (the Paris Principles). Specifically, we do not have the level of independence from government that can only be achieved through adequate funding: currently only about half of our operating costs are provided as core funding, and we are obliged to negotiate with Government for the remainder. We have not been given powers to compel witnesses, to require production of documents, or to enter premises. In February 2001 this Commission, as it was required by statute to do, reported to the UK Government on its powers and effectiveness, concluding in essence that it could not satisfactorily fulfil its remit unless the Paris Principles were applied. The Government has not yet responded to that report, and the Committee may wish to ask the United Kingdom whether the Human Rights Commission is to be given the powers and the resources that it needs to contribute more effectively to the protection of Covenant and other

human rights in Northern Ireland. The Committee should note that, in the parliamentary debates around the establishment of the NIHRC, the Government's explanation for the failure to adopt the Paris Principles model was that it expected there to be a sufficiently high level of voluntary co-operation with the Commission. That, frankly, has not been our experience, and it is now for the United Kingdom to explain how it intends to address that shortfall in human rights protection. As a related issue, it may wish to discuss how the UK Government proposes to engage with this Commission (and possibly with future national or sub-national human rights institutions, such as the proposed Scottish Commission) in monitoring compliance with the Covenant and with other international instruments. In this context, the Committee should note that the Northern Ireland Human Rights Commission was not consulted on, nor even provided with a copy of, the United Kingdom's Fourth Report. We have repeatedly sought to discuss with Government the establishment of protocols and other measures to ensure consultation, but have encountered a distinct lack of enthusiasm. This applies equally to national Government and to the devolved administration in Northern Ireland. Even if the Committee does not wish to respond to our earlier remarks about the role of NHRIs in its own procedures, it may want to say something about how the State party, including its devolved administrations, should consult at the domestic level.

- (d) New administrative machinery not mentioned in the Report (at para 3.01) included, in Northern Ireland, the creation of a Human Rights Unit within the Office of the First Minister and Deputy First Minister. This was potentially a valuable addition to the promotion of the Covenant and other human rights standards, but the Unit has not been provided with the resources to fulfil its functions as many of its staff have been diverted to other work. We would be grateful for the Committee's views on the desirability of ensuring that the devolved administration in Northern Ireland should, centrally and within each Department of the Executive, have thorough and authoritative mechanisms for proofing legislation and policy against the international treaty obligations of the State and against other international human rights standards. Over the next reporting period, the United Kingdom should be asked to provide details of the actual measured impact of section 75 and other human rights and equality provisions in delivering rights and reducing inequality in Northern Ireland.
- (e) Although it is recorded (at para 3.04) that legislation on equal pay has existed in Northern Ireland for over three decades, as is noted elsewhere (at para 7.05) the average earnings of women in Northern Ireland are still less than 80 per cent of men's earnings—a greater disparity than in Great Britain. The United Kingdom should be invited to explain this.
- (f) The national minimum wage (at para 7.01) is currently set at less than the Council of Europe's poverty definition of 60 per cent of average earnings. The United Kingdom should be invited to explain this.
- (g) The stated goal of securing equitable representation of women and minorities in appointments to public bodies (at paras 7.15-16) might be attained more readily if Government did not exempt public appointments made by or on the authority of ministers from anti-discrimination legislation. Until recently this applied across

all UK jurisdictions. There have been numerous instances of individuals who, believing that they have been refused appointment to public office because of discrimination on grounds such as sex, religion, race or national origin, have found that they have no redress through the courts or tribunals; nor does the judicial review process allow challenges to the lack of equitable representation in appointed bodies. Some improvement, in respect of sex discrimination, has recently been secured with the implementation of the European Union Equal Treatment Directive, but the NIHRC and its sister body, the Equality Commission, remain concerned at the lack of protection on grounds such as race and religion. The United Kingdom should be invited to comment.

- (h) Where the Report notes (at para 8.14) that many trade unionists in Northern Ireland belong to British-based unions, it omits to add that many others belong to unions based in the Republic of Ireland. The majority of trade unions operating in Northern Ireland are affiliated to the Irish Congress of Trade Unions, which is based in the Republic. This factual omission is, in itself, of no greater significance than, for example, the naming of only one of the region's three daily newspapers (at para 15.35), but these matters illustrate the larger point that it would have been helpful both to the State party, and to the Committee's understanding of the particular circumstances of this region, to have greater consultation in Northern Ireland in the preparation of the Report's content. With specific reference to trade unions, the more interesting point, omitted from the UK Report, is that trade union and labour rights legislation in Northern Ireland (as elsewhere in the United Kingdom) still fails to meet the European Social Charter standards.
- (i) The single paragraph on children in Northern Ireland (at para 10.39) fails to mention the imminent establishment of a Children's Commissioner for the region, following the Welsh model (at para 10.47). This is potentially a major advance in the protection of children's rights and the Committee may wish to comment on the jurisdiction and powers that such an office should have if it is to be effective. The Committee may take heart from the assertion by Northern Ireland's Deputy First Minister, Mr Mark Durkan, on 26 April 2002 that "our Commissioner will be the most powerful not only in Europe, but in the world, with far-reaching powers of investigation".⁷ That indicates a legitimate matter for the Committee to inquire into over the next reporting period, and it should expect to see from the establishment of such an office a real measurable impact on, for example, the numbers of children living in poverty, the mortality rates among Traveller babies and children, and the treatment of children in care and children in contact with the criminal justice system.
- (j) The Northern Ireland Human Rights Commission has recently reported on a two-year investigation into the situation of children in custody.⁸ Although hampered by the Commission's lack of powers (to compel witnesses and require the production of documents) and by less than complete co-operation by the relevant authorities, the investigation found serious grounds for concern including the detention of 17-year-old children alongside young adults in Young Offender

⁷ Press release, Executive Information Service, Stormont (Belfast), 26 April 2002.

⁸ *In Our Care: Promoting the rights of children in custody*, Belfast: NIHRC, March 2002.

Centres; the detention of girls as young as 15 in an adult prison; and the inadequacy of psychiatric and healthcare provision for children in custody, to the extent that the Commission believes that children's lives are at risk. The criminal justice legislation in Northern Ireland is being reformed by the Justice (Northern Ireland) Bill, currently before Parliament, to create a Custody Care Order (CCO) that will be applied to children as young as 10—the unreasonably low age of criminal responsibility in this and other UK jurisdictions. Because of the small numbers involved, there is a very high risk that children subject to CCOs will in practice be held in isolation. As is the case under existing law, children in custody will continue to be denied the full protection of the Children (Northern Ireland) Order 1995, with the specific exclusion of the 'best interests of the child' principle reflecting the UN Convention on the Rights of the Child. The Committee should ask why the 'best interests' principle is not applied to all children.

- (k) Had the treatment of household expenditure (at para 11.14) given separate figures for Northern Ireland, they would have shown that average expenditure on fuel, light and power is very much higher in this region than in Great Britain, with an especially severe impact on lower-income households. This helps to explain why fuel poverty (at paras 11.138-139) is a major problem in Northern Ireland, affecting about 27 per cent of households as compared with around 19 per cent in England and Wales.
- (l) Despite the extensive reporting on Northern Ireland housing matters (at paras 11.80-100, 11.107-109, 11.127), the report simply does not mention the high level of unfit dwellings, especially in the west of the region; the unmet demand for social housing, especially in certain areas of Belfast; and the social impact of requiring the Housing Executive (a statutory agency and the largest social landlord) to sell off around a third of its housing stock while preventing it from building any new social housing. It also omits mention of the failure of local authorities, and of the Housing Executive to which that responsibility has recently been transferred, to provide accommodation for Irish Travellers (a mainly nomadic ethnic minority) across much of the region. The current provision of Traveller halting sites is grossly inadequate, and this is seen by many to be motivated by racial discrimination.

7. The Bill of Rights process

It is remarkable that the United Kingdom Report nowhere mentions that there is a real prospect that at least one UK jurisdiction may soon have entrenched protection of Covenant rights. The Northern Ireland Act 1998 gave effect to the Belfast (Good Friday) Agreement which called for a Northern Ireland Human Rights Commission to advise on the scope for a Bill of Rights for Northern Ireland, based on the European Convention on Human Rights and supplementary rights "to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience". Created in 1999, this Commission engaged from March 2000 in a massive public consultation exercise and published, in September 2001, the document *Making a Bill of Rights for Northern Ireland*, in

which it set out its preliminary views on what a Bill of Rights should contain.⁹ A further consultation period ensued and the Commission is now engaged in formulating its advice to Government (in the person of the Secretary of State for Northern Ireland) on the possible form and content of the legislation. We expect to submit our final advice early in 2003.

The Commission is a broadly based organisation and, as is to be expected, there are at present a range of views among its 13 members, as in society at large, about what should be in the Bill of Rights. That is why we are undertaking a further round of engagement on the issues. Since the Commission has yet to finalise its views, we cannot say precisely how our advice to the UK Government will address the issues around economic, social and cultural rights. For that reason, we are not asking your Committee to endorse all or any of the ideas put forward in our preliminary proposals, although it would be helpful to have your views on the general desirability of a Bill of Rights, and specifically on the inclusion therein of Covenant rights.

It would, however, be fair to say that the Commission regards poverty and social exclusion as representing a fundamental denial of human dignity, and that we have no doubt that any Bill of Rights worthy of the name must reflect the best current international standards in respect of social, economic and cultural rights. We know from public opinion surveys that there is widespread support, across the traditional political divide, for the inclusion of Covenant-type rights in any Northern Ireland Bill of Rights. We also endorse the international consensus that human rights are interdependent and indivisible, so that any Bill of Rights that addressed only civil and political rights would be a poor alternative to a coherent and comprehensive document.

From that perspective we are minded to recommend rights to the highest attainable standard of physical and mental health and well-being, an adequate standard of living, decent housing, access to work, and effective and appropriate education including the right of parents and children to choose between the main school sectors. All of these rights, which would give full and effective expression to the Covenant rights, would be complemented by extensive equality and non-discrimination provisions. We are considering whether, particularly in the formulation of clauses relating to issues of poverty and social exclusion, the rights would be litigable in the private interests of individuals and/or would require immediate and continuous programmatic responses by all relevant public bodies (with any failure to meet such obligations to be justiciable in a manner yet to be determined). In any case, we would wish to ensure that the Bill of Rights had a role in setting standards and in securing, especially, the rights of the most vulnerable sections of our society.

We believe that the Committee will welcome the prospect of Covenant rights being made accessible and binding in at least one UK jurisdiction. That this prospect is very real is evident from the text of the Belfast (Good Friday) Agreement, which clearly situates the realisation of economic, social and cultural rights at the heart of

⁹ Copies of *Making a Bill of Rights for Northern Ireland* have been made available to the Committee members, and additional copies can be obtained from the Northern Ireland Human Rights Commission.

the process of securing peace and stability in Northern Ireland. For example, Strand One of the Agreement established a Civic Forum with the specific function of acting as “a consultative mechanism on social, economic and cultural issues”. (The Committee may then wonder why this Forum was not consulted by the UK Government at any stage, before, during or after compilation of the Fourth UK Report, on compliance in Northern Ireland with the International Covenant on Economic, Social and Cultural Rights.)

Strand Two of the Agreement committed the UK and Irish Governments to considering the appointment of an island-wide “independent consultative forum ... representative of civil society, comprising the social partners and other members with expertise in social, cultural, economic and other issues”. A section of the Agreement dealing with “Rights, Safeguards and Equality of Opportunity” committed the United Kingdom to pursuing “broad policies for sustained economic growth and stability in Northern Ireland and for promoting social inclusion, including in particular community development and the advancement of women in public life”, and there followed specific undertakings in relation to regional development and economic development strategies, employment discrimination and social inequality, and a recognition of linguistic diversity coupled with specific commitments for the protection and promotion of the Irish language. Associated with this was an Agreement between the UK Government and the Government of Ireland. That reaffirmed the commitment of both Governments to “the protection of civil, political, social, economic and cultural rights”.

In this context, it will be seen that the United Kingdom has already given extensive recognition not only to the principles underpinning the Covenant, but to the linkage between economic, social and cultural rights and civil and political rights, and that it recognises these principles with specific reference to the circumstances of Northern Ireland. The people of Northern Ireland, and your Committee, are entitled to expect that this will be reflected in the UK Government’s response to the advice that this Commission is now preparing on the scope of a Bill of Rights.

The Committee would surely wish to see the full range of Covenant rights entrenched by law in a part of the United Kingdom that has historically experienced a relatively low level of legal protection and practical realisation of those rights. Will it then lend its support to the inclusion of social, economic and cultural rights in a Bill of Rights for Northern Ireland?

Northern Ireland Human Rights Commission

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