

**An Coiste Comhairleach Náisiúnta
ar Chiníochas agus Idirchultúrachas**

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National Consultative Committee on Racism and Interculturalism

**Submission to the Joint Committee of the Irish
Human Rights Commission and the Northern
Ireland Human Rights Commission**

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The NCCRI welcomes the opportunity to contribute to the pre-consultation process on the model and key elements of a Charter of Rights for everyone living on the island of Ireland and acknowledges the work already undertaken by the Human Rights Commissions in Northern Ireland and the Republic.

The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1998 as an independent expert body focusing on racism and interculturalism. The NCCRI is a partnership body which brings together government and non-government organisations to:

- Develop an inclusive and strategic approach to combat racism by focusing on its prevention and promoting an intercultural society
- Contribute to policy and legislative developments and seek to encourage dialogue and progress in all areas relating to racism and interculturalism
- Encourage integrated actions towards acknowledging, celebrating and accommodating cultural diversity
- Establish and maintain links with organisations or individuals involved in addressing racism and promoting interculturalism at national, European and international level
- Provide a national framework for responding to and consulting with key European and international bodies on issues related to racism and interculturalism.

The NCCRI takes this opportunity to welcome the identification of racism as a cross cutting issue in the Irish Human Rights Commission's strategic plan 2003-2006 and the calling for action to eradicate racism and promote a more intercultural and inclusive society in Ireland. The NCCRI looks forward to further co-operation with both Commissions in this regard.

1. Type of Model

We note that the pre-consultation paper outlines three different types of charters set in the context of paragraph 7, page 3 which might be recommended and that Model B is identified as the approach favoured by the two Commissions. We note that the wording of the Belfast Agreement poses questions and challenges for the development of the Charter. This pre-consultation response is a brief one. At a later stage we welcome the opportunity to include groups that we work with in further developing our position.

Model A

The NCCRI would be of the view that Model A, which is "purely declaratory in nature" would be insufficient to protect the fundamental rights of everyone in the island of Ireland. We acknowledge that it would be easier to reach consensus on this type of Charter but the Charter would only be viewed as stating recommendations for governments and would not have an impact on the protection of the fundamental rights of everyone. The NCCRI would be in favour of a Charter that had implementation capacity, not one that would only seek to give inspiration to current and future governments.

Model B

The NCCRI understands that Model B places pressure on governments to come up with a programme for the implementation of the rights contained in this Charter and that it can have a more persuasive effect on court and government decisions, although not legally enforceable before the courts. We also note that this kind of charter is more flexible which is important in a constantly changing environment which can allow for new human rights standards to be adopted if required.

The danger with a programmatic type of charter is that its success is dependent on committed governments and a well-resourced independent body to regular monitor the implementation process. However we agree that this type of charter is one which it will not be too difficult to secure the agreement of the political parties throughout the island of Ireland and can provide an accessible starting point.

Model C

Ideally this type of model would be most preferable in light of the fact that it can be publicly asserted and vindicated before the courts. This would be especially useful in the assertion of social, economic and cultural rights so as to give these set of rights greater credibility and relevance to everyone living in the island of Ireland. This model would afford the common protection of rights throughout the island of Ireland but we acknowledge the difficulties of getting agreement from governments for legally enforceable economic, social and cultural rights at this time.

Conclusion

The NCCRI considers that it is difficult to definitively decide on a model for the Charter of Rights at this point and suggests further work on the following areas:

- The objective of developing such a Charter would be a key factor in determining the model of Charter adopted
- What rights? The interpretation of the categories of rights that the Belfast Agreement wants to protect will also determine the type of Charter to be considered
- The models of Charter to be considered is somewhat dependent on the issue of who is going to sign it, whether it be all political parties or both Governments
- Who does it apply to? While the NCCRI welcomes the fact that “everyone” living in the island of Ireland will potentially benefit from the Charter of Rights, this will also have implications for the model for the Charter and will also establish what rights will be included in the charter.

We note in paragraph 24 of the pre-consultation paper that the Joint Committee will be commissioning research from internationally recognised experts in the field to identify models used in other parts of the world so that all possible models are considered for the Charter of Rights. The NCCRI welcome association with this research and with further work on the Charter of Rights.

2. Proposed Content of the Charter of Rights

It is the view of the NCCRI that the proposed content of the Charter of Rights is dependent on the overarching objective of the Charter. It is also difficult to delineate the rights without knowing what model is being employed.

We note that this is not meant to be an exhaustive list of the rights which might be contained in the charter but that further consultation will take place on its actual content.

Preliminary Comments

The NCCRI welcomes the explicit inclusion of racism in the Charter's general principles and specific commitments. The Charter should contain general commitments to combat racism and discrimination on ethnic grounds and to abide by *and implement* National Action Plans Against Racism within an agreed timeframe.

We would also welcome the introduction of a statutory duty to promote the integration of ethnic minorities and to assist with the welfare and development of minority ethnic communities in Ireland.

In light of the absence of the Traveller community from the draft Irish report to the UN Committee on the Elimination of All Forms of Racial Discrimination (CERD), the NCCRI recommends that the Charter of Rights explicitly name them as an ethnic group that experiences racism and discrimination on the basis of their distinct ethnic identity and nomadic tradition in the island of Ireland.

The NCCRI would like to see a commitment to the promotion of an intercultural society and of the integration of minorities incorporated into the Charter. Any section on equality should expressly mention the grounds that a person would potentially suffer discrimination and to leave room for future forms of discrimination that may evolve over time.

Regarding monitoring the implementation of and compliance with the content of the Charter of Rights, the NCCRI recommends an express mention of the adequate resourcing of an independent body to undertake this task.

The NCCRI look forward to further consultation on the content of the Charter of Rights

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