



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

**Climate Change Legislation Team  
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By email: [climatechangediscussion@daera-ni.gov.uk](mailto:climatechangediscussion@daera-ni.gov.uk)

1 February 2021

Dear Colleagues,

**Re: Consultation on a Northern Ireland Climate Change Bill**

The Northern Ireland Human Rights Commission (the NIHRC) welcomes the Department's launch of a consultation on a Northern Ireland Climate Change Bill, and the opportunity to provide its views.

The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), as incorporated by the Human Rights Act 1998 and the treaty obligations of the Council of Europe (CoE) and United Nations (UN) systems. In addition to these treaty standards, there exists a body of 'soft law' developed by the human rights bodies of the CoE and UN. These declarations and principles are non-binding, but provide further guidance in respect of specific areas.

The NIHRC recalls the commitment to introducing legislation in line with the Paris Change Accord in the New Decade New Approach agreement<sup>1</sup>, and welcomes the Department's launch of a consultation on a Northern Ireland Climate Change Bill, and the opportunity to provide its views.

The NIHRC acknowledges the questions set out in the consultation document, but will not provide comments on the scientific basis for the proposed legislation. Instead, this submission will highlight relevant human rights standards and principles where they

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<sup>1</sup> [New Decade, New Approach](#) (January 2020) p.8.

may be of assistance to the Department.

## **International human rights obligations**

The NIHRC recommends that a Northern Ireland Climate Change Bill is fully compliant with international human rights obligations.

The United Nations has cited climate change as “the defining issue of our time”<sup>2</sup>. Climate change threatens the enjoyment of all human rights, including the rights to health, water, food, housing, self-determination, and life itself. Therefore, the protection of these rights should form part of the rationale for climate change protections in NI. These rights are protected by various human rights treaties:

- Article 1 of International Covenant on Economic, Social and Cultural Rights (ICESCR) protects the right to self-determination.<sup>3</sup>
- Article 11, ICESCR protects the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions.<sup>4</sup>
- Article 12, ICESCR protects the right to the enjoyment of the highest attainable standard of physical and mental health.<sup>5</sup>
- Article 2 of the European Convention on Human Rights (ECHR) protects the right to life.<sup>6</sup>
- ICESCR General Comment No 15 recognises the right to water under Articles 11 and 12 of ICESCR.<sup>7</sup>

The consultation document refers to the Paris Agreement, the first universal, legally-binding climate change agreement.<sup>8</sup> It calls upon States to respect, promote and consider their respective human rights obligations when taking action to address climate change:

Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health<sup>9</sup>, the rights of indigenous peoples<sup>10</sup>, local communities, migrants, children<sup>11</sup>, persons with disabilities<sup>12</sup> and people in vulnerable situations and the right to

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<sup>2</sup> United Nations, 'Climate Change' <https://www.un.org/en/sections/issues-depth/climate-change/index.html>

<sup>3</sup> Article 2 ICESCR.

<sup>4</sup> Article 11 ICESCR.

<sup>5</sup> Article 12 ICESCR.

<sup>6</sup> Article 2 ECHR. Article 2 provides that: 'Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.'

<sup>7</sup> E/C.12/2002/11 'General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)', 20 January 2003.

<sup>8</sup> UN Paris Agreement, 2015. The UK Government signed and ratified the Paris Agreement in 2016.

<sup>9</sup> Article 12 ICESCR.

<sup>10</sup> United Nations Declaration on the Rights of Indigenous Peoples, 13 September 2007.

<sup>11</sup> United Nations Convention on the Rights of the Child, 2 September 1990.

<sup>12</sup> United Nations Convention on the Rights of Persons with Disabilities, 13 December 2006.

development<sup>13</sup>, as well as gender equality, empowerment of women and intergenerational equity...

The NIHRC's engagement on climate change as a human rights issue dates to its role as the Chair of the Commonwealth Forum of National Human Rights Institutions from 2015-2018. In 2015, the Forum - the membership of which consists of national human rights institutions (NHRIs) across the Commonwealth - adopted the St Julian's Declaration on Climate Justice<sup>14</sup>. The Declaration acknowledges that "climate change-related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights'. It also recognises that:

Human rights obligations and commitments have the potential to inform and strengthen international and national policymaking in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes.

In 2020, the NIHRC co-drafted a consensus statement on climate change and human rights, which was subsequently adopted by NHRIs across the globe at the Global Alliance of National Human Rights Institution's annual conference December 2020. The GANHRI statement on Climate Change and the role of NHRIs<sup>15</sup> acknowledges that:

Climate change and its impacts are one of the greatest challenges of the day, directly and indirectly impacting on the full enjoyment of human rights, including social, economic and cultural rights as well as civil and political rights, the right to development and the right to a healthy environment.

Within the statement, NHRIs committed to:

contributing to climate action efforts in line with human rights obligations and principles of non-discrimination and participation, by reporting to and advising government bodies as well as other stakeholders on a human rights-based approach to climate mitigation and adaptation measures.

The statement also recognises that a human rights-based approach must be inclusive, with NHRIs committing to:

Ensure that human rights-based approaches towards sustainable and effective climate action integrate the expertise of local communities and traditional knowledge of indigenous peoples. Moreover, a human rights-based approach to climate actions require meaningful, effective and active participation of all relevant stakeholders in the designing and implementation of national, regional and international climate policies, an

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<sup>13</sup> Declaration on the Right to Development, 4 December 1986.

<sup>14</sup> Commonwealth Forum of National Human Rights Institutions, '*St Julian's Declaration on Climate Justice*', 1 November 2015.

<sup>15</sup> Global Alliance of Human Rights Institutions, '*GANHRI statement on Climate Change and the role of NHRIs*', 4 December 2020.

objective that we will promote in all relevant policy fora.

## **Taking a human rights-based approach**

The NIHRC recommends that the Department adopt a human rights-based approach to drafting a Northern Ireland Climate Change Bill. A human rights-based approach is underpinned by five key human rights principles: participation, accountability, non-discrimination and equality, empowerment and legality.<sup>16</sup>

The negative impacts of climate change are shown to be disproportionately borne by persons and communities already in disadvantageous situations owing to geography, poverty, gender, age, disability, cultural or ethnic background, among others, that have historically contributed the least to greenhouse gas emissions<sup>17</sup>. Adopting a human rights-based approach should ensure meaningful participation in the consultation, in particular with those groups disproportionately impacted, through initiatives such as community engagements to include the views of those living in rural communities.

The NIHRC welcomes the Department's commitment to conducting 'impact assessments and/or screening exercises' following the development of further proposals for the Bill. In addition, the NIHRC recommends that the Department conducts a human rights impact assessment, analysing proposals with the UK's international human rights obligations.

The NIHRC welcomes the consultation's acknowledgment that:

Tackling climate change and addressing its impacts is cross-cutting in Northern Ireland, with all Government Departments (bear) a collective responsibility for taking forward climate change action in their respective areas of responsibility.

The NIHRC welcomes the establishment of the Future Generations Working Group on Climate Change to ensure policy coherence and a cross-departmental approach.

## **2030 Agenda for Sustainable Development**

The NIHRC welcomes the consultation's reference to the Sustainable Development Goals and its recognition that climate is intrinsically linked to all 16 Goals of the 2030 Agenda for Sustainable Development.

In 2019, the NIHRC made a submission<sup>18</sup> to the Voluntary National Review of the United

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<sup>16</sup> Further guidance on adopting a human rights-based approach can be found on the European Network of National Human Rights Institutions website at: <http://ennhri.org/about-nhris/human-rights-based-approach/>

<sup>17</sup> United Nations Office of the High Commissioner for Human Rights, *The impacts of climate change on the effective enjoyment of human rights*

<sup>18</sup> NIHRC, 'Submission to Voluntary National Review of the United Kingdom of Great Britain and Northern Ireland on progress in meeting the Sustainable Development Goals', June 2019  
[https://www.nihrc.org/uploads/publications/NIHRC\\_Shadow\\_Report\\_to\\_UK\\_VNR-FINAL.pdf](https://www.nihrc.org/uploads/publications/NIHRC_Shadow_Report_to_UK_VNR-FINAL.pdf)

Kingdom of Great Britain and Northern Ireland on progress meeting the Sustainable Development Goals, in which the Commission addressed Goal 13: Climate Action and called on the NI Executive and NI Assembly to:

take effective steps to ensure NI plays its role in tackling and preventing climate change.

The NIHRC also recommended that:

effective steps are taken to expediently develop and implement NI-specific legislation and statutory targets.

## **EU exit**

The consultation makes no reference to leaving the European Union (EU) or the potential impact this could have on climate protections. Prior to the UK's departure from the EU in January 2021, the UK Government committed to ensuring 'no diminution of rights under the Rights, Safeguards and Equality of Opportunity' in the Withdrawal Agreement between the EU 27 and UK government.

This commitment was formalised in the Ireland/ Northern Ireland Protocol to the EU Withdrawal Agreement and given legal standing in the European Union (Withdrawal Agreement) Act 2020.<sup>19</sup> The protections under the 'rights, safeguards and equality of opportunity' chapter of the Belfast (Good Friday) Agreement will not be diminished as a consequence of leaving the EU. Notably, the Belfast Agreement commits to 'protecting and enhancing the environment'<sup>20</sup> and therefore, the commitment that NI law will keep pace with any EU developments applies.<sup>21</sup>

To ensure that the UK Government meets this commitment, a 'dedicated mechanism' has been created comprising of the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland.

From 1 January 2021 the Human Rights Commission and the Equality Commission will have new duties and powers to monitor, supervise, advise, enforce, and report on this commitment. The Commissions will also work with the Irish Human Rights and Equality Commission to provide oversight of human rights and equality issues that have an island of Ireland dimension as a consequence of the EU exit.

Within the 'Rights, Safeguards and Equality of Opportunity' section, the Belfast (Good Friday) Agreement commits to a new regional development strategy including 'protecting and enhancing the environment, producing new approaches to transport

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<sup>19</sup> EU (Withdrawal Agreement) Act 2020, Schedule 3.

<sup>20</sup> Belfast (Good Friday) Agreement 1998, Rights, Safeguards and Equality of Opportunity, para 2.

<sup>21</sup> EU Withdrawal Agreement, Protocol on Ireland/Northern Ireland, Article 2(1) and Annex 1.

issues and developing the advantages and resources of rural areas<sup>22</sup>.

The NIHRC recommends that Northern Ireland Climate Change Bill considers the 'non diminution' commitment to ensure that environmental protections are not reduced as a result of the UK's withdrawal from the EU.

The NIHRC recognises that this consultation marks the first stage in drafting a Northern Ireland Climate Change Bill, and awaits further details in order to provide more specific recommendations and advice on the inclusion of human rights.

If the NIHRC can be of any further assistance, please do not hesitate to get in touch.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Les Allamby', with a stylized flourish at the end.

**Les Allamby**  
**Chief Commissioner**

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<sup>22</sup> Belfast (Good Friday) Agreement 1998, Rights, Safeguards and Equality of Opportunity, para 2.