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(BORF 2 3)

| Chair's proposal   | Sinn Fein amendments   |
|--|------------------------|
| Preamble   |                        |
| Dignity and equality   |                        |
| Personal integrity   |                        |
| Freedoms   | C&P rights             |
| Social participation   | E&S rights             |
| Justice  | combine in C&P rights  |
| Citizens' rights   |                        |
| Rights particular to specific groups:<br>children and young people<br>women<br>victims | add victims to justice |
| General provisions   |                        |

## EQUALITY

### ECHR Article 14. Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

### REVISED PROPOSAL

1. Everyone is equal before and under the law and has the right to equal protection and equal benefit of the law. Equality includes the full and equal enjoyment of all rights and freedoms.
2. Public authorities shall respect and ensure equality to everyone within the jurisdiction without discrimination, direct or indirect, including harassment, of any kind on any basis such as age, birth status, culture, disability, ethnic origin, colour, gender, gender identity, **genetic status, health status**, language, marital or family status, nationality, national or social or economic origin, political or other opinion, irrelevant criminal record **or conflict related conviction**, pregnancy, race, religion or belief or lack of religion or belief, sex, sexual orientation, socio-economic **disadvantage**, status as a victim, Traveller identity, or other status of that person or any member of the person's family or any legal guardian or carer of the person.
3. Discrimination is any distinction, exclusion or restriction made on the basis of any of the grounds proscribed in paragraph 3 above which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise, on a basis of equality, of all human rights and fundamental freedoms in this Bill of Rights.
4. Public authorities shall, when the circumstances so warrant, take special and concrete measures to achieve and sustain equality, in particular by addressing inequalities affecting members of disadvantaged groups on the basis of any of the grounds proscribed in paragraph 3 above. These measures do not constitute discrimination.

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Option 2: delete when the circumstances so warrant

Option 3: replace shall with may

5. Public authorities shall respect the right to parity of esteem for the identity, ethos and aspirations of both main communities and ensure just and equal treatment on this basis.
6. Public authorities shall respect and ensure equality between females and males and reasonable accommodation to enable persons with disabilities to enjoy all human rights and fundamental freedoms on an equal basis with others.

MODEL 2 based on concept of "unfair discrimination" to be provided by Aideen

## RIGHT TO LIFE

### ECHR Article 2. Right to life

1. 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.
2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
  - a. in defence of any person from unlawful violence;
  - b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - c. in action lawfully taken for the purpose of quelling a riot or insurrection.

### REVISED PROPOSAL

1. Everyone has the right to life which shall be protected by law. No one shall be condemned to death or executed, judicially or criminally.
2. Public authorities shall ensure the independent, impartial, prompt and effective investigation of all suspected cases of unlawful, arbitrary or summary execution or suspicious death, including death in custody or care and where a complaint by relatives or other reliable report suggests unnatural death in these circumstances, whether the death occurred before or after the enactment of this legislation.
3. Public authorities shall ensure that the use of force is lawful only where its use is absolutely necessary and proportional:
  - a. to protect any person from unlawful violence;
  - b. to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - c. for the purpose of quelling a riot or insurrection.
4. Lethal or potentially lethal weapons shall never be used against children.

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5. Public authorities shall take all necessary measures, including legislation, to protect the right to life.
6. No one shall be involuntarily returned or extradited to a country where there are reasonable grounds for believing that he or she may become a victim of unlawful, arbitrary or summary execution.

## RIGHT TO PHYSICAL INTEGRITY

ECHR: no comparable provision

### REVISED PROPOSAL

1. Everyone has the right to physical and psychological integrity, including
  - a. the right to be free from all forms of violence, abuse, maltreatment and harassment, from either public or private sources, in particular gender-related violence and harassment and sectarian and paramilitary violence and harassment;
  - b. the right to be free from hate crime based on any proscribed ground of discrimination;
  - c. the right to be protected from sexual exploitation and sexual and other forms of trafficking;
  - d. the right to make decisions, within the law concerning reproduction;
  - e. the right to security in and, within the law, control over her or his body.
2. Public authorities shall take all appropriate measures to protect this right effectively.

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# FREEDOM FROM TORTURE AND ALL CRUEL, INHUMAN AND DEGRADING TREATMENT AND PUNISHMENT

## ECHR Article 3. Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

## REVISED PROPOSAL

1. No one shall be subjected to torture or to any cruel, inhuman or degrading treatment or punishment, including rape and other forms of sexual assault.
2. No one shall be involuntarily returned or extradited to a country where there are reasonable grounds for believing that he or she may become a victim of torture or cruel, inhuman or degrading treatment or punishment.
3. Public authorities must enact legislative provisions to prohibit the use or admissibility in judicial proceedings of statements or confessions obtained through torture or other prohibited treatment or threats of such.

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### FREEDOM FROM SLAVERY AND FORCED LABOUR

#### ECHR Article 4. Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this article the term "forced or compulsory labour" shall not include:
  - a. any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - b. any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
  - c. any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - d. any work or service which forms part of normal civic obligations.

#### REVISED PROPOSAL

1. No one shall be held in slavery or servitude, including domestic servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this article the term "forced or compulsory labour" shall not include:
  - a. any work required to be done in the ordinary course of lawful detention or during conditional release from such detention, provided that the work is a positive element of rehabilitation and not a punishment;
  - b. any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - c. any work or service which forms part of normal civic obligations.
4. Public authorities shall take all appropriate measures to make slavery and other forms of forced labour, including

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trafficking in and exploitation of human beings and enforced prostitution, offences punishable by law and to protect and assist victims of slavery, forced labour, trafficking, exploitation and enforced prostitution with full respect for their human rights, taking into account in particular the age, gender and special needs of victims.

## RIGHT TO LIBERTY AND SECURITY OF THE PERSON

### ECHR Article 5. Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
  - a. the lawful detention of a person after conviction by a competent court;
  - b. the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
  - c. the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
  - d. the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
  - e. the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
  - f. the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3. Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

REVISED PROPOSAL

1. Everyone has the right to liberty and security of person. No one shall be subjected to unlawful or arbitrary deprivation of liberty.
2. Deprivation of liberty may be permitted by law, in accordance with a procedure prescribed by law,
  - a. where it is reasonably considered necessary to prevent a person committing an offence or fleeing after having done so;
  - b. for the purpose of bringing a person before the competent legal authority on reasonable suspicion of having committed an offence;
  - c. after conviction by a competent court, in accordance with the order of the court;
  - d. for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
  - e. for the prevention of the spreading of infectious diseases;
  - f. where it is reasonably considered necessary for the safety of the person or others.
3. Everyone who is arrested or detained shall be informed promptly, in a language which she or he understands and which is accessible and appropriate to her or his age, of the reasons for the detention or arrest and of any charge.
4. Everyone who is arrested or detained has the right to communicate promptly with, and to be visited by, a medical practitioner, a legal representative of choice and, under appropriate supervision if the investigation so requires, a family member.
5. Everyone arrested or detained shall be brought promptly, unless released, before a judge or other person authorised by law to exercise judicial power to determine the lawfulness and necessity of the detention.
6. Everyone who is deprived of liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of the detention shall be decided speedily

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by a court and release ordered if the detention is not lawful.

7. Everyone charged with a criminal offence shall be entitled to trial within a reasonable time.
8. Everyone charged with a criminal offence shall be entitled to release pending trial unless a court decides that detention on remand is required for the protection of the public, the protection of witnesses and evidence or to ensure the accused person's appearance for trial. Release may be conditioned by guarantees to appear for trial.
9. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation and an effective remedy.
10. No one shall be deprived of liberty on the ground of failure to pay maintenance or a debt, fine or tax, unless the court considers that the person has wilfully refused to pay despite having the means to do so and that the failure to pay constitutes a contempt of the court.

## RIGHT TO PRIVACY AND FAMILY LIFE

### ECHR Article 8. Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

### ECHR Article 12. Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

## CHAI R'S PROPOSAL

1. Everyone has the right to private and family life. No one shall be subjected to unlawful or arbitrary interference with his or her privacy, home or personal communications.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others, including the right to freedom from domestic violence, and where in the best interests of the child.
3. Everyone of marriageable age has the right to marry or enter into civil partnerships according to the laws governing the exercise of this right. Everyone has the right to found a family, recognising that families exist in diverse forms. No family may be subjected to discrimination on any of the grounds proscribed in this Bill of Rights.

## FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

### ECHR Article 9. Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

### CHAI R'S PROPOSAL

1. Everyone has the right to freedom of thought, conscience and religion, including freedom to change his or her religion or belief and freedom, either alone or in community with others and in public or private, to manifest his or her religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.
3. No one may be compelled to take an oath or to take an oath in a manner that is contrary to his or her religion or belief or that requires him or her to express a belief that he or she does not hold.

### Sam Hutchinson's proposed addition

1. The right to freedom of thought, conscience, religion or belief shall include the freedom to establish and maintain appropriate charitable or humanitarian institutions.

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2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.
3. The ethos of churches and other public or private organisations based on religion or belief shall be respected in the employment of staff and in maintaining their charitable or humanitarian institutions. This right shall be exercised in accordance with the relevant national or European law.

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### ECHR Article 10. Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

### CHAI R'S PROPOSAL

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by any public authorities and regardless of frontiers.
2. Everyone has the right to information, including information about human rights and about the operations of government.
3. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. It may also be subject to consideration of the best interests of children.
4. These freedoms do not include freedom for advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

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5. This article shall not prevent public authorities from licensing broadcasting, television or cinema enterprises.

## FREEDOM OF ASSOCIATION AND OF PEACEFUL ASSEMBLY

### ECHR Article 11. Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

### CHAI R'S PROPOSAL

1. Everyone has the right to freedom of association with others and to freedom of peaceful assembly.
2. Freedom of association includes
  - a. the right to form and to join a political party;
  - b. the right to form and to join trade unions for the protection of her or his interests and to participate in trade union activity, including the right to strike and the right to engage in collective bargaining.
3. Freedom of peaceful assembly includes the right to participate in assemblies, processions and parades for cultural, political and religious purposes.
4. The scope of these freedoms should be commensurate with that provided in international human rights law. In particular, no restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, the prevention of disorder or crime, the protection of health or morals or the protection of the rights and freedoms of others.

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5. These freedoms do not include freedom for advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.
6. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the public authorities where such exercise does not concern trade union rights.

## RIGHT TO CULTURE, LANGUAGE AND IDENTITY

ECHR: no comparable provisions

### CHAIR'S PROPOSAL

1. Everyone belonging to a cultural, ethnic, linguistic or religious minority or community shall have the right, individually and with other members of that minority or community, to enjoy her or his own culture, to profess and practise her or his own religion and to use her or his own language. No one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights or inconsistently with the rights and freedoms of others.
2. Everyone belonging to cultural, ethnic, religious or linguistic minorities or communities may exercise the rights and enjoy the freedoms recognised in the Bill of Rights individually as well as in community with others.
3. Everyone has the right to protection from coercive cultural assimilation by public bodies or as a result of public policy.
4. Everyone born within the jurisdiction has the right to identify himself or herself and be accepted as Irish or British or both, as he or she may choose.
5. Everyone belonging to a cultural, ethnic, linguistic or religious minority or community shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights connected to that choice.
6. Everyone belonging to a linguistic minority or community has the right to learn his or her minority or community language.
  - a. Everyone belonging to a linguistic minority or community that is indigenous has the right to be educated in and, where appropriate, through their language.
  - b. Everyone belonging to a linguistic minority or community that is not indigenous has the right to be educated in their language where there are

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- substantial numbers of users and sufficient demand.
- c. These rights are without prejudice to the learning of English or the teaching in English.
7. Public authorities shall develop laws, policies, and practice relating to indigenous minority languages according to the situation of each language and on the basis of
- a. recognition of these languages as an expression of cultural wealth;
  - b. the respect of the geographical area of each language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the language in question;
  - c. the need for resolute action to promote these languages in order to safeguard them;
  - d. the facilitation and encouragement of the use of these languages in public and private life;
  - e. the maintenance and development of links between groups using these languages and other groups employing a language used in identical or similar form, as well as the establishment of cultural relations with other groups using different languages;
  - f. the provision of appropriate forms and means for the teaching and study of these languages at all appropriate stages;
  - g. the provision of facilities enabling non-speakers of one of these languages living in the area where it is used to learn it if they so desire;
  - h. the promotion of study and research on these languages at universities or equivalent institutions;
  - i. the promotion of appropriate types of exchanges for those languages used also in other jurisdictions.
8. Nothing in this article shall prevent the collection and analysis of appropriate information, including statistical and research data, to enable the monitoring of the enjoyment of human rights under this Bill of Rights by persons who are members of or are identified with or have backgrounds associated with a traditional cultural, ethnic, linguistic or religious minority or community so that laws, policies and programmes can be formulated and implemented to give better effect to this Bill of Rights.

## RIGHT TO NATIONALITY

ECHR: no comparable provisions

### CHAIR'S PROPOSAL

1. Everyone has a right to a nationality. No one shall be arbitrarily deprived of his or her nationality nor denied the right to change his or her nationality.
2. Everyone born within the jurisdiction has a right to British nationality and to recognition of any Irish nationality that he or she may hold.
3. No one's nationality shall be affected automatically, without his or her consent, by entering a marriage or civil partnership or the dissolution of a marriage or civil partnership or a change of nationality by the other person during the marriage or civil partnership.
4. The laws on nationality shall discriminate on any ground proscribed in the Bill of Rights other than the ground of nationality itself.

## RIGHT TO EDUCATION

### ECHR First Protocol Article 2. Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

### CHAIR'S PROPOSAL

1. Everyone has the right to an education and access to lifelong learning, appropriate to their needs, that enables development to her or his fullest potential, the achievement of independence, economic and social inclusion and participation in the life of the community to the maximum extent possible.
2. Everyone is entitled to accessible and free pre-school, primary and post-primary education. Primary and post-primary education shall be compulsory.
3. Everyone is entitled to equal access to higher and further education, on the basis of capacity, without discrimination on any ground proscribed in the Bill of Rights.
4. Everyone has the right to found educational establishments with due respect for democratic principles subject always to the child's right to an effective education, to the other provisions of this article and of the Bill of Rights and to the requirement that the education given in such institutions conforms to such minimum standards as may be laid down by the public authorities.
5. Public authorities shall take all appropriate measures to achieve the progressive realisation of this right, to the maximum of their available resources.
6. Public authorities shall take all appropriate measures to ensure that
  - a. everyone receives an education that promotes equality, respect, human rights, understanding and

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- effective communication among people of different identities
  - b. the education of each child is directed to the development of respect for the child's parents and knowledge of and respect for
    - i. the child's own cultural identity, language and values
    - ii. the cultural identity, language and values of the family and community to which the child belongs
    - iii. the shared national values of the country in which the child is living, taking into account the particular circumstances of Northern Ireland, and any other country from which the child may originate and
    - iv. cultures different from the child's own.
7. Public authorities shall take all appropriate measures to ensure that the child's rights are fully respected in the education sphere, including rights
- a. to have all decisions affecting the child based on the child's best interests
  - b. to participate in all decisions affecting the child and have the child's views taken into account and given due weight in accordance with child's age and maturity
  - c. to be treated and provided with opportunities on the basis of equality and without discrimination and
  - d. to proper process and treatment in disciplinary matters
8. Public authorities shall take all appropriate measures to ensure that the child and all others in the educational system are free from harassment and bullying.
9. Public authorities shall respect, on the basis of equality and to the greatest extent possible, the right of parents to ensure education and teaching for their children in conformity with their cultural, linguistic, pedagogical, philosophical and religious and other convictions, subject to best interests of the child, the views of the child being given due weight in accordance with child's age and maturity. This right of parents will be supported by the distribution of public funding on the basis of equitable, transparent and non-discriminatory criteria determined by relevant public authorities.

## RIGHT TO PROPERTY

### ECHR First Protocol Article 1. Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

### CHAIR'S PROPOSAL

1. Everyone, including legal persons, is entitled to the peaceful enjoyment of property. No one shall be deprived of personal possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
2. Public authorities may legislate as necessary to control the use of property in the public interest or to secure the payment of taxes or other contributions or penalties.

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### RIGHT TO AN ADEQUATE STANDARD OF LIVING

ECHR: no comparable provision

#### CHAIR'S PROPOSAL

1. Everyone has the right to an adequate standard of living, including adequate food, water, energy, fuel and clothing, and to the improvement of living conditions beyond bare adequacy.
2. Public authorities shall take all appropriate measures, including legislative measures, to achieve the progressive realisation of this right, to the maximum of available resources.

## RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Everyone has the right to the highest attainable standard of physical and mental health and well-being
2. Everyone has the right to access to appropriate healthcare and social care services, including reproductive health care, provided on the basis of free and informed consent and confidentiality.
3. Public authorities shall take all appropriate measures, including legislative measures, to achieve the progressive realisation of this right, to the maximum of available resources.
4. Public authorities shall ensure the provision of healthcare that is appropriate to the needs of particular groups, including women and children, victims of violence, including sexual violence, persons with social and geographical disadvantage and those with a disability.
5. No one shall be refused emergency medical treatment and essential primary healthcare.

## RIGHT TO HOUSING

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Everyone has the right to adequate housing that is affordable, accessible, habitable, safe and culturally appropriate, with access to public services and social facilities.
2. No one may be evicted from his or her home without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.
3. Everyone has the right to appropriate emergency accommodation, in particular if required upon eviction.
4. Public authorities shall take all appropriate measures, including legislative measures, to achieve the progressive realisation of this right, to the maximum of available resources.

## RIGHT TO A SUSTAINABLE ENVIRONMENT

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Everyone has the right to a sustainable, healthy and safe environment.
2. Everyone is entitled to have the environment protected and restored, for the benefit of present and future generations, through reasonable legislative and other measures that
  - a. prevent pollution and ecological degradation;
  - b. promote conservation; and
  - c. secure sustainable development and use of natural resources while promoting economic and social development.
3. Public authorities shall provide accurate, accessible and timely information and communicate, consult and foster participation in planning and decision making on environmental matters.

## RIGHT TO WORK

ECHR: no comparable provision

## CHAIR'S PROPOSAL

1. Everyone has the right to contribute to the economic and social life of society, including the right to work and the right to choose freely and practise a trade or profession.
2. Everyone has the right to just and favourable conditions of work and terms of employment, irrespective of the status of the worker and the nature of the work relationship, including
  - a. fair wages and equal remuneration for like work and work of equal value without distinction of any kind, consistent with a decent living and human dignity;
  - b. safe and healthy working conditions;
  - c. freedom from harassment; and
  - d. periodic holidays with pay and remuneration for public holidays.
3. Women have the right to remuneration and conditions of work equal to those enjoyed by men, with equal pay for like work and work of equal value.
4. Migrant workers shall enjoy treatment not less favourable than that enjoyed by nationals in respect of remuneration, conditions of work and terms of employment. Derogations in private contracts of employment from this principle of equality of treatment shall be invalid.
5. The child has the right to protection from economic exploitation and from performing any work that is likely to interfere with her or his physical, mental, spiritual, moral or social development. In all cases the best interests of the child should be paramount.
6. All workers, including those working in the home or in informal employment are entitled to rest, leisure, respite and reasonable limitation of working hours, as well as appropriate provision for retirement.

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7. Public authorities must support, encourage and provide for
  - a. the continuous development of skills, knowledge and understanding that are essential for employability and fulfilment; and
  - b. economic and social conditions to ensure full employment.
  
8. Public authorities must ensure equality of opportunity and fair treatment for women and for workers with family and caring responsibilities, including women who are pregnant, to
  - a. provide appropriate education and training for full participation in economic life;
  - b. take account of these workers' needs in terms of conditions of employment, including access to pension benefits in relation to time out of the workforce for caring responsibilities;
  - c. enable them to enter and remain in and leave employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of paid parental leave and vocational guidance and training; and
  - d. develop and promote services, including child day-care services and other childcare arrangements and adequate transport, to enable workforce participation.
  
9. To ensure the safety of children in relation to work, public authorities shall
  - a. provide for a minimum age or minimum ages for admission to employment;
  - b. provide for age appropriate regulation of the hours, terms and conditions of employment; and
  - c. provide for appropriate penalties or other sanctions for breaches of these rights.
  
10. Public authorities must guarantee the right of all individuals to work, including to conduct a business, free from paramilitary activity, other violence and threats, harassment, extortion and blackmail.

## RIGHT TO SOCIAL SECURITY

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Everyone has the right to social security, including social assistance and social insurance.
2. Public authorities shall take all appropriate measures, including legislative measures, to achieve the progressive realisation of this right, to the maximum of available resources.

## 5. JUSTICE

### RIGHT TO A FAIR AND NON-DISCRIMINATORY JUSTICE SYSTEM

ECHR: no comparable provision

#### CHAIR'S PROPOSAL

1. Everyone has the right to a system of justice, including courts and tribunals, judges and lawyers, prosecutors, police and informal justice mechanisms, that is independent and fair, does not discriminate on any proscribed ground, respects human rights, implements the provisions of this Bill of Rights and promotes the interests of justice in society generally.
2. Everyone has the right to legal and administrative action that is lawful, reasonable and procedurally fair.
3. Everyone has the right to information, held by public authorities or any other person or entity, required for the exercise or protection of legal and human rights. No one shall not make disclosure of confidential information likely to harm any person where the disclosure is not required in the interests of justice
4. Everyone has the right to have his or her individual situation and needs, including those relating to age, gender, race, disability, religion, sexual orientation, gender identity, status as a carer, physical or mental condition and moral, cultural or political beliefs, taken into account by those exercising power within the justice system. A person belonging to an especially vulnerable group is entitled to particular consideration.
5. Public authorities shall ensure the provision of all the institutions of a independent system of justice, including courts and tribunals, police, correctional services, legal defence and legal aid services and other institutions and mechanisms, and shall provide appropriate mechanisms of appeal and review and monitoring to ensure that justice is done and human rights are protected.
6. Justice officials shall at all times fulfil the duties imposed upon them by law, serving the community and protecting

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others against illegal acts, consistent with a high degree of responsibility. They shall respect and protect human dignity and maintain and uphold the human rights of all persons in accordance with national and international law. They shall be recruited and appointed on the basis of objective and non-discriminatory criteria relating to qualifications and experience, so as to ensure highly skilled justice officials drawn from all sectors of the society they serve.

7. All justice officials shall promote community participation in decisions concerning security and criminal justice matters affecting the public, with particular regard to the equal participation of women in the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution.

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### NO PUNISHMENT WITHOUT LAW

#### ECHR Article 7. No punishment without law

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

#### CHAI R'S PROPOSAL

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was a war crime, crime against humanity or genocide.

## RIGHT TO A FAIR TRIAL

### ECHR Article 6. Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
  - a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - b. to have adequate time and facilities for the preparation of his defence;
  - c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
  - d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

### CHAI R'S PROPOSAL

1. In the determination of his or her human rights and obligations or of any criminal charge, everyone is entitled to a fair and public hearing without undue delay by an independent and impartial tribunal established by law.
2. Everyone tried for a criminal offence has the right to public trial and judgement but the press and public may be excluded from all or part of the trial in the interests of

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morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

3. Everyone has a right to an appeal to a higher tribunal according to law.
4. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
5. Everyone charged with a criminal offence has the following minimum rights:
  - a. to be informed promptly, in appropriate and accessible language which he or she understands, of his or her rights in relation to the criminal process;
  - b. to be informed promptly, in appropriate and accessible language which he or she understands and in detail, of the nature and cause of the charge;
  - c. to remain silent;
  - d. to be released on bail pending trial unless a court otherwise determines, taking into consideration the safety of the public and the likelihood that accused would not attend for trial or commit a serious offence during release or interfere with the proper administration of justice;
  - e. to have adequate time and facilities for the preparation of a defence;
  - f. to trial by jury, unless otherwise provided by law on objective and reasonable grounds;
  - g. to defend himself or herself in person or through legal assistance of his or her own choosing
  - h. to free legal assistance and representation, if without sufficient means to pay for legal assistance, when the interests of justice so require;
  - i. to examine or have examined witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;
  - j. to have excluded from the process any evidence obtained in a manner that violates any right in the Bill of Rights

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- k. to have the free assistance of an interpreter if unable to understand or speak the language used in court.
6. No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted in accordance with the law and criminal justice procedure, unless
- a. the offence is of a serious nature and new evidence has come to light rendering it manifestly in the public interest to proceed to a retrial, and
  - b. the new evidence adds substantially to the strength of the prosecution or defence case and could not, with due diligence, given the investigative mechanisms operating at the relevant time, have been adduced at the time of the original hearing.
7. No child or other vulnerable person should be subjected to the ordinary criminal process unless the seriousness of the offence and the interests of justice so require, the level of maturity and understanding of the person being taken into account in determining the appropriate process.
8. A lawyer, as an officer of the court, shall not be subject to hindrance or intimidation or harassment of any kind in the performance of duties in the justice system.

## RIGHT TO HUMANE CONDITIONS OF DETENTION

ECHR: no comparable provisions

### CHAIR'S PROPOSAL

1. Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person, without deprivation or restriction of any human right except to the extent demonstrably necessitated by the fact of detention.
2. Everyone deprived of liberty has the right to be informed promptly, in appropriate and accessible language which he or she understands and in detail, of the reason for the deprivation of liberty, of the procedure applicable to him or her and of how to challenge that deprivation in a court or tribunal.
3. Everyone deprived of liberty has the right to have the fact of the deprivation of liberty and the place of detention notified at the earliest opportunity to a person of his or her choice outside the detention system.
4. A person convicted of a criminal offence is to treatment that enables reformation and social rehabilitation, develops a sense of responsibility and encourages attitudes and skills to assist successful return to society.
5. Women, children, people with disabilities and other individuals with particular needs and vulnerabilities are entitled to have their particular needs and their rights to privacy and dignity catered for within the detention regime, including through the provisions of appropriate separate accommodation and specialised services that correspond to their situations and needs.
6. Public authorities shall ensure the separation in detention
  - a. of unconvicted persons from convicted persons
  - b. of children from adults
  - c. of women from men.
7. Public authorities shall provide for the safety, health, hygiene and appropriate nourishment of persons in

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detention. This includes appropriate accommodation, exercise, opportunities for education and training where detention is lengthy, provision for communications and meetings with family and legal advisers, and access to religious and other counsellors and to health and medical personnel, subject only to conditions and restrictions as specified by law to the extent that these are reasonable in the circumstances. Detainees shall be protected from violence, intimidation and harassment.

8. Public authorities shall ensure provision of adequate support for the families and children of prisoners and ex-prisoners.
9. Public authorities shall provide for the reintegration and resettlement of the former prisoners into society under the best possible conditions.

## THE RIGHTS OF VICTIMS AND WITNESSES TO A FAIR TRIAL

ECHR: no comparable provisions

### CHAIR'S PROPOSAL

1. Everyone who is a victim of or witness to a crime or a human rights violation is entitled to support and assistance in the criminal justice system to enable him or her to give the best possible evidence, free from intimidation and harassment and from fear of victimisation. In particular, a victim of sexual crime, child abuse and/or domestic violence has the right to be treated with respect and sensitivity by appropriately trained justice officials.
2. Following any conviction in a trial for a serious offence and prior to sentence being delivered, a victim has the right to make a statement orally or in writing in open court indicating the impact of the crime on himself or herself and to close relatives and associates.

## RIGHTS OF CHILD WITNESSES AND VICTIMS OF CRIME

ECHR: no comparable provisions

### CHAIR'S PROPOSAL

#### CHILD VICTIMS AND WITNESSES

1. A child witness has the right to support throughout court proceedings to ensure that she or he feels safe, is heard in court and is able to give evidence effectively.
2. Public authorities shall take all necessary measures to ensure that
  - a. children are continuously and appropriately informed throughout court proceedings;
  - b. children are dealt with in a respectful and age appropriate manner in a child appropriate environment free from exploitation, intimidation and abuse;
  - c. children are only cross-examined by trained individuals with child specific expertise;
  - d. court proceedings should be taken forward without delay.

## RIGHTS OF CHILDREN AND YOUNG PEOPLE IN THE JUSTICE SYSTEM

ECHR: no comparable provisions

### CHAIR'S PROPOSAL

1. Every person under the age of eighteen years has the right to be treated as a child for the purposes of the administration of criminal justice.
2. The every child alleged to, accused of, or recognised as having infringed the criminal law has the right to be treated in a manner that
  - a. is consistent with the promotion of the child's human rights and dignity;
  - b. reinforces the child's respect for human rights and the rights of others;
  - c. takes into account the child's age; and
  - d. is directed towards the child's reintegration and assumption of a constructive role in society.
3. In all decisions in the administration of justice affecting a child, the best interests of the child shall be the paramount consideration.
4. Every child has the right to be heard in any proceedings in the justice system affecting that child and to have his or her views given due weight according to the age, maturity and understanding of the child.
5. Public authorities shall ensure that children are held responsible for any infringement of the law in a manner appropriate to the age, understanding and maturity of the child.
6. No child under the age of 16 will be held criminally responsible. The Public Authority shall progressively increase the age of criminal responsibility to 18. STILL SUBJECT TO DISCUSSIONS
7. The Public authorities shall provide a range of procedural and sentencing options as alternatives to the criminalisation of children, including family based support and community based diversion, that are in the child's

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best interests. They shall ensure that all programmes or initiatives are effectively regulated and monitored to protect the child.

8. A child tried for a criminal a criminal offence has the right to be tried in a children's court under a special procedural law that ensures an appropriate environment and procedure, having regard
  - a. to the child's age, maturity, needs, vulnerability and understanding;
  - b. the child's right to have measures taken to ensure his or her participation in and understanding of the criminal proceedings; and
  - c. the child's right to have his or her privacy respected before, during and after the proceedings.
9. A child shall not be detained or imprisoned except as a measure of last resort and in accordance with the law and then only for the shortest appropriate period of time. A child in detention shall be treated in a humane manner that conforms with human dignity.
10. No child in the criminal justice system shall be subject to the use of force or instruments of restraint except where all other methods have been exhausted, and only in exceptional circumstances and where there is a danger to the child or others. Physical restraint and use of force should not cause physical injury, humiliation or degradation, and should only be used for the shortest period of time.
11. Every child in detention has the right prior to release to appropriate preparation for re-integration into society and upon release to appropriate care and resettlement support.

## INQUESTS

ECHR: no comparable provisions

### CHAIR'S PROPOSAL

1. The family and friends of a deceased have the right to a timely and effective inquest and, in cases where the State may have some responsibility for the death, to be legally represented by a lawyer of their own choosing, if necessary with the assistance of legal aid, in both the preparation of any case they wish to make and during the proceedings themselves.
2. In the interests of justice, any person alleged to be responsible for or connected with a death is a compellable witness for the purposes of an inquest.

## 6. CITIZEN'S RIGHTS

### RIGHT TO PARTICIPATION IN PUBLIC LIFE

#### ECHR First Protocol Article 3. Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

#### ECHR Article 16. Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

(Articles 10, 11 and 14 deal with freedom of expression, freedom of assembly and association and the prohibition of discrimination respectively)

### CHAIR'S PROPOSAL

1. Everyone has the right and shall have the opportunity without discrimination:
  - a. to participate freely in public and political life and affairs, either directly or through freely chosen representatives;
  - b. to vote and to be elected at periodic elections which shall be by universal and equal suffrage and by secret ballot **on the basis of proportional representation**, guaranteeing the free expression of the will of the electors;
  - c. **to governance arrangements based on the principles of proportionality and cross-community decision-making**; and
  - d. to access public service.
2. Public authorities shall take appropriate measures to
  - a. ensure to everyone full and effective participation on an equal basis in cultural, social and economic life and in public affairs, particularly those areas affecting their rights

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- b. encourage participation of women in political and public life including to achieve balance in the numbers of men and women holding domestic and international public positions and formulating government policy.

## FREEDOM OF MOVEMENT

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Everyone has the right to freedom of movement and freedom to choose his or her residence.
2. Everyone shall be free to leave Northern Ireland.
3. No one with the right to enter Northern Ireland shall be arbitrarily deprived of that right.
4. Every citizen has the right to a passport.
5. These rights shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others. In this context the particular needs of trafficked people, domestic workers and the victims of domestic violence must be taken into account.

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### RIGHT TO CHOOSE A NOMADIC OR SEDENTARY LIFESTYLE

ECHR: no comparable provision

#### CHAIR'S PROPOSAL

1. Everyone has the right to choose a nomadic or sedentary lifestyle and to change from one lifestyle to the other.

## RIGHT TO COMMUNICATE

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Everyone has the right to communicate with any public authority through an interpreter, translator or facilitator when this is necessary for the purposes of accessing, in a language that he or she understands, information or services essential to his or her life, health or security. In this context "language" includes sign language and other forms of communication.
2. Everyone has the right to communicate with any public authority in Irish.

## 7. RIGHTS PARTICULAR TO SPECIFIC GROUPS

### A. Children and young people

#### RIGHTS OF THE CHILD

ECHR: no comparable provision

#### CHAIR'S PROPOSAL

1. A child is entitled to all human rights and fundamental freedoms on the basis of equality and without discrimination. A child is a human being below the age of eighteen years.

## BEST INTERESTS OF THE CHILD

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. In all actions and decisions, including policy and legislative decisions, concerning or affecting children, whether undertaken by public or private institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the paramount consideration.

## RIGHT TO PARTICIPATE

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Every child has the right to have his or her views respected, considered and given due regard in all matters affecting the child, taking into consideration the child's age, level of understanding, maturity and evolving capacities.
2. Every child shall be informed of this right and be provided with appropriate opportunities to be heard in any matter, including judicial or administrative proceedings, affecting the child, directly or through a representative or an appropriate body.
3. Every children shall have the right to freedom of expression including the freedom to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. In seeking, receiving and imparting such information the child shall be protected from information and material injurious to his or her well-being or safety.
4. Public authorities shall promote and protect this right.

## RIGHT TO FAMILY LIFE AND CARE

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Every child has the right to grow up in a stable, safe and secure family environment. A child who for whatever reason is deprived of that environment is entitled to special protection and assistance.
2. Public authorities shall respect the rights, responsibilities and duties of parents, legal guardians and carers to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of his or her rights.
3. Public authorities shall provide all appropriate support and resources necessary to assist parents, carers and legal guardians to carry out their child rearing responsibilities and shall support them in enabling children to grow up to realise their full potential. This obligation shall end only when it is no longer required and shall in all circumstances be based on the best interests of the child.
4. Any alternative care shall be determined by the best interests of the child alone and shall be provided in a way that enables children to enjoy all their rights. Children leaving alternative care should be prepared for and supported towards independent living.

## FREEDOM FROM ABUSE AND EXPLOITATION

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Every child has the right to be protected from all forms of violence, abuse, maltreatment, neglect and exploitation including sexual abuse, child prostitution, trafficking and involvement in pornography.
2. Public authorities shall take all appropriate legislative, administrative, social and educational measures in the best interests of the child to protect the child from all forms of abuse and exploitation, including through
  - a. effective social programmes to provide support to the child and his or her carers; and
  - b. other forms of prevention and for the identification, reporting, referral, investigation, treatment and follow-up of instances of child mistreatment and, as appropriate, for judicial involvement.

## RIGHT TO PLAY

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Every child has the right to engage in appropriate play, sport and recreational activities, to participate in cultural and artistic life and to rest and leisure.
2. Public authorities shall promote and protect this right, ensure the provision of all appropriate resources and enable access to cultural, artistic, recreational, sport and leisure activity.

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### CHILDREN AND ARMED CONFLICT (P12, CYP)<sup>1</sup>

1. The Public Authority shall not conscript any child into their armed forces.
2. The Public Authority shall ensure that persons who have not attained the age of 18 years are not recruited into their armed forces.
3. The Public Authority shall ensure that children shall not be directly engaged or involved in any capacity in hostilities, including their use as informers.
4. The Public Authority shall take all necessary measures to protect every child from all violence resulting from armed conflict.
5. The Public Authority shall take all necessary measures to guarantee that children affected by violence and conflict have access to prompt and appropriate support and all necessary services for their physical and psychological recovery and their social integration which is in accordance with the best interests of the child.
6. The Public Authority shall take all necessary measures to prevent children being recruited or otherwise involved with any non-state armed group.

### SUBJECT TO CONTINUING CONSULTATIONS

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<sup>1</sup> Provision 12, page 26, report of the children and young people's working group.

## B. Women

### GENDER EQUALITY (P3, W)<sup>2</sup>

Public authorities must ensure equality between men and women in all areas and must eliminate discrimination on grounds of gender. The term “discrimination on grounds of gender” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. This provision does not preclude any law, program or activity that has as its object the amelioration of conditions of individuals or groups disadvantaged because of sex. Further, public authorities are under an obligation to take appropriate positive measures to eliminate discrimination and pursue equality on grounds of gender.

Chair’s comment: mainstreamed into the general equality provision

### EQUALITY IN PUBLIC LIFE (P7, W)<sup>3</sup>

Public authorities must take active measures to facilitate full participation of women in political and public life including, where appropriate, by the use of temporary special measures to achieve balance in men and women holding domestic and international public positions and the equal representation of men and women in the formulation of government policy.

Chair’s comment: mainstreamed into the political participation provision

### ECONOMIC PARTICIPATION (P8, W)<sup>4</sup>

The state shall take active measures to facilitate women’s equal and effective access to the economy, including, in particular, by taking appropriate steps in relation to:

- a. education, including vocational education and career guidance, to eliminate gender stereotyping, and to ensure the effective and accessible provision of educational opportunities to pregnant adolescents, young mothers, carers and older women;
- b. the provision of suitable affordable childcare;

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<sup>2</sup> Provision 3, page 27, report of the women’s working group.

<sup>3</sup> Provision 7, page 36 report of the women’s working group.

<sup>4</sup> Provision 8, page 39, report of the women’s working group.

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- c. the provision of effective support to carers;
- d. transport policy.

Chair's comment: mainstreamed into the right to work provision

## WOMEN'S RIGHT TO LIVE FREE FROM VIOLENCE

ECHR: no comparable provision

### CHAIR'S PROPOSAL

1. Every woman has the right to live free from violence, including any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.
2. Every woman who is a victim of violence or a witness to the infliction of violence has the right within the justice system to protection and support that is appropriate and sensitive to her situation.
3. Public authorities shall take all appropriate measures, including legislative measures, to prevent and eliminate and provide redress for all forms of violence against women and girls, whether physical, sexual, emotional or psychological occurring in public or in private life.

## C. Victims

ECHR: Article 13. Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Note: This article is NOT included in the schedule to the Human Rights Act 1998.

## CHAIR'S PROPOSALS

### VICTIMS OF THE CONFLICT

1. Every victim of the conflict has the right to full disclosure of the truth in relation to the injury suffered as a result of the conflict, including the right to access all relevant information.
2. Every victim of the conflict has the right to necessary care and support in accordance with his or her need.
3. Public authorities shall ensure that victims of the conflict have access to necessary care and support that is gender appropriate, including personal security and access to health and mental health care, income support, employment, training and education.
4. "Victims of the conflict" are the surviving physically and psychologically injured of violent, conflict related incidents and those close relatives or partners who care for them, along with close relatives or partners who mourn their dead.

## VICTIMS OF CRIME OR OF HUMAN RIGHTS VIOLATIONS

1. Every victim of crime or a human rights violation has the right to justice and redress.
2. Every victim of crime or a human rights violation has the right to
  - a. have the crime or violation in question investigated thoroughly, promptly and impartially
  - b. make representations and to be kept informed at every stage of the investigative, judicial or administrative process, particularly where their personal interests are affected
  - c. full disclosure of the truth relating to the relevant crime or human rights violation, including through access to any relevant information
  - d. redress, through judicial and other measures, civil as well as criminal, formal and informal
  - e. necessary care and support in accordance with his or her need.
3. Public authorities shall provide appropriate assistance and support to victims throughout informal, investigative, judicial and administrative processes, including protecting their safety and privacy, keeping them informed and avoiding unnecessary delays.
4. Public authorities shall provide all victims of crime or human rights violations with access to mechanisms of justice and redress which are expeditious, fair, inexpensive, gender appropriate, transparent and accessible, in keeping with international standards, and provided for by domestic legislation and shall provide information to victims about accessing these mechanisms.
5. Public authorities shall ensure that victims of crime or human rights violations have access to necessary care and support that is gender appropriate including personal security and access to health and mental health care, income support, employment, training and education.
6. Public authorities shall endeavour to provide compensation to victims of crime or human rights violations who have sustained significant bodily injury or

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impairment of physical or mental health as a result of violent crime and, where appropriate, to the victims' family.

7. Recognition as a victim of crime is not dependent on whether the crime or human rights violation is reported to the police or other authorities, whether a perpetrator is identified, apprehended, prosecuted or convicted or whether there is a familial relationship between the perpetrator and the victim. The term 'victims' also includes, where appropriate, the immediate family or dependents of the direct victims and persons including lawyers and voluntary sector workers who have suffered in intervening to assist victims in distress or to prevent harm or injury.