

SO rights which are particular to NI

CoSO has set out its position in its Position Paper for the Bill of Rights Forum (October 2007).<sup>1</sup> In particular, it has drawn attention to the Yogyakarta Principles, not merely because they are the first articulation of LGBT rights in international human rights law but also because they are a contemporary statement of human rights standards more generally.

CoSO has also stated in its Position Paper that the legal position of LGBTs in NI has improved substantially since its first Position Paper in 2001. However NI remains in part a deeply conservative society and there is still a gulf between advances in legal protection and the practical realities of the lives of many LGBTs in NI. In this context, it is essential that LGBT rights in NI are underpinned by the Bill of Rights.

The UK Government, in Regulatory Impact Assessments, for example on Civil Partnership Bill, operated under a working assumption that about 6% of the population is LGB. It is due to the very invisibility of many LGBs that the monitoring of SO is controversial and rarely undertaken. In any event, in our Position Paper we set out some shocking research findings particularly on homophobic abuse of young LGBs.

CoSO identifies the following as SO issues in NI:-

- Ø Enforced Invisibility i.e. imposed by society and self imposed through fear, discrimination, prejudice and practice – in all spheres of life;

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<sup>1</sup> The final version of the Position Paper will shortly be available on the CoSO web site ([www.coso.org.uk](http://www.coso.org.uk)).

- Ø Homophobic attacks – physical and verbal / personal and property;
- Ø Hate Crime / Intimidation;
- Ø Bullying and harassment in Schools /invisibility and hostility within school environment (resultant disengagement / low educational attainment);
- Ø Bullying and harassment in the workplace – inc' all sectors of public and private spheres (hostile environments / subsequent unemployment / victimisation);
- Ø Marginalisation in society / communities – resultant isolation and its impact;
- Ø Marginalisation / exclusion from religious institutions;
- Ø Mental and physical ill health (low self esteem / confidence);
- Ø Political Representatives making homophobic remarks;
- Ø Public Representatives (i.e. those working in public sector) lack of knowledge, insensitivity to and/or prejudice against LGBT people);
- Ø Institutionalised homophobia;
- Ø Non-Reporting of 'incidents' / attacks;
- Ø Family estrangement.

## The Rights of Children and Young People

CoSO believes the position of children and young people in NI is significantly exacerbated by the conflict in our society. There is much evidence to indicate that LGBT children and young people suffer significant abuse and disadvantage on grounds of their SO and gender identity. NI now enjoys the office of NI Commissioner for Children and Young People whose objectives include maintaining respect for the UN Convention on the Rights of the Child. CoSO is therefore of the view that, whatever may emerge from a 'British Bill of Rights', the 'particular circumstances of NI' are such that the UN Convention of the Child should be acknowledged in the Bill of Rights so that public authorities, but also community and voluntary groups and private sector bodies, are subject to its terms, particularly the 'voice of the child'.

## Representation/democratic rights

In our Position Paper, we refer to Yogyakarta Principle 25 ('The Right to participate in public life'). In particular YP25.A, refers to "the full enjoyment of the right to participate in public and political life and affairs", concludes on the basis this full enjoyment should be "without discrimination on the basis of, and with full respect for, each person's sexual orientation and gender identity" (emphasis added).

CoSO is of the view, in light of unprecedented remarks made by public representatives in NI, which are only also heard in other EU States such as Poland and the Baltic States, that representation/democratic rights must include respect of all

sections of the community without any discrimination or harassment.

#### Violence/abuse against LGBTs

CoSO appreciates efforts to reduce the level of homophobic violence and abuse in NI. However it is essential that homophobic hate crime in NI is underpinned by the Bill of Rights. CoSO accepts that 'degrading treatment' under Article 3 ECHR provides some protection in these circumstances but considers that a harassment provision, possibly modified to accommodate other rights, or a right against violence and abuse, must be included in the Bill of Rights.

#### Family rights

CoSO accepts that 'family life' enjoys some protection under Article 8 ECHR. However CoSO wishes to see respect for civil partnerships acknowledged in NI. CoSO is concerned that, given the influence of conservative views in NI, this important social development might be challenged or undermined in NI.

CoSO also notes that YP24 refers to the right to found a family in the following terms: "Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members." CoSO proposes that consideration should be given to this wider formulation than that provided in the proposed Bill.

#### Equality mainstreaming

There is a strong tradition of respect of equality and human rights in NI, at least in terms of legal rights. CoSO is of the view that this commitment must be reflected in the Bill of Rights through the mainstreaming of equality throughout the Bill. CoSO is not convinced that the list of equality grounds should be too extensive as this will put pressure on the equality law system. However SO is now firmly established in relation to employment, goods, facilities and services, education, housing or also in section 75. CoSO therefore wishes to see a strong equality provision in the Bill of Rights and the mainstreaming of that clause throughout the Bill. CoSO also is aware of many issues of multi-identity in NI. CoSO wishes to see the equality provisions reflect multi-identity issues.

#### Socio-economic rights

CoSO is of the view that the socio-economic disadvantage of LGBTs is under-researched in NI and elsewhere. However, given the extent of homophobic abuse in NI, it is understandable to presume that there is educational under-achievement and concentration of LGBTs in employment where they are less likely to suffer abuse. CoSO therefore feels that socio-economic rights must be included in Bill of Rights.

In particular, CoSO considers that education rights in the Bill of Rights cannot be 'parent-focused'. This might result in parents being able to inflict a homophobic education on their children. In this regard, CoSO proposes that the non-discrimination clause be included in this clause as a necessary

constraint upon the exercise of this right, and that the phrase "to the greatest extent possible", be removed. It is also proposed that there should be explicit cross-referencing with the 'voice of the child' in this provision.