

## Extreme Poverty, Austerity and Human Rights

In the past decade governments around the globe have recalibrated fiscal and social policy to account for economic stress and downturn. In all of these settings the most marginal and vulnerable individuals and communities have been at the forefront of budgetary cuts, limits on expenditure and often invoked as unworthy of support as the case is made for limitations on state spending. In the policy and political rhetoric that accompanies rollbacks in services particularly to the most vulnerable, there is little or no attention to human rights, and in particular to the legal obligations of states under international law. This approach has also been dominant in the United Kingdom as austerity discourses exist in a silo far removed from the narratives of accountability and human rights obligation.

Lest we forget, states have obligations to support and advance economic and social rights under the auspices of their treaty obligations if they have signed the Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). The United Kingdom signed the CESCR in 1968 (ratified in 1976), the CEDAW Convention in 1981 (ratified in 1986) and the CRC in 1990 (and ratified in 1991). Moreover, there is a specialized UN mandate that report and oversees the obligations of states in the area of extreme poverty, including the role of the Special Rapporteur on extreme poverty and human rights first established in 1998 by the UN Commission on Human Rights. The Special Rapporteur (presently Philip Alston) has defined extreme poverty to include a lack of income, a lack of access to basic services and social exclusion (A/HRC/7/15, para. 13). This accords closely with the United Nations Development Programme's (UNDP) 'Multidimensional Poverty Index', reflecting multiple deprivations at the household level, including in health, schooling and living conditions.

At the very minimum, to comport with their treaty obligations, in preparing for austerity measures states have an obligation to undertake a human rights impact assessment. Specifically states must assess whether there will be undue burdens placed on the most marginalized and poor communities in key areas such as health, housing, work, food, water, and education. It would also behove states, when addressing the causes of the crisis to undertake a human rights analysis, addressing in fundamental ways the structural causes of crisis. This kind of 'deep dive' can expose the failures of the state to regulate in the public interest as well as the relationship of inequality to crisis. Finally the policy responses to crisis require a human rights approach, fully cognizant of and compliant with the state's human rights obligations to advance and protect social and economic rights to the benefits of all people.

The global financial crisis has also spawned a global social crisis. As the Special Rapporteur made clear in 2011, reporting to the Human Rights Council, each State has a duty:

“to ensure that economic policy respects human rights obligations, including relating to non-discrimination, progressive realisation of economic, social and cultural rights and non-retrogression, and the requirement that policy design and implementation upholds the principles of participation, transparency and accountability”.

*continued on page 3*

### Contents

<b>Extreme Poverty, Austerity and Human Rights</b>	<b>1&amp;3</b>
<b>The SHA - an inequality agenda?</b>	<b>2-3</b>
<b>Penny Wise Pound Foolish.....</b>	<b>4-5</b>
<b>A just society, not an “austerity” jungle</b>	<b>5</b>
<b>Cuts to universities and risks to the rights to education, culture and the role of universities in the public sphere</b>	<b>6-7</b>
<b>Public Sector Employment in Northern Ireland</b>	<b>7</b>
<b>Civil Liberties Diary</b>	<b>8</b>

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## The SHA - an inequality agenda?

**The Stormont House Agreement (SHA) intended to 'stabilise and complete' the peace process in Northern Ireland. It also deals with public sector reform and rationalisation. From a human rights and equality perspective there were two key flaws in this approach. The first is one of principle – the SHA is not fundamentally about equality and substantial parts of the Good Friday Agreement (GFA) was. The equality agenda was central to the GFA and any change in the dynamics of the peace compromise in Northern Ireland is in itself problematic. In other words, the SHA attempts a paradigm shift in the dynamics of peace in Northern Ireland. The second flaw is a more practical one: the implications of some of the measures are likely to generate further sectarian inequality and therefore undermine the peace process.**

The SHA and its financial annex provide for significant changes to the economic and public sector model in Northern Ireland including: 'public sector reform and restructuring'; a voluntary exit scheme for an estimated 20,000 jobs in the public sector; implementation of wide-reaching changes to the welfare state introduced in Great Britain under the Welfare Reform Act 2012; and devolution of powers over Corporation Tax'. The OECD was integrated as having a strategic role in reviewing this process.

In practice this SHA package is focused on implementing austerity. While none of these measures in itself guarantees deepening inequality, in practice they seem likely to. For example, public sector reform might actually remove some sectarian inequalities at senior management level by retiring a senior management level that remains disproportionately Protestant. However, some approaches to redundancy, for example last-in-first-out, have long been recognised to stall or even reverse inequality. At present there is no clarity around whether and how this restructuring is to be implemented – but there has been little analysis of the risks that they present to stalling or even reversing employment inequality between the two main communities.

The reduction in Corporation Tax would require further reductions in public spending or alternative revenue raising. Since sources of additional revenue seem non-existent, further austerity seems inevitable. The welfare elements in the proposals present, which could be characterised as a 'St Vincent de Stormont' approach, including a fund which promises to address the most egregious need. But even if this works, the approach looks more like the workhouse than the welfare state - people need to be truly desperate to qualify for support. And the sectarian implications of this are clear – NICVA's *The Impact of Welfare Reform on Northern Ireland* has already identified that the most adversely affected local government district will be Derry-Strabane. Gone is any attempt to establish access to welfare support as a right, or target resources on human need – another central plank of the GFA.

The threat is therefore clear – the SHA approach has decoupled equality from 'peace'. Underlying the SHA is an assumption that peace will remain secure despite increased inequality or poverty. History of the conflict does not bear this out. From the conception of a 'Protestant Parliament and a Protestant State' onwards, the evidence is incontrovertible that there was active anti-Catholic discrimination at the heart of government. Right up to the GFA the British Government admitted 'on all socio-economic indicators Catholics remain worse off'.

Changing this reality was placed at the heart of the civil rights movement as well as other reform, and was central to the resolution of the conflict in the GFA. This process is far from complete – despite the continuing convergence in the labour market suggested by the 2013 Labour Force Survey Northern Ireland Religion Report. Paul Nolan's recent *Peace Monitoring Report* captures the contemporary reality: 'Catholics still experience more economic and social disadvantage than Protestants.' According to the Labour Force Survey they are more likely to be unemployed, according to the census they are more likely to be in poor health and, according to the Family Resources Survey, they out-score Protestants on almost every measure of social deprivation'. In this context, the abandonment of the equality agenda is not just bad politics, it is bad economics. Given the centrality of the role of the OECD to the SHA, its position on this is salutary. The recent OECD report *In It Together: Why Less Inequality Benefits All* is unambiguous –

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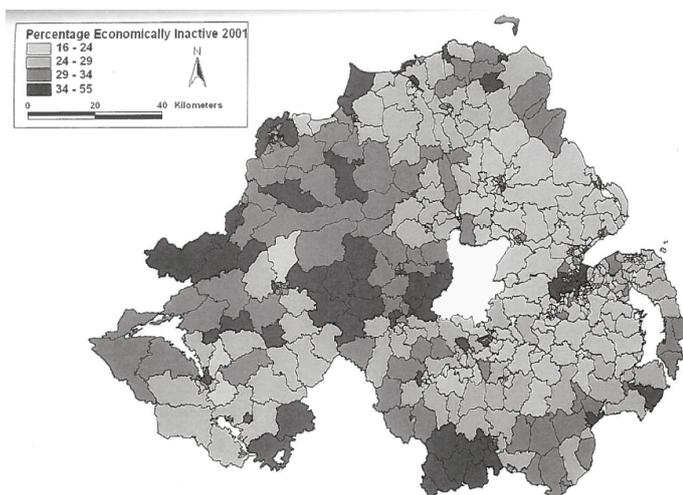
inequality is bad for growth. It is also worth remembering the OECD's approach to restructuring in the context of peace processes – in publications like *Empowerment in Fragile States and Situations of Fragility* they make it clear that different rules apply in this context.

The implications of the SHA are profoundly worrying for equality and peace at two levels – first because it assumes peace can be delivered without equality; second because its policy impact threatens to actively undermine human rights and equality. The DUP may constantly remind us that they did not sign up to the GFA - but nearly everybody else did. And the DUP too only became the largest Unionist political party when it committed to working within the framework of the GFA. It is profoundly dangerous to swap the universal principles of justice and equality grounded in international law that were embedded in the GFA for pork barrel politics at Stormont. Put together with the proposed repeal of the HRA, the SHA Agreement suggests a new British Government strategy rather than consolidation of the last 20 years of peace building. The hegemony of austerity threatens the whole raft of GFA reforms. In other words, none of the equality achievements associated with the GFA can be taken as a given – they must continue to be supported and defended. Equality was not an optional extra to the GFA. Anyone who ignores this risks sleepwalking into the past.

### **Robbie McVeigh**

**Robbie McVeigh is currently working on an action research intervention on 'the equality impacts of the Stormont House Agreement on the two main communities'. This is conducted in partnership with the Equality Coalition and supported by the Irish Government's Reconciliation Fund.**

This map was included in the 2006 CAJ publication 'Equality in Northern Ireland: the rhetoric and the reality' you may ask why we would include a map that is 14 years old in a 2015 publication but there is little if no change in that timescale. We have yet to see any targeted measures to address the economically inactive and we have no anti poverty strategy for Northern Ireland as provided for in the St Andrews Agreement to tackle disadvantage and social exclusion.



We can therefore see clearly from this map that any inequalities from the Stormont House Agreement financial package will also target already vulnerable areas disproportionately. With cuts to public services, welfare reform and access to health care all impacting on the same communities it is absolutely imperative that the equality framework is delivered upon so as not to be a threat to peace.

The Equality Coalition supported by the Human Rights Consortium and ICTU will be hosting a conference on Thursday 15 October in UNISON, Galway House, Belfast entitled 'Austerity and Inequality: a threat to peace?' please save the date, full programme available soon.

### **continued from front page**

Recovery from crisis provides a unique opportunity for states to undertake some transformational work. The recovery can be an opportunity for change, a chance to revisit deeply ingrained poverty, to make change and opportunity a reality and to recalibrate the basis of society as more equal and sustainable for all. These obligations and principles are important reminders in the current debates in Northern Ireland that the obligations of local and central government do not happen abstractly and without reference to broader obligations and cognizant that monitoring is not just a local practice but has international dimensions too.

**Fionnuala Ni Aolain, TJI, Ulster University**

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## Penny Wise Pound Foolish.....

**In 2012 the Conservative Government introduced savage cuts to the provision of legal aid in England & Wales: family law was one of the main casualties. The fallout from these merciless cuts to access to the family justice system were laid bare in the February 2015 Westminster Public Accounts Committee (PAC) Report which was highly critical of the impact of the cuts on people seeking to engage in the family justice system, the system itself and those who work within the Court Service including the Judiciary. The Chair of the PAC, Margaret Hodge stated "Access to justice is one of the most fundamental principles of our society, and the purpose of Legal Aid is to ensure that the poorest and most vulnerable people enjoy that basic right".**

The Report highlighted that following the withdrawal of all public funding for family law cases that there was a 30% rise in the number of family law cases where both parents were representing themselves and that the number of contested cases reaching the Courts has increased from 64% to 89% since the imposition of the cuts. The Magistrates Association stated that cases involving personal litigants took longer and placed additional pressure on the Court Service. In a subsequent report commissioned by UNITE, the conclusion of the PAC report namely that the Ministry of Justice did not know whether the spending reduction in its own budget was outweighed by additional costs to the wider public sector, most notably health, welfare and housing was supported in the UNITE Report. This report found that for every £1 saved by the Ministry of Justice represented a cost to other government departments of £6.00.

There is of course the human cost to cuts to the provision of legal aid for family law. It is now well documented that those parents who are having to face each other unrepresented by trained and committed Family Law Solicitors are frequently vulnerable people. In these cases, on one side or the other there is very likely to be a person who has been the subject of some form of domestic abuse be that physical, emotional, verbal, sexual or financial. Sadly many of the cases before our Family Courts also regularly feature parties with mental health issues, problems with substance abuse, a history of offending, poor educational attainment, social and housing needs.

For those of us in the legal profession who chose to practice family law the reality is far from the image of the "fat cat" lawyer portrayed in the media. Family Law Solicitors are vocationally motivated, we are a front line service, community based solicitors who represent the most vulnerable within our society, children, women and victims of domestic abuse. The Department of Justice, with Minister Ford at its helm, has the benefit of knowledge as to the impact of such cuts in England and Wales but feel content to administer similar cuts here. The Department of Justice say that they are not withdrawing funding for these cases. In reality, however, the Department of Justice are offering a system which is either chronically underfunded or which will not be funded at all. In cutting funding for cases relating to children and cases where there are issues of domestic abuse, for the two are inextricably linked, the Department of Justice are occasioning a further assault on the most vulnerable members of our society by depriving them when at their most vulnerable of the right to good quality legal representation by an experienced Family law Solicitor.

Community based Family Law Solicitors work in partnership with the Police, Social Services, Support Organisations, Medics, Teachers and the Court to achieve the best possible outcome for the children whom we represent. Children who are living in circumstances where their family unit, for what ever reason, has disintegrated or worse still where the State through Social Services have removed the child from its family. Our job is, in essence, to leave families and children in a better place than they were in when they first engaged with us. These families are not cash rich but they do need and deserve access to justice and to equality of arms. This is not on offer by the Department of Justice.

What is certain is that in the not too distant future we will have a family justice system where the more money you have the more justice you can buy. The Department of Justice is abandoning and failing those who need the assistance of Family Law Solicitors, children, women and victims of domestic abuse. The upshot is that, as in England & Wales, victims of domestic abuse will find themselves being cross examined in courts up and down the country by their abusers. Children will be failed and the State will have

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spectacularly failed to comply with children's rights pursuant to the European Convention on Human Rights and the UN Convention on the Rights of the Child. Specifically these treaties require that the child has a right to have its voice heard in proceedings relating to him or her – ask yourself how likely this will be were the parties to a case are compelled to face each other unrepresented, full of emotion, hurt and fear, unable to dispassionately look at the issues in the best interests of the child. If the child is failed then society is failed and so the cycle continues with added costs to the State. Penny wise pound foolish.....

*Sinéad Larkin is a family law partner with Larkin O'Connor Cassidy Solicitors and a committee member of the Family Law Solicitors Association*

## **A just society, not an “austerity” jungle**

**Amidst the blizzard of “cuts” shaped by a Northern Ireland Block Grant reduced by £1.5 billion and the threat of a newly elected UK Conservative Government proposing a further £12 billion in welfare cuts, the trade union movement has to defend pay, conditions, jobs and services wherever we operate. We also, however, have a duty to give a broader analysis of what is happening within our society. We do so to highlight how the cuts agenda reflects the state redefining its role and the detrimental effect this ideological shift has for all of us as citizens.**

The previous UK Coalition Government (2010-2015) made no secret of its ambition to shrink the state to levels last seen in the 1930s. This represents an acceleration away from a post-World War II consensus that itself, from the late 1970s onwards, has been deliberately undermined. This consensus was built on the foundation and maintenance of a Welfare State and a move away from the free market social negligence of the 1920s and 1930s. The post War ideological shift in mainstream UK Government policy saw the state as a key player in waging war on the five evils of “squalor”, “ignorance”, “want”, “idleness” and “disease”. The most visible signs of this new society were the creation of a free at the point of use National Health Service (the jewel in the crown of wider, social security provision) and a commitment to the mass provision of social housing. In the immediate post-war years this level of state intervention, it should be remembered, was delivered with a “deficit” three times what it is today.

This “mission” could not contrast more with the situation at the moment where a deliberately manipulated agenda narrows all decisions to a choice of “cuts” and abandons, in its truest sense, the idea that “there is such a thing as society”. This also places spending/debt on individual shoulders rather than offering a collective way forward through progressive taxation and universal provision. In this way as the Institute of Fiscal Studies highlight, the UK Government's overall spending plans from 2010-11 to 2019-20 consist of 89% spending cuts and 11% net tax rises. For those without a privately purchased safety net of services – it is clear the axe will fall. This means a switch by the state away from what is “ours” (i.e. free at the point of use or subsidised public services) to what we have to buy or rent within a US-style privatised model. Such a model is built for profit with minimal unaccountability/regulation and has a primary duty to shareholders not citizens.

This world is the reversal of “cradle in the grave” social security and instead is the social insecurity of “you're on your own” with cuts affecting all aspects of our lives from childcare to old age provision and the framework of rights (both in and out of work that were won through collective bargaining) also undermined. In this way we are now experiencing a regressive assault on the most vulnerable in society compounded by the punitive, regressive nature of indirect taxes (such as Value Added Tax) simultaneous to the corporate welfare of cutting Corporation Tax and failure to systematically oppose tax evasion/avoidance and non-collection (an annual loss to the Exchequer of £120 billion).

We reject this extremist re-shaping of society that delivers insecurity, low wages and regressive taxation. Opposing this “austerity” jungle of statutory negligence, we will continue to fight for the investment, reward and protection of universal rights that a just society requires.

*Alison Millar, NIPSA*

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## Cuts to universities and risks to the rights to education, culture and the role of universities in the public sphere

**The system of university funding in the UK has been the subject of controversy ever since the Labour Government first introduced fees. The changes to the funding system, and more recently the cutbacks being introduced in Northern Ireland, may harm human rights.**

University education is a devolved matter, but the funding system in Northern Ireland is significantly affected by decisions made in England, thanks to the operation of the Barnett formula. In 2010 the UK Government allowed universities in England to increase fees up to £9000. These student fees are supported by the student loan system. The other side to the increase in fees was the reduction of the public subsidy for each student and the ending of direct public funding for students in arts, humanities, and social sciences.

Effectively this means that English universities are heavily dependent on student fees for their funding. Devolution entails that the different countries can find different solutions. Scotland has decided to maintain public subsidies for universities and there are no tuition fees. In Northern Ireland, we have a mixed approach; fees are kept at 3805 for local students and there is a state provided subsidy; though the total amount spent per student is about £1700 less than that spent in England. After several years of reductions, the Department of Employment and Learning (DEL) announced further cuts in public funding to the universities earlier this year. The universities have responded: they have said they need to reduce student places by more than 2000 over the next three years, and shed more than 400 jobs.

These decisions have numerous implications. The threat to Northern Ireland's potential for innovation, skills development and economic growth has been well made by others. The Department itself stresses the importance of protecting STEM subjects (science, technology, engineering and mathematics) as directly relevant to the economy. But beyond the harm to the economy, there are also threats to the right to education, the right to culture and the role of the universities in the public sphere.

Article 13 (1) International Covenant on Economic Social and Cultural Rights (ICESCR) specifies the purpose of education: "education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms." Article 13 treats higher education as part of the broader right to education: "(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the *progressive introduction of free education;*" (italics added). The introduction of fees already attracted the attention of the ICESCR Committee in 2009, when the Committee urged the UK to review its tuition fees policy with a view to implementing Article 13's encouragement of free education in higher education.

The ICESCR Committee has adopted General Comment No 13 on the right to education (complementing an earlier one on primary education). The Committee considers that education at all levels must be available, accessible, acceptable and adaptable, though these terms might not mean the same at all levels of education. The reduction in university places in Northern Ireland damages the availability and accessibility of higher education in Northern Ireland. Students may have to forego higher education or leave Northern Ireland to pursue their education. The implications of the reductions are not limited to the direct impact on individual students.

The right to culture is enshrined in Article 15 ICESCR and requires states to pursue the "conservation, the development and the diffusion of science and culture". If STEM subjects are protected, then educational activities in the areas of the arts and humanities may be scaled back. Cultural activity is not the monopoly of universities of course, but a society in which reflection on history, languages, creative arts, performing arts and the like is degraded is one where the right to culture is also damaged.

The ICESCR Committee, in its general comment 13, highlights the importance of academic freedom, especially in higher education. Academic freedom is essential to the role of the university in the public sphere as a forum for reflection, rigorous evidence-based research, and social criticism. The social sciences - politics, sociology, law and others – are essential to these roles of the university; again social sciences are not part of the STEM agenda.

Anyone who follows human rights news in Northern Ireland will be aware of contributions by scholars at the universities to contemporary debates relevant to respect for human rights in this society: see the recent Just News reports on the joint Amnesty International, CAJ, the QUB Institute for the Study of Conflict Transformation and Ulster's Transitional Justice Institute conference on the Stormont House Agreement. Or see any of the universities' research on the Historical Enquiries Team, gender dimensions of the conflict, women's participation in politics, domestic violence, social inequality and disadvantage, youth custody and children's rights, the rights of children in decision-making, flags and symbols, to mention but a few. Our society would be much the poorer if funding cuts threatened the universities' ability to support critical, reflective, rigorous research on important controversies and challenges.

**Rory O'Connell, Ulster University. I declare a conflict of interest – I am a university employee in a social sciences faculty in one of our universities.**

## Public Sector Employment in Northern Ireland

Key Notes :

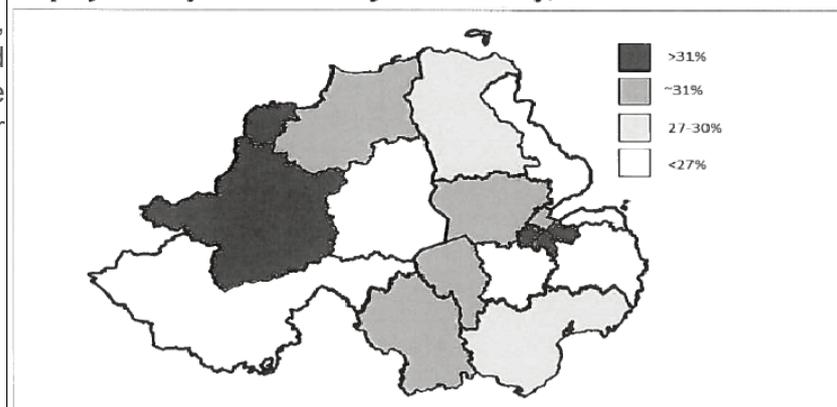
- Evidence from other UK regions indicates that for every £1 spent on public sector employment, between £0.59-0.71 is spent in the local economy.
- West Belfast, Foyle and West Tyrone have the largest concentrations of public sector employment in Northern Ireland.
- Female employment in the public sector is 18% higher than male employment.
- There is no gender pay gap within the public sector in Northern Ireland.
- A voluntary redundancy scheme could widen the gender pay gap and may have a disproportionate impact on certain regions.

Public Sector jobs account for 31% of overall employment across Northern Ireland, but as the map shows, there is a wide geographical spread. Breaking it down into parliamentary constituencies, five areas have above average public sector employment. In descending order these are W Belfast, Foyle, S Belfast, W Tyrone and E Belfast. Of these W Belfast would be the most vulnerable constituency with over 45% of total employment in the public sector. N Belfast, E Londonderry, Newry & Armagh, S Antrim and Upper Bann all come in at around the national average of 31%. N Antrim and S Down are just below the average figure whilst Mid-Ulster at 21% is has the lowest proportion of public sector employment in Northern Ireland. The current proposal for a civil service voluntary redundancy scheme would benefit from a full cost-benefit analysis, before any conclusion is made about the impact it would have on the Northern Ireland economy. Geographical and equality concerns need to be factored in to this process. If the aim of this policy is to “re-balance” the Northern Ireland economy, policies would be more efficiently focused on the gaps between outcomes in the private sector in Northern Ireland rather than the public sector.

Extract from 'inBrief' by  
**Paul MacFlynn from the Nevin  
 Economic Research Institute.**

Full paper to be found on  
[www.nerinstitute.net](http://www.nerinstitute.net)

**Chart 1 Public Sector Employment as a percentage of total Employment by Parliamentary Constituency, 2013**



## Civil Liberties Diary - May 2015

### 7 May

A judicial review of the decision to shelve the report of the Historical Enquiries Team into the activities of the Glennane Gang has begun in Belfast.

### 8 May

The Consular Corps/Association of Northern Ireland (CA-NI) has expressed 'deep concern with the continual and recent escalation of racial attacks on the Black and Minority Ethnic migrant communities within Northern Ireland'. The CA-NI asserted that it is intolerable and must be stopped as quickly as possible.

### 12 May

The Northern Ireland Public Services Ombudsperson's Office (NIPSO), a new watchdog organisation, will reform how complaints against official bodies are handled. NIPSO will be responsible for allegations of maladministration in organisations such as health trusts, schools, universities and colleges. It will not, however, include a remit for public sector employment issues.

### 13 May

Figures released by the PSNI indicate a 33.3% rise in racist crimes, a 16.8% rise in homophobic crimes and an 8.5% increase in sectarian crimes over the last year. Further, sexual offences increased by 22.4% and domestic abuse by 5.6%. Deputy chief constable Drew Harris reported that the overall rise in crime was similar to a wider trend of increasing crime across the UK.

The Northern Ireland Human Rights Commission (NIHRC) has expressed deep concerns at the potential of re-drawing human rights legislation in the UK. The NIHRC has said that nothing should be done to undermine the foundation of the Northern Ireland peace process.

### 20 May

District Judge Isobel Brownlie found that Ashers Baking Company acted unlawfully by declining a request from a gay rights activist for a cake with a 'Support Gay Marriage' message. Judge Brownlie ruled that the defendants were entitled to hold and manifest their religious beliefs but that they could not do so in the commercial sphere if contrary to the rights of others.

### 27 May

Stormont rejected the welfare reform legislation after hours of debate. The passage of the bill is necessary to unlock the devolution of corporation tax powers, new structures to address the legacy of the Troubles and a civil service redundancy scheme, found in the Stormont House Agreement. Failure to pass the bill also means that Stormont will continue to accrue penalties from Westminster for non-implementation.

*Compiled by Elizabeth Super from various newspapers*

## Just News

**Just News** welcomes readers' news, views and comments.

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