

Universal Periodic Review Update

The Universal Periodic Review (UPR) is a United Nations review mechanism for the UN Human Rights Council of the overall human rights situation of all UN Member States, by all UN Member States. On 24th May the second UK UPR examination took place during a 3½ hour 'review' conducted by the UPR Working Group – which is open to any UN Member State. The review is conducted in the form of an 'Interactive Dialogue.' The event was streamed live and CAJ, in collaboration with the Human Rights Consortium, co-hosted a civil society live stream UPR Breakfast in the CAJ Boardroom, attended by Irish Congress of Trade Unions, Include Youth, Northern Ireland Women's European Platform, Equality Coalition, Northern Ireland Council for Ethnic Minorities, the Rainbow Project and the Family Planning Association.

Background

While NGOs cannot participate in the 'Interactive Dialogue,' they can submit written information in the form of advance questions and lobby Permanent Missions to make recommendations during the interactive dialogue session. Both CAJ and the Human Rights Consortium sent UPR Reports and also attended the Pre-Session Engagement event in Geneva in April organised by the UPRngo-info. Twenty Permanent Missions attended to consider issues raised by NGOs from Ireland, England and Scotland. Both CAJ and the Consortium also submitted questions to interested Permanent Missions for consideration as questions or recommendations at the interactive dialogue stage.



The Interactive Dialogue

On 24th May the UK was given 70 minutes to present its report, answer questions made by other States and present concluding remarks. 140 minutes were allocated to States participating in the review to ask questions, make comments and recommendations to the State under review. During this process, 60 delegations made statements and there were 132 conclusions and/or recommendations made in total from the delegations.

In many ways the UK got off lightly as this round of examination and questioning was not as hard hitting as expected. With regards to Northern Ireland, unfortunately there were very few recommendations made. The US recommended that the UK '*encourage the devolved government of Northern Ireland to increase resources and personnel available to the Historical Enquiries Team*' and Finland recommended that the UK '*ensure by legislative and other measures that women in Northern Ireland are entitled to safe and legal abortion on equal basis with women living in other parts of the UK.*'

The limited number of recommendations with explicit reference to Northern Ireland was quite surprising given that the Office of the High Commissions (OHCHR) UPR Stakeholder Report included CAJ's reference to the provision for a Bill of Rights for Northern Ireland in the Belfast/Good Friday Agreement and footnoted CAJ's references requesting an Inquiry into the murder of human rights lawyer, Pat Finucane. The OHCHR Stakeholder Report also referred to the British Irish RIGHTS WATCH submission calling for a separate women's prison; proper access to facilities for paramilitary prisoners; a mechanism to address the legacy of the conflict in Northern Ireland as recommended by the Consultative Group on the Past and an Inquiry into the murder of Pat Finucane.

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Feedback on the UPR Breakfast event was extremely positive. It was seen as an interactive way for organisations to engage with each other, share their reports and up-skill on what really happens after NGO reports are sent to Geneva. It was also seen as a forum for reflecting on work done and work to do when engaging with international human rights mechanisms. CAJ used Twitter as a means of communicating and promoting developments throughout the review session; which also proved to be an effective way to engage with other NGOs interested in the event.

The role of the Office of First Minister and deputy First Minister post review

The Office of the First Minister and deputy First Minister (OFMdfM) hosted a UPR Stakeholder follow up event with local NGOs and the Northern Ireland Human Rights Commission at Stormont Castle Buildings on July 6th. Post review, the UK wrote to OFMdfM enclosing the recommendations and asking for views. OFMdfM have committed to raising concerns expressed at this UPR Stakeholder event by participants. CAJ specifically raised the issue of the lack of understanding of the peace settlement agreements and the need for distinction between human rights commitments in Northern Ireland and the UK, particularly around issues such as the Bill of Rights for Northern Ireland. OFMdfM also agreed that where only the UK is referenced in recommendations and not Northern Ireland that they will highlight where and why it is necessary to raise Northern Ireland specific issues.

What happens next?

Between now and September 2012, the UK will provide responses to these recommendations to the Human Rights Council and they will be included in an 'Outcome Report' which will be adopted by the UK Human Rights Council at its 21st session in September 2012. At this session, NGOs and National Human Rights Commissions have a chance to raise further issues in an oral session at the final hearing. CAJ anticipates attending and speaking at this session.



CAJ and the Human Rights Consortium breakfast meeting to enable local NGOs to view the live UPR session from Geneva

No more 'Secret Evidence' in Court

As the Justice and Security Bill recently entered the Committee stage of the House of Lords recently, CAJ expressed concern about some of the elements of the Bill and the specific impact they could have on justice issues in Northern Ireland.

Closed Material Procedures (CMPs), as provided for in the Bill, could allow the Government to present evidence to a judge in civil cases without having to disclose it to the rest of the court, including the defendant or claimant. This has the potential to significantly alter the balance of fairness in civil cases, and it has specific consequences in Northern Ireland regarding cases which relate to the conflict here.

Instances where CMPs could affect the justice system in Northern Ireland include cases of Judicial Reviews of investigations into conflict-related deaths (e.g. challenges to PSNI, Historical Enquiries Team, Police Ombudsman, and challenges relating to Inquests, decisions not to prosecute etc) and cases of civil actions for damages relating to miscarriages of justice, ill-treatment, unlawful killings, and failing to take reasonable steps to protect life.

It is also worth noting that the introduction of CMPs into civil cases will also impact on challenges to present day policing in Northern Ireland as CMPs are likely to be used in what are already the most controversial of cases, namely those which engage the actions of informants and agents.

CAJ is already concerned at the impact of existing provisions which allow the use of 'secret evidence' in Northern Ireland (see Just News, May 2012, pages 1 & 2). It is our belief that CMPs are inconsistent with the framework provided by the Belfast /Good Friday Agreement, which emphasised that transparency and accountability are critical to ensuring confidence and the legitimacy of the justice system.

A recent case at the Belfast High Court addressed the issue of 'secret evidence' in court cases. In the case of Martin Corey, Mr Justice Treacy, held that the decision of the Parole Commissioners not to release Martin Corey, the applicant, was reached in breach of his rights under Article 5(4) of the European Convention on Human Rights. Corey was sentenced to life in 1973 and was released on licence in 1992 but his licence was revoked in 2010 over unspecified allegations that he was involved with dissident republicans. The former Northern Ireland Secretary Shaun Woodward ordered Corey's recall on the basis of "closed material".

At the time of going to print, the Secretary of State has appealed the release of Martin Corey and Mr Corey remains in prison until further order under the Court of Appeal.

Read the full judgement of this case here -

http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/SummaryJudgments/Documents/j_sj_Martin-Corey-for-Judicial-Review/j_sj_Martin-Corey-for-Judicial-Review.html

Read CAJ's submission to the Second Reading of the Justice and Security Bill on 'Closed Material Procedures here -

<http://www.caj.org.uk/contents/1110>



Moltaí nuashonraithe d'Acht na Gaeilge Seolta

Ceithre bliana déag ó síníodh Comhaontú Aoine an Chéasta, d'fheadfá a rá nach raibh riamh tréimhse eile ann nuair a bhí cearta na nGael á gcur chun cinn ar bhealach níos soiléire ná níos leanúnaí, ná tuiscint ní b'fhearr ar thábhacht lárnach na dteangacha mar chuid de chlár na gceart daonna. Tá dhá chúis le feabhas ar an tuiscint seo i dtaca le bunphrionsabail na gceart daonna agus an Ghaeilge.

- Ar an chéad dul síos, tá aitheantas áitiúil, náisiúnta agus idirnáisiúnta ag POBAL, scátheagras abhcóideachta na Gaeilge, mar thoradh ar an obair mhór abhcóideachta agus ardú feasachta, agus ar an mhonatóireacht chomhleanúnach, mionsonrach ar uirlisí idirnáisiúnta, ar nós na Cairte Eorpaí do Theangacha Réigiúnacha nó Mionlaigh, agus an Chreatchoinsbinisiúin um Chosaint na Mionlach Náisiúnta. Chomh maith, leagann an eagraíocht dúshláin síos, agus déanann sí obair cheannródaíoch le díriú ar an ghá le reachtaíocht don Ghaeilge ó thuaidh.
- Ar an dara dul síos, agus baineann fóroin leis, gan amhras, cuireann teip rialtas na Breataine a chuid dualgas a chomhlíonadh béim ar leith ar chearta daonna i gcás na Gaeilge.

Ceithre bliana déag ó Chomhaontú Aoine an Chéasta agus sé bliana i ndiaidh ghealltanais soiléir Chill Rímhinn 2006 le reachtaíocht Ghaeilge a thabhairt isteach, níl gníomh ar bith glactha ag rialtas na Breataine le cosaint na príomhtheanga dúchais ó thuaidh a chur in oiriúint le cosaint na dteangacha dúchais gach áit eile ar na hoileáin seo. Sa Bhreatain Bheag, tá reachtaíocht teanga i bhfeidhm le fada an lá, agus dar ndóigh, chuir Beart na Breatnaise (An Bhreatain Bheag) 2011 leis an chosaint seo. In Alban, tá Acht na Gàidhlig (Albain) i bhfeidhm ó 2005, agus ó dheas, mar aon le cosaintí bunreachtúla, tá Acht na dTeangacha Oifigiúla i bhfeidhm ó bhí 2003 ann. Go fóill, is é an tuaisceart an t-aon áit ar na hoileáin seo nach bhfuil reachtaíocht intíre ar leith ann don phríomhtheanga dúchais.

I mí Mheithimh 2012, rinne POBAL na moltaí seo a nuashonrú, ag déanamh cur síos ar na bealaigh is fearr leis an phobal le scóp, formaid agus cur chuige Acht na Gaeilge a chinntiú. Aontaíodh gur cheart an doiciméad a nuashonrú le forbairtí idirnáisiúnta le blianta beaga anuas ó Chomhaontú Chill Rímhinn a léiriú, mar aon le forbairt i dteicneolaíocht na meán agus san oideachas. Reáchtáil POBAL comhairliúchán poiblí eile ar na dréachtmholtaí nuashonraithe, a cuireadh le chéile le tacaíocht agus le comhairle ó roinnt do na saineolaithe is iomráití i bpleanáil teanga agus dlí go hidirnáisiúnta, an tOllamh Robert Dunbar (Sabhail Mor Ostaig), an tOllamh Colin Williams (Ollscoil Caerdydd), an Dr Fernand de Varennes (Ollscoil Murdoch, an Astráil) agus an Dr Wilson McLeod (Ollscoil Dhún Éidínn). Rinne iar-Ombudsman an tuaiscirt, Maurice Hayes a réamhrá don cháipéis a nuashonrú, chomh maith. Glaonn sé orthu siúd uilig a bhfuil freagrachta acu ar an cheist teacht go gasta ar réiteach sásúil maidir le hAcht na Gaeilge. Ar na moltaí nua sa doiciméad, tá rannóga níos láidre ar Oideachas lán-Ghaeilge agus ar theagasc na Gaeilge sa chóras Béarla, chomh maith le moltaí maidir le huirilís nua foclóireachta, soláthar ar líne, agus moltaí le cothrom na Féinne a thabhairt do chraoltóireacht Ghaeilge i gcomparáid le craoltóireacht na Breatnaise sa Bhreatain Bheag agus Ghàidhlig in Albain. Chomh maith, i gcaibidlí scríofa ag na saineolaithe féin, pléitear dualgais rialtais na Breataine agus an Tionóil le freagairt cuí i dtaca le riachtanais phobal na Gaeilge de, agus cuirtear béim ar fhorbairtí dearfacha sa Ríocht Aontaithe, in Éirinn agus in áiteanna eile le 6 bhliain anuas.

The Irish Language Act is a Human Rights litmus test

It is perhaps true, 14 years after the signing of the Good Friday Agreement, that there has never been a time when the language rights of Irish speakers have been more clearly or persistently represented, or better understood to be part of the broad Human Rights agenda than at present. Increased appreciation of Human Rights principles in respect of Irish can be put down to two key factors.

- The work of POBAL, the umbrella and advocacy organisation for the Irish speaking community, which has built a recognised local, national and international reputation through solid advocacy and awareness raising, through consistent, detailed monitoring of international instruments like the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities, and also through challenging and forward-thinking work to highlight and educate the community on the need for an Irish language Act in the north.
- Ironically, the second factor which has ensured a Human Rights focus on Irish, is the failure of the British government to fulfil its responsibilities in respect of Irish language legislation.

Fourteen years after the Good Friday Agreement and six years after making a specific commitment to introduce Irish language legislation in the 2006 St Andrews' Agreement, the British government has yet to act to bring protections for the primary indigenous language in the north into line with the rest of these islands. In Wales, there is long standing legislation to protect the Welsh language, legislation which has been strengthened and extended through the Welsh Language Measure (Wales) 2011. In Scotland, the Gaelic Language Act (Scotland) has been in force since 2005, and in the south in addition to constitutional protections, the Official Languages Act was adopted in 2003. The North remains the only place where there is no specific domestic legislation for the main indigenous language.

The obligation to recognise and provide for the Irish speaking community appears in the Good Friday Agreement, leading to the signing and ratification of the European Charter for Regional or Minority Languages. This international instrument has not however been adopted into domestic legislation and its provisions, although legally binding, cannot be enforced through the courts. Its signing, however, marked for the first time, an admission by the British government of its duty to protect and promote the Irish language. From before the St Andrews' Agreement, POBAL has argued that the next logical step is an Irish Language Act, and accordingly, it worked with impressive international support and advice to draft and publicise detailed community proposals for a rights-based Irish Language Act. In two official consultations on the proposed legislation in 2007, there was a high level of interest in the issue and, in spite of a co-ordinated campaign by some unionist politicians, there was overwhelming support for the legislation. Over 78% of the 11,000 responses received favoured legislation, with more than 93% of substantive replies to the first consultation supporting the POBAL approach for a rights-based, comprehensive model.

In June 2012, POBAL has updated these proposals detailing continuing recommendations for the scope, format and approach which it feels is the best for the Irish Language Act for the north. The growth of the Irish speaking community and technical innovations over the previous 6 years supported the updating of the Media and Education sections of the document, and following a further community consultation, fresh proposals were drafted with the advice of some of the foremost authorities on language law and planning internationally, including Professor Robert Dunbar of Sabhail Mór Ostaig, The University of the Islands and Highlands; Professor Colin Williams of the University of Cardiff, Dr Fernand de Varennes of the Murdoch University, Australia and Dr Wilson McLeod of the University of Edinburgh. Former NI Ombudsman, Maurice Hayes has also updated his 2006 Introduction to the document, calling for a rapid resolution of the issue of the Irish Language Act. New to the document this time round are strengthened sections on Irish Medium education and on the teaching of Irish in English Medium schools, as well as proposals regarding integrated online vocabulary tools, online media provision and proposals seeking to redress perceived disparities in the way the Irish language is treated in the media here compared with provision for Gaelic in Scotland and Welsh in Wales. In addition, in chapters written by leading international experts, the duty of the UK government and devolved institutions to respond fairly to the developmental needs of the Irish language in the north are discussed and positive actions within the UK, in Ireland and elsewhere in the last 6 years are highlighted.

In renewing and refreshing the proposals, POBAL has put the matter of the type of legislation required once more on the table at the point when the current Minister for Culture, Arts and Leisure, Carál Ní Chuilín, is reiterating her determination to bring legislative proposals forward to the Assembly table. Indeed, the Minister herself was present to launch the updated proposals at the Stormont Hotel in June, and gave a commitment to ensure that the work undertaken would inform the ongoing process within her department.

Of course, the failure to introduce Irish language legislation to date and the 'buck-passing' by the British government which has promoted a unionist veto (in the form of 'consensus') has meant that the Irish Language Act has become a litmus test for the current political arrangements. However desirable agreement may be in all manner of fora, it is widely recognised that such pre-conditions are incompatible with Human Rights approaches. The Irish language needs adequate legislative protection and this must be provided in the quickest possible time and the most effective format. It is the duty of politicians at the Assembly level, and in the Irish and British governments to ensure that this happens without further delay.

Janet Muller, POBAL

Copies of the document will be available after the launch from POBAL, and will be posted on the website, www.pobal.org

What Next? Dealing with the Past in Northern Ireland

The Transitional Justice Institute of the University of Ulster held a one-day event on Friday 25 May 2012 on the theme 'What Next? Dealing with the Past in Northern Ireland'.

The reasoning behind organising the event was as follows. Unlike many other transitional societies, Northern Ireland has not had a truth commission. The closest it has come was in 2009 when the British government-appointed Consultative Group on the Past recommended in its report the setting up of a Legacy Commission. In the absence of whole-hearted support from the political parties in Northern Ireland and, more crucially, from the British government, on whose shoulders would rest the task of establishing a Legacy Commission, the Report was shelved.

On the surface, that was not the end of the story as regards truth recovery. As the British government states to the European Union Council of Ministers and other international bodies, Northern Ireland has in effect a 'package of measures' which together perform an effective role in terms of coming to terms with the past. These include the Police Service of Northern Ireland's Historical Enquiries Team, tasked to re-examine all 3,600 deaths arising from the conflict, and the Office of the Police Ombudsman which is revisiting a number of killings in which police personnel were involved. In addition, the Coroner's Office is involved in a large number of inquests into historic cases of state killings and the Attorney General has instructed the Coroner on a number of occasions to reopen inquests. As a result of these and other mechanisms, there have been a few prosecutions and trials.

The main purpose of the one-day meeting, in short, was to assess whether the 'package of measures' does, as claimed, add up to the equivalent of a robust and effective truth recovery process.

The opening plenary by Professor Bronwyn Leebaw from the University of California set the tone for much of the day. In her book *Judging State-sponsored Violence, Imaging Political Change* she concentrates on 'grey areas' – the way in which, for example, a perpetrator may 'break ranks' in acts of subversion or simply human kindness. Elaborating on this in her plenary, she stressed that formal structures, whether legal ones based on prosecution, or truth-recovery ones based on restorative ideals, often have little space for the greyness because they are formal and outcome-focused. As it turned out, most of the discussions which followed during the day dwelt on the grey area between claim and reality.

Professor Bill Rolston from the Transitional Justice Institute next provided an inventory of the 'package of measures'. He considered each of them in turn, making critical assessments at each point. Finally, he was critical of the 'silo mentality' involved in the 'package of measures' approach; even if all of the mechanisms were working flawlessly, they are working independently and as such, will not provide the 'big picture' of the causes of the conflict. For that a truth recovery mechanism is necessary and consequently perhaps it is time, he concluded, to take the Report of the Consultative Group of the Past back down from the shelf.

The focus on the operations of different mechanisms in relation to the past continued with the next speaker. This was James Mac Guill, a Dundalk-based solicitor, who has acted on behalf of Seamus Ludlow, murdered near the border in 1976. The case involved collusion between the UDR and UVF, and also involved the Garda in a 'black propaganda' campaign against the deceased. Mac Guill is currently appearing in front of the Smithwick Tribunal in Dublin. This obviously restricted his ability to speak openly, but he did conclude that, if looking for the truth, the place not to start is with practices in the Republic.

He was followed by Mark Thompson of Relatives for Justice and Sandra Peake from WAVE, both of whom added a much needed focus on the experience of relatives facing the 'package of measures' and the various policies and practices regarding dealing with victims of the conflict. One issue they focused on was that of the injured, who are often overlooked in reports and policies. While schemes exist in relation to relatives of dead victims, the plight of surviving and often severely damaged victims seems to fall repeatedly below the radar.

The final formal input was from Dr Denis Bradley, former co-chair of the Consultative Group on the Past. Given the criticisms emerging from the earlier presentations and the overall sense that the failure to take up the recommendations of the Consultative Group amounted to a major lost opportunity, Bradley lifted the mood considerably by stating that he did not believe that the Report was necessarily 'dead in the water'. But his optimism was tempered by the next point that he made: there will be no truth recovery mechanism in Northern Ireland unless both governments, British and Irish, agree to institute one. While there are pressures on them to do so, there are many reasons for them to resist. As he pointed out, the Republic's government has its own problems with the collapse of the Celtic Tiger. The last thing they want is to take a situation which to most observers in the Republic is 'solved' – namely, the northern crisis – and appear to open it up again through the establishment of a Truth Commission.

This was the sobering message with which participants entered the various workshops. There were four in all: prosecutions, victims, institutional reform, and truth-seeking. Each engaged in honest and valuable debate. There was no particular 'eureka' moment emerging in any of them, nor in the final Reflection session. At the same time, there was a general feeling that the agenda on truth recovery had slipped somewhat in recent months and years and that the discussions at the one-day event served to resurrect the debate. No vote was taken at the end of the day, but it is probably fair to say that most people present believed that the recommendations of the Consultative Group on the Past, despite their flaws, offer not just the best chance we have to deal comprehensively with the past but also constitute a robust and valuable model for doing so.



Speakers and workshop facilitators at the conference

A selection of videos from the conference can be viewed at: www.transitionaljustice.ulster.ac.uk/DWPVideos.htm

Professor Bill Rolston, Transitional Justice Institute, University of Ulster

Civil Liberties Diary - May 2012

1st May

A court hears that evidence provided by a loyalist supergrass could see a breakthrough in the police hunt for the UVF killers of a former RAF member. Coroner John Leckey adjourned inquest proceedings into the 1997 death of 22-year-old Raymond McCord Junior in north Belfast to see if testimony provided by the so-called "assisting offender" will prompt charges.

2nd May

Families of people killed by the Army during the Troubles have called for an independent review of claims that the Historical Enquiries Team gives former soldiers preferential treatment.

3rd May

Confidence in the PSNI is on the rise, a new survey has revealed. The majority of people surveyed in the latest NI Policing Board poll have some, a lot, or total confidence in the force's ability to police Northern Ireland.

An inquest jury has ruled that an SAS soldier was justified in shooting an IRA man as he lay dying on the ground. Dessie Grew was shot dead alongside fellow IRA man Martin McCaughey in County Armagh in October 1990. The pair, who were armed, were shot more than 30 times when the SAS opened fire near Loughgall.

4th May

Justice Minister, David Ford, has revealed the details of two new search technology pilot projects within prisons, namely Millimetre Wave Body Scanners, and Transmission X-Ray technology.

9th May

An industrial tribunal has said it does not have the authority to rule on a complaint by a barrister who claimed he was discriminated against by not being appointed a

Queen's Counsel. Peter Sefton alleges discrimination due to religion, gender, political belief and age.

Relatives of the Omagh bomb victims are to hold talks with Northern Ireland Secretary of State Owen Paterson on a new report they commissioned into the 1998 bombing.

Payments to police informants in Northern Ireland have soared to their highest ever level, with more than £430,000 handed over during the last 12 months. Details of the payments were released under a Freedom of Information request.

8th May

A legal challenge over strip searches in prisons in Northern Ireland must be re-examined, the Court of Appeal ruled.

11th May

Charges against Marian Price and three men in connection with an Easter parade in Derry last year were dismissed at Derry Magistrate's Court.

13th May

Forty years after a car bomb exploded outside Kelly's Bar in Belfast, the families of those killed are calling for a fresh investigation into the attack.

15th May

A report by the University of Ulster concludes that people who had traumatic experiences 30 to 40 years ago during conflict are affected by mental health conditions as they grow older.

16 May

A report has found that soldiers acted lawfully in shooting dead a member of the IRA. The Historical Enquiries Team looked into the death of Seamus Bradley in the Creggan area of Derry in July 1972.

21 May

The Department of Social Development announces plans for the the former Girdwood barracks site in North Belfast. The plan will deliver a range of "shared development opportunities" to support social, sports, economic and residential development.

23 May

One of the men convicted of murdering Constable Stephen Carroll is to have his sentence reviewed after claims it was unduly lenient. The Director of Public Prosecutions, Barra McGrory, is to examine the 14-year tariff handed down to John Paul Wootton on Monday for the murder of the officer in Craigavon three years ago — and decide whether it would be appropriate to refer the sentence to the Court of Appeal.

24 May

NIPSA has called for an end to the PSNI's policy of rehiring retired officers for jobs that are not publicly advertised. It described the policy for recruiting temporary agency staff as "jobs for the boys".

29th May

Marian Price is seen by two United Nations appointed doctors to ascertain her medical condition while being held in prison.

Just News welcomes readers' news, views and comments.

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