

Submission from the Committee on the Administration of Justice (CAJ) to the Committee on Economic, Social and Cultural Rights (CESCR)

72 Pre-Sessional Working Group (PSWG), 6-10 March 2023, List of Issues (LoI) for the United Kingdom

Re. Issues relating to the Northern Ireland peace agreements

January 2023

1. The Committee on the Administration of Justice (CAJ) is an independent human rights NGO with cross community membership in Northern Ireland and beyond. It was established in 1981 and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its international human rights obligations.
2. CAJ is the UK member of the International Federation of Human Rights (FIDH) and is co-convener, alongside the trade union, UNISON, of the Equality Coalition which is a network of over 100 equality NGOs and trade unions campaigning for equality in Northern Ireland (NI).
3. CAJ regularly engages with Council of Europe and United Nations treaty bodies and welcomes the opportunity to provide comment to CESCR in its development of a List of Issues for the United Kingdom (UK).
4. This response covers commentary on UK commitments in relation to the Northern Ireland (NI) peace agreements that engage the Covenant rights, specifically:
 - A Bill of Rights for Northern Ireland (Art. 1, 2)
 - An Anti-Poverty Strategy on basis of Objective Need (Art. 3, 6, 9, 11, 12)
 - Irish Language Legislation (Art. 1, 2)
 - Paramilitary Intimidation from Housing (Art. 11)

A Bill of Rights for Northern Ireland

5. The 1998 UK-Ireland Belfast/Good Friday Agreement included a commitment to incorporate further rights in addition to those within the European Convention on Human Rights (ECHR) into Northern Ireland law through legislation in the UK Parliament. The Northern Ireland Bill of Rights, by virtue of being 'ECHR+', would therefore have a focus on economic, social, and cultural rights and be the vehicle whereby many rights within the Covenant could be incorporated into Northern Ireland law.

6. The Northern Ireland Bill of rights is entirely separate to the UK Government's proposed British Bill of Rights, the purpose of which is to diminish incorporation of the ECHR in domestic law across the UK.
7. The Northern Ireland Bill of Rights would provide a key safeguard over the exercise of Executive and legislative power in Northern Ireland in a manner which is inconsistent with protected Covenant rights. Such patterns of abuses of power of economic, social, and cultural rights fuelled the Northern Ireland conflict and have remained heavily contested during the peace process.
8. In its previous Concluding Observations, the Committee expressed regret that the "bill of rights for Northern Ireland has not yet been adopted, as provided by the Belfast (Good Friday) Agreement". Recalling its previous recommendation (E/C.12/GBR/CO/5, para. 10), the Committee urged the UK "to take all necessary measures to expedite the adoption of a bill of rights for Northern Ireland".¹
9. Since the previous monitoring round, a new UK-Ireland Agreement (*New Decade New Approach*, NDNA 2020²) re-established the suspended Northern Ireland Executive and Legislature in Northern Ireland. NDNA included a commitment to progress the NI Bill of Rights through a dedicated Committee in the NI legislature.
10. The developments to this end are summarised in a recent report by the Council of Europe Commissioner for Human Rights Dunja Mijatović:

The [Belfast/Good Friday] Agreement mandated the [NI Human Rights Commission]-NIHRC to consult and advise on the scope of such a Bill of Rights for Northern Ireland. The NIHRC submitted its advice in 2008, but no Bill has been put forward in almost 15 years that have followed it. After the publication of the New Decade, New Approach document in 2020, the Northern Ireland Assembly set up an Ad Hoc Committee on a Bill of Rights. In June 2021, the Ad Hoc Committee agreed it supported the creation of a Bill of Rights for Northern Ireland, but it made any further decisions contingent on the advice from a panel of experts, which would have to be created for this purpose. This panel was not established due to political disagreement. The Committee delivered a report in February 2022, but could not make a decision on what approach a Bill of Rights for Northern Ireland should take in view of the afore-mentioned issues. Whilst the Belfast/Good Friday Agreement provides that a Bill of Rights for Northern Ireland must be legislated for by the UK Parliament, the UK government has declined to put forward legislation until consensus is reached in Stormont, which is unlikely in view of the deep divisions and current political stalemate.³
11. The UK Government has subjected progress the NI Bill of Rights to a pre-condition of all party consensus before legislating, which is incompatible with the commitment in the Belfast/Good Friday Agreement.

The Committee may wish to include the Northern Ireland Bill of Rights in its list of issues.

¹ E/C.12/GBR/CO/6 Concluding Observations on the UK, 2016, Paras 9-10.

² <https://www.gov.uk/government/news/deal-to-see-restored-government-in-northern-ireland-tomorrow>

³ <https://www.coe.int/en/web/commissioner/-/united-kingdom-commissioner-warns-against-regression-on-human-rights-calls-for-concrete-steps-to-protect-children-s-rights-and-to-tackle-human-rights-issues-in-northern-ireland>

A Northern Ireland anti-poverty strategy on the basis of objective need

12. A further key peace-agreement safeguard, which protects Covenant rights, is the statutory duty on the Northern Ireland Executive to adopt an anti-poverty strategy based on objective need. The 2006 (UK-Ireland) St Andrews Agreement led to legislation obliging the Northern Ireland Executive ('The Executive Committee') to adopt such a strategy on the following terms:

S28E Strategy relating to poverty, social exclusion etc

(1) The Executive Committee shall adopt a strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need.

(2) The Executive Committee -

(a) must keep under review the strategy; and

(b) may from time to time adopt a new strategy or revise the strategy.⁴

13. Following the St Andrews Agreement, the Northern Ireland Executive failed to adopt such a strategy. In 2014, CAJ took legal action against the Northern Ireland Executive through judicial review proceedings. We were successful in this legal challenge, with the Court holding in 2015 that it was clear that 'no such' anti-poverty strategy had in fact been adopted by the Northern Ireland Executive who had therefore acted unlawfully.⁵
14. In 2016, the Committee's previous concluding observations urged the UK to adopt the anti-poverty strategy in Northern Ireland.⁶
15. The NI Executive collapsed into suspension from January 2017 until it was re-established in 2020 under the New Decade New Approach (NDNA) Agreement. NDNA facilitated a process to develop the anti-poverty strategy. This involved the NI Department for Communities convening an Expert Advisory Panel on the strategy, which produced a comprehensive blueprint for the strategy. This was followed by the establishment of a co-design group and cross-departmental advisory group.
16. The NI Executive collapsed again in 2022 and the anti-poverty strategy has not been formally adopted.

The Committee may wish to include the NI Anti Poverty Strategy in its list of issues.

Irish Language Legislation

17. In relation to the Irish speaking community, the 2006 (UK-Ireland) St Andrews Agreement committed the UK Government to introducing an Irish Language Act "reflecting on the experience of Wales and Ireland". In relation to the fulfilment of undertakings under the Council of Europe European Charter for Regional or Minority Languages (ECRML), the Committee of Ministers has recommended the development

⁴ S28E Northern Ireland Act 1998 (as inserted by the Northern Ireland (St Andrews Agreement) Act 2006).

⁵ [Application for Judicial Review by the Committee on the Administration of Justice](#) 2015 NIQB 59

⁶ E/C.12/GBR/CO/6 Concluding Observations on the UK, 2016, para 48.

of a comprehensive Irish language policy for Northern Ireland, preferably through the adoption of legislation that provides statutory rights for Irish speakers.⁷

18. The UK Government delayed introducing an Irish language act. The failure to deliver on commitments to the Irish language were key factors in the collapse of the NI institutions between 2017 and 2020. Prior to the collapse, some NI Ministers had introduced 'English-only' policies.⁸
19. The Committee in its previous Concluding Observations remained concerned about the "lack of effective measures adopted by the State party to promote the use of the Irish language in Northern Ireland", and reiterated its previous recommendation for the UK to adopt an Irish language act (see E/C.12/GBR/CO/5, para. 37).⁹
20. The 2020 NDNA Agreement provided for languages and identity legislation to take forward the commitment to an Irish language act. After considerable delay, this was introduced and completed passage in the UK Parliament in December 2022 as the Identity and Language (Northern Ireland) Act 2022.¹⁰
21. The provisions represent significant progress providing for an Irish language Commissioner who will issue Irish Language Best Practice Standards. However, Council of Europe experts have assessed the Bill as falling below the UK's treaty-based requirements towards the Irish language.¹¹
22. Whilst the Act represents significant progress for the Irish speaking community, it is yet to be commenced and is a weaker model to that previously committed to by the UK.

The Committee may wish to include the Irish language Act on its List of Issues.

Paramilitary Intimidation in Housing

23. Previous Concluding Observations of the Committee have raised concerns regarding persistent inequality in access to adequate housing, highlighting, in particular, the case of Catholic families in north Belfast and urging remedial intervention.¹²
24. Control of certain areas and direct acts of sectarian and racist intimidation from housing by non-state armed groups remains a key factor in preventing families moving into areas where there is available housing. However, the official strategies in Northern Ireland for tackling ongoing paramilitary activity do not contain specific

⁷ Recommendation CM/RecChL(2014)3 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by the United Kingdom, (Adopted by the Committee of Ministers on 15 January 2014), recommendation 2.

⁸ For further details see [CAJ submission to the Committee of Experts \(COMEX\) on the UK response to the 5th COMEX Report on UK compliance with the European Charter for Regional or Minority Languages \(ECRML\) 2021](#).

⁹ E/C.12/GBR/CO/6 Concluding Observations on the UK, 2016, paras 67-8.

¹⁰ <https://www.legislation.gov.uk/ukpga/2022/45/enacted>

¹¹ MIN-LANG (2021)3, 'Evaluation by the Committee of Experts of the Implementation of the Recommendations for Immediate Action contained in the Committee of Experts' fifth evaluation report on the UNITED KINGDOM and ISLE OF MAN', Paragraphs 24-26.

¹² E/C.12/GBR/CO/6 Concluding Observations on the UK, 2016, para 49.

measures to combat such activity. The state response to such incidents can be limited to verifying the authenticity of the paramilitary threat and moving the victim.¹³

The Committee may wish to include housing inequality in Northern Ireland, and the role of paramilitary intimidation in particular, in its list of issues.

CAJ, January 2023

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¹³ For further detail see CAJ Written Evidence to the UK Parliament 'Inquiry into the effect of paramilitaries on NI society' (June 2022) <https://caj.org.uk/publications/submissions-and-briefings/response-to-inquiry-into-the-effect-of-paramilitaries-on-ni-society/>