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A look into equality and rights issues North and South

This issue of Just News takes an all-island view on various equality and rights issues: from disabled persons' rights to economic rights and combatting poverty. We begin with an article by Becca Bor and Trása Canavan, who discuss the seminal importance and urgency of enacting an Anti-Poverty Strategy (APS) within the Northern Ireland Executive. An APS would form the backbone of other policy initiatives and is a legal obligation of the Executive.

In the next article, Luna Liboni takes a broader look at economic, social and cultural rights, discussing the Ireland's compliance with the United Nations (UN) Economic, Social and Cultural Rights Convention; a recent review by a UN Committee found concerns with Ireland's compliance on specific equality commitments, particularly in recognizing and protecting the economic, social and cultural rights of marginalized groups, including asylum seekers, Travelers, transgender and disabled persons. Liboni also underscores the importance of civil society engagement in implementing and monitoring the UN Convention on Economic, Social and Cultural Rights, a thread picked up by Clóna de Bhailís in the next article.

De Bhailís discusses the UN Convention on the Rights of Persons with Disabilities, emphasizing the normative and practical importance of the treaty for disability rights. This article comes as Ireland moves toward ratifying the Optional Protocol of the treaty, which would serve as an important accountability mechanism on disability rights and protections. Like Liboni, de Bhailís underscores the necessity of consulting with civil society organisations in the monitoring and implementation of the treaty, at the UN and state level.

Continuing with the topic of disability rights, particularly on the right to care, Oran Doyle discusses the two recent Irish referendums on constitutional amendments, both of which were rejected by voters. Doyle considers the nuanced reasons behind these 'no' votes and draws lessons for future constitutional amendments on other rights and equality issues, for example abortion rights or same-sex marriage.

This issue concludes with a reflection by Dara Keeve on the Equality Coalition's 2024 priorities for advancing equality in Northern Ireland now that the Executive has formed again. These priorities include advancing economic, social and cultural rights in Northern Ireland and other equality commitments prescribed by United Kingdom (UK) and international human rights laws and treaties. Read on for a round-up of recent CAJ events and for our civil liberties diary.

Where is Stormont's urgency on enacting an anti-poverty strategy?

Becca Bor, Northern Ireland Anti-Poverty Network and Trása Canavan, Barnardo's NI

In March, the Equality Coalition, Northern Ireland Anti-Poverty Network (NIAPN) and Barnardo's NI launched the [seminar report](#), "Progressing an anti-poverty strategy for Northern Ireland." The [seminar](#), held in June 2023, was sponsored by Emma Sheerin MLA, with co-sponsors Gerry Carroll MLA, Mike Nesbitt MLA, Sinéad McLaughlin MLA, and Kate Nicholl MLA calling for an anti-poverty strategy (APS) based on objective need to be a day one priority for the next Executive.

With the fanfare and promises of a reconvened Assembly earlier this year, there was precious little said in the first few weeks about poverty and the requirement for the Executive to urgently enact an APS. This report launch aimed to remind the Executive of their legal obligations and keep the issues of poverty and social deprivation in the minds of MLAs and civil servants.

Northern Ireland has been waiting for an anti-poverty strategy since it was first promised as part of the Good Friday/Belfast Agreement. Subsequently, the Northern Ireland (St Andrews Agreement) Act 2006 contained a legal obligation for the NI Executive to develop a strategy to tackle poverty, social exclusion, and patterns of deprivation based on objective need.

When an APS was still not enacted in 2015, CAJ took a judicial review to the High Court, which found the Executive was acting unlawfully. Whilst the New Decade, New Approach agreement (2020) renewed the Executive's commitment to developing the strategy, and the then-Department for Communities (DfC) Minister established an expert advisory panel and a co-design group to take forward its development, progress halted at the collapse of the assembly in February 2022.

At our seminar in June, George Sampson, Director of Central Policy, DfC said, "we do have a draft strategy there. We have something that's ready to present to an incoming minister."

Therefore, at this juncture the Department does not have to reinvent the wheel. Whilst Stormont was not sitting, our assumptions was that the Department was updating its statistics and keeping the strategy a live document, ready to be immediately taken to the Minister. Yet, Colum Boyle, Permanent Secretary DfC indicated that although he saw a draft APS, it would be "some months away before it would be in shape to bring to the Executive."

This is not the kind of urgency that we expect on a critical social issue. Further litigation is always an option if progress is not made quickly towards an APS based on objective need. This importance of an APS cannot be overstated as it is the backbone for other policy initiatives and strategies.

The reality for so many, is that we have a social security system that is failing households. A low wage economy that is failing households. A childcare and social care system that is failing households. Fundamentally, many people do not have enough money to afford the basics. The cost-of-living crisis has exacerbated the difficulties in making ends meet, but the cost-of-living crisis has occurred on the back of years of austerity that has already brought our public sector to its knees.

The [report](#) in 2021 from the expert advisory panel and from some members of the co-design group lay out recommendations that were evidence-based with the vision to eradicate poverty. The blueprint is there, we now need action from the DfC and the Executive.

As Daniel Holder argued at the report launch, "Many say that poverty is a political choice, but enacting an APS based on objective need is a legal obligation, not a choice."



Is Ireland living up to its human rights obligations on social and cultural rights?

Luna Lara Liboni, Irish Council for Civil Liberties

The fourth periodic review of Ireland under the International Covenant on Economic, Social and Cultural Rights (ICESCR) took place last February, bringing State representatives from Ireland back to Geneva to respond on the status of implementation of the rights contained in the Covenant nine years after the end of the last review.

ICESCR is one of the core international human rights treaties. Ireland first signed it in the 70s and ratified it in 1989. As with other ratifying States, Ireland has been subject to periodic reviews by the body responsible for monitoring its implementation: the UN Committee on Economic, Social and Cultural Rights (CESCR). Over the course of two days, the UN Committee – formed by 18 independent experts – engaged in dialogue with over 30 representatives of the State led by Minister Joe O’Brien. Questions by CESCR were heavily informed by written and oral contributions of national human rights institutions and civil society organisations. Among those who took part in the process was the Irish Council for Civil Liberties (ICCL), Ireland’s oldest independent human rights body.

CESCR concluding observations contain concerns and recommendations that mirror much of what shared by ICCL in our parallel report to the Committee and in our engagement in Geneva on a wide range of rights. Overall, the Committee called on government to do more to ensure the progressive realisation of economic, social and cultural rights (ESC). Among the issues raised by ICCL and addressed by CESCR are the gaps in the domestic application of the Covenant and the need to develop meaningful and effective engagement mechanisms to ensure civil society participation. In the area of equality, the Committee pointed towards the need to improve the collection of disaggregated data, called for the adoption of comprehensive anti-discrimination legislation and recommended the State to take all reasonable measures to prevent and combat persistent discrimination, racism and inequality faced by marginalised groups especially in the area of decent work, social security, health care and services, adequate housing and education. The Committee also made a clear recommendation to expedite the adoption of the Safe Access Zones Bill 2023, echoing ICCL recommendations to ensure access of abortion services in privacy and with dignity. Three of the “priority areas” on which Ireland will have to provide a follow-up on by March 2026: business and human rights, maximum available resources and minimum wage.

As all other countries that ratified the Covenant, including the UK, Ireland is obliged under ICESCR to take steps towards the progressive realisation of economic, social and cultural rights. As



stressed by ICCL throughout the review, the word “progressive” does not excuse an extreme lag in realising socio-economic rights in Ireland and as it clearly follows from the Committee’s recommendations, the realisation of these rights in Ireland remains grossly inadequate – especially for members of marginalised and disadvantaged groups.

While concluding observations mark the end of the review, they should be treated by the government as a starting point and a roadmap to fulfil their obligations under human rights law in the area of economic, social and cultural rights. Immediately, and with urgency, considering Ireland is facing a long-lasting and severe housing crisis, homelessness is on the rise, marginalised groups such as asylum seekers, Travelers, Roma, transgender people and disabled people do not enjoy equal protection of their ESC rights in law or in practice and the country is facing a growth of far-right - particularly anti-immigrant - actions exploiting among other factors socio-economic discontent. On many issues currently before government and the Oireachtas – such as the review of equality law, revised charity legislation and safe access zones – the UN Committee has given clear directions to act with urgency, and to do so adopting a human-rights-based approach.

The UN Committee is due to scrutinise UK’s obligations under ICESCR shortly, after having published last year the list of issues that will be the foundation of the dialogue with the UK. As ICCL for Ireland, CAJ has submitted alternative information on the status of ESC rights in Northern Ireland.

Both Ireland and the UK have yet to ratify the Optional Protocol to ICESCR, which would introduce a procedure for individual complaints to the Committee.

Disability rights in Ireland: The need for accountability and implementation

Cliona de Bhailís, Centre for Disability Law and Policy

On the 5th of March Ireland's Minister for Children, Equality, Disability, Integration and Youth, Roderic O'Gorman [announced](#) that he intended to establish an inter-departmental working group to accelerate the work required to ratify the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Recent months have also seen an Oireachtas Committee [call for submissions](#) on the 'reality of human rights for people with disabilities in Ireland'. This article will explore the background and significance of these announcements, what it may mean for disability rights in Ireland, and where Ireland requires more actionable solutions towards fulfilling its human rights obligations for persons with disabilities.

The adoption of the UNCRPD [in 2006](#) is described as marking a paradigm shift in relation to persons with disabilities. Adopting the Convention highlights a change in attitudes from viewing persons with disabilities as 'objects' in need of medical treatment, charity and care to 'subjects' with rights and active members of society. As a result it also often requires significant changes to national laws, policies, and practice. Ireland signed the UNCRPD shortly after it opened for signatures in May 2007 however, it did not ratify the treaty until March 2018. The reason for this delay in ratification was attributed to the need to amend national laws and in line with the Convention.

The Optional Protocol to the UNCRPD requires a separate ratification process and would allow disabled people in Ireland to make individualised complaints to the Committee on the Rights of Persons with Disabilities (CRPD Committee), an important accountability mechanism. International treaties are not automatically part of national law in Ireland. This means that in practice Irish disabled people cannot rely on the UNCRPD to enforce their rights in court unless those rights are written into legislation. Therefore, the Optional Protocol would be a clear way for disabled people to hold the State to account in relation to its human rights obligations.

A 'Roadmap for Ratification' [document](#) published in 2015 indicated that Ireland would ratify the Optional Protocol to the UNCRPD at the same time as the principal treaty. However, in 2018 ratification of the Optional Protocol was delayed until after Ireland had completed its first round of reporting with the CRPD Committee. Ireland submitted its first report to the CRPD Committee in [2021](#) but may not be examined until [2027](#) due to delays within the UN system. However, the recent

announcement by Minister O'Gorman regarding the Optional Protocol provides some hope that ratification may occur before 2027.

In contrast, the UK ratified the Optional Protocol to the UNCRPD in August 2009. Therefore, disabled people in Northern Ireland can make individualised complaints to the CRPD Committee. In 2016 the CRPD Committee found 'grave or systematic violations' in relation to the rights of persons with disabilities and the social security reforms in the UK. Based on Article 6 of the Optional Protocol the CRPD Committee conducted an inquiry into this issue and during its March 2024 session had a follow up dialogue with the UK. This included reviewing reports from the Equality Commission for Northern Ireland, the Northern Ireland Human Rights Commission and civil society organisations.

Despite the disability movement in Ireland's repeated calls for the ratification of the Optional Protocol since 2018 the recent announcement will likely be greeted with a cautious welcome. Activists expressed their skepticism at the timing of the announcement which coincided with the campaign for a referendum on Article 41 of the Constitution or the care amendment. Further, the UNCRPD places an obligation on States to 'closely consult with and actively involve persons with disabilities' in the implementation and monitoring of the Convention. Therefore, disabled people and their disabled persons organisations (DPO) should be central to any developments to implement the UNCRPD and the work required to ratify the Optional Protocol. The Minister's announcement would suggest that these groups will not be represented on the working group and there are no clear plans for their engagement.

Further, a recent [report](#) by the Joint Committee on Disability Matters shows that Ireland has made 'limited progress' on implementing Article 13 UNCRPD – Access to Justice. This is particularly concerning given that any complaint submitted under the Optional Protocol must first exhaust all domestic remedies. In their report the Joint Committee noted issues with access to legal representation for disabled people including issues with access to civil legal aid, the absence of a dedicated legal resource and inconsistency in access to sign language interpreters in court.

Across the UNCRPD the Committee only noted 4 Articles where the State was making 'Good Progress' in implementation. Clearly there is much work that is still to be done and the

Optional Protocol is not the only solution. The recent call by the Joint Committee focusing on the reality for disabled people in Ireland and seeking examples that are working on the ground is an important step. The focus must shift from identifying gaps to identifying solutions, taking action and implementing broader reform.

Ireland rejects constitutional amendments on family and care

Oran Doyle, Trinity College Dublin

On 8 March 2024, Irish voters rejected two constitutional amendment proposals. The Care Amendment would have removed the state's recognition that 'by her life within the home, woman gives to the State a support without which the common good cannot be achieved'. The Family Amendment would have extended constitutional protection to families founded on other durable relationships as well as marriage.

Rejection of the proposals might suggest an end – or even reversal – to a decades long process of social liberalisation south of the border. But detailed consideration of the reasons for rejection presents a more complicated picture.

Proposals for the women in the home provision have historically divided between simple deletion or gender-neutral replacement. This division dissipated impetus for reform of a provision with few if any real-world effects. Ultimately, the Care Amendment coupled deletion with inclusion of a new provision recognising the value of care within a family and committing the State to strive to support such care.

Somewhat glossing over language that refers to mothers not being 'obliged by economic necessity to engage in labour to the neglect of their duties in the home', some advocates referred to the fact that many mothers wish to have a meaningful choice to look after their children at home. Others objected that the new obligation to 'strive' to support the provision of care would not be legally enforceable. Finally, many disability rights advocates criticised what they viewed as an implicit message that care was primarily the responsibility of the family rather than the state, rendering those with disabilities invisible.

Faced with these opposing arguments, the Government failed to articulate any convincing case for the amendment. The suggestion that the Amendment would have little effect on anything, while largely accurate, raised the question of why anyone should vote for it.

The debate on the Family Amendment had different dynamics, largely focusing on the vagueness of the phrase 'other durable relationships'. There was public concern about the sort of family relationships the courts might recognise under this provision and the implications such recognition might have for other areas of law, such as immigration, succession, and family separation.

Much of this debate over-estimated the legal significance of being a member of a constitutionally recognised family and failed to account for a Supreme Court judgment in January 2024 declaring unconstitutional the exclusion of unmarried couples from the widow and widowers pension. That judgment requires a reconsideration of all remaining legislative preferences for married couples, irrespective of the Family Amendment. But these were subtle points of constitutional law that gained little traction in public debate, failing to counteract and possibly fuelling a narrative that the proposal was problematically vague.

Both proposals followed lengthy consideration in Citizens Assemblies and other forums, although the Government provided little opportunity for public and political discussion of the final wording. Their rejection is likely to discourage future Governments from holding referendums on social issues, such as housing. At a time when constitutional futures on the island of Ireland are being considered, public concern over the vagueness of 'other durable relationships' – if taken at face value – is consistent only with closely defined constitutional revision and militates against any largescale reform.

A better lesson from the rejected care and family proposals would be to focus constitutional amendment on achieving defined outcomes, more like previous proposals on same-sex marriage or the liberalisation of abortion law. There then needs to be ample opportunity for public analysis and debate of the concrete reform proposals before the final wording is fixed and the campaign proper commences. Voters must be reassured about what an amendment proposal will likely achieve before they will consider arguments in favour of that proposal.



Equality Coalition's 2024 policy priorities: Advancing equality in Northern Ireland

Dara Keeve, CAJ

In the wake of the formation of an Executive after almost 2 years of political turmoil, the Equality Coalition have refreshed a list of policy priorities representing the urgent asks of our membership. The Equality Coalition is a broad civil society alliance of over 100 NGOs and trade unions dedicated to advancing equality in Northern Ireland and is co-convened by CAJ and UNISON. While we welcome the fact that we now have a functioning government, many of our priorities have previously been committed to, but have not yet been advanced. Our priorities encompass a wide array of areas, spanning from safeguards over legislative and Executive power to economic, social, and cultural rights, as well as civil and political rights.

Upholding Legislative and Executive Power Safeguards

Central to the Coalition's agenda is the preservation of safeguards over legislative and Executive power in NI. This includes preserving and safeguarding the incorporation of the European Convention on Human Rights (ECHR) in NI law, a critical achievement of the Good Friday Agreement (GFA). Additionally, the Coalition advocates for the legislating of the NI Bill of Rights (BoR) in Westminster to provide comprehensive protection of economic, social, and cultural rights, as well as addressing rights deficits resulting from Brexit.

We are also focusing on strengthening safeguards over power-sharing mechanisms, including revising the Petition of Concern and removing the NI Executive's veto over 'controversial' and 'significant' ministerial decisions. These measures aim to ensure a rights-based power-sharing system that fosters inclusive participation across communities.

Additionally, the Coalition wants to ensure that public authorities fully implement the 'Section 75(1)' equality duty, including collecting disaggregated data and applying gender budgeting.

Advancing Economic, Social, and Cultural Rights

Addressing socioeconomic disparities remains a pressing concern for us. The adoption of an Anti-Poverty Strategy and Anti-Poverty Act is essential to combatting child poverty and ensuring equitable resource distribution based on objective need. Additionally, we support the adoption of robust, best practice 'levelling up' single equality legislation. The full implementation of the Identity and Language (Northern Ireland) Act 2022 is an additional priority, including the appointment of the Irish Language Commissioner.

Gender equality features prominently in our priorities, with a focus on the "right of women to full and equal political participation", as stated within the GFA. This should include the application of UN Security Council resolution 1325 to NI and urgent sign off and adequate funding for the Violence against Women and Girls Strategy (VAWG), among other areas.

The Equality Coalition is calling for the implementation of the independent review of hate crimes legislation in NI, particularly consolidating all hate crime and hate speech law into a new 'Hate Crime and Public Order (Northern Ireland) Bill. We are also calling for the Government to honour commitments made in the New Decade New Approach deal (NDNA), including making welfare mitigations permanent, the development and implementation of progressive legislation protecting and enhancing workers' rights, and addressing housing need and inequality.

Advancing on Just Transition (shifting to a more sustainable economy) in Northern Ireland is yet another area that the Coalition wants to work on, ensuring that there is an actual targeting of environmental needs and that there is an accountability mechanism in the Just Transition Commission. Public acquisition of Lough Neagh also features on our list.

Protecting Civil and Political Rights

The Coalition aims to counter the hostile climate faced by human rights defenders and other civic actors. This includes prioritising targeted State actions to combat sectarian and misogynistic abuse and to ensure a conducive environment for civic engagement. Additionally, we advocate for full compliance with ECHR Articles 2 and 3 duties on dealing with the legacy of the past, including repealing the Northern Ireland Troubles (Legacy and Reconciliation Act) 2022. Furthermore, the Coalition aims to ensure that the Patten Report reforms on policing are fully actioned, including accountability and oversight for all law enforcement bodies.

Conclusion

Despite our still relatively fragile political situation, there remains both optimism and an appetite for change in Northern Ireland. The Equality Coalition is looking forward to working collaboratively with our members and others to advance our policy priorities and to ensure maximum impact.


CAJ events round-up

February—March 2024

Feb

29

'Scandalous and Vexatious': Defamation Law for Activists and Campaigners

 *The PILS Project NI, Equality Coalition*

 *UNISON NI, Belfast*

The Equality Coalition and The PILS Project organised a seminar to provide human rights and equality activists an introduction to defamation law and process in Northern Ireland. We were joined by Barrister Peter Girvan and solicitor Olivia O’Kane, who reviewed defamation law and litigation; and journalist and author Malachi O’Doherty, who shared personal experiences of defamation litigation.



March

04

Launch of Seminar Report: 'Progressing an Anti-Poverty Strategy (APS)'

 *NI Anti-Poverty Network (NIAPN), Barnardo's NI, Equality Coalition*

 *Stormont*


On March 4, the Equality Coalition, NIAPN, and Barnardo’s NI launched the seminar report, ‘Progressing an Anti-Poverty Strategy (APS)’ at Stormont. The seminar took place in June 2023 and called for an anti-poverty strategy to be a day one priority for the Executive. An anti-poverty strategy would be the ‘backbone for other policy initiatives,’ as Becca Bor (NIAPN) and Trása Canavan (Barnardo’s NI) detail on page 2 of this issue.




March

06

Joint press conference on PSNI surveillance of journalists

 *National Union of Journalists (NUJ), Amnesty International NI, CAJ*

 *Belfast*

The NI Policing Board has waited for more than six months for information from the Police Service of Northern Ireland (PSNI) about covert surveillance of journalists. In early March, the Chief Constable of the PSNI Jon Boutcher committed to providing an answer on this topic within four weeks. Amnesty International, NUJ and CAJ gave a ‘cautious welcome’ to this commitment at a press conference on March 6, reiterating concern about a wider pattern of covert surveillance of journalists and emphasizing that this juncture is a test of policing accountability and freedom of the press.



Civil Liberties Diary - February to March 2024

Compiled from various sources



14 February 2024: Lord Hain, the former NI Secretary of State, [said](#) that legacy inquests are being deliberately delayed by state bodies that are ‘running down the clock’ to May 1, when the Legacy Act would close all unconcluded inquests. The Legacy Act is facing several legal challenges, discussed further below. Some inquests have already been shut down due to the Act, such as in the [case](#) of Patrick Duffy. In [February](#) there were 28 legacy inquests in the judicial system, of which only 18 had been started.

26 February 2024: The Irish Government opened a reparations program for survivors of mother and baby homes, but survivors and rights advocates [note](#) significant flaws in the compensation scheme. An [estimated](#) 24,000 survivors out of 34,000 total will be excluded from the scheme because they spent less than six months in these homes. Plus survivors born into the twelve homes in Northern Ireland face exclusion from the scheme, even if they were raised in the Republic. Meanwhile, survivors of mother and baby homes in Northern Ireland continue lobbying Stormont for a public inquiry and redress.

28 February 2024: The High Court in Belfast [ruled](#) that the UK Legacy Act is in breach of the European Convention on Human Rights (ECHR) and other UK rights obligations. The Legacy Act will shut down existing mechanisms to investigate and prosecute serious Troubles-related crimes and on May 1 replace those mechanisms with a new body called the Independent Commission for Reconciliation and Information Recovery (ICRIR), which

engages an immunity scheme that the Belfast court found in breach of Articles 2 and 3 of the ECHR, as well as [Article 2](#) of the Windsor Framework. The UK government is [appealing](#) the ruling. The European Court of Human Rights is [also](#) considering an inter-state application against the UK brought by the Irish government over the Act.

6 March 2024: Amnesty International and CAJ [have](#) written to the NI Policing Board calling for an inquiry into the Police Service of Northern Ireland’s (PSNI) surveillance of journalists. These calls come after new documents revealed additional information about PSNI surveillance of journalists. The PSNI Chief Constable Jon Boutcher [committed](#) to providing answers on police surveillance of journalists within four weeks, a development that Amnesty and CAJ met with ‘cautious welcome’.

8 March 2024: Operation Kenova, an independent investigation into the British Army’s top IRA informant called Stakeknife, released a highly-anticipated [interim report](#) which found that security forces repeatedly withheld or ignored information about serious crimes during the Troubles, ignoring their responsibility to prevent and investigate these crimes, as well as their responsibility to provide truth to families of victims.

20 March 2024: CAJ has [raised](#) concerns that the UK government’s ‘Rwanda Bill,’ which would aim to deport asylum seekers in the UK to Rwanda, is in violation of the Human Rights Act & Good

Friday Agreement, ECHR, and Article 2 of the Windsor Framework. This comes as the UK government continues to push for the bill to be passed, despite the bill [failing](#) several times within the house of Lords and despite clear [objections](#) from the ECHR, which are legally binding against the UK.

25 March 2024: The High Court in Belfast [ruled](#) that a coroner could provide a summary of information to the next of kin of Liam Paul Thompson regarding his killing, after the PSNI Chief Constable and NI Secretary of State tried to prevent the material from being disclosed on national security grounds. Thompsons’ family [seek](#) information to clarify whether police at the time knew of the threat of a loyalist attack and could have prevented his killing.

3 April 2024: The UK [called](#) for an investigation into the killing of three British aid workers in Gaza. This comes as Israel faces increasing scrutiny over its restrictions of aid in Gaza and alleged [targeting](#) of aid workers. Meanwhile, rights organizations such as Amnesty International [warn](#) that UK and Israeli investigations have historically amounted to little, and instead call for the UK to back investigations being conducted by international courts.