



What Should Northern Ireland Now Expect From the New Labour Government?

The July 2024 UK General Election delivered a Labour Government following 14 years of varying shades of Conservative rule. What should we expect in NI as a result?

Firstly, Labour has prioritised a re-set of relations with Dublin. This, in part, relates to a return to joint stewardship of the GFA process. However, the reset is much bigger than Northern Ireland issues and relates to the bedrock of the UK-Ireland relationship, as the UK seeks Irish assistance for an economic reset with the EU. London's economic needs potentially give Dublin significant leverage on broader bilateral issues.

A positive from the new Labour administration has been the express commitment to maintain the European Convention on Human Rights (ECHR). As well as being a cornerstone of European democratic societies, the incorporation of the ECHR is a core safeguard contained in the GFA. Despite this cornerstone status, the Tories had repeatedly undermined ECHR incorporation and threatened to pull out of the Convention all together. Labour could go further, entrench its commitments and ratify the additional ECHR Protocols the UK has stayed out of. This would include Protocol 12, the free-standing right to equality, which could unlock in the long-stalled

process for single equality legislation in Northern Ireland.

The Labour election manifesto has a brief Northern Ireland section. The most prominent commitment is made to 'repeal and replace' the NI Legacy Act and return to the principles of the Stormont House Agreement. This manifesto section stresses that a Labour Government will uphold the letter and spirit of the GFA, and work with Dublin.

The manifesto also commits to Labour 'implementing the Windsor Framework in good faith'. The Windsor Framework (néé NI Protocol), whilst largely focusing on trade, contains the 'Article 2' human rights legal safeguard which prevents diminution in certain GFA rights as a result of Brexit. This provision successfully protected NI from some of the most draconian legislation emanating from the last Government, including Legacy Act and the Illegal Migration Act (which provided for arbitrary detention and removal of irregular entrants to the UK, linked to the Rwanda policy, essentially ending the right to claim asylum in the UK).

The manifesto also commits to 'discussions' with the NI Executive on a new fiscal framework. This relates to a long-term funding settlement for the NI Executive linked to evidenced need as it grapples with the local legacy of austerity and chronic underfunding of public services, including health.

The Labour manifesto references Stormont stability but does not commit to any process regarding Stormont reform or a GFA structures review.

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Unlike previous manifestos, there is no reference to the NI Bill of Rights. The devolved institutions are again up and running but remain consistently dysfunctional. This may ultimately prompt the two Governments to trigger processes provided for in the GFA to examine reform of the structures of the Stormont institutions. This would positively provide the opportunity to press for the belated implementation of the rights-based safeguards committed to under the framework of the GFA.

A further issue under consideration is a bilateral initiative on paramilitary transition. In the Joint Communiqué of the British Irish Intergovernmental Conference on the 29 April 2024, both Governments agreed to take forward work (including supporting ‘independent scoping and engagement’) to assess the merits of a formal process for paramilitary transition and disbandment. We understand a further announcement on this had been anticipated but was delayed due to the election.

The new Labour Government set out its legislative programme (‘Kings Speech’) on the 17 July 2024, including steps on legacy repeal and other bills. Another key area where the UK Government exercises power in Northern Ireland is that of immigration policy. Labour had made clear that the Rwanda policy is rejected. As alluded to above, Northern Ireland had been spared the Illegal Migration Act (IMA) due to Article 2 of the Windsor Framework. This followed a legal challenge brought by the GFA-established NI Human Rights Commission, to which CAJ contributed an expert Affidavit. Labour’s initial moves have been to use secondary legislation to prevent application of some provisions of the IMA

Whether the full IMA will be repealed however remains to be determined. Crunch time in NI will come with the appeal to the above ruling instigated by the last Government due to be heard in the NI Court of Appeal in September. This appeal has not been discontinued by Labour Ministers. Labour in its legislative programme has also set out plans for a Border Security, Asylum and Immigration Bill and the establishment of a ‘Border Security Command’ which will involve stronger law enforcement powers—including to stop and search at borders. The detail of these proposals is awaited and it is unclear if and how they will apply on the land border in the context of the Common Travel Area (CTA).

Turning to the Legacy Act, Labour had committed to repealing it, and specifically to reopening legacy inquests and civil proceedings and a replacement of the Act in line with Stormont House Agreement principles.

However, the legislative programme of the new Government to date only partially meets this commitment. Labour does intend, through a remedial order under the Human Rights Act, to remove the amnesty scheme which in any case had already been found to be unlawful by the High Court. There is also a clear commitment to re-opening civil proceedings. A commitment to reopen inquests is much more limited to what had previously been aired, referring only to those prematurely closed when the Legacy Act closed down existing legacy mechanisms (the ‘Package of Measures’ including inquests) on the 1 May 24. The Tories had also rushed to set up, by the same date, the ICRIR—their new chosen sole legacy commission, to conduct ‘reviews’ of legacy cases. The most controversial element of Labour’s approach to date has been to keep the ICRIR in place, with some reforms to increase its independence. This decision was ultimately qualified to the ICRIR ‘gaining the confidence of victims and survivors’. This is tacit acknowledgement that support

for the ICRIR remains, as the Council of Europe Committee of Ministers previously observed, ‘minimal’.

The rationale for this ‘partial repeal’ approach by Labour in Government is grounded in the assertion that the whole Legacy Act cannot be repealed as it would leave nothing in its place. This is at best questionable: repealing the whole Act would de jure and de facto return Northern Ireland to the position of the 30 April 2024, and the existing Package of Measures. The new Labour Government has committed to a process of consultation with key stakeholders. This process will ultimately inform the fate of the Legacy Act.

In addition to the domestic legal challenges, the Irish Government had lodged an Inter-State case to Strasbourg (Ireland v the UK no 3) challenging the amnesty, ICRIR independence and other parts of the Legacy Act. Post election, the Tánaiste made clear that the government would not withdraw its proceedings yet (in essence until Dublin considers the Legacy Act issues resolved).

The new Secretary of State also announced that he would drop the previous Governments’ appeals against the High Court findings of ECHR-incompatibility of the Legacy Act. However, Labour is not dropping the previous Government’s appeals against same provisions being incompatible with Article 2 of the Windsor Framework. This position is concerning. The Conservative government, in response to litigation on the Legacy Act but also the IMA, countered with positions which would have regressed and nullified the commitment under Article 2 to safeguarding GFA rights.

The new Secretary of State will also have to take a decision as to whether to continue appeals and litigation taken by his Conservative predecessors against Court rulings upholding decisions of Coroners and whether to open the public inquiries recommended by coroners dealing with specific legacy cases. A further litmus test is whether Labour will ultimately honour the commitment, made in a bilateral agreement of the peace process last time labour was in power, to open a public inquiry into the death of Pat Finucane. The Court of Appeal in July gave the Secretary of State a limited timeframe to decide soon on opening the independent public inquiry long sought by the family. To do so will send a signal that the new Labour government is really making a break with the impunity agenda of its predecessors.

Stormont Restoration Six Months On — New Decade Same Dysfunction?

The latest restoration of the Executive took place seven months ago in February 2024. The following analysis provides the background and a stocktake as to progress from the perspective of rights and equality issues.

The 2022-2024 Collapse

The resignation of DUP First Minister Paul Givan in February 2022, in protest at the outworkings of Brexit in the NI Protocol, had first left other ministers in a ‘caretaker’ capacity for several months. Following the Assembly election of May 2022, the DUP continued to oppose the restoration of the institutions. The party also did so in February 2023 despite the then re-working

of the NI Protocol as the Windsor Framework. Ultimately under the cover of the ‘Safeguarding the Union’ document which essentially rebranded the Windsor Framework, the DUP agreed to the nomination of a speaker and ministers in February 2024, restoring the devolved institutions. The present Assembly term is therefore the 2022-2027 mandate. The restoration this year means there are three years to run on a five year mandate and a significant legislative backlog.

The 2017-2020 Collapse

The two-year absence of the institutions compounds the three year absence between 2017-2020. On that occasion the institutions were brought down by the resignation of Sinn Féin (SF) deputy First Minister Martin McGuinness in the context of the RHI scandal and the non-implementation by the DUP of previous agreements (including rights and equality measures, most prominently on the Irish language). A 2018 SF-DUP restoration deal focusing on draft languages legislation evaporated as its ink was drying as the latter withdrew support. The institutions were ultimately restored by the 2020 New Decade New Approach deal (NDNA) by the two Governments and NI Parties, following a multi-party stakeholder engagement process in which CAJ actively participated.

New Decade New Approach 2020

NDNA provided for and included as an appendix language legislation (based on the 2018 SF-DUP deal) including an Irish language act and provision for a commissioner dealing with Ulster Scots. NDNA also included the first official process to take forward the NI Bill of Rights in over a decade, committing to the establishment of an ad hoc Assembly Committee. NDNA also

committed to a series of equality strategies as well as committing to implementing the legal duty to adopt an Anti-Poverty Strategy as an ‘immediate priority’ for a new Executive. Prior to the 2017 collapse, the High Court had found the NI Executive had acted unlawfully in not adopting the Anti-Poverty Strategy in CAJ’s judicial review. NDNA contained commitments on workers rights, including ending zero-hours contracts. NDNA notably contained a draft Programme for Government (PFG) in a context where no PFG had been adopted since the 2011 mandate.

The 2020-2022 Assembly

The restoration of the institutions in 2020 coincided with the pandemic. In the two years in which they were operational, no PFG was adopted. There was significant progress on the Anti-Poverty and equalities strategies by the Department for Communities in the production of Expert Advisory Panel reports producing blueprints and the work codesign groups. At an Equality Coalition event in Stormont 2023 the Department confirmed that a draft Anti-Poverty Strategy was ready to go to an incoming minister. The Ad hoc Bill of Rights Committee took and published a broad range of evidence, albeit its full work was impeded by a DUP blockage on the appointment of expert advisors. In late 2020 the Judge-led Independent Review of Hate Crimes legislation, to which CAJ participated in the Expert Group, reported to the Department of Justice which initiated public consultation on its proposals.

Regarding the agreed languages legislation, the DUP did not progress same and Westminster ultimately stepped in to pass the legislation. In 2021, the DUP leader Edwin Poots was ousted after just 21 days for having agreed a deal over the legislation. Whilst Westminster passed the legislation in 2022, the Secretary of State left commencing the legislation—including the appoint-



ment of the Irish language and Ulster Scots/Ulster British Commissioners- to incoming First and deputy First Ministers.

The provisions for Ulster Scots raised concerns from the Human Rights Commission and CAJ. This related to conflation in the mandate of the Commissioner between what had hitherto been a recognised linguistic minority of Ulster Scots speakers and the concept of ‘Ulster Britishness’ with Council of Europe experts observing this sectarianised Ulster Scots. As part of a NDNA side deal, Conservative Ministers also agreed a DUP position to move away from recognising Ulster Scots speakers solely as a linguistic minority to instead recognise Ulster Scots as an ethnic group (‘a distinct people’) under the Framework Convention for National Minorities.

In relation to the legal duty to adopt an Irish Language Strategy, in August 2022 the High Court in Belfast, for the second time, found that the Executive had acted unlawfully in not adopting the strategy, noting among other matters that the DUP had on over 30 occasions ‘blocked’ the Strategy from substantive consideration at the Executive.

Safeguarding the Union 2024

The Safeguarding the Union document, which facilitated the return of Stormont in February 2024, followed a different process to NDNA and other ‘crisis’ agreements of the peace process which had largely been bilateral negotiations with the parties. In this instance, Safeguarding the Union arose solely from UK Government negotiations with the DUP and focused essentially on the Windsor Framework, rather than broader Stormont issues.

The Restoration in 2024

A four party (SF, DUP, Alliance, UUP) Executive was established on the restoration of the institutions in February 2024. For the first time SF was the largest party and Michelle O’Neill took up the First Ministers post. The SDLP, having not returned enough MLAs to gain a minister, formed the official opposition. SF took the Finance, Economy and Infrastructure portfolios; the DUP Education and Communities; Alliance Agriculture and Justice, and the UUP health.

The production of a Programme for Government (PfG - the first since 2011) would be a core priority for any new Executive, with a blueprint already developed in NDNA. Six months on however, there was no sign of even a draft PfG. Despite repeated Ministerial responses that a PfG would be published for consultation by the summer this did not occur, which indicated a fresh blockage. A limited legislative programme was set out in late May. At the time of *Just News* going to press, the Executive announced a draft PfG would now be presented to the Assembly on 9 September. We await details of its scope.

Regarding the Anti-Poverty Strategy, now led by a DUP Communities Minister, progress has stalled with an indication there was an intention to depart and dispense with some of the key recommendations from the previous expert evidence-led work (such as Child Payments). CAJ and Equality Coalition colleagues raised these matters before the Assembly’ Communities Committee which shared concerns and raised them with the Minister. At the time of writing there remains no timetable for progress or publication of the draft Strategy previously agreed, with

the Department recently indicating before the Public Accounts Committee that it would likely be March 2025 before an Anti-Poverty Strategy was even put before the Executive.

As elaborated on elsewhere in *Just News*, there also has been no visible progress on the range of strategic equalities strategies (including LGBTQI+, gender, disability) which are also under the auspices of the Department of Communities.

The Justice Minister Naomi Long, has stated that the Hate Crimes Bill will now not proceed in this mandate due to lack of time, but elements of it—such as the aggravated sentencing model, may be taken forward through other justice legislation.

In late May the Education Minister, Paul Givan, issued a Written Ministerial Statement to the Assembly on Early Learning and Childcare measures 2024/25, which provided some, albeit limited progress on childcare.

In relation to health, the UUP dissented on the budget regarding its own Department’s allocation and recently changed Minister to Mike Nesbitt (in light of Robin Swann’s election as an MP) who in June set out measures to tackle health inequalities and take forward reform.

In meeting the Equality Coalition, the Finance Minister Caoimhe Archibald made a series of commitments regarding the Departments’ Equality Scheme and budgetary process.

In July the Economy Minister launched a consultation on a ‘Good Jobs - Employment Rights Bill’ including on dealing with zero hours contracts (further to the NDNA commitment).

In July also the Agriculture Minister ultimately had an action plan approved by the Executive to deal with the environmental crisis in Lough Neagh.

In relation to language legislation, which would require First and deputy First Minister agreement, six months on there has been no visible progress in appointing the Irish language or Ulster Scots/Ulster British Commissioners. An Assembly question as to whether it was intended that the Ulster-Scots related Commissioner would have to actually be able to speak Ulster Scots, was dodged. There is also no sign of the Irish language strategy from the Department of Communities.

New Approach – or Same Old Blockages?

Six months into the mandate, not withstanding some initiatives, the level of blockages on equality and rights initiatives, is leading to a sense of profound *deja vu* across the sector.

This is particularly the case with the anti-poverty strategy, equalities strategies, and minority language commitments. The length of time taken to progress a Programme for Government to date is of particular concern – not least as individual ministers cannot take any ‘significant or controversial’ decisions which fall outside the PfG without the approval (on a cross community basis) of the full Executive. This veto mechanism was brought in under the 2006 St Andrews Agreement, and was largely used by the DUP in the previous mandate.

Whilst the clichéd language of ‘the parties cannot agree’ continues to be bandied around, there is no escaping that most of the blockages over rights and equality issues rest with the DUP. Although there has been no serious rebellion over Stormont restoration since February (on which the party was divided) the party in recent months has also contended with the loss of its leader

Jeffrey Donaldson following sexual offence charges and losing significant support in the Westminster election. The finding of the Standards Commissioner that DUP ministers breached the ministerial code in relation to boycotting north-south bodies in the previous mandate (as detailed elsewhere in *Just News*), means sanctions against such ministers may also come under Assembly consideration following the summer recess.

In our assessment, disproportionate power is currently vested in the larger parties in the context of mechanisms such as the St Andrews veto, and the ability of either the First or deputy First Ministers to veto items from the Executive Agenda, which allow the grounding of Executive business to a halt, even when a policy does not conflict with anyone's rights and has majority support.

At this juncture, on the basis of past and present experience, the prospects for the Assembly to deliver on rights and equality issues, as well as a semblance of functionality, remain limited. A process of significant reform which returns to the intentions of the GFA for objective rights-based safeguards rather than subjective political vetoes seems to remain a key pre-requisite to sustaining Stormont. Whilst such a process can be triggered by the two Governments entirely in line with provisions of the GFA, there is no sign to date of the political will to do so.

Hardwiring Fairness for Now and for Future Generations: Learning from Wales

Pádraic Quirk, Deputy Director, SCI

At the events marking the 25th Anniversary of the Good Friday Agreement, former Irish President Mary McAleese remarked that not enough had changed for disadvantaged communities. Levels of poverty hadn't shifted, and many people have yet to feel the benefits of peace.

Her analysis could well be applied to lots of different areas given the evidence of deepening inequalities. A recent Northern Ireland Audit Office (NIAO) review of the 2016-2022 Child Poverty Strategy found a lack of significant progress on key indicators, with around 1 in 5 children still living in relative poverty. The review highlights the strategy's failure to set long-term, preventative and targeted actions and a lack of joined up working and accountability.

While the reasons for inequality in Northern Ireland are multifaceted, implementation failure is the common feature of the many policy initiatives taken to address it. For instance, despite significant investment (£138m in 2019/20) in improving numeracy, literacy and educational outcomes, a 2021 enquiry by the NI Audit Office found that the attainment gap between pupils in receipt of Free School Meals and others had not changed significantly in the last 15 years.

Northern Ireland is not alone, of course, in experiencing delivery or implementation failure around tackling inequality and improving outcomes. However, its response is falling behind in a serious way.

Other jurisdictions experiencing similar challenges like Scotland, Wales, New Zealand and Australia have opted to take a more comprehensive approach. They have introduced legislative duties to improve wellbeing and tackle inequality for current and future generations.

Wales has led the way with its 2015 Well Being of Future Generations Act. The Act makes the wellbeing of the current and future population of Wales the core purpose of government.

The Act applies to every level of government. Every action of the government is measured against seven agreed national goals. These goals cover inequality, health, prosperity, resilience, communities, language and heritage and Wales' role in the world—they directly link to the UN Sustainable development goals. To address implementation failures, the Act uniquely introduces duties stipulating the ways government must work—the things



that need to be done to deliver on the goals. This places an obligation across government to take a preventive approach, plan for the long term, collaborate and integrate and include and involve citizens.

The Act established new accountability mechanisms in the form of a Future Generations Commissioner and a seriously strengthened Audit Wales. Both the Commissioner and Audit Wales routinely report on progress being made towards the seven goals and five ways of working. Raising public consciousness about performance is a key part of improving accountability on delivery.

Speaking at a recent SCI event in Belfast, Jane Davidson, one of the architects of the Act, talked about the importance of having legislation focused on delivery. Her only recommendation was that ‘if you are going to make it a law, make it a law to deliver.’ Delegates at the Hardwiring Fairness conference also heard from a range of key actors in Wales who are delivering the FGA—although not perfect, they recounted the Act’s benefits in improving public services and changing mindsets and practice towards the needs of current and future generations.

In our efforts to address inequality and tackle poverty, the Welsh model provides important lessons. A new legislative framework focusing on improving wellbeing and reducing inequalities, has the potential to build upon the important duties we already have, notably in relation to equality of opportunity, community planning and sustainable development, and to support those seeking an Anti-Poverty Act. An overarching wellbeing framework that requires more effective ways of working and a stronger approach to accountability could unlock the potential of whole system working to realise improved outcomes for those who need them most.

For more insights and information about SCI’s Hardwiring Fairness event, including reflections from a NI panel, see [here](#).

Commissioner for Standards Investigates Ministers for Breaching the Code of Conduct — But Sanctions Remain Out of Reach

On 16 April 2021, CAJ and Conradh na Gaeilge (CnaG) submitted a breach of Ministerial Code complaint against then Junior Minister Gordon Lyons relating to his failure to attend the North South Ministerial Council (NSMC) Language Body meeting, where important decisions were to be taken on funding and appointments. This was the first complaint ever submitted to the Commissioner for Standards against a Minister for breaching the Ministerial Code of Conduct, with her powers at the time having been extended beyond MLAs to cover Ministers through a Jim Alister private members’ bill introduced in light of the RHI scandal.

The Minister’s absence from the NSMC meeting occurred in the context of DUP protest actions over the consequences of Brexit (the NI Protocol). The CAJ/CnaG complaint contended that the Ministers failure to attend the meeting was part of a DUP strategy to boycott the NSMC meetings.

The Standards Commissioner commenced her investigation in June 2021 and the last investigative step (a document disclosure notice to the DUP) took place in October 2022. Whilst the investigation was concluded thereafter, the report sat in abeyance for some time as the Assembly Committee on Standards and Privileges to which it was to be submitted was not sitting in the context of the then collapse of the institutions. The report was ultimately submitted after the Assembly was reconvened in February 2024. There was then a further delay as the Committee sought further legal advice as to how to handle its new role in



relation to complaints against Ministers. In June, a further delay in the publication of the report occurred due to the pre-election ‘purdah’ period. The report was ultimately published the day after the UK General Election, when the news agenda was elsewhere.

The Commissioner’s report upheld the main elements of CAJ and CnaG’s complaint and finding that Mr. Lyons has breached the Ministerial Code of Conduct. This gives the code teeth and sets a significant example and precedent for activists and organisations who wish to hold Ministers to account. The application of sanctions (e.g. suspension of a minister 3-12 months) remains however up in the air, with such a sanction at present apparently only possible with a cross-community vote in the Assembly, which could be subject to a DUP veto. Mr Lyons’s therefore remains a Minister (now with the Communities portfolio).

This piece sets out further details as to what has occurred and the precedent it has set to date. The SDLP opposition have already announced an intention to table a motion of censure once the Assembly returns following summer recess, which will provide a fresh focus on issues below.

The Scope of the Complaint

The scope of the extension of the Standards Commissioner’s powers to adjudicate over breaches of certain sections of the Ministerial Code were somewhat ambiguous in the legislation. The CAJ/CnaG complaint took the opportunity to therefore test scope. The complaint firstly tested whether the Standards Commissioner had powers to adjudicate over breaches of provisions of the Code that require attendance at the NSMC per se and over compliance with the Pledge of Office. The Commissioner’s report held that this was ‘unlikely’ to be the correct interpretation of the scope of her new powers and therefore she could not investigate these elements. The Commissioner’s powers did however extend to the provisions in paragraphs 1.5 and 1.6 of the Code, covering the ‘Ministerial Code of Conduct’ per se and the Seven Principles of Public Life. Our complaint in this area had been that the Minister had not complied with duties to “take decisions solely in terms of the public interest” and “be as open as possible about all the decisions and actions that they take”. In short, the matters for adjudication were ultimately not the actual failure to attend, but whether the Minister had been honest about the reasons for same and acted in the public (rather than, for example, a party political interest).

Notably the provisions of the Ministerial Code relating to attendance at the NSMC are enforceable through judicial review. Mr Justice Scofield in October 2021, further to application to the High Court by Mr Sean Napier against DUP Ministers (including Junior Minister Lyons), found the DUP’s withdrawal from NSMC meetings to be unlawful.

The North South Ministerial Council Meetings

Under the Good Friday Agreement, the North South Ministerial Council (NSMC) was established to develop consultation, cooperation and action within the island of Ireland. Participation in the Council is one of the essential responsibilities of relevant Ministers. Areas for North/South cooperation and implementation include agriculture, health, transport, language and more. The NSMC language body is a single body reporting to NSMC but composed of two separate agencies, including the Irish Lan-

guage Agency, Foras na Gaeilge, and the Ulster-Scots Agency, Tha Boord O Ulstér-Scoth. Foras na Gaeilge has responsibility for the promotion of the Irish Language on an all-island basis.

NSMC language board meetings are an instrumental part of the functioning of Foras na Gaeilge and ensure that decisions are taken concerning governance, policies, and actions to be implemented to support the development of the Irish language. Any decisions not taken nor agreed upon at North/South sectoral meetings have an adverse impact on the community of Irish speakers and those involved in the development and protection of the language.

On 31st March 2021, a scheduled NSMC meeting did not take place due to the absence of Mr. Lyons. As a result, scheduled decisions on the appointments to the Foras na Gaeilge board and its yearly budget were not taken. The postponement of the meeting frustrated and impacted Foras na Gaeilge’s decision-making abilities and disrupted decisions about funding schemes and other decisions under Foras na Gaeilge’s remit.

This took place in the context of the DUP’s “five-point plan” designed in protest to the NI Protocol, which included a statement that the DUP intended to “send a strong signal to the Government of the Republic of Ireland that North-South relationships are also impacted by the implementation of a Protocol which they supported. Our members cannot and will not continue to act as though relationships are normal”.

In September 2021, seven months after CAJ and CnaG submitted their complaint, the then party leader Sir Jeffrey Donaldson formally withdrew DUP participation from all NSMC meetings.

Despite this context, Mr. Lyons denied that a boycott of the NSMC meetings existed and maintained that he did not participate in the NSMC language body meeting due to 1) the meeting having never been confirmed, and 2) being busy with constituency business on the day that the meeting was scheduled.

CAJ and CnaG submitted the complaint to the Commissioner for Standards. This was the first complaint made against a Minister for breaching the Ministerial Code of Conduct since the Commissioner’s powers were extended to investigate and report on Ministers through Section 5 of the Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2021. Prior to this, the Commissioner could only investigate and report on the conduct of MLAs. CAJ and CnaG argued that the failure to attend the NSMC was a deliberate boycott strategy by the DUP to protest the consequences of Brexit (and specifically the NI Protocol), and not as the DUP contended, due to ‘diary clashes’.

CAJ and CnaG argued that this boycott was not a decision taken in line with the requirements of the Ministerial code for Ministers to act in the public interest, but rather in pursuance of a party strategy to obstruct north-south cooperation.

Findings of the Commissioner

The Commissioner accepted the complaint and instigated an investigation, including conducting an interview with Mr. Lyons under oath and reviewing all relevant documentation.

CAJ and CnaG argued in their complaint that Mr. Lyons had breached provisions of the Seven Principles of Public Life, which are enshrined in the Code and requires holders of public office to, among other things, take decisions solely in terms of the public interest, and to be as open as possible about all the deci-

sions and actions that they take. The Code also requires holders of public office to promote and support the Seven Principles by leadership and example.

Ultimately, the Commissioner upheld the complaint, concluding that Mr. Lyons ‘by his actions and decisions, showed a lack of leadership, openness, selflessness and accountability in breach of paragraph 1.5(iv) and 1.6 of the Ministerial Code of Conduct when he failed to attend the NSMC Language Body meeting’ (or to notify of his absence sufficiently ahead of time), and by attempting to defend his actions by arguing that the meeting and agenda were not officially confirmed.

The Commissioner found Mr. Lyon’s argument that there was no confirmed meeting “unconvincing” and stated plainly that Mr. Lyons has not been open about his motivation for not complying with his legal obligation to either attend the meeting or to communicate his inability to attend ten days in advance.

Importantly, the Commissioner held that despite Mr. Lyon’s arguments to the contrary, based on the evidence ‘it is reasonable to conclude on the balance of probabilities, that Mr. Lyons’ non-attendance at the Language Body was motivated by the DUP’s political position articulated in their five-point plan.’

By not complying with his legal obligation, the Commissioner found that Mr. Lyons set ‘a bad example for his Assembly colleagues and for the wider society that he is somehow above the law, which ultimately could serve to lower standards within the Assembly and diminish public trust and confidence in the Assembly.’

While it might have seemed obvious to the general public that the DUP were engaging in a strategy of boycott, a quasi-judicial determination of this sort by an official oversight body as to honesty, transparency and illegitimate motivations for decisions by Ministers, sends a powerful signal over the required adherence standards in public life. The Commissioner’s findings are a significant indication that the oversight mechanism has teeth.

Subsequent Complaints

Five months after CAJ and CnaG submitted their complaint, a

further complaint was made by a different complainant against all DUP Ministers (the then First Minister Paul Givan MLA, Minister Gordon Lyons MLA, Minister Michelle McIlveen MLA, Minister Edwin Poots MLA and Junior Minister Gary Middleton MLA) for breaching the Ministerial code of conduct by failing to attend NSMC meetings. Following the precedent in the original complaint, the Commissioner upheld the complaints, finding that the Ministers breached the code and acted unlawfully in failing to attend the meetings, and set a ‘disturbing example’ to Assembly colleagues and wider civil society that they are somehow above the law. The Commissioner stated, ‘providing the defence that meetings were not scheduled, while at the same time being responsible for obstructing the normal custom and practice involved in the scheduling process, is a further breach of the Seven Principles of Public Life which Ministers must adhere to at all times.’

All five DUP Ministers have therefore breached the Ministerial code of conduct.

So, What Happens Next?

While the Commissioner now has the powers to investigate and report on Ministers, the Commissioner does not have the power to recommend sanctions against a Minister. The Commissioner’s role is limited to identifying a breach of the code of conduct and presenting her report to the NI Assembly Standards and Privileges Committee (which is why it took so long for these reports to be published—reports cannot be presented while the Assembly is collapsed). However, unlike the procedure for complaints made against Members, the Standing Orders were never modified to allow the Standards and Privileges Committee to make a recommendation to the Assembly for sanctions. Instead, the Committee’s role is currently limited to considering the Commissioner’s report and publishing it.

It is therefore solely up to the Assembly to decide to impose sanctions against a minister, and to decide what those sanctions should be. The following sanctions can be imposed by resolution of the Assembly: exclusion of a Minister/Junior Minister from office for 3-12 months; reduction in the salary of a Minister/



Junior Minister; and censure of a Minister/Junior Minister.

A motion for an Assembly resolution in relation to these sanctions must either be moved by the First Minister and Deputy First Minister acting jointly or be supported by at least 30 members of the Assembly, requiring cross-community support.

In the last Assembly mandate, the previous Standards and Privileges Committee had considered the issue of whether ‘it would exercise a role in considering reports by the Commissioner on investigations into alleged breaches of the Ministerial Code of Conduct. In February 2022, the Committee ultimately decided that its preferred approach [was] to seek procedural changes to ensure that it has no role in this regard’.

In this mandate, the current Committee is reviewing the preferred option from the prior Committee. The minutes of the Standards and Privileges Committee from 26 June 2024 state that a policy options paper is being drafted on the potential for the Committee to take on the role of adjudicating complaints against Ministers, prior to final decisions being made on any proposed amendments to Standing Orders.

Implications for Activists

If the DUP deputy First Minister declines to table a motion against a fellow DUP Minister (which is foreseeable) the only mechanism for consideration of sanction is reliant on a motion being tabled 30 MLAs. The SDLP opposition (who have seven MLAs) have announced an intention to do so—another 23 MLAs from other parties would need to join the motion for it to progress. With the DUP consisting of the majority of designated unionists, powers would still exist to block censure—albeit like the Petition of Concern—this could lead to a delegitimising of the whole process and momentum for reform.

In the interim, it is highly significant that the oversight mechanism has now been tested and found to have teeth. This at the very least will make ministers think twice about their conduct and responsibility when holding high public office. Ultimately sanctions flowing from breaches will give the safeguard a real bite.

Civil society also has an important role to play in ensuring the Code is functional rather than solely aspirational. Activists should ensure that they are familiar with the Code including the Seven Principles of Public Life, and be prepared to use this safeguard (through complaints with the Commissioner for Standards) when Ministers breach these principles. We all have a responsibility to ensure that the most powerful in our society are not above the law.

Holding Northern Ireland's Minister for Communities to Account: NDNA Social Inclusion Strategies

In 2020, the New Decade New Approach Agreement included a draft Programme for Government that referenced key supporting strategies such as the Anti-Poverty Strategy, Disability Strategy, Gender Strategy and Sexual Orientation (now

LGBTQIA+) Strategy.

Where Are the Strategies Now?

Several factors have hindered the progression and implementation of the social inclusion strategies, such as the collapse of the Northern Ireland Assembly by the DUP in 2022 due to their opposition to the Northern Ireland Protocol and, most notably, further political resistance.

In the previous Assembly mandate, some progress was made. Expert Working Group Reports providing blueprints for the Disability, Sexual Orientation (now LGBTQIA+), and Gender Strategies were taken forward and published by the Department for Communities. However, these strategies have not been progressed any further this term.

Moreover, extensive work on the Anti-Poverty Strategy was undertaken through the Expert Panel and Co-Design processes, however the Executive failed to adopt an Anti-Poverty Strategy before the collapse of the Assembly in 2022, despite the fact that this is a legal duty. In June 2023, the Equality Coalition held a seminar during which the Department for Communities set out that a draft strategy had been prepared to be taken forward by an incoming Executive.

Return of the NI Assembly

Upon assuming office in February 2024, the new Minister for Communities, Gordon Lyons (DUP), whose department is responsible for the above-mentioned social inclusion strategies, stated that his key priority is to deliver ‘real, positive, and lasting change for the people in Northern Ireland,’ adding that he would be ‘actively engaging with all stakeholders and partners.’ Given that the Minister assumed office with only three years remaining in the current Assembly mandate, implementation of the social inclusion strategies became more urgent than ever.

It is reasonable to expect that the Minister would be actively engaging with external groups regarding the social inclusion strategies given this commitment. Unfortunately, this has not been the case. Despite the clear necessity and urgency of these strategies, there has been a worrying lack of engagement from both the Minister and his department with external groups and stakeholders. The Women's Policy Group, for example, requested a meeting to discuss several issues, including the social inclusion strategies, but their request was refused. Similarly, HERE NI, the Rainbow Project, and Cara-Friend jointly sought to meet with the Minister to discuss the LGBTQIA+ strategy, only to be declined. The Gender Strategy Co-Design Group's request for engagement was also rejected.

This pattern of declined meetings and lack of communication with key stakeholders raises serious doubts about the Minister's commitment to implementing the social inclusion strategies. Not only have essential voices been alienated, but the development of well-rounded, inclusive policies has been hindered. Engagement with stakeholders is not merely a procedural formality; it is a critical component of crafting policies that accurately reflect the needs and realities of the diverse populations they aim to serve.

The Minister's refusal to engage with external groups undermines the very essence of the social inclusion strategies. These strategies are designed to promote equality and address depri-

vation and inequality, yet without active collaboration and input from the affected communities, their implementation becomes questionable.

Furthermore, several written questions have been asked in the Assembly regarding the progression of the social inclusion strategies. The Minister has a trend of giving what is essentially a non-answer, saying that he is 'currently considering the next steps to be taken in relation to the Executive's Social Inclusion Strategies'. Furthermore, the Minister has confirmed that he has not engaged with any external groups in relation to the social inclusion strategies in response to a written question asked in June. Additionally, Permanent Secretary to the Department for Communities presented a contrasting view to the fact that an Anti-Poverty Strategy was essentially ready for consultation, saying that it was some months away from being in a 'strong enough shape' to be put before the Executive. This significantly departs from the previous work undertaken by the Department to develop the strategy and is another cause for concern.

It is imperative that there be a timely and comprehensive update on the progress of these strategies. The Equality Coalition wrote a letter to the Minister for Communities, voicing our concerns on the lack of movement on the social inclusion strategies, the lack of engagement with external groups in relation to said strategies and requesting an urgent update on the strategies. In response to this appeal for accountability and transparency, the letter stuck with the trend of essentially providing a non-answer, recycling the usual jargon that we are accustomed to seeing in response to Assembly questions.

Effective implementation of social inclusion strategies requires more than just generic non-answers and the avoidance of stakeholders. It demands active collaboration, transparency, and a steadfast commitment to addressing the complex issues faced by various communities.

Lessons from Co-Designing the Ending Violence Against Women and Girls Strategy

*Elaine Crory, Women's Sector Lobbyist,
Women's Resource & Development Agency*

Co-design has, unfortunately, developed a bad reputation within civil society in Northern Ireland. This caution is not an objection in principle, because of course a good strategy, especially one that is vital and long overdue, is best when co-designed with the experts working in the field and the people impacted. The strategies produced are supposed to lead to concerted actions, across Government and society, to improve things in whatever area the strategy focuses on. In practice, however, it rarely works the way that we hoped, hence the poor reputation.

Many of us have taken part in several co-design processes and found similar themes and similar concerns in how they are approached and enacted—or indeed if they ever are enacted. In particular, there is a tendency towards unnecessarily self-limiting approaches to what can be discussed, and a push towards agreeing on recommended actions that are already planned by the Department running the process, often leaving

participants feeling uncomfortable standing over a final product that lacks any serious ambition to make the most crucial changes needed. This approach combines with the structure of the Assembly; where government departments often do not act in concert with each other, and therefore an action coming from a Department for Communities Strategy, for example, that requires actions from another department, say Education or Economy, can be met with a simple 'no,' stopping progress dead in its tracks.

They also tend to be extremely time-consuming; participants are often expected to make significant swathes of time available, and not infrequently this is also with short notice. For organisations without any funding or with only a few paid hours available for staff time, this can mean asking a lot of volunteer hours over a period of months and even years. This is unpaid, and at no stage are members told if a fund exists to support them. Even where staff members do exist, the time commitment required puts pressure on workloads which, across the sector, seem to expand endlessly in every direction as our society lurches from crisis to crisis. After all that effort, you may find your work withers and dies when we have another government collapse or the department switches hands between parties, and the new Minister wants to distance themselves from the work of their predecessor. New Decade New Approach in 2020 committed to bringing in several social inclusion strategies, including an Anti-Poverty Strategy that is a legal obligation that our Executive has never managed to deliver on, alongside a suite of others. They all currently lie in the drafts folders of officials within the Department for Communities; all the good work wasted with statistics at least four years out of date, all ambitions towards progress abandoned, legal obligations apparently meaningless.

Overall, then, it is fair to say that participating in a co-design process can seem more burdensome than a genuine opportunity for change. Certainly, I approached my time on the co-design group for the Ending Violence Against Women and Girls Strategy with caution. What actually took place was instead an excellent example of ambitious co-design, and something I will forever be proud to have been a part of.

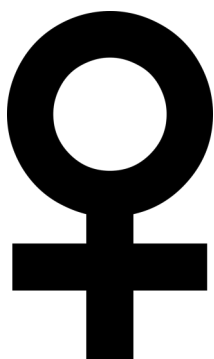
Some of the difference might have come from the fact that the Strategy belonged to the Executive Office (TEO) and this reduced the likelihood of the Strategy being stymied by a lack of agreement across different departments, or because of the chosen approach of the political party that holds the ministerial role at the time the work is done. But the difference was far more markedly different than this can account for alone.

One reason that it was so remarkable is that it was limitless in ambition. At no stage were members told that their asks or ideas were too much, not something that is realistically achievable in the short term or could not get assent from the relevant Stormont department. Participants were constantly encouraged not to feel limited by the cost of proposals, either, notwithstanding the cost-of-living crisis looming and no sitting Assembly at the time the work was carried out. The message was that we should set the bar high first, and then work to identify the actions that would help us meet that high bar. This is not to say that there was an 'anything goes' approach; quite the contrary, the process was carefully coordinated and facilitated by a professional facilitator who was not a civil servant, and moulded always by the pillars of the Council of Europe Convention on Preventing

and Combating Violence Against Women and Domestic Violence, better known as the Istanbul Convention.

Those pillars—Prevention, Protection, Prosecution and coordinated Policies—became the guiding principles, and every day began with a reminder of these, as well as work on the Vision of the Strategy, which was refined continually. The purpose of this was to help us to focus on what we were there to achieve, and to help the many participants pull in the same direction. This was important because the participant pool was far larger and drew from a wider cross-section of the community than any other co-design group I had been in previously. It included fewer representatives of the women’s sector than I would have preferred, but it did include many voices that needed to buy in to the Strategy’s success, including from sports, faith, and men’s groups, as well as civil servants from every department. The eventual tagline for the Strategy, ‘there is something that everyone can do,’ reflects this approach of bringing everyone along, even if it’s not obviously part of the work that these organisations do. Vitally, it also included a lived experience group of participants who were sourced and coordinated by Women’s Aid NI, who shed light on issues that others could not be expected to know. Some of the insights that these survivors provided were so powerful yet simple—for example, the idea that we should ensure that survivors and those who abused them should not have to use the same entrance to a Court building or sit in the same waiting area, and that where this is not possible because of the physical layout of the Court building, measures should be taken to address that or to relocate the case to a building that can allow for this—that their role should self-evidently be replicated as a non-negotiable aspect across every future Strategy.

In terms of format, the goal was to gather the widest set of ideas possible. We often rotated through different tables discussing different ideas, writing suggestions on post-it notes (hundreds and hundreds every day) and adding them to the themed boards. Nobody was excluded from any part of the discussion, and no discussion was excluded from the agenda. This is not to suggest that everyone agreed on every discussion or that there were no diversions; this is where the experienced and independent facilitator ensured that fairness won out, that the discussion remained civil, and the principles of the Istanbul Convention remained central. Staff from TEO worked hard also to keep us all up to date on the work that took place behind the scenes, both during the co-design process itself and in the stages afterwards. The group met again to review all the actions proposed and to rank them by priority, taking into consideration the financial constraints that the current funding situation imposed. Following on from the actual work, once the Strategy is signed off and put into action, there are working groups of various kinds that will meet to offer insight and develop the Strategy’s practice, even as it is operationalised. Care was also taken



not to replicate work being carried out as part of other strategies, such as the Domestic and Sexual Abuse Strategy which was being updated at the same time, or the work of the Gender Equality Strategy, one of the several drafts gathering mothballs at present while we wait for action from the Communities Minister. The fourth pillar of the Istanbul Convention was central here, as we worked to ensure that there is co-ordination between all parts of government. In the end, around half the recommended actions focus on prevention, as befits such a Strategy, which aims to reduce the need for prosecution and engagement with the legal system, and the need to protect those who experience VAWG by preventing as much of it as possible.

This kind of experience is new in Northern Ireland. It shows very clearly, however, that it can be done. The differences were apparent to all of those who took part and, when the Strategy is eventually signed off and enacted, I believe the differences will be noticeable to the people who really form the heart of the work; women and girls across Northern Ireland impacted by VAWG.

The Fight Against the Far Right and Division is the Fight For Rights and Unity

Shane O’Curry, Director, Irish Network Against Racism (INAR)

The Republic of Ireland has long appeared to be an exception to the European norm of the far right having some electoral presence, while the specific nature and history of the Northern Ireland state makes such direct comparisons difficult. In the Republic, and across the broader nationalist and republican traditions, many have taken comfort in the now increasingly dubious certainty that Ireland’s history of resistance to colonialism makes racial and supremacist expressions of nationalism anathema to Irish identities and senses of belonging. In recent decades political discourse in the North since the emergence of the peace process has been framed by language that emphasises rule-of-law, rights and equality. This discourse has informed institutional reform, at least officially. And while this language of rights has been more comfortably embraced by some communities than others, it has been at least formally embraced by all the principal political actors, thereby largely helping to exclude overt expressions of ethnonationalism or of supremacy from the mainstream.

Recent events in Dublin and throughout the Republic have begun to shake that comfort. A violently racist and ethnonationalist Irish political ‘movement’ has emerged with the wave of protests at *Direct Provision* centres (for accommodating people seeking asylum), which began in November of 2022, and culminated in the Dublin riot of November 2023, shattering all certainties especially for minorities. Largely unimpeded, the wave has continued with a campaign of arson attacks on dozens of premises suspected of being earmarked for sheltering people seeking protection. There can be little doubt that these events provided inspiration for the August 2024 racist mayhem unleashed in Belfast, described as a ‘pre-pogrom’ by observers. These recent Belfast events have also shaken many of the

hopes, fostered in the decades of the peace process, that such things would be confined to the past.

The spectacle of Irish nationalist racists and Ulster Loyalist paramilitaries embracing at an islamophobic protest, while waving tricolours and loyalist flags side-by-side, was a surprise to many. But for observers it was merely an above-the-radar emergence of a long-cultivated cross-channel growing far right ecosystem. As a contemporary far right ecosystem, it is not organised with a traditional command structure, but consists of complex networks between British and loyalist 'citizen journalists', influencers, agitators and organisers, and their counterparts in a nationalist Irish scene which they had helped foster. There is little doubt that the Irish far right scene has enjoyed enormous help through support and encouragement, direct resourcing, know-how and, crucially, online amplification from across the border and overseas, but it is not a beast that was entirely of their making either. While the playbooks for the mayhem and terror unleashed in Belfast, Coolock, Southport and Rotherham in recent weeks are remarkably similar to each other; at the kernel of these events lies something that is home-grown in every case. What the communities where far right ideas take root have in common is a very real despair and frustration from having suffered decades of indignities including decreases in real standards of living, cuts to services and a diminishing stake in society, while in the wider society wealth and income inequality are increasing, and talk about rights rings hollow.

The far right's fear-based messaging resonates with the despair, anxiety and anger felt by communities at the sharp end of neoliberalism's hollowing-out of livelihoods, community resources and services. In offering conspiracy theories instead of critical thinking, it points to scapegoats to provide an outlet for the pent-up rage felt by many whose lives and prospects society has had little to offer. To its followers, the far right offers a misguided sense of agency, a sense of immediate purpose and even of ennobling solidarity, misdirecting the very real rage felt by the people it speaks to. It elevates the status of its followers to that of warriors in a mythical end-time race war against a perceived invasion, and a global cabal that is perceived to be directing it. People whose lives have been emptied in many ways now see themselves as soldiers. That is the seductive power of far right ideas to people for whom all talk about rights is alien, and who see themselves as having little else to hold on to.

The primary impact of the spread of far right ideas can be seen in the aftermath of the recent racist riots in Britain and across the island of Ireland, in the propagation of racist violence deeper into the day-to-day lives of people in minoritised communities. The Irish Network Against Racism (INAR), through its *iReport.ie* racist incident recording system, monitors discriminatory and hate incidents, and the institutional responses to them in the Republic. A small sample from *iReport.ie* data from November 2023 gives an insight into how the Dublin riot and its aftermath affected minorities. The system usually logs about 400 incidents a year, or a little over one per day. In the 18 days after November 23rd, it logged 70 incidents – nearly quadruple the normal rate. The following are among incidents logged in this period that show the widening contagion and normalisation of far right ideas and methods:

Near St Stephen's Green, a white man in his 40s cornered a South-Asian woman on the street and screamed a torrent of racist invective at her for five solid minutes.

Near a bus stop, a white man in his late twenties ap-

proached a black man who was waiting for the bus. The person reporting writes: "Completely unprovoked, he started by asking him, 'How long have you been here?' When the black man refused to answer, the white man got angry, telling him that he 'hoped he enjoyed his free house' that he'd 'never worked a day in his life' and that he 'belonged in the zoo'. At one point, he told him that if he got on the same bus as him that he would 'follow him home and kill him' and that he'd 'cut his jugular out and throw it in the Liffey'. He also pretended he was filming the man to put on social media, saying, 'if any of youse see this guy around town give him a slap'."

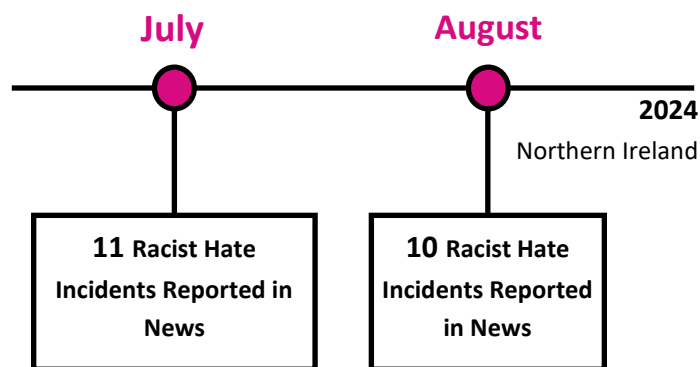
In a rural town, a young Middle-Eastern woman on her first day of work experience in a pharmacy was told she was not allowed to wear her hijab in work, and not to come back.

The far right operates by leveraging and amplifying already existing institutional and structural inequalities and divisions, for example 'common sense' racism, lending them added resonance and legitimacy. It pushes the envelope by normalising previously unacceptable language and presenting it as a mere expression of 'legitimate concerns.' What was once unacceptable in the mainstream is now made acceptable. What follows in the playbook is a race to the bottom in political language, with the consequence that minoritised groups become increasingly exposed to abuse, hostility and acts of violence. In this normalisation of hatred, the more 'presentable' elements within the far right ecosystem repeat 'common-sense' sounding covertly racist political messaging and talking points, which are then picked up by mainstream political representatives and sections of the media. In tandem with this, nakedly fascist elements use fear-based social media campaigns of outright lies about minoritised groups, to bombard local communities into panic-inspired agitation.

Faced with the resulting outbursts of hatred and violence we have seen in recent months, our leaders across these islands may easily fall into the trap of reaching for solutions that further erode rights. Fear-based framings of minorities reverberate on to doorsteps at canvassing time and into newspaper columns. Panic sets in. Politicians, afraid to be wrongfooted, can be seduced by the temptation to join in the competition to appear toughest on immigration and crime. At an executive level governments make harsher sounding noises about immigration procedures and nationality laws. Prosecution powers are increased, sentencing is toughened. Minorities, already the targets of violence and hatred, are further stigmatised and criminalised by such state measures. The sections of white working class communities that the far right targets to develop its base, already left behind, disenfranchised and over-policed, become the subject of scornful classist opinion columns and government promises of police crack-downs. But such responses only contribute to a race to the bottom in rights, an increased perception of competition for rights between groups in society. And they help embed the far right in communities.

On the 1st August this year, the Irish High Court made a ruling in favour of the Irish Human Rights and Equality Commission (IHREC), a Good Friday institution, who for the very first time used their powers to pursue a judicial review against the Irish Government and Attorney General. The High Court ruled that the State had failed to uphold the fundamental human rights of

International protection applicants who are left homeless. This first limited and tardy step by democratic institutions to uphold the universality of fundamental rights offers some hope that minorities will not be put in situations where they are denigrated, stigmatised and made vulnerable to racist violence. It also points in the direction we could all be travelling, which is to make our institutions uphold fundamental human, social and economic rights for all. We must redouble our efforts to fight to embed fundamental rights in the reform of police and police oversight bodies. We must fight for them in the development of an economy that serves all communities, and in the promotion of rights as belonging to all communities so that all can feel safe, have a sense of belonging and see each other not as competitors or a threat, but as contributors to a collective sense of security and wellbeing. In this fight for institutions and a society that delivers rights for all, we must also fight to convince all communities that rights are for them and are something to fight for together, in all our interests.



CAJ and INAR's Féile an Phobail event, 'Racial Violence and the Context of the Rise of the Anti-Immigrant Hard Right in Ireland' on 7 August 2024.

Féile Event: Blinne Ní Ghrálaigh in Conversation with Pádraig Ó Muirigh

Professor Bill Rolston, Ulster University

Blinne Ní Ghrálaigh is an Irish barrister who acted for South Africa in a case brought against Israel at the International Criminal Court (ICC) over alleging multiple breaches of the Genocide Convention. If you watched her present her submission to the Court in January 2024, you will have heard her speak these powerful

words:

Notwithstanding the Genocide Convention's recognition of the need to rid the world of the 'odious scourge' of genocide, the international community has repeatedly failed. It 'failed' the people of Rwanda. It had failed the Bosnian people and the Rohingya, prompting this Court to take action. It failed again by ignoring the early warnings of the 'grave risk of genocide to the Palestinian people' sounded by international experts since 19 October of last year. The international community continues to fail the Palestinian people, despite the overt dehumanizing genocidal rhetoric by Israeli

governmental and military officials, matched by the Israeli army's actions on the ground; despite the horror of the genocide against the Palestinian people being livestreamed from Gaza to our mobile phones, computers and television screens—the first genocide in history where its victims are broadcasting their own destruction in real time in the desperate—so far vain—hope that the world might do something.

The video of Ms. Ní Ghrálaigh in gown and wig making this statement to the Court was shown at the start of an event where she addressed an audience of 300 people on the opening day of Féile an Phobail in St Mary's University College on August 1, 2024.

Blinne (if I can be so familiar) was in conversation with local solicitor Pádraig Ó Muirigh who led her through a fascinating account of her life and legal commitment. Raised between London and Mayo, she noted the point where she decided she wanted to be involved in human rights work. Aged 12, she read a pamphlet belonging to her mother (written by Fathers Denis Faul and Raymond Murray) about the death of Majella O'Hare, shot twice in the back by a British paratrooper in South Armagh in August 1976. The soldier was charged with manslaughter. His defence was that he had returned fire against an IRA sniper and he was acquitted. His defence was a lie, a fact confirmed in 2011 when the British government finally apologised to the O'Hare family. Blinne recounted that she was very upset reading the pamphlet and told her mother who replied that if she felt that way, she should do something about it. She eventually became a barrister and the framed pamphlet about Majella O'Hare's murder has pride of place in her office in Matrix Chambers.

Before that she had worked with British Irish Rights Watch as part of the legal team at the Bloody Sunday Inquiry where she

decided that her preference was to be a barrister rather than a solicitor. And not just any barrister: her choice was to pursue law as a tool for justice rather than the basis of a lucrative career. One of the lessons she drew from the Bloody Sunday Inquiry experience was on the importance of documentation. She pointed out that NICRA had collected statements from many witnesses in the aftermath of the January 1971 massacre but that these were ignored by the subsequent Widgery Tribunal. However, they were crucial for the Saville Inquiry 38 years later. She concluded that documentation may not lead to justice for many years but that there can be no justice without documentation.

As noted on her website, Blinne specialises in eight areas: (1) public international law; (2) international human rights law; (3) civil liberties and human rights; (4) protest law; (5) administrative and public law; (6) criminal law; (7) international criminal law; and (8) inquests and inquiries.

In the first of these (public international law) she has, among other cases, acted for Croatia against Serbia for breach of the Genocide Convention and has provided legal advice on the legality under international humanitarian and human rights law of arms exports by the United Kingdom to Saudi Arabia for use in Yemen.

As regards public law and human rights she has acted for the hooded men, tortured in Northern Ireland in 1971. New information resulting from research by journalists and human rights activists allowed her to successfully argue that the government needed to investigate the ministerial authorisation of that torture.

Protest law came across not just as a speciality but one which brings her great satisfaction. She acted for the four people



charged over the toppling of the statue of the slave trader Ernest Colston in Bristol; the four were acquitted. The audience could detect a sense of devilment when she spoke of the Colston case. The successful defence rested on two main points: first, that reasonable force had been used by the protesters to prevent a crime, given that the accompanying plaque praised Colston as illustrious and wise; and second, that the people of Bristol, for whom the statue was held in trust by the Council, would have consented to any damage to the statue. She tried a third defence, which the court did not accept. It is gleefully imaginative. She argued that the notoriety attached to the statue as a result of its toppling meant that its financial value had increased and that therefore there was no damage for which the defendants were answerable.

In similar vein, in the area of criminal law she has successfully defended 15 protestors convicted of terrorism-related offences for preventing a charter deportation flight from taking off.

Blinne has also worked on a number of Northern Ireland legacy inquests, including that of the SAS ambush and killing of three IRA members in Coagh in June 1991. The coroner ruled in April 2024 that the names of four soldiers be passed to the DPP with a view to prosecution. Blinne emphasised the effectiveness of inquests. They allow disclosure and cross-examination and ultimately the unearthing of relevant information not previously available. She pointed to the success of Michael Mansfield at the Saville Inquiry where he drew an admission from Soldier F of his involvement in killings on Bloody Sunday. Such breakthroughs would be impossible under the original design of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which allows for a review process but not cross-examination. She acknowledged that the new Labour government is about to amend this Act, but it remains to be seen what scope it gives for the pursuit of information from documents and witnesses.

Blinne has worked in the Occupied West Bank and Gaza training Palestinian lawyers. And her work in the field of international criminal law has led to work for the International Criminal Court in relation to war crimes committed by Israel. It was her previous engagement in relation to Palestine which presumably led the South African government to engage her when they were planning their case against Israel at the International Court of Justice.

As Blinne pointed out, the advisory opinion of the ICJ in relation to the South African case was very powerful. It noted the illegality of the Israeli occupation in Palestine and concluded that it must end as soon as possible. Likewise, the illegality of settlements in the West Bank and East Jerusalem was acknowledged. Israel was found to be in breach of international law through its regime of racial segregation. The Court concluded that reparations were necessary. And it concluded that third states must not recognise Israel's unlawful occupation nor provide assistance and that they are in breach if they recognise and support Israel.

Towards the end, in answer to a question of the rise of the right, she posed her own question: is international human rights law robust in the face of such developments? Imperfect as it is, she concluded, the international human rights framework is all we have. We have a choice: to engage with it or to give up. Needless to say, her life choice has been the latter one where she insists in her everyday work that there has to be a rule of law that applies to everyone.

Blinne Ní Ghrálaigh is described in legal directories as 'fiercely intelligent', 'compelling', 'persuasive', 'tactically brilliant' and 'frighteningly clever'. What came through in her inspiring talk is that she is also incredibly passionate and that this, as much as her legal knowledge and ability, is what drives her and fires her commitment, imagination and ingenuity.

The Belfast Women's Assembly at Féile an Phobail: Union or Unity: What Matters Most?

Eilish Rooney, Belfast Women's Assembly

The Belfast Women's Assembly (BWA) organised a Féile an Phobail event this year to discuss *Union or Unity: What Matters Most?*¹ The panellists were Linda Ervine, Sarah Creighton, Susan McCrory and Ailbhe Smyth.² BWA's vision is guided by the principles of equality, human rights, and climate justice. Its aim is to ensure that women's equality, rights, and safety are central to ongoing preparations for constitutional futures in Northern Ireland and on the island of Ireland.

The Féile event provided a space for women from diverse backgrounds to reflect on and respond to what matters most about the constitutional question. The well-known public and political dimensions in Northern Ireland viz. allegiance to ongoing union within the UK and aspiration to a new united Ireland, were framed by panellists as fundamental to their experience of family life. For women from the North, growing up in a predominantly unionist or nationalist family and district shaped their personal and communal experience of the state in Northern Ireland. In her final contribution, Ailbhe Smyth, captured the intersectional nature of this seemingly straightforward insight by stressing the vital role of location, class and gender in relation to constitutional conversations.

Linda Ervine introduced this critical insight in witty and serious stories about growing up in a family where some relatives viewed anyone 'Irish' with suspicion whilst others felt the same about the 'over there' English. She herself finds it difficult to separate her Irishness and Britishness. The very idea of competition between the two 'switches [her] off'. She is both Irish and British. Whilst Irish comes first, it does not diminish her Britishness. For her, what is most important for now is not to fight about either. When the time comes for a referendum, her choice will be based on what she thinks is best for her children and grandchildren.

Sarah Creighton grew up as a unionist and that's what she remains. Now, however, she is a 'disgruntled' unionist. From her lifetime perspective, she views the current condition of the union as being worse than ever, 'If a border poll is called unionists will not win unless they start to make things better for everyone'. All of us should feel welcome and equal in Northern Ireland. She believes that people outside of the Catholic and Protestant communities feel left out of account altogether. What matters most right now, she reasoned, is our quality of life: health; housing; economic well-being. We will have to work together no matter what happens in the future. She concluded with regret, that the 'positive case for the union is now gone'.

Susan McCrory grew up in a nationalist family. A united Ireland has always been her dream and now, she believes, it is a dream

that will eventually come true. Brexit triggered the upsurge in constitutional conversations. The question facing economic feminism is, 'Where are grassroots women in public conversations?' She's been working with Eileen Weir of the Shankill Women's Centre to organise constitutional conversations with local women. She asked: 'what will our identity be in a new Ireland?' The Good Friday Agreement protected British and Irish identities. Will that protection continue? How will women's equality and rights be affected by new all Ireland arrangements? What will change? What will we be prepared to give up? The women's vote will be decisive, she stressed. We will all need to know what we are voting for. However these questions are answered, she said, one thing is certain in this place, 'reconciliation is vital'.

Ailbhe Smyth spoke of being a woman from the South. A woman without direct experience of the trauma of the conflict. She introduced three themes: location; who gets to speak? and, who is left out? She is in favour of unity but is keenly aware of the implications of location to the question of unity and union. Location, she said, is more than a geographical concept. It also references gender, sexuality, and social class. Her own attachment to unification is real and strong but she emphasised, 'it is also learned'. Looking at the audience, she claimed that it will be a huge job for people in the South to 'understand differences as you do'. What is meant by a 'united Ireland'? It cannot be a 'folding' of the North into the South. She urged the audience: in this conversation we have an opportunity to reconfigure a whole society – welcoming new citizens who enrich the community; building a society fit for the younger generation. In meeting this challenge and opportunity, we need to be alert to who gets to speak and who is missing. We need to consider age, gender, sexuality, disability. Which marginalised groups are absent from the decision-making tables? Women and LGBTQIA are central to constitutional change: 'Nothing about us without us'.

The large audience appreciated the presentations, was enthusiastic about the setting up of the Belfast Women's Assembly, and agreed with one woman who said that a women's assembly was needed in the rural area where she lives. Another, who works with disadvantaged young people, was applauded when she passionately called for engagement with under-resourced youth. Dr Myrtle Hill closed the meeting by thanking those present who joined the BWA mailing list and reminding everyone that BWA is an inclusive organisation, willing to respond to any group's invitation to hold constitutional conversations.

¹ BWA was set up in response to a request from the women who attended an event organised by Sinn Féin's Commission on the Future of Ireland in June 2023. They called for more opportunities to have inclusive, non-party-political conversations about the prospect of constitutional change in Northern Ireland/ the North of Ireland. BWA thanks Noa Ní Aoláin Gross for taking notes during the event.

² Linda Ervine MBE is an Irish language activist and manager of Turas in east Belfast where she co-founded Scoil na Seolta, the integrated, Irish-medium primary and nursery school. Sarah Creighton is a left-wing feminist, a lawyer, and political commentator published in *The Guardian*, *Belfast Telegraph* and *Sluggie O'Toole*. She supports Northern Ireland remaining part of the UK. Susan McCrory is the Managing Director of Falls Women's Centre and a community development activist working to create opportunities for women to come together to discuss building a shared future. Ailbhe Smyth is a feminist, socialist; LGBT+ activist; Together For Yes; Chair: Women's Aid, Ballyfermot STAR; Age Action; founding director of the Women's Education, Resource and Research Centre, UCD.



EQUALITY

Just News is published by the Committee on the Administration of Justice. Readers' news, views and comments are welcome. Correspondence should be addressed to the Editor, **Fionnuala Ní Aoláin**, and sent to CAJ Ltd, 1st Floor, Community House, Citylink Business Park, 6A Albert Street, BT12 4HQ. Phone: (028) 9031 6000. Email: info@caj.org.uk. Website: www.caj.org.uk.

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