

Submission from the Committee on the Administration of Justice (CAJ) to the United Nations Committee on Economic, Social and Cultural Rights on the 7th Periodic Report submitted by the United Kingdom under the International Covenant on Economic, Social and Cultural Rights (ICESCR)

Compliance with the ICESCR and Northern Ireland December 2024

About CAJ

The Committee on the Administration of Justice (CAJ) is an independent human rights NGO with cross community membership in Northern Ireland and beyond. It was established in 1981 and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its international human rights obligations. CAJ is the UK member of the International Federation of Human Rights (FIDH) and is co-convenor, alongside the trade union, UNISON, of the Equality Coalition which is a network of over 100 equality NGOs and trade unions campaigning for equality in Northern Ireland (NI). CAJ regularly engages with Council of Europe and United Nations monitoring mechanisms.

Focus of this submission

The UK 7th Periodic Report to the Committee was issued in June 2022.¹ CAJ provided a submission to the Committee's pre-sessional working group on the List of Issues in January 2023.² This submission, in advance of the Committee's 77th session in February 2025 where the UK will be examined,³ focuses on the following areas of the Committee's List of Issues:⁴

- A Bill of Rights for Northern Ireland (Arts. 1, 2, List of Issues [LoI] para 2)
- An Anti-Poverty Strategy (Northern Ireland) (Arts. 2(1), 7, 11)
- Irish Language and Ulster Scots Strategies (Art. 15, LoI 40)
- Paramilitary Intimidation from Housing (Art. 11)
- Reconciliation and the Northern Ireland Legacy Act (Art. 15).

¹ [E/C.12/GBR/7 Seventh periodic report submitted by the UK, June 2022](#)

² [Submission from the Committee on the Administration of Justice \(CAJ\) to the Committee on Economic, Social and Cultural Rights \(CESCR\) 72 Pre-Sessional Working Group \(PSWG\), 6-10 March 2023, List of Issues \(LoI\) for the United Kingdom](#)

³ [CESCR -77 Session \(10 Feb 2025 - 28 Feb 2025\)](#)

⁴ [E/C.12/GBR/Q/7 List of issues in relation to the seventh periodic report of UK \(March 2023\)](#)

A Bill of Rights for Northern Ireland (List of Issues, para. 2)

1. The List of Issues seeks information ‘on the measures taken to enshrine the provisions of the Covenant in the proposed Bill of Rights for Northern Ireland.’ To recap, the 1998 UK-Ireland Belfast/Good Friday Agreement (GFA) included a commitment to incorporate further rights in addition to those within the European Convention on Human Rights (ECHR) into Northern Ireland law through legislation in the UK Parliament.
2. The Northern Ireland Bill of Rights, by virtue of being ‘ECHR+’, would have a focus on economic, social, and cultural rights and therefore be the vehicle whereby many rights within the Covenant could be incorporated into NI law.⁵ The NI Bill of Rights would provide a key safeguard over the exercise of Executive and legislative power in NI in a manner which is consistent with protected Covenant rights.
3. In its previous Concluding Observations, the Committee expressed regret that the ‘bill of rights for Northern Ireland has not yet been adopted, as provided by the Belfast (Good Friday) Agreement’. Recalling its previous recommendation (E/C.12/GBR/CO/5, para. 10), the Committee urged the UK ‘to take all necessary measures to expedite the adoption of a bill of rights for Northern Ireland.’⁶
4. In 2020, a new UK-Ireland agreement -*New Decade New Approach* (NDNA)-⁷ re-established the suspended Northern Ireland Executive and Legislature. NDNA included a commitment to progress the NI Bill of Rights through a dedicated Committee in the NI legislature. The developments are summarised in a report by the then Council of Europe Commissioner for Human Rights Dunja Mijatović:

The [Good Friday] Agreement mandated the [NI Human Rights Commission]- NIHRC to consult and advise on the scope of such a Bill of Rights for Northern Ireland. The NIHRC submitted its advice in 2008, but no Bill has been put forward in the almost 15 years that have followed it. After the publication of the New Decade, New Approach document in 2020, the Northern Ireland Assembly set up an Ad Hoc Committee on a Bill of Rights. In June 2021, the Ad Hoc Committee agreed it supported the creation of a Bill of Rights for Northern Ireland, but it made any further decisions contingent on the advice from a panel of experts, which would have to be created for this purpose. This panel was not established due to political disagreement. The Committee delivered a report in February 2022, but could not make a decision on what approach a Bill of Rights for Northern Ireland should take in view of the afore-mentioned issues. Whilst the Belfast/Good Friday Agreement provides that a Bill of Rights for Northern Ireland must be legislated for by the UK Parliament, the UK government has declined to put forward legislation until consensus is reached in Stormont, which is unlikely in view of the deep divisions and current political stalemate.⁸

⁵ The Northern Ireland Bill of Rights has been an entirely process to the various proposals from UK Governments for a UK-wide British Bill of Rights.

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

⁷ <https://www.gov.uk/government/news/deal-to-see-restored-government-in-northern-ireland-tomorrow>

⁸ <https://www.coe.int/en/web/commissioner/-/united-kingdom-commissioner-warns-against-regression-on-human-rights-calls-for-concrete-steps-to-protect-children-s-rights-and-to-tackle-human-rights-issues-in-northern-ireland>

5. The UK 7th Periodic Report claims that it was ‘always envisaged’ in the GFA that there would need to be ‘consensus’ between Northern Ireland political parties on the content of a Bill of Rights before legislation was taken forward.⁹ This is false, the GFA makes no such reference and expressly defers to the NHRI for the content of the NI Bill of Rights.¹⁰

The Committee may wish to press the UK on introducing legislation for the Bill of Rights for Northern Ireland as a vehicle to incorporate further ICESCR rights, without a pre-condition of all party consensus.

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

6. A further key peace-agreement safeguard, which protects Covenant rights, is the statutory duty on the Northern Ireland Executive to adopt an anti-poverty strategy based on objective need. The 2006 (UK-Ireland) St Andrews Agreement led to legislation obliging the Northern Ireland Executive to adopt such a strategy.¹¹
7. The NI Executive however failed to adopt such a strategy and in 2014 CAJ took legal action through successful judicial review proceedings. The Court held that it was clear that ‘no such’ anti-poverty strategy had been adopted by the NI Executive who had therefore acted unlawfully.¹²
8. In 2016, the Committee’s previous concluding observations urged the UK to adopt the anti-poverty strategy in Northern Ireland.¹³ The NI Executive collapsed into suspension from January 2017 until it was reestablished in 2020 under the NDNA Agreement. NDNA facilitated a process to develop the anti-poverty strategy. This involved the convening of an Expert Advisory Panel, which produced a comprehensive blueprint for the strategy. This was followed by the establishment of a co-design group and cross-departmental advisory group. The NI Executive collapsed again in 2022 and the anti-poverty strategy was not formally adopted. However, these processes had led to the development of a draft Anti-Poverty Strategy that could be taken forward by Ministers in a reestablished NI Executive.¹⁴
9. However, following the reappointment of the Executive in early 2024, with the lead

⁹ [E/C.12/GBR/RQ/7 Reply of UK to CESCR List of Issues](#), 2024.

¹⁰ The text of the GFA commitment is: “The new Northern Ireland Human Rights Commission ... will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and - taken together with the ECHR - to constitute a Bill of Rights for Northern Ireland...(GFA, Rights, Safeguards and Equality of Opportunity Section, paragraph 4).

¹¹ [S28E Northern Ireland Act 1998](#) (as inserted by the Northern Ireland (St Andrews Agreement) Act 2006) S28E Strategy relating to poverty, social exclusion etc 1) The Executive Committee (Northern Ireland Executive) shall adopt a strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need. 2) The Executive Committee - (a) must keep under review the strategy; and (b) may from time to time adopt a new strategy or revise the strategy.

¹² [Application for Judicial Review by the Committee on the Administration of Justice 2015 NIQB 59](#)

¹³ E/C.12/GBR/CO/6 Concluding Observations on the UK, 2016, para 48.

¹⁴ See [Equality Coalition ‘Progressing an anti-poverty strategy for Northern Ireland’ 2023](#). Page 21 where officials confirm the draft Anti-Poverty Strategy had been prepared for incoming ministers.

department under a new Minister, there were signs of regression.¹⁵ No visible progress has been made in adopting the anti poverty strategy in 2024 to the extent that CAJ considers the NI Executive to again be in default of its legal obligations.

The Committee may wish to press the UK on how it will ensure an anti-poverty strategy based on objective need is taken forward in Northern Ireland.

Irish Language and Ulster Scots Strategies

10. The Committee's List of Issues seeks 'information on any steps taken to implement Irish language and Ulster-Scots strategies' (para 40).
11. Similar to the duty to adopt the anti-poverty strategy the 2006 St Andrews Agreement also placed a statutory duty on the NI Executive to adopt a 'strategy setting out how it proposes to enhance and protect the development of the Irish language'¹⁶ and a statutory duty to adopt a strategy for Ulster Scots. (The latter refers a variant of the Scots language, spoken in parts of present day Northern Ireland and Donegal in the Republic of Ireland).
12. Following the GFA, both the Irish language (a Celtic language also known as Gaelic) and the Scots language (including its Ulster variant) were registered under the European Charter for Regional or Minority Languages (ECRML) and subject to regular monitoring by the treaty body the Council of Europe Committee of Experts (COMEX). Speakers of both Irish and Ulster Scots emphasise that both are spoken across the ethnic divide in Northern Ireland and are not the preserve of one community.

Irish language Strategy

13. The adoption of the Irish Language strategy has been repeatedly obstructed, with the High Court in Belfast finding now on two occasions (first in 2017¹⁷) that the Northern Ireland Executive had acted unlawfully in not adopting it. Similar to the anti-poverty strategy, there was considerable progress in the 2020 Executive mandate in the appointment of an Irish Language Strategy Expert Advisory Panel which produced a comprehensive blueprint for the Irish language strategy. In August 2022, the High Court in Belfast ruled the Executive had again acted unlawfully in not adopting the Irish language strategy. This was in a judicial review taken by Conradh na Gaeilge, the representative group for the Irish speaking community. The Court found that the then Ministers attempts to place the Irish Language strategy on the agenda of the NI Executive had been thwarted on over 30 occasions, holding 'It is difficult to avoid any conclusion other than that the issue was being blocked from substantive consideration at the Executive Committee.'¹⁸

¹⁵ See [Written Evidence from the Equality Coalition to the Committee for Communities of the Northern Ireland Assembly – the Anti-Poverty Strategy](#), April 2024.

¹⁶ St Andrew's Agreement 2006, 15(i).

¹⁷ [Conradh Na Gaeilge's Application \[2017\] NIQB 27](#).

¹⁸ Conradh Na Gaeilge's Application [\[2022\] NIQB 56](#).

14. Since the reestablishment of the NI Executive in February 2024 there is yet to be any visible progress in adopting the Irish Language Strategy, with COMEX recently urging that the UK adopt the Irish Language strategy ‘without further delay.’¹⁹

Ulster Scots Strategy

15. The adoption of an Ulster Scots strategy has also not been realised and there has been a pattern of moving away from treating Ulster Scots speakers as a linguistic minority. An Expert Advisory Panel was convened to develop a strategy for the promotion of Ulster Scots and reported in 2022 on the strategy, however, only two of its 74 pages focus on language-related issues.²⁰ COMEX in their 2024 evaluation report expressed concern and recommended that a language strategy to promote Ulster Scots in education, media and other areas of public life is adopted immediately.²¹

16. The above reflects a broader concerning approach by some key actors, including the UK Government, to move away from focus on Ulster Scots speakers as a linguistic minority and instead increasingly conceptualise Ulster Scots as an ethnic group (‘a distinct people’) and tied to (British) unionism and loyalism politically.²² In this context the Council of Europe Framework Convention Advisory Committee raised its concerns that the official actions taken regarding Ulster Scots ‘further contribute to the sectarianism surrounding cultural questions’ singling out that ‘the naming of a commissioner for Ulster Scots as for the Ulster Scots and the Ulster British Tradition unnecessarily conflates this minority identity with a distinct political one.’²³

Links to Irish Language Act and languages legislation

17. At the time of the original provisions on the language strategies the 2006 St Andrews Agreement also committed the UK to introducing an Irish Language Act ‘reflecting on the experience of Wales and Ireland.’²⁴ The UK delayed introducing an Irish language act. The Committee in its previous Concluding Observations remained concerned about the ‘lack of effective measures adopted by the State party to promote the use of the Irish language in Northern Ireland’ and reiterated its previous recommendation for the UK to adopt an Irish language act.²⁵

18. The 2020 NDNA agreement to re-establish the Northern Ireland institutions (suspended from 2017 for reasons including the failure to implement the Irish Language Act) provided for languages and identity legislation to take forward the commitment to an Irish Language Act. After considerable delay, this was introduced and completed passage in the UK Parliament in December 2022 as the Identity and

¹⁹<https://rm.coe.int/united-kingdomecrl6-en/1680b1a73f>

²⁰ Department for Communities, [Ulster-Scots Language, Heritage and Culture Strategy Expert Advisory Panel Recommendation Report](#), May 2022

²¹ <https://rm.coe.int/united-kingdomecrl6-en/1680b1a73f 2.2.3> l(a) [Emphasis added]

²² For further detail see [CAJ Submission to COMEX on 6th UK periodic report compliance with the ECRML, February 2024](#).

²³ ACFC/OP/V(2022)003, Fifth Opinion on UK, 2022, paragraph 11

²⁴ St Andrews Agreement 2006

²⁵ E/C.12/GBR/CO/6 Concluding Observations on the UK, 2016, paras 67-8.

Language (Northern Ireland) Act 2022.²⁶ The legislation provided for an Irish Language Commissioner who will issue Irish Language Best Practice Standards. However, the Commissioner is yet to be appointed and COMEX assessed the legislation as falling below the UK's treaty-based requirements towards the Irish language.²⁷

19. It is this legislation which also established a Commissioner for Ulster Scots and the Ulster British tradition. This Commissioner is yet to be appointed by the First and deputy First Ministers who have declined to clarify whether there will be a requirement for the Commissioner to be a speaker of Ulster Scots.²⁸ COMEX expressed concern regarding this, stating that they consider it 'essential that the commissioners speak the language of their mandate' and asked the UK authorities to ensure the Commissioner for the Ulster Scots and the Ulster British tradition is required to speak Ulster Scots.²⁹

The Committee may wish to press the UK authorities to take steps to ensure the expeditious adoption of an Irish Language Strategy reflecting the work to date and international standards and appoint the Irish Language Commissioner.

The Committee may wish to stress the Commissioner dealing with Ulster Scots be required to be a speaker of Ulster Scots and press for the development of an Ulster Scots language strategy addressing the rights of Ulster Scots speakers.

Paramilitary Intimidation in Housing

20. The Committee's List of Issues seeks information from the UK Government on '*the measures taken to address the persistent inequalities in housing in Northern Belfast. In this regard, please provide information on reports of paramilitary intimidation, violence and illegal lending, leading to housing segregation and displacement in Northern Ireland, with a disproportionate effect on women*' (paragraph 31).³⁰

21. In Summer 2024 the UN Committee on the Elimination of Racial Discrimination (CERD) issued its Concluding Observations on the UK, raising concerns regarding paramilitary involvement in racist violence, including housing intimidation in the following terms:

While noting the efforts by the State party to tackle paramilitarism in Northern Ireland, the Committee is concerned about reports of paramilitary groups and affiliated individuals perpetrating acts of racist violence and intimidation to deter persons belonging to ethnic minorities and migrants from taking up housing or establish business in certain areas.³¹

22. Consequently, CERD recommended that:

²⁶ <https://www.legislation.gov.uk/ukpga/2022/45/enacted>

²⁷ MIN-LANG (2021)3, 'Evaluation by the Committee of Experts of the Implementation of the Recommendations for Immediate Action contained in the Committee of Experts' fifth evaluation report on the UNITED KINGDOM and ISLE OF MAN', Paragraphs 24-26.

²⁸ [AQW 16568/22-27](https://www.parliament.uk/business/committees/committees-a-z/commons-select/all-party-select-committees/q-and-a/aqw-16568-22-27)

²⁹ <https://rm.coe.int/united-kingdomecrl6-en/1680b1a73f> 1.1 (11)

³⁰ [E/C.12/GBR/Q/7 List of Issues for the UK](https://www.unhcr.org/refugees/cerdl6-en/1680b1a73f)

³¹ CERD/C/GBR/CO/24-26, CERD Concluding Observations on UK, 2024, para 25.

...the State party, particularly the government of Northern Ireland, adopt robust measures to prevent and combat paramilitary racist violence and intimidation against ethnic minorities and migrants in Northern Ireland, systematically collect information on these acts of intimidation and ensure that cases of paramilitary racist violence and intimidation are promptly and effectively investigated, prosecuted and punished with appropriate sanctions, and that victims have access to effective protection and redress.³²

23. Control of certain areas and direct acts of sectarian and racist intimidation from housing by non-state armed groups remains a key factor in preventing families moving into areas where there is available housing. The state response to such incidents can be limited to verifying the authenticity of the paramilitary threat and moving the victim.³³ It is no exaggeration to suggest that housing is an area of public policy in Northern Ireland that is still extensively shaped by paramilitary control and coercion. The public policy response has not moved much beyond assistance in moving victims of intimidation. There is a lack of transparency and public scrutiny in the handling of the issue. This includes a level of obfuscation of data as to which paramilitary groups are thought to be the source of threats.³⁴
24. The Northern Ireland Executive has a specific strategic policy to tackle paramilitary activity known as the Executive Action Plan for ‘Tackling Paramilitary Activity, Criminality and Organised Crime’.³⁵ It is notable that neither housing intimidation nor racist crime are mentioned at all in this Executive’s Action Plan.

The Committee may wish to press the UK on the need for an official strategic policy on tackling ongoing paramilitary activity in Northern Ireland that includes tackling paramilitary involvement in housing intimidation and racist crime.

Reconciliation and the Northern Ireland Legacy Act (Art 15)

25. The Committee’s List of Issues seeks ‘information on the status of the proposed Northern Ireland Troubles (Legacy and Reconciliation) Bill and how it would contribute to fostering intercultural dialogue and reconciliation’ (para 40).
26. The Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (the Legacy Act) completed passage in the UK Parliament in 2023 under the previous UK Government. The new UK Government had committed to repealing the Legacy Act but is yet to do so.
27. The Legacy Act is widely criticised and opposed by victims’ groups, human rights NGOs, the NHRI, and all political parties in Northern Ireland. The Irish Government has filed an inter-State application at the European Court of Human Rights (ECtHR) against the

³² CERD/C/GBR/CO/24-26, CERD Concluding Observations on UK, 2024, para 26.

³³ For further detail see CAJ [Written Evidence to the UK Parliament ‘Inquiry into the effect of paramilitaries on NI society’](#) (June 2022)

³⁴ For further detail see [CAJ Written Evidence to the Northern Ireland Affairs Committee of the UK Parliament inquiry into ‘The effect of paramilitaries on society in Northern Ireland’](#), May 2022

³⁵ <https://www.northernireland.gov.uk/sites/default/files/publications/newnigov/Executive%20Action%20Plan%20-%20Tackling%20Paramilitary%20Activity.pdf>

Legacy Act.³⁶ There have also been multiple domestic legal challenges which have found significant elements of the Legacy Act incompatible with the ECHR and GFA rights.

28. Significant concerns were also raised by the UN and Council of Europe human rights mechanisms. In a statement in December 2022, UN Special Rapporteurs, Fabián Salvioli and Morris Tidball-Binz raised concerns that the legislation would *‘thwart victims’ right to truth and justice, undermine the country’s rule of law, and place the United Kingdom in flagrant contravention of its international human rights obligations’*.³⁷
29. The then Council of Europe Commissioner for Human Rights, Dunja Mijatović, raised concerns that the Legacy Act would *‘undermine justice for victims, truth seeking and reconciliation’*, and that the UK was ignoring *‘the many warnings that this legislation would violate the UK’s international obligations and put victims’ rights at risk.’*³⁸
30. Ministers from the then UK Government openly stated the objective behind the legislation was to shut down legacy investigations being undertaken into the state actors, arguing that they constituted a *‘witch-hunt’* of the military. By contrast in late April 2024 a Report issued by the *International Expert Panel into State Impunity and the Northern Ireland Conflict* concluded that the UK had *‘operated a widespread, systematic, and systemic practice of impunity, protecting security forces from sanction’* and *‘not only engaged in collusion but also blocked proper police investigations into conflict-related killings to protect implicated security force members and agents.’*³⁹
31. In introducing the Legacy Act, the then UK Government reneged on the bilateral peace-process (UK-Ireland) Stormont House Agreement 2014 (and a 2015 implementation treaty), which would have provided for new transitional justice mechanisms. The main impacts of the Legacy Act have been:
 - To permanently close down all the existing mechanisms investigating Northern Ireland legacy cases on the 1 May 2024. These mechanisms, known as the *‘Package of Measures’*, were established by the UK in response to adverse ECtHR rulings. These mechanisms were shut down at a time they were delivering considerable historical clarification and truth recovery for families.
 - Introduce a broad amnesty in the form of a *‘conditional immunities scheme’* with a conspicuously low threshold (This was found to be incompatible with the ECHR by the domestic courts and has never been operational).
 - Set up a new temporary legacy body, the Independent Commission for Reconciliation and Information Recovery (ICRIR), to undertake *‘reviews’* of

³⁶ [New inter-State application brought by Ireland against the United Kingdom](#) ECtHR statement.

³⁷ <https://www.ohchr.org/en/press-releases/2022/12/uk-flawed-northern-ireland-troubles-bill-flagrantly-contravenes-rights>

³⁸ <https://www.coe.int/en/web/commissioner/-/united-kingdom-adopting-northern-ireland-legacy-bill-will-undermine-justice-for-victims-truth-seeking-and-reconciliation>

³⁹ *Bitter Legacy’*, *The Report of the International Expert Panel into State Impunity and the Northern Ireland Conflict* <https://www.jus.uio.no/smr/english/about/id/law/nipanel.html> See summaries in media including the [Irish Times](#) and [Guardian](#))

certain cases. The ICIR is now the only body permitted to ‘review’ legacy cases.

- Establish provisions on Troubles *memorialisation*, largely under the control of the UK Secretary of State.

32. In 2024 the UN Human Rights Committee raised concerns regarding the adoption of the Legacy Act, expressing concerns about the ‘*the weakness of the ‘review’ function of the’ ICIR and ‘the absence of any power of investigation to guarantee the right to truth for victims, and the procedural barriers and obstacles to criminal investigations, civil suits and other remedies, effectively stifling any criminal or civil proceedings connected to the Troubles.’* The Human Rights Committee urged the UK to ‘*repeal or reform’* the Legacy Act and ‘*to adopt proper mechanisms with guarantees of independence, transparency, and genuine investigation power that discharge the State party’s human rights obligations and deliver truth, justice and effective remedies, including reparations to victims of the Northern Ireland conflict’*.⁴⁰

33. In February 2024, the High Court in Northern Ireland ruled that key provisions of the Legacy Act, including the ICIR’s amnesty scheme, were unlawful.⁴¹ In September 2024, the Court of Appeal upheld the High Court’s findings and found further elements of the Legacy Act unlawful, including the ban on all civil cases. It also found that the ICIR was incapable of conducting investigations compliant with ECHR standards in specific reference to inquests previously carried out as part of the Package of Measures.⁴²

Role of ‘reconciliation’ and the Legacy Act

34. Officially the Legacy Act includes the concept of ‘reconciliation’ in its title, the title of the ICIR and also provides that the ICIR’s ‘principal objective’ is to promote reconciliation.

35. The official incorporation of the term ‘reconciliation’ in the title appears to have been primarily driven by seeking to provide some legal basis to argue that the ICIR’s conditional immunities (amnesty) scheme was lawful. Whilst the ECtHR case law on amnesties is limited, one key element is the possibility of legal space for an amnesty in some circumstances where it is necessary for reconciliation.⁴³ This context is alluded to in the official ECHR Memorandum published with the Legacy Bill.⁴⁴

36. Notwithstanding the applicability of this test, the Legacy Act was always going to face an uphill struggle to contribute to reconciliation, not least as all those the Act was supposed to reconcile were firmly opposed to it. Furthermore, the genesis of the Legacy Act was

⁴⁰ [CCPR/C/GBR/CO/8, Concluding Observations on the UK, May 2024](#), paras 10 & 11

⁴¹ [Dillon and others \[2024\] NIKB 11](#)

⁴² [Dillon \[2024\] NICA 59 \[270\]](#).

⁴³ Dillon and others [2024] NIKB 11 [183]

⁴⁴ This states that the ‘conditional immunity scheme’ the ICIR was to operate ‘can be justified as an exception to the requirement to punish those identified as being responsible for a death or life-threatening injury, as a proportionate means of achieving and facilitating truth recovery and reconciliation in Northern Ireland, taking into account current ECtHR case-law in relation to amnesties.’ Citing the Margus case, it continues the ‘ECtHR has countenanced the possibility of an amnesty being compatible with Article 2 in some particular circumstances, including where a reconciliation process is in existence. ECHR Memorandum Legacy Act, paragraphs 22 and 47. See also paras 38, 43.

grounded in furthering impunity and closing off remedies and accountability sought by families, the antithesis of reconciliation. As noted by the UN Special Rapporteurs Salvioli and Tidball-Binz the Legacy Act:

... appears to conflate reconciliation with impunity, as well as oppose legal accountability, an essential pillar of transitional justice processes, to truth, information recovery and reconciliation.⁴⁵

37. The High Court in Northern Ireland, in finding the amnesty scheme unlawful, dealt with the question as to whether the scheme could be justified by the contention it promoted reconciliation holding that *'there is no evidence that the granting of immunity under the 2023 Act will in any way contribute to reconciliation in Northern Ireland, indeed, the evidence is to the contrary.'*⁴⁶
38. This ruling and the consequent disapplication of the 'conditional immunities scheme' from the Legacy Act removed the primary reason why reconciliation was included as the primary objective of the ICIR and in the title of the Legacy Act. Notably also the ICIR itself does not have a working definition of what 'reconciliation' would entail or theory of change explaining how the ICIR's work would contribute to reconciliation.⁴⁷
39. The concept of reconciliation as applied within the Legacy Act has been further explored by academics, including the broader memorialisation provisions of the legislation.⁴⁸ Their analysis highlights that while international human rights bodies and criminal tribunals emphasise victim-centered, inclusive, and gender-sensitive approaches to reconciliation, the Legacy Act fails to meet these standards. Instead, it promotes a narrow and outdated framing of reconciliation as merely addressing sectarian animosities, ignoring the need for a comprehensive acknowledgment of multiple narratives, including those critical of state actions.⁴⁹ They argue that the Act's unilateral introduction, coupled with its neglect of dialogic processes, undermines its ability to foster genuine reconciliation, as required by international jurisprudence.

The Committee may wish to urge the UK Government to repeal and replace the Legacy Act, instead implement the existing UK-Ireland peace process agreement on transitional justice mechanisms; ensure that the role of reconciliation in the process is brought in line with international standards, and that the initiatives taken forward under the previous Government's agenda are discontinued.

CAJ, December 2024

⁴⁵<https://www.ohchr.org/en/press-releases/2022/12/uk-flawed-northern-ireland-troubles-bill-flagrantlycontravenes-rights>

⁴⁶ Dillon and others [2024] NIKB 11 [187]

⁴⁷ [Northern Ireland Assembly Executive Office Committee 18 September 2024](#) In response to a question at a Northern Ireland Assembly Committee as to how the ICIR was defining and conceptualising reconciliation in a transitional justice context, the ICIR Chief Commissioner made clear that the ICIR was 'not going to try and define it' as it 'means different things to different people'.

⁴⁸ <https://ohrh.law.ox.ac.uk/reconciliation-and-the-northern-ireland-legacy-act-a-human-rights-perspectivepart-2/>

⁴⁹ <https://ohrh.law.ox.ac.uk/reconciliation-and-the-northern-ireland-legacy-act-a-human-rights-perspectivepart-2/>