

## **ICESCR Updated Shadow Report**

**Submission from the Human Rights Consortium to the United Nations Human Rights Committee on Economic, Social and Cultural Rights (CESCR's) Review of the UK's 6<sup>th</sup> Periodic Report**

**April 2016**



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**“We work together  
towards a human  
rights based  
Northern Ireland”**



## **The Human Rights Consortium**

The Human Rights Consortium is a not for profit coalition of civil society organisations from across Northern Ireland which was established in 2000. We have almost 170 member organisations from a range of community and voluntary grassroots groups, NGOs and Trade Unions, drawn from all sections of the community and all parts of Northern Ireland. We work together towards a human rights based Northern Ireland.

A core element of this work to date has been our ongoing campaign for a strong Bill of Rights for Northern Ireland. This has been supplemented in recent years with an emerging focus on other human rights frameworks, positively influencing perspectives on human rights and supporting civil society to become engaged in human rights advocacy.

To achieve these goals, we work to enhance understanding, communication, cooperation and campaigning opportunities on human rights issues between members of the Consortium, civil society and the public generally. In our day to day activities we try to achieve these objectives through research, training, awareness raising and advocacy.

### **Contact Details:**

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Our website can be found at: <http://www.humanrightsconsortium.org>

## Executive Summary

### Section 1- Barriers, threats and missed opportunities

#### 1. Bill of Rights for Northern Ireland

The Bill of Rights for Northern Ireland is one of the major unfulfilled commitments of the peace agreement in Northern Ireland and has the potential to be an ideal model to realise many Covenant rights.

***The Committee might consider recommending that the state party fulfils its obligations under the Belfast/Good Friday Agreement by ensuring that a Bill of Rights for Northern Ireland is legislated for.***

***The Committee may also wish to consider recommending that the state party take measures to help reach political consensus on a Bill of Rights for Northern Ireland with local parties if the state party deems that a current roadblock to progression***

#### 2. Education

The UK's limited approach to education and awareness raising of ESC rights among the public and within the operation of government means that countless opportunities to improve the discourse around, and protection of, rights are missed.

***The Committee may wish to ask the state party what efforts it has made beyond the examples referenced in the state party report to raise awareness of the obligations flowing from the Covenant.***

#### 3. Action Plans

The lack of an action plan for human rights in Northern Ireland or indeed explicit references to advancing human rights protections in the Northern Ireland Executive Programme for Government 2011-2015 remains a barrier to the realisation of rights in this region.

***The Committee may wish to recommend that the Northern Ireland Executive include explicit commitments to develop frameworks for the protection of human rights in the next Programme of Government 2016 – 2021.***

#### 4. State Party Report

The lack of disaggregated data provided for Northern Ireland in the State Party Report and the Reply to the List of Issues is a serious barrier to scrutiny of the realisation of rights by the Committee and represents a wider accountability issue.

***The Committee may wish to recommend that the United Kingdom ensures that disaggregated data is available from all regions of the United Kingdom, and that this data is routinely collected by government departments and made publicly available.***

#### 5. Participation

The lack of engagement between the devolved government and civil society in Northern Ireland during the preparation of the State Party Report or at any other stage in advance of the sixth Periodic Review remains a serious issue.

***The Committee may wish to recommend that thorough consultation takes place with civil society as part of the ICESCR review, including consultation between the devolved governments and civil society in those regions.***

#### 6. Current threats

***The Human Rights Act-*** The future of the Human Rights Act remains unclear, but commitments to reform our relationship with the ECHR continue to be made in the context of a prevailing commentary by government that is rooted in a regressive approach to existing standards.

***How does the UK Government intend to uphold its commitment under the Belfast/ Good Friday Agreement to the incorporation in Northern Ireland law of the European Convention on Human Rights (ECHR) given its current plans to replace the Human Rights Act?***

***Will the UK Government seek the consensus of the devolved Government in Northern Ireland before removing the Human Rights Act from legislation in that jurisdiction?***

***If ICESCR-based rights are already protected in the UK by domestic legislation such as the Human Rights Act (HRA) what effect will the current plans to replace this legislation (HRA) have on the protection of ICESCR rights in the UK?***

*The European Union-* On 23 June 2016 people in the UK will vote on whether to leave or to remain in the EU. If the UK votes to leave, it is important that we ensure the added protection and realisation of rights we enjoy through various EU Charters and Directives would not be negatively impacted.

*The Committee may wish to recommend that in relation to human rights reform and any change to our relationship with the European Union, there will be a guarantee that there will be no diminution in rights enjoyed by people in the United Kingdom, or in how restitution for a breach of rights can be accessed.*

## Section 2- The realisation of ICESCR rights in Northern Ireland (2009-2015)

### Article 2

#### Key findings:

- There has been a marked increase in working-age adults in absolute income poverty (After housing costs it was 15% in 2008-9, it rose to 23% in 2013-14)
- There has been a marked increase in children in absolute income poverty (After housing costs it was 23% in 2008-9, it rose to 30% in 2013-14)
- Less than 33% of people with a disability are in employment compared to 79% of those without a disability

### Article 3

#### Key Findings:

- There is no statutory basis for the provision of childcare in Northern Ireland
- Full-time child care costs of a family with two children average over £16,000 per year
- On average 45% of earnings are allocated to childcare
- Childcare costs are higher than rent or mortgage payments for 25% of parents
- 56% of families experience increased financial pressure due to childcare costs
- 24% of parents regularly used high cost methods of payment such as credit cards, overdrafts, loans or payday loans to meet their childcare costs

### Article 6

#### Key Findings:

- Long-term unemployment, increased from just under 33% of the total unemployed in 2009 to almost 61% in 2015
- The youth unemployment rate, that is for those aged 18-24, increased from 13.8% in 2009 to 18.4% in 2015
- A similar over time and comparative pattern is evident in relation to 16-24 year olds not in employment, education or training – NEET: 17% for Northern Ireland in 2015 compared to 10.6% in 2009

### **Article 7**

#### **Key Findings:**

- The percentage of working-age adults living in income poverty has increased on all the measures from 2008/9 to 2013-14
- The groups most likely to be represented in precarious employment are immigrants, women and young people
- A report into forced labour in Northern Ireland found a wider spread across sectors, “suggesting the number of people affected by forced labour in Northern Ireland is growing”
- Northern Ireland full-time female private sector hourly earnings were 83.0% of their counterparts in the UK
- The emphasis on the rebalancing of the Northern Ireland economy between the public and private is likely to have a disproportionate impact on women’s employment

### **Article 8**

#### **Key Findings:**

- A trade union is three times more likely to be present in public sector workplaces
- Employees pay is almost four times more likely to be affected by a collective agreement in the public sector

### **Article 9**

#### **Key Findings:**

- Implementation of the public sector equality duty has been sidelined throughout the welfare reform process, with the purpose or effect of disguising the equality impacts of the welfare reform agenda
- The number of working aged people who are carers has increased from 29,070 in 2011 to 36,330 in 2015
- The number of working aged people who have a disability has increased from 22,450 in 2011 to 28,430 in 2015
- Northern Ireland has more Disability Living Allowance recipients per head of population than Great Britain (10.9% versus 5.2%)- a legacy of poverty and conflict
- 49% of people referred to food banks are there due to problems with social security payments
- Whilst the use of benefit sanctions had led to a fall in the numbers of people accessing social security payment, it had not resulted in more people returning to employment

### **Article 10**

#### **Key Findings:**

- Despite the formal criteria relating to maternity leave payments and allowances, many women experience barriers to the realization of these rights
- In one survey nearly half of the sample reported some discrimination due to pregnancy; they usually linked the discrimination to an individual manager or colleague and the majority did not seek redress
- Children have the highest representation of any population group in all measures of low income poverty and the percentage of children in poverty irrespective of measure has either remained static (one measure) or increased since 2008-09

- Catholic children live in poverty to a disproportionate extent: 28% of children living in households where the head of household was Catholic were living in poverty in 2013-14 compared to 23% of children where the head was Protestant
- Institute for Fiscal Studies (2014) has concluded that the direction of child poverty in Northern Ireland is upward and expects the relative low income measure of poverty to reach 29.7% by 2020 and the absolute low income measure to reach 32.9%; the corresponding figures for the UK are 23.5% and 27.2%

### Article 11

#### Key Findings:

- There has been an increase in social rented sector waiting lists over the period from 2003-4 (27515) to 2014-15 (39338)
- There has been an increase in the number of applicants in housing stress from 2009-10 (51.4%) to 2014-15 (56.2%) but a decrease in the number of allocation to applicants (11489 in 03-04, 10892 in 14-15)
- Homelessness has increased from 18,664 in 2009-10 to 19,621 in 2014-15
- A survey of users of food banks found 78% were in receipt of benefits, 33% on ESA, 38% on JSA, 21% on DLA and 16% on income support

### Article 12

#### Key Findings:

- The life expectancy gap between the least deprived and most deprived quintiles has not improved for men between 2008-10 and 2011-13, remaining at 7.5 years
- The life expectancy gap between the least deprived and most deprived quintiles has not significantly improved for women between 2008-10 when it was 4.4 years and 2011-13 when it was 4.3 years
- The healthy life expectancy gap for the most deprived quintile and least deprived quintile of men is 11.8 years, the gap for women is 14.2 years
- In 2005-9 there was a 30% inequality gap in the rates of infant mortality between the most and least deprived quintiles. By 2009-13 the inequality gap in rates of infant mortality had decreased to 26%
- In terms of quintile differences in the proportion of adults who had a limiting long-standing illness the inequality gap between the least deprived quintile and the most deprived quintile increased from 57% in 2010/11 to 70% in 2014/15
- For suicide rates in Northern Ireland the inequality gap between the least and most deprived quintiles has decreased but at 221% in 2011-13 it reflects sharp inequality in life experiences across the quintiles

### Article 13

#### Key Findings:

- Free-school-meal entitled Protestant males are least likely of all groups to go into higher education
- In the past 10 years the number of students from Northern Ireland at UK Higher Education Institutions decreased by 2.7%



- 'First degree' courses enrolment for Northern Ireland domiciled students has risen by 4.5% but the number of students enrolled on 'other undergraduate' courses (such as foundation degrees, diplomas etc.) have fallen by 38% in the same period
- Of the 63,965 NI domiciled students enrolled at UK HEIs in 2014/15 the highest proportion (25.7%) were from the least deprived quintile whereas only 13.2% were from the most deprived quintile
- The figures for higher education enrolment demonstrate two clear facts: (1) the persistence of childhood socio-economic inequalities; and (2) the correlation between a reduction in enrolments in part-time study and particularly other undergraduate study associated with the increasing cost of higher education



## Report Structure

This report is split into two main sections.

**SECTION ONE** looks at overarching themes, structural barriers or missed opportunities affecting the enjoyment of CESCR rights in Northern Ireland as a devolved region of the United Kingdom. The main issues covered in this section are a Bill of Rights for Northern Ireland, Education, Action Plans, State Party Reporting, Participation and Current Threats presented to the enjoyment of CESCR rights.

**SECTION TWO** attempts to provide a comparative overview of the compliance with and realisation of Covenant rights in Northern Ireland between 2015 and the last review of the UK in 2009. Following the repeated failure of the UK Government to provide sufficiently useful disaggregated data to the Committee in its State Party reports or core document (particularly for Northern Ireland) this section attempts to provide publicly available data sets and statistics which correspond to associated Covenant articles and rights enumerated in the ICESCR.

## SECTION ONE

### Barriers, threats and missed opportunities

#### 1. Bill of Rights for Northern Ireland

Provision for a Bill of Rights for Northern Ireland, which was to build upon the rights contained within the European Convention on Human Rights (ECHR) by including supplementary rights influenced by International Standards and our local circumstances, was committed to in the Belfast/Good Friday Agreement<sup>1</sup> and voted for by an overwhelming majority of people in Northern Ireland through referendum. This commitment to establishing a framework of human rights that was to run throughout the Agreement and the Government institutions it established was an important confidence building measure in a society that experienced decades of conflict.

The Northern Ireland Human Rights Commission, created and tasked by this Agreement with providing advice on a Bill of Rights for Northern Ireland, fulfilled that duty in 2008.<sup>2</sup> The NIHRC advice called for the inclusion of additional Economic, Social and Cultural Rights (ESCRs) such as: an expanded right to education, the right to identity and culture, language rights, the right to health, the right to an adequate standard of living, the right to accommodation, the right to work, environmental rights, social security rights and children's rights (including play and leisure). All of which dovetail with and are indeed often inspired by rights contained within ICESCR.

A Bill of Rights for Northern Ireland based on a model advised by the NIHRC would have provided a practical mechanism for the realisation of ESCRs. The advice was based on extensive participatory consultation with thousands of people across Northern Ireland over the course of 8 years, and therefore represents a clear articulation of public opinion in this regard.

As noted in our submission to the Pre-Sessional Working Group in October 2015<sup>3</sup> in the last seven years since the 2009 review of the state by the Committee, the United Kingdom has

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<sup>1</sup> The Agreement stated, "The new Northern Ireland Human Rights Commission (see paragraph 5 below) 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." Belfast Agreement, "Rights, safeguards and equality of opportunity", pp 16-17

<sup>2</sup> Full advice available at: <http://www.nihrc.org/Publication/detail/advice-to-the-secretary-of-state-for-northern-ireland>

<sup>3</sup> Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICO%2fGBR%2f21547&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICO%2fGBR%2f21547&Lang=en)

failed to work towards enacting a meaningful Bill of Rights for Northern Ireland which includes Economic, Social and Cultural Rights despite the following Concluding Observation

*“the Committee notes the draft Bill of Rights for Northern Ireland, which includes economic, social and cultural rights which are justiciable, and calls for its enactment without delay.”*

In the time since the last review the UK government produced a consultation document in December 2009, which rejected the majority of the advice provided by the Northern Ireland Human Rights Commission (and indeed any economic, social or cultural rights). When the public, through that consultation process, resoundingly rejected such a limited model for a Bill of Rights,<sup>4</sup> the UK failed to take any further significant action to meet their international obligations towards enacting in Westminster legislation a Bill of Rights for Northern Ireland.

In responding to the Committee’s 2009 Concluding Observation the UK government stated,

*“there is no draft legislative Bill of Rights for Northern Ireland. In December 2008, the Northern Ireland Human Rights Commission (NIHRC) delivered its statutory advice on a potential Bill of Rights for Northern Ireland. The UK Government subsequently carried out a public consultation on this issue, and wants to see the issue of a Bill of Rights for Northern Ireland resolved. However, it remains clear that there is currently no consensus among the political parties in Northern Ireland as to whether such a Bill is desirable, or to its potential content.”*

The UK Government’s response seeks to diminish the significance of the NIHRC advice, ignores the widespread public support for a Bill of Rights and creates roadblocks to progressing the Bill of Rights that were never intended in the Belfast/Good Friday Agreement.

The advice received by the NIHRC represents the statutory advice of a National Human Rights Institution (NHRI) as part of the state party’s duty under an international peace agreement. It therefore represents substantive legal recommendations on the content of a Northern Ireland Bill of Rights whether drafted as a final legislative text or in its existing format.

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<sup>4</sup> In our October 2015 submission we noted, “The state party has clearly ignored the fact that 95% of respondents expressed a clear preference for a ‘wide ranging Bill of Rights’ while only a small percentage of respondents disagreed.”

***The Committee might consider recommending that the state party fulfils its obligations under the Belfast/Good Friday Agreement by ensuring that a Bill of Rights for Northern Ireland is legislated for.***

***The Committee may also wish to consider recommending that the state party take measures to help reach political consensus on a Bill of Rights for Northern Ireland with local parties if the state party deems that a current roadblock to progression***

## 2. Education

In 2009 the Committee made the following recommendation,

*“The Committee recommends that the State party take effective measures to increase awareness of economic, social and cultural rights among the public at large as well as among judges, public officials, police and law enforcement officials, medical practitioners, and other health care-related professionals, including by lending adequate support to civil society and national human rights institutions in their efforts in relation to awareness-raising. It also recommends that the State party take steps to improve awareness of the Covenant rights as justiciable human rights and not merely rights as part of the “Welfare State”.”<sup>5</sup>*

The response of the UK government in the state party report shows that it does little to implement this recommendation beyond the funding it provides to National Human Rights Institutions (NHRI's) and the existence of the Joint Committee on Human Rights at Westminster.

This limited approach is especially problematic in Northern Ireland where human rights were essential to achieving our peace agreement and were to be one of the building blocks of our new institutions of government. Rights have also acted as a cohesive element for civil society within our post-conflict society however much more work needs to be done to raise awareness amongst the general population as well as public officials about the full range of rights in international documents such as ICESCR if they are to be more effectively utilised by the public and public officials.

An awareness of international human rights law has been evidenced as playing an important role in some local legal judgements. The Brind<sup>6</sup> Case established that international law not fully incorporated into domestic law cannot be directly relied upon, though in a case of ambiguity, the court may have regard to the treaty obligations of the United Kingdom in seeking to resolve that ambiguity. In resolving ambiguities in domestic legislation the Courts presume that Parliament intended to legislate in conformity with international legal obligations, not in conflict with it.

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<sup>5</sup> Paragraph 15, 2009 Concluding Observations

<sup>6</sup> Regina -V- Secretary of State for The Home Department Ex Parte Brind; HI 7 Feb 1991, available at: <http://www.bailii.org/uk/cases/UKHL/1991/4.html>

The outworking and development of this has been fascinating. The Smith case<sup>7</sup> indicated that children’s rights under domestic law should be interpreted in accordance with the CRC and last year the Supreme Court found that the CRC can be relevant in interpreting states’ obligations under the ECHR<sup>8</sup> (however in this instance while incompatibility was found with Article 3(1) UNCRC incompatibility was not found with the ECHR).

This is just one example of where greater awareness of international treaties and the obligations that flow from them can raise the level of discourse and protection of rights. There are countless other opportunities across the operation of government where similar awareness could help attain the realisation of rights contained within international treaties.

***The Committee may wish to ask the state party what efforts it has made beyond the examples referenced in the state party report to raise awareness of the obligations flowing from the Covenant.***

### 3. Action Plans

In 2009 the Committee made the following recommendation,

*“The Committee recommends once again that the State party adopt a national human rights plan of action which includes specific programmes regarding the realization of economic, social, and cultural rights. It also encourages the State party to consult widely with civil society and national human rights institutions in the preparation of the national human rights plan of action.”*

The response of the UK that it has no plans to establish a national human rights action plan is disappointing. As alluded to in General Comment 1, detailed action plans are particularly useful in ensuring progressive implementation of rights.

While the Scottish National Action Plan has much to recommend it and this would be a welcome development in Northern Ireland, we would suggest that even before the stage of drafting a formalised Human Rights Action Plan the Northern Ireland Executive and Assembly could move towards the progressive implementation of ICESCR rights through other existing devolved planning options.

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<sup>7</sup> Smith v. Secretary of State for Work and Pensions [2006] UKHL 35, per Baroness Hale at para.78. Available at: <http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd060712/smith-4.htm>

<sup>8</sup> R (on the application of SG and others (previously JS and others)) v Secretary of State for Work and Pensions [2015] UKSC 16, paras.83 – 86, per Lord Reed, para. 137, per Lord Hughes, para.217 per Lady Hale. Available at: [https://www.supremecourt.uk/decided-cases/docs/UKSC\\_2014\\_0079\\_Judgment.pdf](https://www.supremecourt.uk/decided-cases/docs/UKSC_2014_0079_Judgment.pdf)

However, as it stands there were no explicit references to advancing human rights protections in the Northern Ireland Executives Programme for Government 2011-2015. Conversely even existing commitments to the development of frameworks which would have helped realise Covenant rights have not been implemented. As noted by the Committee on the Administration of Justice in their shadow report, despite a successful legal challenge they took against the Executive in Northern Ireland a year ago, the government continues to fail to implement an anti-poverty strategy.

***The Committee may wish to recommend that the Northern Ireland Executive include explicit commitments to develop frameworks for the protection of human rights in the next Programme of Government 2016 – 2021.***

#### 4. State Party Report

As in previous reporting cycles there are a number of procedural flaws with the approach to drafting state party reports by the UK. We noted in our submission to the PSWG in October 2015 that a lack of disaggregated data on Welfare Reform was one such example of this flawed reporting procedure.

In terms of the Response to the List of Issues (received 4 April 2016) the issue most apparent is the lack of data relating explicitly to Northern Ireland, despite the Committee's specific requests for data disaggregated by a number of factors including region in the List of Issues (October 2015).<sup>9</sup>

While the devolved government in Northern Ireland may have found it difficult to meet UK Ministry of Justice timelines to provide this information, it begs the questions why appropriately disaggregated data is not routinely collected and available. Accountability in government is not possible without transparency, and collecting and making data available would greatly help in a process towards good governance.

While it would be best if the Northern Ireland government could produce these statistics routinely legally the devolution settlement makes it clear that responsibility to meet international obligations, such as UN treaty reporting obligations, lies ultimately with the UK government.<sup>10</sup>

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<sup>9</sup> See for example paragraphs 9 and 24.

<sup>10</sup> Article 26(2) of the Northern Ireland Act (1998) states, "If the Secretary of State considers that any action capable of being taken by a minister or Northern Ireland department is required for the purpose of giving effect to any international obligations, of safeguarding the interests of defence or national security or of protecting public safety or public order, he may by order direct that the action shall be taken."

Until the state party begins to provide such comprehensive data for each article of the Covenant the ability of the Committee to effectively scrutinise the performance of the state party will be limited. In the next section we have collated publicly available data which we hope will aid the Committee to study how the enjoyment of the rights in ICESCR has altered since the last review in 2009.

***The Committee may wish to recommend that the United Kingdom ensures that disaggregated data is available from all regions of the United Kingdom, and that this data is routinely collected by government departments and made publicly available.***

## 5. Participation

In addition to this it should be noted that despite requests from this organisation, no form of consultation was held between civil society and the devolved government in Northern Ireland at any stage in preparation for state party report or review for the sixth cycle of ICESCR.

This remains an ongoing issue which we would like to resolve in order to ensure that the benefits of the cyclical process of treaty monitoring mechanisms are fully enjoyed in the United Kingdom.

***The Committee may wish to recommend that thorough consultation takes place with civil society as part of the ICESCR review, including consultation between the devolved governments and civil society in those regions.***

## 6. Current Threats

Two main threats to rights exist at the moment within the United Kingdom- the repeal or detrimental alteration of the Human Rights Act and the potential exit of the United Kingdom from the European Union and the effect this could have on rights enjoyed by people in the UK as members of this union.

### Human Rights Act

As noted in our submission to the Pre-Sessional Working Group in October 2015 The Human Rights Act (HRA) gave further effect to rights from the ECHR in domestic legislation



across the UK, allowing access to UK courts for violations of Convention rights and integrating rights into the work of accountability mechanisms of public bodies.

The development of this legislation was also a key provision of the Belfast/Good Friday Agreement and took on special significance in Northern Ireland where it acted as one of the key safety mechanisms to prevent against inequalities or abuse of human rights in the exercise of power by the new Stormont Government.<sup>11</sup> The Northern Ireland Executive and all public bodies are required to carry out their functions in accordance with the Act and indeed Stormont legislation can be struck down by courts if they are deemed to not be HRA compliant. The HRA was also to be supplemented with additional rights in Northern Ireland to develop a local Bill of Rights to act as another element in the Stormont human rights framework.

The HRA therefore fulfils a unique role in the Stormont system of governance and acts as the main legislative protection of human rights across the UK. Although the Act primarily protects civil and political rights, in the absence of wider enforceable economic and social rights protections such as ICESCR, the articles of the HRA have been utilised in attempts to enhance the protection of social and economic rights.<sup>12</sup>

This interpretation seems to be mirrored by the UK Government who highlight in the state party report that the HRA is an essential mechanism by which they give effect to ICESCR rights.

*“The UK Government considers that protection for ICESCR-based rights is already afforded by domestic law, including under the Human Rights Act 1998 and the Equality Act 2010; individuals may therefore seek remedies in UK courts or tribunals if they feel that their rights have been breached.”<sup>13</sup>*

However, in seeming contradiction to this the Conservative Party, which forms the current government in the United Kingdom stated the following in their 2015 election manifesto,

*“The next Conservative Government will scrap the Human Rights Act, and introduce a British Bill of Rights. This will break the formal link between British courts and the European Court of Human Rights, and make our own Supreme Court the ultimate arbiter of human rights matters in the UK.”*

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<sup>11</sup> ‘The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency’. Section 6.2, Rights, Safeguards and Equality of Opportunity, Belfast Agreement, 1998

<sup>12</sup> See R. (Adam and Limbuela) v. Secretary of State for the Home Department <https://www.escr-net.org/node/364787> and YL v Birmingham City Council <http://www.publications.parliament.uk/pa/ld200607/ldjudgmt/jd070620/birm.pdf> for examples of HRA driven cases that have either extended ESR protections or helped move the HRA towards greater ESR applicability.

<sup>13</sup> UK state party report to the Committee on Economic, Social and Cultural Rights for the 6th periodic review under ICESCR, 2014, pp 89.

The government has repeatedly suggested that it will soon publish proposals on reform of the UK's relationship with the European Court of Human Rights and their own British Bill of Rights, however at the time of writing these have still not been produced and so it is difficult to assess what the implications will be. It should be noted however that given commentary to date these proposals are likely to be rooted in a regressive approach to existing standards, including fundamental principles such as universality.

*“The next Conservative Government will scrap the Human Rights Act, and introduce a British Bill of Rights.”*

Conservative Party Manifesto 2015

*“If we want to reform human rights laws in this country, it isn't the EU we should leave but the ECHR and the jurisdiction of its Court.”*

Theresa May, UK Home Secretary, 25 April 2016

The previous government, a coalition of the Conservative Party and the Liberal Democrats created a UK Commission on a Bill of Rights. In the report created by this Committee, a Conservative Party appointee to the Commission included his own draft of a UK Bill of Rights- which included in Article 26 (Application of the Bill of Rights as regards persons) the idea of tiered access to rights dependent on citizenship status.<sup>14</sup>

As recently as 25 April 2016 the Home Secretary, and member of the Conservative Party, Theresa May stated,

*“But as I have said before, the case for remaining a signatory of the European Convention on Human Rights – which means Britain is subject to the jurisdiction of the European Court of Human Rights – is not clear... The ECHR can bind the hands of Parliament, adds nothing to our prosperity, makes us less secure by preventing the deportation of dangerous foreign nationals – and does nothing to change the attitudes of governments like Russia's when it comes to human rights. So regardless of the EU referendum, my view is this. If we want to reform human rights laws in this country, it isn't the EU we should leave but the ECHR and the jurisdiction of its Court.”<sup>15</sup>*

There exists a fear within civil society that any change to the Human Rights Act would lead to a weakening of rights and/or an increased difficulty in accessing rights on the ground, both of which we would be completely opposed to. Again the HRA was also fundamental to our peace process and any threat to this legislation also represents a threat to that that agreement.

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<sup>14</sup> 'A UK Bill of Rights? The Choice before Us' Commission on a Bill of Rights, Volume 1, December 2012, p. 214. Available at: <http://webarchive.nationalarchives.gov.uk/20130128112038/http://www.justice.gov.uk/downloads/about/cbr/uk-bill-rights-vol-1.pdf>

<sup>15</sup> Full text available at: <http://www.conservativehome.com/parliament/2016/04/theresa-mays-speech-on-brexit-full-text.html>

The Committee may wish to ask the UK Government:

***How does the UK Government intend to uphold its commitment under the Belfast/ Good Friday Agreement to the incorporation in Northern Ireland law of the European Convention on Human Rights (ECHR) given its current plans to replace the Human Rights Act?***

***Will the UK Government seek the consensus of the devolved Government in Northern Ireland before removing the Human Rights Act from legislation in that jurisdiction?***

***If ICESCR-based rights are already protected in the UK by domestic legislation such as the Human Rights Act (HRA) what effect will the current plans to replace this legislation (HRA) have on the protection of ICESCR rights in the UK?***

## European Union

Another potential threat to the current standard of enjoyment of rights in the United Kingdom lies with the potential exit of the UK from the European Union. If people in the UK vote on 23 June to leave the European Union, it will not be immediately clear what effect this will have on the added layer of human rights protections we enjoy, for example through the EU Charter on Fundamental Rights. The Charter is directly effective in the UK and contains a much more extensive set of rights than the ECHR, however it pertains only to EU law matters. Whether and how it will continue to apply should the UK decide to leave the EU depends very much upon what type of future relationship the UK decides to maintain with the EU.

Likewise, while not articulated formally as rights, the EU provides other protections which effectively help uphold other rights. This is primarily through EU directives e.g. the Working Time Directive or the Workplace Health and Safety Directive. We would hope that irrespective of the future of the UK and the EU that the UK government would provide assurances that the protection of rights in all aspects would remain the same.

***The Committee may wish to recommend that in relation to human rights reform and any change to our relationship with the European Union, there will be a guarantee that there will be no diminution in rights enjoyed by people in the United Kingdom, or in how restitution for a breach of rights can be accessed.***

## SECTION TWO

### The realisation of ICESCR rights in Northern Ireland

(2009 – 2015)

Statistical comparison of the realisation of ICESCR rights in Northern Ireland (2009 – 2015)

We would like to thank **Síle O'Connor, Ph.D.**, Institute for Research in Social Science Ulster University for her assistance in preparing this statistical analysis.

We would also like to thank a number of organisations who directly advised on the preparation of this report or whose research was utilized in its development.

**Include Youth  
CAJ/Equality Coalition  
Children's Law Centre  
The Law Centre NI  
Participation and Practice of Rights  
Project (PPR)  
Advice NI  
PILS**

This section attempts to provide a comparative overview of the compliance with and realisation of Covenant rights in Northern Ireland between 2015 and the last review of the UK in 2009. Following the repeated failure of the UK Government to provide sufficiently useful disaggregated data to the Committee in its State Party reports or core document (particularly for Northern Ireland) this section attempts to provide publicly available data sets and statistics which correspond to associated Covenant articles and rights enumerated in the ICESCR.

We have provided what disaggregated data is available but many data sets are not disaggregated beyond gender and broad lifetime categories. The complex inequalities associated with barriers to the exercise of rights faced by particular groups, for example racial and ethnic minority groups and people with disabilities, are often masked because of the absence of appropriate official statistics.

## Article 2

### **Covenant Text**

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

### **Key findings:**

- There has been a marked increase in working-age adults in absolute income poverty (After housing costs it was 15% in 2008-9, it rose to 23% in 2013-14)
- There has been a marked increase in children in absolute income poverty (After housing costs it was 23% in 2008-9, it rose to 30% in 2013-14)
- Less than 33% of people with a disability are in employment compared to 79% of those without a disability

This article is fundamental to the realization of the specific rights identified in the other articles.

The realization of rights is dependent on access to adequate resources. Poverty is an indicator of the ability to access and enjoy a range of rights in the Covenant. Therefore a key indicator in this regard is the percentage of the population and of various population groups living in relative and absolute income poverty. Table 1a and 1b presents Relative and Absolute low-income levels for Population Groups in NI in 2002-03, 2008-9 and 2013-14, using before housing costs and after housing costs adjustment. Relative low income refers to the proportion of the population groups in households with income less than 60% of the UK median household income. Absolute low-income refers to the proportion of the population groups in households with income less than 60% of the inflation adjusted UK median household income 2010-11. These tables indicate that increased percentages of some population groups were living in relative, and inflation adjusted low-income, in 2013-14 compared to 2008-9. The percentages for 2002-03 are included to get a sense of the long-term pattern.

The broad pattern reflected in these tables and in the more detailed tables from which they are drawn - Households below average income Northern Ireland 2013-14 (HBAI NI)<sup>16</sup> - is that the decrease in the percentage of pensioners in relative and absolute low income since 2008-09 occurred at the same time as **marked increases in the percentages of working-age adults and children in relative and particularly in absolute low-income (i.e. income less than 60% of the inflation adjusted median UK income in 2010-11)**. The decrease in the economic resources of these groups is particularly evident in the after housing costs figures.

**The percentage of working-age adults in relative low-income poverty increased from 16% in 2008-9 to 20% in 2013-4; the inflation adjusted figures are 15% and 23%. For children the increases are more stark: 26% of children were in relative low income poverty after housing costs in 2013-14, the figure for absolute low-income poverty is 30%. The latter figure is a seven percentage point increase relative to 2008-09 and is three percentage points above the 2002-03 level (Table 1b)**

Table 1a Relative Low-income Poverty for Population Groups Northern Ireland <sup>1</sup>			
Population Groups	2002-03	2008-09	2013-14
<b>Before Housing Costs</b>	%	%	%
Whole population	19	20	21
Children	24	23	23
Working-age Adults	16	16	20
Pensioners	24	29	21
<b>After Housing Costs</b>			
Whole population	20	19	21
Children	27	25	26
Working-age Adults	18	16	20
Pensioners	18	20	16

1. Proportion of the population groups in households with income less than 60% of the UK median household income.

Source: Households below average income Northern Ireland 2013-14: Table 1.2 <https://www.dsdni.gov.uk/publications/households-below-average-income-2013-14>

<sup>16</sup> DSDNI/NISRA 2015 Households below average incomes Northern Ireland 2013-14 (HBAI NI) <https://www.dsdni.gov.uk/publications/households-below-average-income-2013-14>

<b>Table 1b Absolute Low-income Poverty for Population Groups Northern Ireland<sup>1</sup></b>			
<b>Population Groups</b>	<b>2002-03</b>	<b>2008-09</b>	<b>2013-14</b>
<b>Before Housing Costs</b>	%	%	%
Whole population	20	18	23
Children	25	21	26
Working-age Adults	17	15	21
Pensioners	24	28	23
<b>After Housing Costs</b>			
Whole population	20	18	24
Children	27	23	30
Working-age Adults	18	15	23
Pensioners	18	19	17

1. Proportion of the population groups in households with income less than 60% of the inflation adjusted UK median household income 2010-11.

Source: Households below average income Northern Ireland 2013-14: Table 1.5 <https://www.dsdni.gov.uk/publications/households-below-average-income-2013-14>

These HBAI figures are useful in providing broad patterns of low income but they do not provide information on the income situation of ethnic minority groups or of ability/disability. The Racial Equality Strategy for 2015-2025, issued in December 2015,<sup>17</sup> acknowledges the conclusion of the 2013 Joseph Rowntree Foundation evidence review of poverty and ethnicity in Northern Ireland that “[w]ith the current absence of robust reliable statistical or administrative analysis significant gaps exist in the knowledge base”.<sup>18</sup> The Strategy document makes a strong commitment to address the evidence absence but points to the need for further research. It is noteworthy that this 2015-2025 strategy replaces one that related to 2005-10 and that OFMDFM had available a document entitled Guidance for Monitoring Racial Equality dating from 2011 and identifying itself as “the definitive

<sup>17</sup> OFMDFM 2015 Racial Equality Strategy 2015-2025 <https://www.ofmdfmi.gov.uk/publications/racial-equality-strategy-2015-2025>

<sup>18</sup> Wallace, A., McAreavey, R. and Atkin, K (2013) Poverty and Ethnicity in Northern Ireland An Evidence Review (p.9) <https://www.jrf.org.uk/report/poverty-and-ethnicity-northern-ireland>



monitoring guide to assist public bodies in improving service delivery and equality for minority ethnic and migrant populations living“ in Northern Ireland.<sup>19</sup>

Similar problems are evident in relation to disability. The UK ratified the UN Convention on the Rights of People with Disabilities (UNCRPD) in 2009. Using the articles of this convention as the benchmark a major review of disability programmes and policies in Northern Ireland was undertaken by Disability Action for the Equality Commission for Northern Ireland. The review identified deficits in statistics and data collection as key barriers not only to appropriate policy formation and monitoring but to the vindication of rights by people with disabilities<sup>20</sup> This is of particular significance in Northern Ireland where the Labour Force Survey October-December 2015 report 22% of people aged 16-64 having a current long-term disability – 20% of men and 23% of women. Thirty-two percent of people with a disability had no qualification compared to 12% of people without a disability and less than 33% of people with a disability were in employment compared to almost 79% of those without a disability.<sup>21</sup>

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<sup>19</sup> Statistics and Research Branch (2011) Guidance for Monitoring Racial Equality. <https://www.ofmdfmi.gov.uk/publications/guidance-monitoring-racial-equality>

<sup>20</sup> Harper, C. McClenahan, S., Byrne, B. and Russell, H (2012) Disability programmes and policies: How does Northern Ireland measure up? Equality Commission for Northern Ireland. Pp.: 268-270. <http://www.disabilityaction.org/fs/doc/publications/uncrpdfullreportfinal260112.pdf>

<sup>21</sup> NISRA 2016 Quarterly Supplement to the Labour Market Report October - December 2015. <https://www.detini.gov.uk/sites/default/files/publications/deti/Quarterly%20Supplement%20to%20the%20Labour%20Market%20Report%20-%20Oct-Dec%202015.PDF>

## Article 3

### **Covenant Text**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

### **Key Findings:**

- There is no statutory basis for the provision of childcare in Northern Ireland
- Full-time child care costs of a family with two children average over £16,000 per year
- On average 45% of earnings are allocated to childcare
- Childcare costs are higher than rent or mortgage payments for 25% of parents
- 56% of families experience increased financial pressure due to childcare costs
- 24% of parents regularly used high cost methods of payment such as credit cards, overdrafts, loans or payday loans to meet their childcare costs

In terms of statistical dis-aggregation considerable progress has been made in relation to gender as reflected for example in Gender Equality Statistics: 2015 Update<sup>22</sup> which provides gender disaggregated statistics under ten headings, including employment; education and training; earning and pay; informal caring and childcare. It updates the situation since the Gender Equality Strategy: A baseline Picture<sup>23</sup> was published in 2008. Despite the improvement in statistics it is not obvious that these are used to ensure the achievement of the equal rights for men and women identified in the article or of substantial progress on the areas identified in the 2008 Gender Equality Strategy.

A Gender Equality Strategy for Northern Ireland is in the process of being re-drafted, a process that has taken two years so far. The previous strategy for 2006-2016 had no robust action plans to deliver any of the targets.

The gender-disaggregated statistics in Table 2 indicate an improved employment rate for men and women from 2009 to 2015 but this masks a slight decrease for women over 2014-15 compared to a 2.2 percentage point increase for men over the same period.<sup>24</sup> The persisting large gender differences in full and part-time employment reflect at least in part the relatively slow progress in childcare provision, an increase from 38,915 places in 2009 to 47,581 places in 2015. The percentage of registered childminder places increased from under 42% to almost 43% and day nursery places from 29% to 32% but play group places still accounted for 25% of total places in 2015.<sup>25</sup> There is no statutory basis for the provision of childcare in Northern Ireland. Under the England and Wales Childcare Act 2006 local authorities have a statutory duty to ensure ample childcare provision. This is

<sup>22</sup> <https://www.ofmdfmi.gov.uk/publications/gender-equality-statistics-update-2015>

<sup>23</sup> This and associated tables are available at <https://www.ofmdfmi.gov.uk/publications/gender-equality-statistics-update-2015>

<sup>24</sup> NISRA (2015 and 2016) Monthly Labour Market Reports published November 2015 and March 2016.

<sup>25</sup> See note 21 Indicator 5.1 in Tables.

recognized as an issue for consideration in the Northern Ireland Executive's Draft Childcare Strategy.<sup>26</sup> Public consultation on the Draft Strategy was completed in November 2015 but final proposals had not emerged by mid-April 2016. The first phase of strategy development dates to 2013.

There is a considerable amount of research identifying the need for action in the area of childcare in Northern Ireland.<sup>27</sup> It is noteworthy that annual surveys on the costs of childcare have been undertaken by Employers for Childcare since 2010. The 2015 survey found that the average cost of childcare had increased over the year by over 1% to £164 per week per child, that is above the rate of inflation. This followed consistent small increases each year from 2012 when the average cost was £156 per week. This average reflects considerable variation depending on the type of childcare used and the location of the family. Costs tend to be higher in Belfast than elsewhere but after school clubs and school holiday care costs tend to be higher in rural areas. A review of average costs from 2012 to 2015 indicates that full-time child care costs of a family with two children average over £16,000 per year. This is reflected in the finding of the 2015 survey that on average 45% of earnings were allocated to childcare, that childcare costs were higher than rent or mortgage payments for 25% of parents; 56% of families experience increased financial pressure due to childcare costs and that 24% of parents regularly used high cost methods of payment such as credit cards, overdrafts, loans or payday loans to meet their childcare costs.<sup>28</sup>

A common thread linking all counties across Northern Ireland is that well over fifty percent of parents point out that there is insufficient availability of childcare in their local area. This ranges from 53% to 56% respectively in the more urban counties of Antrim and Down to 71% and 73% respectively in the largely rural counties of Tyrone and Fermanagh. The rates for Armagh and Derry/Londonderry were 63% and 69% respectively.<sup>29</sup>

The Barnardo's work on the childcare needs of ethnic minority groups identify not only problems relating to availability but major affordability issues particularly for low income groups, lone parents and those in precarious employment. These are exacerbated for ethnic minority groups. It is estimated that 30,000 additional places are needed in Northern Ireland to meet the 70% of lone parents in employment put forward in the UK welfare reform targets.

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<sup>26</sup> Northern Ireland Executive (2015) A Ten Year Strategy for Affordable and Integrated Childcare 2015-2025 <https://www.ofmdfmi.gov.uk/sites/default/files/consultations/ofmdfm/draft-childcare-strategy.pdf>

<sup>27</sup> Much of this is cited in Barnardo's Policy and Practice Briefing No 17 on the childcare needs of ethnic minorities in Northern Ireland and the research on which it is based undertaken in partnership with NICEM: Kernaghan, D (2014) Believe in childcare? The childcare needs of ethnic minority communities in Northern Ireland. Barnardo's NI and NICEM, Belfast. [http://www.barnardos.org.uk/15920\\_pp\\_briefing\\_no17.pdf](http://www.barnardos.org.uk/15920_pp_briefing_no17.pdf)  
Employers for Childcare (2015) Childcare Costs Survey 2015 <http://vouchers.employersforchildcare.org/media/complete-childcare-costs-report-2015-1.pdf>

<sup>28</sup> Employers for Childcare (2015) Childcare Costs Survey 2015 <http://vouchers.employersforchildcare.org/media/complete-childcare-costs-report-2015-1.pdf>

<sup>29</sup> Ibid

Despite a considerable amount of research and public discussion of, and consultation on, childcare since 2009 progress in the provision of places has been modest. Cost is a major barrier to accessing services, particularly registered good quality care. These problems are exacerbated by more restrictive criteria on subsidies for part-time and low income employees.<sup>30</sup>

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<sup>30</sup> See note 12 particularly the Barnardo's Policy and Practice Brief.

## Article 6

### Covenant Text

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and

### Key Findings:

- Long-term unemployment, increased from just under 33% of the total unemployed in 2009 to almost 61% in 2015
- The youth unemployment rate, that is for those aged 18-24, increased from 13.8% in 2009 to 18.4% in 2015
- A similar over time and comparative pattern is evident in relation to 16-24 year olds not in employment, education or training – NEET: 17% for Northern Ireland in 2015 compared to 10.6% in 2009

Table 2 presents key indicators relating to employment in Northern Ireland in 2003, 2009 and 2015. These data should be considered in the context of the Northern Ireland (NI)/ Great Britain (GB) comparison presented in Table 3 and related data presented in Figure 3 in the JRF (2016) Monitoring Poverty and Social Exclusion in Northern Ireland.<sup>31</sup>

Apart from the overall unemployment rate which increased only slightly from 2009, all but one of the remaining indicators in Table 2 demonstrate a dis-improvement in labour market outcomes relative to 2009 – the exception is the percentage of the male labour force in temporary employment which is static.

- Long-term unemployment, that is unemployed for 12 months or longer, increased from just under 33% of the total unemployed in 2009 to almost 61% in 2015. The 2015 rate is well over twice the GB rate of 28.5% and reflects a relative worsening since 2009 not only within Northern Ireland but relative to GB (Table 3).
- The youth unemployment rate, that is for those aged 18-24, increased from 13.8% in 2009 to 18.4% in 2015. This is the reverse of the trend in GB, where the rate decreased from just under 15% in 2009 to just over 12% in 2015.
- A similar over time and comparative pattern is evident in relation to 16-24 year olds not in employment, education or training – NEET: 17% for Northern Ireland in 2015 compared to 10.6% in 2009; the corresponding GB rates are 14.4% in 2009 to 13% in 2015.

The NEET figures for the total population aged 18-24 mask a far more acute situation for particular sub-groups. Include Youth Northern Ireland estimates that the proportion of

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<sup>31</sup> JRF (2016) Monitoring Poverty and Social Exclusion in Northern Ireland <https://www.jrf.org.uk/report/monitoring-poverty-and-social-exclusion-northern-ireland-2016>

16-18 year old care leavers in Northern Ireland whose status is NEET or unknown has remained approximately around 35% from 2010 to 2015 and around 40% for 19 year old care leavers in the same period. In a 2016 analysis it reviews the commitments and outcomes of programmes relevant to, and targeted to, successful transitions of care leavers from supported employability programmes into mainstream education, training and employment.<sup>32</sup> The scenario in relation to existing programmes is not encouraging in relation to young people who are NEET and in particular in relation to people experiencing special barriers such as care leavers. For example, young people aged 18-24 to in receipt of Jobs Seekers Allowance are required to go onto the Department of Employment and Learning Steps to Success general training programme after nine months even when the research and evaluation evidence indicates that they would be better served by completing tailored, young person centred programmes.<sup>33</sup>

The Pathways to Success Strategy was launched in June 2012 as the central element of the Northern Ireland Executive's response to the increasing numbers of young people at risk of becoming or already classified as NEET in Northern Ireland. Despite an overall positive evaluation of its operation published in March 2015 Include Youth points to the *"negligible reduction overall in the numbers of young people aged 16-24 considered NEET, begging the bigger question as to the real impact of the Strategy on the lives of young people who are NEET."*<sup>34</sup>

While existing programmes have been disappointing in terms of outcomes the outline of a new youth training programme, entitled 'Generating our Success' published in June 2015 and expected to be operational by September 2017, offers greater promise, particularly for young people with additional barriers to transition into the labour market.<sup>35</sup> The Include Youth report identifies:

*"the proposed additional flexibility and support to be provided to young people with additional needs, the comprehensive pastoral support and importance attached to data collection, analysis and evaluation."*<sup>36</sup> *These elements all have the potential to address acknowledged weaknesses in the previous programme and as such improve outcomes*

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<sup>32</sup> Boyce, Sarah and Bronte, Jennie ND 'Removing the Cliff Edge: An Exploration of what enables care leavers to make successful transitions from supported employability programmes into mainstream education, training and employment', Include Youth Northern Ireland. <http://www.includeyouth.org/>

<sup>33</sup> Include Youth, Prince's Trust and Springboard Opportunities Limited (2015) Briefing note on the impact of Steps to Success on young people's participation on ESF and United Youth Programmes (unpublished). See footnote 16: Page 29.

<sup>34</sup> See footnote 16: Page 29.

<sup>35</sup> Department for Employment and Learning (2015) Generating Our Success: The Northern Ireland Strategy for Youth Training. <https://www.delni.gov.uk/publications/generating-our-success-northern-ireland-strategy-youth-training>

<sup>36</sup> Department for Employment and Learning (2015) Generating Our Success: The Northern Ireland Strategy for Youth Training. Policy Commitments 8, 10 and 12 respectively.

*being achieved by care leavers from youth training and their progression into further education, training or employment options.”<sup>37</sup>*

The increase overtime in long-term unemployment, in youth unemployment and NEET rates in Northern Ireland and relative to GB point to the inadequacy of measures to facilitate the exercise of the right to work and the associated income which could enable the realization of other Covenant rights.

Indicators	2002	2009	2015
<b>Employment rate 16-64</b>	64.8%	66.0%	68.4%
Male	73.9%	70.1%	75.1%
Female	58.0%	60.3%	62.7%
<b>Economic Inactivity rate 16-64</b>	30.3% (2004)	30.1%	27.2%
Male		24.0%	20.8%
Female		37.3%	33.5%
<b>Economic Inactivity rate 18-24</b>	29.0% (2004)	35.6%	37.1%
Male		27.4%	31.0%
Female		41.1%	43.5%
<b>Unemployment 16-64</b>	6.1%	5.7%	6.0%
<b>Long-term unemployment % of total</b>	36.8%	32.7%	60.87%
<b>Youth unemployment - 18-24</b>	11.5%	13.8%	18.4%
<b>Part-time workers % of labour force</b>			
Male	7.2%	8.2%	11.7%
Female	42.0%	38.4%	40.0%
<b>Temporary workers as % of labour force</b>			
Male	3.6%	4.4%	4.2%
Female	6.5%	5.6%	7.4%
<b>Not in employment, education or training 16-24</b>	12.6%	10.6%	17.1% (2014)

Sources: ONS (March 2016 update) Dataset: Regional labour market: HI12 - Headline indicators for Northern Ireland and NISRA (2015) Monthly Labour Market Report published November 2015.

<sup>37</sup> See footnote 32 pages 30-31.

Table 3

## Employment-related indicators 2009 and 2015

## Northern Ireland (NI) and Great Britain (GB)

	2009		2015	
	NI	GB	NI	GB
<b>Indicators</b>				
<b>Employment rate 16-64</b>	66.07%	71.1%	68.2%	75.6%
<b>Economic Inactivity rate 16-64</b>	30.1%	23.5%	27.2%	20.2 %
<b>Unemployment 16-64</b>	5.7%	6.0%	6.1%	5.3%
<b>Long-term unemployment % of total</b>	32.7%	22.5%	60.8%	27.9%
<b>Youth unemployment - 18-24</b>	13.8%	14.8% (UK)	18.4%	12.1%
<b>Not in employment, education or training 16-24</b>	10.6%	14.4%	17.1%	13.0%
<b>Adults (20-64) with no qualifications</b>	22.0%	11.0%	17.0%	9.0%

Sources: Table 2 for Northern Ireland; for GB: ONS <https://www.ons.gov.uk/search?q=LFS%3A+Economic+Activity+rate%3A+Great+Britain>



## Article 7

### **Covenant Text**

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

### **Key Findings:**

- The percentage of working-age adults living in income poverty has increased on all the measures from 2008/9 to 2013-14
- The groups most likely to be represented in precarious employment are immigrants, women and young people
- A report into forced labour in Northern Ireland found a wider spread across sectors, “suggesting the number of people affected by forced labour in Northern Ireland is growing”
- Northern Ireland full-time female private sector hourly earnings were 83.0% of their counterparts in the UK
- The emphasis on the rebalancing of the Northern Ireland economy between the public and private is likely to have a disproportionate impact on women’s employment

In Northern Ireland as elsewhere the phenomena of non-standard employment and particularly precarious employment are increasing although official statistics on the extent are not readily accessible.

As illustrated in Tables 1a and 1b above the percentage of working-age adults living in income poverty has increased on all the measures from 2008/9 to 2013-14. Not all of this group is in employment. In this context, it is useful to consider the 2015 Northern Ireland Assembly report on in-work poverty. Using Department of Work and Pensions (DWP) data on in-work poverty for Northern Ireland, Table 1 of that report presents the percentage of working-age adults in households in Relative Poverty in NI for various groups: it shows that of the different economic status groups only the “Single/couple all in full time work” group has had a relatively stable status, with a small fall in poverty levels over the period from 4% in the years 2006/7 to 2008/9 to 3% in the years 2010/11 to 2012/13. In contrast the figures for those in self-employment living in poverty increased from 17% to 23% over the

same period.<sup>38</sup> It is plausible to argue that the growth in poor quality and precarious employment or ‘very atypical’ contractual arrangements was a contributing factor. What is common to all of these terms is that they refer to employment that does not meet the traditional standard employment contract, i.e. full-time, permanent, secure and well-paid employment but not all non-standard employment or atypical contracts are precarious.<sup>39</sup>

Much of the focus of trade union struggle during the first half of the twentieth century related to the absence of security for workers not only in relation to employment tenure and securing social protection in the event of unemployment, ill-health and ageing but to the improvement in and control of the conditions within employment. These are precisely the conditions that characterise workers in precarious and poor quality employment in the current period. The absence of these kinds of security is most evident in relation to forced self-employment but is also experienced in some but not all part-time and temporary work including zero-hours contract employment.<sup>40</sup> A key identifying factor is the absence of immediate and long-term adequacy and security of income. The groups most likely to be represented in precarious employment are immigrants, women and young people.

There are no specific statistics on precarious and ‘very atypical’ employment in Northern Ireland but there is no reason to believe that it is any different from other economically developed countries where the phenomenon has been studied. The European Observatory of Working Life Survey (2010) on ‘very atypical’ employment points to the data deficiencies in all EU countries. It identifies the following for the UK: Part-time workers working fewer than 10 hours a week are estimated to make up about 8% of the UK workforce although no official statistics are collected; it is estimated 5.3% of workers worked on fixed-term contracts in the UK during the first quarter of 2008, although no specific data available; there is no specific data available relating to oral contracts; 5% of workplaces employed workers on an on-call basis in 2004, the most recent date for which data was available.<sup>41</sup>

**Exploitation through forced labour** is a more extreme form of exploitation than precarious employment. It has been studied in Northern Ireland by the Joseph Rowntree Foundation in 2011 and updated in 2013. The later report finds a wider spread across sectors, “suggesting the number of people affected by forced labour in Northern Ireland is growing”<sup>42</sup>

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<sup>38</sup> Murphy, E (2015) Comparison of In-Work Poverty in NI, GB and ROI. Northern Ireland Assembly Research Paper 46/15 <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2015/socialdev/4615.pdf>

<sup>39</sup> European Observatory of Working Life Survey (2010) Flexible forms of work: ‘very atypical’ contractual arrangements. <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/flexible-forms-of-work-very-atypical-contractual-arrangements>

<sup>40</sup> The EWCO report cited in 17 above identifies ‘very atypical’ forms of work as “part-time work of fewer than 10 hours a week, very short fixed-term contracts, zero hours working and non-written contracts”.

<sup>41</sup> See note 33 Table 1.

<sup>42</sup> <https://www.jrf.org.uk/report/forced-labour-northern-ireland>.

Statistics relating to **equal pay between men and women** in Northern Ireland are encouraging when gross hourly earnings are considered but the story is more complex and less positive when we take the sectoral composition of the labour force and the comparative regional position into account.<sup>43</sup> The 2015 Annual Survey on Hours and Earning (ASHE) found that

*“female earnings were 101.3% of male earnings in NI, compared with 91% in the UK. Female median hourly earnings excluding overtime for NI full-time employees first reached parity with male earnings in 2010. Since 2010, female and male earnings have been similar, with female median hourly earnings exceeding that for males from 2013. This is largely driven by the public sector.”<sup>44</sup>*

An examination of patterns of pay in the UK over the 1997 to 2012 period by the Office of National Statistics pointed out the gender pay gap narrowed in every UK region but the largest fall was in Northern Ireland (from 16.5% to 0.3%) and the smallest was in London (15.1% to 12.0%). It explained that

*“The small gender pay gap in Northern Ireland is, in part, due to a higher proportion of public sector jobs [in Northern Ireland] than in the rest of the UK. There are more women employed in this sector than men and these jobs tend to be higher paid than in the private sector.”<sup>45</sup>*

The emphasis on the rebalancing of the Northern Ireland economy between the public and private is likely to have a disproportionate impact on women’s employment. This is likely not only because of women’s more advantaged employment position in the public sector relative to the private sector. It is also likely because of the probable reduction in public health and social care services in which women are disproportionately employed and are also disproportionate users in their role as carers, a demand that will likely increase as public provision decreases.<sup>46</sup> In regard to rebalancing the economy, the Equality Commission has made the important point that it would be necessary to ensure that, “any steps to rebalance the economy, including cuts to the number of public sector jobs or rates of pay, do not have a disproportionate impact on women in terms of pay equality”,<sup>47</sup> it is also important to add quality of employment.

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<sup>43</sup> NISRA (2015) Women in Northern Ireland <https://www.detini.gov.uk/sites/default/files/publications/deti/Women%20in%20NI.PDF>

<sup>44</sup> Northern Ireland Annual Survey of Hours and Earnings (2015) [http://www.northernireland.gov.uk/news-deti-181115-statistical-press-release?WT.mc\\_id=rss-news](http://www.northernireland.gov.uk/news-deti-181115-statistical-press-release?WT.mc_id=rss-news)

<sup>45</sup> ONS (2013) Patterns of Pay: Results from the Annual Survey of Hours and Earnings, 1997 to 2012. [http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/dcp171766\\_300035.pdf](http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/dcp171766_300035.pdf)

<sup>46</sup> Equality Commission (2015) Gender Equality: Policy Priorities and Recommendations . [http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/GenderEquality\\_Policypriorities.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/GenderEquality_Policypriorities.pdf)

<sup>47</sup> *Ibid.*, p.21

A further important characteristic of the gender earnings ratio is the fact that males have higher earnings up to the 40th percentile and in the 90th percentile (Table 4).

Percentile	Female	Male
10	6.90	7.18
20	7.79	8.28
30	9.18	9.43
40	10.43	10.54
50	12.08	11.92
60	14.21	13.63
70	16.71	15.89
80	19.91	19.45
90	23.06	24.09

Source: Northern Ireland Annual Survey of Hours and Earnings (2015) Figure 9.

In Northern Ireland in April 2015 median weekly earnings in the private sector relative to the public sector were 25.5% lower for all workers, almost 21% lower for men and double that at 41.8% lower for women. It is noteworthy that while all NI private sector full-time weekly earnings were 86% of those in the UK the 2015 ASHE found that NI full-time female private sector hourly earnings were 83.0% of their counterparts in the UK.<sup>48</sup>

As with full-time employees in NI median weekly earnings were 29.5% lower for part-time employees in the private sector than in the public sector in April 2015 – 18.5% lower for men and 31.9% lower for women. Despite this significant difference an important development evident in the 2015 ASHE report is the 4.1% reduction in median gross weekly earnings for part-time employees in the public sector between April 2014 and April 2015 compared to a 5.6% growth in the private sector part-time market.<sup>49</sup>

The Health and Safety Executive of Northern Ireland (HSENI) provides annual statistics on fatal injuries, major injuries and ‘over 3 day injuries taking into account those occurring under its own enforcement authority and that of the District Councils. Because of the small numbers involved it is difficult to identify a pattern (Table 5).<sup>50</sup> The major contributing

<sup>48</sup> Northern Ireland Annual Survey of Hours and Earnings (2015) [http://www.northernireland.gov.uk/news-detl-181115-statistical-press-release?WT.mc\\_id=rss-news](http://www.northernireland.gov.uk/news-detl-181115-statistical-press-release?WT.mc_id=rss-news)

<sup>49</sup> Northern Ireland Annual Survey of Hours and Earnings (2015) [http://www.northernireland.gov.uk/news-detl-181115-statistical-press-release?WT.mc\\_id=rss-news](http://www.northernireland.gov.uk/news-detl-181115-statistical-press-release?WT.mc_id=rss-news)

<sup>50</sup> HSENI (2015) Annual Report and Statement of Accounts 1 APRIL 2014 – 31 MARCH 2015. file:///C:/Users/user/Documents/ICESCR/comments%20on%201st%20draft/hseni-annual-report-2015.pdf

sectors to fatal injuries in the latest year were agriculture, construction, extractive industries and general manufacturing. The main cause of major injuries is fall from a height with construction and the waste industry being the major contributing sectors. For the four years for which comparable figures are available the employee fatal injury incidence rate is close to the UK rate in all but one year – 2011/12 when the NI rate was double the GB rate.

<b>Table 5</b>					
<b>HSENI and District Council Statistics on Fatal Injuries Five-year trends</b>					
	2010/11	2011/12	2012/13	2013/14	2014/15
All reportable fatal injuries	14	18	19	10	26
Major injuries	522	495	428	472	438
Over 3 day injuries	2439	2350	2132	2171	2276
Totals of above	2975	2863	2579	2653	2740
Asbestos-related deaths as primary or secondary cause*	50	72	62	61	
Employee Fatal injury incident rate per 100,000 employees <b>NI</b>	0.57	1.00	0.43	0.43	0.97
Employee Fatal injury incident rate per 100,000 employees <b>GB</b>	0.50	0.50	0.40 (p)	0.44	n/a

Source: HSENI (2015) Annual Report and Statement of Accounts 1 APRIL 2014 – 31 MARCH 2015: page 84-5.

\* Asbestos data relate to calendar years, 2010 onwards.

## Article 8

### **Covenant Text**

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

### **Key Findings:**

- A trade union is three times more likely to be present in public sector workplaces
- Employees pay is almost four times more likely to be affected by a collective agreement in the public sector

Data on trade union membership in the UK is collected annually through the Labour Force Survey with coverage of the whole of the UK since 1995.<sup>51</sup> Trade union membership has been declining in all UK regions except Northern Ireland since 1995 but the current NI

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<sup>51</sup> Department of Business Innovation and Skills (2015) Trade Union Membership 2014 Statistical Bulletin June 2015. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/431564/Trade\\_Union\\_Membership\\_Statistics\\_2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431564/Trade_Union_Membership_Statistics_2014.pdf)

membership is still below its 2007 peak. Union density (the proportion of employees, or those in employment, who are a trade union member, expressed as a percentage) has declined in NI as it has in England and Scotland from 1995, through 2009 to 2014. NI had the second highest density in the UK in 2014, after Wales where union density has been relatively stable since 2009. (Table 6).

	1995	2009	2014
UK	32.4	27.4	25.0
England	30.8	26.2	23.5
Wales	44.3	35.4	35.8
Scotland	39.0	31.8	30.4
Northern Ireland	42.2	39.9	35.2

Source: Department of Business Innovation and Skills (2015) Trade Union Membership 2014 Statistical Bulletin June 2015.

	Union density	Trade Union present in workplace	Employee's pay affected by collective agreement
All employees	25.0	43.0	27.5
Private sector	14.2	28.1	15.4
Public sector	54.3	84.9	60.7
England	23.5	42.0	25.7
Wales	35.8	54.5	38.5
Scotland	30.4	48.4	32.9
Northern Ireland	35.2	49.6	46.3

Source: Department of Business Innovation and Skills (2015) Trade Union Membership 2014 Statistical Bulletin June 2015.

Table 1.10

Table 7 provides data on union density, the presence of a trade union or staff association in the workplace and the percentage of employees whose pay was affected by a collective agreement in 2013. These data clearly illustrate the public private sector differences with union density almost 4 times higher in the public than in the private sector, a trade union is three times more likely to be in public sector workplaces and employees pay almost four times more likely to be affected by a collective agreement in the public sector.

The data in Table 7 indicate that Northern Ireland is not only second highest, after Wales in union density in 2013 but employees are more likely to be in a workplace where trade unions are present and a higher percentage of employees have their pay affected by collective agreements.

## Article 9

### **Covenant Text**

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

### **Key Findings:**

- Implementation of the public sector equality duty has been sidelined throughout the welfare reform process, with the purpose or effect of disguising the equality impacts of the welfare reform agenda
- The number of working aged people who are carers has increased from 29,070 in 2011 to 36,330 in 2015
- The number of working aged people who have a disability has increased from 22,450 in 2011 to 28,430 in 2015
- Northern Ireland has more Disability Living Allowance recipients per head of population than Great Britain (10.9% versus 5.2%)- a legacy of poverty and conflict
- 49% of people referred to food banks are there due to problems with social security payments
- Whilst the use of benefit sanctions had led to a fall in the numbers of people accessing social security payment, it had not resulted in more people returning to employment

In its previous Concluding Observations on the UK the Committee requested data disaggregated on an annual basis across the grounds of discrimination on the impacts of welfare reform. Such data should be readily available in relation to Northern Ireland. The implementation legislation for the 1998 Belfast/Good Friday Agreement put in place a key provision to oblige public authorities to conduct Equality Impact Assessments on policy changes.<sup>52</sup> Equality Impact Assessments involve examination of all available data to determine whether there will be adverse impacts across nine discrimination grounds.<sup>53</sup> Where there are adverse impacts public authorities are then obliged by the law to consider alternative policies and mitigating measures.

However implementation of this public sector equality duty has been sidelined throughout the welfare reform process, with the purpose or effect of disguising the equality impacts of the welfare reform agenda. The government ministry responsible for social security policy in Northern Ireland (the Department for Social Development) in its equality impact assessment on the bill missed out four of the nine discrimination categories (namely religious belief, racial group, political opinion and sexual orientation). Among other matters this means, in the context of a divided society, there was no proper analysis of the impact of welfare reform on Northern Ireland's two main communities.

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<sup>52</sup> Section 75 of the Northern Ireland Act 1998 <http://www.legislation.gov.uk/ukpga/1998/47/section/75>

<sup>53</sup> Namely sex, marital status, age, disability, religious belief, political opinion, dependants, race and sexual orientation.



The Welfare Reform Act 2012 has not been implemented in Northern Ireland. The NI Act 1998 identified social security as one of the transferred matters but in practice the NI Executive has to implement the changes made or pay for any additional spending out of its block grant. The Welfare Reform Mitigations Working Group chaired by Professor Eileen Evason was established under the 2015 Stormont Agreement and Implementation Plan to resolve these difficulties.<sup>54</sup> The Working Group was allocated £585 million by the Executive over four years - 2016-17 to 2019-20 - to make recommendation on how “to ‘top-up’ the UK welfare arrangements in NI with a review in 2018-19”.<sup>55</sup> It had already been decided that the bedroom tax would not be implemented. It should also be noted that in this instance the budget was set before the impact of measures was determined.

The Welfare Reform Mitigations Working Group (Evason WG) reported in January 2016 and made recommendations relating to welfare reform and universal credit costing £501 million over the four year period. While the supplementary payments to mitigate the welfare reform measures for carers, those in ill health and disability and families provide protection relative to what obtains in GB, each claimant will get help for only one year after being assessed as eligible. Of greater concern are the prospects beyond the four year period, although it should be noted that the Working Group made a wide range of suggestions there is no certainty that these will be taken up.

One of the key issues relating to welfare reform is the intensification of sanctions, that is the withdrawal of benefits or the reduction of level of benefits for a period of time for failure to meet the requirements associated with eligibility. The Evason WG examined the position in GB and concluded that “sanctions are causing considerable hardship” there. They welcomed the limitation of maximum sanction to 18 months in the Northern Ireland legislation and the commitment to monitoring and reporting on the operation of the sanctions regime. Recognizing that “[d]epriving people of the means of subsistence is a serious matter” they recommended additional support and appeal mechanisms and training for officials to ensure adherence to the rules and equity for claimants.<sup>56</sup>

The potential problems associated with the intensification of the sanctions regime in relation to Job Seekers Allowance (JSA), Employment and Support Allowance (ESA) and Disability Living Allowance (DLA) are frequently raised by NGOs but data on its operation in Northern Ireland is exceedingly limited.<sup>57</sup> Table 8 provides data on the numbers in receipt of working-age benefits including JSA and ESA. ESA is by far the largest client group in all years. It provides financial help to people who are unable to work because of illness or disability. It also provides personalised support to those who are able to work but need assistance. The ESA numbers decreased from 2011 to 2013 but since then have increased

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<sup>54</sup> The Welfare Reform Mitigations Working Group <https://www.ofmdfmi.gov.uk/publications/welfare-reform-mitigations-working-group-report>

<sup>55</sup> Appendix 1, p.19, The Welfare Reform Mitigations Working Group.

<sup>56</sup> Ibid Pp. 12-13.

<sup>57</sup> Advice NI 2015 Warning Benefit Cuts Ahead Benefit Sanctions in Northern Ireland <http://www.adviceni.net/sites/default/files/publications/Advice%20NI%20Sanctions%20Report%20October%202015.pdf>

and the 2015 figure is almost as high as the 2011 figure. The JSA numbers have decreased consistently since 2013 a change attributed to greater economic activity.

<b>Table 8: Working Age Client Group by Statistical Group November selected years 2011 to 2015</b>								
<b>Year</b>	<b>Statistical group</b>							<b>Total</b>
	<b>Job Seeker</b>	<b>Employment and Support Allowance &amp; incapacity benefits</b>	<b>Lone Parent</b>	<b>Carer</b>	<b>Others on income related benefit</b>	<b>Disabled</b>	<b>Bereaved</b>	
<b>2011</b>	57,040	122,300	22,370	29,070	5,020	22,450	2,790	261,040
<b>2013</b>	56,890	112,620	23,710	33,230	4,450	25,710	2,690	259,300
<b>2014</b>	48,350	116,820	23,440	34,670	3,500	27,410	2,530	256,720
<b>2015</b>	37,980	121,460	22,790	36,330	2,810	28,430	2,500	252,290

Source: DSDNI (2015) Northern Ireland Benefit Statistics Summary August 2015, adapted from Table 5 <https://www.dsdni.gov.uk/publications/benefits-statistics-summary-publication-national-statistic-august-2015>

A response to a parliamentary question by Stephen Agnew MLA indicates a decreasing and far lower percentage of JSA claimant sanctions in Northern Ireland relative to GB in the period April 2012 to January 2015. The proportion of JSA claimants sanctioned per month in Northern Ireland averaged 1.5% for April 2012 to March 2013; 1.1% for April 2013 to March 2014 and 0.9% for April 2014 to January 2015. The corresponding figures for GB were 4.6%, 5.8% and 4.7%.<sup>58</sup> While the proportion of JSA sanctions per month may seem modest the annual figure is substantial as indicated by a freedom of information request by Participation on the Practice of Rights (PPR).

PPR elicited the following information in June 2015. There were 19,388 refusals of benefit in the year to June 2015 for people on JSA (5779) and ESA (13,609). In addition there was marked variation in the level of refusals between benefit offices for JSA refusals. This information was not available for ESA refusals. The PPR go on to state:

*“These statistics only cover JSA sanctions and ESA adverse decisions. R2W Monitoring is evidencing further decisions being made at Social Security Offices which remove people’s*

<sup>58</sup> Tinson, (A. 2016) ‘Welfare Sanction in NI: the Facts’ <http://scopeni.nicva.org/article/welfare-sanctions-in-ni-the-facts>

*access to other social security benefits such as Disability Living Allowance/Personal Independence Payment.*

*Their monitoring is also showing that the impact of these ‘sanctions’ or ‘adverse decisions’ are leaving people destitute, driving many to food banks for example. The link between sanctions and food bank use is well evidenced with the The Trussell Trust, noting in their 2014 report that 49% of people referred to food banks are there due to problems with social security payments. Additionally, the use of sanctions as a punitive measure intended to push people to access employment has also been called into question by academics at Oxford University following a cross area analysis of the UK. This study, led by Professor David Stuckler, identified that whilst the use of sanctions had led to a fall in the numbers of people accessing social security payment, it had not resulted in more people returning to employment.”<sup>59</sup>*

Table 9 presents the figures on Disability Living Allowance (DLA) from 2011 to 2015. DLA provides contribution towards the disability-related extra costs of severely disabled people who claim help with those costs before the age of 65. DLA has two components which can be paid together or on their own, a care component - for people who have needed help with personal care and a mobility component - for people who have had walking difficulties for at least 3 months and are likely to continue to have those difficulties for at least a further 6 months. The vast majority of claimants are medically assessed as eligible for both elements, over 80% in 2011 and over 82% in 2015. The number of people on DLA has increased consistently from 2011. In August 2015, 208,760 people were receiving Disability Living Allowance (not including suspended cases), a rise of 6,550 on a year earlier. Of these, 49% were male and 51% female. Both male and female recipients are rising, males by 3,550 and females by 3,000 since November 2014.<sup>60</sup>

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<sup>59</sup> <http://www.pprproject.org/campaign-issue-in-focus-social-security-sanctions-in-northern-ireland>. See below re foodbanks.

<sup>60</sup> DSDNI (2015) Northern Ireland Benefit Statistics Summary August 2015: p. 24. <https://www.dsdni.gov.uk/publications/benefits-statistics-summary-publication-national-statistic-august-2015>

**Table 9 Disability Living Allowance Recipients by Claim Component**

	All Recipients	Care component, Mobility component, or both components.		
		Care component only	Mobility Component only	Care and Mobility components
2011	187,950	24,960	11,360	151,630
2013	195,390	25,280	10,830	159,290
2014	202,210	25,600	10,840	165,780
2015	208,760	26,260	10,830	171,680

Source: DSDNI (2015) Northern Ireland Benefit Statistics Summary August 2015, adapted from Table 9 <https://www.dsdni.gov.uk/publications/benefits-statistics-summary-publication-national-statistic-august-2015>

The biggest impact of welfare reform and sanctions, in particular, on Northern Ireland is likely to be from reform to DLA. Personal Independence Payment (PIP) is gradually replacing Disability Living Allowance (DLA), except for children under 16 and people over age 65. It is a benefit for people aged 16 to 64 with a long-term health condition or disability. There is concern amongst professionals in the field that this could end in considerable restrictions and reductions in numbers currently eligible for DLA. The Evason Working Group recognised this stating that “in essence, the PIP is a cut-down version of DLA which may be harder to qualify for as a result of the new method of assessment (a Points system) governing access to this benefit”.<sup>61</sup>

Northern Ireland has more DLA recipients per head of population than Great Britain; 10.9% of the population receive the benefit, compared to a GB average of 5.2%. Of the 406 local authority areas in the UK by DLA (or PIP) recipients per head of population, all of the top five are in Northern Ireland, as are 13 of the top 20. Commenting on the volume of working age claimants (approximately 120,000) in Northern Ireland in receipt of DLA, the Evason WG point out that this is not, entirely, surprising. “Years of poverty and conflict are not conducive to good health. High levels of outward migration will result in a population with a disproportionate volume of disability.”<sup>62</sup>

The working group also points to an issue that affects claimants across the UK but has particular relevance to Northern Ireland:

“Originally, DLA was intended to cover the extra costs of disability but increasingly, as other benefits have become less generous, DLA is needed to cover the cost of essentials. The

<sup>61</sup> Supra, p.7.

<sup>62</sup> *Ibid.*

consequence of all of this is that, for many people with disabilities in Northern Ireland, DLA is an important element in making ends meet.”<sup>63</sup>

The allocation of £94 million over 4 years for DLA mitigation will undoubtedly alleviate the most severe pressures in the short term. The allocation relates to:

- (i) payment up to appeal (£44 million),
- (ii) 75% of loss £10+ loss (for one year) (£36 million) and
- (iii) conflict-related lower rate of PIP (for one year).

The Social Security Agency outlined how these allocations will be interpreted at a Stakeholder Information Session on March 2016 as follows:

- DLA/PIP mitigation measures - DLA claimants who appeal after not qualifying for PIP on reassessment will receive supplementary payments, equal to the weekly rate of their DLA payments, payment will cease when Department is notified of appeal outcome;
- DLA claimants losing £10 or more per week as a result of PIP reassessment will get payments equal to 75% of their weekly loss;
- Claimants who have a conflict-related injury and don't qualify for PIP but score four points or more will qualify for a payment which will be equal to the standard rate of PIP;
- Should a person not qualify for PIP, their carer, if in receipt of Carers Allowance, will receive a supplementary payment to cover 100% of the financial loss.

Despite this mitigation relative to the Great British situation, the longer-term scenario is bleak for those experiencing disability related extra costs. The Social Security Agency acknowledged in its presentation to stakeholders that in the period from April 2013 to October 2015 only 48% of new claims not made under Special Rules were granted PIP and only 74% reassessment of DLA claims not made under Special Rules were awarded PIP. DSD modelling shows the potential impact on the 27000 claimants likely to be re-assessed in Northern Ireland: no change for 18.8%; increase for 23.3%; decrease for 32.8%; and no award for 25% (DSD, SSA 2016). There is no reason to believe that the situation should differ in Northern Ireland when the reassessment commences in June 2016. It is expected to be completed by December 2018.

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<sup>63</sup> *Ibid.*, p7-8

## Article 10

### **Covenant Text**

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

### **Key Findings:**

- Despite the formal criteria relating to maternity leave payments and allowances, many women experience barriers to the realization of these rights
- In one survey nearly half of the sample reported some discrimination due to pregnancy; they usually linked the discrimination to an individual manager or colleague and the majority did not seek redress
- Children have the highest representation of any population group in all measures of low income poverty and the percentage of children in poverty irrespective of measure has either remained static (one measure) or increased since 2008-09
- Catholic children live in poverty to a disproportionate extent: 28% of children living in households where the head of household was Catholic were living in poverty in 2013-14 compared to 23% of children where the head was Protestant
- Institute for Fiscal Studies (2014) has concluded that the direction of child poverty in Northern Ireland is upward and expects the relative low income measure of poverty to reach 29.7% by 2020 and the absolute low income measure to reach 32.9%; the corresponding figures for the UK are 23.5% and 27.2%

Statutory maternity pay and leave in Northern Ireland are available on the same basis as the rest of the UK. In Northern Ireland as elsewhere in the UK labour market inequalities are reflected in the level and duration of maternity benefits. Maternity allowance depends on eligibility and may be payable to those who do not qualify for statutory maternity pay.<sup>64</sup>

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<sup>64</sup> Department of Work and Pensions Report on Maternity and Paternity Rights of Women Returners 2009/10 indicates that 11% received maternity allowance only, 42% received Statutory maternity payment only and 32% received the latter plus occupation maternity payment. <https://www.gov.uk/government/news/publication-of-research-report-no-777-maternity-and-paternity-rights-and-women-returners-survey-2009-10>

Despite the formal criteria relating to maternity leave payments and allowances, many women experience barriers to the realization of these rights. Research identifying several barriers is summarized in a literature survey on pregnancy and maternity discrimination for the Northern Ireland Equality Commission in 2014. While the research reviewed relates to GB there is no reason to believe it is not applicable to Northern Ireland.<sup>65</sup> Particularly noteworthy are the barriers to maternity benefit take-up, including actual or constructive dismissal, tangible discrimination and inflexibility by employers on return to work. In a survey of 1,000 women the Equal Opportunities Commission (EOC) found that nearly half of the sample reported some discrimination due to pregnancy. They usually linked the discrimination to an individual manager or colleague and the majority did not seek redress.<sup>66</sup> The EOC research was reported in 2005 but recent research indicates the persistence of problems including health and safety problems for up to a quarter of employees and more in some sectors and occupations.<sup>67</sup>

Clause 3 of Article 10 mandates strong protection and assistance be taken on behalf of all children and young persons. The relevance of this mandate is not confined to this clause. We have already outlined the sharp impact of low-income poverty on children. Children have the highest representation of any population group in all measures of low income poverty and the percentage of children in poverty irrespective of measure has either remained static – one measure – or increased since 2008-09 (Tables 1a and 1b). The increase was seven percentage points from 23% to 30% in absolute low income poverty after housing costs. This is a 30% increase over these five years. We have also pointed to the Include Youth estimate that the proportion of 16-18 year old care leavers in Northern Ireland whose status is NEET or unknown has fluctuated around 35% from 2010 to 2015

To add to this negative scenario, recent analysis for the Equality Coalition points out that Catholic children live in poverty to a disproportionate extent: 28% of children living in households where the head of household was Catholic were living in poverty in 2013-14 compared to 23% of children where the head was Protestant.<sup>68</sup>

Furthermore, the Institute for Fiscal Studies (2014) has concluded that the direction of child poverty in Northern Ireland is upward and expects the relative low income measure of

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<sup>65</sup> Sargent, M. (2014) "Literature survey on Pregnancy and maternity discrimination for the Northern Ireland Equality Commission " [http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Pregnancy\\_Maternity\\_Discrimination-LiteratureSurvey.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Pregnancy_Maternity_Discrimination-LiteratureSurvey.pdf)

<sup>66</sup> Greater Expectations: Final report of the EOC's investigation into discrimination against new and expectant mothers in the workplace (2005) <http://www.maternityaction.org.uk/wp/wp-content/uploads/2013/09/eocpregnancydiscrimgreaterexpectations.pdf>

<sup>67</sup> See note 30 for discussion of several informative studies including Slater & Gordon, Press Release: Mums Face Discrimination in the Workplace, Aug. 8, 2013 <http://www.slatergordon.co.uk/media-centre/press-releases/2013/08/mums-facing-discrimination-in-the-workplace/>  
Risk assessment for new and expectant mothers TUC <http://www.tuc.org.uk/workplace-issues/health-and-safety/gender-and-occupational-safety-and-health/risk-assessment-new-and>

<sup>68</sup> Bell, C. and McVeigh, R. (2016) A Fresh Start for Equality? The Equality Impacts of the Stormont House Agreement on the 'Two Main Communities': An Action Research Intervention. Equality Coalition. Pp. 36-37

poverty to reach 29.7% by 2020 and the absolute low income measure to reach 32.9%; the corresponding figures for the UK are 23.5% and 27.2%.<sup>69</sup>

These persisting inequalities are of major policy importance precisely because they relate to children and not only their prospects but the prospects of socio-economic progress of the society as a whole. For a post-conflict generation the persistence and worsening of these inequalities is particularly challenging. We return to this issue in relation to Article 13 and the right to education.

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<sup>69</sup> Institute for Fiscal Studies (2014) Child and Working-Age Poverty in Northern Ireland from 2010-2020. London: IFS p.3.



## Article 11

### **Covenant Text**

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

### **Key Findings:**

- There has been an increase in social rented sector waiting lists over the period from 2003-4 (27515) to 2014-15 (39338)
- There has been an increase in the number of applicants in housing stress from 2009-10 (51.4%) to 2014-15 (56.2%) but a decrease in the number of allocation to applicants (11489 in 03-04, 10892 in 14-15)
- Homelessness has increased from 18,664 in 2009-10 to 19,621 in 2014-15
- A survey of users of food banks found 78% were in receipt of benefits, 33% on ESA, 38% on JSA, 21% on DLA and 16% on income support

Some statistics relevant to this issue were considered above in discussing Article 2 and Article 6. Achievement of the rights mandated under these articles is essential to the achievement of Article 11 rights. Specific reference is made to the centrality of housing as an element in the continuous improvement of standard of living.

The November 2015 ARK report entitled Figuring it Out: Looking Behind the Social Statistics in Northern Ireland has an informative discussion of housing statistics.<sup>70</sup> It points to the “steady increase in the demand for social housing in Northern Ireland” and points to the Northern Ireland Housing Executive (NIHE) estimate that “a minimum of 2,000 new units will required for the next five years in order to meet the demand for social housing.”<sup>71</sup> This is well illustrated by the social rental waiting lists, the number of applicants in housing stress and the number of allocations as presented in Table 10.

<sup>70</sup> Gray, A.M, Horgan, G. and Leighton, A. (2015) Figuring it Out: Looking Behind the Social Statistics in Northern Ireland (pages 81-96) <http://www.ark.ac.uk/publications/books/FIO2015.pdf>

<sup>71</sup> Supra, p.86

Year	Total applicants	Number and % of applicants in housing stress*	Number and % of allocations to applicants	Number of allocations to NIHE/Housing Association tenants	Total Allocations
2003-04	27515	14152 (51.4%)	8462 (30.8%)	3027	11489
2009-10	38120	19716 (51.7%)	9192 (24.1%)	2811	12003
2014-15	39338	22097 (56.2%)	8129 (21.2%)	2763	10892

\* Housing Stress refers to those applicants who have at least 30 points under the common selection scheme operated by NIHE and housing associations.

Source: Adapted from Table 3.5 in NISRA and DSD (2015) Northern Ireland Housing Statistics 2014-15.

The data in Table 10 indicate an increase in social rented sector waiting lists over the period from 2003-4 to 2014-15 despite some fluctuations in intervening years. More significantly they indicate an increase in the number of applicants in housing stress from 2009-10 to 2014-15 but a decrease in the number of allocation to applicants. It is noteworthy that 39% of social renters were in low-income after housing costs in 2013-14 as were 44% in 2009-10.<sup>72</sup> Over the same period housing benefits claimants increased to 162,480 in 2015 from 123,841 in 2009 which was in turn an increase from 125,170 in 2003.<sup>73</sup>

These figures paint a dismal pattern in the social rented housing sector as a whole and a disimprovement since 2009. But these overall figures mask a worse situation for particular population subgroups. In its 2009 report the Committee expressed concern regarding the chronic shortage of housing for Catholic families in North Belfast. This continues to be an area of contention at local level and for NGOs but is not evident in Northern Ireland Housing Executive publicly available statistics. A detailed analysis of this situation has been undertaken by Participation and Practice of Rights (PPR) and is analysed in the Equality Coalition's 2016 action research intervention focusing on the equality impacts of the Stormont House Agreement for the 'Two Main Communities'. A key theme running through the analysis of housing is the limited publicly available data on housing as it relates to the two historical communities – Protestant and Catholic and the increasing 'Other' composed of people who do not identify with either of these - and the reluctance to provide data on request for research purposes.<sup>74</sup>

<sup>72</sup> Department of Social Development (2015) Northern Ireland Housing Statistics 2014-15. <https://www.dsdni.gov.uk/sites/default/files/publications/dsd/ni-housing-stats-1415.pdf>

<sup>73</sup> <http://www.ninis2.nisra.gov.uk/public/PivotGrid.aspx?ds=6916&lh=42&yn=1999%2c2001-2015&sk=10&sn=People+and+Places&yearfilter=>

<sup>74</sup> Bell and McVeigh point out relevant data was requested from the Housing Executive in the context of its research for the Equality Coalition but none was forthcoming. Footnote 32 in Bell and McVeigh, supra.

To summarise, there is a reluctance to officially acknowledge religious inequality in housing in North Belfast or elsewhere through the provision of publicly accessible and appropriately disaggregated data on need, provision and allocation. A key dynamic that should inform housing policy is that communities are changing in terms of their 'two main communities' composition. In the North Belfast situation there is an increase in the Roman Catholic and Other community and their housing need relative to the Protestant community but housing allocation has not kept pace. The failure of the Northern Ireland Housing Executive to provide disaggregated statistics by community background is a major barrier to addressing housing need and the political dynamics which help to maintain the existing inequalities.

Homelessness increased from 18,664 in 2009-10 to 19,621 in 2014-15. The largest category of homeless people in each year was single males (35% of total both years), followed by families (32% of total both years) and single females (17% and 18%). The percentage of applicants accepted as homeless was 38% in 2014-15, - a decrease from 45% in the previous year and from 49% in 2008-9. The single most important reason why homelessness applicants were accepted as full-duty applicants was that their accommodation was not reasonable - 25% in 2009-10 and 28% in 2014-15. Domestic violence was the reason in 9% in the former year and almost 8% in the latter. The Homelessness Strategy for Northern Ireland 2012-2017 aims to eliminate long-term homelessness and rough sleeping by 2020.<sup>75</sup> The figures reviewed here indicate that progress to date has been slow.

**Food Poverty:** Adequate food is as essential to survival as shelter. Unfortunately foodbanks have become a pervasive necessity in many communities over recent years. The official recognition of food poverty and presence of foodbanks in Northern Ireland is reflected in Appendix 5 of the Evason WG report and the fact that the Department of Social Development (DSD) undertook a study of foodbanks in Northern Ireland in 2015.

The 2015 DSD report aimed to get an insight into the operation of foodbanks in Northern Ireland. It interviewed operators and users and situated the research in the context of key pieces of literature on foodbanks in Northern Ireland and the UK.<sup>76</sup> Key threads run through all of the research: the reason why people use foodbanks is acute income shortage and the absence of alternative resources; key factors contributing to this situation are common across the UK; and potential solutions have been identified for several years. Key contributing factors relate to the operation of the benefit system, particularly processing delays and failure to notify people of appeal outcomes and stopping of benefits without notice often due to administrative problems. Particular problems relate to JSA, ESA and DLA. It is noteworthy that several of these problems and suggestions for solutions were identified in a 2013 report by Advice NI.<sup>77</sup> The small survey of users by the DSD found 78%

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<sup>75</sup> [http://www.nihe.gov.uk/homelessness\\_strategy\\_for\\_northern\\_ireland\\_2012-2017.pdf](http://www.nihe.gov.uk/homelessness_strategy_for_northern_ireland_2012-2017.pdf)

<sup>76</sup> Department of Social Development (2015) An insight into Food Banks in Northern Ireland. <https://www.dsdni.gov.uk/sites/default/files/publications/dsd/dsd-research-food-bank-research.pdf>

<sup>77</sup> Advice NI (2013) 'Turning the Tide - The Growth of Foodbanks in Northern Ireland', Advice NI. <http://www.adviceni.net/content/food-banks-0>

were in receipt of benefits, 33% on ESA, 38% on JSA, 21% on DLA and 16% on income support. Eighty percent were on housing benefit. The latter is consistent with other studies which identify housing and homelessness issues as important contributing factors to foodbank use.

Food poverty is difficult to measure but UK wide research indicates that expenditure on food is closer to 10% of household income than elsewhere. To put this in context a study conducted by Kelloggs in 2012 indicated that the average household food bill in Northern Ireland was £3,201 in 2012, this was joint highest with London. “This is despite the average household incomes in Northern Ireland being “36.6%” lower than London.”<sup>78</sup>

DSD concludes its report with a summary of the actions to reduce the use of foodbanks recommended by Perry et al on the UK in 2014.<sup>79</sup>

1. Improve access to short-term benefit advances: increase awareness, simplify the claim process and improve data collection to identify support needs.
2. Reform sanctions policy and practice: increase access to hardship payments, clarify communications about sanctions, mitigate the impact whilst a sanction is being reconsidered and address issues for Housing Benefit.
3. Improve the ESA regime: ensure claimants are not left without income whilst challenging a decision made because of missing medical certificates or missed appointments.
4. Sustain and improve access to emergency financial support through Local Welfare Assistance Schemes and the Scottish Welfare Fund.
5. Ensure Jobcentres provide an efficient and supportive service for all clients.
6. Improve Jobcentre Plus Advisers awareness of, and ability to respond to, mental health problems.
7. Improve access to appropriate advice and support.<sup>80</sup>

These are more extensive but are very similar to the 2013 recommendations for action by Advice NI.

Food poverty has to be understood in the context of income and housing adequacy. In the context of the levels of income poverty outlined in this report, and the potential increase in sanctions the threat of food poverty is likely to become a reality for greater numbers people unless the recommendations outlined above are taken seriously as policy options.

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<sup>78</sup> Kelloggs and CEBR (2013) ‘Hard to Swallow, The Facts about food Poverty’ Kelloggs: 18-19, cited in DSD supra and Advice NI supra.

<sup>79</sup> Perry J, Williams M, Sefton T and Haddad M ‘Emergency Use Only – Understanding and reducing the use of foodbanks in the UK’ (2014) The Church Action Group, Church of England, Oxfam GB and The Trussel Trust.

<sup>80</sup> Department of Social Development (2015) supra: p. 31

## Article 12

### **Covenant Text**

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
  - (b) The improvement of all aspects of environmental and industrial hygiene;
  - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
  - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness

### **Key Findings:**

- The life expectancy gap between the least deprived and most deprived quintiles has not improved for men between 2008-10 and 2011-13, remaining at 7.5 years
- The life expectancy gap between the least deprived and most deprived quintiles has not significantly improved for women between 2008-10 when it was 4.4 years and 2011-13 when it was 4.3 years
- The healthy life expectancy gap for the most deprived quintile and least deprived quintile of men is 11.8 years, the gap for women is 14.2 years
- In 2005-9 there was a 30% inequality gap in the rates of infant mortality between the most and least deprived quintiles. By 2009-13 the inequality gap in rates of infant mortality had decreased to 26%
- In terms of quintile differences in the proportion of adults who had a limiting long-standing illness the inequality gap between the least deprived quintile and the most deprived quintile increased from 57% in 2010/11 to 70% in 2014/15
- For suicide rates in Northern Ireland the inequality gap between the least and most deprived quintiles has decreased but at 221% in 2011-13 it reflects sharp inequality in life experiences across the quintiles

The key indicators that measure progress in this area are life expectancy, especially healthy life expectancy and disability free life expectancy and infant mortality rates. Like other developed economies Northern Ireland has experienced a fairly consistent improvement in these headline indicators over recent decades but not all social groups are equally represented in these improvements as the data in Table 11 demonstrate.

**Table 11**

**Life Expectancy, Healthy Life Expectancy and Infant Mortality selected years Northern Ireland and Quintiles**

	Life expectancy				Healthy Life Expectancy		Infant Mortality Rate	
	2008-10		2011-13		2011-13		2005-09	2009-13
	Male	Female	Male	Female	Male	Female	All	All
NI	77.0	81.4	78	82.3	58.7	62.2	5.3	4.7
<b>Quintiles</b>								
1 (Most deprived)	72.7	78.9	73.6	79.6	51.6	54.3	6.0	5.4
2	76.1	80.8	77.1	82.2	57.6	59.6	5.2	5.0
3	77.6	81.5	78.6	82.4	59.6	63.2	5.1	4.4
4	78.5	82.6	79.7	83.3	61.1	64.4	5.4	4.3
Least deprived)	80.2	83.3	81.1	83.9	63.4	68.4	4.6	4.3
Inequality Gap Most-least deprived	7.5	4.4	7.5	4.3	11.8	14.2	30%*	26%*

Source: NI Health and Social Care Inequalities Monitoring System – Health Inequalities In Northern Ireland: Key Facts 2015;<sup>81</sup>

\*Inequality gap for infant mortality presented as % of least deprived.

Looking at life expectancy we find an improvement over time, even the relatively short period considered, for all quintiles and for males and females; as expected there is a female male difference but the most striking difference in this indicator and the two others presented is the quintile differences. We see progressive worsening of the life expectancy from the least deprived quintile 5 to the most deprived quintile 1. The inequality gap is a summary figure allowing comparisons over time. It is the difference between the least and most deprived in years. Women have an advantage in life expectancy at each quintile level but the inequality gap between the most and least deprived quintiles is far higher for men than for women: 7.5 years relative to 4.3 years when we consider the 2011-13 three year span. The female advantage is also clearly evident in the healthy life expectancy measure,

<sup>81</sup> <https://www.dhsspsni.gov.uk/news/ni-health-and-social-care-inequalities-monitoring-system-%E2%80%93-health-inequalities-northern-ireland>

that is, the average number of years a person can expect to live in good health.<sup>82</sup> But the inequality gap between quintiles is higher for women – 14 years compared to less than 12 years for men. Across the three indicators the sharpest inequality gap is evident for infant mortality rates, i.e the number of deaths for those under one year among live births per 1,000 live births. In 2005-9 there was a 30% inequality gap in the rates between the most and least deprived quintiles. By 2009-13 the inequality gap in rates of infant mortality had decreased to 26%. Despite the decrease over time the persisting gap is still enormous and a stark illustration of life chance differences linked to socio-economic situation.

We find an equally stark inequality gap in Northern Ireland when we examine quintile differences in the proportion of adults who had a limiting long-standing illness. In contrast to the other life time health measures the proportions of adults with a limiting long standing illness increased over time for all but the second quintiles but the largest increase was for the most deprived quintile where 39% of adults reported a limiting long-standing illness in 2014-15. Despite the relatively small increase for the least deprived quintile, the inequality gap between the two increased from 57% in 2010/11 to 70% in 2014/15.

<b>Table 12</b>		
<b>Proportion of adults who had a Limiting Long-standing Illness Northern Ireland and Quintiles</b>		
	2010-11	2014-15
NI	27%	29%
<b>Quintiles</b>		
1 (Most deprived)	33%	39%
2	29%	29%
3	26%	27%
4	26%	27%
5 (Least deprived)	21%	23%
<b>Inequality Gap in rates</b>		
<b>Most-least deprived as percentage of least deprived</b>	57%	70%

Source: NI Health and Social Care Inequalities Monitoring System – Health Inequalities In Northern Ireland: Key Facts 2015

Table 13 presents the data relating to deaths by suicide per 100,000 of the population and here the inequality gap is truly extraordinary in terms of the differences in suicide rates across deprivation quintiles.

<sup>82</sup> This is an estimate of lifetime spent in ‘very good’ or ‘good’ health, calculated using respondents’ perception of their own health in the Health Survey Northern Ireland.

<b>Table 13</b>		
<b>Crude Suicide Rate (rate per 100,000 population) selected years Northern Ireland and Quintiles</b>		
	2007-09	2011-13
NI	14.7	15.9
<b>Quintiles</b>		
1 (Most deprived)	26.4	29.9
2	18.0	16.8
3	12.4	11.6
4	10.1	12.8
5 (Least deprived)	7.0	9.3
Inequality Gap in rates		
Most-least deprived as % of least deprived	276%	221%

Source: NI Health and Social Care Inequalities Monitoring System – Health Inequalities In Northern Ireland: Key Facts 2015<sup>83</sup>

Two patterns are evident in this table. First, there is an increase in suicide in all but the second and third quintiles and the highest percentage point increase is in the already exceptionally high first (most deprived) quintile – a 3.5 percentage point increase in the suicide rate. There were 2.7 and 2.3 percentage point increase in the fourth and fifth percentiles respectively. Second because of the pattern of increases the inequality gap between the least and most deprived has decreased but at 221% in 2011-13 it reflects sharp inequality in life experiences across the quintiles.

Suicide and mental health are inextricably linked and a study by Foster et al (1997) found that 90% of individuals who had completed suicide in Northern Ireland had an identifiable psychological disorder, the most common being depression.<sup>84</sup>

The Health Survey for Northern Ireland 2010/11 found that 19% of the adult Northern Irish population has a possible psychiatric disorder, compared to 15% of the adult Scottish population (Scottish Health Survey 2010) and 14% of the adult English population (English Health Survey 2011). The issue of mental health in Northern Ireland has to be understood in the context of the post-conflict situation.

In discussing perspectives on mental health in post-Agreement Northern Ireland, Gallagher, Hamber and Joy point out that the impact of the conflict is long-lasting and not confined to direct victims or those close to them and that the widespread belief in resilience in Northern

<sup>83</sup> <https://www.dhsspsni.gov.uk/news/ni-health-and-social-care-inequalities-monitoring-system-%E2%80%93-health-inequalities-northern-ireland>

<sup>84</sup> Foster T, Gillespie K and McClelland R. (1997) “Mental disorders and suicide in Northern Ireland”. BJPsych. 170:447-52



Ireland delayed recognition of the impacts.<sup>85</sup> Numerous studies have shown the impact of the conflict on general and mental health of children and adults in Northern Ireland with more economically deprived sections of the community being disproportionately impacted.<sup>86</sup> Consistent with the latter the Health Survey for Northern Ireland found that the rate of possible psychiatric disorder in the most deprived areas (30%) was double the rate in the least deprived areas (15%) and 63% above the Northern Ireland average.<sup>87</sup>

In a Knowledge Exchange Seminar (KESS) presentation to the Northern Ireland Assembly in 2015, Maguire et al pointed out that physical and mental health are inextricably linked, with each impacting upon the other. In addition, mental health has a bidirectional relationship with unemployment, health inequalities, deprivation and financial hardship.<sup>88</sup> This underpins the argument made in the discussion of Article 2 on the mutual dependence of economic, social and cultural rights. The clear implication of this mutual dependence is that the State must affirm all the Covenant rights and commit at a minimum to ensuring access to the services and resources that will allow for their vindication

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<sup>85</sup> Gallagher, E., Hamber, B., & Joy, E. (2012). Perspectives and Possibilities: Mental Health in post-Agreement Northern Ireland. *Shared Space: A research journal on peace, conflict and community relations in Northern Ireland*, 13(March), pp.63-78.

<sup>86</sup> Deloitte (2007). Research into the Financial Cost of the Northern Ireland Divide. <http://cain.ulst.ac.uk/issues/segregat/docs/deloitte0407.pdf>

<sup>87</sup> <https://www.dhsspsni.gov.uk/sites/default/files/publications/dhssps/hscims-2015-key-facts.pdf>

<sup>88</sup> Maguire, A, McCann, M., Moriarty, J. and O'Reilly, D (2015) Mental Health Bereavement and Suicide Using administrative data to understand mental health in Northern Ireland: Results from two exemplar projects. KESS, Northern Ireland Assembly.

## Article 13

### **Covenant Text**

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
  - (a) Primary education shall be compulsory and available free to all;
  - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
  - (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
  - (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
  - (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.
4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

### **Key Findings:**

- Free-school-meal entitled Protestant males are least likely of all groups to go into higher education
- In the past 10 years the number of students from Northern Ireland at UK Higher Education Institutions decreased by 2.7%

- ‘First degree’ courses enrolment for Northern Ireland domiciled students has risen by 4.5% but the number of students enrolled on ‘other undergraduate’ courses (such as foundation degrees, diplomas etc.) have fallen by 38% in the same period
- Of the 63,965 NI domiciled students enrolled at UK HEIs in 2014/15 the highest proportion (25.7%) were from the least deprived quintile whereas only 13.2% were from the most deprived quintile
- The figures for higher education enrolment demonstrate two clear facts: (1) the persistence of childhood socio-economic inequalities; and (2) the correlation between a reduction in enrolments in part-time study and particularly other undergraduate study associated with the increasing cost of higher education.

Education has long been recognized as an equality issue in Northern Ireland and elsewhere. One of the pervading themes in educational equality literature is the issue of inequality in access and outcome relating to social class. While this is an element of the Northern Ireland debate it is intertwined with the issue of ‘community/religious’ background. The latter issue is discussed in the recent Equality Coalition report on the equality impacts of the Stormont House Agreement on the ‘Two Main Communities’.<sup>89</sup> Its analysis of primary and secondary education is particularly significant in demonstrating the changing patterns of some, and the persistence of other, educational inequalities. As part of a broad examination of educational inequalities for the ECNI (2015) Key Inequalities in Education Draft Statement, Burns et al (2015) provide extensive analysis of the community religious background issue including developments and changes over time.<sup>90</sup>

The Department of Education Northern Ireland (DENI) data on Free School Meals (FSM) entitlement is used widely in research in Northern Ireland as a proxy indicator for incomes and poverty. The data supplied by DENI to Bell and McVeigh indicates that 30% of all students in primary, post-primary and special schools are entitled to FSM. The proportion of children entitled to FSM ranges from almost 34% from a Catholic background through 28% for those from Other backgrounds, (that is, not identifying as Catholic or Protestant), to 24% of children from a Protestant background.

**Table 14**

**Free School Meals Entitlement by Religious/Community background**

**Northern Ireland 2013-14**

	Protestant	Catholic	Other	Total
FSM entitled	24.3%	33.6%	28.4%	29.6%
Not FSM entitled	75.7%	66.4%	71.6%	70.4%
Total numbers	115,315	165,682	41,662	322,659

Source: adapted from Bell and McVeigh (2016) p.39. Data based on information request to DENI

<sup>89</sup> Bell, C. and McVeigh, R. (2016) A Fresh Start for Equality? The Equality Impacts of the Stormont House Agreement on the ‘Two Main Communities’.- An Action Research Intervention. Equality Coalition.

<sup>90</sup> Burns, S., Leitch, R. and Hughes, J. (2015) Education Inequalities in Northern Ireland. Report to the ECNI

Entitlement to FSM is taken as a measure of objective need in the educational setting. The validity of this assessment is supported when we situate the overall FSM entitlement figure of 30% in the context of the figure of 30% of children in absolute low-income after housing costs (Table 1b). The data in Table 14 are of considerable concern when put in the context of the Institute of Fiscal Studies assessment that the absolute low income measure of childhood poverty in Northern Ireland will reach 32.9% by 2020.<sup>91</sup>

Despite the inequalities based on objective need presented in Table 14 the achievement data demonstrate that those from Protestant backgrounds, particularly males, do less well than those from Catholic and Other backgrounds and irrespective of background girls do better than boys (Table 15).

Background	Protestant		Catholic		Other		Total NI	
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls
% of total category	57.1%	68.9%	59.2%	69.6%	61.4%	62.4%	58.6%	68.6%
Total number in category	4415	4368	5856	5593	1361	1043	11632	11004

Source: adapted from Bell and McVeigh (2016) p.39. Data based on Table 10 DENI Qualification and Destinations 2013/14

This is not a new pattern. The differential in achievement between young people from different religious backgrounds has been extensively documented for several years.<sup>92</sup> But this is not the full story of differential achievement.

It is important to put these differential achievement figures in the context of the FMS data above and the literature on education and socio-economic status. The interaction of multiple inequalities is crucial to understanding differential achievement in Northern Ireland as elsewhere. The key issues are succinctly identified by Burns et al 2015 as follows:

*“Between 2007/08 and 2011/12, young people who were FSM entitled had lower attainment than non-FSM young people; males of either FSM category did less well than females; and Catholics of either FSM category or gender did better than Protestants or ‘Others’.*

<sup>91</sup>Institute for Fiscal Studies (2014) Child and Working-Age Poverty in Northern Ireland from 2010-2020. London: IFS p.3. See discussion of Article 10, Clause 3 above.

<sup>92</sup> Osborne, B., Smith, A., and Hayes, A. (2006). Higher Education in Northern Ireland: A Report on Factors Associated with Participation and Migration. Belfast: University of Ulster  
Department of Employment and Learning. (2011). Audit of Inequalities and Action Plan 2011-2016. Belfast: DEL.  
Burns, S., Leitch, R. and Hughes, J. (2015) Education Inequalities in Northern Ireland. Report to the ECNI

*Therefore, the best achievement rates were observed for non-FSM Catholic females. In contrast, FSM entitled Protestant males had the lowest achievement rates out of all of the group categories, with consistently lower attainment proportions at GCSE and A Level than all other groups. This is a persistent inequality.*

*The data analysed showed that FSM entitlement was a stronger predictor of attainment (and destination after leaving school) than gender. The literature review also identified the impact that social deprivation has on achievement, compounding the negative effects of other inequalities including those identified for religion too (not just gender). Within the FSM-entitled category, Catholic females were more likely than any other group to go on to higher education. FSM-entitled Protestant males were least likely to go into higher education of all groups. This is therefore a persistent inequality for FSM-entitled Protestant males.”<sup>93</sup>*

The clear implication of this pattern is that, as stated by the ECNI in its 2015 Key Inequalities in Education Draft Statement, “[t]he particular barriers to educational equality for Protestant males entitled to free school meals must be considered and addressed”.<sup>94</sup>

The pattern of inequality associated with religious background at the primary and post-primary levels are also reflected in higher education, with an over-representation of people from Catholic backgrounds relative to their share of the population in undergraduate and postgraduate enrolments and the gap between the two communities has widened slightly: while the share of Protestant background enrolments has remained static, Catholic background enrolments have slightly increased as has the enrolments of people from the ‘Others’ background.<sup>95</sup>

In further education the picture is more nuanced. The ECNI points out that there are more enrollees from a Catholic than from Protestant backgrounds but the latter have a larger share of those successfully completing courses than students from either of the other two groups.<sup>96</sup> They also state that Catholics, and those of ‘Other’ religions, are not as successful as Protestants at obtaining employment after leaving Steps to Work programme.<sup>97</sup>

The possible impact of tuition fees on enrolment at university has been widely debated since the introduction of fees in the UK and particularly since the 2012 increase in Great Britain and the possibility of further increases in Northern Ireland institutions. The latest

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<sup>93</sup> Burns et al, supra, page 19.

<sup>94</sup> ECNI (2015) Key Inequalities in Education Draft Statement October 2015. : ECNI: p. 29, para 8.1 [http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Education-KeyInequalities\\_DraftStatement.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Education-KeyInequalities_DraftStatement.pdf)

<sup>95</sup> Burns et al, supra, page 133.

<sup>96</sup> ECNI, supra, p.29. The ECNI puts a caveat on this statement pointing out that there is a large percentage of unknown religion in some courses.

<sup>97</sup> ECNI (2015) Supra, p.29

DEL report on enrolments of NI domiciled individuals at UK Higher Education Institutions provides an opportunity to identify change in patterns over time, specifically the 10 year period from 2005/06 to 2014/15.<sup>98</sup>

Over the last ten years the number of NI students enrolled at UK HEIs decreased by 2.7%, to 63,965 in 2014/15; however this decrease has not been constant over the period and this overall decrease of 2.7% is composed of a 3% increase in full-time enrolments and a 15% reduction in part-time enrolments.<sup>99</sup>

In terms of level of study, 'first degree' courses have experienced the largest percentage increase of NI domiciled students, rising by 4.5% over the last ten years, from 45,475 in 2005/06 to 47,525 in 2014/15. While 'postgraduate' enrolments have increased by 2.1% over the same period, from 9,755 to 9,955, the number of students enrolled on 'other undergraduate' courses (such as foundation degrees, diplomas, HNDs and HNCs) have fallen by 38%, from 10,500 in 2005/06 to 6,480 in 2014/15. This decrease is composed of a 72% decrease for full time and a 33% decrease for part-time other undergraduate students. (Table 16).

The grossly disproportionate reduction in 'other undergraduate' enrolments tells a significant story in terms of probable impact of tuition fees. It is important to recognize the type of qualifications covered by this term. DEL provides the following information:

*"Other undergraduate includes qualification aims equivalent to and below first degree level, such as Professional Graduate Certificate in Education (PGCE), foundation degrees, diplomas in HE with eligibility to register to practice with a Health or Social Care or veterinary statutory regulatory body, Higher National Diploma (HND), Higher National Certificate (HNC), Diploma of Higher Education (DipHE), Certificate of Higher Education (CertHE), foundation courses at HE level, NVQ/SVQ levels 4 and 5, post-degree diplomas and certificates at undergraduate level, professional qualifications at undergraduate level, other undergraduate diplomas and certificates including post registration health and social care courses, other formal HE qualifications of less than degree standard, institutional undergraduate credit and no formal undergraduate qualifications."*<sup>100</sup>

These are the courses most likely to be targeted by students from less advantaged backgrounds. The pattern identified in Table 16 strongly indicates that it is at this level and in part-time higher education that the tuition fee imposition had a strong impact.

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<sup>98</sup> DEL (2015) Enrolments at UK Higher Education Institutions: Northern Ireland analysis 2014/15 <https://www.delni.gov.uk/publications/enrolments-uk-higher-education-institutions-northern-ireland-analysis-201415> and <https://www.delni.gov.uk/sites/default/files/publications/del/HE%20Enrolments%20Infographic%202014-15.pdf> HE enrolment infographic 2014-15

<sup>99</sup> DEL (2015) Tables 1a and 1b.

<sup>100</sup> DEL (2015) supra, p. 31. Foundation degrees were first introduced in September 2001. They are vocational higher education qualifications and are at level 5 of the QCA National Qualifications Framework.

<b>Table 16</b>				
<b>Percentage change of Northern Ireland domiciled students enrolled at UK HEIs by mode of study and level of study 2005/06 and 2014/15</b>				
<b>Mode and Year</b>	<b>Level of Study</b>			
	<b>First Degree</b>	<b>Other Undergraduate</b>	<b>Postgraduate</b>	<b>Total</b>
<b>Full-time</b>				
2005/06	39,570	1,505	4,010	45,085
2014/15	41,860	420	4,150	46,430
<b>% change</b>	5.8%	-72.1%	3.5%	3.0%
<b>Part-time</b>				
2005/06	5,905	8,995	5,745	20,645
2014/15	5,665	6,060	5,810	17,535
<b>% change</b>	-4.0%	-32.6%	1.1%	-15.1%
<b>Total</b>				
2005/06	45,475	10,500	9,755	65,730
2014/15	47,530	6,480	9,955	63,965
<b>% change</b>	4.5%	-38.3%	2.1%	-2.7%
<b>Source: DEL (2015) Table 1c based on HESA data</b>				

Of the 63,965 NI domiciled students enrolled at UK HEIs in 2014/15, the highest proportion (25.7%) were from the least deprived multiple deprivation area in NI (quintile 5), whereas only 13.2% were from the most deprived multiple deprivation area (quintile 1). Seventy percent of each groups were studying full-time. Females accounted for 56% of all students enrolled at NI HEIs in 2014/15, the figure was slightly higher in the most deprived quintile 58% and 55% in the least deprived quintile. A higher proportion of males (71.4%) were studying full-time in comparison to females (65.0%).<sup>101</sup>

The figures for higher education enrolment demonstrate two clear facts: the persistence of childhood socio-economic inequalities and the correlation between a reduction in enrolments in part-time study and particularly other undergraduate study associated with the increasing cost of higher education. These patterns are likely to contribute to the entrenchment and exacerbation of educational inequalities and overall lifetime inequalities.

<sup>101</sup> DEL (2015) supra: Tables 6 and 6a.