

EQUALITY & RIGHTS ALLIANCE

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1. Equality and Rights Alliance

Equality and Rights Alliance (ERA) is a coalition of over 170 civil society groups and activists campaigning to defend and strengthen the Irish equality, anti-poverty and human rights infrastructure¹. ERA was established in August 2008 to protest significant cuts to the statutory equality and human rights infrastructure. ERA is now working for an effective and independent equality, human rights and anti-poverty infrastructure.

Recommendation:

That the Constitutional Convention would consider, as an additional item on its agenda, the constitutional protection of economic, social and cultural rights and to recommend to the Government that these rights be given constitutional protection.

2. Economic, Social and Cultural Rights

Economic, social and cultural rights are fundamental human rights, the protection of which, are vital to achieving equality and ensuring the dignity of all. Ireland has committed to promoting, protecting and fulfilling these rights by the State's ratification of the UN International Covenant on Economic, Social and Cultural Rights (ICESCR).

The ICESCR protects the right: to work; to the enjoyment of just and favourable conditions of work; to form trade unions ; to social security, to the widest possible protection and assistance for the family; to the right to an adequate standard of living for their family (including adequate food, clothing and housing, and to the continuous improvement of living conditions); to the enjoyment of the highest attainable standard of physical and mental health; to education; and to take part in cultural life. The Covenant states that these rights are guaranteed to all without discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The ICESCR was ratified by Ireland in 1989. While the Convention has yet to be incorporated into domestic law, nonetheless, ratification places obligations on the Irish State to take immediate steps to ensure (at the very least) a minimum protection of these rights and their progressive realisation over time, using the "*maximum resources*"

¹ List of ERA member organisations: <http://www.eracampaign.org/about-us>.

available². According to the Committee on Economic, Social and Cultural Rights (CESCR), maximum resources must be deployed even during “*times of severe resources constraints whether caused by a process of adjustment, economic recession, or by other factors*”³”

3. The Current Context

The ERA campaign was established to advocate for a strengthened equality, human rights and anti-poverty statutory infrastructure. This infrastructure has been greatly diminished over the past five years, resulting in a significant undermining of the institutional arrangements to tackle inequality, poverty, discrimination, and human rights abuses.

The Combat Poverty Agency and the National Consultative Committee on Racism and Interculturalism have been closed and the Equality Authority and the Irish Human Rights Commission (IHRC) have experienced swingeing budget cuts. Since 2009, the cumulative budget cuts to the Equality Authority and the IHRC amount to 49% and 40% respectively. In addition the staffing levels in both bodies have been seriously reduced: it is estimated that by the time the Equality Authority merges with the Human Rights Commission at the end of 2013 there will be approximately 12 staff remaining (down from 58 in 2008), while the IHRC currently has 6 staff (down from 13 in 2008).

The UN Independent Expert on Extreme Poverty and Human Rights in her extensive report following her visit to Ireland, in 2011, expressed grave concerns about the impact of austerity measures on the most vulnerable groups in Irish society and called for the Irish Government to address these issues in accordance with Ireland’s obligations under ICESCR⁴. The report also referred to the dismantling of the statutory infrastructure to tackle inequality, poverty and human rights abuses:

“The independent expert is concerned that recent budgetary cuts have affected the Irish Human Rights Commission (IHRC), the Equality Authority (the main statutory body tasked with monitoring the implementation of equality legislation)..... These cuts have substantially reduced Ireland’s capacity to protect the most disempowered segments of Irish society at a time when they are particularly susceptible to violations of their rights, and will have a negative impact on their enjoyment of economic, social and cultural rights in the long-term”⁵”.

and:

“The independent expert is also concerned about the dismantling of the Combat Poverty Agency, which played a key role in increasing awareness and understanding of poverty, and influencing government policies”⁶”.

Equality and Rights Alliance recently hosted an event attended by a large number of civil society organisations working to address inequality, poverty and human rights concerns.

² International Covenant on Economic, Social and Cultural Rights, art. 2.

³ General comment No. 3, para. 12

⁴ Report of the independent expert on the question of human rights and extreme poverty on her mission to Ireland, May 2011: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/132/17/PDF/G1113217.pdf?OpenElement>

⁵ Ibid para 11 pg 5

⁶ Ibid para 12, pg 5

The purpose of the event was to allow civil society to identify the key areas of priority for the merged Irish Human Rights and Equality Commission (IHREC) to address.

The key emerging issue was the need for the IHREC to focus its attention on the protection, promotion and fulfillment of economic, social and cultural rights. Participants noted that there was a need for “*a greater focus on economic, social and cultural rights*” and that the IHREC needed “*to bring the discussions forward (on economic rights) to reflect a new and changed reality for our country as it deals with austerity.*”

4. The Role of the Constitutional Convention

In a context of: a diminishing equality, human rights and anti-poverty statutory infrastructure; diminishing resources to voluntary and community groups providing vital frontline service to the most marginalised; and deepening inequality due to austerity policies, ERA believe that that it is an opportune moment for the Constitutional Convention to examine the issue of economic social and cultural rights and strengthening constitutional protection in this regard.

The UN Committee on Economic, Social and Cultural Rights, when examining Ireland’s compliance with the Covenant, recommended that Ireland incorporate the Convention, including all of these economic, social and cultural rights, in the Constitution⁷. This call was echoed by the UN Special Rapporteur on Extreme Poverty and Human Rights following her visit to Ireland in 2011.

The need for constitutional protection of economic, social and cultural rights has also been identified by:

- The Constitution Review Group: “*rights expressly protected by the Constitution are, by contemporary standards, incomplete*” and “*Articles 40-44 contain flaws and are in need of revision*”.⁸
- The Ninth Report of the All Party Oireachtas Committee on the Constitution: committed to a further investigation of whether the Constitution should include legally enforceable, socio-economic rights. This has not occurred.
- The Belfast / Good Friday Agreement: the Irish Government agreed to take steps to further strengthen the protection of human rights in its jurisdiction, bringing forward measures to strengthen and underpin the constitutional protection of human rights. This included drawing on international legal instruments in the field of human rights.

The inclusion of economic, social and cultural rights in the Constitution would provide a framework for the enhanced protection of economic social and cultural rights, would allow for a greater focus on these rights in decision-making with regard to public spending and fiscal consolidation, and would stimulate greater investment in our equality and human rights infrastructure.

⁷ Committee on Economic, Social and Cultural Rights, Concluding Observations of the Committee on Economic, Social and Cultural Rights : Ireland, 2002, UN Doc. E/C.12/1/Add.77, para.23

⁸ Report of the Constitution Review Group, Dublin, 1996, p.188