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Holding Ireland to Account for Violations of Economic, Social and Cultural Rights

Liam Thornton

On Monday 8 and Tuesday 9 June, Ireland’s record on protecting human rights will be considered by the UN Committee on Economic, Social and Cultural Rights in Geneva. In 1989, Ireland agreed to be bound by the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to work, just conditions of employment, the right to social security and social assistance, protection of children and families, the right to health, housing, food and water, and the right to respect for and protection of culture, encompass the core rights protected under the Covenant.

When Ireland agreed to be bound by this international rights treaty in 1989, the State was fully aware of its core obligations. Ireland has legal duties to respect, protect, and fulfil these rights. Along with civil and political rights – such as freedom from torture, the right to a fair trial, freedom of expression – economic, social and cultural rights place the inherent dignity of the human being at its core. All human rights involve certain aspects of non-state interference; procedural guarantees to ensure respect for rights and remedying breaches of human rights, and ultimately, ensuring human rights are fulfilled by positive action on part of the State. Through freely agreeing to be bound by the protection of core socio-economic and cultural rights, Ireland also agreed to have its compliance with the treaty supervised by the UN Committee on Economic, Social and Cultural Rights. This chiefly involves the UN Committee considering periodic country reports, along with dialogue between Ireland, the Irish Human Rights and Equality Commission, and civil society organisations.

To date, Ireland has had two periodic reports considered by the UN Committee, in 1999 and 2002. On both occasions, the UN Committee has expressed concern that Ireland has not incorporated the Covenant into domestic law, and at the lack of reference and utilisation of the Covenant by the superior courts. Ireland has failed to adopt rights-based frameworks in areas of anti-poverty, rights of persons with disabilities, provision of health-care, rights of members of the Traveller community, housing and the low rate of social assistance payments.

In December 2014, the UN Committee set down some key issues on which Ireland must provide information in this week’s examination of how it has met its obligations under the Covenant. Many of these issues were specifically addressed by civil society organisations in their shadow reports. The ill-treatment of persons with disabilities in residential care, the low-level of the
minimum wage, the failure of the State to recognise Traveller ethnicity, the
rights of those in poverty, such as lone parents, and the necessity for all in
society to have access to an affordable and quality water supply.

The UN Committee has not had an opportunity to consider Ireland’s record in
protecting economic, social and cultural rights for 13 years. Since Ireland’s
last evaluation, there has been a sustained economic recession, coupled with
a prolonged period of government austerity. A recent ESRI report, The Great
Recession, Austerity & Inequality, has produced strong evidence that the
poorest in society suffered the greatest decline in income and living
standards, when compared to other groups. The homelessness crisis that has
impacted many people shows no sign of abating. Families are condemned to
spend extended periods in temporary accommodation in hotels and B & B’s.

As part of the UN’s review of Ireland’s human rights record on economic,
social and cultural rights, the Public Interest Law Alliance, a project of the
Free Legal Advice Centres (FLAC) has provided a coordinated civil society
response in its report, Our Voice, Our Rights. Over 80 representative
organisations contributed to this report, highlighting the significant violations of
economic, social and cultural rights occurring each day within Irish society.
Some key findings of Our Voice, Our Rights include: the need to adopt
structural reforms to State budgetary processes to ensure compliance with
socio-economic rights obligations under ICESCR; the lack of equal enjoyment
of socio-economic rights for vulnerable members of society including
travellers and asylum seekers; fulfilment of the right to education, in particular
for minorities in society; equitable access to physical and mental healthcare
for all persons in the State, the need to ensure that the right to a home is
realised, with so many of our fellow citizens lives condemned by a lack of
housing or wholly inadequate housing; and the right to enjoy fair and just
working conditions, including a minimum wage that is sufficient to ensure a
decent standard of living for workers and their families.

Over the last number of years, significant numbers of people in Ireland have
suffered grave deprivations due to the on-going economic recession. Political
decisions taken by the Oireachtas on resource allocation have had enormous
negative impacts on people on the very margins of our society. We are often
reminded by certain quarters in Leinster House of our international obligations
to the IMF and European Commission; well, it’s now time to remind Leinster
House of our other international obligations under universal human rights law.
It is time for Ireland to be held to account for its violations of economic, social
and cultural rights.

*Dr Liam Thornton is a lecturer in law in UCD and a member of UCD Human Rights Network. Along with others, he will be in Geneva as part of the civil*
society delegation contributing to the discussion on economic, social and cultural rights in Ireland. You can access the Our Voice, Our Rights report at www.ourvoiceourrights.ie