



Submission to the  
Committee on  
Economic, Social and Cultural Rights

April 2009

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## **IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### **1.0 Background to POBAL**

POBAL, the umbrella organisation for the Irish speaking community in the north of Ireland, submits this document on behalf of our self and our member organisations in response to the UK submission on the list of questions raised by the Advisory Group in respect of the implementation of the ICESCR.

POBAL is a non-governmental organisation, established in 1998 to provide a democratic forum and strategic direction for the range of cultural, social and economic Irish language projects in Northern Ireland.

In April 2008, we made a submission to the Pre-sessional working group on the ICESCR. We should like to take this opportunity to comment on the UK response to the Advisory Group's List of Issues.

### **2.0 Comments on the UK response to list of issues**

#### *2.1 Issue 1 – increasing awareness of the provisions of the Covenant*

In parag 5 of its response, the UK government states that UK citizens, 'are able to enforce their rights through the courts.' However, this is not the position for users of the Irish language in Northern Ireland where there is no legislative protection for the Irish language. Unlike in Wales and Scotland, where significant legislative protections in the form of language Acts already exist for the Welsh language (Welsh Language Act 1993) and the Gaelic language (Gaelic Language Act [Scotland] 2005), there is no such legislation for Irish in Northern Ireland. This is in spite of a commitment given by the UK government in October 2006 to introduce the Irish Language Act ("The Government will introduce an Irish Language Act reflecting on the experience of Wales and Ireland and work with the incoming Executive to enhance and protect the development of the Irish Language." St. Andrews' Agreement, UK and Irish governments 2006). Furthermore, we note the comment in parag 2 of its response, which states that the approach of the UK, 'in line with its approach to international treaties generally, is to ensure compliance with the Covenant through specific domestic law

measures and policies rather than through incorporation. It believes that domestic law and specific official guidance provide officials with the best framework for delivery of services to the public.’ The anomalous legislative position of the Irish language in NI in comparison with Welsh in Wales and Gaelic in Scotland would appear totally at odds with this assertion.

**The Committee could perhaps ask the UK government to explain what it intends to do to address the disparity in domestic legislative measures to protect the Irish language in Northern Ireland, compared with the measures to protect Welsh in Wales and Gaelic in Scotland, and how it intends to fulfil its St Andrews’ commitment to protect the Irish language in NI in the face of refusal by the NI Assembly to enact legislation to protect and preserve the language.**

*2.2 Issue 34 – measures to preserve regional and minority languages, in particular in broadcasting*

It is POBAL’s view that the provision and protection for the Irish language in broadcasting in the North is inadequate and is significantly less than that for Welsh in Wales and Gaelic in Scotland. We believe that this is unjustifiable, for example given that 10.4 % of the overall population of Northern Ireland indicate knowledge of the language in the 2001 Census, with 75,000 indicating skills in reading, writing, speaking and understanding the language. (This is in contrast with 2 % of Gaelic speakers in Scotland.) There are 80 Irish language immersion schools in the North teaching the full curriculum through Irish to children from pre-school to secondary school ages.

In respect of broadcasting, there is a long-standing disparity in legislative protection for minority language programming, in funding and in programme output for Irish in comparison with Gaelic in Scotland and Welsh in Wales.

	Irish language	Welsh in Wales	Gaelic in Scotland
% of population with knowledge of language	10.4 % (2001 Census)	28% (2001 Census)	2% (2001 Census)
Hours of BBC television output 2006/7	17	524	196

Hours of BBC radio output 2006/7	260	8164	2930
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The disparity in levels of programming and amount of funding is a long-standing problem which has been repeatedly highlighted by Ofcom, the independent broadcasting regulator. The situation has been worsened in recent years by the omission of any reference to the Irish language in NI in the 2003 UK Communications Act and in the 2005 BBC Royal Charter, even though both of these pieces of legislation do however contain references to Welsh and Gaelic, making the exclusion of Irish in the North of Ireland even more apparent. The additional provision for Gaelic language broadcasting in Scotland through the advent of the Gaelic language digital TV station, BBC Alba in 2008 also increases the disparity between provision for Gaelic in Scotland and for Irish in NI. In its document responding to the Advisory Committee’s list of issues, the UK government itself quotes figures of £98 million for broadcasting in Welsh and £14.4 million for broadcasting in Gaelic in Scotland which compares unfavourably with £3 million for Irish in the North of Ireland. This is a striking and unjustified disparity.

The UK government makes no financial contribution to the broadcasting by either the Irish language TV station, TG4 or by Raidió na Gaeltachta, both of which are located in the Republic of Ireland and are entirely funded by the Irish government. We would suggest that the UK government cannot cite the actions of another sovereign government to meet its own obligations in respect of Irish language broadcasting.

**We should like to suggest that the Committee might ask the UK government to explain fully the disparity in the legislative protection, funding and amount of programming for Irish language broadcasting as compared with the legislative position, amount of programming and funding for broadcasting in Welsh and Gaelic.**

*2.3 Issue 35 – linguistic minorities and right to use language before courts*

We are concerned by the response given by the UK government to the Advisory Committee regarding the use of Irish in the courts system in Northern Ireland. The response could be seen as a deliberate attempt to deceive the Committee on the matter of the 1737 Administration of Justice (Language)(Ireland) Act which effectively places a blanket ban on the use of the Irish language in the courts in NI by stipulating that only the English language can be used. In October 2008, a Judicial

Review was taken in the High Court in Belfast by an individual in respect of the continuing operation of the 1737 Act. Judgment has been reserved. However, the UK response makes no reference to the continuing operation of the 1737 Act and appears to obscure the different governmental obligations in respect of autochthonous and ethnic minority languages by making unclear references to the legal status and provision made for each. This is particularly noticeable in the case of parags 305 and 306, where the information given by the UK pertains only to the use of ethnic minority languages in Tribunals and Courts and no information is given pertaining to the use of the autochthonous Irish language in Northern Ireland. Whilst it is true to say that ethnic minority language users are facilitated through interpretation in the courts, users of the Irish language are not so accommodated because of the continuing operation of the 1737 Administration of Justice (Language)(Ireland) Act.

**POBAL respectfully suggests that the Advisory Group could seek clarification of the specific provision made for the Irish language in the courts in Northern Ireland and investigate the continuing application of the 1737 Administration of Justice (Language) (Ireland) Act with a view to seeking its repeal and the enactment of appropriate enabling legislation to support the development of the use of Irish in written and spoken forms and the provision of services through Irish in all courts in NI.**