

Submission from the Participation and Practice of Rights (PPR) organisation based in Belfast, Northern Ireland

PPR

Participation and the Practice of Rights (PPR) organisation is based in Belfast, Northern Ireland and works to support disadvantaged groups to assert their right to participate in social and economic decisions which affect their lives. PPR enables groups to challenge and change current government decision making practices which exclude them, and which lead to poor service delivery, entrenched inequalities and ineffective use of public money. To do this, PPR supports affected groups to use a Human Rights Based Approach to the economic and social issues that directly impact their lives.

The groups develop and monitor human rights indicators and benchmarks, and campaign for the progressive realisation on the ground of their economic and social rights.

PPR's human rights based approach to support social housing residents was cited as best practice by the Office of the High Commissioner for Human Rights in the 2012 publication "*Human Rights Indicators: A Guide to Measurement and Implementation*".¹

One of our most established group campaigns is the 'Equality Can't Wait' campaign on the right to adequate housing.

The Right to Adequate Housing in Northern Ireland

Issues relating to housing in Northern Ireland have a contentious history with the Cameron Report into Disturbances in Northern Ireland published in 1969 specifically noting that inadequate housing provision and unfair allocation contributed to "*a rising sense of continuing injustice and grievance.*" The report into the violent disturbances which broke out at the beginning of the conflict here, also pointed to a "*misuse in certain areas of discretionary powers of allocation of houses in order to perpetuate Unionist control of the local authority.*"²

It is therefore especially important that decisions relating to housing in post conflict Northern Ireland are subject to extra scrutiny. However, deficiencies in the political power sharing arrangement created by the advance of peace in Northern Ireland following a conflict which spanned almost 30 years continue to impact the governance and operation of accountability mechanisms. These deficiencies are explored in further detail in this submission.

III. Questionnaire

A. Distribution of responsibilities related to the right to adequate housing:

- 1. Please identify the levels of government (national, provincial/state, municipal) primarily responsible for the following: (where primary responsibility is shared please check more than one):**

¹ For further, please see

<http://www.ohchr.org/EN/NewsEvents/Pages/IndicatorsestablishmentofHR.aspx>

² Cameron, Lord. (1969). Disturbances in Northern Ireland: Report of the Commission appointed by the Governor of Northern Ireland. Belfast: Her Majesty's Stationary Office

	National/ Federal <i>(United Kingdom Central Government)</i>	Provincial/ State <i>(Devolved Administration – Northern Ireland Executive)</i>	Municipal <i>(City Councils)</i>	Explanatory Notes
Housing programme		X		The main housing programme in Northern Ireland is entitled “Facing the Future; a Housing Strategy for Northern Ireland”. This strategy sets out the strategic vision for housing in Northern Ireland and the Northern Ireland Executive, through the Department for Social Development has primary responsibility for its operation.
Income support (eg: transfer payments to individuals, welfare, social security and/or rent subsidies/supplements)		X		The NI Executive through the Department for Social Development and a range of social security agencies such as the NI Social Security Agency and the Northern Ireland Housing Executive (which administers housing benefit) has primary responsibility for income support. The NI Executive is currently unable to reach agreement on the Welfare Reform Bill. If no agreement can be reached, it is

				possible that the United Kingdom central government will take responsibility for these matters.
Tenancy and security of tenure legislation		X	X	Overarching legislation is set through the Northern Ireland Assembly with direction from the Department for Social Development. A range of regional bodies such as the Northern Ireland Housing Executive have responsibility for the practical implementation of this legislation. At a municipal level, city councils also have obligations and tenants can report 'rogue' landlords to them e.g. Private landlords who do not protect tenants' security deposits in a secure tenancy deposit scheme can be fined by local Councils.
Infrastructure (eg: Water/sanitation, electricity)		X		The NI Executive retains primary responsibility for infrastructure which is administered through various Departments such as the Department for Regional Development which has responsibility for water.
Prohibition of discrimination in housing		X		Primary responsibility for prohibition of

				discrimination in housing lies with the NI Executive through the Department responsible for housing (the Department for Social Development) and the lead department with responsibility for equality and human rights (Office of the First and Deputy First Minister).
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2. What are the primary bases for the allocation of responsibilities among different levels of government? Please identify the appropriate provision(s) and provide a copy or link if possible:

Constitutional

No written constitution exists for either the United Kingdom or Northern Ireland. However in *Robinson v Secretary of State for Northern Ireland & others [2002] UKHL 32*, Lord Hoffman argued that the 1998 peace agreement, referred to as the Good Friday/Belfast Agreement, and its legal implementation through the Northern Ireland Act 1998 has constitutional effect. He stated;

“The 1998 Act is a constitution for Northern Ireland framed to create a continuing form of government against the backdrop of the history of the territory and the principles agreed in Belfast.”

The Northern Ireland Act 1998 places a legal duty (Section 75)³ on all public bodies, including those with responsibility for housing to exercise their functions in a manner which gives due regard to the promotion of equality of opportunity and regard to the desirability of promoting good relations amongst specific groups. The former specifies nine particular groupings and the latter three. The legal primacy of the first duty over the second is also clear in the language used with the emphasis of ‘due’ regard and the imposition in section 75(2) of the direction ‘without prejudice to its obligations under subsection (1)’. Both these considerations were deliberate and considered essential in developing a new dispensation for Northern Ireland.

Further, section 76 of the 1998 Act⁴ makes it unlawful for Northern Ireland public authorities to discriminate, against a person or class of person on the ground of religious belief or political opinion.

Section 26 of the 1998 Act⁵ also provides a role for the UK Government’s Secretary of State for Northern Ireland on such occasions when a NI Minister or Department’s actions are incompatible with international obligations as well as a positive obligation to compel action should she consider it necessary to give effect to international obligations. These obligations

³ <http://www.legislation.gov.uk/ukpga/1998/47/section/75>

⁴ <http://www.legislation.gov.uk/ukpga/1998/47/section/76>

⁵ <http://www.legislation.gov.uk/ukpga/1998/47/section/26>

would include those relating to the government's responsibilities in relation to housing e.g. those contained within the International Covenant on Economic, Social and Cultural Rights.

□ **National framework legislation or housing strategy**

N/A. Responsibilities for housing are devolved from national (UK central government) to state level (NI devolved administration).

□ **Sub-national level legislation or housing strategy**

The overarching strategy framework for the functions of the Northern Ireland Executive is contained within the Programme for Government 2011-15 which contains numerous commitments relating to housing such as the building of an additional 8,000 affordable homes, reducing fuel poverty and improving thermal efficiency. The Programme for Government 2011-2015 identifies the Department for Social Development as the responsible department to take forward these actions. Furthermore, the Programme for Government also contains a commitment to tackling disadvantage by targeting objective need and promoting equality of opportunity. This commitment is shared amongst all Departments.⁶

The NI Executive Department with responsibility for housing is the Department for Social Development (DSD). The DSD's housing strategy "Facing the Future; A Housing Strategy for Northern Ireland 2012-17" identifies the key strategic direction for housing in Northern Ireland. Both the strategy and the Action Plan are available online.⁷

There is a range of other key pieces of legislation which allocates responsibility for housing in Northern Ireland. The most significant include;

The Housing (Northern Ireland) Order 1981⁸ prescribes functions of the NIHE including in relation to the provision of information and reporting on matters such as income and expenditure to the DSD. The 1981 Order also designates powers to the NIHE to prepare and submit a housing allocation scheme to the DSD and that this scheme is implemented to ensure that only eligible persons are allocated social housing.

The Housing (Northern Ireland) Order 1983⁹ prescribes that the NIHE must provide information about tenancies, prepare a scheme which allows tenants to have repair work carried out and provide information about the rules by which housing is allocated.

The Housing (Northern Ireland) Order 1988¹⁰ imposes obligations on the NIHE to secure accommodation for homeless persons and further mandates that the NIHE publish a homelessness strategy every five years. The 1988 Order also provides obligations in relation to emergency repairs for housing damaged because of civil unrest.

The Housing (Northern Ireland) Order 1992¹¹ enables the Housing Executive to make housing association grants to registered housing associations in respect of expenditure incurred or to be incurred by them in connection with housing activities.

⁶ Northern Ireland Executive, Programme for Government 2011-15, <http://www.northernireland.gov.uk/pfg-2011-2015-final-report.pdf>

⁷ <http://www.dsdni.gov.uk/index/hsdiv-housing/hsdiv-publications/hsdiv-facing-the-future.htm>

⁸ <http://www.legislation.gov.uk/nisi/1981/156/contents>

⁹ <http://www.legislation.gov.uk/nisi/1983/1118/contents>

¹⁰ <http://www.legislation.gov.uk/nisi/1988/1990/contents>

¹¹ <http://www.legislation.gov.uk/nisi/1992/1725/contents>

The Housing (Northern Ireland) Order 2003¹² requires the Housing Executive to publish its policy in relation to anti-social behaviour and its procedures for dealing with such behaviour. The 2003 Order also makes provision for the payment of discretionary (renovation, common parts and HMO grants) and mandatory grants (disabled facility grants).

□ **Inter-governmental agreement**

The Good Friday / Belfast Agreement¹³ is an international treaty between the British and Irish Governments which was given domestic legal effect through the Northern Ireland Act 1998. As aforementioned the Agreement commits all parties to responsibilities for human rights and equality. The St Andrews Agreement 2006¹⁴ also reached between the British and Irish governments reaffirmed commitments to human rights and equality and specifically committed responsibilities to develop and publish an anti-poverty strategy.

□ **Other – Please explain**

3. What role does the national level government play in relation to housing and related programs? How is compliance with the right to adequate housing structured between the national and sub-national levels? If possible please kindly provide concrete examples of how these roles and compliance mechanisms are operationalized.

UK central government is ultimately responsible for the protection and promotion of housing rights as the signatory to ICESCR. As a devolved administration within the United Kingdom however, powers in relation to housing have been transferred to the Northern Ireland Executive and the Northern Ireland Legislative Assembly (the NI Assembly) has powers to legislate on matters relating to housing. Therefore, despite funding allocations being administered through a block grant to the devolved NI Executive, the UK government has no tangible role in the delivery of housing functions in Northern Ireland. Housing functions are a devolved responsibility and the nominated department within the NI Executive is the Department for Social Development (DSD) which makes allocations to various housing related programs from central funding.

The delivery of housing functions is a function which remains within the DSD though these functions are largely administered by the Northern Ireland Housing Executive (NIHE) and a range of Housing Associations who have responsibility for the day to day management of social housing in Northern Ireland. The NIHE has responsibility for the allocation of social housing as well as the direction of new build social housing. Housing Associations, with additional capacity to leverage funding, have the financing to build social housing. Both the NIHE and Housing Associations have responsibilities as social housing landlords with regards maintenance. Increasingly, there is a reliance on the private rented sector to make up the deficit created by the shortfall in availability of social housing.

Furthermore, charities in receipt of government funding, such as the Simon Community Northern Ireland also play a role in tackling homelessness. At a municipal level, there is currently some responsibility for housing functions (e.g. Councils have some regulatory powers regarding landlords and public health functions in relation to housing) but it is expected that legislation enacted regarding the Review of Public Administration will see significant powers relating to regeneration and planning for example devolved to local city councils post April 2015, which will directly impact on housing.

¹² <http://www.legislation.gov.uk/nisi/2003/412/contents>

¹³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136652/agreement.pdf

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136651/st_andrews_agreement-2.pdf

Compliance with the right to adequate housing is reported to the UN Committee for Economic Social and Cultural Rights (CESCR) via the Ministry of Justice (MOJ), a department within the UK central government. Within the NI Executive, the Office of the First Minister and Deputy First Minister (OFMDFM) has lead responsibility with regards to compliance with the right to adequate housing, though it is unclear as to the extent of this involvement as no information is publicly available¹⁵.

4. Where sub-national governments hold key responsibilities in relation to the right to adequate housing, please describe how programs and policies are co-ordinated nationally and what responsibilities remain with national level institutions.

There is no clearly defined information on this. If there is any national co-ordination, it is on an ad hoc basis and only on matters related to finance e.g. media reported meetings on welfare reform.

5. Where housing and related programs are administered by sub-national level governments, by whom and how are these programs funded? Are conditions attached to the funding which seek to ensure the resources are spent in a way that protects the right to adequate housing? How is this monitored?

Funding for housing related programs in Northern Ireland is delivered through a budget allocation from the block grant which is allocated to Northern Ireland by the UK central government.

Large scale funding is generally administered by the Department for Social Development through the use of economic appraisal or business case models. The existing regulations for these models are contained within the UK central government's 'Green Book'¹⁶ and administered by the NI Executive through the Department for Finance and Personnel (DFPNI). Despite references to considering equality, both models place a heavy emphasis on a cost; benefit ratio and the prevailing consideration is one of 'value for money'. Neither guide prescribes any conditions relating to international rights protection. In 2011 PPR carried out a human rights budget analysis of the NIHE proposals to install PvC cladding to the exterior of the high rise flats in which they lived. As part of this analysis, they assessed the economic appraisal carried out by the NIHE for the works which would cost around £7 million. Despite the Seven Towers Residents' human rights monitoring of issues relating to dampness and poor heating in the Towers, it was found that the cladding would not result in any tangible improvement in either of these issues. It was clear that despite the clear barriers faced by residents in realising their right to housing because of the poor conditions, government funding had been allocated to an initiative which was largely concerned with protecting the external brickwork and not improving conditions.¹⁷ This example illustrates clearly that conditions are not attached to ensure resources are spent in a way which protects the right to adequate housing through this model.

Social Housing new build projects are funded partly through a government administered Housing Association Grant (HAG) and partly through private finance provided by the Association. Private finance is acquired from a number of sources which include, among others,

¹⁵ Please see Section B Question 3 for further on this issue.

¹⁶ The Green Book; <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

¹⁷ For further on the Human Rights Budget Analysis of the NIHE plans to clad the Seven Towers flats, please see <http://pprproject.org/sites/default/files/BUDGET%20ANALYSIS%20JUNE%202011.pdf> This work was subsequently used as a case study in the 2014 International Budget Partnership Toolkit on Article 2 and is available here <http://internationalbudget.org/wp-content/uploads/Article-2-and-Governments-Budgets.pdf>

private sector loans based on an Association's assets and reserves generated from tariff funding or where historic market value of land has resulted in a surplus for the Association. As was noted in Budget Analysis on Social Housing completed by Queens University, Belfast (2010) the Housing Association Grant typically constitutes "approximately two-thirds of the funding for social housing with the remaining third covered by a mixture of private finance and its own financial reserves. This model effectively means that social housing is financed through Public-Private Partnership (PPP)."¹⁸ The rationale for the transfer of responsibility to Housing Associations was the inability of the NIHE to access the finance which Housing Associations are able to.

Housing policies and programs in Northern Ireland are also subject to what is referred to as 'equality screening' with a potential for a deeper examination of impact via an 'Equality Impact Assessment'. This mechanism is designed to be the practical implementation of the Equality Duties referred to in Section 75 of the Northern Ireland Act 1998 referred to previously and have the capacity, if implemented properly to ensure that vulnerable groups' rights in relation to housing are protected and promoted. However, as was mentioned in the CESCR 2009 Concluding Observations, problems persist with the use by public authorities of these mechanisms noting:

*"the persistent levels of deprivation and inequality throughout Northern Ireland, despite the adoption of the Northern Ireland Equality Impact Assessment. (art. 11)."*¹⁹

Furthermore, it was noted that;

*"The Committee recommends that the human rights framework, including the Equality Impact Assessment, be effectively implemented in Northern Ireland, particularly in the context of urban regeneration programmes by ensuring the participation of the affected populations and the development of adequate policies and targeted measures to promote substantive equality, provide for improved health care, as well as an increase in skills training and employment opportunities for young people and adequate housing programmes for the poor and, in particular, Catholic families."*²⁰

Despite repeated attempts by PPR (as referred to previously) to access information regarding the NI Executive's implementation of this recommendation, no information has been supplied. Government statistics on inequality and deprivation however, remain largely unchanged since the last report to CESCR and equality screening and Equality Impact Assessment exercises are largely perceived as 'tick box' process exercises which do not affect outcomes or rights protection.

A recent example of this is the funding provided to a DSD initiative referred to as "Building Successful Communities". Despite continuing high levels of unmet need for social housing across Northern Ireland and acute need in predominantly Catholic areas in North Belfast, the Building Successful Communities initiative is designed to supply new build social housing in a number of predominantly Protestant areas where there is little demand. (North Belfast is a highly segregated area along community background/religious lines, due to it being among the areas in Northern Ireland which bore the brunt of the conflict.) The DSD's Facing the Future strategy identifies specific areas for housing led regeneration programmes which were to be

¹⁸P.35

<http://www.law.qub.ac.uk/schools/SchoolofLaw/Research/HumanRightsCentre/ResearchProjects/BudgetAnalysis/Documents/filestore/Filetoupload,198690,en.pdf>

¹⁹ UN Doc E/C.12/GBR/CO/5 Para. 31

²⁰ Ibid.

selected using a criteria which prescribes that areas selected should “*have experienced a decline in housing demand*”.²¹

Despite an established principle of housing policy (and Government functions) requiring that resources are directed at targeting objective need and a legislative obligation to tackle inequality, the Building Successful Communities initiative has received government funding for a purpose which directly contravenes this. Despite an obligation to carry out equality screening and if necessary an Equality Impact Assessment into these proposals at an early stage of policy development, the Minister of Social Development confirmed in June 2014 that the policy though now well developed, is classed as a ‘pilot’ and that an equality screening is ‘ongoing’.²² No such screening has, as yet been published.

B. Accountability of Sub-National Governments

1. Are sub-national governments legally accountable to the right to adequate housing on the basis of any of the following?

- International human rights law?** (Yes/No)

The right to adequate housing is enshrined in the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), which was adopted and opened for signature, ratification, and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 and which was signed by the United Kingdom on 16th September 1968 and ratified on 20th May 1976. Whilst ICESCR is non-justiciable, the Courts consider the standards enshrined in this Convention as providing both an overarching ethos and a standard by which domestic and national legislation and policy should be considered in its application.

- Constitution/National Bill of Rights** (Yes/No)

- National or sub-national legislation** (Yes/No)

Sub national legislation regarding housing such as the Housing Orders listed in Section A, Question 2 and overarching legislation such as Section 75 of the Northern Ireland Act 1998 are legally justiciable and therefore can be enforced by the Courts. Practical mechanisms exist to ensure the implementation of such legislation e.g. Equality Impact Assessments are a tool by which public authorities demonstrate compliance with Section 75(1) of the 1998 Act, however problems persist with implementation. Judicial Review is increasingly being used as a legal instrument to enforce such legislation when decisions are made which ignore the provisions relating to the right, however the impact of this tool is limited by financial and time constraints.

- State level or municipal level Bills of Rights/Charters** (Yes/No)

- Inter-governmental agreements** (Yes/No)

Section 26 of the Northern Ireland Act 1998 the legislation which gives legal effect to the agreement between the British and Irish Government known as the Good Friday Agreement, gives specific powers to the Secretary of State to intervene in sub national matters regarding the implementation of international human rights obligations.

²¹ For further, please see Chapter 8 of (2013) PPR, “Equality Can’t Wait” available at <http://pprproject.org/sites/default/files/Equality%20Can%27t%20Wait.pdf>

²² Please see Ministerial Questions on the Building Successful Communities initiative here <http://www.theyworkforyou.com/ni/?id=2014-06-24.3.88>

Conditional financing (eg: budget transfers from national level to sub-national)
(Yes/No)

2. With respect to the above and where applicable, please identify:

- i. the relevant provision.**
- ii. the sub-national levels of government to which the legal provision applies.**
- iii. the means of enforcement (eg: courts, tribunals, national human rights institution, including ombudsmen, administrative mechanisms, etc.) and examples of how these means have been applied.**

Please see directly above.

3. Are sub-national governments involved in State reporting to international human rights monitoring mechanisms and in implementing recommendations? (eg, UN treaty monitoring body, Universal Periodic Review). If so, how? Please kindly provide an example.

Although the UK central government Ministry of Justice reports to international human rights monitoring mechanisms, the NI Executive also plays a role as a sub-national government in this process and is required to attend Committee examinations.

As aforementioned however, the UK central government has no direct role in the delivery of housing functions which are delivered through the NI Executive. Given this distance between reporting and delivery functions there are often significant gaps in NI specific information in these reports. For example, in the last Periodic Report submitted by the Ministry of Justice to CESCR, significant omissions relating to Northern Ireland were clear. For example, despite CESCR's 2009 Concluding Observations having specifically noted with concern religious inequality impacting the Catholic community in North Belfast²³ and that this concern was repeated by the former Special Rapporteur on the Right to Adequate Housing Raquel Rolnik during her official visit in 2013²⁴, no mention of the issue was made in the MOJ report to CESCR.²⁵

Additionally, despite the NI Executive's role in reporting and implementing recommendations, it is often unclear as to what extent this occurs as little information is publicly available. The Office of the First and Deputy First Minister (OFMDFM) as the lead Department for Human Rights and Equality have responsibility for this issue. PPR has previously unsuccessfully tried to obtain information from OFMDFM about this process. For example, whilst the Human Rights Unit within OFMDFM did respond to a letter written by a North Belfast resident, Angie McManus following the 2009 CESCR examination it has since failed to respond to correspondence requesting information on how OFMDFM are implementing the recommendations of CESCR. In total PPR has written on 3 occasions; January 2012, February 2013 and March 2013. None of these requests for information have been answered.

²³ E/C.12/GBR/CO/5, Para. 29

²⁴ A/HRC/25/54/Add.2 Para. 73

²⁵ For further, please see PPR's submission to the Ministry of Justice's call for factual comments on the 6th Periodic Report to CESCR available at;

<http://pprproject.org/sites/default/files/PPR%20Factual%20Comments%20to%20MOJ%20re%20periodic%20report%20to%20CESCR.pdf>

Furthermore, despite being required to attend the CESCR examination, no OFMDFM representatives were present at the 2009 examination.

It is particularly in light of these gaps in information at the national level and the disengagement of the NI Executive that the United Nations role both at CESCR level and through the Special Rapporteur mechanism has been of significant importance in addressing the accountability deficit in the right to adequate housing.

4. Apart from the legal and international accountability described above, what political or institutional accountability mechanisms are in place in your country through which sub-national governments are held accountable to standards or requirements linked to the implementation of the right to adequate housing (eg, Government review procedures, ombudsman/national human rights institutions, local human rights councils). Please provide any useful examples of how these have been used and, if possible, assess the outcome.

Deficiencies in the political power sharing arrangement created by the advance of peace in Northern Ireland following a conflict which spanned almost 30 years continue to have impacts in governance and the operation of accountability mechanisms. For example, to prevent a return to political ruling by the majority, a system of power sharing exists in the Northern Ireland Assembly which allows for the use of vetoes and mandates that cross community support is required for significant or contentious proposals.

For example, despite the existence of a Committee oversight system which scrutinises the operation of powers relating to housing, the NI Assembly Social Development Committee has been unable to make significant impact on issues highlighted by CESCR such as religious inequality in the provision of social housing in North Belfast. Whilst the Committee has heard evidence and has powers to compel evidence from the Department and hold inquiries, political representatives on the Committee have traditionally been reluctant to tackle the issue.

Furthermore, despite significant allegations that the previous Minister with responsibility for social housing had acted in a manner which contravened the Ministerial code and indications that decisions relating to housing were being sectarianised, the NI Assembly had no actual powers to hold the Minister to account. Whilst the NI Assembly was able to hold a motion of no confidence, the political party of which the Minister was a member issued a 'petition of concern' which mandates that the motion is subject to cross community support before it can be passed. Despite the petition of concern mechanism being designed originally to protect minorities in a power sharing arrangement, it is commonly abused and in this instance effectively prevented the motion of no confidence from progressing and thus the Minister from being held to account.²⁶

National human rights and equality institutions established by the Northern Ireland Act 1998 have a series of responsibilities in holding government to account for rights. The Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI) however, were both set up with limited and restricted powers. The NIHRC, for example, despite acting as the National Human Rights Institution has limited powers to investigate and its key role has been in advising the government on the requirements of a Northern Ireland Bill of Rights.

The ECNI, in addition to monitoring compliance with non discrimination legislation also has a key role in developing guidance for public authorities in relation to the implementation of

²⁶ For further on Petitions of Concern, which were designed to protect minorities in the power sharing arrangement, see the following BBC news article; <http://www.bbc.co.uk/news/uk-northern-ireland-23247074>

Section 75 duties. As previously discussed Section 75 places a legal duty on public bodies to in the first instance have 'due regard' to the promotion of equality of opportunity across named grounds and then secondly, the lesser legal duty of having 'regard' to the desirability of promoting good relations (without prejudice to the former). The ECNI's role in promoting equality of opportunity could have transformative impact in relation to the right to adequate housing with regards the potential to tackle and eliminate inequalities which persist in accessing social housing for the most vulnerable. However the current government policy direction which gives increased importance to the lesser legal duty to promote good relations over the equality duty (which has no grounding in international human rights norms) mean the potential for accountability through this mechanism is reduced.

5. Please kindly identify what in your view may be the three most significant challenges in your country to effective accountability of sub-national governments to the right to adequate housing as guaranteed under international human rights law and identify key strategies or ideas for addressing these challenges.

1. Poor accountability practices at national level impact the stance of sub-national governments in relation to their human rights obligations. For example, the current stance of the UK Coalition government in relation to human rights, and proposals to abolishing the Human Rights Act, and withdrawing from the European Convention on Human Rights, do little to send the message to sub-national government that human rights is an issue they are required to pay serious attention to. In addition, the UK government has done little to deliver on the human rights commitments in the Good Friday Agreement, namely on the Bill of Rights for Northern Ireland. The UK government at Westminster has not legislated for a Bill of Rights as the Agreement required. It is often the case that little information is included on the affairs of Northern Ireland, when fulfilling its international human rights reporting obligations as the aforementioned example of the most recent MOJ Periodic Report to CESCR illustrates. Furthermore, the personal hostility²⁷ directed at the UN Special Rapporteur on the Right to Adequate Housing from political representatives in the UK during her official visit in 2013, was aped by local political representatives at Stormont²⁸, the seat of Northern Ireland's parliament. It is clear therefore that the approach of the national government in this case, has read-across to that of the sub-national government. To overcome this, it may be worth considering increasing the national government's reporting duties in relation to its regions, e.g. producing a proforma, or requiring national (and where applicable sub-national) governments to report not just on the steps taken by States to address concerns raised in the Concluding Observations of the UN Mechanisms, but also on the finances that have been directed towards these concerns and the outcomes achieved.
2. A second challenge to effective accountability of sub-national governments to the right to adequate housing is the nature of the power-sharing government in Northern Ireland itself. This has been outlined above, however it bears repeating as it has resulted in good democratic practices being sacrificed in favour of deal-making between the two main political parties, the Democratic Unionist Party and Sinn Fein. This situation is not unique to Northern Ireland, but in relation to an issue such as housing, which was a key factor in the origins of the conflict, it delivers a double injustice. Speaking of religious inequality impacting the Catholic community during the conflict often led to

²⁷ For example, please see Daily Mail article <http://www.dailymail.co.uk/news/article-2551114/Ministers-condemn-UN-inspector-reveals-report-slamming-Governments-housing-welfare-policies.html>

²⁸ Please see Minister for Social Development Oral Answers to Questions, NI Assembly, 1st October 2013 <http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Reports-13-14/01-October-2013/>

accusations of being ‘for the war’. Sixteen years after the Good Friday Agreement, it can lead to accusations of being ‘against the peace’, almost as if there is an assumption that such issues are in the past with the conflict, even when government’s own statistics clearly show otherwise. The protections of legally binding and mainstreamed equality duties, and introduction of Equality Impact Assessments which were designed to direct government spending and efforts to protect the most vulnerable were intended to place the rights of the most vulnerable beyond such political pressures, but are now themselves under attack. Greater awareness of these duties and their powers among civil society, and increased action by institutions such as the Equality Commission to hold public authorities to account when they fail to deliver on these commitments is urgently required. Also required is increased ownership and knowledge at the grassroots of these tools, which is normally confined to a small group of NGOs and academics. PPR has previously used equality legislation and tools at a grassroots level in a strongly loyalist community in West Belfast – the Lower Shankill Regeneration Board - to great effect. Unionist/loyalist communities in Northern Ireland are often assumed to be ‘alienated’ by issues relating to equality and human rights, which are perceived as ‘belonging’ to the nationalist/republican community. PPR’s work to popularise and develop ownership of equality and human rights principles in the Lower Shankill led to a grassroots campaign which delivered the first social housing in the area in over 20 years, and the withdrawal of a regeneration plan in the Lower Shankill (West Belfast) and its redevelopment with the full participation of residents. As such, we believe there is substantial potential in developing capacity at community level around human rights and equality tools, which would in turn help to increase awareness of their value, and enhance their protection into the future.

3. Alongside many other countries, there is a lack of effective and rights based processes in Northern Ireland that support and encourage meaningful participation of those directly impacted by violations of their housing rights. Consultation processes run at each level of government which generally fail to involve the directly affected. Responses are asked for specific questions and points made outside of the pre-determined structure are normally discounted. The independence of advocacy groups that are able to strongly advocate for housing rights issues is compromised by the increasing number of organisations that have entered into consultative or funding relationships with government, a trend which exists across both national and sub-national levels of government. PPR’s work to facilitate meaningful participation of affected groups in government decision-making practices in housing and other areas shows that the expertise held by these groups in the barriers they face and their ability to identify practical solutions is invaluable to delivering more effective decision-making that in turn leads to better outcomes on the ground. For example, PPR’s work with a group of social housing residents impacted by religious inequality in the availability of social housing and subsequently forced to live in poor housing conditions resulted in significant changes including:

£900,000 investment by the Northern Ireland Housing into a local high rise flats (Seven Towers, North Belfast) to install a **new sewage system**
The **removal of pigeon waste** from the landings of residents’ homes in Seven Towers which accumulated over years, exacerbating asthma in children who lived there and creating mite infestation, and was never cleaned. As a result of PPR’s work a **regular cleansing system** was put in place
a **review of the proposed £7 million scheme** to invest in the Seven Towers flats which did not address residents’ needs. An **improved tender** was re-issued.

the re-housing of over 60 families with small children out of the Seven Towers flats into more appropriate accommodation

The potential of a participative approach to deliver outcomes was also acknowledged by the Northern Ireland Housing Executive who stated:

“And the approach of using basic human rights linked to the six issues which Residents wanted addressed which are being reported upon here today was certainly novel to say the very least. And it has been refreshing, I’d have to say, in fact, to try to address this approach to try and deal with the Residents and move forward with it.

It was an entirely new and fresh approach to measure how actions were to be taken to address the Resident’s issues. And I am not aware of any other resident group, pressure group, trying to use this particular method of advancing the interests and demands and requirements of tenants.

But this process has been extremely useful for the Minister and my Department in progressing the right to decent housing for what might be regarded as hard to reach and vulnerable groups. It has totally focused attention on the six specific issues and has prioritised those areas for attention.”

Despite this, truly participative approaches are often viewed as disruptive to the status quo and are resisted by government.²⁹ As such, raising awareness of the benefits meaningful participation can bring, and equipping decision-makers, but in particular affected groups with the tools to do so is in our view vital to achieving real accountability on housing rights issues.

²⁹ Further information including detail on the outcomes, challenges and lessons learned from the participative approach used by PPR groups can be found in two case studies (housing and mental health) available here <http://www.ohchr.org/EN/Issues/Poverty/Pages/ResponsesCivilSocietyLivingInPoverty.aspx> The case studies were submitted to a study into the participation of people living in poverty initiated by the former Special Rapporteur on Extreme Poverty and Human Rights, Ms Magdalena Sepulveda Carmona in 2013.