

The Trouble With Equality and Rights- An Update

May 28th 2009

Dear Deputy,

Below is an update on the campaign to strengthen equality and human rights in Ireland. I am asking you to raise these issues in your next Parliamentary Party meeting and to consider them for questions to the Minister for Justice, Equality and Law Reform about his decision to dismantle the Equality Authority and the Irish Human Rights Commission particularly.

The Case for Breach of EU Law

Last Monday, May 25th, Equality and Rights Alliance (ERA) held a Roundtable to explore the case for taking a legal complaint to Europe for breach of EU equality law. ERA is a coalition of over 90 organisations representing women, workers, people with disabilities, children, gay and lesbian people and many others at risk of discrimination.

The resounding recommendation from the Roundtable was that there is a strong case to be brought based on the Government's dismantling of the Equality Authority and the Human Rights Commission particularly.

Equality and Rights Alliance is now beginning the process of lodging a legal complaint with the European Commission and a parallel complaint with the European Parliament.

The essence of the complaint is that the disproportionate nature of the budget cut of the Equality Authority, combined with its severity, provides good grounds for a case of non-compliance with European equality directives. The resignation of its CEO, Niall Crowley, and six of its board members, saying that the Authority would no longer be able to carry out its functions adequately under the equality directives, adds to the force of the claim.

Time itself is also likely to provide strong evidence of non-compliance. The cut to the Equality Authority's budget will see its case file capacity drop this year from 488 to 200. However, there is no reason to expect a fall-off in demand for assistance. If anything, a recession will mean more, not less, risk of discrimination. The reality is that the agency will simply not be able to give adequate legal assistance to those who need it, a core remit of EU law.

Disproportionality is central to the argument. Although the Government put forward the poor state of public finances as the justification for the cuts, it is hard to deny that there is a singling out of rights bodies here: other agencies have only been cut by 1% - 2%.

The European Commission will also be aware that if Ireland can row back on its equality and rights commitments, hitherto held up as a good role model for others, there is nothing to stop copycat actions in other Member States.

Finally, the budget cut flies in the face of the UN Paris Principles, which state that a national institution: 'must have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding'. The Paris Principles are included in the forthcoming EU anti-discrimination directive, underpinning their relevance to the Equality Authority.

The Weakness of State Oversight

A key element of the tragedy of the industrial schools and other institutions was the failure of independent oversight of closed institutions by the authoritative State bodies.

It is therefore all the more shocking that this Government has moved to dismantle the very independent oversight that might protect vulnerable groups from rights abuses, including people who live behind closed doors in institutions.

The Equality Authority and the Irish Human Rights Commission have been striving to fulfill that duty. The IHRC has looked at the rights of elderly people in nursing homes. Poignantly, this year it was planning an investigation into the treatment of children with disabilities in residential care. The Equality Authority was planning an inquiry into the treatment of people with an intellectual disability working in sheltered workshops. As a result of the cuts, however, the equality inquiry won't proceed and the human rights inquiry may be curtailed.

Independent watchdogs that look out for the most vulnerable are not a luxury. They are a necessity in any mature society.

If you have other questions about ERA or if you would like to get regular updates on our activities, please contact me on 01-7994511 or log onto www.eracampaign.org

Yours Sincerely,

Rachel Mullen,

ERA Campaign Coordinator