

CONSTITUTIONAL CONVENTION VOTES IN FAVOUR OF REFORMING ECONOMIC, SOCIAL & CULTURAL RIGHTS IN THE CONSTITUTION

85 % of members say Constitution should be amended to strengthen the protection of Economic, Social and Cultural rights

Sunday February 23rd: The Convention on the Constitution has voted to afford greater constitutional protection to Economic, Social and Cultural (ESC) rights. In the ninth and final meeting of the Convention members voted in favour of strengthening the protection of ESC rights in the Constitution.

ESC rights are currently protected in a limited manner in the Irish Constitution and the focus of the concluding Convention on the Constitution was on whether or not these rights should be afforded greater Constitutional protection. ESC rights are socio-economic human rights and are protected to varying degrees under international, European and Irish law. Economic rights are those rights that relate to labour and property rights, these rights include the right to work and to fair conditions of work. Social Rights include the right to social security, education, to an adequate standard of living and to shelter. Cultural rights include the right to participate in the culture of one's communities and that ethnic minorities have the right to practice their own culture, faith and language.

Over the course of the weekend of the Convention members heard a number of academic and expert led presentations including arguments in favour and against reform led by Amnesty Ireland Executive Director Colm O Gorman and barrister and former Minister for Justice Michael McDowell.

Arguing in favour of enshrining ESC rights into the Constitution Colm O' Gorman said "What we are advocating is neither radical, not revolutionary. We are in a moment of change. We are emerging from some of our darkest economic days, while looking to the centenary of our birth. We must consider how we might do things differently. How we ensure that our country serves its entire people, and makes decisions in our collective interest. Placing ESC rights in our constitution will not cure all our ills. But it will require that government design systems that prioritise good, evidence based decisions, in the interest of all our people."

Mr. McDowell in arguing against making such changes said that Article 6 of the Constitution stated that all powers to decide national policies derived ultimately from the people and that this meant questions of economic, social and cultural national policy should be decided by the people, in the Oireachtas and judicial powers were "confined to the areas of civil and political rights and Constitutional rights."

Following a panel discussion the members were then presented with a number of options and they voted to enhance the level of protection for ESC rights, making them amenable to supervision by the courts in certain circumstances. They also voted to highlight certain rights which should be expressly stated in the Constitution namely:

-Housing

-Social Security

-Essential Health care

-Rights of people with disabilities

-Linguistic and cultural rights

-Rights covered in the International Covenant on ESC rights

Tom Arnold Chairman of the Convention said “ This weekend members of the Convention were asked to consider the inclusion of Economic, Social and Cultural rights in the Constitution. This was the final weekend of the Convention but the members never waned showing tremendous dedication to the subject matter .The members heard robust arguments in favour and opposing reform with the implications of any changes carefully assessed, generating a very thorough and passionate discussion.

“As this is the final meeting of the Convention I have to express my sincere thanks and congratulations to the members for the work they have done over the past fifteen months in examining and making recommendations on aspects of the Constitution. These members were asked to give up their time to considering changes to our Constitution and did so in the spirit of public service. The Convention on the Constitution showed us that the Constitution is a living breathing document with a very real impact on our lives. It has been an enormous privilege and pleasure to work on this project and my sincerest of thanks to everyone involved for their effort.”

A report containing all of the evidence that was presented over the weekend along with the recommendations of the convention will be compiled and laid before the Houses of the

Oireachtas. The Irish Government has undertaken to respond to the Convention's recommendations within four months by way of debates in the Oireachtas and where it agrees with a particular recommendation to amend the Constitution, to include a timeframe for a referendum.

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FINAL BALLOT & RESULTS

1.	Yes	No	No opinion
In principle, should the Constitution be amended to strengthen the protection of Economic, Social and Cultural rights?	85%	15%	
2.	Now	Elsewhere	No opinion
In the event that the Convention votes in favour of reform, does the Convention wish to make recommendations now or refer it elsewhere for further consideration of the implications of possible reforms?	56%	43%	1%

3. If the Convention wishes to make recommendations on the issue now, which options are best? (Rank in order of your preference, 1, 2, 3)*

Option 1: Update Article 45 but keep the first paragraph (“...principles of social policy... for the general guidance of the Oireachtas... not... cognisable by any Court”)	24%
Option 2: Insert provision along the lines that the State shall <i>endeavour to</i> progressively realise ESC rights, subject to maximum available resources, and that this duty is cognisable by the Courts	16%
Option 3: Insert provision that the State shall progressively realise ESC rights, subject to maximum available resources and that this duty is cognisable by the Courts	59%

*none of the above are intended to diminish the level of protection already afforded in the Constitution

4. In the event that the Convention wishes to make recommendations on the issue now, are there specific additional rights that should be enumerated in the Constitution?

	Yes	No	No opinion
Housing	84	8	8
Social security	78	12	10
Essential health care	87	6	7
Rights of people with disabilities	90	3	7
Linguistic and cultural rights	75	15	9
Rights covered in the International Covenant on ESC Rights	80	10	10