**Submission to UN Special Rapporteur on Extreme Poverty:
Thematic Report on
Digital Technology, Social Protection and Human Rights**

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Introduction

PPR welcomes this opportunity to provide input for the Special Rapporteur on Extreme Poverty's thematic report to the UN General Assembly on digital technology, social protection and human rights. We are very pleased to see this investigation into the impact on human rights of the introduction of digital technologies in social protection systems. We agree with the Rapporteur's observation that there appears to be relatively little attention paid to this area. In our experience, the growing use of digital technologies within the social security system in Northern Ireland have been advanced with little or no oversight or scrutiny by the body politic, by oversight bodies or by the media.

The lack of transparency around these developments goes hand in hand with a lack of accountability, with the general public, civil society organisations as well as elected representatives on the whole being largely unaware of the increasing reach of digital technology within the social security system. Yet, as also noted, these developments are having profound impacts on people's enjoyment not only of their civil and political rights but also their economic and social rights.

The use of covert surveillance by the state during the conflict in Northern Ireland, the full extent of which still remains largely unknown, was and continues to be hugely controversial. Entire civilian populations were deemed as 'suspect communities' and *de facto* criminalised. State agents committed serious crimes, including killings of civilians with impunity. Collusion with paramilitaries by state agents was widespread[1].

The legacy of this within those working class communities most impacted, including lack of trust and confidence in the state apparatus, continues into the present day. Human rights activists are now witnessing evidence of wholesale *mission creep*, starting with the state's counter-insurgency project, through its immigration system and into its social protection system. This investigation is therefore very important and timely.

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[1] https://www.belfasttelegraph.co.uk/news/northern-ireland/britains-secret-terror-deals-truly-disturbing-bbc-panorama-allegations-of-collusion-must-be-fully-investigated-says-amnesty-international-31261593.html

1. PPR's Human Rights Based Approach

Participation and the Practice of Rights (PPR)[2] support groups of people impacted by denial of basic economic and social rights across the island of Ireland and in Scotland. PPR works with these groups to introduce or increase standards of participation and accountability in decision-making processes that currently exclude them, for instance around the rights to adequate housing, social security and the highest attainable standard of mental health.

PPR previously made written submissions to the UN Special Rapporteur including in response to the call for evidence in the context of his UK visit in 2018[3] and the call for input into research into the 'Expansion of the Recognition, Institutionalisation and Accountability Framework for Economic and Social Rights'.[4]

The content of this submission draws on the work of the Right to Work: Right to Welfare campaign[5], as well as the Housing 4 All campaign[6], both of which campaigns are supported by PPR. Activists in both campaigns briefed the UN Special Rapporteur on Extreme Poverty during his visit to Belfast in November 2018 as part of his UK country visit.

1. **Fraud and Error**

The Department for Work and Pensions (DWP) is currently developing a fully automated risk analysis and intelligence system for fraud and error.[7] In response to a Freedom of Information request from PPR, the Department for Communities confirmed that it is mirroring what the DWP is doing *'in line with the parity principle the Department has historically adopted systems developed and implemented by the Department for Work and Pensions, including in the field of benefit fraud and error.'*[8]

In the 2018/19 Northern Ireland budget, £25 million was allocated to investigate welfare reform and fraud.[9] Information provided to PPR by the Department for Communities indicated that in 2016/17 benefit fraud reportedly accounted for a total of 0.018% of the

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[2] www.pprproject.org

[3] https://www.ohchr.org/Documents/Issues/EPoverty/UnitedKingdom/2018/NGOS/PRPParticipationandthePracticeofRights.pdf

[4] https://www.pprproject.org/ppr-highlights-obstacles-to-securing-state-accountability-for-social-and-economic-rights-to-un

[5] www.pprproject.org/right-to-work-right-to-welfare

[6] www.pprproject.org/rights-for-asylum-seekers

[7] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721224/dwp-annual-report-and-accounts-2017-2018.pdf

[8] Freedom of Information response received by PPR from Department for Communities on 27 March 2019. Reference number: DfC/2019-0051

[9] This money was committed as part of a package of measures contained in 'A Fresh Start: The Stormont Agreement and Implementation Plan', published in November 2015. https://www.gov.uk/government/news/a-fresh-start-for-northern-ireland

total benefit budget, £1,114,000 out of a total benefit budget of £5.9 billion.[10] In 2016/17 the Department for Communities spent £2,544,251 investigating fraud. **The allocation of £25 million is over ten times the current allocation for the investigation of fraud and error, a problem that combined accounts for less than 0.1% of the benefit budget**. Benefit fraud investigations have a disproportionately low conviction rate when compared with average rates of conviction in the courts.[11]

An automated fraud detection system, the London Counter Fraud Hub, developed by BAE was found to have a 20% failure rate. The BAE algorithm will be instrumental in terminating 40,000 allegedly fraudulent benefit claims in its first year of deployment, meaning that at a minimum 8,000 households will be incorrectly accused of fraud and will have to undergo a lengthy, bureaucratic process to prevent loss of benefit, which could cost them their homes and the money they rely on for food and other necessities.[12]

All of the above evidence begs the question as to what is driving the investment of huge amounts of money in automated risk analysis and intelligence systems for investigating fraud and error, particularly when this investment is set alongside the scale of the problem.

2. **Extent to which govt relies on the private sector to design, build and operate digital technologies in the social security system.**

There is evidence of an increasing reliance by government on the private sector to build systems for implementing social security policy. In February 2019 the tech website The Register reported that DWP advertised for a company to develop software that '*allows it to automate slurps of medical data on claimants*'[13]. It noted that the DWP had failed to give assurances that the data, stored using Health Amazon Web Services, would not be shared elsewhere. The 'rationale' given by DWP for developing this system was that GPs lack understanding of the information required, or don't have access to it. The potential for this automated system to cause harm to patients is significant, as it is likely to lead to a situation whereby patients will become reluctant to disclose information to their GP in case it is used against them by the DWP.

This move to link up NHS data with DWP's benefits systems follows a series of government data-handling controversies,[14] including a Memorandum of Understanding between the

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[10] The £25 million allocation is for both benefit fraud and administrative error. In 2016/17 administrative error amounted to £4, 274,051 or 0.072% of the benefit budget. Source: Freedom of Information response received by PPR from Department for Communities on 9 April 2018. Reference No: 2018-0082.

[11] Clarke, L. et al (2019) Fraud and Error: The Black Box of our Social Security System. An analysis of the proportionality of government spending within the social security system on investigating fraud and error measured against the scale of the issue and the money recouped. Available on request from PPR. https://www.justice-ni.gov.uk/publications/research-and-statistics-bulletin-162018-court-prosecutions-convictions-and-out-court-disposals

[12] https://boingboing.net/2019/03/05/universal-credit-2-0.html

[13] https://www.benefitsandwork.co.uk/news/3876-dwp-developing-nhs-data-slurping-tool-to-access-claimant-medical-records

[14] https://www.theregister.co.uk/2018/12/05/nao_windrush_liberty_data_sharing/

NHS and the Home Office[15] for immigration enforcement that was paused under the weight of public and political pressure.[16].

In response to a Freedom of Information request from PPR[17], asking for all information held in relation to the development of software that would allow automated slurping of medical data on social security claimants, the Department for Communities stated that it does not hold any such information. However, given the Department's reliance on parity to justify the replication of DWP's automated fraud and error system, justifiable concern exists as to its possible introduction in the future.

3. Lessons from the operation of the immigration system

Since 2012, it has been an explicit aim of the Home Office to create a 'Hostile Environment' for migrants in the UK through a series of administrative and legislative measures designed to bring borders and immigration checks into their everyday lives. Perhaps the most perverse of these measures is the use of technology to covertly spy on asylum seekers behaviour in order to both deport them from the UK and to remove financial support.

The Home Office have been forensically analysing the smart phones of asylum seekers for several years, this policy has since been adopted by Germany and other EU countries that are using metadata to find inconsistencies in asylum seekers' stories[18]. Metadata searches allow immigration officials to extract data from asylum seekers phones and ascertain which EU country the asylum seeker first arrived in. Under the Dublin Regulations, asylum seekers can be returned to the first EU country they arrived in and several hundred people are removed using these regulations from the UK via charter flights each year[19].

Asylum seekers are paid £37.75 per week into a bank account provided by the Home Office, they are able to complete transactions and withdraw cash using a debit card called an 'Aspen Card'. The Home Office explicitly states they will 'analyse card usage data[20]'. The data that is being analysed includes; what asylum seekers are spending money on, where asylum seekers are spending money, and how much money they have. The Home Office threaten to withdraw support where an asylum seeker is seen to be spending money outside of their allocated dispersal area or are seen to be receiving money from someone other than the Home Office. When threatened with financial sanction, asylum seekers have 5 days to produce evidence and explain transactions. There is a complete lack of due

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[15] https://www.theregister.co.uk/2018/04/16/nhs_digital_execs_demonstrated_little_regard_for_patient_ethics_in_signing_data_deal/
[16] https://www.theregister.co.uk/2018/05/09/nhs_data_sharing_home_office_immigration/
[17] Response received by PPR to a Freedom of Information request to the Department for Communities, dated 25 march 2019. Reference No: DfC/2019-0060
[18] https://privacyinternational.org/feature/2776/surveillance-company-cellebrite-finds-new-exploit-spying-asylum-seekers
[19] https://corporatewatch.org/deportation-charter-flights-updated-report-2018/
[20] https://righttoremain.org.uk/home-office-tracking-use-of-aspen-card-by-people-seeking-asylum/

process and according to The Times Scotland, 186 people had their support stopped last year leaving them completely destitute[21].

There have been serious concerns raised about the surveillance of asylum seekers and the extraction of their data and whether or not the practice is lawful in addition to the fact the extraction is being completed by private surveillance companies.

In light of the evidence of increasing levels of surveillance of benefit claimants (see Section 5 below) there is clear evidence of *mission creep* from policies and practices first introduced and 'trialled' within the immigration system into the social security system. The 'hostile environment' and the de facto criminalisation of asylum seekers are becoming more and more evident within the social security system.

4. **Impact of the introduction of digital technologies in social protection systems on the human rights of people living in poverty, young people, women and rural communities**

Poverty

In Northern Ireland there is a direct correlation between areas impacted most heavily by the conflict and levels of entrenched poverty[22]. In the Right to Work survey of benefit claimants, 93% of people said that they were forced into poverty as a result of a benefit decision.[23]

As the Universal Credit system is 'digital by default' benefit claimants are being forced to go online to apply for and maintain their benefits. Claimants unable to afford online access are being encouraged to use local library services. However, increasing numbers of libraries across Northern Ireland have either closed or have had their hours cut, with a loss of £2million to the overall library budget in recent years.[24] In addition, evidence shows that people who are unemployed or without qualifications are less likely to use those library services that do exist.[25] A further concern is that increasingly, as funding for the advice sector is cut, benefit claimants are being forced to rely on librarians, not trained for this role, to help them navigate the Kafkaesque benefits system online.[26]

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[21] https://www.thetimes.co.uk/article/home-office-uses-debit-cards-to-spy-on-asylum-seekers-3xtxsklcx
[22] https://www.nisra.gov.uk/statistics/labour-market-and-social-welfare/labour-force-survey
Most recent figures published by the NI Executive Office show that twice as many Catholics as Protestants who are unemployed are classified as long term unemployed, 69% compared with 31%. Source: https://www.executiveoffice-ni.gov.uk/publications/labour-force-survey-religion-report-2016
[23] Right to Work: Right to Welfare (2018) Conscious Cruelty: Social Security, the Economy and Human Rights. PPR.
[24] https://www.bbc.co.uk/news/uk-northern-ireland-36309813
[25] https://www.communities-ni.gov.uk/sites/default/files/publications/communities/experience-of-the-public-library-service-in-Northern-Ireland-201516.pdf
http://www.oecd.org/skills/piaac/Country%20note%20-%20United%20Kingdom.pdf
[26] https://inews.co.uk/news/uk/universal-credit-claimants-librarian-help-application/

Benefit claimants are being trapped within a vicious circle – too poor to have personal online access, limited or no digital literacy skills and forced to use libraries that no longer exist or provide limited access, without the necessary support.

Rural Communities

A relatively high percentage (37%) of the population in Northern Ireland live rurally.[27] It is estimated by the Department for Communities that 28% of claimants currently in receipt of one of the benefits or credits that will be replaced by Universal Credit live in a rural area. Access to high speed broadband is a major issue in many of the areas benefit claimants live in.[28] The OFCOM Connected Nations Update Spring 2018 found that 50,000 of premises in Northern Ireland cannot access decent broadband.[29] Despite this reality, the Rural Community Network (RCN) [30] points to the failure of the Department for Communities to consider any of this evidence in its flawed Rural Needs Impact Assessment (RNIA). Other issues the Department failed to consider in its impact assessment according to RCN included public transport availability, poor mobile phone connectivity and limited opening hours of rural libraries. The Department's failure to consider any of this evidence allowed it to reach the bizarre conclusion that the introduction of Universal Credit was not likely to have any negative impact on rural communities.

5. **Surveillance, control and exclusion of the poor**

The hostile environment for benefit claimants that has been deliberately manufactured by government is most clearly seen in the increasing levels of daily surveillance of people reliant on the social security system. This surveillance is a key element in the maintenance of a right-wing, dominant narrative, one which has been internalised to a large degree by wider society, of benefit claimants as worthless shirkers who are a burden on the rest of society.

Right to Work activists who carried out a human rights survey outside social security offices and benefit assessment centres in 2017/18 were struck by a marked increase in fear among benefit claimants, in comparison with their previous surveying period in 2014/15. Surveyors detected a pervasive sense among benefit claimants that every aspect of their lives was being subject to surveillance and that they risked victimisation by the social security system if they were perceived to be speaking out or challenging them in any way.

Anecdotal evidence points to claimants being challenged about posts shared on social media in relation to hobbies, excursions and daily activities and information gleaned from

[27] https://www.bbc.co.uk/news/uk-northern-ireland-41397806
[28] https://www.belfasttelegraph.co.uk/news/northern-ireland/northern-ireland-has-worst-level-of-access-to-fast-broadband-in-the-uk-37230837.html
[29] https://www.ofcom.org.uk/research-and-data/multi-sector-research/infrastructure-research/connected-nations-update-spring-2018
[30] http://ruralcommunitynetwork.org/

this 'snooping' being used against claimants in decision making. People with mental health conditions, who would benefit from engaging in various activities as part of their treatment and recovery plan, are prevented from doing so due to the all encompassing atmosphere of suspicion that exists. This modern day *digital panopticon* is having devastating effects on people's mental health and well-being.

The fears articulated by people are far from unfounded. Increasingly CCTV footage from all aspects of life, ranging from gym membership, airport footage and surveillance videos from public buildings is being used to build 'cases' against benefit claimants.

 In May 2018 it was revealed that the supermarket giant Sainsbury's has a policy to share CCTV 'where we are asked to do so by a public or regulatory authority such as the police or the Department for Work and Pensions'.[31]

In August 2018 the Department for Employment Affairs and Social Protection in the south of Ireland sought tenders for media monitoring, including social media, raising concerns about the 'chilling effect' on people's preparedness to comment publicly on their experiences.

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[31] https://theguardian.com/commentisfree/2018/may/31/benefits-claimants-fear-supermarkets-spy-poor-disabled

6. Specific recommendations

1. The UN Special Rapporteur on Extreme Poverty, should consider developing a set of guiding principles, in conjunction with the UN Special Rapporteur on the Right to Privacy, that govern the use of digital technologies within social protection systems.
2. These Guiding Principles should be developed in partnership with civil society and civil society organisations in different countries should be invited by the Special Rapporteur to establish working groups to contribute to their development.
3. As part of this process the UN Special Rapporteur's office should put in place a programme of training for civil society on awareness raising, how to engage with, monitor and assess compliance with human rights standards of digital technology use by governments.
4. The head of the NI Civil Service should establish a human rights compliant framework to govern the use of digital technologies by all public authorities that provides guidance on sourcing, employing and managing new technologies.
5. The head of the NI Civil Service should ensure that all government departments and agencies including the PSNI implement without further delay all relevant recommendations issued by the various UN Human Rights treaty monitoring bodies in respect of social security, including those by the monitoring bodies overseeing ICESCR, CEDAW, UNCRPD, UNCERD and UNCRC.
6. In the continued absence of an Executive, the head of the NI Civil Service should move to adopt an anti-poverty strategy on the basis of objective need, as per the St. Andrew's Agreement.
7. The Department for Communities should fully implement its 'Section 75' equality duty and compliance should be rigorously monitored and enforced by the Equality Commission NI.
8. Furthermore, the Department for Communities must evidence how the introduction of new digital technologies for the purposes of implementation of social policy complies with its duties under Section 75 of the NI Act (1998).
9. The Department for Communities should ensure full and proper application of Rural Needs Impact Assessments.
10. The Department for Communities should implement the People's Proposal with its dual protections of due process and impact assessment being applied to all social security decision making. This would provide benefit claimants with a number of protections, consistent with international human rights obligations, including the right to information, transparency and effective representation, as well as the right to effective remedies for individuals whose right to privacy and protection of their data is breached.
11. Following the example set by the Scottish government in banning the use of private companies from social security assessments, and in light of the potential for benefit claimants' personal data to be exploited to extract monetary value by private companies, the Department for Communities should end the involvement of the private sector in all aspects of social security.