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Winner of the Council of Europe Human Rights Prize

CAJ's submission to the

**UN Committee on the Elimination of all forms of
Discrimination against Women (CEDAW)**

February 2008

Submission no. S. 202

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What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, Human Rights First (formerly the Lawyers Committee for Human Rights) and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws and the criminal justice system, equality and advocacy for a Bill of Rights.

CAJ however would not be in a position to do any of this work, without the financial help of its funders, individual donors and charitable trusts (since CAJ does not take government funding). We would like to take this opportunity to thank Atlantic Philanthropies, Barrow Cadbury Trust, Hilda Mullen Foundation, Joseph Rowntree Charitable Trust, Oak Foundation and UNISON.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

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*CAJ works for a just and peaceful society in Northern Ireland
where the human rights of all are protected*

Submission from the
Committee on the Administration of Justice (CAJ)
to the
**UN Committee on the Elimination of all forms of
Discrimination Against Women (CEDAW)**
in response to UK 6th periodic report

Introduction

The Committee on the Administration of Justice (CAJ) is affiliated to the International Federation of Human Rights and is an independent cross-community human rights non-governmental organisation working to protect and promote human rights in Northern Ireland. The organisation works across the whole gamut of human rights – civil, political, economic, social and cultural – and has made submissions to all the various UN treaty bodies over the years.

CAJ was honoured with the Council of Europe Human Rights Prize for our efforts to mainstream human rights and equality into the Northern Ireland peace agreement.

CAJ made a formal submission to the UN Committee on the Elimination of all forms of Discrimination Against Women (CEDAW) at its last examination of the United Kingdom (in May 1999), and has participated in recent discussions of the shadow report separately submitted by the Northern Ireland Women's European Platform.

The following CAJ submission has three distinct sections:

- a. Comments on the 6th periodic report by the UK government
- b. Follow up to CEDAW's Concluding Observations to UK in 1999
- c. Optional Protocol to CEDAW

a. Comments on UK government submission (6th periodic report)

CAJ has not carried out a detailed survey of the UK's 5th periodic report dating from 2003, but has studied closely the sixth periodic report (dated May 2007). We find that a prevailing problem in the UK government submission is that there is no pattern in its reporting across all the distinct jurisdictions. So, some of the opening paragraphs under each article of the Convention relate

to the whole UK, and some relate only to England or some other combination of UK-constituent parts. While there are normally additions which relate explicitly to Northern Ireland, the entries are rarely consistent or comprehensive, and there is no obvious logic as to why certain information is provided in relation to Northern Ireland, and some is missing.

Institutions promoting the advancement of women and gender equality

So, for example, the report comments (paras 7-14 and paras 72-85) on the work of the two Ministers for Women, the Women and Equality Unit, the Equal Opportunities Commission and its replacement by the Commission for Equality and Human Rights - all without making it clear that the remit of *none* of these bodies extends to Northern Ireland. Paras 86-88 which do comment on Northern Ireland, do not 'mirror' the information relating to other UK jurisdictions given earlier.

Elimination of Discrimination

CAJ welcomes government's commitment to introduce gender neutral language for legislation (para 106). We were, however, somewhat surprised at the commitment, in the light of the fact that the use of gender insensitive language is still very much the norm in government practice.

Given the tradition that is associated with parliamentary drafting, we would have thought it easier to change routine administrative practice than legislation. Currently, most government bodies are headed up by "chairmen" who choose not to use the term "chair" or "chairperson". Even when this practice was challenged recently, the incumbent justified his use of the term "chairman" on the basis of the fact that the official letter of appointment from government (issued in February 2007) had used the male form. ***The Committee may want to ask what advances have been made, or are planned, over and above legislative change, in making gender sensitive language commonplace in government documents and parlance.***

Note that some of the legislation listed in para 108-141 applies to Northern Ireland, some does not. The same is true for forthcoming legislation and legislation having an impact on women with disabilities and lesbian women. ***The Committee may want to remind the government that it must comply with CEDAW across all UK jurisdictions, and an assessment can only be made of its record on the basis of comprehensive and accurate information.***

The Committee should also be aware that the ethnic minority community in Northern Ireland is on the increase and, unfortunately, so are reports of racist attacks and other negative experiences of harassment and discrimination. Material has been produced by the NI Council for Ethnic Minorities, Animate, the NI Committee of the Irish Congress of Trade Unions, and others providing detailed case-studies of the experiences of migrant workers and others.

Government has been widely criticised for not tackling sufficiently aggressively its own institutional racism, and on occasion contributing to problems. For example, government introduced legislation in July 2005 - the Unauthorised Encampments Order - which effectively criminalizes Irish Travellers for their nomadic lifestyle. As CAJ notes later, if the equality duty (Section 75 of the Northern Ireland Act) were operationalised effectively, the needs of women of different races and ethnicities would be comprehensively addressed by allowing them to participate directly in the development of policies aimed at promoting greater equality (see on).

No reference is made in the UK government report to women detained in Northern Ireland and the particular problems they face. We would refer you to the excellent report on this topic prepared by the Northern Ireland Human Rights Commission (NIHRC) in 2004 "The Hurt Inside" and subsequent interventions in 2006, and we assume that the NIHRC will be making a submission to you on this topic. ***The Committee may want to ask the UK government why it has categorically refused to give the NIHRC – as the national human rights institution - the authority to act in NI as the National Preventative Mechanism under the auspices of the Optional Protocol to the Convention Against Torture? Moreover, in January 2008 the Prisoner Ombudsman for Northern Ireland has determined to tender his resignation on a matter of principle – he believes that the government has failed to give him the requisite level of independence from the prison authorities to be able to carry out his work adequately. The UK delegation should be asked what steps have been taken to give this office more authority to act effectively for prisoners.***

Development and Advancement of Women (para 182 onwards)

Reference is made to work being undertaken at the UK level and this might imply that the subsequent paragraphs all apply to Northern Ireland – they do not. Even where Northern Ireland is specifically singled out for two paragraphs of comment (see 209 and 210), no reference is made to the consultation undertaken into a Single Equality Bill for Northern Ireland (equality legislation here is different to that applying in other UK jurisdictions), nor to the consultation entitled "Gender Matters" (see on), or the reduction of staffing in the Gender Unit in the Office of the First and Deputy First Minister (in the devolved NI government). ***The Committee might want to ask for explicit information about the measures and resources dedicated to giving effect to the commitment in the peace agreement (the Good Friday/Belfast Agreement) to the effect that social inclusion was to be promoted by, inter alia, "the advancement of women in public life".***

Special Measures to accelerate equality (para 224 onwards)

The Gender Equality Duty (para 225 on) does not apply in Northern Ireland, but Section 75 of the Northern Ireland Act does, and is in fact a stronger equality duty.

CEDAW in its Concluding Observations dating from 1999 (para 297) urged “the Government to extend the legislative provisions for mainstreaming equality for women in Northern Ireland to the rest of the United Kingdom”. Instead of doing this, a weaker Gender Equality Duty was introduced for Great Britain and, as noted, little reference is made in the UK report to the existence of the Section 75 duty. ***The Committee may want to explore with the UK delegation why they chose not to build on the Northern Ireland legislative provisions and extend those to all women across the UK?***

CAJ believes that the Section 75 equality duty, if properly implemented, would provide a very important tool for increasing equality. This view is shared by the Equality Commission for Northern Ireland (ECNI), which recently concluded a major study of the Section 75 duty and noted that this is a very radical and far-reaching equality duty that could deliver much greater equality for women (and other sectoral groups). CAJ would also, however, have to concur with the Equality Commission’s conclusion that much more work by government was necessary to give full effect to the duty which has now been on the statute book for more than five years. ***The Committee may want to ask what efforts are being made by central and devolved government to give practical effect to the recommendations of the Equality Commission review of the Section 75 equality duty?***

In particular, the existence of the Section 75 equality duty should be having an impact on the current Northern Ireland Budget process, recognising the multiple nature of disadvantage that many women face. ***The Committee may want to ask for a report from the UK delegation on how the Section 75 duty is being brought to bear on discussions about resource analysis and allocation as it affects women in Northern Ireland.***

Sex roles and stereotyping (para 245 onwards)

The Committee should ask the delegation which, if any, of the initiatives reported on here extend to Northern Ireland?

Exploitation of women (para 277)

CAJ welcomes the fact that the UK signed the Council of Europe Convention on Action against Trafficking in Human Beings, though it has not yet ratified the Convention. ***The Committee may want to ask the delegation for a timetable in this regard – when does the UK expect to ratify, or what problems is it experiencing in ratifying the Convention?***

The Committee might also want to ask how the specific problems of trafficking in Northern Ireland are being addressed? (Note that the monitoring mechanisms cited in the UK report do not necessarily apply to Northern Ireland, and that Northern Ireland is the only UK jurisdiction with a land border to another EU country (the Republic of Ireland).

Political and Public Life (para 306)

In the elections to the Northern Ireland Assembly (in 2003 and again in 2007) 18 of the 108 elected Assembly members were female (ie 16.7%). The most recent election led to a higher proportion of women than previously in the Northern Ireland Executive (with four out of ten ministries). At local District Council level, however, women only hold 23% of the seats (2005 most recent results).

Public Appointments (para 323)

This is an issue that is particularly problematic for women in Northern Ireland. The UK report shows that in Northern Ireland the latest figures for the percentage of women serving on public bodies in Northern Ireland for example is almost 32%. However, the report does not state that in 1996/97 the percentage of women serving on public bodies was 35%. ***The Committee might want to ask why the percentage of women serving on public bodies is not only so low, but has actually decreased over the past decade.***

Education (para 352 onwards)

The UK report does not mention many concerns expressed by ethnic minority communities about educational provision: for example, limited access to English as a Second Language; a religious education curriculum largely designed by the four (Christian) churches; extremely poor educational provision for Travellers. ***The Committee should ask for information about the situation of minority ethnic women and girls and their concerns regarding educational provision in Northern Ireland.***

Employment (para 390 onwards)

With regard to Sure Start – it is unclear if these statistics (para 353) cover Northern Ireland as well as other UK jurisdictions? Certainly in the past, there has been a number of NI-specific concerns about the failure to actively promote and resource Sure Start, which – taken together with the earlier mandatory age of primary school attendance, and the high levels of child poverty in Northern Ireland – make it very difficult to break the cycle of deprivation. ***The Committee should ask for a briefing of the particularities of the situation in Northern Ireland and how the high levels of disadvantage are being tackled by way of educational provision for young girls and women?***

The UK report shows the woefully inadequate success rate of the measures such as New Deal 25+, with a 17% success rate in securing employment for both male and female participants on the scheme (para 426). The report also

states that the “Department is committed to promoting equality of opportunity in all its programmes and services and carries out regular Equality Impact Assessments on these”. **The Committee might want to ask what happens to the 83% of women who complete the New Deal programme but do not find a job. The Committee might also ask what changes have been made to New Deal as a result of the Equality Impact Assessments carried out.**

Women’s Health (para 444 onwards)

The National Programme on Gender Equality and Women’s Mental Health (para 457) sounds interesting; again, however, we are not sure whether and how it applies to Northern Ireland since reference is not made to the particularly acute problems of mental health faced in Northern Ireland after the legacy of decades of violent conflict, and high dependency on prescription drugs, etc. **The Committee may want to ask the government what follow up it intends to give the recommendations of the recent Bamford Review,¹ and in particular the extent to which it will secure the necessary resources to put into effect the Review’s important findings?**

While reference is made (para 466) to a steady progress in reducing teenage pregnancies, the statistics provided are somewhat confusing, when compared to the NI statistics. The tone may also mask the fact that a report in October 2007 by Population Action International recorded that Britain has the highest teenage pregnancy rate in western Europe.

Social and Economic Benefits (para 507 onwards)

There is obvious reluctance on the part of government to contemplate the inclusion of socio-economic rights in the Bill of Rights for Northern Ireland which is currently being discussed (and they also seem to be displaying the same negative attitude regarding any discussion of including socio-economic rights in a British Bill of Rights). **Given the particularly negative impact that the exclusion of socio-economic rights from a Bill of Rights would have on women, the Committee might want to ask the government how it intends to give effect to the Concluding Observations of the UN Committee on Economic, Social and Cultural Rights which “strongly recommend(ed) the inclusion of effective protection for economic, social and cultural rights, consistent with the provisions of the Covenant, in any bill of rights enacted for Northern Ireland.”**

If we had a Bill of Rights for Northern Ireland, certain basic socio-economic rights could be ensured. For example, para 526 addresses affordable social housing, but makes no reference to the situation of Irish Traveller women in Northern Ireland who were recently offered ‘permanent’ halting sites with no electricity. When challenged, the public housing authority wanted to know

¹ The Bamford Review on Mental Health and Learning Disability, report published August 2007.

where it was written that Irish Travellers had a right to electricity. We have drawn the attention of the authorities to the ICESCR and the interpretative texts about the “adequacy” of housing provision, but domestic incorporation of such standards is vital. ***The Committee may ask how the government justifies providing permanent halting sites for Irish Travellers in Northern Ireland without the most basic amenities?***

CAJ notes that the UK report refers to the launch of Lifetime Opportunities, the Government’s Anti-Poverty and Social Inclusion Strategy (para 528). While CAJ would agree with the objectives of Lifetime Opportunities, our main concern lies with the fact that we are not convinced the measures outlined in the strategy will achieve the objectives that have been set. For example, Lifetime Opportunities does not contain any specific budget or additional resources. ***The Committee may wish to ask what additional resources have been allocated to ensure the effective delivery of the goals set by Lifetime Opportunities.***

Equality before the law (para 551 onwards)

CAJ is of the view that the figures presented in the report regarding the composition of the Northern Ireland judiciary are misleading. The report states that “As of January 2007, Northern Ireland had four female county court judges, 2 female district judges and 4 female resident magistrates. Of the lay magistrates there were 150 women out of 276 in 2006. Overall, 47% of the judiciary are female.” It is worth noting that of 4 Appeal Court judges, none are female, and of 12 High Court judges, none are female. It is also worth noting that Law Magistrates are not legally qualified and preside over a very small area of the law. ***The Committee may wish to ask why the UK report has ignored the total absence of any women among the senior judiciary and appear to have used the higher proportion of female Lay Magistrates to obscure the problem facing the highest courts in Northern Ireland.***

b) CEDAW’s 1999 Concluding Observations

Where appropriate, CAJ has commented above on CEDAW’s 1999 Concluding Observations under relevant chapters of the UK 2007 report. However, some of the Concluding Observations from the last examination merit comment in their own right.

Disaggregated data (CEDAW, C.Obs. para 289)

In 1999, CEDAW expressed its appreciation of the level of disaggregated data made available by the UK along gender lines. This material is still a rich resource of data available to government and policy makers which – if

anything – has been built upon since the last report. In Northern Ireland, this data is gathered in the context of the Section 75 equality duty, and it has proved invaluable. Recently, for example the police in carrying out an equality impact assessment of their recruitment policies discovered that the tests were disproportionately failing women on the grounds of “mental health” and “nervous system”! It is not clear however whether the identification of these gender differentials will result in a change to the testing procedures. Unfortunately, public bodies generally still have a way to go to put this disaggregated data to best effect. ***The Committee may want to ask government to give examples of policies in Northern Ireland that have been changed as a result of revealing gender-disaggregated data that highlighted problems of unequal outcomes?***

Effective equality (Concluding Observation para 299)

CAJ welcomed CEDAW’s recommendations that (a) government ensure rigorous analysis & evaluation of policies and their implications for de jure and de facto equality for women; and (b) government continue to refine its mainstreaming approach and the cross sectoral and cross cutting approach to issues.

CAJ is however unaware of extensive efforts undertaken in this area, and can point to a number of failings. For example:

- i. **NI Gender Equality Strategy (“Gender Matters”)**: the first draft of this policy had to be withdrawn it was so unacceptable to the women’s sector and further afield. The final document has now been issued, after extensive effort expended by government and civil society. It is relatively bland, saying little that could be disagreed with, but it has many lacunae. For example:
 - It is a “gender” equality strategy and rarely seems able to mention “women” without simultaneously mentioning “men”. The intervention by civil society allowed for some leavening of this process, but the document bears all the hallmarks of a public body unable to address the fundamental differences between the needs of men and women in terms of equality.
 - Efforts to extend the analysis to look at women in their distinctiveness (whether black/white, young/old, with or without a disability) were withstood.
 - The specially produced Gender Impact Assessment Handbook outlined a process for gender impact which is intended to complement the generic “equality impact assessment” process laid down in Section 75 of the Northern Ireland Act. However, the Handbook has for some reason omitted some additional – but crucial - stages laid down in the Section 75 equality duty i.e. the stages of consultation and participation in the decision making process by those affected by the policy (i.e. women).

- There is an almost total absence of clear targets and timetables for implementation.

CEDAW concluded its comments by requesting the government to “provide a comprehensive assessment of the impact of these (equality mainstreaming) efforts so that the Committee can evaluate changes in relation to the Convention. In particular the Committee requests the Government to monitor the implementation of policies in the entire territory of the State Party.” As noted earlier, the Section 75 equality tool in Northern Ireland holds enormous potential but has lacked the necessary political will to deliver change to date. ***The Committee should ask the UK government to give practical examples of gains in the equality of women as a result of the mainstreaming tool, section 75.*** If concrete examples are not given, the Committee may want to explore the reasons for this – for example:

- Is there a problem in resourcing the women’s sector to allow them to exploit the participatory mainstreaming tool more effectively?
- Why, despite section 75’s recognition of our multiple identities, is a gender strategy developed separately from a children’s strategy, a poverty strategy, a disability strategy, an older people’s strategy.....?

Domestic incorporation of CEDAW (Con. Obs. para 300-301).

While welcoming some legislative advances, the Committee asked the UK government to give more consideration to the incorporation of CEDAW into domestic law. An obvious place for this to occur for Northern Ireland would be by way of the Bill of Rights for Northern Ireland. ***The Committee may want to ask government what its stance is in this regard?***

Sexual violence (Concluding Observations Para 311)

The Committee expressed concern at the lack of a national strategy on the prevention and elimination of violence against women. A consultation paper on a regional strategy for addressing sexual violence in NI was introduced in 2007 (8 years after CEDAW’s recommendation). No obvious reference was made to either CEDAW (or other relevant UN resolutions on sexual violence), or CEDAW’s recommendation to the UK on the need for a national strategy. Similarly no reference is made to human rights, the relevance (or otherwise) of the Human Rights Act, or to the human rights and equality proofing that are intended to discipline criminal justice and other policy making. ***The Committee may want to ask about the extent of NGO involvement in the elaboration and delivery of this strategy?*** The UN Committee on Economic, Social and Cultural Rights in its Concluding Observations in 2002 “recommended the State Party continue its efforts to combat domestic violence and, in particular, to ensure that there are sufficient refuge places to meet the needs of victims of domestic violence”. ***CEDAW may want to ask what follow up has been given to this recommendation?***

c. Optional Protocol to CEDAW

Since the last examination, the UK government agreed to accept the right of individual petition under CEDAW and, after a trial period of two years, to determine whether to sign up to other such mechanisms. No-one to our knowledge has however made use of this mechanism, presumably not least due to the fact that limited efforts have been made by government to publicise its existence, or its possible relevance to human rights victims. The two year trial period came to an end in March 2007, but CAJ is unaware of any review being undertaken by government into the operation of the right to individual petition under CEDAW, or any learning for other UN procedures.

It is noteworthy that, at the time of the decision accepting the right of individual petition under CEDAW, the government made it clear that this was an “experiment”. It was to be given a two-year period to bed down prior to taking decisions on any other UN instruments. Accordingly, the experiment was interpreted by many who might want to access other human rights instruments as merely a delaying tactic. The parliamentary Joint Committee on Human Rights said that government had not put forward any “compelling reasons” (para 194 of 19th 2005 Report) for the decision not to accept rights of individual petition under other UN treaties.

The Committee may want to ask (a) if anyone has had occasion to use the Optional Protocol; (b) what efforts did government undertake to make people aware of this remedy; (c) was any review carried out into the value of having accepted the right to individual petition and, if so, what recommendations have arisen as a result of the review?

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