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Winner of the Council of Europe Human Rights Prize

CAJ's Submission to the
Review Body on Post Primary Education

December 2000

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Introduction

The Committee on the Administration of Justice (CAJ) is an independent non-governmental organisation affiliated to the International Federation for Human Rights. CAJ's membership is drawn from across the whole community. The Committee won the Council of Europe Human Rights Prize in 1998 for its work to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities under international human rights law. Our work includes publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. The areas covered are extensive and include prisons, policing, emergency laws, the criminal justice system, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill of Rights.

While not particularly expert on education issues per se, CAJ has had a long-standing interest in educational provision because of our concern to protect and promote the rights of all. International human rights standards relevant to this debate include -

1. *International Covenant on Economic, Social & Cultural Rights (1966)*

The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. *European Convention on Human Rights - First Protocol (1952)*

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

3. Revised European Social Charter (1996)

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake.....to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

In addition, these rights, and many (indeed most) international and regional human rights instruments refer to the importance of all rights being enjoyed without discrimination. The prohibition on discriminatory behaviour is relevant when we consider the impact of Northern Ireland's educational policies vis-a-vis children of different religious traditions, different racial or ethnic backgrounds, different gender or sexual orientation, children with different physical or mental disabilities, etc. In this context, the obligation on all public authorities to promote equality of opportunity across a range of social categories (section 75 of the Northern Ireland Act) is of particular significance.

CAJ has made a number of previous submissions on the topic of education for Northern Ireland's children and young people. Apart from our submission to the Department of Education, and its various NDPBs, on their Draft Equality Schemes earlier this year, and our commentary on "Vision into Practice: New TSN Action Plans", we would draw your attention to the following:

- ◆ CAJ's Civil Liberties Handbook (1997) which outlines both children's rights and education rights (chapters 17 and 18)
- ◆ Submission to the UN Committee on Economic, Social & Cultural Rights (1997)
- ◆ Submission to the UN Committee on the Rights of the Child (1994).

All of these materials have a relevance to the commentary that follows.

Commentary for the Review Body

CAJ did not receive the report with which the Review Body is working, but we understand it is very voluminous and this means that we probably would not have had an opportunity in the time available to study it in sufficient detail. We have, however, received a short summary text and attended a briefing session organised by the Ulster People's College. With this albeit limited insight into the remit of the Review Body, we are taking the liberty of drawing on our earlier work to make a number of comments about the future of the selective system in Northern Ireland.

1. Clearly the selective educational system has not served the majority of people in Northern Ireland well. Though some children are extremely successful academically at the transfer stage, the vast majority are not, and having failed their first major academic test, they are made to feel like "failures" from an early age. The children who fail the 11+ come disproportionately from the poorer and more marginalised groups in our society, and so a vicious circle is maintained. Poor children fail the 11+; 11+ failures secure poorer employment prospects; are often unemployed or poorly paid, the same children become the next generation of adults having children who fail the 11+. Of course many people break out of this vicious cycle, but the system is not geared to helping them do that.

There is a wealth of statistical evidence which underpins the concerns about socio-economic deprivation and educational provision, and no doubt the Department has had access to much relevant research. We understand the Review Report deals extensively with the correlation between poverty and academic achievement. We note that several years ago (June 1996), the Department of Education produced a Statistical Bulletin entitled: Free School Meals and Low Achievement (SB 2/96). Utilising data from Northern Ireland and Britain, the bulletin showed how greater incidence of Free School Meals (FSM) entitlement is linked, at both primary and secondary level, to low educational achievement. Pupils entitled to FSM were found to be more likely to be persistent absentees from school, to leave school early, and to be less likely to continue on in further and higher education.

2. It was not clear to us from the study summary as to whether any examination of the impact of the current educational model had any adverse impact as between girls and boys and/or on ethnic or racial grounds. If there are problems of this kind, they would need to be clearly analysed, so whatever alternative is introduced will effectively address such deficiencies in the system.
3. In the case of Northern Ireland, there is an additional problem, in that if there are communal differences in educational achievement, then these may well have a potentially very destabilising effect. Being over-represented in the poorer socio-economic classes, Catholics will be disadvantaged by any educational system that compounds rather than addresses socio-economic inequalities. The legacy of past discrimination and disadvantage must be actively tackled in whatever educational system is pursued (see on for references to the excellent SACHR study into this issue).

CAJ is aware that in 1996 the Department issued a Statistical Bulletin SB 1/96 entitled Transfer Procedure Test Results, which raised serious policy problems. It seems that, after a change in the transfer tests from a verbal reasoning format to a curriculum oriented format in 1993-1994,

it was discovered that pupils in those schools with the lowest proportion of pupils entitled to free school meals were more than three times as likely to achieve a Grade A as those in the schools with the highest levels of Free School Meals. Prior to the change in test procedures, there were small differences in the proportion of pupils achieving a Grade A in Catholic and in Other Managed schools, but the differences were small and not particularly consistent. For 1995/1996, however, the proportion of pupils in Catholic Managed schools achieving a Grade A was seven percentage points lower than in Other Managed schools. CAJ is uncertain to what extent these statistics were maintained in subsequent years, or instead led to policy changes to ensure that already serious communal differences were not further exacerbated. What is important now is to ensure that decisions affecting future educational provision would not inadvertently exacerbate community differentials of this kind.

4. We would also draw the Review Body's attention to the major study carried out by the Standing Advisory Commission on Human Rights entitled "Employment Equality: Building for the Future" (1997). A number of important recommendations were made about the contribution education could make to creating a more level playing-field for all Northern Ireland's young people (relevant chapter enclosed for your convenience).

Concluding Remarks

The Committee on the Administration of Justice believes that the educational system for Northern Ireland must:

- a. comply with the standards established for the Programme for Government - standards of social inclusion, equality of opportunity for all, and the importance of effectively targeting social need
- b. ensure that the needs of all our children (whether Traveller or settled, black or white, girl or boy, Protestant or Catholic, rich or poor) are catered for effectively. Practically, impact assessments will need to be carried out when assessing the various alternatives to ensure that effective equality of opportunity is promoted.
- c. end the current selection system which exacerbates the inequalities of Northern Irish society
- d. propose a system and curriculum which cherishes each individual child, and allows him or her to achieve their full potential and to contribute to the creation of a fairer and more just society for all
- e. engage the 'users' of the system in determining and then bringing about the desired change. By 'users' we intend to refer not only to educationalists, business, teachers and parents, but children and young people themselves.

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