



Examination of the United Kingdom's 5th periodic report to the UN Committee on Economic, Social and Cultural Rights

Submission from the Committee on the Administration of Justice (CAJ) to the Pre-Sessional Working Group

May 2008

1. Introduction

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 seeks 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. Its membership is drawn from across the community in Northern Ireland and beyond. 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 in 1998 for our efforts to mainstream human rights and equality into the Northern Ireland peace agreement.

CAJ has made both written and oral submissions during previous examinations of the UK by the Committee on Economic, Social and Cultural Rights (in 1994, 1997, and 2002). In the run-up to the Committee's May 2008 pre-sessional Working Group meeting, we have brought together different civil society groups working on a range of socio-economic issues in Northern Ireland to discuss the current government report and making submissions. CAJ is supportive of the submissions the Committee may receive from other civil society groups from Northern Ireland. Our comments below relate to the specific economic, social,

and cultural rights issues which we work on directly, and we hope they will help the Committee in drawing up the essential questions to put to the government.

2. Progressive realisation

CAJ has consistently pointed out that it would be much more valuable if the UK government submitted a more analytical, rather than descriptive, report. The International Covenant on Economic, Social and Cultural Rights allows for the “progressive realisation” of the rights guaranteed. In turn, as the UK government should be seeking to highlight whether it is progressively realizing rights over several examinations, its reports should go beyond mere description and contain baseline data, measures of progress (or regression), and a plan of action for improvement. In our submission to the Committee in 2002, CAJ noted that in order to comply with the principle of “progressive realisation”, the UK government should:

- be using the maximum of its available resources in the realisation of its obligations under the Covenant
- have a plan to meet all of its Covenant obligations
- have a timetable and targets for the meeting of those obligations
- be able to prove that it is progressing towards the objectives in some areas at least
- be able to show that it is not regressing in any of the areas covered by the Covenant
- is using all appropriate means and, in particular, is adopting the necessary legislation to secure the rights stated in the Covenant
- ensure that all rights are being secured without discrimination.

The current report contains no baseline data or performance indicators, and is silent on a plan of action to meet all Covenant obligations. It simply lists information, particularly new legislation, but provides no analysis or indication of the state of “progressive realisation” since the last examination.

Given that the UK is one of the wealthiest countries in the world, it is questionable the extent to which the limitation of the “progressive realisation” of Covenant rights should apply to the UK at all. In fact, the Committee itself plainly stated in its 2002 Concluding Observations that it “*does not find any factors or particular difficulties that impede the full implementation of the Covenant in the United Kingdom*”. CAJ reiterates the Committee’s view that the UK government is in a position to realise the full protection of economic, social and cultural rights without any further delay.

- ***The Committee may want to ask the government what steps it will take to objectively measure progressive realisation, and when the government expects to meet its obligations under the Covenant?***

3. Reporting on Northern Ireland

Additionally, we find that a prevailing problem in the UK government report is that there is no pattern in its reporting across all the distinct jurisdictions. In relation to Northern Ireland, the entries in this report are rarely consistent or comprehensive, and there is no obvious logic as to why only certain information is provided on Northern Ireland, and much necessary information is missing. For instance, in just one example, the reporting on Article 11 (right to an adequate standard of living) does not provide any information on housing in Northern Ireland, where serious housing inequalities need to be tackled urgently. It is alarming that the government has neglected to include essential information on a key human rights issue in Northern Ireland, and this is in just one area.

Despite the devolution of power in Northern Ireland, the responsibility for reporting on Northern Ireland to UN treaty bodies remains with the UK government; this has not been handed over to the local administration. In light of this, the onus is on the government to carry out consultations with civil society and local government in all UK jurisdictions to ensure that all the necessary jurisdiction-specific information is provided to the Committee. While CAJ is aware that the Ministry of Justice convened a meeting with civil society representatives (including some from Northern Ireland) in early 2007 to discuss the UK's current report on the ICESCR, this meeting was held in London with relatively short notice to the participants. CAJ was not able to attend the meeting, but sent detailed comments with specific information from Northern Ireland via email. Many of these points do not appear in the report. CAJ is not aware of any significant government consultation in Northern Ireland.

- ***The Committee may wish to request the government to clarify which parts of the report relate to which jurisdiction within the UK, and specifically draw attention to elements where the law or practice is significantly different in Northern Ireland than in other parts of the UK. The Committee may also wish to ask the government to supply accurate information on Northern Ireland in relation to all the rights guaranteed in the Covenant.***

4. A Bill of Rights for Northern Ireland

The Committee may be heartened to know that the development of a Bill of Rights for Northern Ireland has gained in momentum and recently reached a critical phase. In a report released on 31 March 2008, the Bill of Rights Forum published its recommendations on what rights should be included in a Bill of Rights for Northern Ireland. The Forum was set up by the Northern Ireland Office

of the UK government to bring political parties and civil society representatives together to discuss the content of a Bill of Rights for Northern Ireland.

The Forum's report was submitted to the Northern Ireland Human Rights Commission, which is responsible for advising the government on the final shape of a Bill of Rights. The Committee will receive a more detailed submission on the process of developing a Bill of Rights in Northern Ireland from the Human Rights Consortium, an umbrella group made up of over 120 non-governmental organisations, trade unions and community groups across Northern Ireland campaigning for widespread public participation in the Bill of Rights process. As a member of the Consortium, CAJ fully endorses and supports the Consortium's submission.

The Forum's recommendations include key economic, social and cultural rights based on Covenant provisions, including the rights to education, an adequate standard of living, health, housing, work and social security. There is a very real possibility that the Northern Ireland Human Rights Commission will propose the inclusion of the Forum's recommended economic, social and cultural rights in a Bill of Rights to the Secretary of State. This would realise the Committee's recommendation in its 2002 Concluding Observations for the incorporation of economic, social and cultural rights in any Bill of Rights enacted for Northern Ireland. However, the government will have to demonstrate a firm commitment to accepting and implementing economic, social and cultural rights, particularly in light of the fact that government representatives frequently raise doubts on the inclusion of these rights in a Bill of Rights.

- ***The Committee may want to ask the government to indicate what its response will be if the Northern Ireland Human Rights Commission recommends the inclusion of key economic, social and cultural rights in the Bill of Rights for Northern Ireland. The Committee may also want to request the government to express a firm commitment to the inclusion of these rights.***

5. Equality

One of CAJ's core work areas is research and campaigning on issues of discrimination and equality in Northern Ireland. Severe economic inequality persists in Northern Ireland and key Covenant rights have not been secured for the poor and socially excluded. In fact, in the context of "progressive realisation", government statistics reveal that the poorest in Northern Ireland, both Catholics and Protestants, are relatively worse off than they were in 1998 when the Belfast Agreement put equality at the centre of public policy decision making. This is happening in an economy which has experienced increased investment and job creation since the mid 1990s.

In a report published in late 2006 (copies of the executive summary are attached), CAJ drew solely on statistics and information produced by the government to highlight that Northern Ireland has the highest economic inactivity rate in the UK, and alarmingly, there has been an increase in the proportion of workless households in the Protestant community. Information held by the government revealed that job growth over the last decade has benefited those households in which someone is already in employment. Further, this has meant that the same geographical areas that were poor in the early 1970s continue to top the list of disadvantaged areas decades later, and are the same communities that suffered the most in the violent conflict. CAJ finds it shocking that the government continues to ignore its own statistics revealing that poverty of the most vulnerable in Northern Ireland has increased.

The Committee will thus be disheartened to learn that the government has clearly not addressed the concerns expressed by the Committee in its 2002 Concluding Observations about the *“persistence of considerable levels of poverty, especially in certain parts of the country, such as Northern Ireland”*, and the widening gap between the rich and poor. In spite of an abundance of information generated by the government itself demonstrating serious pockets of poverty and inequality, “progressive realisation” has clearly regressed in Northern Ireland in this regard.

As mentioned above, the government report is silent on the situation of the right to housing in Northern Ireland. To reiterate, CAJ finds it remarkable that the government made no reference at all to housing problems in Northern Ireland, which are among the most serious in terms of violations of economic, social and cultural rights. While our submission focuses on the clear community differentials in access to housing, housing conditions (particularly in housing estates in deprived areas of North and West Belfast and in relation to Irish Travellers) are also a serious cause for concern and urgent action.

On the basis of official government statistics, CAJ’s 2006 report revealed that there are serious inequalities in the housing sector. In the years just after the signing of the Good Friday/Belfast Agreement, the number of people on public housing waiting lists has steadily increased, with the percentage of Catholics waiting up by 30% and Protestants up by 16%. On average, Catholics are spending one-and-a-half times as long on the waiting list as Protestants – and this is much longer in some parts of Belfast. In North Belfast alone, Catholics represent 73.8% of those on the waiting list but only 35.7% of those awarded accommodation. In addition to waiting lists, the statistics of the Northern Ireland Housing Executive reveal that there are clear community differentials in homelessness – in numbers and in the different geographic areas where homelessness is a problem – between Catholics and Protestants.

The government has the legislative and policy tools to address these inequalities, but has failed to do so. Section 75 of the Northern Ireland Act 1998 places a

statutory duty on public authorities to carry out Equality Impact Assessments to determine the impact of their policies on the promotion of equality across a range of groups – religious belief, political opinion, gender, race, disability, age, marital status, dependents and sexual orientation. The proper implementation of Section 75 will deliver genuine equality based on objective need, but there is a failure to use the legal equality duty to address these inequalities.

The Anti-Poverty Strategy has the potential to be one of the government's main policy vehicles to address issues of poverty, social exclusion and community cohesion. However, it has not been given the statutory basis it needs to have real effect, it has not been allocated a budget for implementation and was noticeably absent from the recent Programme for Government devised by the Northern Ireland Executive.

There has long been recognition of the need for investment programmes and policies to promote equality in Northern Ireland, yet the greater levels of investment that have been a dominant feature in Northern Ireland of late have not been targeted to deliberately tackle existing deprivation or differentials.

To the detriment of all, the equality tools provided by the Belfast Agreement are either being sidestepped or not properly implemented, inward investment and government spending have not been targeted at those most in need, and in some cases, measures pursued have served to further sectarianise the debate.

- ***In light of the lack of information provided in the government's report, the Committee may want to request the government for further information on economic inequality and community differentials in housing and employment in Northern Ireland and ask the government how these problems will be addressed.***