



CAJ

**Committee on the
Administration of Justice**

CAJ's response to the

**Joint Committee on Human Rights call for
evidence on the Equality Bill**

June 2009

**Submission No. S.236
Price: £1.00**

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CAJ

Committee on the Administration of Justice

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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Promoting Justice / Protecting Rights

Winner of the Council of Europe Human Rights Prize



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The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organization 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 a range of parliamentary committees 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 fully recognizes that the Equality Bill (“Bill”) does not extend to Northern Ireland given that this area of work is now a matter for our devolved Assembly. We would however be keen to ensure that debates on equality issues in any region of the United Kingdom are as informed as possible, not least because regional assemblies may look to Westminster for guidance in relation to legislating in certain areas of public policy. While we recognize that the current Bill is lengthy and complex, with a range of important provisions, we have chosen to restrict our comments to part one of the Bill which relates to socio-economic inequalities. We have done this largely because there has been quite a debate recently within Northern Ireland about how best to address socio-economic disadvantage in legislation – not least with respect to the discussions around a Bill of Rights for Northern Ireland. We would also

wish to add that our comments here are informed by our experiences of working closely with the statutory duties on the promotion of equality and good relations as contained in Section 75 of the Northern Ireland Act 1998. In this context, we hope that you find our evidence useful.

Undoubtedly, current patterns of increasing socio-economic inequality present a challenge to government and civil society alike. CAJ, like many organizations working in the field of human rights would be keen to see greater socio-economic equality. Our concerns with the measures outlined in the Bill therefore, originate, not with an opposition to the concept of greater equality, but rather with skepticism of the value of the current provisions. CAJ notes for example that there are a number of serious weaknesses with part one of the Bill.

These include for example the fact that the new socio-economic provisions:

- Only apply to “decisions of a strategic nature”, ie not all policies (as per Section 75 of the Northern Ireland Act for example).
- It will be for the public authorities subject to the duty to determine which socio-economic inequalities they are in a position to influence. In this context one wonders whether most public bodies will in effect decide that they are in a position to influence few, if any, inequalities.
- Individuals have no recourse to private law because of a failure by a public authority to comply with the duty. For example, the explanatory notes of the legislation specifically state that in situations in which an individual feels that the socio-economic disadvantages that they face should entitle them to a flat in a new social housing development ahead of those whom the individual judges to be less disadvantaged, there is no provision in the Bill for the individual to bring a case against the local council or other public authority in such circumstances.
- There are no requirements in the Bill for a socio-economic equality impact assessment, or any set of procedural obligations akin to the current Equality Impact Assessment provisions of Section 75 of the Northern Ireland Act, which one might use as a measure of compliance with the requirements of the primary duty.

- There is no enforcement role for the Equality and Human Rights Commission in relation to this provision.
- There are no equivalent complaints mechanism to the current paragraph 10 and paragraph 11 arrangements in Schedule 9 of Section 75 of the Northern Ireland Act. This would at least allow for an element of redress in relation to failure to follow procedural requirements.

CAJ fully recognises that legislating in this new area of law is complex. However we are also aware that a much more robust system is in place elsewhere in the UK to require public authorities to comply with certain procedures in order to give effect to a primary duty to promote equality – namely, in Section 75 of the Northern Ireland Act.

CAJ also notes that in relation to the explanatory notes attached to this provision, several examples are provided outlining how the provision might work in practice.

The explanatory notes state for example that:

“The duty could lead a public body with strategic functions in relation to health to allocate money from its agreed budget to a separate funding stream which targets geographical areas with the worst health outcomes.”

It is of course worth noting that under existing law, a public body could carry out just such a similar exercise. Given the absence of any adequate enforcement procedures, there is clearly a serious question as to the “value added” aspect of part one of the Bill.

CAJ would be of the view that ineffective laws are better left off the statute books altogether. Such provisions merely serve to undermine public confidence in the role of the legislator. Moreover, by introducing ineffective laws, the impression can be created superficially of “something being done”, when in actual fact the real changes which need to take place in society to address a particular problem are ignored.

Addressing socio-economic disadvantage is an important issue that should warrant meaningful action on the part of government to bring about positive change. CAJ believes that the current socio-economic clause is neither meaningful nor likely to lead to any positive change and as such should be withdrawn.

CAJ would also be of the view that it is important that legislators in other regions of the UK do not seek guidance on how to address socio-

economic disadvantage from this provision. Within the context of Northern Ireland, we will continue to lobby for a strong and inclusive Bill of Rights with justiciable economic and social rights provisions. We will also continue to argue within the context of Northern Ireland for a robust and meaningful anti-poverty strategy. There are in fact a range of measures which we believe should be introduced to effect greater socio-economic equality. The provisions contained in part one of this Bill however would not be one of those measures and we would caution policy makers and legislators against seeking any guidance from the socio-economic clause in this Bill.

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