

CAJ's submission no. S. 251

CAJ's Response to Draft Strategy for the
Management of Women Offenders in Northern
Ireland: A consultation

May 2009

Promoting Justice /
Protecting Rights

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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.

**Consultation Co-ordinator
Strategy for the Management of Women Offenders
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15 May 2009

Dear Madam/Sir,

Re Draft Strategy for the Management of Women Offenders in Northern Ireland: A Consultation

Thank you for permitting the Committee on the Administration of Justice (CAJ) to partake in the consultation on the *Draft Strategy for the Management of Women Offenders in Northern Ireland*.

As you will know, CAJ is an independent non-governmental human rights organisation that was established in 1981. CAJ's activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws, criminal justice, equality and the protection of rights. The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

CAJ commends the initiative of creating a gender-specific framework as it will hopefully be of significant benefit to the women offenders involved. The failure to consider a gender-specific approach has hindered the progress of the women within the prison system in the past. Our general comments are listed below, followed by comments to specific to each of the 4 Strategic Strands of the *Draft Strategy for the Management of Women Offenders* (the *Draft Strategy* hereinafter).

While we welcome the opportunity to comment on the *Draft Strategy* a great deal of it is very general and therefore does not enable informed comment.

CAJ fully supports the holistic approach of the *Draft Strategy* and we would suggest that more positive language be used in the framework. We would however point out that the notion of management of women *offenders* is not inline with this holistic approach in that the strategy clearly acknowledges the need to offer support and other mechanisms *prior* to offending in order to reduce offending. Initiatives which would address the causes for offending would be a very positive step but there runs the risk that labelling 'likely offenders' may further marginalise individuals in need of support and therefore consideration needs to be given to the fact that the *Draft Strategy* is clearly about more than *managing offenders*.

The growth in the overall prison population suggests that:

- a) more needs to be done to keep individuals from committing crime, and
- b) greater use of non-custodial constructive sanctions needs to be explored.

We would question why the prison service is planning on further growth in the prison population. If the Government is serious about implementing a strategy that is to successfully diminish offending and offer alternatives to custody, the sustained increase of remand and sentenced prisoners over the past number of years should not continue.

The term 'strategy' suggests broad and holistic, yet the *Draft Strategy* does not speak significantly in relation to staff: gender-applicable training for staff is briefly mentioned (para 8.5 and 8.8) although greater detail about this should be provided so as to permit constructive public consultation. *The Draft Strategy* says little of staff/prisoner relationships or the overall impact that staff have and the need for ensuring positive staff morale and personal integrity.

Both the design and implementation of all training in relation to the final strategy should involve organisations and professionals independent of government bodies.

The final strategy should address policy and practice, both in terms of prison management and reducing the female prison population. For example, the *Draft Strategy* also does not address the need to re-assess the security classification of women prisoners although it is generally recognised that very few women imprisoned are of risk to anyone but themselves. As such it should be recognised that Rule 63 (2) of the *UN Standard Minimum Rules for the Treatment of Prisoners* states that 'institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners'.

CAJ would recommend that implementation of the *Draft Strategy* be accompanied by a public awareness campaign; there is the need to make the public (and state bodies) aware of the cost of keeping an offender in prison and the financial and societal benefits of the alternatives to custody. Freeing up money by providing alternatives to custody for offenders who do not pose a threat to the public would allow for more money to be invested in health and social schemes which can benefit both the offender and the greater public. Increased public awareness would in turn lead to increased public support for mechanisms within the *Draft Strategy*.

CAJ supports the multi-agency approach of the *Draft Strategy*. Such partnerships should include state and non-state institutions although nowhere within The *Draft Strategy* is the term multi-agency defined. Not to take away from the responsibility of the government, CAJ believes that incorporating certain NGOs and community groups would contribute to the range of expertise and better meet the needs of the women. Rule 80 of the *UN Standard Minimum Rules for the Treatment of Prisoners* considers that collaboration between prison authorities and civil society is of great importance for the eventual successful re-integration of ex-offenders: 'From the beginning of a prisoner's sentence consideration shall be given to his [sic] future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.'

Over the past few years various reports undertaken by or on behalf of HM Prisons Inspectorate Northern Ireland, the Northern Ireland Human Rights Commission, the Criminal Justice Inspectorate and Baroness Corston have highlighted areas within the prison system (either in general or to specifically to women) which need to be addressed and each has offered recommendations which should assist in the development of the final strategy.

Strategic Strand 1

- A recent consultation addressed the negative implications that an increased use of fines could have on NIPS and the public. Suffice to say that CAJ opposes custodial sentencing for those guilty of fine default given that this is a waste of money and resources. Rather than using fines as an alternative, Northern Ireland should explore alternatives to fines. Moreover, there are significant equality implications given that fines have significant adverse repercussions for already economically disadvantaged individuals and families.
- Electronic tagging has recently been introduced as an alternative to custodial sentences. Minister of State Paul Goggins has stated that "Electronic tagging is a significant step in the delivery of public protection. It will support the rehabilitation and resettlement of offenders and assist in the enforcement of

bail curfews.”¹ While such a curfew scheme may be very cost effective, electronic tagging may not be suitable for some offenders e.g. women with mental health problems like dementia who may wander from their area of confinement. Also worrying is the fact that the decision to tag someone may fail to take into account the reality of women living in an abusive relationship who may need to flee the family home (or other designated control area) for her safety. Significant monitoring of the use and repercussions of electronic tagging should be developed.

- The final strategy should ensure that pre-trial detention and imprisonment are used only as measures of last resort, especially for mothers, as recommended by the Council of Europe Parliamentary Assembly.² To this end, training for sentencing judges is crucial. Training for police as to the benefits of issuing cautions as opposed to recommending prosecution would also be an advantage. Reference in the final strategy to the *United Nations Standard Minimum Rules for Non-custodial Measures* (The Tokyo Rules) would not go amiss.

Strategic Strand 2

- Rule 64 of the *UN Standard Minimum Rules for the Treatment of Prisoners* states that the ‘duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation’. Although the *Draft Strategy* acknowledges the need for greater organisational co-operation by way of the multi-agency approach, CAJ suggests that more emphasis is needed on the after care of offenders so as to facilitate re-integration and diminish the possibility of re-offending. In order to achieve this, the *Draft Strategy* needs to have more explicit mechanisms to support reintegration. Clearly, increased interaction with family and support from outside agencies for women offenders plays a crucial role in successful reintegration. The principle that ‘the treatment of prisoners should emphasise not their exclusion from the community, but their continuing part in it’ (Rule 61 of the *UN Standard Minimum Rules for the Treatment of Prisoners*) should be taken into account when finalising the *Strategy for the Management of Women Offenders*, and when implementing it.
- The *Draft Strategy* acknowledges that women in prison are likely to self-harm, have mental health problems, and/or problems with substances yet it is not (‘Pathway 3 – Health’ or elsewhere) recognised that imprisonment can exacerbate these symptoms and problems. That prison is the most appropriate

¹ <http://www.nio.gov.uk/government-to-introduce-tagging-goggins/media-detail.htm?newsID=15887&keywords=rehabilitation+of+offenders+order>

² <http://assembly.coe.int/Documents/WorkingDocs/Doc06/EDOC10900.pdf>

place for many female prisoners needs to be questioned and the *cause and effect* relationship of prison and mental health problems needs greater consideration.

- The *Draft Strategy* acknowledges (para 2.7) that personality disorder is an issue for many prisoners, however, it is important to note that present legislation in Northern Ireland does not recognise personality disorder as a mental health problem. This needs to be addressed in order for the *Draft Strategy* to reach the greatest number of beneficiaries.
- The *Draft Strategy* is not very detailed about the proposed efforts that the Government are committing to. When devising a plan to fulfil the 4 measures listed in 'Pathway 6 – Children and Families' the recent House of Lords debate should be considered:

'No less than 40 per cent of women offenders lose their accommodation while in prison, which destroys not just their homes but those of their families as well. The Children's Commissioner for England reported that only 9 per cent of children whose mothers are sent to prison are cared for by their fathers, with only 4 per cent remaining in their own homes. How can we then be surprised at the resulting, almost inevitable, cycle of deprivation that this will activate in their children?'³

A great deal more than providing 'extended family contact facility at Ash House' is needed. Rule 79 of the *UN Standard Minimum Rules for the Treatment of Prisoners* states that 'special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both'. For example, transportation (or the cost of public transportation) should be offered to family members if necessary.

- It is clear that the 9 pathways outlined to meet the needs of women in the Criminal Justice System do not solely concern the role and responsibility of NIPS. However, we would be concerned that the Government's commitments which are expressed in 'Pathway 9 – Supporting women who have been involved in prostitution' may further victimise women who have been victims of human trafficking. Certainly the Government should have human rights compliant policy which deals with victims of trafficking; however, we believe that the *Draft Strategy for the Management of Women Offenders* is not an appropriate place to tackle this. Mentioning the development of such arrangements in the *Draft Strategy for the Management of Women Offenders* perpetuates an idea that the victims of human trafficking are perpetrators of

³ House of Lords Debate, 14 January 2009. Question on Women in Prison tabled by Baroness Howe of Idlicote See: <http://www.theyworkforyou.com/lords/?id=2009-01-14a.1278.1>

crime, and may also confuse the reality of human trafficking with human smuggling.

Strategic Strand 3

- We would welcome a public consultation in relation to the best facility for accommodation for women released from custody (para 7.10-7.12). Given that ‘work will be commissioned to explore this potential provision in 2009 – 2010’ it seems unnecessary to put forth our ideas here although there are significant aspects to consider regarding the proposed hostel.
- The *International Covenant on Civil and Political Rights* (article 10.3) states that ‘the penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation’. This issue was discussed at length at the public consultation held at NICVA on 21 April. On this day, a somewhat defeatist attitude was put across by some individuals working within Ash House in relation to a lack of enthusiastic participation of many women in the present opportunities offered. Lack of motivation suggests deeply rooted issues and this would indicate that the life skills needed are not only practical skills, but also mechanisms in which to instil motivation and facilitate empowerment. This is precisely where the assistance of outside agencies would be vital.

On a practical level it is necessary that more suitable opportunities be provided for women to participate in classes in order to develop useful skills. This seemingly involves:

- changing/adapting/increasing the education and training classes presently available as the classes offered at present are generally male-oriented and;
- finding ways which permit that the women have access to facilities, which at present are shared with the men at Hydebank Wood.

Providing purposeful days to the women is seemingly a challenge not least because of the physical restraint of sharing space with the men at Hydebank Wood. However, that the women suffer because they are less in number than the men is paramount to discrimination.

Strategic Strand 4

- While we do not want to argue an issue which has been discussed for many years and by a variety of organisations, it is nonetheless important to re-affirm the necessity of the government to provide suitable self-contained custodial facilities for women offenders in Northern Ireland. The facilities as they exist at Ash House within Hydebank Wood are clearly at odds with the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (rule 8(a)).

Compliance with such standards is important for the women, but would also facilitate greater observance of the international standards which relate to the infants and children of imprisoned women.

Annex C

- It was disappointing to see that Annex C fails to give dates which could be used for effectively monitoring the development and implementation of the proposed strategy's initiatives and commitments. Moreover, some of the short-term (Strategic Strand 3) aims listed should be on-going; for example building relationships with organisations which can provide services/advice is something that continually needs to develop. Continuity of services also needs to be an ongoing goal. Retaining a multi-agency approach throughout the years will be important, as reintegration depends on the interplay between many organisations and individuals.

We look forward to reading your analysis and response to the submissions to the consultation.

Your sincerely,

Aideen Gilmore
Deputy Director