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**Submission to the UN Committee on
Economic, Social and Cultural Rights**

**By the
Committee on the Administration of Justice (CAJ)
An affiliate of the Federation Internationale des
Droits de l'Homme (FIDH)**

September 1997

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Introduction & summary of recent developments in relation to Northern Ireland

There have been very important political developments in Northern Ireland since the UN Committee on Economic, Social and Cultural Rights last discussed the UK report in May 1997. There was a restoration of the IRA ceasefire in July 1997, and political negotiations, inclusive of most political parties, commenced in September 1997. This process of political talks has been heralded as historic by many commentators.

The challenge for all those concerned about the promotion and protection of human rights is to ensure that high-level political negotiations do not ignore the human rights dimension of the problem. As we noted in our previous submission, the preamble of the International Covenant says that the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". Northern Ireland provides a practical confirmation of this basic truth. Issues of justice and fairness have been at the heart of the conflict in Northern Ireland, and must therefore be at the heart of its resolution. The Committee on the Administration of Justice (CAJ – for short explanatory note about our organisation see Appendix) believes that international scrutiny, of the kind provided by this UN Committee, has a highly significant role to play in ensuring justice for all, and therefore in building peace. We welcome very much this opportunity of making a presentation to you.

In our original written and oral submissions of May 1997, the CAJ already commented on the timeliness of this debate. Now the situation is even more hopeful – in that there is both a new government in place, and a burgeoning peace process. If government can turn the important principles underlying international obligations, such as those encapsulated in the Covenant on Economic, Social & Cultural Rights, into real change on the ground, they will make a major and necessary contribution to building the peace. **We felt that the Committee's question 12 from the List of Issues was particularly important in this regard. The UK government should be asked to comment in some detail about how it intends to reassure both major traditions (unionist and nationalist) that their economic, social and cultural rights will be protected, regardless of whatever political structures are eventually agreed.**

In previous CAJ submissions, we expressed a concern that there would be a temptation to defer human rights issues until a broad political settlement was reached through negotiation. The provisions of the Covenant are not, however, matters for negotiation. Furthermore, full guarantees of rights under the Covenant should underpin, rather than merely flow from, the political negotiations that have just begun. We are accordingly disappointed to note that, since taking office in May, the government has not yet satisfactorily moved to review and amend policy concerns identified in our original submission. Indeed, a number of actions taken to date are likely to increase, rather than reduce, existing social inequalities. In this submission,

we reiterate and update issues we brought to your attention in May, but we also talk about some of the new government policies introduced since, for example:

- delays in strengthening fair employment legislation (article 6);
- introducing charges for residential care (article 9);
- criminalising aspects of Traveller culture (article 11);
- and, charging for higher education (articles 13/14)

We welcome the opportunity provided by your Committee to non-governmental organisations such as ourselves, to identify areas where action is required if the government is to ensure full implementation of the Covenant. Given the limited references made to Northern Ireland in the initial UK report, and the fact that there are real differences in law, policy and practice between the different UK jurisdictions, we wanted to remedy this information deficit. Accordingly, to advise us on our submission in May, we convened a meeting with a number of other NGOs, and we were pleased to see that several of them have since then also made submissions to you. Hopefully, the government will address the specific issues relevant to Northern Ireland in more detail when making their submission to your November meeting.

Article 1

Reference is made in the UK report to the importance of its membership of the European Community in protecting various economic, social and cultural rights. However, the key mechanism in this regard is the Social Chapter, and the UK government is the sole member of the EC to have opted out of its provisions. As you know, the incoming government has committed itself to accepting the Social Chapter, but we are unaware of any definite timetable being agreed for this move. **It would be helpful if the Committee could ask the government to outline its timetable for the implementation of the Social Chapter.**

Article 2

CAJ has lobbied for many years for the introduction of a Bill of Rights. All the political parties in Northern Ireland accept the need for a written entrenchment of rights. The elaboration of an agreed text would encourage a stronger commitment both to the protection of one's own rights and those of others. In a divided society such as Northern Ireland, a public debate of this kind would be highly beneficial.

The UK government has committed itself to incorporating the European Convention on Human Rights. In addition, however, to appearing to favour the weakest form of incorporation, this move alone will do little to ensure protection of the economic, social and cultural rights enunciated in the Covenant. **Accordingly, we look forward with great interest to the response the government will give to the List of Issues (questions 5-10) raised in connection with article 2.1. Our own belief is that a Bill of Rights for Northern Ireland is vital to protect economic, social, cultural, as well as civil and political rights. Given the widespread political consensus around the issue, and the enormous benefits to be gained from a broad public debate around the protection of rights which would be a natural precursor of a Bill of Rights, it is unclear to us why the UK government does not move more energetically on this matter.**

Articles 3 - 5

These issues are addressed as and when appropriate under other articles.

Article 6

This article recognises the central importance of the “right to work”. The government report acknowledges that the UK continues to have a serious and continuing problem with structural unemployment. Recent improvements have been recorded, but it ought also to be pointed out that, due to some thirty-three changes to the statistical basis on which unemployment is calculated (all but one of which have brought the official statistics down), many economists put the underlying figure much higher. In Northern Ireland, the situation is very acute, with 11.3% of the male labour force unemployed (see government press release 17 September 1997). There are also particularly serious pockets of deprivation - for example on certain public housing estates, the figures has run as high as 85+%. Long term unemployment is particularly notable in Northern Ireland, with half of the unemployed being classified as long term unemployed (and nearly one fifth of the unemployed having been so for more than five years). In addition to the huge personal costs involved in long term unemployment, all the evidence suggests that the longer unemployment lasts, the more difficult it is for people to re-enter the labour market. **In discussing recent Labour government initiatives to tackle unemployment, it would be worth highlighting in particular the special problems of long term unemployment to see how government intends to protect some of the most vulnerable groups in society. It would be especially helpful if the Committee could ask the government how it intends to tackle these problems in Northern Ireland specifically.**

Article 6 goes on to state that steps must be taken to ensure “full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual”. The government report cites legislative protections to counter various forms of discrimination, yet in Northern Ireland we can cite many employment problems faced by workers because of their religious or political beliefs, their gender, race, or disability.

The Fair Employment Act is the legislation introduced to prevent discrimination in employment on religious or political grounds. Despite many advances as a result of this legislation, the differential in unemployment levels is stark. It remains the case that Catholic males are more than twice as likely as Protestant males to be unemployed (the differential is only slightly less with regard to Catholic and Protestant females, where the ratio is 1:1.8). Furthermore, the very legislation introduced to prevent discrimination on religious and political grounds makes exemptions on grounds of “national security, public safety or public order” (section 42), and research shows that this provision disproportionately impacts on the Catholic community. A major review of fair employment legislation and practice was carried out over a two year period by the statutory body responsible for advising government on human rights issues (the Standing Advisory Commission on Human Rights (SACHR)). SACHR’s report was completed in June 1997 and submitted to government for action. To the dismay of many commentators, the government response seemed, at best, lukewarm; it certainly did not reflect either the seriousness of the situation, or the contribution which advances in this area could make to a more just society. The government statement accompanying the report referred to the

recommendations as “radical” and emphasised the obvious fact that the government was not obliged to implement all of the report).

Since the publication, the government minister responsible has apparently instituted a further round of consultation, but the purpose of such consultation is not evident, given the fact that SACHR itself carried out an unprecedented range of consultations during the 2 ½ years of the project. Furthermore, some of the organisations most directly involved in the work to date (statutory bodies such as SACHR and the Fair Employment Commission, and voluntary groups such as CAJ) appear to have been excluded in this second round of consultation. **It would be very helpful if the Committee asked the government about its intentions with regard to the SACHR report and its timetable for implementation.** Fair employment is sometimes mistakenly portrayed as divisive: strong government leadership is required if people are to understand that long term unemployment, and non-discrimination in employment, are matters of basic human rights, and as such a concern for everyone in the community. It would be an enormous disservice to greater equality of opportunity, and to the burgeoning peace process, if the recommendations of this major report were not to get the important and urgent attention they deserve.

Religious and political discrimination is not, however, the only problem faced by workers in Northern Ireland. The Equal Opportunities Commission for Northern Ireland (EOC-NI) has the statutory duty to advise government on gender issues, but has had its recommendations frequently ignored. For example, it has consistently called for significant amendments to be made to the Sex Discrimination (NI) Order. Some recommendations (for example, in relation to indirect discrimination) mirror the criticisms of the fair employment legislation. Others - such as the overhaul of the Equal Pay Act - are gender specific. Many of those campaigning for womens' rights argue that current UK legislation falls well short of the right to equal treatment enshrined in article 119 of the Treaty of Rome and in article 7 of the International Covenant. As regards maternity pay in particular, the EOC (NI) has stated that the UK has the worst maternity pay conditions of the European Community. The new government has announced changes to the benefit system that are intended to facilitate the early return to work by single parents (mainly young women). **The Committee might want to ask the government to outline how it intends to ensure that measures such as the “Welfare to Work” programme are, and are seen to be, positive and supportive measures for some of the most vulnerable in society, and that they are not in any sense punitive.**

After many years of lobbying, and strong criticism from the UN Committee for the Elimination of Racial Discrimination, the government eventually agreed to extend protection for members of ethnic minorities to those who live in Northern Ireland. Race relations legislation applicable in Britain had not previously extended to Northern Ireland. Enthusiasm for this move from ethnic minority communities was however tempered by the fact that the government refused to introduce legislation of a kind which would overcome the difficulties its British predecessor has already encountered. Indeed, the Northern Ireland Race Relations Order is in some respects weaker than its British counterpart. In Northern Ireland, the requirement in the legislation that local authorities ensure equality of opportunity cannot apply to anything like the same extent as in Britain, since local authorities here have much more limited power. Elsewhere in this paper (see article 11) we comment on the fact that subsequent legislation relating to specific ethnic minority groups runs counter to this race relations legislation, which is particularly disturbing. **The Committee may want to question the government closely on why, after waiting more than**

twenty years to extend the race relations legislation in Britain to Northern Ireland, it chose to introduce legislation which had already been shown to be inadequate. When does the government intend to introduce the necessary improvements which would gain the support of the ethnic minority communities?

Probably the longest section of the UK government's report in response to implementation of article 6 of the Covenant relates to rights guaranteed persons with disabilities. However, they failed to mention that this piece of legislation was only reluctantly introduced by the last government following the furore over the sabotage of the Civil Rights (Disabled Persons) Bill. This latter draft legislation was favoured by people with disabilities, and the groups representing their interests, even to the extent where many actively campaigned against the introduction of the new Disability Discrimination Act. Opposition to the current legislation is both on technical and conceptual grounds. Thus, for example, unlike all other anti-discrimination legislation, there are no provisions for a statutory enforcement agency. Furthermore, the medical model of disability is the key focus of the legislation, and complainants must show how "incapable" they are in order to gain relief. **Given that government research shows that one in six of the adult population of Northern Ireland has a disability, the need for strong anti-discriminatory measures is very clear. When does the government intend to introduce legislation which has effective enforcement powers and fully respects the rights of people with disabilities? The Committee's questions 26 and 27 in the List of Issues are particularly apposite in this regard.**

To conclude this commentary under article 6, we must express some surprise at the fact that the government in its initial report failed to mention one of the most progressive measures it has introduced to promote equality of opportunity, namely the Policy Appraisal and Fair Treatment guidelines. According to government:

"The aim of the PAFT initiative is to ensure that, in practice, issues of equality and equity condition policy making and action in all spheres and at all levels of government activity, whether in regulatory and administrative functions, or in delivery of services to the public. The guidelines identify a number of areas where there is potential for discrimination or unequal treatment to occur and outline steps which those responsible for the development of policy and the delivery of services should take to ensure that, in drawing up new policies or reviewing existing policies, they do not unjustifiably or unnecessarily discriminate against specific sections of the community".

These guidelines apply to people regardless of religious or political beliefs, of gender, marital status, having or not having a dependant, ethnicity, disability, age or sexual orientation. As such, they provide protection to social groups that have had no legislative protection against discrimination to date, and they are meant to mainstream issues of fairness throughout government policy making and service delivery.

The reason that reference was not made in the government report to the existence of the guidelines may be due, in part at least, to the fact that in the nearly four years of their operation they have not been effectively implemented. Such is the support for the important principles enunciated in the guidelines, and the frustration with the slowness in implementation, many groups are now calling on the government to put the guidelines on a statutory footing. SACHR argued for this in its major report on

employment equality, and the Labour Party in opposition promised to take such a step. **The CAJ, many other NGOs, and indeed all the key statutory groups working in the field of anti-discrimination, believe that one of the most important contributions government could make to greater equality of opportunity is to give the PAFT guidelines legislative force. It would be very helpful if the Committee could discuss with government what its timetable is in this regard.**

Article 7

This article talks of the right of everyone “to the enjoyment of just and favourable conditions of work”. There are at least two crucial issues which we suggest must be addressed here by the Committee in its examination of the UK report.

Firstly, there is the need for fair wages and equal remuneration. Rising inequalities in society have been a feature of the UK economy in recent years: in the 1980s, poverty increased faster in the UK than in any other EC country. Between 1979 and 1992, the poorest 10% of the population saw their incomes drop by 17%, whereas the richest 10%, saw their incomes rise by 62%. Northern Ireland is the poorest region within the UK, with over 27% of people living in poverty, and a staggering 39% of children living in poor households. Recent studies show that private sector earnings in Northern Ireland are 20% lower than those in Britain, and the GDP per head is at 79% of the EU average. At the same time, Northern Ireland has the highest male unemployment rates of the UK (11.3%), and has some of the highest EU levels for long term, and very long term, unemployment. From these figures, it can be seen that Northern Ireland disproves the report’s contention that low pay leads to lower unemployment. On the contrary, low pay and high unemployment, continue to produce high levels of poverty. Since the abolition of the Wages Councils, the Low Pay Network has discovered that throughout the UK, pay has fallen. In the clothing industry, it has fallen by 7.2%; in the hotel industry by 5.3% - both of these are particularly important labour sectors in Northern Ireland. There is no clear evidence of any increase in employment in these areas.

Furthermore, some of these issues have a particularly serious impact on the female workforce. Since 63% of the low paid are women, the absence of a minimum wage is indirectly discriminatory. Furthermore, in arguing against the abolition of the Wages Councils, the Equal Opportunities Commission (NI) said that it was “one of the most practically effective systems in the UK and Northern Ireland for maintaining and protecting the principles of equal pay”.

We believe that many of the issues around growing social inequalities, the marginalisation of certain groups, and the differential access to economic, social and cultural rights, can be tackled by government with the necessary political will. Given the contribution to political instability that such problems create in Northern Ireland, energetic government commitment to reducing disadvantage is particularly vital. It is important to note that the government already has in place a major policy initiative which, if implemented effectively, could address many of these concerns. Targeting Social Need (TSN) is a government spending policy which says its “*objective is to tackle areas of social and economic difference by targeting government policies and programmes more sharply at those in greatest need - that is, those areas or sections of the community suffering the highest levels of disadvantage and deprivation*”. The programme does not necessarily require extra resources, but says that current (or

additional) resources should be skewed to those in most need. As with the PAFT guidelines, however, this is a progressive government measure which is not being exploited to the full. In the SACHR research study alluded to earlier, a detailed study of the Targeting Social Need programme concluded with the statement "TSN has not been, in our view, a public expenditure priority – rather it is a principle awaiting definition, operationalisation and implementation. **As outlined in question 38 of the List of Issues, the Committee should question the government closely on how it intends to halt and reverse the trend that grew apace under the 18 years of Conservative government of growing social and economic inequalities. The glaring inequalities in Northern Ireland contribute to the lack of political stability, and the government's attempts to build fairness and justice into its economic measures in Northern Ireland deserve particular scrutiny from the Committee.**

Secondly, since 1979, government labour market policy has been one of deregulation, which has resulted in an erosion of workers rights. It is the contention of government (strongly averred in its report under articles 6 and 7) that the abolition of Wages Councils, the refusal to set a minimum wage, and the operation of the free market, are justified on the grounds that they ensure higher levels of employment. Thus, for example, the government consistently opposed the extension of equal rights to part time workers arguing that "changes will make employers more reluctant to create part time jobs and may threaten them" (Michael Portillo, former MP and then Minister for Employment). Yet, the statistics prove this claim wrong. In 1994, a House of Lords judgement ran counter to the prevailing government orthodoxy, and extended the rights of part time workers. Whereas, in 1994 such work had increased by 70,000, after the ruling in 1995 they increased by 280,000. Indeed between 1985 and 1994, part time working increased faster in the Netherlands, Belgium, Ireland, France and Germany - all countries which have greater regulations in force than the United Kingdom.

It is worth emphasising that, in September 1996, 74% of all part time workers in Northern Ireland were women, and 45% of all women workers are part time. Accordingly, a lack of regulations protecting the rights of groups such as part time workers has an important indirectly discriminatory impact on women workers. The Equal Opportunities Commission for Northern Ireland carried out a study into the impact of the government policy of competitive tendering. Examining twenty contracts entered into by the Health and Education Boards the study found that:

- the majority of services selected for competitive tendering were female dominated;
- there was a higher rate of overall job loss for women than for men; and nearly three times as many female full time jobs were lost as male full time jobs;
- the average working hours were cut twice as much for women as men and there was a 3% increase in the overall pay differential between genders after tendering.

Of concern to both men and women was the fact that the study found the number of people without access to statutory employment rights increased, and that after tendering, 99% of the women and 95% of the men had basic wages falling below the Low Pay Unit's definition of low pay. It is our belief that while the current government may disavow some of the rhetoric of the initial report, they have few if any plans to reverse the trend towards greater deregulation. **The Committee may want to question the government to see to what extent it is already aware of the impact on workers' rights of deregulation, and the discriminatory impact deregulation and competitive tendering have had on women. What steps does the government intend to introduce to counter these problems?**

Article 8

A separate submission to the Committee in May 1997 from the Northern Ireland Committee of the Irish Congress of Trade Unions - the umbrella organisation for the trade union movement in Northern Ireland - talked in some detail about the limitations which have been placed on workers in terms of their right to form and join a trade union, and the rights of unions to function freely. The legislation introduced by the previous Conservative government regarding trade union rights allows, amongst other things, for workers to be dismissed for engaging in industrial action, and it severely curtails the rights of unions to secure recognition, and therefore to represent effectively the interests of their members. Clearly the right to trade union membership is seriously limited, and some might say effectively denied, if members can be victimised for their trade union membership, and if unions are unable to organise.

The government has restored trade union rights in relation the GCHQ (trade union membership was denied staff working at this institution on the grounds of public security) and this advance is to be welcomed. We, like the Committee, will be very interested, however, in learning about the number and membership figures of trade unions, with a view to assessing trends in union membership. It is very clear that the number of workers unionised has diminished greatly in recent years. This has several causes, but chief amongst them is the perception that trade union membership confers fewer rights than it used to, and also the growing casualisation of labour which undermines the perceived value of union membership. **The Committee should pursue closely the answers government gives to questions 39-45 regarding the legislative and other changes it intends to make to comply with its obligations under international law.**

Article 9

The government has given an extensive commentary on medical care and social security provisions but has not highlighted the extent to which such provision has been seriously undermined by government policies in recent years.

It is clear that, far from providing a comprehensive health service to improve the physical and mental health of the population as a whole, government reforms have effectively created a two-tier system, with those in most need bearing the brunt of cuts in health service provision. The new government, instead of seeking energetically to reverse this trend, seems to be prepared to exacerbate the situation. They recently published a consultative document which proposes introducing charges for residential care, increase the costs of home help, and make charges in the care of the terminally ill, and the very elderly. These proposals have caused much alarm, particularly amongst those working with the most vulnerable in society: the elderly, the terminally ill, those in need of residential care. This is a new and disturbing development – and it is disappointing that such a retrograde step is being considered so early in the life of the new government. The document seems, also, to run in the face of concerns around equality and non-discrimination. **Given the fact that this is a new development since the first UK report, the Committee should question the government closely on these proposals which appear to many experts to run completely counter to the obligations of article 9 regarding good health care for all, irrespective of income.**

Cuts in health provision only further exacerbate the already large disparity between the health of the general population and that pertaining to marginalised groups in

society. For example, the government's own Advisory Committee on Travellers has pointed out that the life expectancy for Travellers (an indigenous nomadic minority ethnic group in Ireland, mentioned specifically as an ethnic minority protected under the race relations legislation) is 20% lower than that of the rest of the population. The mortality rate for Traveller children is approximately ten times that for settled children. Yet despite these disturbing statistics, the government has refused to establish a task force to tackle the health problems experienced by Travellers. Other minority ethnic communities often face serious language barriers in getting their health needs addressed. The Chinese community, for example, when surveyed, revealed that 90% of those interviewed faced language barriers; 72% indicated limited knowledge about available services; and 50% noted that access to health services was problematic.

On the social security side, the universal right to social security, as encapsulated in article 9, could be said to have ended in Northern Ireland with the introduction of the Jobseeker's Act in 1995. Under the terms of this Act, unemployed people must provide evidence of their efforts to find work before they receive benefit. In addition to removing a fundamental right to benefit, there were a number of other objections raised about the introduction of the JSA. The trade union movement, which is actively campaigning for its repeal, has expressed a number of concerns, namely that it (a) cheats workers out of benefit rights they have already paid for; (b) undermines the pay and conditions of all workers; (c) cuts the already inadequate benefits unemployed people rely upon; and (d) increases the stress and insecurity faced by the unemployed. Its very title - supposedly intended to raise people's hopes and aspirations - too often seems like a humiliating mockery, when jobs are not available to be sought. The signing of a formal agreement outlining the measures the job-seeker will undertake to try and secure work is demeaning, in that it assumes that many unemployed people are not willing to work. It is also coercive: claimants have, on occasion, been told to get their hair cut, or alter their dress style, so as to make themselves more "employable", and show their good intent in seeking work. The JSA is also discriminatory towards people in the 18-25 age range since they are given a lower rate of benefit. **The Committee's question 51 in the List of Issues addresses the particular needs of children and young people in terms of social security.**

Changes to incapacity benefit have also been condemned as having created an "Incapacity Benefit gap" whereby needy people fall through the social security net. Previously "incapacity" was defined in terms of one's ability or otherwise to work. Accordingly, if an individual were found to be unable to work, he or she would automatically qualify for incapacity benefit. Now the two concepts have been separated, allowing people to fall through the system. Thus, people have discovered that, even when their incapacity has been officially recognised as preventing them from working, they are not considered to be sufficiently incapacitated to qualify for incapacity benefits.

Unemployment benefits - given the size of the unemployed population - are a particularly important provision in Northern Ireland. A separate submission in May to your Committee from the student body (NUS/USI) explained that students are denied these benefits with, in many cases, serious consequences. Nor is there, as there used to be, an option for transitional assistance when people leave the ranks of the unemployed (where they may have accumulated debts, but precious little savings) to take up work. Moreover, in 1988, the government ended the automatic entitlement of young people in the 16-18 age group to unemployment benefits, replacing it with the possibility of payments in cases of extreme hardship only. Financial assistance is

now largely contingent on participation in government training and education programmes which are low paid, often of poor quality, and have been characterised as economic exploitation. **The Committee asked the government to explain the difficulties of full time students and work permit holders in securing social security benefits (question 52) and this will presumably be addressed in the follow-up report by government.**

A major concern, however, applying to all social security provision and to all those in receipt of benefit, is the extent to which the value of many of the benefits has been eroded. Benefits have been linked to the Retail Price Index since 1984 rather than to wages. At present, the level of benefit is the third lowest in Europe. People and households who are dependant on benefits (and in Northern Ireland, this is nearly one fifth of all households) have been getting proportionately poorer over the last decade and more. **All of the questions relating to article 9, but especially question 48, are relevant in this regard. The new government is pledged to a fair society. It is very important for the Committee to get specific details from the government as to how it intends to reverse trends in the area of social security, and the timetable it is working to.**

Article 10

An important omission from the government's report related to the provision - or lack of provision - of childcare facilities. In a report by the Equal Opportunities Commission (NI), it was noted that Northern Ireland has less publicly funded childcare facilities than Great Britain, which in turn has the poorest rate of provision in the European Union. The Social Services Inspectorate commenting on daycare provision in Northern Ireland in 1994 said that "*total provision is negligible relative to demand*". According to the Office for National Statistics for the UK, the Northern Ireland region has the youngest population, the highest proportion of children, the highest birth rate, and an average household size which has fallen but which "*remains far the highest*". Where one in four families are headed by a lone parent, the absence of proper childcare provision is particularly problematic, since it becomes extremely difficult for those lone parents to pursue further education, gain qualifications, or take up employment, and they are forced into a kind of benefit-dependency. CAJ noticed that this issue does not seem to be reflected from the List of Issues elaborated by the Committee, but we would like to emphasise again the centrality of this issue to protecting family life, eliminating discriminatory work practices, and protecting the most vulnerable. The government's answer to your question 62 about teenage pregnancies will show that this is a particularly acute problem in Northern Ireland, and again proper childcare provision would help to break the cycle of deprivation that teenage pregnancies contribute to. **The Committee should ask the government what measures they intend to undertake to increase the number of childcare places, especially in Northern Ireland.**

Another topic which did not seem to merit any attention from the government under this article of the Covenant is the problem of domestic violence. In Northern Ireland, between 1990-1994, 21 women were killed by their partners. Recent studies of the problem highlighted a number of particular concerns - the fact that many police were unaware of the existence of force guidelines on the handling of domestic violence even several years after such guidelines were introduced; there was a very low rate

of arrest (only 12 to 16% of the 3000 or so incidents attended every year); more than half of the police interviewed favoured a mediation/counselling approach; one third of cases are dropped before they reach trial; there is a consistent pattern of charges being downgraded and of lower sentences being awarded. The authorities have to consider how they can better protect women from violent partners. This would probably involve introducing more parity in the prosecution and sentencing policies applied to domestic crimes, as well as greater support and funding for groups working closely with abused women and their families. At the very least, the criminal justice system, and the policing of it, need to be made more responsive to the needs of women. **The Committee has asked (question 58) for details from the government regarding the measures it has, or intends to take to combat the phenomenon. The government should also be asked what steps have been taken to improve the record of Northern Ireland's police force in dealing with problems of domestic violence.**

Despite an extensive section of the government's report referring to "maternity protection" no specific reference is made to the treatment of pregnant women whilst in prison. Yet this has been a particularly topical issue over recent months as TV and media exposes have highlighted women prisoners being shackled to prison officers, both immediately before and immediately after childbirth. Recent international attention has focused on the case of Roisin McAliskey, on whose behalf Amnesty International issued an urgent action. At the time of writing, Ms McAliskey is awaiting extradition to Germany. When in an advanced stage of pregnancy, with a number of serious health problems, she was subjected to repeated strip-searching and denied adequate access to medical treatment, exercise, fresh air and association with other prisoners. Despite independent medical evidence of the risk to her safety, and that of her then unborn child, the authorities repeatedly refused her bail. In the last few days, we have read media reports of a case in England where a 17 year old pregnant mother was told in court that her child, when born, would be taken away as a form of punishment. We assume that such a decision will be overturned on appeal, but a judicial pronouncement which so totally ignores the interests of children (mother and baby) is deeply disturbing and shows a limited grasp of basic human rights. While unusually blatant, this case does not appear to be unique and campaigners believe that the particular needs of pregnant women prisoners are not effectively catered for by the authorities. **We would urge the Committee to examine the UK closely on its treatment of pregnant prisoners and women prisoners with young children.**

Despite much pressure, the UK government has been very slow to return prisoners to Northern Ireland and the Republic of Ireland from Britain to serve their sentences. The real victims of such a policy are the partners (nearly always wives) and children of the prisoners. Family life is severely curtailed given the practical difficulties of travelling long distances to visit the imprisoned family member. Yet the Convention on the Transfer of Prisoners has been ratified by the government, so there is no reason in principle for any delay in bringing families somewhat closer together. **The UK government should be asked for a timetable for implementing the return of prisoners who want to move closer to their families in Northern Ireland or the Republic.**

The report talks of the protection the government offers to children, and cites in particular the legislation introduced around the creation of the Child Support Agency. Unfortunately, this legislation has been criticised by many different groups as it arguably focuses more on the need to make savings for the public exchequer than on any desire to extend the freedoms of children and/or their carers. The report, however, does not address several other issues which would be of relevance to the

special needs of children of Northern Ireland. Firstly, there is the problem that these children are living in a conflict zone. Little research has been done on the impact of the conflict on children and young people, and yet it is clear that there are important needs which are not being met. Secondly, poverty affects 39% of our children and has been effectively described as “a war against children”. Thirdly, while the sexual abuse of children is in no sense peculiar to Northern Ireland, the response of the authorities regarding compensation has been quite different here.

In Britain, compensation for adult survivors of child sexual abuse is available, even though the statute of limitations would normally mean that those over 21 are not able to claim financial help. Although the same discretionary power is held by the Secretary of State for Northern Ireland, the former incumbent chose not to exercise it. In response to media coverage of cases where abuse had occurred some years previously, it had been hoped that the Northern Ireland practice would be brought in line with England and Wales. However, shortly before Christmas 1996, the Northern Ireland Office made it be known that, as a result of pressure on the public expenditure budget, no such discretionary compensation payments would be made. In an interview with the then Secretary of State, campaigners were told that he was unapologetic, and that Northern Ireland “will pay for Drumcree” (an allusion to the costs involved as a result of the serious public disorder which broke out across Northern Ireland last year). It is unclear what the position of the current Secretary of State will be. **The Committee should ask the government whether it intends to extend to Northern Ireland the same rights to compensation that the adult survivors of child sexual abuse can expect in Britain.**

The Committee should also ask the new government if it intends to maintain the reservations its predecessor entered under article 32 of the UN Convention on the Rights of the Child. This continued reservation allows the government not to comply in full with its obligation to protect children from economic exploitation. In Northern Ireland we believe that there are quite a number of children in some form of casual labour jobs, but there are few studies providing reliable data. This lack of data in turn makes it difficult to know how extensive the problem is, and what responses should be instituted.

Article 11

This article recognises the right of all to an adequate standard of living, including adequate food, clothing, and housing. According to the government’s report, “*the UK has an excellent food supply, and there is now a wider variety of safe, wholesome and nutritious foods than ever before*” (para 125). However, it is important to point out that access to this food supply is contingent on income. The government’s own statistics show that, whilst average income levels in Northern Ireland are lower than in Great Britain, households in Northern Ireland have to spend higher amounts on food (and fuel) than their British counterparts. This disparity clearly has important ramifications for those on low incomes or receiving benefits.

In relation to housing, it is important to point out that housing unfitness in Northern Ireland, as measured by the 1991 House Condition Survey, indicated an 8.8% unfitness level. Also, between March 1990 and January 1996, the number of housing applicants on the urgent waiting list increased by almost one third. As to the situation of the homeless, the statement that “*there is no official evidence of anyone*

sleeping rough in Northern Ireland' (para 195) is disingenuous. Housing campaign groups believe that the problem of homelessness is real but hidden, and that it is part of government's responsibility to monitor the situation closely to ascertain the size of the problem, so as to respond appropriately.

The accommodation situation of the Travellers is particularly bad. Provision of accommodation for homeless people from the majority sedentary community is mandatory under the Housing (Northern Ireland) Order 1981. The provision for Travellers, who pursue a nomadic way of life, is however discretionary and is administered by local authorities. In spite of a series of plans and promises, local authorities have signally failed to meet the accommodation needs of Travellers. It is still the case that only 55% of Travellers live on serviced sites offering basic amenities, and even the standard of this provision is almost universally abysmal. These problems are exacerbated by the effective exclusion of Travellers from the design of these facilities. The remaining 45% of Travellers generally do not have access to the most basic facilities such as running water, sanitation, electricity or refuse collection. (A separate submission before the Committee from the Northern Ireland Council of Travelling People (NICTP) outlines some of the disturbing facts about Traveller disadvantage).

The government has announced proposals to end the "designation" provisions, whereby a quota for the number of Travellers allowed in a particular local authority area in Northern Ireland could be set. CAJ and others welcome the proposal to end "designation" status but these provisions are to be replaced with a general power enabling the removal of unauthorised campers. The draft legislation (Draft Local Government (NI) Order 1997) amounts to a criminalisation of the Traveller way of life, despite the fact that this would appear to contradict completely the protection offered them under the race relations legislation. **The Committee should question the government closely on this matter of the proposed local government legislation to assure itself that its discriminatory elements are eliminated. Furthermore, there is currently underway an assessment of the accommodation needs of Travellers; it would be very opportune if the Committee emphasised the urgent need to address this problem to remedy the appalling living conditions which many Travellers are obliged to endure.**

Article 12

Much of the concerns around health have already been commented upon under article 9. It is worth emphasising, however, that poverty has been described by Save the Children as "a serious, contagious, and sometimes fatal illness". Unsurprisingly, given the high levels of poverty, and of unemployment, in Northern Ireland, there are concomitant health problems. Infant mortality in the Traveller community, for example, as mentioned elsewhere is ten times that of the settled population. Yet cuts in public expenditure have led to dramatic reductions in health service provision, and the move to centralise health services, with a view to financial savings, has particularly serious consequences for people living in rural areas. There is a perception that much of the health provision "west of the Bann" (ie in the western part of this jurisdiction) is being adversely affected. Given that this area has a dispersed - largely rural - population, is predominantly Catholic, with disproportionate numbers of very young and very old, such cutbacks, if they are occurring, would appear to have little medical or social justification.

In pursuing health issues, the Committee should also, when exploring the extent of the AIDS/HIV health issue in the State party (and specifically in Northern Ireland), ask the government to explain the different ages of consent which apply both to homosexual and heterosexual sex, and in different jurisdictions within the UK. While AIDS/HIV health concerns obviously go beyond issues of sexual orientation, the fact that one's sexual orientation can be a criminal matter may deter some people from seeking early medical attention and/or safe sex education.

Articles 13 & 14

Northern Ireland has retained a system of selective education at secondary level, largely abandoned in Britain. A competitive transfer procedure at age eleven determines which of two school sectors - grammar or secondary - the child will enter. The procedure has been criticised as placing undue stress on children at an inappropriately early age. Moreover, given the public perception of the two schooling sectors, there is a strong sense of "success" or "failure" foisted on the child very early in life. There is abundant evidence that the selective process leads to educational inequalities, reflects and maintains social disadvantage, and has a large impact upon later social and economic participation. In particular, selection discriminates against children from poorer families: in 1995, 36% of secondary school children fell below the official poverty line, entitling them to free school meals, but only 9% of grammar school children did. In Belfast, secondary school pupils are seven times more likely to come from poor families than their counterparts in grammar schools. In Northern Ireland (as elsewhere) this disadvantage carries on into the world of work, since those leaving school without qualifications are twice as likely to be unemployed. Thus, the cycle of deprivation is continually reinforced with children from disadvantaged backgrounds much more likely to fail the "11-plus" exam; to go to secondary schools rather than grammar; to leave school earlier with fewer (or no) qualifications; and in time to be unemployed.

Of particular concern is the fact that studies show that the gap between rich and poor has widened as a result of recent changes in the nature of the test, so that 52% of pupils in schools in well-off areas achieved the top grade, compared to 16% in schools in more deprived areas. Since Catholics are more likely to live in deprived areas, they perform less well as a group, and a wide gap has opened up between Protestant and Catholic performance in the last three years. This is bound, in due course, to exacerbate the differentials which already exist in the unemployment rates of the two communities.

Despite the growing evidence of the divisive nature of the selection procedure, a parliamentary committee recently rejected a proposal that the Department of Education investigate alternatives. The department has therefore to rely on programmes such as Targeting Social Need (TSN) and Raising School Standards Initiative (RSSI) to address these problems. However, only 5% of the total education budget is allocated to TSN projects and this will be affected by the dramatic expenditure cuts to public spending. In any event, there is evidence that both TSN and RSSI programmes are inconsistently applied.

Further inequalities are likely to be created as a result of a major change to educational provision brought in by the new government. The Labour administration

has decided to charge for higher education. This measure is going to make it even more difficult for young people from deprived backgrounds to stay on at college, since all the evidence suggests that it is the poorer members of society that are most unwilling to take on debts for the purposes of further education. **The Committee should ask the government what steps it intends to take to ensure that this policy of charging does not deter the most needy in society from bettering their life chances with further education.**

Although the issue of whether or not to have a selective educational system affects all school-age children in Northern Ireland, and their hopes of effectively participating in society in later life, as does the policy of charging for educational provision, there are also problems peculiar to particular groups of children.

Thus, the government has only recently recognised the demand for educational provision to be made via the medium of Irish language, and has - after extensive lobbying - agreed to fund a limited number of Irish-medium schools. The funding criteria, however, are very restrictive which has meant that some schools have had to wait as much as thirteen years before receiving funding and parents must fund the total costs in the interim. The same problems arise for those parents and children wanting to opt-out of what is de facto a religiously-segregated educational system with most schools catering either for Catholic or Protestant pupils. Increased financial provision has been made in recent years to the multi-denominational integrated school sector, however choice in the matter is still very limited and almost non-existent in some parts of Northern Ireland. Furthermore, the specific needs of children from ethnic minority communities, and most particularly Travellers, have been largely ignored by the educational sector. **In this regard, questions 85, 86, 87 and 88 from the Committee are particularly important regarding religious education, Irish medium education, and the treatment of ethnic minority children.**

Developing a culture of rights is crucial to the well-being of any society. In divided societies like Northern Ireland, programmes such as "Education for Mutual Understanding" are welcome additions to the core curriculum, but it would be important also to focus specifically on human rights. Schools need to encourage - by word and example - a better understanding amongst their pupils of how they should assert not only their own rights but also the rights of others. **CAJ is unaware of any formal human rights education in schools, and feels that there is insufficient attention given to human rights in general, still less the whole array of rights within the International Bill, in the training of teachers, civil servants, law enforcement officials, magistrates and judges, and believes that the Committee's questions in this regard are very important.**

Article 15

Although people in Northern Ireland are rarely if ever explicitly excluded from participation in the cultural life of society, many obstacles stand in the way of full enjoyment of the fruits of science and culture. Perhaps most importantly, poverty is a crucial barrier to people enjoying cultural diversity to the full. Many of the problems alluded to earlier regarding access, apply to the arts and sciences as much as to health and work. Furthermore, people with disabilities are often disadvantaged in their enjoyment of the arts because of physical and other access problems which, with more planning and respect for their rights, could be overcome.

Obstacles of a less physical kind are often placed in the way of those who use languages other than English. Regarding the main indigenous minority language, Irish, the UK government has failed to sign the European Charter for Regional or Minority Languages, there are no measures to prevent discrimination against Irish speakers, and public funding of Irish language activities, is seriously deficient compared to the funding of Welsh in Wales and Gaelic in Scotland. Language support to the ethnic minority communities is virtually non-existent in Northern Ireland - for example, public libraries cater almost exclusively for English speakers. **It is vital that the Committee encourage the government to take appropriate measures to reflect the growing multi-cultural and multi-lingual nature of society in Northern Ireland, as is happening already in other parts of the UK.**

Note on the Committee on the Administration of Justice (CAJ)

The Committee on the Administration of Justice (CAJ) is a cross-community group concerned to protect and promote human rights in Northern Ireland. The CAJ takes no position on the constitutional status of Northern Ireland, and is opposed to the use of violence for political ends. CAJ works for a just and peaceful society in Northern Ireland where the human rights of all are protected according to the international guarantees established by international law.

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