

**The Committee on the Administration of Justice (CAJ)
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Winner of the Council of Europe Human Rights Prize

*CAJ's submission to a
draft Strategy for Children & Young People*

March 2005

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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, 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, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include prisons, policing, emergency laws, the criminal justice system, the use of lethal force, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill 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.

OFMDFM
Children's and Young People's Unit
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1 March 2005

Dear Sir/Madam,

Consultation on a Draft Strategy for Children and Young People

Many thanks for sending the Committee on the Administration of Justice (CAJ) a copy of the above consultation document. We assume that the Northern Ireland Commissioner for Children and Young People and organisations within the children's sector will be providing detailed replies to this document. We would ask that you consider in detail issues that all such organisations raise, including the need for direct consultation with children and young people.

Firstly, we note with some concern the ministerial forward, which in the second paragraph links rights and responsibilities and quotes a child as saying:

"citizenship is: not doing everything for yourself, but taking responsibility for people around you, and thinking about the consequences of your actions".

Such a statement in this particular section of the document creates in our view a most absurd scenario in which children themselves could be seen as being responsible for taking actions to address the poverty, exclusion, or indeed abuse that they may face. Given the unique problem that children face in society – namely, their vulnerability and need for *the state to protect them*, we would suggest that an alternative formulation be included in this section. There is a clear "responsibility" on those in power to ensure that the "rights" of the most vulnerable are protected.

We also note that the document states that (page 13)

"children and young people should be made aware of their responsibilities to themselves and others, in terms of their duties and obligations to family, friends, school, community, state and society".

This notion is paternalistic, and would be unacceptable if considered within the context of any of the other Section 75 groups. If “children and young people” were substituted for “women” or “ethnic minority communities” it is immediately apparent how unwise such an approach would be.

To avoid any uncertainty about this matter, CAJ has always argued that the assertion of human rights is not a licence to behave in whatever way one chooses. Asserting rights, solely on the basis of humanity logically requires that the rights of others be equally respected.

Perhaps it would be useful if the children’s strategy adopted the wording of the Dalai Lama who stated:

“When we demand the rights and freedoms we so cherish we should also be aware of our human responsibilities. If we accept that others have an equal right to peace and happiness as ourselves, have we not a responsibility to do what we can to help those in need and at least avoid harming them? Closing our eyes to our neighbour’s suffering in order to better enjoy our own freedom and good fortune is a rejection of such responsibilities. We need to develop a concern for the problems of others, whether they be individuals or entire peoples.”¹

Instead of emphasising children’s responsibilities, CAJ is of the view that the strategy should focus primarily on the failures on the part of successive administrations in Northern Ireland to comply with their obligations under both domestic and international law. The failure of the duty of the state to protect children, and the international treaties which have been breached in this regard, present a much more urgent problem than any lack of civic duty on the part of Northern Ireland’s children. One might go so far as saying that government’s strategy for children appears to be “do what we say not what we do”.

We are also somewhat disappointed at the lack of proposals, particularly in terms of financial resources, to address the levels of poverty and social exclusion facing children in Northern Ireland. CAJ is aware of a range of studies that have been published recently which highlight the levels of disadvantage in Northern Ireland.

We are also somewhat surprised that the tone of the document seems to focus on the fact that *“there is no single experience of being a child or young person in Northern Ireland”*. Of course it is true that there are a broad range of experiences that relate to children and young people in Northern Ireland. There should in our view however be a focus in this strategy on addressing those whose experiences leave them most marginalized and excluded. It is the view of CAJ that the focus of the children’s strategy should to reduce differentials facing children from different groups in Northern Ireland – thereby ensuring that the gap between those children living in poverty for example, and those who are not, is reduced. Equally, it would be appropriate to have

¹ A Policy of Kindness, The Dalai Lama, 112 (www.snowlionpub.com), (1988).

targets set for reducing differentials between children in relation to educational attainment, mortality rates etc. We know for example that the mortality rates of children from the Travelling community is some eight times that of the sedentary population. A recent report by the DHSSPS pointed out that the risk of death from fire is 16 times higher among children in social class 5 than in social class 1. Clearly, there is a need for the children's strategy to set targets and timetables for reducing these differentials, which would have the effect of saving children's lives.

An appropriate place to locate the "differentials" problem would have been in the EQIA – complete with an outline as to how the differentials can be reduced. Indeed we are surprised that more reference is not made to the issue of differentials in the EQIA. We note that the section on religion merely refers to the issue of bullying and cultural sensitivity, while ignoring the structural factors that lead to educational attainment differing across different religious groups for example. Equally, the "race" section makes no reference to the Traveller infant mortality differential and a timescale outlining how it can be reduced.

Indeed, the information provided in Annex 6, under "Equality Impact Assessment Data" is inadequate, and does not even reflect the information that is available to the OFMDFM from their own "Indicators of Social Need in Northern Ireland" which contains much more detailed analysis of community differentials in relation to educational attainment, etc.

Furthermore, we would wish to query a number of actions/indicators that appear in the report. Rather than setting targets for removing differentials, the report seems to have a disproportionate number of process driven actions, which involve the dissemination of training, gathering of information etc. Whilst the gathering of information is important, it should not become a substitute for action to address problems, such as those outlined above.

Many studies have been carried out analysing the problems – the real challenge of government is to use that analysis to develop solutions and to resource programmes of action.

Even when actions are promised we are concerned to note that a number of the actions listed are actions that the government will be taking anyway to comply with international obligations – such as the requirements of the EU Employment Framework Directive, or are obligations that should already be taking place as a result of existing legislation. For example, on page 40, one of the actions listed includes

"The proofing of new policies and legislation, to ascertain the impact on the rights and best interests of children and young people and take appropriate action."

Essentially, this is what Section 75 requires public bodies currently to do anyway. Although an explanation for the lack of progress in relation to this "action" should be provided. Furthermore, the inclusion of such "actions", and

others, does seem to suggest that the strategy is merely a compilation of existing work, rather than a value-added coherent strategy with a discrete focus on addressing the needs of children.

Finally, we must register our concern at the fact that positive actions such as implementation of criminal justice review recommendations are listed at the same time that government has pushed through legislation introducing Anti-Social Behaviour Orders. These Orders will in our view have a regressive effect on the lives of children in Northern Ireland. In the view of CAJ and others, such Orders, do not complement but contradict the stated desire on the part of government to secure the rights and meet the needs of children in Northern Ireland. We would welcome an explanation as to where the use of such Orders fits within this overall strategy. To completely omit reference to the introduction and likely impact of Anti-Social Behaviour Orders is not acceptable, given the impact that such Orders are likely to have on the lives of the most marginalized and social excluded children and young people.

We hope that you find these comments useful.

Tim Cunningham
Equality Project Worker