



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Submission by the Northern Ireland Human Rights Commission to the UN Human Rights Council's Universal Periodic Review

1. The Northern Ireland Human Rights Commission is grateful to for the opportunity to contribute its views, via the OHCHR, to the Universal Periodic Review (UPR). Since its creation in 1999, the Commission has engaged extensively with United Nations and regional treaty processes, and has submitted parallel reports under all UN human rights treaties to which the United Kingdom is party. The Commission is accredited with 'A' status by the International Co-ordinating Committee of National Human Rights Institutions, and is the only accredited NHRI in the UK. (The Equality and Human Rights Commission, in Great Britain, is seeking accreditation and we are encouraging it to prepare a UPR submission.)

The UPR process

2. The Commission submits the following views without having had sight of the UK Government report, which will not be ready until early 2008. We hope to be able to furnish additional views following the UK submission, and will in any case offer comments to Government on a draft submission if that is made available to us. At the time of writing, however, we have not had any indication from Government concerning the consultation process "with all relevant stakeholders" as envisaged in Resolution 5/1 (para. 15(a)). We welcome the concept of the UPR and will avail of the opportunities given to NHRIs to engage in the process; we aim to attend the review in the working group and to make comments (paras. 29 & 31), and will make what use we can of the outcome.
3. Given the limitations of length, we cannot provide in our submission the full information required of states under Decision 6/102 concerning, for example, constitutional and legal frameworks; we expect this to be provided fully and accurately by the state, and restrict ourselves here only to the main issues of concern. For ease of reference, the comments that follow are grouped under the most relevant of the UN instruments,

although naturally we recognise that the point of the UPR is to address the totality of the state's obligations.

International Covenant on Civil and Political Rights

Counter-terrorism measures

4. The response of the UK to recent developments in terrorism have not been properly tempered by concern for the protection of human rights and fundamental freedoms, nor have they evidenced much reflection on the experience of the decades of conflict in Northern Ireland. Counter-terrorism measures throughout the UK, extending to Northern Ireland despite our hopes for normalisation, continue to compromise the right to liberty and the right to a fair trial. The regime of control orders continues in the UK as well as a pre-charge detention period of 28 days which is much longer than in other democratic states. There are plans to extend this period further, despite opposition from this Commission, civil liberties NGOs and the Parliamentary Joint Committee on Human Rights.
5. The experience of Northern Ireland has shown that exceptional counter-terrorism measures tend to be used disproportionately against one minority community leading to further alienation of that community from the institutions of the state.

'Dealing with the Past' in Northern Ireland

6. Northern Ireland is in transition from a long period of conflict in which some 3,700 people died, in most cases without successful prosecution of the perpetrators. There is a wide range of issues to be addressed around what is termed 'dealing with the past', including such matters as a possible truth recovery process; the Commission's view is that any measures taken must conform to human rights standards.
7. In 2005, and despite opposition from this Commission and other human rights organisations, the Inquiries Act replaced all other legal bases for the running of inquiries, including those into controversial deaths that have taken place during the Northern Ireland conflict, in some cases with allegations of state collusion. The 2005 Act made it impossible to set up truly independent inquiries into deaths (and other serious issues) by virtue of an unprecedented subordination of the inquiry process to the control of Government ministers at every stage, even though the actions of the executive may be the very subject of investigation.
8. The Commission is also concerned that the co-operation of certain state agencies has not been forthcoming with the inquiries that have been set

up in Northern Ireland. For example, the Chairman of the Billy Wright Inquiry, Lord MacLean, expressed his disappointment over the difficulties the Inquiry team experienced while trying to obtain the necessary documentation from state agencies.¹

Use of force in law enforcement

9. The Commission is concerned that the Police Service of Northern Ireland has proposed to introduce the TASER™ electric stun weapon in advance of completing the Equality Impact Assessment required by law, and without fully demonstrating compliance with human rights standards.

Status of the Irish language

10. The UK should state how it plans to legislate for the status of the Irish language in Northern Ireland. This issue engages provisions of the ICCPR, relevant UN Declarations (e.g. Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities), European regional instruments (the Charter on Regional and Minority Languages, and the Framework Convention on National Minorities) and the St Andrews Agreement (October 2006), an international treaty with the Irish Government part of which provides:

Government will introduce an Irish Language Act reflecting on the experience of Wales and Ireland and work with the incoming [Northern Ireland] Executive to enhance and protect the development of the Irish language.

11. The Government consulted on such legislation in December 2006, and in more detail in March 2007. The proposals did not follow a rights-based approach and did not meet full conformity with treaty commitments. Responsibility for legislation was passed in May 2007 to the devolved administration, which in October 2007 indicated it would not enact an Irish Language Act. While treaty compliance can be achieved by regional authorities meeting relevant standards, if a devolved government does not deliver the state is still responsible, and we therefore expect the UK Government to ensure legislation is enacted.

International Covenant on Economic, Social and Cultural Rights

12. The Commission is deeply concerned at the persistent inequalities facing the Irish Traveller community in all walks of life. Despite the UN Committees on the Elimination of Racial Discrimination, on Economic, Social and Cultural Rights and on the Rights of the Child consistently

¹ See: transcript of the Second Preliminary Hearing of the Billy Wright Inquiry available at: <http://www.thebillywrightinquiry.org/ts02.html> and Statement by the Inquiry Panel, 25 October 2007 (also available at: <http://www.thebillywrightinquiry.org>).

urging Government to address these inequalities the Traveller community has seen little to no improvement in the protection of its fundamental human rights to, for example, social housing, education, health care and employment opportunities.

13. The number of people suffering poor mental health in Northern Ireland and claiming Disability Living Allowance as a result is three times higher than in Great Britain.² The difference between the jurisdictions is significant and appropriate resources and strategies are required for addressing the mental health needs of individuals in Northern Ireland.

Convention on the Rights of the Child

*Children and criminal justice*³

14. The UK Government has yet to withdraw its reservations to the Convention on the Rights of the Child (CRC) relating to the separation of adults and juveniles in custody. In Northern Ireland, there is no provision for separating 17-year-old girls from adult female prisoners. Holding children under 18 in prison custody is a serious breach of international human rights standards and the legislation should be amended to stop this practice.
15. There is no coherent multi-agency strategy to respond to the needs of children in conflict with the law who are diagnosed as mentally ill or with behaviour or personality disorder. The age of criminal responsibility in Northern Ireland, fixed at 10 years, is too low and should be significantly raised following consultation to reflect practice in other democratic states. The Council may wish to ask the Government what steps are being taken to review the impact on vulnerable children of the introduction of Anti-Social Behaviour Orders (ASBOs), given the potential to further criminalise children and increase the use of custody.

Child poverty

16. According to Government figures, 29 per cent of children in Northern Ireland (or 122,000) are living in poverty. We welcome recent government targets for ending child poverty in the region by 2020, halving child poverty by 2010 and ending severe child poverty by 2012. Given that there has been little progress made in reducing child poverty, the Northern Ireland Assembly should be asked to demonstrate clearly

² Kenway, Peter et al (2006) *Monitoring Poverty and Social Exclusion in Northern Ireland 2006*, Joseph Rowntree Foundation.

³ See *Still In Our Care: Protecting Children's rights in custody in Northern Ireland*, NIHRC, 2006.

how its budget and actions will achieve these targets.⁴ In relation to those children classified as living in severe poverty, the Government should be asked what steps it is taking specifically to end the profound inequality experienced by Traveller children particularly in relation to health and education.

Asylum seeking children and unaccompanied minors

17. The Commission is aware that the number of unaccompanied minors coming to Northern Ireland and seeking asylum has risen in recent years. In particular, the Commission is aware that unaccompanied minors are for the most part referred to as disputed minors by the Border and Immigration Agency; and, in one case, an individual later confirmed to be a 15-year-old spent 8 days in a police custody suite. This 'culture of disbelief' may lead to wholly inappropriate arrangements being made for individuals who are in fact children.
18. The UK Government has yet to withdraw its reservation on Article 22 of the UN CRC which guarantees all the CRC rights to refugee and asylum seeking children.

Convention on the Elimination of All Forms of Discrimination against Women

19. The Commission wishes to bring to the attention of the Human Rights Council the situation of women in custody in Northern Ireland where all adult women prisoners are held in one location, the Ash House women's unit at Hydebank Wood Young Offenders Centre and Prison. Girls are sometimes held at Rathgael Juvenile Justice Centre in Bangor according to a judge's discretion,⁵ but most often they stay in the women's unit in Hydebank Wood.
20. Women are still being imprisoned for minor offences including non-payment of fines. Although England and Wales changed their sentencing structure via the Criminal Justice Act 2003, Northern Ireland has yet to make changes. The Northern Ireland Office has completed a consultation on the current sentencing framework, but no further steps have yet been taken.⁶ Imprisonment for minor offences, especially fine default, damages families and causes unnecessary problems for the

⁴ See *A 2020 Vision: Ending Child Poverty in Northern Ireland, Annual Child Poverty Report 2007*, published by Save the Children

⁵ Criminal Justice System Northern Ireland – Hydebank Wood at http://www.cjsni.gov.uk/index.cfm/area/information/page/hydebank_wood_f.

⁶ NIO Office – Review of the Sentencing Framework in Northern Ireland at http://www.nio.gov.uk/review_of_the_sentencing_framework_in_northern_ireland_consultation_and_responses.pdf.

prison system. A viable alternative should be sought through legislation to make custody a last resort in such cases.

21. As in 1999 when the CEDAW Committee last commented on the UK, female prisoners in Northern Ireland are still kept far from their families. Currently in Northern Ireland there is only one woman's prison, based in Belfast, so families from the north or west have considerable distances to travel for short visits. It is important for women to keep contact with their families, especially if they have primary parental responsibility for their children.
22. The Commission is concerned that no steps are being taken to review the policy of imprisonment of mothers of babies and young children. The Commission is of a view that appropriate community-based facilities for mothers of young children as an alternative to imprisonment should be developed.

Convention on the Elimination of All Forms of Racial Discrimination

23. Hate crime against ethnic minorities in Northern Ireland continues to rise despite the introduction of the Criminal Justice (No. 2) (NI) Order 2004, which was intended to afford certain minorities (ethnic, sexual orientation and persons with disabilities) additional protection from crimes against them.
24. In the period March 2006 to April 2007, the number of racism crimes increased by 15.4 per cent from the previous year. The Commission stresses the need for the relevant criminal justice agencies to take appropriate measures to tackle this form of crime in the region.
25. In particular, the Commission notes while the Police Service of Northern Ireland uses the definition as recommended in the Stephen Lawrence report, this is not the definition used for statistical purposes by the Director of Public Prosecutions or the Court Service in Northern Ireland. Thus, it is impossible to follow the progress through the criminal justice system of offences that are initially recorded by the police as racially motivated. Therefore, the deterrent purpose of the legislation is not being fulfilled.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

26. The Commission reiterates its position urging the UK government to ratify the Migrant Worker Convention. Serious issues regarding the treatment of many migrant workers have arisen in Northern Ireland. This is in no small part due to the lack of protections afforded to many

migrant workers which are explicit in the Migrant Worker Convention. This is particularly the case in the areas of social protection, social housing and employment rights.

Convention on the Rights of Persons with Disabilities

27. The UK signed this Convention on the day it opened for signature, 30 March 2007. Seven ratifications have been made at the time of writing. The UK should be asked when it will ratify the Convention, and what action is being taken to ensure awareness of, and compliance with, the Convention within the devolved administration of Northern Ireland.

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