

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 41ST SESSION U.K. & NORTHERN IRELAND, 5TH & 6TH REPORT 10 JULY 2008

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Key facts¹

Date of Ratification	Reservations	Party to Optional Protocol (OP)	Opted out of OP's Inquiry Procedure	Additional ratified core treaties
1986	Articles 9, 11, 15, and 16	Yes	No	ICCPR, ICESCR, CAT, CRC, CERD

Type of	Date	Reports	NGO /	List of issues	Last appearance
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¹ The information in these two tables is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at <http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx>

report	submitted	submitted on time	NHRI consultation/input	provided / Written replies to issues rec'd	before Committee
5 th / 6 th periodic report	29 September 2003/14 June 2007	Yes ²	Yes/Yes	27 September 2007/ 13 May 2008	10 June 1999

Information Submitted to the Committee

State party report³

The United Kingdom of Great Britain and Northern Ireland's (U.K. & Northern Ireland) fifth and sixth periodic report focused on the period between the consideration of the State party's previous report on 10 June 1999 and the presentation of the current report. Both periodic reports outlined the steps the U.K and Northern Ireland have taken to ensure full substantive equality between the sexes.

The reports were divided into two sections. The first section identified the institutional framework and national machinery used to promote the advancement of women. The second section was organized according to the articles of the Convention with each paragraph discussing the status of current or impending law about a particular theme, such as domestic violence. Each report also addressed the devolution process and the implementation of the Convention in Northern Ireland, Wales, and Scotland; however, neither report specifically addressed devolution or implementation of the Convention in the Overseas Territories and Crown Dependencies.

On occasion the State party was self-critical in the reports. For instance, the sixth periodic report acknowledged that achieving gender equality has not been easy, and thus after extensive consultation the government decided to replace the existing Equal Opportunity Commission (EOC) with the Equality and Human Rights Commission (EHRC). However this critical analysis did not extend to explanation of other controversial issues such as forced marriage deemed to be a civil offence rather than a criminal offence in the report.

List of issues⁴

A key concern in the list of issues was the consistent application of the new *Gender Equality Duty* (GED) throughout the country and the devolved territories. The GED was introduced through the new Equality Act of 2006 and it requires that all Public Authorities actively promote equality of opportunity between men and women and carry out gender impact assessments for all future policy and legislation. In its response to the list of issues and during the interactive dialogue, the State party stated in that this policy will serve as a significant gender mainstreaming tool across the public sector.

While the Committee acknowledged that the reports describe the gender equality machineries in place in Northern Ireland, Scotland, Wales, and in the overseas territories, the Committee requested specific information about the measures in place to ensure all of the provisions of the Convention are uniformly and consistently implemented throughout these areas. Similarly, the list of issues also highlighted the Committee members' fear that the new EHRC, with its expanded and cross-cutting mandate, would result in weakened efforts to eliminate discrimination against women. The government responded that the change would instead promote positive outcomes since the integrated mandate can help also address multiple discrimination.

² Although the 5th report was submitted on time in 2003, it was not considered by the Committee until the 41st session in 2007.

³ The fifth and sixth periodic reports are available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws41.htm>

⁴ The list of issues are available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws41.htm>

Other issues raised include violence against women, trafficking, participation in decision-making, education and stereotypes, employment and reconciliation of work and family life, health, women in vulnerable situations, and the optional protocol. The State party provided its responses to the list of issues in writing.

NGO parallel reports⁵

A total of 12 parallel reports were submitted to the Committee. A variety of non-governmental organisations (NGOs) submitted reports focusing on specific issues such as lesbian rights and ending corporal punishment of children. Nevertheless, all of the NGOs highlighted several recurring themes, a few of which overlapped with Committee questions and comments during the interactive dialogue, such as:

- Unequal/inconsistent application of the CEDAW Convention and lack of public awareness of the Optional Protocol
- Violence against women
- Trafficking in women
- Vulnerable women (refugee, asylum seekers, black, ethnic, and minority)

Themes and issues

U.K. & Northern Ireland's delegation⁶

U.K. and Northern Ireland's delegation consisted of 30 members and was headed by Ms Barbara Follett, Parliamentary Under-Secretary, and Minister for the East of England. Approximately half of the delegation joined the meeting via live audio and visual feed from London. Several department heads and representatives from the devolved territories, including the Minister for Health and Human Services from the Turks and Caicos Islands, were among those present in New York.

The delegation's interaction with the Committee

Ms. Follett opened and closed the interactive dialogue with summaries of new legislation and political rhetoric, and rarely provided answers to Committee members' questions. Instead, Ann Keeling, Head of the Gender Equality Office delegated questions to members in various branches of the government to ensure experts in particular fields provided appropriate answers to Committee members' questions. Nonetheless, many questions were left unanswered. In fact, when pressed by individual Committee members about certain issues, the delegation avoided precise responses and rather provided vague answers (see below).

Legal framework and national machinery (Article 2)

The creation of the new EHRC raised many concerns for experts. The EHRC's mandate includes taking over the responsibilities of the Disability Commission, the Commission for Racial Equality, and targeting discrimination on the grounds of age, faith, belief, and sexual orientation. The Committee emphasised that the EHRC, with its overly broad mandate, would result in a weakening of efforts to end discrimination against women. Specifically, Committee member Silva (Brazil) asked how such a Commission, given its wide mandate, could effectively promote substantive equality between the sexes. Similarly, Ms. Schopp-Schilling (Germany) pointed out that the Commission does not currently have a specific sex discrimination mandate.

⁵ The parallel reports are available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws41.htm>

⁶ The list of members of the U.K and Northern Ireland delegation is available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws41.htm>

The delegation reassured Committee members that the Commission's mandate includes the duty to enforce the *Gender Equality Duty*. The delegation further stressed that it believed the Commission's broad mandate would only further strengthen efforts to end discrimination between the sexes.

Echoing the Committee's previous concluding comments, experts expressed concern that the establishment of different regimes in Wales, Scotland and Northern Ireland with the responsibility for women's equality issues could lead to uneven protection of women's human rights. Indeed, in the sixth periodic report the State party acknowledged that the "the U.K. does not have a unified national strategy and policy for the implementation of the provisions in the Convention." In other words, the *Gender Equality Duty* introduced in 2007 applies "in a slightly different form in Scotland, Wales and England, though [the Duty does not apply] in Northern Ireland which already has similar legislation in place." Drawing attention to this issue three times before receiving an answer, Committee member Dairiam (Malaysia) asked for specific data about how the *Gender Equality Duty* is uniformly implemented throughout the U.K. and the devolved territories.

The delegation stressed that the Commission enforces compliance with the *Gender Equality Duty*, and has achieved notable results. However, the delegation also pointed out that many matters are devolved to ensure that policies and legislation reflect regional needs and priorities, and acknowledged that the GED does not apply to the overseas territories.

Reiterating concerns raised in the list of issues, the Committee urged the State party to incorporate the Convention into domestic law, as it had done with the European Convention on Human Rights and Fundamental Freedoms. Committee member Ms Schopp-Schilling stressed that a few provisions of the current legislation (The Equality Act 2006) are inconsistent with provisions of CEDAW such as those on sexual harassment and pregnancy discrimination.

Without providing a precise answer, the delegation explained that it had considered the potential for inconsistencies and assured the Committee that it would continue to do so in analyzing the new equality bill.

Committee member Simms (Jamaica) also questioned what the "mother land" was doing to ensure full implementation of CEDAW into domestic legislation of the Overseas Territories. Specifically, she requested information about the technical and financial resources provided to the Overseas Territories to assist with implementation.

The delegate from the Turks and Caicos Islands explained that many local efforts were being made to ensure full adoption of the Convention into local programs. She added that funding comes from the local government and technical support comes from other countries in the Caribbean.

Violence against women (Articles 2, 5, 11, 12, 16)

Experts noted that the State party still lacked a unified domestic violence strategy despite previous CEDAW recommendations to implement such a strategy. Ms. Begum (Bangladesh) pointed out that gender-based violence was one of the most serious issues in the U.K., which was "most alarming" for a developed country. She inquired about government initiatives to eliminate violence against women.

John Dunworth from the Home Office stated that while the U.K and Northern Ireland did not have a per se unified domestic violence strategy, the State party nonetheless has domestic violence legislation in the form of specific plans such as "Tackling Domestic Abuse: The All Wales National Strategy." He further added that in the U.K. and Northern Ireland such a strategy would have to begin with the criminal justice system. To clarify his statement, he referred to *The Female Genital Mutilation Act 2003*. Pursuant to this act, it is an offence for UK nationals or permanent residents to carry out FGM abroad or to aid, abet, counsel or procure

the carrying out of FGM abroad, even in countries where the practice is legal. Mr. Dunworth reiterated that achieving a unified domestic violence strategy would have to begin with the criminal justice system, as it had with the *Female Genital Mutilation Act* 2003. Mr. Dunworth, believed that the “right building blocks are in place” to achieve such a strategy. The delegate from Northern Ireland also informed the Committee that on 9 July 2008, Northern Ireland passed an Act modelled after England’s Sexual Offences Act 2003. The new Act was perceived as key legislation tackling sexual violence and abuse.

The most discussed issue during the interactive dialogue involved violence against immigrant and refugee women. Several Committee members inquired about the status of the ‘No Recourse to Public Fund Rule’ and the domestic violence concessions introduced into immigration rules in 1999.

Mr. Dunworth explained that although domestic violence victims subject to immigration control cannot access public funds until their application has been decided, they can access housing-related support through the Supporting People programmes. As a grant based programme, funding decisions are made at the local levels.

Similarly, Mr. Dunworth highlighted that the domestic violence concessions introduced into the immigration rules in 1999 are intended to ensure the government protect the most vulnerable individuals in society. The concession provides for a person to be granted settlement if the domestic violence occurred during the marriage. Despite the improvement in the law, Mr. Dunworth admitted that the burden of proof remains on the victim to prove that she/he is a victim of domestic violence.

He assured the Committee that the State party continues to be mindful of the situation of these women and consistently reviews this area of legislation to ensure that women are not disproportionately affected. He added that many NGOs were active in raising awareness about this issue.

While some progress has been made in these areas for immigrant women, Mr. Dunworth admitted that there are no plans at the moment to change the law involving asylee women denied asylum allegedly due to gender discrimination.

Trafficking in women and exploitation of prostitution (Article 6)

As both a destination and transition country for trafficking in women, Committee members asked why the U.K. and Northern Ireland had not yet signed the Council of Europe Convention against Trafficking in Human Beings.

The delegation informed the Committee that the U.K. and Northern Ireland had become a signatory to the Convention on 14 January 2008. The delay for ratification was due to domestic legislation. Under domestic law, the U.K. and Northern Ireland must fully implement the provisions of a Convention before the Convention can be ratified. The State party was optimistic that the Convention would be ratified before the end of the year.

Committee member Ms Chutikul (Thailand) raised specific concerns about the U.K. and Northern Ireland’s domestic legislation criminalizing trafficking in human beings. She inquired about the lack of recovery programs and victim protection programs in the existing legislation.

The delegation explained that the State party considered trafficking in women, and in particular children, to be a very serious issue. As such, the State party intended to implement a 45 day recovery and reflection period for all trafficking victims and provide victims access to one-year visas renewable on a case by case basis.

Women in vulnerable situations - Ethnic and racial minorities (Article 14)

Crediting NGOs for raising awareness about this issue, several experts voiced concerns about the traveller community in Northern Ireland. Specifically, Committee member Coker-Appiah (Ghana) stated that the reintroduction of the ‘Camp Order’, where camps serve as “designated areas” for the traveller community in Northern Ireland is an example of institutional discrimination against a minority group that is of “grave concern.” Experts asked whether the State party had data disaggregated by sex and age about the problems this community continues to face such as growing poverty, decreased life expectancies, and inadequate access to basic services.

The delegation reassured the Committee that Northern Ireland’s *Gender Equality Strategy* includes provisions dealing with ethnic minorities. However, the delegation was unable to provide disaggregated data.

In addition to the traveller community, Committee member Patten (Mauritius) pointed out that black, ethnic, and minority (BME) women in the U.K. and Northern Ireland are among the poorest and most disadvantaged groups in society. As such, she inquired about government initiatives in place to ensure representation of these women in the labour market.

The delegation informed the Committee that the State party takes the issue of BME women very seriously. Indeed, the State party has created a group of experts that suggests what pilot projects may be appropriate to assist this group with integration into the labour market. For instance, some local solutions have involved visiting mosques in London to provide job training and job search services.

Participation in decision-making (Article 7)

Experts were surprised to learn that only 20 percent of women held seats in Parliament. Committee member Belmihoub-Zerdani (Algeria) believed this number was too low for a country like the U.K. and Northern Ireland. Similarly, Committee member Halperin-Kaddari (Israel) noted that the statistics provided in the reports about the number of women in the judiciary was inaccurate since it only consisted of magistrate judges. Other experts also inquired about whether the State party was meeting its targets for increasing women’s participation in political life.

The delegation stated that women held 24 percent of chairs of national health bodies, and that women submitted only 25 percent of applications for public appointments in Northern Ireland. The government continues to make efforts to increase women’s representation, but not at the expense of evaluating the merit of candidates.

Other themes

Other issues discussed during the interactive dialogue including the gender pay gap, gender stereotypes in the media, the prison system in Northern Ireland, female genital mutilation, and forced marriages.

Conclusions and next steps

At the conclusion of the interactive dialogue, Chairperson Simonovic (Croatia) noted that “there was still a lot of work to be done.” She stressed that the most effective way to achieve substantive gender equality was through implementation of the Convention because it addressed all issues through a gender specific lens.

In its Concluding Observations⁷, the Committee reiterates its previous recommendations and urges the State party to incorporate all of the provisions of the Convention into domestic legislation. It further recommends the State party to utilize the introduction of the new Equality Act 2006 to raise awareness and broaden understanding of the Convention and of the principles of equality and non-discrimination. Indeed, the Committee encourages the State party to develop and implement education campaigns targeted at defining the meaning and content of substantive equality to ensure the practical realization of equality between men and women and not solely the achievement of equality of opportunity.

In relation to the Overseas Territories and Crown Dependencies, the Committee underlines that the principal responsibility for implementation of the Convention lies with the Government of the U.K. and Northern Ireland. The Committee calls for a unified and overarching national strategy to implement the Convention throughout the U.K. including the Overseas Territories and the Crown Dependencies. In particular, the Committee recommends that the State party provide adequate technical and financial assistance to its Overseas Territories and Crown Dependencies for the implementation of the Convention. To combat violence against women, the Committee urges the State party to “accord priority attention” to the adoption of comprehensive measures to address violence against women. In line with its previous concluding observations of 1999, the Committee also calls on the State party to adopt and implement a unified and multifaceted national strategy to eliminate violence against women and girls, which would include legal, education, financial, and social components. Finally, the Committee urges the State party to “intensify” its efforts to prevent and eliminate discrimination against ethnic, minority, refugee, asylee, and immigrant women. In particular, the Committee urges the State party to review its ‘no recourse to public funds’ policy to ensure the protection of and provision of support to victims of violence.

Two other treaty bodies have examined issues related to women’s rights and each recommended similar measures as the CEDAW Committee to improve the U.K. and Northern Ireland’s future periodic reports and compliance with its international obligations under the Convention. In its 2008 concluding observations, the Human Rights Committee recommended that the State party reconsider, with a view to strengthening, its efforts to encourage increased representation of women and ethnic minorities in the judiciary, and monitor progress in this regard. Similarly, the Committee on Economic, Social and Cultural rights recommended in its 2002 concluding observations that the State party take more effective steps to combat de facto discrimination, in particular against ethnic minorities and people with disabilities, especially in relation to employment, housing and education.⁸

The U.K. and Northern Ireland’s seventh periodic report is due in 2011.

Last revised and updated: 11 August 2008

⁷ The Concluding Observations are available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.GBR.CO.6.pdf>

⁸ Concluding comments of the treaty bodies can be found at the Office of the High Commissioner for Human Rights (OHCHR) at <http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx>

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ABOUT THE PUBLICATION

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