

**SUBMISSION TO THE UNITED NATIONS'  
COMMITTEE ON THE ELIMINATION OF  
DISCRIMINATION AGAINST WOMEN**

**Shadow Report on the  
Sixth Periodic Report of the United Kingdom of  
Great Britain and Northern Ireland**



**NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION**

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Northern Ireland Human Rights Commission  
Temple Court, 39 North Street  
Belfast BT1 1NA

Telephone: +44 (0)28 9024 3987  
Textphone: +44 (0)28 9024 9066  
SMS Text: +44 (0)7786 202075  
Fax: +44 (0)28 9024 7844  
Email: [information@nihrc.org](mailto:information@nihrc.org)  
Website: [www.nihrc.org](http://www.nihrc.org)



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## INTRODUCTION

The Northern Ireland Human Rights Commission (the Commission) is a statutory body created by the Northern Ireland Act 1998. It has a range of functions including reviewing the adequacy and effectiveness of Northern Ireland law and practice relating to the protection of human rights,<sup>1</sup> advising on legislative and other measures which ought to be taken to protect human rights,<sup>2</sup> advising on whether a Bill is compatible with human rights<sup>3</sup> and promoting understanding and awareness of the importance of human rights in Northern Ireland.<sup>4</sup>

In May 2007, devolution was restored to the Northern Ireland Assembly and Executive. This means that some matters are devolved to the Northern Ireland Assembly while others are either 'reserved' or 'excepted' for the responsibility of the UK Government at Westminster. While there are on-going plans for policing and criminal justice to become the responsibility of the Northern Ireland Assembly, it remains at present a 'reserved' matter. Therefore, responsibility for policing and justice rests with the Secretary of State for Northern Ireland at Westminster via the Northern Ireland Office. Immigration and asylum are 'excepted' matters and consequently will not be devolved to the Northern Ireland Assembly. The main concerns and questions in this report are directed to the state party, although the relevant duty bearer may be either the UK Government or the Northern Ireland Assembly and Executive.

The Commission welcomes the opportunity to report to the Committee on the Elimination of All Forms of Discrimination against Women (hereafter the Committee) on issues relating to women's rights in Northern Ireland. The submission will focus primarily on two areas that were highlighted by the Committee in its Concluding Observations on the Third and Fourth Periodic Reports of the United Kingdom of Great Britain and Northern Ireland. These relate to Women in the Criminal Justice System, and to Violence against Women. These areas have been a major focus of the Commission's primary research since it last reported to the Committee. In addition, the Commission would like to draw to the Committee's attention the existence of the reports submitted by the Equality Commission for Northern Ireland, the

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<sup>1</sup> Northern Ireland Act 1998, s.69(1).

<sup>2</sup> *Ibid.*, s.69(3).

<sup>3</sup> *Ibid.*, s.69(4).

<sup>4</sup> *Ibid.*, s.69(6).

Northern Ireland Women's European Platform, the Committee on the Administration of Justice, and the Northern Ireland Council for Ethnic Minorities (in progress), which highlight a broad range of issues affecting women in Northern Ireland.

## PART I

### WOMEN IN THE CRIMINAL JUSTICE SYSTEM

This section of the Shadow Report will focus, in particular, on the following articles of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):

**Article 2:** State Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women .... Specifically, **Article 2 (g)**: To repeal all national and penal provisions which constitute discrimination against women.

**Article 10:** State Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education ....

**Article 12:** State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care .... This to include, "appropriate services in connection with pregnancy, confinement and the post-natal period ... as well as adequate nutrition during pregnancy and lactation".

1. The Concluding Observations of the Committee to CEDAW raised a number of concerns relating to the imprisonment of women and girls in Northern Ireland which will be addressed in this submission.
2. In Northern Ireland, criminal law and the prison service are not yet devolved matters, with overall responsibility remaining with the UK government. The Northern Ireland Prison Service (NIPS) is an agency of the Northern Ireland Office and reports to the Secretary of State for Northern Ireland, who oversees non-devolved matters and is responsible to the UK Parliament at Westminster.
3. The situation of female prisoners in Northern Ireland is often disregarded, as evidenced by the fact that the United Kingdom's Sixth Periodic Report does not directly address this group. While

there is some fluctuation in numbers, on average, there are approximately 40 adult female prisoners in Northern Ireland at any one time. For example, in April 2008, there were 23 sentenced women prisoners and 15 on remand.<sup>5</sup> These figures are at a similar level to when the Committee last reviewed the United Kingdom in 1999. However, the fact that females are a minority in the prison population should not mean that they receive lesser services or services that do not meet their specific needs as women.

4. The Commission acknowledges the work currently being undertaken by NIPS, in conjunction with other statutory and voluntary sector organisations, in taking forward a strategy for the management of women offenders. The challenges ahead will entail ensuring that a gender specific approach to women in custody is speedily implemented, adequately resourced, and its impact effectively monitored.
5. In Northern Ireland, all adult women prisoners are held in one location, the Ash House women's unit at Hydebank Wood Young Offenders' Centre and Prison. Since women and girl prisoners were transferred to Hydebank in June 2004,<sup>6</sup> reports have been published by the Commission and Her Majesty's Inspectorate of Prisons (HMIP)/Criminal Justice Inspection (CJINI) respectively, noting significant concerns about safety and management, and inquiring into whether or not Ash House is a suitable environment for women and girl prisoners.<sup>7</sup> It is important to note that after these reports were published, some upgrading has taken place in Ash House. In particular, there has been refurbishment of a new landing with improved facilities. There is also improved access to the garden area for some women. However, a number of the problems addressed in the reports are

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<sup>5</sup> Population Report week beginning 21 April 2008, Hydebank Wood Prison at <http://www.niprisonsservice.gov.uk/module.cfm/opt/8/area/Population/page/population>.

<sup>6</sup> Report on an Unannounced Inspection of the Imprisonment of Women in Northern Ireland, Ash House, Hydebank Wood Prison, 28-30 November 2004, HM Chief Inspector of Prisons and Chief Inspector of Criminal Justice in Northern Ireland.

<sup>7</sup> Scraton P and Moore L, *The Prison Within – The imprisonment of women at Hydebank Wood 2004-2006*, NIHRC, July 2007. Report on an unannounced inspection of the Imprisonment of Women in Northern Ireland, Ash House, Hydebank Wood Prison (as above). The Prison Service has responded directly to each of HMI's recommendations: <http://www.niprisonsservice.gov.uk/module.cfm/opt/5/area/Publications/page/publications/archive/false/cid/41>.



still a current concern, as are many of the issues raised by the Committee in its 1999 Conclusions.

6. The Commission carried out extensive research into the conditions at Ash House. The research findings of the Commission are detailed in its two reports, *The Hurt Inside* and *The Prison Within*.<sup>8</sup> The research demonstrated a pressing need for a discrete, separate and self-contained facility for women prisoners in Northern Ireland.
7. Since the research was carried out, the Commission welcomes the recent report into NIPS carried out by the Northern Ireland Affairs Committee, which has recommended that development of plans, costings and a timetable for implementation for a discrete women's facility is treated as a "high priority".<sup>9</sup>

**The Committee may wish to ask the UK Government its plans for ensuring that the commissioning of a purpose-built women's prison is treated as 'high priority'.**

## **Mental health needs**

8. There is a need for appropriate health facilities for women who are treated within a predominantly male health centre. There is a serious shortfall in the availability of specialist therapeutic holistic care within the prison establishment. As such, the provision of care for women with mental health problems, including personality disorders, remains a serious problem. Health services for the relatively high number of remand prisoners are particularly scarce. There is an urgent need for a dedicated women's unit that would cater for rehabilitation and support for low risk women prisoners.
9. The Independent Monitoring Board's (IMB) recent report into Hydebank Wood Prison and Young Offenders' Centre, states that "three in every four prisoners have mental illness and/or personality disorder".<sup>10</sup> HMIP found that most of the staff and managers were of the opinion that their willingness to respond

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<sup>8</sup> Scraton P and Moore L, *The Hurt Inside*, NIHRC, June 2005; and *The Prison Within*, NIHRC, July 2007.

<sup>9</sup> Northern Ireland Affairs Committee, First Special Report, 5 March 2008.

<sup>10</sup> Independent Monitoring Board's Annual Report for 2006/07 into Hydebank Wood Prison and Young Offenders' Centre.

- appropriately was limited by a lack of a suitable facility, appropriate training, and management and support to look after the women and girls in their care.<sup>11</sup>
10. A range of human rights standards particularly relate to the mental health needs of prisoners. These cover circumstances whereby individuals whose mental health is incompatible with imprisonment, should be in an institution that is specially designed for that purpose. In respect of those who are suffering from mental illness and are in prison, there should be special regulations to take account of their needs.<sup>12</sup> Furthermore, health care in prison should be linked to community based health care systems,<sup>13</sup> where such services exist in Northern Ireland.
  11. The primary objectives of such strategies should be to ensure that most will not be sentenced to prison, but have their needs met in therapeutic facilities that offer age-appropriate and gender specific programmes. Furthermore, the practice of mental health problems being treated as a disciplinary problem must cease.
  12. Special provision should be expanded to women admitted to prison, or serving community sentences, who are experiencing drugs, medication or alcohol withdrawal. It is noted that the NIPS strategy for Drug and Alcohol Misuse is currently being updated in consultation with the Department of Health, Social Services and Public Safety (DHSSPS). However, there are a number of schemes operating in parts of England that offer support and services currently not available to women in Northern Ireland. The publication, in March 2007, of the 'Corston Report: A Review of Women with Particular Vulnerabilities in the Criminal Justice System', provides an important impetus to ensuring that women offenders are provided with a more holistic response to their needs. For example, the *Together Women Programme* operates across a number of regions in England, together with a number of community centres offering support to women offenders. The work of such groups is discussed at length in the Corston Report, with a recommendation that such services should be extended as soon as possible.

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<sup>11</sup> HM Chief Inspector of Prison Report, 2004, p 5 (referenced above).

<sup>12</sup> The European Prison Rules, Revised European Version of the Standard Minimum Rules for the Treatment of Prisoners (2006), Rule 12.

<sup>13</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 42.

13. On 1 April 2008, lead responsibility for health care was transferred to DHSSPS. The transfer has experienced significant delay; however, when fully operational, it will provide a unique opportunity to bring about positive change. To assist in this process, it is recommended that all staff working in prison health care should be employed by, and accountable to, the relevant health care department/trust.
14. In order to ensure compatibility with Article 12 of CEDAW (elimination of discrimination against women in the field of health), the Commission advocates a major overhaul of health care provision to women and girl 'offenders'. The lessons and recommendations arising from the Bamford Review into mental health services in Northern Ireland (published in 2007) should be addressed as a matter of urgency. There have been a number of recommendations in relation to the treatment of those within the criminal justice system regarding their accessibility to assessment, treatment and care which is equivalent to that available to all other people".<sup>14</sup>
15. It is noted that there is a unit at HMP Maghaberry Prison with staff specialist training in the management of prisoners with personality disorders. In the meantime, a similar facility should be available to women prisoners in Northern Ireland.

**The Committee may wish to ask the UK Government how the transfer of health care to the Department of Health will ensure that women prisoners in Northern Ireland receive appropriate health care, including mental health care, that is commensurate with the standard of care available in the community.**

**The Committee may also wish to ask the UK Government how it intends to respond to the recommendations of the Bamford Review that impact upon the health care of women serving a prison or a community sentence.**

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<sup>14</sup> *The Bamford Review of Mental Health and Learning Disability: A Comprehensive Legislative Framework*, pt. 9, p 89, August 2007.

## **Imprisonment for minor offences**

16. As the Committee, in its Concluding Observations, stated was the case in 1999, females are still being imprisoned in Northern Ireland for minor offences including non-payment of fines. For example, between September 2005 and February 2007, 44 per cent of the women committed to prison were fine defaulters.<sup>15</sup> The Committee also recommended that Government seeks alternative sentencing and custodial strategies for minor infringements.
17. England and Wales changed their sentencing structure via the Criminal Justice Act 2003, and a very small percentage of fine defaulters now receive a prison sentence. Northern Ireland is in the process of making changes via the Criminal Justice Order (NI) 2008, with proposals put forward for Supervised Activity Orders (community sentences) for fine defaulters. This proposal is to be welcomed as short prison sentences for minor offences, including fine default, create particular problems for women in terms of their role within families and create unnecessary problems for the prison service.
18. In addition to maximising non-custodial sentencing options for minor offences, it is important that other forms of support are available in relation to tackling poverty and addictive dependencies in order that the cycle of re-offending is addressed. In relation to alternative sanctions for fine defaulters, suggestions have been made by NIPS that there is a need for further legislation that would enforce payments from earnings and/or benefits.<sup>16</sup> This proposal requires very careful consideration and may only serve to exacerbate the problems experienced by low-income groups.
19. Among the many recommendations in the Corston Report is that "community sentences for non-violent women offenders should be the norm", and that "community sentences must be designed to take account of women's particular vulnerabilities and domestic and childcare commitments". As outlined in the Sixth Periodic Report, other key recommendations include:
  - a) Creating a 'champion' within Government for female offenders or those at risk of offending;

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<sup>15</sup> *The Prison Within* (see above).

<sup>16</sup> Northern Ireland Prison Service: Government response to the Committee's First Report of Session 2007-08.

- b) Developing an inter-departmental ministerial group to oversee women offenders' issues;
- c) Changing the way criminal justice agencies work with women;
- d) Commitment to a 10-year programme to replace women's prisons with small, local custodial units;
- e) End of routine strip-searching in women's prisons.

**The Committee may wish to ask the UK Government representatives how the interests of women prisoners in Northern Ireland will be represented within the newly established Criminal Justice Women's Unit within the Ministry of Justice.**

### **Young women in adult prisons**

20. Girls being held in adult prison breaches UK responsibility under the Convention on the Rights of the Child. The Convention explicitly requires the separation of young female offenders from their adult counterparts, unless it is in the best interests of the child for this not to happen. This practice may also breach the UN Standard Minimum Rules for the Administration of Juvenile Justice 1985 (the "Beijing Rules"). Article 26.3 expressly states that juveniles should be kept separate from adults and should be detained in a separate institution. Article 26.4 states that "Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders".<sup>17</sup> In Northern Ireland, because young men have a facility created to treat young men, and young girls are kept in a facility that caters to adults, namely Hydebank Wood Women's Prison, young females in fact receive less attention.
21. Although it is now usual for 17-year-old girls to be held at Woodlands Juvenile Justice Centre in Bangor, currently, there are still instances where 17-year-old girls are held in Prison Service custody at Hydebank Wood Women's Prison. However, the Commission notes a recent legislative amendment intended to ensure that girls under the age of 18 are no longer held in Prison Service custody. New Article 96 of the Criminal Justice

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<sup>17</sup> NIHRC 4<sup>th</sup> Periodic Report Comments.

(NI) Order 2008 states that a judge shall commit a person who is 17 years of age to custody in the juvenile justice centre "...if the court has been notified by the Secretary of State that there is no suitable accommodation in a young offenders' centre". The Commission understands, from a reading of parliamentary debates, that the intention behind this provision is to ensure that 17-year-old girls are no longer detained in Prison Service Custody, there being no young offenders' centre for girls in Northern Ireland.<sup>18</sup> The Commission is of the view that, if Article 96 does indeed keep 17-year-old girls out of Prison Service custody, then in this respect it is a welcome development. Nevertheless, due to the wording of Article 96 and the fact that it does not explicitly state that 17-year-old girls shall not be held in prison, the Commission would question if, in practice, it will prevent the detention of girls in Prison Service custody.

**The Committee may wish to ask the UK Government representatives if the practical impact of Article 96 of the Criminal Justice (NI) Order 2008 will be to ensure that there are no circumstances whereby girls who are under the age of 18 are detained in Hydebank Wood Women's Prison.**

### **Access to rehabilitation, education and resettlement services**

22. Staffing constraints (in large part due to staff sickness levels) continue to impact negatively upon out of cell activities. Females should be unlocked for a greater part of the day and given constructive activity programmes.
23. The IMB Report (referenced above) noted that vocational training needs were originally based on the perceived needs of male young offenders. Consequently, the only vocational training open to women is horticulture. It recommended further that the vocational training needs of women prisoners should be properly assessed, bearing in mind that the overall numbers will always be small.

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<sup>18</sup> Baroness Harris of Richmond, House of Lords, Hansard, 29 April 2008 at Column 202 and Lord Laird at Column 207.

24. In relation to educational provision for women, as recommended in 2004,<sup>19</sup> it should be more closely linked to resettlement needs. The recent recruitment by NIPS of a Learning & Skills Adviser from a local further education college may facilitate this process. Furthermore, the IMB Report recommended that NIPS should undertake a study to determine whether the courses currently on offer have produced jobs upon release.
25. Appropriate resettlement programmes need to be developed, especially addressing the difficulties faced by females with drug and alcohol problems who need housing and support upon release. There is also a need for the development of working out schemes for eligible women prisoners.

### **Distance women and girls are kept from families**

26. As in 1999, when the Committee last commented on the UK, many female prisoners in Northern Ireland are still kept far from their families. 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.<sup>20</sup> According to the Action Plan of NIPS, females will continue to stay in the Ash House until a new facility can be built. It is important for females to keep contact with their families, especially if they have primary parental responsibility for their children. There should be alternative community-based facilities for mothers of young children as an alternative to imprisonment.
27. At present, NIPS is unable to provide separate visiting facilities for female prisoners. The need for privacy is an issue that must be addressed as soon as possible. It is positive to note that work is in progress to establish a temporary overnight facility at Ash House which would enable some 'enhanced' women prisoners the possibility of having a more extended visit with their children.
28. Custody for pregnant women and mothers of young children should be used as a last resort for women who have committed the most serious offences or who 'represent a danger to the

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<sup>19</sup> HM Chief Inspector of Prisons and the Chief Inspector of Criminal Justice in NI (2004) Report on an Unannounced Inspection of the Imprisonment of Women in Northern Ireland: Ash House Hydebank Wood Prison and Young Offender Centre, 28-30 November 2004.

<sup>20</sup> *The Prison Within*, p 46 (as above).

community'. Family-friendly policies should be developed and visiting arrangements introduced to maximise children's contact with their mothers. This should include child-centred visits in the privacy of family rooms.

**The Committee may wish to ask the UK Government what steps have been taken to improve visiting arrangements and contact with families at Hydebank Wood Women's Prison. In particular, regarding progress in relation to the establishment and usage of an overnight facility.**

29. It is positive to note that the Northern Ireland Prison Service (NIPS) is in the process of developing and consulting on a comprehensive holistic strategy for the management of women offenders, and the Commission has welcomed the invitation to participate in a pre-consultation exercise. Within any new strategy there needs to be gender-specific programmes (addressing needs such as mothers' separation from children, menstruation, pregnancy, post-natal provision, menopause, and the consequences of sexual, physical or mental abuse) and this should be created by involving relevant agencies, NGOs and female prisoners. Strip-searching and full body searching should be restricted and exceptional. This is a timely opportunity to address the concerns outlined above and it will be important that progress in implementing the strategy will form part of the next Periodic Report to the Committee.



## PART II

### SEXUAL VIOLENCE AGAINST WOMEN

This section of the submission will focus on concerns relating to support services available to women in Northern Ireland who have experienced sexual violence, including rape and domestic violence. In particular, it draws upon the following Articles within CEDAW:

**Article 6:** State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

**Article 10:** State Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education ....

**Article 12:** State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care ....

**Article 16:** State Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations ....

1. Sexual violence against women is a form of gender-based violence within the meaning of discrimination in Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). General Recommendation 19 made by the Committee to CEDAW on Violence against Women states that "Appropriate protective and support services should be provided for victims". It also refers to the need for "gender-sensitive training of judicial and law enforcement officers and other public officials" (rec. 24 (b)); and that "States parties should establish or support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling" (rec. 24 (k)).
2. An issue raised in the Concluding Observations of the Committee, following the last examination in 1999, was in relation to the fact that the UK government had not

implemented a national strategy on the prevention and elimination of violence against women. The Committee was concerned that women in Northern Ireland were particularly affected by violence and recommended that the UK government develop a national strategy that includes legal, educational, financial, and social components, in particular, support for victims.

3. Recent statistics show an increase in recorded rape and attempted rape offences in Northern Ireland. This information was provided by Justice Minister Paul Goggins in response to a parliamentary question.<sup>21</sup> The statistics received from Northern Ireland Office Statistics and Research Branch show an increase from 271 victims in 1997-98, to 457 in 2006-07. Although not from a comparable period, statistics provided by the Justice Minister for 1996 to 2005 show that the number of prosecutions and convictions for rape offences over this time period actually decreased. Whether or not incidents of sexual violence are increasing or reports of sexual violence are on the rise, it is clear that there is a real and urgent need for support services to respond to violence against women living in Northern Ireland.
4. In relation to a regional strategy in Northern Ireland for addressing sexual violence, a consultation has recently taken place. Concerns raised through the consultation process include:
  - a) The need for more reliable estimates of the prevalence of sexual violence in Northern Ireland;
  - b) The need to tackle myths and stereotypes surrounding the incidence of rape, low conviction rates and a prevailing 'blame culture'. Effective public information campaigns should be conducted which are accessible to a diverse range of individuals, in terms of age, disability, sexual orientation, and socio-economic, linguistic, ethnic and cultural backgrounds;
  - c) The need for a wide-ranging examination of how sexual violence cases are handled in the criminal justice system – this would include support for victims within the reporting process; prosecution and sentencing issues;

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<sup>21</sup> Hansard HC Written Answers, 24 January 2008, 2152W.

- d) The need to ensure that the valuable work carried out by voluntary sector agencies is fully integrated into such a strategy.

**The Committee may wish to ask the UK Government when the regional sexual violence strategy for Northern Ireland will be finalised; and what resources have been allocated to ensure its effective implementation.**

## **Support services**

5. It is important that services and supports available to women in other parts of the UK are made available to women living in Northern Ireland. The lack of a Sexual Assault Referral Centre represents one such disparity. Furthermore, funding problems have led to a serious reduction in services provided by the Rape Crisis Centre and Sexual Abuse Centre to women living in Northern Ireland.
6. The Sexual Assault Referral Centre (SARC) is a recent development initiated in England. There are approximately 20 SARCs operating across England and Wales, with a further 18 under development. It is a statutory service providing counselling as well as medical examination and tests for women who have suffered sexual assault. The *Map of Gaps* report notes that it is important for statutory services such as SARCs to work in partnership with the voluntary sector given the longer-term support that women may need. It highlights information from SARCs showing a low take-up rate by women of SARC counselling services. This is contrasted with the many voluntary counselling support services that are oversubscribed.<sup>22</sup>
7. A Sexual Assault Referral Centre is planned for Northern Ireland; however, it is not scheduled to open until 2010.<sup>23</sup> This is long overdue and represents a serious gap in service provision. It does, however, represent a potentially important development for women in Northern Ireland. While the decision

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<sup>22</sup> Coy M, et al (2007) *Map of Gaps: The Postcode Lottery of Violence Against Women Support Services*. End Violence Against Women Campaign and the Equality and Human Rights Commission, London, at p 12.

<sup>23</sup> Northern Ireland Executive, 'New Centre to help sexual assault and rape victims', 12 December 2007.

to establish a SARC in Northern Ireland is welcomed, there are a number of outstanding concerns that must be addressed in the interim period. These include a need for long term support for survivors of historic sexual violence or childhood abuse, not just support for the immediate needs of women in terms of medical care and evidence gathering. Also, services should not be geographically limited and there should be provision for outreach work, with particular reference to the needs of women living in rural areas.

8. In relation to the funding shortages facing Rape Crisis Centres generally, and within Northern Ireland, a reason that has been identified as exacerbating this situation is that government funding is being diverted into the establishment of SARCs. While SARCs are set up primarily to support women who have reported a rape or sexual assault, there are many women who do not formally report rape. Thus, there is a need to maintain funding for Rape Crisis Centres and other much needed counselling services which can provide support to those women who do not go to the police. The funding of SARCs should not be at the expense of funding Rape Crisis Centres and should be viewed in terms of a complementary support service.
9. With specific reference to domestic violence within Northern Ireland, Government has implemented its own strategy<sup>24</sup> to tackle domestic violence which includes measures to provide victim services, training for police, measures to encourage women to report, and court support. Some indication of the scale of the problem is reflected in recent figures that show PSNI attended some 23,456 domestic violence incidents in 2006-07. The availability of support service provision for women experiencing domestic violence in Northern Ireland is improving, with the women's sector contributing significantly to this process. Improvements have also been made in the provision of training to court staff. However, progress is slow in relation to protection and safety and waiting times of women attending court.<sup>25</sup>

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<sup>24</sup> *Tackling Violence at Home – A Strategy for Addressing Domestic Violence and Abuse in Northern Ireland*, October 2005.

<sup>25</sup> *Draft Court Watch Survey: A Research Study on Women's Experiences of the Family Court in Northern Ireland*, Women's Aid Federation Northern Ireland.

## Domestic violence – court services

10. The Family Homes and Domestic Violence (NI) Order 1998 provides victims of domestic violence with access to legal support and protection. It is the statute most frequently used in cases of domestic violence relating to civil law.
11. At present, there are no dedicated domestic violence courts in Northern Ireland – a service that is available in many areas of England and Wales (with a recent decision to the expand service). An important aspect of the service is the availability of separate entrances/exits, or making special provision; and separate waiting facilities within, or outside, the Courts. Facilities for child witnesses should also be available in the domestic violence courts and applications to the courts to use specialist measures, for example, screens and video links, should be made whenever necessary. There is a national agreement between the Crown Prosecution Service and Victim Support to facilitate pre-court visits and support. The existence of such courts in England and Wales has improved the number of successful outcomes.
12. A recent Inspection of the Public Prosecution Service (PPS) by Criminal Justice Inspection (CJINI)<sup>26</sup> identified a number of problems in Northern Ireland. These include a need to improve the system that flags up cases which are eligible for the application of the PPS domestic violence policy. In relation to the number of withdrawn cases, CJINI recommended that, save in exceptional cases, the reasons for directing no prosecution or withdrawal of proceedings should be set out clearly for the victim.
13. The Inspection Report also referred to a victim and witness survey carried out by the PPS in 2006. It found that respondents identified concerns relating to the adequacy of court facilities, not being kept up to date with the progress of the case, and not having access to statements.

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<sup>26</sup> An Inspection of the Public Prosecution Service for Northern Ireland, CJINI, July 2007.

14. A recent survey,<sup>27</sup> carried out by the Women's Aid Federation Northern Ireland which looked at women's experiences of the Family Court, made a series of recommendations including:
- a) "Provision should be made for family courts to sit in rural towns to minimise travel and time for women."
  - b) There should be "a review of the practice of 'call over' ... and considerations given to the introduction of time slots for cases ...". Issues relating to childcare and/or arranging time off work has been highlighted as a common problem faced by women attending the Family Court.
  - c) There should be "a review of the current system of case management by courts and consideration given to case management by solicitors. This may have the effect of reducing the number of times women must attend court".
  - d) "Non-means tested legal aid should be available for protection orders. It is incompatible with the human rights of an individual that she should have to pay for protection from abuse."
  - e) "The Law Society should set guidelines for protection order charges."<sup>28</sup>
  - f) Training on domestic violence and its impact on women and children should be mandatory for the legal profession and the judiciary working within the family courts.
15. Further problems have been identified in the delays in orders being made and served, and a failure to take breaches seriously. This may lead to escalating legal costs for women, with legal costs varying significantly.

**The Committee may wish to ask the UK Government what progress has been made in implementing the current 'Tackling Violence at Home Action Plan' in relation to improving the protection and safety of women attending court.**

**The Committee may wish to ask the UK Government its plans for establishing specialist domestic violence courts in Northern Ireland.**

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<sup>27</sup> Draft Court Watch Survey (referenced above).

<sup>28</sup> Extracted from Draft Court Watch Survey (referenced above).

## Domestic violence – housing needs

16. There is a need to ensure that adequate resources are in place to meet the housing needs, including provision of refuges, of those escaping violence or threats of violence in the home. Every human being has the right to live in a safe and secure environment. It should not be the case whereby the victim has to flee from the home while the perpetrator remains. There are a wide variety of international instruments that address the right to adequate housing. Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states that everyone has the right to "... an adequate standard of living for himself (*sic*) and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." It has often been the case, in relation to domestic violence, that the victim has to flee and the perpetrator stays in the home.
  
17. The Housing Executive in Northern Ireland has sole responsibility for those who are homeless or threatened with homelessness (Housing Order 2003). There is no single national strategy for homelessness. Policy making in relation to homelessness at a national level is carried out by central Government in the UK, and in Northern Ireland by devolved Government. Nonetheless, provisions for dealing with homelessness in Northern Ireland are comparable with that in the UK, with only minor differences. Refuge provision per head of population in Northern Ireland compares favourably to that available in other parts of the UK. However, women living in rural areas are less well catered for. To ensure that the current strategy to promote the social inclusion of homeless people<sup>29</sup> fulfils the stated principle of providing advice and support to those subjected to domestic violence, there is a need for:
  - (i) An improved standard of suitable temporary accommodation, particularly in rural areas, given that women (and their children) may be housed in such accommodation for lengthy periods of time;
  - (ii) Improved co-ordination in the provision of floating support services while a women is in temporary accommodation.

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<sup>29</sup> Department for Social Development, *Including the Homeless, A Strategy to promote the social inclusion of homeless people, and those at risk of becoming homeless, in Northern Ireland*, July 2007.

Women's refuge accommodation is well placed to provide such support services to women; however, demand for such services cannot always be met. The Housing Executive needs to engage with relevant agencies in the statutory and voluntary sector to address the provision of good support services to all women placed in temporary accommodation.

- (iii) An identified gap is in the provision of support to women with complex needs; for example, alcohol and/or drug dependencies or help with complex mental health problems.
- (iv) The 'Supporting People Programme' funded by the Housing Executive includes assistance in the provision of support services either to enable a women to remain living in her own home or to access alternative accommodation where support services are available (for example, within a housing scheme or a refuge). This scheme is to be welcomed; however, it is important that adequate resources for this aspect of the programme are made available.
- (v) A welcome change in the law in recent years is the provision whereby a court can make an occupation order that can eject the other party out of the house. It can be made against a rented or privately owned house. An occupation order will be for a limited period of time up to a maximum of twelve months, or for an indefinite period if the applicant is a spouse. It is recommended that further explanation is sought in relation to the rationale justifying the differential treatment of a spouse and a non-spouse;
- (vi) There is a need for an updated homeless strategy for Northern Ireland, as recommended in 2004, in a report by the Northern Ireland Promoting Social Inclusion Working Party on Homelessness. The Working Party recommended that there should be a statutory requirement placed on the Housing Executive to publish a homelessness strategy every five years. The current strategy expired in October 2007 and as far as the Commission is aware, has not yet been replaced. Furthermore, it is suggested that a publicly available homelessness code of guidance should be made available.

**The Committee may wish to ask the UK Government what efforts have been made to ensure that resources are in place to ensure the provision of suitable support services to women**



**who are victims of domestic violence, including support for women with complex mental health needs.**

## **Victims with insecure immigration status**

18. Given the universality of human rights, the rights to protection and redress must apply equally to victims with insecure immigration status. In that context, women victims of trafficking are likely to be particularly vulnerable to sexual violence but may be unable to report it or seek redress. A forthcoming scoping study to be undertaken jointly by the Commission and the Equality Commission for Northern Ireland will aim to increase knowledge about the nature and extent of trafficking of women (and children and men) in Northern Ireland. It will make recommendations for service provision, policy development and legislative reform.
19. At present, a lack of access to public funds for women with insecure immigration status means that many face destitution if they leave an abusive partner. A 2002 amendment to UK Immigration Rules<sup>30</sup> means that leave to remain in the UK can be given to certain women if the relationship ends due to domestic violence. This is a welcome development. Nevertheless, a recent report by Southall Black Sisters and the Women's Resource Centre reveals that many difficulties remain.<sup>31</sup> They report difficulties proving domestic violence especially in cases of emotional abuse, and a lack of financial support while the application for leave is processed. In addition, the rule applies to women from third party states only if their partner is settled here and is a British citizen. It does not apply to migrant women in domestic violence situations where their partner is not a British citizen, for instance, women who travel here to join an EEA national. Neither does it apply to women from EEA states or the new A8 and A2 accession states. In these cases, entitlement to support on relationship breakdown

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<sup>30</sup> This is the 'Domestic Violence Rule' introduced into the 2002 Immigration Rules. It applies to a person who has limited leave to remain as the spouse or partner of a British citizen. If a person can produce evidence that within the initial two year probationary period, the relationship has permanently broken down due to domestic violence, then they may be given Indefinite Leave to Remain (ILR).

<sup>31</sup> Southall Black Sisters and the Women's Resource Centre (2006) *How Can I Support Her? Domestic Violence, Immigration and Women with No Recourse to Public Funds*, Southall Black Sisters and Women's Resource Centre, London.

depends on a complex mix of EU and domestic law. Many of these women will also confront barriers to state support on leaving a violent relationship.

20. A recent unpublished study by the Women's Aid Federation Northern Ireland shows that over a two year period, from April 2005 to April 2007, Women's Aid refuges accommodated 118 women and children with no or limited recourse to public funds.<sup>32</sup> The study also found that women with no or limited recourse to public funds remained in refuge accommodation for longer periods in 2006 than in 2005. The report notes that while this increase in stay may be due to a number of reasons, in many cases refuge is the only form of support: "...in some instances, the refuge is working in a vacuum of support and offers the only viable alternative in the area".<sup>33</sup> Although Women's Aid continues to accommodate women with no or limited recourse to public funds, this is at considerable cost to the refuge. The study found that all Women's Aid refuges in Northern Ireland used their own financial reserves to accommodate women with no or limited access to funds during 2005 and 2006.
21. The restriction on access to public funds for women with insecure immigration status and the lack of assistance from the State for voluntary organisations offering support means that, ultimately, many women risk destitution if they leave an abusive partner.

**The Committee may wish to ask the UK Government when it intends to ratify the Council of Europe Convention on Action against Trafficking in Human Beings.**

**It may also wish to ask what measures have been taken to address the problem of trafficking in Northern Ireland.**

**The Committee may wish to ask the UK Government what measures it is taking to assist women experiencing domestic violence in circumstances where they have no or limited access to public funds.**

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<sup>32</sup> Women's Aid Federation Northern Ireland: Draft; yet to be published. *Women with no or limited recourse to public funds: A report of findings*, Women's Aid Federation Northern Ireland, Belfast, at p 16.

<sup>33</sup> *Ibid*, at p 19.

## **Needs of minority ethnic women**

22. While the above comments refer to those women who are subject to immigration control and/or victims of trafficking, the Commission would like to draw attention to the inadequate response to the needs of minority ethnic women since the last examination. For example, the Racial Equality Strategy has not been taken forward since the restoration of the Northern Ireland Assembly. The Committee, in its Concluding Observations, made reference to its concerns regarding the disadvantages faced by minority ethnic women in relation to unemployment, education and training, lower wages and salaries, and access to fewer benefits. An account of the steps taken to eliminate both direct and indirect discrimination against minority ethnic women in Northern Ireland is required.

**The Committee may wish to ask the UK Government what legislation/policy has been introduced to address the disadvantages faced by minority ethnic women living in Northern Ireland, in relation to employment, education, training, wages and salaries and access to benefits.**

## **Optional Protocol**

23. Following a Review of International Human Rights Obligations, the UK Government accepted rights of individual petition under CEDAW. As there appears to have been very limited use of the mechanism (the Commission is aware of two cases), it would seem unlikely that there have been any negative resource implications. However, it would appear that more steps should be taken to provide information as to how the Optional Protocol may be accessed.

**The Committee should ask the UK Government what steps it has taken to publicise the right to individual petition under CEDAW.**

**The Committee should also ask whether the UK Government has carried out a review of the trial period and, if so, to publish its findings.**