



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Equalities and Human Rights Committee

**Thursday 13 June 2019**

**Session 5**



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**EQUALITIES AND HUMAN RIGHTS COMMITTEE**  
**16<sup>th</sup> Meeting 2019, Session 5**

**CONVENER**

\*Ruth Maguire (Cunninghame South) (SNP)

**DEPUTY CONVENER**

Alex Cole-Hamilton (Edinburgh Western) (LD)

**COMMITTEE MEMBERS**

\*Mary Fee (West Scotland) (Lab)

\*Fulton MacGregor (Coatbridge and Chryston) (SNP)

\*Oliver Mundell (Dumfriesshire) (Con)

\*Gail Ross (Caithness, Sutherland and Ross) (SNP)

\*Annie Wells (Glasgow) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Emma Ritch (Engender)

**CLERK TO THE COMMITTEE**

Claire Menzies

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Equalities and Human Rights Committee

Thursday 13 June 2019

*[The Convener opened the meeting at 10:45]*

### United Nations Convention on the Elimination of All Forms of Discrimination Against Women

**The Convener (Ruth Maguire):** Good morning, and welcome to the 16th meeting of the Equalities and Human Rights Committee in 2019. I ask everyone to turn off their mobile devices and put them away. We have received apologies from Alex Cole-Hamilton.

Agenda item 1 is consideration of correspondence on the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. I welcome Emma Ritch, the executive director of Engender, and invite her to make an opening statement.

**Emma Ritch (Engender):** Thank you for inviting Engender to give evidence on the UN Convention on the Elimination of All Forms of Discrimination Against Women. Since ratifying CEDAW, in 1986, the United Kingdom has had legal obligations to respect, protect and fulfil women's human rights.

The view of equality in CEDAW is based on the principle of substantive equality between men and women. That acknowledges that equality of opportunity and equal treatment are insufficient to redress generations of ingrained disadvantage. It compels system change and a fundamental shift in the distribution of power, resources, and safety.

The five-year CEDAW examination cycle has just concluded its scrutiny of women's rights in the UK, and this is a timely moment for this committee to consider its response. Seeing international obligations work for women in Scotland is a strategic priority for Engender. We use our special consultative status with the UN to open up space for Scottish women's organisations, human rights organisations and other civil society organisations to engage with the process.

Over the past two years, we have consulted women and organisations to identify priorities for action by the Scottish Government and the UK Government to bring to the attention of the Committee on the Elimination of Discrimination Against Women. We have been the lead organisation in writing shadow reports for Scotland and for the four nations of the UK, along with

colleagues at the Northern Irish Women's European Platform, Women's Equality Network Wales and the National Alliance of Women's Organisations.

Our evidence to the UN committee is available in our shadow reports, but the critical issues for women in Scotland and across the UK are familiar. We called for action on violence against women and girls, on women's underrepresentation in council chambers and the Scottish Parliament and on equality in employment, education, healthcare, and social security; and for a response to the crisis in social care.

The CEDAW committee's concluding observations pick up on many of our concerns, including the incorporation of CEDAW into Scots law, Brexit and women's rights, austerity, gender mainstreaming and data. They also make a number of specific and detailed recommendations that are relevant to Scotland and are within the powers of the Scottish Government and Parliament.

In our written evidence to you, we invited you to consider three issues: first, how this committee might best track action in response to the UN CEDAW committee's concluding observations; secondly, how this committee might use the CEDAW concluding observations and articles when developing its thematic inquiry work; and, thirdly, how this committee might act to defend the treaty bodies—including the CEDAW committee—that are being undermined by the current UN funding crisis. I would add a fourth issue: how this committee might ensure that the recommendation of the First Minister's advisory group on human rights leadership that CEDAW be incorporated into Scots law would best be achieved.

**The Convener:** You mentioned the CEDAW committee's concluding observations, a range of which are of concern in relation to women's inequality in Scotland. This committee has done some work around the public sector equality duty, and we have been particularly interested in the quality of data, which is an issue that comes up quite often. I am sure that colleagues would agree that good-quality data is essential if we are going to have a collective understanding of the different lived experiences of women and girls and men and boys. Another matter that jumped out during our work was that of sexualised and sexist bullying in schools. Obviously, those are not the only issues that have been raised, but they are ones that jumped out at me.

In your submission, you express concern that there has been less of a Scotland-specific focus, and you give a couple of reasons for that. How do we change that? What actions can this committee take? Are there actions for the Scottish Government to take to address that?

**Emma Ritch:** That is an excellent question. For very good reasons—namely, that Northern Ireland currently does not have a Government—the international committees that we have seen in the past couple of cycles of CEDAW and the International Covenant on Economic, Social and Cultural Rights have been very concerned about the failure to act on specific human rights violations in Northern Ireland, with the CEDAW committee being particularly exercised about access to abortion healthcare. Overall, it is concerned that the lack of a functioning Government means that anything on human rights is not being acted on.

We have observed, through its actions, a real lack of bandwidth in the CEDAW committee. It examined five states in five days, giving one day to each examination. During the lunchtime of one state examination, it will meet civil society organisations from the state that it will be examining the next day. That is an incredibly intense working arrangement. Committee members are unpaid and must fulfil their committee obligations outside their paid work, if they have some. All of that leads to a difficulty in getting enough space to get a grip on the materials. We think that one thing that troubles the committee is understanding the UK's devolution settlement, which is exacerbated by how the UK Government presents information to the CEDAW committee. Often, the state party report does not adequately differentiate between the four nations of the UK and their legislation, programmes, expenditure and other features of policy making, and it is very difficult for civil society to unravel those things to the satisfaction of the committee.

In the previous five-year cycle of CEDAW, Engender brought over to Scotland one of the CEDAW committee members, Professor Niklas Bruun, from Finland. Because committee members are unpaid and cannot access expenses for such travel, it is incumbent on civil society or national human rights institutions to pay for that to happen. It is our perception that that situation enabled a deeper understanding of the visit in Scotland and fuller engagement with Scotland's devolution settlement in the concluding observations than we saw in the previous round. However, that is sometimes beyond our financial means, particularly if critical committee members live in the global south—it is just too expensive for a small charity to fundraise to do that work.

In order to raise the profile of CEDAW and its importance, the Equalities and Human Rights Committee could, as we ask you to do in our submission, respond formally to the CEDAW committee's concluding observations, track those observations—that is, the committee's recommendations for action—consider how those would apply best in the Scottish context and, in

doing so, signal that Scotland, as one of the four nations of the UK, is very interested in CEDAW as a human rights instrument and in what realising it could achieve for women's rights and equality.

**The Convener:** What about actions for the Scottish Government?

**Emma Ritch:** I think that the Government should take a similar set of actions. One recommendation that has come from the First Minister's advisory group on human rights leadership is to develop a mechanism that could process the outputs of all the treaty processes. The eight treaties to which the UK is signed up have similar but different overlapping processes and all produce a set of concluding observations. I think that, according to the last estimate, about 600 are outstanding, which is quite a number of individual recommendations for any Government to process. We think that a systematic approach to that is required.

**The Convener:** Gail Ross will ask you about funding, which you have touched on. Before she does so, are there any more issues to do with the function and operation of the CEDAW committee that you think we should know about?

**Emma Ritch:** This morning, we received some correspondence from IRAW—the International Women's Rights Action Watch Asia Pacific—which is a Malaysia-based non-governmental organisation that does a lot of monitoring of the CEDAW structures in the UN system. It advised us that the UK Government has now paid its subscription. Although that is helpful, the payment has been made too late for a different budget process to be selected. IRAW also identified that a 25 per cent cut has been applied right across the UN system, which is having a particularly negative effect on the treaty bodies, including CEDAW, because they are so reliant on external advisers and experts, and, even though the members are unpaid, there is a cost to bringing them together for hearings and examinations, which is critical.

IRAW advised us that the CEDAW committee will not examine some states that it was due to examine as part of its normal cycle of examinations. Matters can also be referred to the CEDAW committee using the optional protocol, which is an inquiry system whereby a state can ask the CEDAW committee to investigate egregious breaches of rights. In addition, a state can refer egregious breaches of rights to the CEDAW committee using a complaints mechanism. Both of those things are now not happening. According to IRAW, some of the circumstances that are being referred to CEDAW involve egregious breaches, including torture, missing people and other instances of the state failing to act. Therefore, the cuts that have been occasioned by member states that are failing to

pay their subscriptions have already impeded CEDAW's urgent human rights work.

**Gail Ross (Caithness, Sutherland and Ross)**

**(SNP):** Good morning, Emma, and thank you for coming in. My questions follow on from the previous line of questioning. What can this committee do to put pressure on the UK Government to pay on time and make things easier?

**Emma Ritch:** It would be very helpful for the committee to urgently make clear its concern on the matter to the UK Government, to ask some questions about why the failure to pay has come about and to emphasise that failure to pay has had a disproportionate impact on the treaty bodies that investigate and examine states in a context in which women's rights are being fundamentally undermined.

I am just back from a meeting of the European women's lobby, in Brussels; at the moment, I am the board member for the UK. We heard from sister organisations right across Europe that the rise of populism has brought with it profound anti-feminist action. My colleague from the Czech Republic told us that, in respect of the Istanbul convention—the Council of Europe Convention on preventing and combating violence against women and domestic violence—an NGO with an unclear funding source had sent a leaflet to every household in the Czech Republic that said that the Istanbul convention would undermine the family and the wellbeing of citizens in the Czech Republic. There are certainly well-funded attacks on women's rights. The CEDAW examination process and the optional protocol processes provide quite a rare space, in a global context, for the exploration and investigation of the undermining of women's human rights.

**Gail Ross:** Just for the record, how much is the UK's contribution?

**Emma Ritch:** I am sorry, but I do not have that information.

**Gail Ross:** You say in your submission that some sessions will have to be postponed. Is that still likely to happen?

**Emma Ritch:** Yes. The funding arrangements relate to the budget for 2018-19, which is nearly concluded for the UN, so the cuts to the sessions have already had to take place, because they have to be planned in advance. For two consecutive years, there will be two sessions instead of three and the CEDAW committee will not be able to progress any optional protocol work; it is already hugely oversubscribed. There has been one significant optional protocol case in the UK—it came from Northern Ireland and it was on the issue of abortion healthcare. That took some six or seven years to wend its way through the

system, because the demand on the committee massively exceeds its capacity to consider matters that are referred to it.

**Gail Ross:** You talk about breaches of rights, states failing to act and instances in which the CEDAW committee has stepped in. If the committee is unable to do that because of the shortfall in funding, are any other organisations picking up those cases?

**Emma Ritch:** No.

11:00

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** In your opening statement, you touched on Scotland's civil society response. How did you co-ordinate that response and set priorities for it?

**Emma Ritch:** We had a participatory process to identify priorities for the Scotland report. We put out a call for evidence, which was principally to organisations. We convened an expert advisory group with representatives from all the national women's organisations, race equality organisations and disability organisations as well as Professor Nicole Busby, who is Scotland's only professor of equality law with an interest in CEDAW.

We also issued a survey for individual women and groups of women to complete. We then had a series of events in communities, which included accessing island and rural communities and specifically black and minority ethnic women and disabled women using face-to-face meetings and webinars. We then sifted all the evidence that came back and looked at issues of concern that the CEDAW committee had identified in previous examinations. We went through the treaty article by article to see how things fit in with that framework, and we considered issues on which it is within the competence of the Scottish Government and Parliament to act. We put other issues relating to UK Government action or inaction into the four nations report that we developed with colleagues in Wales, Northern Ireland and England.

Unfortunately, there is a word limit of 6,600 words so, although we had many things that we wanted to say, we had to compress it significantly, as you will see.

**Fulton MacGregor:** I have a brief supplementary question on a specific point. You mentioned engagement with racial equality groups. Did you take into account or could you comment on the recent Close the Gap report "Still Not Visible: Research on Black and minority ethnic women's experiences of employment in Scotland"? I have lodged a motion on that in

Parliament. I will not go into it all, but the main finding is that three quarters of BME women in the workplace have experienced racism, discrimination, racial prejudice or bias, while 42 per cent indicated that they experienced bullying, harassment or victimisation simply because they were BME women. The report says that tackling labour market inequality, particularly where that compounds wealth inequality, is

“a necessary step if Scotland is to realise its ambition for ... inclusive growth.”

Did you come across that report in your discussions and did you take it into account?

**Emma Ritch:** Unfortunately, that report was produced after the examination. Anna Ritchie Allan, who is the executive director of Close the Gap, was on our expert advisory group and was able to share some preliminary findings from the fieldwork. We are bereft of data on the experience of black and minority ethnic women in Scotland, which speaks to the convener's earlier point about the essential nature of data. Close the Gap has done a strong piece of work.

Because the CEDAW committee is unable to assess the quality of civil society-produced reports, it relies on administrative data when we are communicating with it about specific problems. I hope that Close the Gap's excellent report will urge the committee towards finding and securing administrative data on the experiences of black and minority ethnic women in the labour market. Certainly, the differential experience of black and minority ethnic women, disabled women and other groups of marginalised women is very much on the committee's mind and is interleaved in our report.

**Oliver Mundell (Dumfriesshire) (Con):** Have you had a response from the Scottish Government on the points that are raised in the civil society response?

**Emma Ritch:** We have not had a formal response from the Scottish Government to the concluding observations. It has not been the Scottish Government's practice to respond formally to concluding observations. That is one of the systematic pieces of process that we want to be introduced, and it is certainly indicated as being important in the recommendations of the First Minister's advisory group on human rights leadership. At the moment, there is not a systematic approach to picking up concluding observations and integrating them into action.

**Oliver Mundell:** Just to be absolutely clear for the record, do you think that there should be?

**Emma Ritch:** Yes.

**Oliver Mundell:** That is helpful. Thank you.

**Mary Fee (West Scotland) (Lab):** I want to ask you a bit more about this Parliament as a guarantor of human rights and how we could make further progress on mainstreaming women's rights and equality. The CEDAW committee has made a number of different observations, and most of the issues that it raises are things that this committee specifically has looked at in inquiries. If, as a guarantor of human rights, the Scottish Government was to incorporate CEDAW into Scots law, are all the other parts of the jigsaw ready for that to happen?

**Emma Ritch:** No, the other parts of the jigsaw are not ready. I refer the committee to a report for Engender by Professor Nicole Busby on the question of direct CEDAW incorporation. She identifies a number of things that would have to happen in order to make that live, including a process by which cases were supported and run, and case law would be developed over time. On the first day of incorporation, there would not be case law so there would need to be a process of arriving at that in order to provide public bodies, including the Scottish Government, with legal certainty about how they should approach decision making, and how they should act.

A number of states around the world have taken approaches to incorporating CEDAW, and I am sure that the committee is familiar with Wales and its incorporation of the UN Convention on the Rights of the Child. It would be possible for Scotland to develop a suite of duties or other mechanism to integrate CEDAW into the thinking of Scottish public bodies about equality and rights. Professor Busby thinks that it would even be possible to integrate CEDAW into a revised and refreshed public sector equality duty in some measure so that public bodies would have to think about CEDAW when they were considering how to respond to that.

Certainly, the pieces would not be in place and there would need to be concerted action on the part of public authorities, any regulator, the Parliament, the Government, and civil society in order to make CEDAW a reality for women and girls.

**Mary Fee:** My next question is going to ask you to make a guesstimate. If all that work was to be done, how long might it take?

**Emma Ritch:** I have no idea. We are still acting on and developing case law with regard to the bits of the Equality Act 2010 that used to be the Equal Pay Act 1970 and the Sex Discrimination Act 1975. The work of equality and rights is never done, but we could see some impact from any approach to integrating CEDAW into Scotland's thinking, just as we have seen how Wales's incorporation of the UNCRC has borne some fruit in its public authorities.



**Mary Fee:** Could the Government's advisory group on human rights take a more proactive role in encouraging all those things to happen?

**Emma Ritch:** Yes. The recommendations that have come out of the First Minister's advisory group on human rights leadership covered all those questions of how it might be implemented and how it might be brought to life. It has just been announced that a new group has been formed to take that work forward, so it will be an urgent part of its work plan to think about what any bills might look like and how all the rest of the work around that is done to make this work.

**Mary Fee:** I was interested to hear the comment about getting committees to do thematic inquiries. When this committee does its budget scrutiny, it is difficult to follow a line of spend through a budget. Would it be helpful—and I suggest this as a possibility, not something that will happen—if, over and above the work that it does, every subject committee in Parliament was asked every year to do a thematic inquiry into one specific thing, and then those were pulled together? I am thinking of themes such as women and housing, women and mental health, and women in the justice system. If every committee was to look at one specific issue, would that help?

**Emma Ritch:** I would love every committee in the Parliament to consider women and equality all the time, but I appreciate that there are lots of competing demands. Consideration should definitely be given to how all the committees work together to focus on equality. Over time, there has been lots of discussion across many Parliaments about how post-legislative scrutiny should be carried out to take into account women's equality and rights, and about whether rapporteurs are a useful feature of parliamentary committees, so there should definitely be consideration of such matters. The excellent work that this committee did on human rights in the Parliament could be emulated through a piece of work on equality in the Parliament, which might look at whether a similar set of recommendations could be made on how to grapple with such questions.

The ideas that Mary Fee has mentioned, or similar ideas, could have merit, but we would like a systematic approach to be taken that is proportionate but which ensures that women's and girls' equality and rights are thought about in every committee. After all, we are more than half the population, but we still live distinct lives. Such an approach should certainly be taken to ensure good legislation and policy making.

**Mary Fee:** If each subject committee were to carry out a short thematic inquiry, that might help to sharpen minds and thinking about how the committee looks at women's equality specifically.

**Emma Ritch:** Indeed.

**The Convener:** We are all for sharpening minds.

**Annie Wells (Glasgow) (Con):** Have you received a response to the letter that Engender sent to the Cabinet Secretary for Culture, Tourism and External Affairs, which was copied to the committee? If so, what was the response?

**Emma Ritch:** We have not yet received a response from the cabinet secretary.

**Annie Wells:** That is fine. I cannot then ask about the response. Thank you very much.

**The Convener:** Does Emma Ritch have anything further that she would like to share with the committee or ask of the committee? I have forgotten its name but, while you are thinking about that, are you able to provide us with the information from the sister organisation that let you know that—I am trying to think of the correct term—the dues were paid by the UK Government?

**Emma Ritch:** Absolutely. I will pass on that correspondence to the committee.

**The Convener:** Fantastic.

**Emma Ritch:** My final point is to reiterate the calls that I made at the beginning of the meeting. Over time, this committee has done some terrific work, some of which we drew on in our submission—particularly the inquiry into prejudice-based bullying, given our on-going concerns about the experience of girls in school and the impact on their education of experiencing epidemic sexual harassment and sexualised bullying.

The committee perhaps has more work to do in thinking about women's equality and rights. I return to the calls that I made about tracking the CEDAW committee's concluding observations and thinking about the articles of CEDAW when deciding which areas of work to focus on. The threat to the treaty bodies has not dissipated just because the UK Government has now paid its dues—late—so the committee should think about how it ensures that the CEDAW committee, as an institution, is preserved and protected. The question of CEDAW incorporation is really interesting, and our conversation has just touched on it, so I urge the committee to give considerable regard to that interesting question.

**The Convener:** Thank you. My colleague Mary Fee is making signs at me to show that she has another question.

**Mary Fee:** Emma Ritch talked about the concluding observations. Instead of asking committees to carry out a short thematic inquiry into a specific thing, perhaps each committee could be tasked with carrying out an inquiry into

one concluding observation. Would that be a more beneficial way of getting in-depth information?

**Emma Ritch:** Given that CEDAW is such a broad treaty that covers all elements of human life, the right approach might be for the committees to look at all the concluding observations and decide which ones are most relevant to their work. How the rest of the Parliament responds to issues relating to women's equality and rights—specifically, the concluding observations of the CEDAW committee and other treaty bodies—is certainly a question for this committee to consider.

**The Convener:** You have certainly given us a lot to think about. We appreciate your evidence, and thank you for coming in.

The committee's next meeting will be on Thursday 20 June, when we will consider the Children (Equal Protection from Assault) (Scotland) Bill at stage 2.

*Meeting closed at 11:14.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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