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*Winner of the Council of Europe Human Rights Prize*

*CAJ's submission to the*

**UN Committee on the Elimination of Racial Discrimination**

**March 1996**

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## Summary of main issues and questions

There is no legislation in Northern Ireland dealing with the problem of racial discrimination. It remains perfectly legal to discriminate against members of minority ethnic communities in Northern Ireland. Despite repeated promises the Government has thus far failed to introduce legislation and there is as yet no firm date for its introduction. In light of this we would request that the Committee closely question the government on the reasons for the delay and ask them for a specific timetable as to the introduction of legislation. The government should also be asked what is the nature and scope of the legislation which it intends to implement and what powers and resources will be made available to enforce it.

Given the importance of securing adequate protection for the rights of Travellers we request the Committee to inquire of the Government as to its intentions in relation to the treatment of Travellers in any legislation and in particular as to whether Travellers will enjoy the same protection as other minority ethnic groups.

It would be helpful if the Committee could ask the government to provide information on the concrete ways in which the Policy Appraisal and Fair Treatment Guidelines and the Targeting Social Need policy have been applied to ensure equality for members of minority ethnic communities and to tackle the deprivation which many of them experience.

The Government should be questioned as to the extent and adequacy of its procedures in Northern Ireland to deal with racial attacks and in particular if it has any plans to remedy deficiencies in the law tackling incitement to racial hatred in Northern Ireland. The government should also be asked to supply statistics on the operation of the existing incitement legislation in Northern Ireland.

The Government should be asked to supply information as to the justification for the designation policy which limits the free movement of Travellers and in particular to explain how it complies with Article 5 of the Convention.

The Government should be asked to explain how it is ensuring that the accommodation needs of Travellers are being met.

The Government should be asked to outline the steps which it is taking to ensure equal access to and the culturally sensitive delivery of health and personal social services in Northern Ireland for members of minority ethnic communities.

The Government should be asked if it intends to introduce legislation to require that the views and needs of people from minority ethnic communities in Northern Ireland are taken into account by the purchaser and providers of primary health care services.

The Government should be asked to provide information on the health profile of Travellers compared to the settled community and to explain what concrete improvements have been made in this regard and what programmes are in place to tackle the serious problems faced.

It would be helpful if the Committee could request information from the Government as to why Travellers are all required to register to claim their social security benefits at the same time and on the same day.

It would be helpful if the Government could be asked to outline the ways in which the current law in Northern Ireland operates to ensure due respect for the teaching of religious faiths other than the Christian faith.

The Committee should encourage the United Kingdom to provide for the right of individual petition.

## **Introduction**

This submission has been prepared by the Committee on the Administration of Justice (CAJ) and the Northern Ireland Council for Ethnic Minorities (NICEM). CAJ is a cross-community civil liberties group based in Belfast and is affiliated to the International Federation for Human Rights. NICEM is the umbrella organisation representing minority ethnic communities in Northern Ireland.

The submission provides a critique of the United Kingdom government's report to the Committee on the Elimination of Racial Discrimination and in particular it focuses on the current situation of members of minority ethnic communities in Northern Ireland. Where possible the submission comments directly on the contents of the UK report and the references to paragraph numbers relate to those contained in the Government's report.

Generally speaking the Government report gives very little information on Northern Ireland. In addition to commenting on the UK report we attach an Appendix containing a small number of case studies which provide concrete examples of the racism experienced by minority ethnic communities in Northern Ireland.

### **Paras. 17 & 18 (Absence of legal protection against racism)**

When the Committee on the Elimination of Racial Discrimination last examined the United Kingdom it expressed considerable concern at the absence of any race relations legislation in Northern Ireland. Almost three years on there has been no concrete progress in the shape of legislation and it therefore remains perfectly legal to discriminate on the grounds of race in Northern Ireland.

The government consultation exercise referred to in paragraph 18 was completed almost three years ago. In this three year period the government have not even produced draft legislation. There is still no firm commitment from the government as to when draft legislation will be available. We are of the view that this long delay shows a lack of commitment to tackling racial discrimination in Northern Ireland and a worrying lack of regard for the United Nations Convention on the Elimination of Racial Discrimination and the previous observations made by the Committee on the Elimination of Racial Discrimination.

**In light of this we would request that the Committee closely question the government on the reasons for the delay and ask them for a timetable as to the introduction of legislation.** Your intervention at this point in time might encourage the Government to put in place effective measures to prevent racial discrimination in Northern Ireland and to increase the pace of progress towards legislation.

The UK government's report creates some confusion as to the way in which Travellers will be dealt with in any forthcoming legislation. For example in para. 17 the report refers to "the needs of ethnic minorities and Irish travelling people". This would appear to suggest that Travellers are not members of a minority ethnic group. However, the only research evidence available on this issue from anthropologists (Gmelch and Ni Shuinear) concludes that Irish Travellers fulfil the internationally recognised criteria defining ethnic status (first outlined by Barth in 1969). Given that ethnicity is an anthropological concept, it follows that anthropologists are best placed to consider whether or not Travellers fulfil the criteria for ethnic status.

McVeigh (1991) has demonstrated that Travellers fulfil the essential criteria established under British case law (*Mandla-v-Lee*) which legally defines whether or not a group can be considered to have ethnic status (his argument was subsequently accepted by the government appointed Standing Advisory Commission on Human Rights, 91-92 Annual Report).

**Given the importance of securing adequate protection for the rights of Travellers CAJ requests the Committee to inquire of the Government as to its intentions in relation to the treatment of Travellers in any legislation and in particular as to whether Travellers will enjoy the same protection as other minority ethnic groups.**

The government has indicated that it intends to introduce legislation in Northern Ireland which will be modelled on the Race Relations Act 1976 which operates in Britain. The Commission for Racial Equality in Britain has made clear that this legislation is deficient in a number of ways. We are strongly of the view that legislation for Northern Ireland should benefit from the mistakes made in Britain. There are also concerns that the government will not provide the necessary resources to ensure that any legislation is properly enforced. In particular we are convinced of the need for a properly resourced Commission to implement and enforce the legislation. **As a result it would be helpful if the Committee could ask the Government what is the nature and scope of the legislation which it intends to implement in Northern Ireland. What powers and resources will be made available to enforce it, and will the Government establish a separate Commission with responsibility for race relations in Northern Ireland.**

### **Para. 21 (Government initiatives)**

Notwithstanding that the Policy Appraisal and Fair Treatment guidelines have been in force for a little over two years the report provides no information on the concrete impact of these guidelines on government policy. The guidelines are meant to ensure that government policies and programmes are equality proofed to prevent discrimination. In particular the report fails to provide any information on the way in which PAFT has benefited minority ethnic communities. Nor does it provide any detail of minority ethnic employment in the public sector. Similarly no information is provided regarding TSN

(Targeting Social Need). This is a policy designed to target resources at disadvantaged sections of the community but it has had limited impact in respect of minority ethnic communities.

**It would be helpful if the Committee could ask the government to provide information on the concrete ways in which PAFT and TSN have been applied to ensure equality for members of minority ethnic communities and to tackle the deprivation which many of them experience.**

### **Para. 39 (Racial attacks)**

Members of minority ethnic communities in Northern Ireland have been experiencing an increased number of racial attacks and harassment. In one small area of Belfast the number of Chinese families has fallen over a relatively short period of time from 45 to 19. This relocation is almost entirely due to the virtually constant attacks and intimidation of Chinese residents. (see case study in the Appendix)

These attacks have been reported to the police station for the area as part of the racial monitoring scheme. To date, as far as we are aware no one has been arrested in relation to these attacks, nor have there been any prosecutions. **The Government should be questioned as to the extent and adequacy of its procedures in Northern Ireland to deal with racial attacks.**

### **Para. 45 (Incitement to hatred)**

The new public order offences contained in the Criminal Justice and Public Order Act 1994 do not apply to Northern Ireland. The law in Northern Ireland on racial incitement remains woefully inadequate. **It would be helpful if the Committee could question the government on its plans to remedy deficiencies in tackling incitement to racial hatred and attacks and if it could also be asked to supply statistics on the operation of the existing legislation in Northern Ireland.**

### **Paras. 48 & 66 (Police response to racial attacks)**

Whilst the report gives details on the developments which have taken place in police forces in England and Wales, no such details are provided in respect of Northern Ireland.

The Royal Ulster Constabulary (Northern Ireland's police force) have begun to systematise police response to racial attacks or abuse in Northern Ireland. This has been largely because the minority communities have taken the

initiative to press the police in this regard. **The Government should be asked what plans it has to ensure that the measures which are in place for the police in Britain to respond to racial attacks are implemented in Northern Ireland.**

### **Paras. 59 - 61 (Ethnic Minority Advisory Committee)**

Judges in Northern Ireland are unlikely to have participated in, or benefited from this Committee. Comments made in respect of it therefore have little or no application to Northern Ireland. **The Government should be questioned as to how judges in Northern Ireland are trained to address racial and multi-cultural issues.**

### **Para. 67 (Freedom of movement)**

Article 5 of the U.N. Convention on the Elimination of Racial Discrimination states that "Everyone has the right to freedom of movement and residence within the borders of the state". The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 clearly contravenes this Article of the Convention. It establishes a system known as "designation" which can effectively impose a quota for the number of Travellers allowed to live in a particular local authority area. Once an area is designated, Travellers not camped on serviced sites will be evicted at short notice. In effect, whole areas can be declared off-limits to Travellers. At present designated council areas include Derry, Dungannon, Strabane and Newry. **The Government should be asked to supply information as to the justification for the designation policy which limits the free movement of Travellers and in particular to explain how it complies with the Article 5 of the Convention.**

### **Para. 78 (Housing)**

This section of the report fails to provide any information on the specific situation of Travellers. Provision of accommodation for homeless people from the majority sedentary community is mandatory under the Housing (Northern Ireland) Order 1981. The provision of accommodation for people who wish to pursue a nomadic way of life such as Travellers, but do not have access to the most basic facilities (water, sanitation, electricity, refuse collection), is discretionary.

Under the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, local councils are empowered but not obliged to provide such sites, whilst responsibility for providing for the small population of Travellers is diffused to a number of councils. These provisions mitigate against

centralised planning and co-ordination and the implementation of any long term strategy in relation to accommodation for Travellers.

The effect of the shortcomings of the 1985 legislation has been a slow rate of progress with regard to provision as well as a standard of provision which ranges from the slum to the adequate (with one exception). The statement in Annex 4 that there are three sites in Belfast under design is misleading. Voluntary sector groups have learnt that the construction of one of these sites (Monagh Wood) is months behind schedule and the official budget for grant aiding another (Hannahstown) has apparently vanished, (after promises over the last six years that its construction was imminent).

Other councils mentioned in Annex 4 to the report, such as Armagh and Craigavon, have not genuinely "resolved" to provide sites but have prevaricated in relation to the decision to proceed with the development of an actual site. It is not the case as the government claim that 90% of the Traveller population have been provided for in terms of accommodation. Census figures suggest that the figure is 56.86%. **The Government should be asked to explain how it is ensuring that the housing needs of Travellers are being met.**

#### **Paras. 82 - 84 (Public health and medical care)**

It is not the case as is asserted by the government that personal social services are sensitive and responsive to the particular needs of all communities in Northern Ireland. A 1995 research report into the experiences of the Chinese community by the charity Barnardos (Lay Health Project Report) revealed that 90% of those interviewed faced language barriers in accessing services. 72% indicated a gap in their knowledge of available services, with another 50% regarding access to services as problematic. Another recent report, "First Steps" a survey of the health and social services needs of the Chinese population, produced by the Northern Health and Social Services Board found that 30% have communication or language difficulties which hinder their access to primary care (local doctors, nurses, health visitors etc.). 35% confirmed that the absence of information in Chinese is an obstacle to access to primary care. An example of the kind of problems experienced is given in the case studies presented in the Appendix. **Given these statistics the Government should be asked to outline the steps which it is taking to ensure equal access and the culturally sensitive delivery of health and personal social services in Northern Ireland for members of minority ethnic communities.**

The Government's report mentions that "the Department of Health Social Services' Inspectorate is committed to the promotion of race equality in all social services provision. This principle is fully integrated into all policy and practice guidance which has been issued following the Children Act 1989 and the National Health Service and Community Care Act 1990".



The situation in Northern Ireland is different from this. Neither of these pieces of legislation apply in Northern Ireland although the Children Order will soon come into force here. Providers of primary health care services need not give proper consideration to the translation of all relevant information into the various languages used in their area nor to the provision of interpreting services whenever necessary.

Moreover, the 1990 Act also requires that the purchaser and providers of primary health care services plan consultation specifically with their local ethnic minority communities, to ensure that their views and participation in the planning process are heard. They must also demonstrate that they have considered the needs of people from minority ethnic communities and included anti-discriminatory measures in their procedures and policies. No such requirements exist in Northern Ireland. **The Government should be asked if it intends to introduce legislation to require that the views and needs of people from minority ethnic communities in Northern Ireland are taken into account by the purchaser and providers of primary health care services.**

At the moment the authorities provide one full-time interpreter to serve 8,000 Chinese people across Northern Ireland in respect of health, personal social services and education. As a result the needs of the Chinese community have not been met.

It remains the case that the health profile of the Traveller community is markedly worse than that of the settled community. **The Government should be asked to provide information on the health profile of Travellers compared to the settled community and to explain what concrete improvements have been made in this regard and what programmes are in place to tackle the serious problems faced.**

### **Para. 87 (Social Security)**

The Government do not report that all Travellers living on sites throughout Northern Ireland must register as available for work at exactly the same time each week in order to receive social security payments. These arrangements which restrict Travellers to registering at the same time do not apply to any other group within the settled community. The day and time for everyone else who registers is determined by the letter of the alphabet with which their surname begins. Such treatment de-personalises individual Travellers and is overtly discriminatory. **It would be helpful if the Committee could request information from the Government as to why Travellers are all required to register to claim their social security benefits at the same time and on the same day.**

### **Paras. 88 - 100 (Education and training)**

The report describes grant-aid issued under section 11 of the Local Government Act 1966 (Paragraph 93). The Local Government Act 1966 does not apply to Northern Ireland and no equivalent exists in Northern Ireland. Under the Education Reform (NI) Order 1989, once weekly religious education in schools is compulsory but it is only the "Christian" religion which must be taught. Insufficient consideration is given to the religious beliefs of people of minority ethnic origin. **It would be helpful if the Government could be asked to outline the ways in which the current law in Northern Ireland operates to ensure due respect for the teaching of other religious faiths.**

### **Para. 118 (Individual right of petition)**

The UK justifies its failure to make a declaration granting UK citizens the right of individual petition on the basis that "the overall effect of the various remedies (including compensation) which are available within the UK under both domestic and international law is already considerable". How true this is in respect of Britain is a matter for argument. However it in no way reflects the position in Northern Ireland, where, legal remedies for discrimination in employment, education, and the provision of goods, and services are non-existent. **The Committee should encourage the United Kingdom to provide for the right of individual petition.**

# Appendix

## Case Studies

1. The home of a Chinese woman living with her young son, was broken into when the house was empty. Everything in the house was systematically vandalised including electrical equipment, furniture, pictures and ornaments. Bottles of sauce and cleaning fluid were poured over the walls and carpets. Nothing was stolen, not even cash, which had been left within sight. The walls were also daubed with racist graffiti such as "Chinks out" and "go home now". Two days later the boarded up house was broken into a second time when some electrical equipment and leather bags were stolen.

2. A young Chinese girl attending a primary school was subjected to racial abuse from both staff and fellow students. One teacher in particular regularly made an example of her, refusing to allow her to wear jewellery when other girls in the class were allowed to, ignoring her when she asked questions in class or tried to answer questions from the teacher, etc. In the playground, she, along with two other Chinese girls, were pulled behind some buildings by older boys in the school and subjected to racist and sexist abuse until one of the girls managed to escape and report the incident to a teacher. Similar incidents have occurred since this was reported.

3. A Chinese man in Belfast had had his offer to buy a house accepted. One week later the owner changed his mind saying that he had been offered a higher price. Friends contacted the estate agent and found that this was not true, but rather that the owner had decided not to sell to the Chinese family because his neighbours had complained. No action was taken by the estate agents.

4. Mrs McD, A member of the Travelling community, attempted to find a venue in West Belfast where she and her family live in order to hold her son's wedding reception. She phoned every possible venue in the area including hotels, public houses and social clubs, only to discover the existence of an unofficial blanket ban on Travellers availing of such facilities. Mrs McD commented in an interview with a local newspaper, "They don't want us anywhere, we're chased away from every pub in this part of town as if we were lepers". The newspaper, the Andersonstown News (27-01-96) undertook a random poll of venues which confirmed Mrs McD's claim.

5. At a routine ante-natal check-up at a hospital, a Chinese woman was diagnosed as being a Hepatitis B carrier. The woman did not speak much English and she was told this information without an interpreter. She went home totally unaware of her medical condition, whilst her GP, Health Visitors and Mid-wives were fully informed of this and followed Health Board guidelines to protect themselves when in contact with her. The woman only discovered this three years later when she was referred to a Chinese Social

Worker after she gave birth to her second child and was having complications from her operation. The Chinese Social Worker received information about the woman's medical condition from the mid-wife and it was only while she was explaining to the family about inoculation against Hepatitis B for the baby that the Chinese woman knew for the first time that she was diagnosed as having this condition three years ago.

6. A 15 year old Chinese boy who accused his father of physical abuse was taken into care. The father admitted hitting the child to Social Services but regarded it as disciplining for bad behaviour. The father refused permission for the child to be interviewed by the Police. Social Services applied to the Court successfully for wardship to "facilitate a joint protocol interview." No considerations were given to the family's Chinese background of anxiety about authority and fears of law enforcement bodies. No serious attempts were made to explain to the parents about the need for a joint police interview and the rights of the parents. Following the joint Social Services police interview, no charges were made. The teenager is being returned home to his parents.