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Winner of the Council of Europe Human Rights Prize

CAJ's briefing on
Religious/Political Differentials in Northern Ireland
March 2006

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What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, the Lawyers Committee for Human Rights and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include prisons, policing, emergency laws, the criminal justice system, the use of lethal force, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill of Rights.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

Committee on the Administration of Justice (CAJ)

Briefing on Religious/Political Differentials in Northern Ireland

(March 2006)

Introduction

This briefing note has been prepared in the name of the Committee on the Administration of Justice (CAJ) which was established in 1981 and is an independent non-governmental human rights organisation affiliated to the International Federation of Human Rights. CAJ works on a broad range of issues and its membership is drawn from across the community; its activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws, criminal justice, equality and the protection of rights. The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

Together with UNISON, the public sector union, CAJ co-convenes the Equality Coalition, which is an alliance of non-governmental groups that work to ensure the Section 75 statutory equality duty is put into practice, and to increase the public profile of the equality agenda in Northern Ireland. The Equality Coalition contains representatives from all the "Section 75" categories¹ – founder members include Disability Action, the Northern Ireland Council for Ethnic Minorities, Making Women Seen and Heard, the Coalition on Sexual Orientation, the Upper Springfield Development Trust and the Linc Resource Centre.

CAJ therefore carries out work in its own right and in collaboration with the broader Coalition on a range of equality issues relating to people with disabilities, older people, children, ethnic minority community members, etc. This briefing is however largely restricted to comments relating to inequality on grounds of religious belief/political opinion.

¹ The term "Section 75" categories reflects all those groups covered under Section 75 of the Northern Ireland Act 1998. The legislation states that any designated public body, "shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without."

This focus on religious/political inequalities is due to the importance that such issues have for the peace process. Equally important however is the need to correct the misplaced notion – which appears to be currently in some vogue – to the effect that inequality between “the two communities” is somehow a thing of the past, and that such matters are no longer relevant when setting priorities for public spending and investment. CAJ believes that the briefing which follows highlights the urgent necessity of seriously tackling the differentials. Only such a programme will ensure the “fresh start” presaged by the Agreement.

Background to Inequality

In the 1960s, one of the key issues for the burgeoning civil rights movement was challenging the way government intervention was taking place and in particular why it was that most of the new siting for industrial investment, public housing and indeed the new university went to predominantly Protestant areas. This was at a time when there was a greater level of need within the Catholic community across a range of social indicators such as jobs, housing, educational attainment etc. There is a view in 2006 that within Northern Ireland inequality between the two communities is a thing of the past. CAJ does not share this view, and we believe that there is adequate evidence to support this claim.

The Good Friday/Belfast Agreement clearly provided a framework for addressing issues of inequality not just between Catholics and Protestants, but for a whole range of groups within society. Section 75 of the Northern Ireland Act 1998 contains a requirement on the part of government to examine its key policies and programmes in order to assess the extent to which government decision-making will impact on existing levels of inequality.

We are of the view however that the legal, and indeed, *constitutional*² requirements relating to equality that were enshrined in the Agreement, and brought into force in the Northern Ireland Act 1998, are not being adhered to by government. This is particularly the case at the highest levels of policy making, with government arguing that high level policies such as the Investment Strategy (worth £16 billion and estimated to create 16,000 jobs) do not “lend themselves” to an equality analysis.³ We are of the view that it is precisely because such initiatives operate at a high level that the law must be applied vigorously. The

² In *Robinson v Secretary of State for Northern Ireland & others* [2002] UKHL 32, Lord Hoffmann discussed the effect of the Agreement in relation to the Northern Ireland Act 1998, and stated that: “*The 1998 Act is a constitution for Northern Ireland, framed to create a continuing form of government against the background of the history of the territory and the principles agreed in Belfast.*”

³ Examples of other strategies/spending programmes that were considered too “high level” to be subject to an equality assessment include the recent Budget/Government Spending Priorities.

potential that many high level government strategies have to deliver greater equality is being lost.

CAJ also believes that there is an unwillingness at the highest levels of the Northern Ireland administration to accept that something needs to be done urgently to address the existing and continuing levels of inequality in Northern Ireland. Attached are some maps (Appendix 1) presented at a conference on fair employment showing regional differences in economic activity, health etc. If these maps are considered alongside the electoral map of Northern Ireland it is very clear that there is a correlation between community background, and inequality. This assertion is supported by the government's own statistics, published by the Office of the First Minister and Deputy First Minister, which show that on most of the key indicators, and after thirty years of equality legislation, Catholics are still worse off relative to Protestants.

Current Community Differentials

➤ **Those In Employment**

The proportion of working age Protestants in employment (all economically active and inactive of working age) in 2003, was 72.5%, while the proportion of working age Roman Catholics in employment in 2003, was 62.9%.⁴

➤ **Economic Activity Rates**

The economic activity rate for those of working age was 76.4% for Protestants and 67.9% for Catholics.⁵

➤ **Those Unemployed**

In 2003, the unemployment rate for Catholics was 7.2% while for Protestants the figure was 4.8%.⁶

⁴ 2003 Labour Force Survey, Office of the First Minister and Deputy First Minister, Northern Ireland Statistics and Research Agency, Statistical Bulletin, (June 2005). While this report was published in June 2005, the figures relate to the position of the labour market in 2003. To ensure consistency, this report is used as the basis for labour market statistics. There is a more recent monitoring report from the Equality Commission which is limited to data on those currently in the "monitored workforce", and which excludes those economically inactive, unemployed etc.

⁵ Ibid.

⁶ Ibid.

In 2003, the unemployment differential between Roman Catholics and Protestants, expressed as a ratio of unemployment rates, was 1.5, while the “unemployment gap” (all economically active aged 16+) was 2.4%.⁷

➤ **Inequality Within Public Service Employment**

Within the public service (which is the largest employer in Northern Ireland), it is noteworthy that while 44.7% of those employed in the Northern Ireland Civil Service overall are Catholic, the figure for the percentage of Catholics employed in the Senior Civil Service is 30.4% - an almost 12% under-representation gap.⁸

➤ **Housing Inequalities**

Recent figures show that in the year 2002-03, within Belfast the percentage of Catholics on the Housing Executive waiting list for a house was 44%, yet only 28% of those actually allocated a house were Catholic – a 16% “under-allocation” gap.⁹

While Protestants represented 43% of those on the waiting list, Protestants represented 64% of those actually allocated a house – an “over-allocation” gap of 21%.¹⁰

➤ **Community Infrastructure**

Research carried out by Deloitte and Touche for the Department for Social Development has shown that Catholics are much more likely to live in electoral wards with “weak community infrastructure” than Protestants. Catholics make up 57% of the population of these weak community infrastructure areas even though they make up only 44% of the total population – a 13% over-representation gap in relation to living in areas of weak community infrastructure.¹¹

Protestants comprise 41% of residents in “weak community infrastructure wards” compared with their 53% share of the population.¹²

⁷ Ibid.

⁸ Department of Finance and Personnel, 2005.

⁹ Hansard, Written Answer to Eddie McGrady, SDLP MP, 8 April 2004. The Northern Ireland Housing Executive does not publish these figures and this information was only put into the public domain by way of a Parliamentary Question. These are the latest figures available to CAJ.

¹⁰ Ibid.

¹¹ “Weak Protestant areas – reality or myth?”, Paul McGill, Scope magazine, September 2005.

¹² Ibid.

➤ **Investment differentials**

Figures released by Invest NI show that there are serious problems in relation to the lack of equality, and lack of targeting need objectively, in relation to Invest NI operations. Recent figures show that over the last five years, West Belfast received less than half the amount in terms of assistance as South Belfast. The two most deprived constituencies in Belfast - North and West - received a combined total assistance of £80 million over the past five years, while the figure for South and East Belfast for the same period was over £160 million. In other words, there is an £80million investment gap between the (poorer) North and West areas of the city and the (richer) areas of South and East Belfast.¹³

➤ **Geographical Deprivation**

A recent report by the Special European Union Programmes Body (the body with responsibility for distributing EU peace monies) shows that the proportion of Catholics is directly related to how deprived an area is. For example, Catholics make up only 19.5% of the population in the 500 most affluent census output areas. However, Catholics make up 72% of inhabitants in the 500 most deprived areas – almost 30% over-representation gap in the most deprived areas.¹⁴

➤ **Most Deprived Areas**

The NISRA report¹⁵ ranking areas in Northern Ireland according to “multiple deprivation measures” shows that 9 out of the 10 most deprived wards are in North and West Belfast, and six out of the ten most deprived wards are Catholic (and see above regarding investment into north and west Belfast as compared to south and east). The most deprived wards of Whiterock, Crumlin, Falls, Shankill and the New Lodge have been consistently top of the “most deprived ward” list.

It should also be noted that government continues to prevaricate in relation to a number of key job creation measures that would benefit these most deprived wards. Progress in relation to implementing the Greater Shankill and West Belfast Task Force recommendations has been at best haphazard.

These deprivation figures comparing different communities in Northern Ireland also need to be studied in the context of a report, “Bare Necessities”¹⁶ which reveals that NI has not only higher levels of poverty than Britain, but also

¹³ Figures released by Invest NI 2005.

¹⁴ The Special European Programme Body report is available from the SEUPB offices, 11 Kelvin Road, Omagh, BT78 1LB.

¹⁵ Northern Ireland Multiple Deprivation Measures, 2005, Northern Ireland Statistics and Research Agency, Department of Finance and Personnel.

¹⁶ Bare Necessities, Democratic Dialogue, Paddy Hillyard et al, 2003.

considerably higher levels of income inequality. Northern Ireland is one of the most unequal societies in the developed world, and the inequality is increasing.

Missed opportunities and ‘divide and rule’

There is no suggestion in this briefing paper that Catholics have the monopoly on disadvantage. Undoubtedly there are subtle but important differences within these broad figures. There is an under-representation of Protestants in sectors such as education and health, and there are particular problems associated with social exclusion among the Protestant community – Protestant disadvantage tends to be more fragmented with “pockets” of deprivation in the midst of other more “advantaged” areas.

CAJ does however take issue with the notion that there is “no longer any problem” in relation to inequality between the two communities. For example, the Chief Commissioner of the Equality Commission for Northern Ireland stated in a recent press release that “*The imbalances in employment recorded in the early 1990s have in effect disappeared.*”¹⁷

We are also concerned at pronouncements from government which serve to “sectarianise” issues of poverty and disadvantage.

CAJ has previously expressed concern about the creation of a “Protestant Working Class Task Force”, which focuses resources on the basis of community background rather than need. As the Shankill Mirror reported in January 2006, David Hanson MP, the Minister for Social Development, when visiting this staunchly Protestant working class area, announced that a delivery team headed by NI Civil Service chief Nigel Hamilton would take forward the findings of the report by the Taskforce. The minister indicated that the civil service team would report directly on how public services can be co-ordinated to the maximum benefit of “loyalist communities”.

Mr Hanson was report in the same article to remark that, whilst deprivation was more prevalent in nationalist areas, loyalist communities often found it harder to tackle problems because they were not as well equipped to deal with them. “*A pound of Government money on Belfast’s Shankill Road will not buy the same output as a pound spent in nationalist areas like the Falls Road*” he said.¹⁸ Strangely, this assertion seems to fly directly in the face of the evidence presented to Mr Hanson in the report commissioned by him from Deloitte and Touche (see earlier discussion of the findings of this report under “community infrastructure”).

¹⁷ Equality Commission News Release, 8 December 2005.

¹⁸ Shankill Mirror, January 2006.

Government seems to have explicitly or inadvertently chosen a “divide and rule” approach, accentuating community tensions, and ignoring opportunities that would bring people together across communal divides to tackle shared disadvantage, inequality and alienation.

As evidence of these failings, CAJ lists below a series of important measures which would, we believe, address an agenda of poverty, disadvantage and differentials in a collaborative, non sectarian way. Instead of being warmly embraced by government, they seem to have been largely side-lined:

- ❖ the Greater Shankill and West Belfast Task Force was a cross-community innovative economic regeneration initiative which garnered support from loyalist and republican politicians, and proposed a detailed strategy and action plan in February 2002;
- ❖ plans for a university campus at Springvale in West Belfast, which would have brought a college campus to one of the most deprived interface areas and was supported by politicians from across the political divide have been dropped;
- ❖ plans for a civil service recruitment agency in Derry has instead been located in Belfast;
- ❖ an anti-poverty strategy is being promulgated which has no budget, no targets for reducing poverty, no statutory basis and no clear institutional or political ‘home’ (the strategy has been rejected by the community and voluntary sector en masse);
- ❖ government has a stated policy of Targeting Social Need – targeting resources at issues on the basis of objective need rather than on the basis of “Protestant” or “Catholic” need. This, in principle, is how to ensure a cross community strategy aimed at tackling poverty and social exclusion, but this policy is not operationalised. Instead initiatives and taskforces are specifically targeted at areas because they are needy *and* ‘Protestant’;
- ❖ Invest NI could be targeting investment and job creation measures at those areas in greatest need, and redressing the historic imbalance in investment, job creation and economic regeneration between the East and West of the river Bann. Instead, narrowly defined “economic considerations” determine that the Invest NI new offices are built in the relatively prosperous centre of Belfast; and investment decisions seem to intensify and exacerbate previous funding allocations (see discussions earlier about investment differentials);

- ❖ Section 75 – the Agreement created a legal duty on government to promote equality of opportunity for all, and established mechanisms for people to engage in the decision making processes affecting their lives. Government is however also prepared to go to court to insist on the most minimal interpretation of this duty (happily, in an important recent case, such an assertion proved unsuccessful);¹⁹
- ❖ Section 75 – the equality duty is also intended to ensure that all policies are “impact assessed” to allow policy makers to choose options that are most likely to promote equality and least likely to promote greater inequalities. Government bodies are however asserting that this equality proofing cannot be applied to “high level” policies such as the Northern Ireland Budget, Investment Strategy, etc. Obviously, there is little point in worrying unduly about the equality impact of “low level” policies if the most fundamental and far-reaching decisions are not similarly assessed;
- ❖ Single Equality Bill – a single piece of comprehensive equality and non-discrimination legislation building upon the advances to date, has long been promised but in practice seems further away than ever;
- ❖ the debate around a Bill of Rights for Northern Ireland – another crucially important safeguard, that would benefit those in most need (whether nationalist or unionist, Protestant or Catholic), and which would focus on commonalities (of humanity and dignity) rather than differences - has had little or no impetus from government;
- ❖ one measure in which government has invested energy and resources has been the important debate around the need for a Shared Future, but even this has been done in such a way as to again side-line the contribution that human rights and equality can make to community integration (there is for example no reference to the major contribution made by fair employment legislation to greater workforce integration);
- ❖ the Strategic Investment Board is involved in a major £16bn infrastructure investment, but it is as yet unclear if this will be genuinely focused on undermining inequalities. For example, it is crucial that the use of Public Private Partnership projects NOT create adverse impacts in the terms and working conditions of the most vulnerable members of the public sector – working class females from both communities. Also new investment must redress the current East/West differential in relation to jobs and services;
- ❖ as noted above, the fair employment legislation is a “good news story” having made workplaces one of the few successful attempts at community integration, but where are the signs of this learning being extended into other areas of social, economic and cultural inter-action?

¹⁹ See In the Matter of an application by Peter Neill for judicial review.

- ❖ much of Northern Ireland's employment is in the public sector – what reassurance is there that the current Review of Public Administration will tackle the current East/West of the Bann divide, gender inequalities etc?

The list could continue into reform of household and industrial rates, water charges etc. Each and every one of these initiatives has the potential of either undermining or exacerbating the worrying patterns outlined in this briefing.

CAJ's fear is that, without external scrutiny and interest, and particularly in the absence of local political structures, inequalities could remain unaddressed or – even more likely – be further increased. There is a commitment in the Agreement, and in law, to ensure equality for all. It is not enough to continue to give lip-service to the need to give “due regard”²⁰ to the promotion of equality of opportunity. Action is now overdue.

Solutions

CAJ is of the view that the Agreement provided a template for addressing the problems identified above. In particular, we would like to see full implementation of requirements relating to the equality duty (Section 75) and government's stated commitment to Targeting Social Need (TSN). Furthermore, it is vital that Section 75 be applied at the highest levels of decision-making, such as the Investment Strategy, Northern Ireland budget allocations, etc. To date, equality impacts have been expressly and explicitly ruled out in a large number of areas that have been described as “too high-level” to be impact-assessed. It is vital that high-level impact assessments, be carried out, and that targets be set for reducing the differentials between the communities outlined above.

Questions for Government

CAJ and others are raising these issues with government, and would be very grateful for any assistance in seeking answers to questions such as:

1. What targets have been set for reducing the community differentials between Catholics and Protestants outlined above, in relation to economic activity, employment, unemployment, housing allocation etc?
2. How does government explain the over-representation of poverty and disadvantage experienced by the Catholic community?
3. How does government explain its failure to apply the equality requirements of the Northern Ireland Act to “high-level” decision making

²⁰ Section 75, Northern Ireland Act, 1998.

such as spending priorities, the Review of Public Administration, and the Northern Ireland Investment Strategy?

4. Given that the proposed Investment Strategy is worth £16 billion, how will government ensure that this money reduces the current inequalities between Catholics and Protestants identified above?
5. The maps attached show that there are significant regional variations in economic activity that reflect religious and political patterns. How will the Investment Strategy address these differentials? In particular, to what extent will the Investment Strategy address the needs of the ten most deprived wards in Northern Ireland?
6. To what extent will the Investment Strategy complement and assist with the operationalisation of the recommendations of the Greater Shankill and West Belfast Task Force?
7. To what extent can procurement measures ensure that the £16 billion investment strategy contributes to reducing current inequalities, and in particular the problem of long-term unemployment?
8. How does the government explain its continued refusal to set targets for reducing the levels of inequality between Catholics and Protestants in relation to housing and employment?
9. How will government ensure that the “partnership” approach of the Investment Strategy with private business incorporates fully the agenda of those in greatest social need?
10. Given that the workplace is the only sphere in which there is greater interaction between Catholics and Protestants now, than there was 30 years ago, how can the equality lessons from “fair employment” be applied to other spheres of public policy?
11. Will the Government agree to establish a statutory anti-poverty initiative that will give the failed New TSN approach teeth?
12. Will the government agree to complement the statutory anti-poverty strategy with institutional support within Government? This would require a high-level group of officials, chaired by the Secretary of State, who would bring the strategy forward.

For further information on any of the material referred to in this paper, contact Tim Cunningham at the CAJ offices (45-47 Donegall Street, Belfast BT1 2BR), or alternatively email tim@caj.org.uk

Appendix 1

Maps Showing Regional Inequalities in Northern Ireland

These maps first appeared in “Labour market change in Northern Ireland: unemployment, employment and policy “, by Ian Shuttleworth & Anne Green, in Fair Employment in Northern Ireland: A Generation On, published by Blackstaff Press, Belfast, and the Equality Commission for Northern Ireland, May 2004.

Map 1 Job density across Northern Ireland, shown in density of jobs within a 15km radius.

Map 2 - Job density across Northern Ireland, shown in density of jobs within a 5km radius.

Map 3 - Where jobs are being created across Northern Ireland, shown in changes in job numbers within a 15km radius.

Map 4 - Where jobs are being created across Northern Ireland, shown in changes in job numbers within a 5km radius.

Map 5 - Patterns of economic inactivity across Northern Ireland, shown in percentages.

Map 6 - Patterns of health inequalities across Northern Ireland, shown in percentages of those on long-term sickness benefit.