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Winner of the Council of Europe Human Rights Prize

*CAJ's response to
government consultation paper entitled*

A Shared Future

June 2003

Submission No. S.143

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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.

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**Response of the
Committee on the Administration of Justice
to government consultation paper entitled**

**A Shared Future
(June 2003)**

Setting the Context

In November 2001, CAJ made a submission to the community relations review then being undertaken by Dr. Jeremy Harbison. It was this review that was in turn to form the basis for the government's consultation document entitled "A Shared Future".¹ CAJ had emphasised the importance of human rights to creating right relationships, and to judge from Dr Harbison's report were relatively successful in arguing this case. Indeed, he concluded "*the review is clear that the protection of human rights and the promotion of equality and social inclusion must be an integral part of overall action to promote better relations within the Northern Ireland community*" (para 7.06). The formal government consultation paper rarely, however, uses the terms "human rights" or "equality" or "social justice", and certainly gives no impression of making human rights an "integral" part of action to promote better relations. CAJ is very disappointed that the government failed to address the contribution a human rights approach could make to this debate. This is in our view entirely misguided.

We will therefore reiterate three of the arguments that we made in the first round of consultation.

(a) community relations *versus* justice and equality?

There is often thought to be a tense relationship between good community relations work and the pursuit of a rights agenda. In certain contexts, rights work is often portrayed as being divisive and, as such, counter-productive in terms of good community relations. This argument is not of course confined to Northern Ireland. Recently in Britain we have seen a resurgence of this argument in relation to refugee and asylum seekers. There are those who argue that by restricting the numbers and the rights of refugee and asylum seekers, 'better relations' between those who are admitted and the rest of the community will result.

CAJ does not accept that justice and equality are divisive concepts and believes that right relationships can only effectively develop within the context of a society that treats people with equality and respect for each individual's worth and human dignity. Accordingly, while CAJ's work does not have as a primary focus an agenda to promote better community relations, we are convinced that our work over the longer term does precisely that, in that it

¹ See www.ofmdfmi.gov.uk/communityrelationsunit/ for copy of government paper, A Shared Future: A consultation paper on improving relations in Northern Ireland (January 2003), and the Harbison report, Review of Community Relations (January 2002).

addresses some of the causes of poor community relations, distrust and alienation.

Some examples of initiatives that CAJ has been closely involved in were provided in our initial response to illustrate this particular point. Suffice it to note here that CAJ has experienced equality and justice issues being used by some (almost always those already in positions of power and influence) as a tool “to divide and rule”, but we believe that these issues are not divisive per se. In fact, the language of rights has often proved to be an extremely powerful tool for bringing the disenfranchised and the most vulnerable people in society together around a shared agenda, and a shared vision for a fairer future.

(b) community relations *versus* community development?

A second problem that CAJ raised in its 2001 submission was the possible tension between community relations and community development work. There is some implicit recognition of this tension in the subsequent government paper, but it is not very explicitly or clearly addressed, and is therefore another problematic aspect of “A Shared Future”.

For example, few would disagree that sectarianism in Northern Ireland is worrying and needs to be tackled, but the question is how? Has the Community Relations Council seen it as part of its role to promote a community development approach (especially in areas of weak community infrastructure and with major problems of alienation)? What role has it – or should it have – played in supporting Targeting Social Need initiatives to address disadvantage and discrimination, or are these concerns quite distinct from developing good community relations? Logic implies a close relationship between the two approaches, but is not clear that this has in fact been happening in practice.

The government appears, at least in recent times, to have seen a close relationship, and part of the official response to violence at deprived interface areas has frequently been to finance economic regeneration projects. But belated investment, only brought about because of a major breakdown in community relations, can be counter-productive. Surely it would be preferable for government to address genuine grievances at an early stage, and invest long term in areas that have a long legacy of deprivation.

It is also worth noting that the government has recently established a task force on resourcing the community and voluntary sector. Clearly, it will be imperative that this linkage be made between the task force and this current review, given the key role that community groups in particular can play in contributing towards better community relations.

(c) sectarianism

CAJ believes that one of the key obstacles to developing a strong and effective community relations policy is the apparent absence of debate and, to some extent, even detailed academic study, of the causes and nature of sectarianism. Sectarianism, like racism, and sexism, has at its heart issues of power relationships, as well as identity. It is not enough to engage with the results of sectarianism (and in fact it is questionable about the extent to which current community relations efforts even engage with that), but a central focus should be on trying to help society to understand its causes and to develop effective responses.

CAJ believes that much of the confusion is due to a failure on the part of society to engage analytically with the issue of sectarianism, and feels that such a process is necessary to any serious programme of change. As a human rights organisation, our challenge has been one of engaging with the responsibility of government to develop policies, practices and programmes to counter racism, sexism, homophobia, sectarianism etc. Developments such as the section 75 equality duty, strengthened anti-hate crime legislation, changes to policing and criminal justice to make the justice system more representative and more human rights focused, are all important contributions to making Northern Ireland a more pluralist society. The legal and policy framework is not however the only one to be addressed. CAJ has not, for example, made any particular study of what forms sectarian behaviour takes, or what educational or other social processes need to be introduced to encourage better one-to-one and group relations between peoples of different ethnicity, or community backgrounds, or sexual orientation. It seems to us, however, that this should be considered a primary task for agencies working explicitly to improve community relations.

The human rights dimension

Mary Robinson, former UN High Commissioner for Human Rights has often spoke on the topic of the contribution of human rights to creating right relationships – especially in the Northern Ireland context. In 2002, she said:

“To address it at its most basic, human rights is about creating right relationships....The very practice of rights changes relationships by creating a more level playing field for all...Indeed the very debate about human rights radically changes the insider/outsider dynamic that is so prevalent in our current relationships (whether local or global). Who, after all, is the “outsider” in any debate about human rights? Black, white, male, female, elderly, young, we are all human beings – there should be no outsiders. The construct of rights changes the very dynamic within which we have any discussion about the future

*society we want, and it actively fosters new relationships, and new ways of doing things.*²

Unfortunately, as noted earlier, some suggest that the language and construct of human rights and equality is, or can be, divisive and should therefore be eschewed when trying to build better relationships in a divided society. This seems, indeed, to be the approach of the government given its failure to address the human rights paradigm in its consultation paper. This runs counter to the stance they took in parliamentary debates around the Northern Ireland Act wherein the then Secretary of State stated categorically “*Good relations cannot be based on inequality between different religions or ethnic groups. Social cohesion requires equality to be reinforced by good community relations... we see no conflict between these two objectives*”.

There is one obvious difference in approach between human rights activists and those working on community relations – since the former tend to focus most on the vertical relationships between states and individuals/groups, and the latter on horizontal relationships between communities. These approaches are however self-evidently complementary in any process of social change. In a 10-point programme issued in January 2003 by international and local human rights organisations, there was a call for –

*“A renewed effort to resource local community and participatory initiatives to address deep social divisions, including sectarianism and other forms of discrimination, segregation, and continuing high levels of violence in Northern Ireland. Detailed programmes of action must be urgently developed to address problems such as racism, violence in the home and particularly sectarianism. Human rights language, concepts and principles have much to offer to tackling these problems.”*³

The rest of this paper addresses the practical implications of applying a human rights approach to developing a more shared society.

² Foreword to “Participation and the Practice of Rights”, conference report, available from CAJ, February 2002; see also her comments about the Agreement itself (at a conference in December 1998) – “*Few documents emerging from divisive and difficult political negotiations have so well captured the importance of fairness in creating right relationships. In its pre-ambular paragraphs, throughout the text, and indeed in all the new institutions and mechanisms established as a result of the Agreement, concerns around fairness and justice are a recurring theme. Equality and rights are something for us all, and something which enriches us all. It is not simply the people with disabilities who benefit when public policy has to consider issues of access; it is not simply Travellers or other ethnic minorities who benefit from strong anti-racist protections and measures...A society which seeks to recognise the richness of difference, and to respect its many manifestations in the people that constitute that society, is a truly healthy one*”.

³ “Human Rights in Northern Ireland: an opportunity for further progress”, 20 January 2003, statement issued on behalf of Amnesty International, British Irish Rights Watch, Committee on the Administration of Justice, Human Rights Watch, Irish Council for Civil Liberties, Lawyers Committee for Human Rights, Liberty and the Scottish Human Rights Centre.

Response to consultation paper

➤ Shared and pluralist society

The consultation paper asks what kind of society is needed (page 7). The initial Harbison paper (para 8.05) indicated that an earlier review carried out by INCORE had identified four distinct approaches:

- (a) homogenisation – developing one common identity by a process of assimilation;
- (b) separate development – the promotion of separation rather than contact and the development of different independent communities;
- (c) co-existence which seeks good relations without reference to the issues and concerns that divide communities;
- (d) pluralism – encouraging a positive diversity or pluralism within an overarching goal of increased integration and sharing.

Clearly drawing upon this debate, the government paper asks if the overall aim of government policy should be to create “a more shared but pluralist society”. CAJ believes that government policy should indeed be directed at creating the necessary frameworks in which people can celebrate their shared humanity.

CAJ has, for example, long lobbied for a Bill of Rights for Northern Ireland on the grounds that it would provide the key constitutional framework necessary to assert everyone’s human dignity. The Universal Declaration of Human Rights, for example, opens with – “*recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*”. Indeed, its first article records that “*all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood*” (*sic*).⁴ This is the approach that CAJ would like to see underpin any Bill of Rights for Northern Ireland.

Another reason that CAJ has long argued the value of a Bill of Rights for Northern Ireland is the benefit that could arise simply from the rich cross-community debate it could create regarding Northern Ireland’s shared vision for the future. Again to quote Mary Robinson:

*“Creating space for dialogue, learning to address divisive issues across the whole community, seeking to disagree in a respectful manner: all of these are important gains in and of themselves. A society that seeks to respect human rights must find mechanisms to create a shared culture of rights, and the debate around a Bill of Rights is one obvious way in which this can begin to be done”.*⁵

⁴ Opening preambular paragraph and article 1 of the United Nations Universal Declaration of Human Rights, 1948.

⁵ In “Making Right Relationships an everyday practice”, speech to Human Rights Consortium, in Belfast, on 18 May 2002.

Human rights language and constructs also recognise that, while we are all human beings, we are all different, and that those differences must be respected.

The UK has of course already committed itself to uphold a whole range of international human rights standards – a selection of some of the standards relevant to this debate are attached by way of appendix - so compliance with these commitments obliges government policy to emphasise both sharing and pluralism.

➤ **Specific Policy Aims**

The government's specific policy aims (para 2.5, page 8) are welcome. CAJ notes that, apart from the addition of an objective of reducing tension and conflict at interface areas (which we welcome), the government has taken on board all Dr Harbison's proposals, with one exception. Thus, Dr Harbison had argued that an aim of the policy should be to "*facilitate the development of integrated/shared communities where people wish to learn, live, work and play together*" (para 8.09). The government proposes that they "support" not "facilitate" such developments. It seems to us that the original wording was preferable since it suggests a more pro-active stance on the part of government. Obviously, people should not be pressurised into learning, living, working and playing together, but government should be investing in facilitating and encouraging such initiatives wherever possible.

➤ **Fundamental Principles**

CAJ accepts the fundamental principles outlined (page 9/10), but would like to comment further on some of those listed:

Acknowledgement of the problem: CAJ believes that the problem of division has to be acknowledged, but we are not sure that it has been fully acknowledged in this discussion paper. There seems, for example, to be a particular emphasis on the most visible forms of division – the violence that occurs at interface areas, the existence of a segregated educational system, residential segregation in the public housing stock etc. Yet, much of Northern Ireland's divisions are much less visible. There are differential experiences of division across Northern Ireland and these also need to be acknowledged.

Nor is acknowledging the problem enough – we need to **develop a better understanding of the problem**. Division is experienced differentially by men and women, by geography – across Northern Ireland and in urban and rural areas generally - by socio-economic status, by age group, etc. It is not clear to CAJ that there is yet a sufficiently clear understanding of the problem – without which, solutions will of course be more difficult to determine.

Targeting: CAJ is certainly not opposed to directing energies at interface areas (quite the reverse), but these are sites where communal tension is simply most physically visible. Action largely addressed at such areas may simply address the short-time immediate problem, and not focus on some of the underlying dynamic that needs to be changed. Clearly, more fundamental change can only occur if resources are targeted at those in greatest need, whether the areas/individuals concerned happen to be 'interfaces' or not. Any 'shared future' must address the problem of, for example, the long term unemployed, and yet the census highlights that many of the areas with the highest levels of long-term unemployment etc. do not contain interfaces with 'the other community'. Social exclusion and deprivation (wherever and however they occur) cannot be viewed as being out-with the building of 'a shared future'. In this context, it is clear that co-ordination is required between the review of community relations, and the review of New TSN currently being carried out by OFMDFM.

We agree very strongly with the principle of **widespread ownership and engagement** and the importance of **local action**. It is very noticeable how the problems of sectarianism, communal division, and violence are often portrayed as problems restricted to poor working class areas. It would be completely misguided in our view to assume that all the problems of division reside in such areas. Worse still, if the solutions rely on forced compliance from people, simply by virtue of the fact that one can do so - because they live in public housing, attend publicly funded schools, or are financially dependent on state benefits – government will succeed in exacerbating not addressing the underlying problems. Again, locating ownership, engagement and local action within an equality/human rights framework, such as that envisaged by Section 75, provides opportunities for communities to see the value of working together for mutual benefit. Unfortunately, experience often shows that, when such initiatives do occur locally - such as with Springvale or the Greater Shankill and West Belfast Task Force - the problem is not lack of engagement across the communal divides, but rather the lack of willingness, or slowness, of government to invest the financial resources necessary to deliver change.

As to **other principles** – the focus appears to be on process rather than substance. Why not incorporate in the principles themselves the determination to create a society "*where there is equality, respect for diversity and a recognition that we are interdependent on each other*" (page 7)? Alternatively, one could repeat the language used in the most recent Programme for Government which is clearly intended to be a long term vision for Northern Ireland, and not just a time-limited objective – ie "*that Northern Ireland should become a peaceful, inclusive, prosperous, stable and fair society, firmly founded on the achievement of reconciliation, tolerance and mutual trust with the protection and vindication of human rights for all*". (quoted in Harbison's report, para 8.03). CAJ would argue that reference should be made directly in the principles to the contribution that respect for human rights and equality can make to improved community relations in Northern Ireland.

Moreover, the government paper suggests that organisations “working for reconciliation” should be supported (para 3.9), but it is ambiguous whether this could be interpreted to include individuals and groups working on issues of human rights and equality. CAJ itself does not seek or accept government financing, but believes that other organisations seeking to promote a fair and just society are working at a very fundamental level to bring about reconciliation, and should be able to benefit from government financing.

➤ **Implications for action**

Analysis of the past

Extensive efforts have been invested in the past in trying to improve community relations, but unfortunately little is said of this work in A Shared Future. The work of the Community Relations Council, the work of the Community Relations Officers in District Council areas, and the work of government’s Community Relations Unit are all relevant in this regard. Dr Harbison’s report usefully, for example, indicates some of the expenditures in this area for the year 2000/2001 - eg

- **Community Relations Unit - £5.4m** including Community Relations Council £2.7m; District Councils community relations programme £1.7m; funding of capital projects and organisations £700,000; and research, information etc. £300,000
- **Department of Education £3.4m** (excluding £42m expenditure via integrated schools)

He also notes expenditure in recent years on community relations via EU programmes (£17m), specific Peace One funding to CRC of £7m; and the amount of £8m spent by the International Fund for Ireland on community relations work between 1996-2001.

By way of annexe, Dr Harbison’s report also incorporates a number of evaluations of the work done to date, and on the basis of these, he draws a number of conclusions. He, for example, determines that there is a *“distaste by respondents from different perspectives for the current language of ‘community relations’ – the terminology is seen as tarnished, outdated and divisive”*. Given this, should there not be a discussion of alternative language? Government seems to talk of developing “good relations between and within communities” (page 12)? What are the disadvantages, if any, of naming the problem of sectarianism, and establishing for society the goal of “working to end sectarianism”? CAJ is concerned however that without serious examination as to why the terminology – and indeed the tactics and initiatives – of the past appear to have failed, or at least to have had insufficient impact, Northern Ireland will not make the necessary progress.

Research needs

A study of the government paper begs lots of questions that we believe need to be closely studied before finalising any long-term programme of action. For example:

General –

- Why are levels of tolerance and respect for diversity decreasing (according to recent opinion surveys)?
- How should one define, promote, and monitor work around the values of “tolerance”, “anti-sectarianism”, “reconciliation”? Funding has been directed to such work in the past, but there is no shared agreement about what the concepts mean, and therefore no shared understanding of whether we are moving forward or backward. How is attitudinal change and behavioural change to be monitored over time?
- What can we learn from other societies coming out of conflict? Is there some link between a diminution of political violence and an increase in other forms of violence (levels of suicide, interface violence, domestic violence,⁶ etc)?
- What can we learn from other societies trying to tackle racism, or communal tensions? CAJ was surprised at the suggestion in the Harbison research that an initial study of other jurisdictions suggested that there was little to learn, and we consider that further efforts should be expended on seeking out good practice from around the world.

Criminal Justice

- The criminal justice system in Northern Ireland has not to date gathered data on sectarian incidents and sectarian crimes (see on). Some of the issues around sectarianism in Northern Ireland have parallels with racism in other societies. Research should be carried out into the problems encountered, and the responses developed, to communal tension in other societies, and the implications these hold for criminal justice.

Education –

- What is the impact on the dynamic of social division of an educational system that is to a large extent segregated by community, gender, class, and language?

⁶ The NIO recently issued a press release announcing government’s intention to develop a NI Domestic Violence strategy (19 June 2003). This is very welcome, particularly given the dramatic rise in domestic violence since 1998. Police statistics record that the number of domestic incidents attended by the police, and the number of incidents involving physical violence, doubled in 1998; they have stayed at this level since. Even major domestic violence crimes (murders, rapes) show a marked increase since the lessening of political conflict.

- What practical steps (both inside the current construct, or with a radical restructuring) could the educational system undertake to challenge divisions in society? There seems to be an assumption on the part of government that “the education together at school of Protestant and Roman Catholic pupils”⁷ will, in and of itself, create more tolerance and respect for diversity. Is this correct, or does the policy of integration need to be more pro-active? What is being done now that is good and needs to be reinforced, and what bad practice needs to be challenged?
- The programme of Education for Mutual Understanding was meant to be a deliberate response to the challenge of educating young people in a divided society: what has and has not worked? What should/should not be retained, and learnt for the future?
- The Youth Service Community Relations Support Scheme is one of the few initiatives to receive a positive endorsement in the Harbison report. He notes that it is providing significant numbers of young people with practical opportunities of gaining a greater understanding of the main cultural traditions in NI; that the levels of commitment and support provided by youth leaders and organisations are significant; and that it provides a flexible framework for practical community relations work. He also suggests however that there is a lack of comprehensive evaluation of the work with this sector. Given the potential for positively influencing an extremely important constituency, it seems that evaluation should be built in and lessons learnt accordingly.

Housing –

- What are the obstacles to encouraging more integrated housing stock: resources? limited take-up from families? inappropriate siting of new housing projects? lack of support services?
- Much of the problem at certain tense interfaces is alleged to arise because of pressures on housing stock, and the changing demography of the area. Does government have a sufficiently clear picture of housing need, current gaps in housing provision, and what measures must be taken to avoid lack of appropriate housing becoming a source of grievance in areas that are already economically deprived and marginalized?
- More generally, beyond immediate interfaces, what is the strategy for addressing housing need? We note for example that according to the latest census figures, overcrowding (a key equality indicator) is particularly high in West Belfast with just over 16% of households

⁷ This is the definition used by the Department of Education in relation to integrated education (para 4.08). Note also that Dr Harbison included reference to the cost of funding integrated schools when calculating government expenditure on community relations; not included were expenditures on the work of the Fair Employment Tribunal, though ensuring a diverse workforce could arguably be seen as equally relevant.

experiencing overcrowding. High overcrowding is recorded thereafter in Foyle (11.4%), West Tyrone, Mid Ulster and North Belfast. The least problems of overcrowding are to be found in North Down, East Antrim, Lagan Valley, South Antrim and Strangford. This would seem to show a clear imbalance in relation to housing provision for the Catholic/Nationalist community, the alleviation of which must presumably form a central part of any notion of a 'shared future'?

Actions to be undertaken in the interim

CAJ believes that a range of research needs to be undertaken, but also believes that there are a number of steps that can be taken with little or no delay. The above programme of additional research should in no sense delay or defer progress in a number of fields such as those indicated below.

It is also worth noting here by way of introduction our disquiet at the limited approach taken in the government paper. The government clearly wants to signal that good relations is an important priority, and we welcome the fact that finances have been made available to a wide range of groups to facilitate debate around the paper. The process of debate and exchange is to be welcomed. In substantive terms, however, none of the following forty or so recommendations from CAJ in response to the government paper are new. None of them are being submitted to government for the first time. None of them originate with CAJ alone, in that they mainly reflect thinking and campaigning by a broad range of individuals and groups over many years. Many of them date from government-funded studies in the mid-90s and earlier. Yet few, if any of them, figure in the government proposals for debate. Is this due to an oversight on the part of the drafters? Is there disagreement around the contribution that human rights and equality can make to a more shared future? Or is there a fundamental disagreement about the nature of 'good relations' and how broad/narrow the agenda needs to be in bringing about change?

Given the importance that government has accorded to this consultation process, its first priority should be to reassure consultees that there is a genuine process of engagement and participation underway. One small but obvious way that government can show its genuine engagement in debate is to provide some feedback to consultees. CAJ certainly would very much appreciate receiving direct feedback on the recommendations below. This could be done as part of a fuller response to all consultees.

The Department of Education produced an excellent document giving feedback to consultees on the different views around 11+ selection.⁸ CAJ believes that government should replicate this good practice in its feedback on "A Shared Future".

⁸ Review of Post-Primary Education: Report on responses to consultation, October 2002.

Accordingly, CAJ recommends that:

1. Government should, as a sign of genuine debate and engagement, give feedback to consultees on the range of proposals made in response to this consultation, which action it intends to pursue, which not, and why.

More generally:

2. Government should support efforts to broaden out and deepen the public debate about a Bill of Rights for Northern Ireland, since this could be an excellent mechanism for setting out a vision for the future of Northern Ireland which is both shared and pluralist.
3. The early impetus on the part of the devolved government to institute a single piece of comprehensive equality legislation (a Single Equality Act) needs to be re-energised. Such legislation would define and seek to address a range of issues of discrimination (direct and indirect), harassment, victimisation, and the measures necessary to pro-actively promote greater equality in society.
4. There needs to be a sustained attack on institutional sectarianism, racism, and homophobia - most particularly in the criminal justice and policing systems, but these institutions are not alone in this regard.
5. The public service in general, the senior civil service in particular, and the large number of Northern Ireland appointments to public office, should better reflect society at large, and measures should be introduced accordingly. We note for example that the South African Constitution states that ‘public administration must be broadly representative of the South African people’⁹.
6. Human rights training programmes are needed to assist the public sector challenge sectarian, racist or homophobic practices, and develop appropriate responses.
7. There needs to be a greater political commitment to the current positive duty placed on all public bodies to actively promote equality of opportunity and good relations regardless of race, religion, political opinion etc. If sufficient commitment already existed, the first recommendation above would not even need to have been formulated, since section 75 of the Northern Ireland Act requires consultation that is “timely, open and inclusive”.
8. Funding should be allocated to good public education campaigns promoting human rights, equality and respect for diversity.

⁹ South African Constitution, Chapter 10, para. 195 (1) (i).

9. Northern Ireland is fortunate to have a richness of language, both indigenous languages and the languages of different minority groups, migrants and visitors. This should be a cause of celebration, and certainly it is a basic human right to be allowed to speak one's own language - a right that can only be interfered with in clearly defined instances. We presume that a range of groups active in the area of language rights – Pobal, Ulster Scots Heritage Council, the Chinese Welfare Association, NICEM, sign language organisations and others - will be responding in detail to the consultation paper. CAJ believes that the particular expertise of these different groups should be of great assistance to government in developing a concept of 'a shared future' that moves beyond too narrow a focus on the main political traditions in Northern Ireland.
10. Northern Ireland, for perhaps the first time, is becoming a pole of attraction for refugees and asylum seekers. A number of reports have been produced indicating the action required to ensure that people's human rights are respected, but there has been limited follow-up. The Law Centre, for example, is shortly re-issuing a report on the detention of asylum seekers, and this will highlight that only one of the thirty three recommendations made in 2000 has been acted upon by government.¹⁰ CAJ commends these reports to government and urges that it take more speedy action to defend the rights of some of the most vulnerable and marginalized members of Northern Irish society.
11. There are many other sectors of Northern Irish society that suffer from social exclusion and marginalisation. Many people – whether members of ethnic minorities; members of the lesbian, gay, bisexual and transgender community; victims; people with disabilities; or carers – do not feel that their rights are fully respected, or that their contribution to society is fully valued. They would all benefit from the passage of a Bill of Rights and a Single Equality Act, and they would all benefit from better implementation of the section 75 equality duty, but they all also have different concerns that need to be addressed by government. The community and voluntary sector needs to be resourced to facilitate the articulation of the concerns of excluded constituencies and improve the mainstreaming of those agendas in the Programme for Government and government policies generally.

There are also a number of specific arenas that have a particular role to play in addressing and remedying some of the divisions in society.

¹⁰ See *A Place of Refuge – Asylum Seekers and Refugees in NI: a needs assessment*, Refugee Action Group, 2002; *Sanctuary in a Cell*, Law Centre, 2000 and July 2003 update (forthcoming); and *Asylum Voices: Experiences of People Seeking Asylum in the UK*, Edited by Dr. Andrew Bradstock and Rev. Arlington Trotman, published by Churches' Commission for Racial Justice, Churches Together in Britain and Ireland (2003).

Criminal Justice

12. Anti-hate crime legislation is needed, but one should note that it can only be effective if it is properly enforced. There are a variety of ways in which improvements can be made in this regard and CAJ has commented on this elsewhere.¹¹
13. CAJ, in the same submission, drew attention to a recent Council of Europe pamphlet outlining a series of excellent recommendations relating to comprehensive national legislation to combat racism and discrimination.¹² Many of these proposals would be relevant to the tackling of sectarianism and sectarian crime also.
14. Sectarian crime and sectarian incidents need to be routinely monitored (as is done for racist incidents and, more recently, homophobic incidents) by the various criminal justice agencies, so that the nature and extent of the problem can be better understood.
15. The District Policing Partnerships and Community Safety Partnerships are locally based structures which could – if properly funded and coordinated – make policing with the community a reality. This in turn would allow for a more effective response to local crime and safety problems. The current separation of functions and funding arrangements between the two structures is worrying, and may well undermine important initiatives being undertaken locally by other statutory groups (eg the NI Housing Executive). The Policing Board should explore the appropriate division of functions at the local level, so as to make recommendations accordingly.
16. Consideration needs also to be given to the development of alternative responses to the traditional punitive criminal justice model. More research and funding could be targeted at the prevention – and not solely the punishment - of crime and, in this regard, the work of restorative justice projects, based on human rights principles, merit particularly close study.

Economic regeneration

17. While bigotry, prejudice and sectarianism is experienced across much of Northern Ireland, and is certainly not limited to areas of economic deprivation, interface areas at which sectarian violence has been experienced do all share one common denominator – poverty. New life needs to be given to the commitment to Targeting Social Need.

¹¹ Response to the “Race crime and sectarian crime legislation in Northern Ireland”, S. 141, CAJ, February 2003.

¹² European Commission Against Racism and Intolerance – General Policy Recommendation no.7 – on National Legislation to combat racism and racial discrimination, adopted by the Council of Europe on 13 December 2002 (February 2003).

18. In particular, government should progress without delay the many excellent recommendations arising from reviews such as -:
- the Greater Shankill and West Belfast Task Force reports;
 - the Procurement Review and its pilot projects aimed at long term unemployment;
 - the Employability Task Force.
19. The initiative to bring work and social regeneration to the Springvale site (which would have tackled disadvantage in some of the poorest wards in Belfast) should be resurrected as a matter of urgency. Government could consider a flagship project there – eg the new £20m building that is to be the headquarters of Invest Northern Ireland.
20. Local community and voluntary sector projects are often extremely well placed to promote good relations both within and between communities. Yet there is little reference in A Shared Future to the funding collapse of the sector. CAJ agrees (para 4.29) that this is an issue that should be looked at by the Taskforce on Resourcing the Community and Voluntary Sector. The taskforce should consider how groups can be supported in their work to promote good relations, without undermining their independence.
21. Local Strategic Partnerships offer a potential local forum for tackling economic regeneration, the particular problems of interface areas, community empowerment, and social exclusion. CAJ is however aware of members of LSPs who have asked for clearer definitions of their role in terms of “reconciliation”. The EU Special Programmes Body should address this request with some urgency, so that the Peace II monies are effectively addressed to promoting good relations, and to ensure that lessons are learnt for subsequent funding cycles.

Education

22. One of the most worrying exhibitions of sectarianism in recent years was the protest connected to Holy Cross school. Lessons need to be learnt from this event – that the best interests of the child must be the primary principle of government action; that school buildings, school transport, and schoolchildren must be effectively protected against the communal and other tensions in our society; and that many local communities need assistance not only in developing a sense of greater personal security but in articulating their grievances in a way that does not itself violate the rights of others.
23. Clearly, with the abolition of the 11+, an educational system that is fairer and which provides greater equality of resources across all schools is needed. Children are currently divided by class, by geography and by legacy of deprivation. Research in the selective education system has shown that schools where there were more

children eligible for free schools meals were less likely to have children achieving an A grade in the 11+; only 27% of pupils entitled to free school meals stayed on at school after year 12 (48% was the average; & not one Traveller pupil stayed on after year 12.

24. Human rights education should be given greater prominence in the school curriculum. Education which encourages respect for diversity, equality of treatment and tolerance must be a priority. Schools could – as a practical exercise - be actively encouraged to develop their own Bill of Rights, involving schoolchildren, parents, teachers, non-teaching staff, in defining the ‘rules of the game’ by which they will share the school, respect their differences, and inter-act with the society around them. A greater priority for human rights education in schools would of course have consequences for teacher training as well.
25. There is clearly a need to invest more in youth work, especially in disadvantaged areas. Particular reference was made to this in the Good Friday/Belfast Agreement.¹³ The relevant statutory and voluntary groups, working with young people themselves, should examine what has been done to date to give this commitment effect, and what more needs to be done.¹⁴ Funding should be guaranteed accordingly.
26. Resources need to be targeted at those who left school without any formal qualifications.¹⁵ The census revealed stark contrasts between educational attainment across Northern Ireland, with almost 42% of those aged 16-74 having no qualifications whatsoever. The highest percentages of those with no formal qualifications were found in West Belfast (51.46%), North Belfast (51.46%) and West Tyrone (48.06%). The percentage of persons aged 16-74 in North and West Belfast with no qualifications is double that of South Belfast. Clearly, such disparities are anathema to any concept of “a shared future”.
27. Recent research has shown that every other child in Northern Ireland is living in poverty or at risk of poverty. Many recommendations have been developed to try and intervene and break this cycle of deprivation and exclusion, and an audit of these various recommendations should be developed by government and progressed without further delay. Save the Children have, for example, recommended ending the stigma surrounding free school meals; the Department of Education proposed more nutritious school meals; others argued that the school clothes grant should be increased and available annually.

¹³ “The participants particularly recognise that young people from areas affected by the troubles face particular difficulties and will support the development of special community-based initiatives based on international best practice”, GFA, page 18, para 12..

¹⁴ CAJ recently attended the AGM of the Terry Enright Foundation, which is an excellent example of the kind of cross-community initiative that is aimed at developing the talent of young people in some of the most disadvantaged areas of Northern Ireland.

¹⁵ See also “Educational Disadvantage in the Context of Lifelong Learning”, Civic Forum, September 2002.

28. Education is a key route out of poverty: it reduces exclusion and marginalisation. Government should monitor the practice of informal school exclusions and take the steps necessary to end this practice.

Employment & Unemployment

One cannot consider how Northern Ireland might have a shared future without examining the context within which different communities experience employment and unemployment. Relatively little information is provided on either of these topics in the government paper, so CAJ thought it worthwhile to look fairly closely at the recent census and other official statistics to determine what are the key issues needing to be addressed, before going on to make specific recommendations.

➤ **Employment**

A study of current and past practice in the area of employment has both good and bad lessons to offer about how we should develop a more shared future.

On the one hand, progress in the past should be recognised. For example, between 1990 and 2001, Roman Catholic participation amongst the employed increased from 34.9% to 39.5%. Significantly, both the Equality Commission and the former Standing Advisory Commission on Human Rights (SACHR) acknowledged that the 1989 Fair Employment Act had been instrumental in this move toward a more representative workforce. The Act introduced measures to promote the active practice of fair employment by employers & the close and continuous audit of that practice by new and stronger enforcement agencies; the use of affirmative action to remedy under-representation; and the use of criminal penalties, and economic sanctions, to ensure good fair employment practice. Under the terms of the 1989 Act for example, employers who failed to monitor their workforce, or fail to submit their monitoring returns to the Equality Commission are guilty of a *criminal* offence. Indeed, it is clear that the introduction of the criminal law into what was hitherto considered the private sphere of employer/employee relations has had a significant impact on promoting equality. It is for these reasons that CAJ recommended (elsewhere in this paper) the need for movement on a single piece of employment legislation and the introduction of anti-hate crime legislation.

It is also worthy of note that the 1989 Fair Employment Act Code of Practice states that in order to promote equality of opportunity, employers should *'promote a good and harmonious working environment and atmosphere in which no worker feels under threat or intimidated because of his or her religious belief or political opinion eg prohibit the display of flags, emblems, posters, graffiti, or the circulation of materials, or the deliberate articulation of slogan or songs, which are likely to give offence or cause apprehension among particular groups of employers'*. While this advice has sometimes

been misinterpreted to mean that “religion/politics cannot be discussed” in the workplace, indeed it has sometimes been misinterpreted to arbitrarily prohibit the use of the Irish language in the workplace, this approach has in large part been very beneficial in creating safer and more welcoming workplaces for all. Why have these concepts, some 14 years after the passage of this legislation, not been extended to spheres other than fair employment?

However, there is still much work to be done to promote fairer participation in the workplace. According to the latest monitoring figures from the Equality Commission the steady increase in Catholic participation in the workforce of approximately 0.5% per annum which occurred throughout the 1990s has now levelled off. For a second year in succession, no increase in Catholic participation in the workforce has been apparent.

A range of measures discussed elsewhere in CAJ’s response would be helpful: for example, a re-visiting of the senior civil service review which examined under-representation amongst Catholics and women; a comprehensive programme of job dispersal across NI (if Invest NI does not go to Springvale, should it not be located west of the Bann?); and a more integrated regional and transportation strategy which would provide the necessary infrastructure beyond the greater Belfast area.

In particular, it is vital to make the appropriate linkages between the Employability Task Force, the pilot schemes from the Procurement Review, the Greater Shankill and West Belfast Task Force, and the requirements of Section 75 and New TSN (all referred to earlier). When choosing where to locate Invest NI, the process of carrying out a full Equality Impact Assessment would allow government to examine how equality could be maximised in such an initiative. Unless, equality and TSN objectives are built into key decision-making within government then legislation such as Section 75 will fail to operate to its full potential in addressing inequalities, and creating a fairer society.

➤ **Unemployment**

The figures provided below should be read in the context of an overall rate of unemployment of 5.1% - one of the lowest figures ever for Northern Ireland. In other words, while Northern Ireland overall is experiencing increased prosperity, with record numbers of people in employment, there has been little or no impact on some sectors of society. For example:

Community differentials: According to a recent Labour Force Survey religion report (February 2003), the religious composition of the unemployed was 60% Catholic and 40% Protestant. The unemployment rate for Catholics (8.3%) was substantially higher than that for Protestants (4.3%); for males the unemployment differential between Protestants and Catholics was 2.1, and for females it was 1.6. It is worth recalling that in 1991 the differential for male Protestant/Catholic unemployment was 2.2. Thus in the last 12 years, the unemployment differential for males has dropped from 2.2 to 2.1. It is

clearly very worrying that this differential has changed so little in more than a decade, and it suggests that the issue has not yet been adequately tackled.

Geographic differentials: There are clear geographic differentials also. For example, the percentage of those who have never worked as a percentage of unemployed persons across Northern Ireland as a whole is 12% - but in Strabane this is almost 18% (ie almost one in five of those unemployed in Strabane have never worked). In close competition with this depressing statistic, the census cites Omagh and Belfast (both on 16%), Derry (14%), with Lisburn, Fermanagh, Dungannon and Cookstown all just over 13%. At the other end of the scale, is Banbridge with just over 6%, followed by Castlereagh and North Down (both less than 8%).

Long term unemployed: Many of the same geographic and communal divisions are reflected also in the statistics of long term unemployment. Whereas, 40% of the unemployed in Northern Ireland have not worked since 1999 or earlier, this figure rises to 45% in Derry and Armagh District Council areas, followed by Belfast, Coleraine, Cookstown, Craigavon, Larne, Moyle, Newry & Mourne, Omagh and Strabane (all over 40%). Again, the Council areas that have least long term unemployment are Castlereagh and North Down (just under 34%). In Belfast, the figure for the Shankill at over 55% is the highest for any ward, followed by Crumlin 52%, and Andersonstown 51%. In fact, no fewer than 29 out of 51 Belfast wards have 40% or over of their unemployed as long-term unemployed.

A number of actions should be undertaken in response to these realities:

29. Relative poverty/exclusion: As noted earlier, the fact that Northern Ireland has much lower levels of unemployment than in the past makes the relative position of many areas worse than previously. Clearly broad economic regeneration packages are not going to address all of these problems and it will also be necessary to focus in on pockets of deprivation, which have remained immune from the growth in the economy as a whole. Such work needs to be a key priority for government.
30. Amongst the issues which government needs to address urgently are a number already highlighted elsewhere in this paper (e.g. the recommendations of the Greater Shankill and West Belfast Task Force; government's TSN commitment; and the Procurement Review's pilot schemes looking at long term unemployment). Moreover, the government should re-visit a number of the recommendations made by the 1997 SACHR review¹⁶ which addressed unemployment and recommended, amongst other things – increased job creation, the establishment of realistic goals and timetables for eliminating the differentials in unemployment between the two communities, and

¹⁶ Employment Equality: Building for the Future, Standing Advisory Commission on Human Rights, 1997 (chapter 2). This report in turn draws on extensive earlier commissioned research on issues of employment and unemployment, all of which are to be commended as having concrete proposals of relevance to the current debate.

measures to address the 'benefit trap' including the provision of affordable childcare.

31. In the SACHR study,¹⁷ one of the proposals relates to the value of incentives for industry and business to locate within areas of very high unemployment. The need for such a measure is to be seen in the geographic and community differentials noted above: government should give a lead by initiating a programme of civil service job relocation aimed at redressing the current disparities in employment prospects between East and West of the Bann. Currently almost 73% of jobs in the civil service (a major NI employer) are located within the Belfast Travel to Work Area.

Housing & use of public space

32. Reference is made in the government paper to increased support for those living in integrated housing (para 4.27). The NI Housing Executive should not merely "support" those already living in integrated housing, but should actively invest in creating more sites for public housing that would be accessible to all communities.
33. The creation of more shared spaces must also seek to move beyond town centres (para 4.27). Public authorities should develop programmes which tackle some of the environmental problems experienced at interfaces – display of sectarian graffiti, inadequate refuse collection, poor environmental planning etc.¹⁸
34. The Housing Executive, Housing Associations, the Department of the Environment, criminal justice agencies, and others need to develop a plan for more effective responses to counter sectarianism and to help residents who are, or feel, intimidated and under threat. In the employment segment, CAJ discusses the beneficial impact on workplaces of the Fair Employment Code of Practice that advises on the promotion of a good and harmonious working environment, and we wonder why this approach is limited to the workplace? CAJ is of the view that the PSNI, local councils, and other relevant public authorities must adopt a strategy of ensuring that 'neutral and harmonious environments' extend beyond the workplace.
35. CAJ has focused here on the housing needs and concerns of the settled community, but the inability of Northern Ireland to develop appropriate responses to the accommodation needs of Travellers is of grave concern. Many Traveller sites have been equated to conditions more often found in the developing world, with limited basic water and sewerage services. The social exclusion experienced by Travellers is not much addressed in the government's consultation paper, but work

¹⁷ *ibid.*

¹⁸ Minister Des Browne noted that "the poor physical appearance of areas can often have a negative effect on communities", NIO Press release dated 24 April 2003

on this question needs to be urgently progressed. The report of the Promoting Social Inclusion Working Group on Travellers was issued for consultation in January 2001, but despite the fact that feedback was largely positive,¹⁹ government only issued a response regarding its intentions this year (more than 2 years later). It is unclear when action will occur, and when Travellers can expect any real change on the ground.

36. The use of public space for parading and for protests is often a source of great tension in Northern Ireland. CAJ has written extensively on the conflict of rights involved and on the policing of any disturbances. Over the years, we have argued that the serious tensions that arise around parading would be assuaged by a series of different, if complementary, measures which aimed at promoting: a greater awareness of the rights issues involved, and the need to respect the rights of others; more effective and impartial policing of this conflict of rights; and fairer and more transparent adjudicatory processes wherein the rights of all are, and are seen to be, properly protected. Unfortunately, CAJ believes that the Quigley review does not provide the necessary building block for further advances in this area, and would urge government to set many of his proposals aside, as they risk exacerbating rather than ameliorating the situation.²⁰

Segregation and the chill factor

Another key factor to be explored with relevance to employment, unemployment, and housing and public spaces more generally is that of spatial segregation and chill factors. In this respect, CAJ would refer to the findings of a pilot study by Shirlow et al on Measuring and Visualising Labour Market and Community Segregation.²¹

This fascinating study suggests that the problem of communal segregation may be much greater even than the monitoring figures show. Significantly however, the study found that people from highly segregated and deprived areas will work together if workplaces are located within neutral spaces. Indeed according to the report *'it is particularly the case that people from segregated communities will work together if they can locate a workplace without having to enter a place 'dominated' (authors' emphasis) by the other religion.....Locating workplaces between adjacent communities stimulates greater mixing. In particular, it stimulates the employment of people from*

¹⁹ A Response to the PSI Working Group Report on Travellers, (OFM/DFM), 2003: "the vast majority of responses to the consultation acknowledged the inequalities and disadvantages suffered by Travellers and generally supported the recommendations contained in the (2001) report" (page 88).

²⁰ For fuller details on our response to Quigley, and past work in this area, see "CAJ's response to Sir George Quigley's review of the Parades Commission and Public Processions (NI) Act 1998, (S.138), January 2003.

²¹ Measuring and Visualising Labour Market and Community Segregation: A Pilot Study, research report, Dr P. Shirlow, Dr B Murtagh, Dr V. Mesev, and A. McMullan (2002)

predominantly Catholic areas of high dependency. This suggests that the creation of neutral and safe locations is an important factor in stimulating the employment of those from segregated and benefit dependant communities'. This finding is extremely important in that it makes it clear that "sharing" is not necessarily avoided consciously or deliberately but that segregation is often merely considered a safer option. Given the political conflict of the recent past, and the many sectarian attacks, this is not an irrational response.

Yet, much of the thinking of the government paper implies a more fundamental and conscious bigotry and prejudice on the part of people living, working and socialising in highly segregated contexts.

37. CAJ believes that the government agenda for addressing "A Shared Future" should build on the findings of the Shirlow report and should use its recommendations to address concerns around spatial segregation, and the lessons this holds for inward investment, job creation, etc.
38. In particular, the report demonstrated a connection between land use planning, local development policy, transportation planning and urban regeneration, and argued that *'the Belfast Metropolitan Area Plan is at a sufficiently early stage to draw on this research and to see a role for spatial planning in providing real opportunities and alternatives for the city's most excluded people'*. This is a view CAJ would very much endorse.

Litigation

A number of practical proposals for legislative changes have been given at relevant points in these recommendations. However, there are a couple of additional recommendations that could be made ie

39. We have noted already CAJ's disappointment at the delay in the passage of a Single Equality Bill. This delay meant that OFMDFM were obliged to implement the EU Directives via Regulations. Moreover, the draft Regulations issued by OFMDFM appear not to comply with the EU Directives; we believe that such a minimalist approach on the part of OFMDFM does not reflect adequate commitment to the kind of 'shared future' discussed in this paper, and the Draft Regulations should be amended accordingly.
40. A number of proposals were made by SACHR in its 1997 report to extend the protections against religious and political discrimination further.²² These were not adopted by government at the time. These should be taken on board in the finalisation of a Single Equality Bill, and particular provision made regarding the value of affirmative action, class actions, the role of third parties in supporting cases, etc.

²² see footnote 15 for reference.

41. Litigation serves a limited purpose if remedies cannot be secured. It is imperative that the Equality Commission is provided with sufficient resources to support legal cases across the range of section 75 constituencies.

Dealing with the Past

CAJ's focus throughout this paper has been on the challenges facing Northern Ireland in the future. However, it is very clear that many future challenges have their legacy in the past conflict. Is it enough for this recognition to be an implicit one, or is there a need for a much more explicit debate about how society can deal with the past?

The Good Friday/Belfast Agreement, for a variety of reasons, focused on the future rather than on the past. While the Agreement did not ignore the past, it decided to address it by affirming a better future. In this way, the governments, political parties and voters expressed the hope that one might avoid a repetition of the past. The opening preamble, for example, makes it clear that it is precisely to honour those who have died, been injured, and their families, that we need to make "*a fresh start, in which we firmly dedicate ourselves to a future of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all*". With hindsight, however, there is now some doubt as to whether it is desirable or indeed possible to fully commit to a shared and peaceful future, without some addressing of the legacy of the past.

Indeed, there has been increasing discussion – at least in the media – about the advantages and disadvantages to Northern Ireland creating formal mechanisms to deal with the past. CAJ has worked for many years with families who have lost loved ones during the conflict in Northern Ireland. We have campaigned on individual cases, on improving the inquest system, and have successfully taken cases to the European Court of Human Rights on article 2 of the Convention (the right to life).

42. CAJ believes that any shared future can only be built on an acknowledgement of the human rights abuses of the past and a determination, and a plan of action, to ensure that they can never recur. As a minimum, CAJ believes that any new proposals to deal with the past must be measured for their compliance with domestic and international human rights standards, and need to fully engage with the rights of victims and others.

Institutional responsibility for promoting good relations

The government paper explores the question of institutional responsibilities for promoting good relations. This is not an issue on which CAJ wishes to comment extensively at this stage.

Firstly, we believe that further examination of existing institutions is required prior to any decision as to directions for the future. In this context, clearly it is essential that government appoint an independent evaluator to examine the extent to which the Community Relations Council has been successful in fulfilling its mandate for improving community relations. At the same time, we note that a review of the Equality Commission is being undertaken by BDS. Clearly, it would be imprudent to suggest future structures prior to examining the outcome of this, or indeed any other reviews of the Equality Commission that may be ongoing. Whether either or neither of these institutions should take on a more active leadership role in the field of improving community relations will depend on the outcomes of such evaluations.

Secondly, CAJ believes that form should follow substance: it is impossible to determine who should be responsible for leading a particular programme without much more clarity as to the content of the programme. The recommendations cited above would greatly extend government's plans to create a more shared future. Will this wider programme be taken on board and advanced by government, or will it be narrowed to the kinds of proposals in the initial government paper? Only when the remit of "good relations" has been better defined, can there be any clarity about which institutional arrangements would best further that agenda.

Last but not least, it is quite clear that the duty to promote good relations needs to be mainstreamed across all aspects of government policy. Good relations cannot, and should not, be assigned to any one particular body or agency in a compartmentalised way. CAJ looks forward to monitoring this discussion as it proceeds, and determining in the light of the issues raised by other consultees, how best to ensure that this process of mainstreaming good relations is pursued most effectively.

Annexe:

Discrimination on grounds of religious and political opinion: some relevant human rights standards

Universal Declaration of Human Rights

Preamble

“recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”

Text

1. “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood (sic)”
2. “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
7. “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination”
18. Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom either alone or in community with others and in public or private to manifest his religion or belief in teaching, practice, worship and observance”
19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”
- 26.2 Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious group, and shall further the activities of the UN for the maintenance of peace
28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised

29. Everyone has duties to the community in which alone the free and full development of his personality is possible

29. Nothing in this Declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

International Covenant on Civil and Political Rights

“realizing that the individual, having duties to other individuals and to the community to which he belongs is under a responsibility to strive for the promotion and observance of the rights recognised in the present Covenant....agree:

“Article 20.1 – any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

“Article 26 – All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

International Covenant on Economic, Social & Cultural Rights

Preamble: “realizing that the individual, having duties to other individuals and to the community to which he belongs is under a responsibility to strive for the promotion and observance of the rights recognised in the present Covenant....agree:

“Article 2.2: The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Other articles of particular relevance to Northern Ireland’s concerns around sectarianism: right to work, right to safe and healthy working conditions, right to education (in particular an education which “shall enable all persons to participate effectively in a free society, promote understanding, tolerance, and friendship among all nations and all racial, ethnic or religious groups..”, and the right to take part in cultural life.

Most of the other International Conventions (on the Elimination of Racial Discrimination, of the Elimination of all forms of Discrimination Against

Women, on the Rights of the Child) carry a reference to the right to non-discrimination, and include religion and politics amongst the grounds.

UN Declaration on the Elimination of all Forms of Religious Intolerance

Preambular text:

- ❖ Reaffirming that discrimination against human beings on the grounds of religion constitutes an affront to human dignity and a disavowal of the principles of the Charter;
- ❖ Reaffirming the call of the World Conference on Human Rights for all governments to take all appropriate measures in compliance with their international obligations and with due regard to their respective legal systems to counter intolerance and related violence based on religion or belief, including practices of discrimination against women and the desecration of religious sites, recognising that every individual has the right to freedom of thought, conscience, expression and religion;

Article 3: urges States to ensure, in particular, that no one within their jurisdiction is, because of their religion or belief, deprived of the right to life or the right to liberty and security of person, or is subjected to torture or arbitrary arrest or detention.

Article 4: condemns all instances of hatred, intolerance and acts of violence, intimidation and coercion motivated by religious extremism and intolerance of religion or belief;

Article 5: urges states, in conformity with international standards of human rights to take all necessary action to prevent such instances, to take all appropriate measure to combat hatred, intolerance and acts of violence, intimidation and coercion motivated b religious extremism and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief.

Article 10: expresses its grave concern at any attack upon religious places, sites and shrines, and calls upon all states, in accordance with their national legislation and in conformity with international human rights standards, to exert utmost efforts to ensure that such places, sites and shrines are fully respected and protected.

Article 14: invites the Special Rapporteur (on Freedom of Religion and Belief), within the terms of his mandate and in the context of recommending remedial measures, to take into account the experiences of various states as to which measures are most effective in promoting freedom of religion and belief and countering all forms of intolerance;

Article 15: encourages governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate even more effectively.

European Convention of Human Rights

Article 14: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Protocol 12: (a stand-alone non discrimination provision that extends article 14's protections beyond only those rights set forth in the Convention - not yet in force)

“Reaffirming that the principle of non-discrimination does not prevent States Parties from taking measures in order to promote full and effective equality, provided that there is an objective and reasonable justification for those measures, have agreed as follows:

article 1: the enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. No one shall be discrimination against by any public authority on any ground such as those mentioned.”