

Committee on the Administration of Justice

(affiliate of the International Federation of Human Rights)

**Submission to the
United Nations
Committee on the Elimination of Racial
Discrimination**

**for consideration during the
Committee's scrutiny of
UK Government's Report**

9th August 1993

The Committee on the Administration of Justice (CAJ) is an independent civil liberties organization committed to working for the highest standards in the administration of justice for Northern Ireland. Founded in 1981, CAJ is an affiliate of the International Federation of Human Rights.

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SUMMARY

Racial Discrimination and the Absence of Anti-Racism Legislation in Northern Ireland

This submission to the UN Committee on the Elimination of Racial Discrimination highlights the concerns of the Committee on the Administration of Justice (CAJ) regarding discrimination suffered by Northern Ireland's minority ethnic communities. The submission points out that there is currently no effective anti-racism legislation in force, and argues that effective legislation, along with an enforcement agency, are urgently needed in Northern Ireland. In addition, the submission emphasizes that Travellers, an indigenous Irish people, are a distinct ethnic group who face racial discrimination on a daily basis and who must be afforded legal protection.

CAJ believes that the UK government has not fulfilled its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination - as well as other international treaties - to take adequate steps toward ending racial discrimination and reducing disadvantages suffered by ethnic Chinese, Pakistanis, Indians, Vietnamese, and other minority ethnic groups in Northern Ireland. The lack of appropriate legislation is highlighted in the following pages. This submission also addresses the UK government's Twelfth Periodic Report to CERD and suggests that it is at the very least incomplete and inaccurate. Finally, CAJ's recommendations for comprehensive and appropriate anti-racism measures in Northern Ireland are outlined for consideration.

There is an ongoing debate over the introduction of anti-racism legislation in Northern Ireland. As the result of a campaign by NGOs to secure anti-racism legislation, the Government recently published a Consultative Document entitled *Race Relations in Northern Ireland*. While this step is welcome, as yet no concrete steps have been taken to introduce legislation. Therefore, comments by CERD could play a timely and important role in the introduction of legislation for Northern Ireland.

1. Background to Concerns About the Absence of Legislation in Northern Ireland to Prohibit Racial Discrimination

Although Britain has passed the **Race Relations Act 1976** which established a monitoring body called the **Commission for Racial Equality (CRE)**, no such law or commission exists in Northern Ireland. Simply put, **it is perfectly legal to discriminate on racial grounds in Northern Ireland and there is no remedy.** In fact, the **CRE** itself advocated legislation for Northern Ireland in its **Second Review of the Operation of the Race Relations Act 1976** when it stated that “In principle there should be protection from racial discrimination, and in practice it would seem from representations made to us that there is some need for it. We are pressing the Government for action on race in Europe, and it follows that the gap in the UK’s own law should be filled.” (pg. 72).

Further, the **Standing Advisory Commission on Human Rights (SACHR)**, which was established in 1973 under the aegis of the **Northern Ireland Constitution Act**, has reiterated the need for such legislation in consecutive annual reports. In 1991 the **SACHR** noted, the difference in the law on racial discrimination as between Northern Ireland and the rest of the UK and stated that “the maintenance of these major differences in coverage cannot be justified in light of the UK’s international obligations.” (pg. 23, para 3.15).

Northern Ireland is one of only two regions in the European Community with no race-specific anti-discrimination legislation. For years it has been denied that racism is a problem in the region; the conventional philosophy in Government has been that the relative absence of “foreigners” in Northern Ireland serves as proof positive that racial problems do not exist. In its Tenth Periodic Report to **CERD**, the Government stated, “As it has been explained before, immigration to Northern Ireland from outside the British Isles continues to be insignificant and there has been no race relations problem to date in Northern Ireland...In common law jurisdictions it has been the practice that where no problem exists legislation is not required.” (CERD/C/172/Add.11.). Ironically, this mode of thought defines minority ethnic groups as the problem, and in so doing, it is racist in and of itself.

The past nine years have clearly demonstrated a pattern of ambiguity and procrastination on the part of the Government. In 1984, the

Government-sponsored **Standing Advisory Commission on Human Rights (SACHR)** decided to review the anti-discrimination infrastructure in Northern Ireland. Six years later, **SACHR** published a report which noted the UK's international obligations under **ICERD** and stated that "persons who have cause for complaint on grounds of racial discrimination should be able to seek the protection of the law. The present gap in the law is not only objectionable in the specific context of race relations in Northern Ireland, but is also damaging in the wider context of promoting a greater awareness in Northern Ireland of the importance of human rights." (page 73, para. 7.4).

Yet there was not so much as a reply to the report from the **Secretary of State for Northern Ireland** until 1992. In March of that year, the permanent secretary of the **Department of Health and Social Services** stated that the Government "accepts the principle that protection should be given to those who suffer from discrimination on the grounds of race" in Northern Ireland.

Nine months later the Government issued *Race Relations in Northern Ireland*, a consultative document which stated "The Government is open to promoting race relations legislation, and would value views on this. It is recognized that solely administrative measures would be inconsistent with the statutory basis for fair employment and sex discrimination measures in Northern Ireland and race relations in Great Britain." (page 5, para. 16). [Copies of *Combatting Racism in Northern Ireland*, CAJ's response to the Consultative Document, are available from the organization].

Most recently, in its current report to **CERD**, the Government reiterates that it "accepts the principle that protection should be given to those who suffer from discrimination on the grounds of race" (page 3, para. 8), yet specific legislative measures still have not been forthcoming, and the Consultative Document certainly does not commit the Government to legal reform. It is particularly disappointing that the Government's Consultative Document, while reviewing the UK's international responsibilities in the field of race, makes no reference to **ICERD**. Meanwhile, in spite of the obligations contained in **Article 2 of ICERD**, it remains perfectly legal to discriminate against someone on the grounds of race in Northern Ireland. At this juncture, the future of anti-racism legislation in the region remains uncertain. Intervention by the Committee could be timely and significant.

Indeed, Northern Ireland's lack of anti-racism legislation calls into question not only the United Kingdom's commitment to eliminate racial discrimination within the state, but also its commitment to its own international responsibilities. In addition to the **Convention on the Elimination of All Forms of Racial Discrimination**, the United Kingdom has also signed and ratified the **Universal Declaration of Human Rights**, the **International Covenant on Civil and Political Rights**, the **International Covenant on Economic and Social Rights**, and the **Convention on the Rights of the Child**, all of which prohibit discrimination on racial grounds.

2. Recognition of Irish Travellers as a Minority Ethnic Group in Northern Ireland

In paragraph 9 of the UK report to CERD the Government states that it has been “examining the question of legislation on race and the needs of ethnic minorities including travelling people.” The report’s reference to Travellers as an ethnic group is encouraging, and this concept should be carried over into any forthcoming anti-racism legislation for Northern Ireland. A clear case could be made on the basis of the *Mandla v Lee* decision for the inclusion of Irish Travellers in any new anti-racism measures.

The **Race Relations Act 1976** identifies a “racial group” as a “group of persons defined by reference to colour, race, nationality or ethnic or national origins”. This definition was further codified by the House of Lords in 1983 when it ruled in *Mandla v Lee* that for a group to be classified as “ethnic” under the terms of the **Race Relations Act of 1976** it had to regard itself and be regarded by others as a distinct community. This distinctiveness was to be evident by virtue of a range of possible characteristics, the first two of which were essential:

- A long shared history of which the group was conscious;
- A cultural tradition of its own including family and social customs;

In addition, the following characteristics could also be relevant:

- Descent from a small number of common ancestors;
- A common language;
- A common religion;
- The characteristic of being a minority or an oppressed or a dominated group within the larger community.

Clearly the Irish Travellers fulfill all of these criteria. As far as the first two ‘essential characteristics’ are concerned, the Travellers have a long shared history of which they are conscious as distinguishing them from other groups, and they have a cultural tradition of their own which is specifically associated with nomadism. In addition, they have a common geographical origin (Ireland) and descend from from a small number of common ancestors (Travellers are an endogamous group with powerful kinship ties). They have a common language which is peculiar to the group -- ‘Gammon’ or ‘Cant’. They also have a common religion (Catholicism). It is further the case that the way in which Travellers

practice Catholicism distinguishes them from settled Catholics.

Also, Travellers are a minority and an oppressed group within the larger community. According to Paul Noonan, director of the Belfast Traveller Education and Development Group, and author of the *Save the Children Report on Travelling People in West Belfast*, 'Being a Traveller in Northern Ireland involves low life expectancy, high infant mortality and morbidity, low educational achievement, appalling living conditions and differential access to a range of state services. Clearly these outcomes cannot be viewed as a result of individual antipathies. The evidence of these obvious disparities is ipso facto evidence of discrimination, racism and institutional culpability.'

Additionally, a model definition of Travellers has been prepared by a committee of experts. The **Draft Equality (Protection Against Racism) Bill** defines the Traveller community as "an identifiable group of people identified both by themselves and by other members of society as people with their own shared history, culture and traditions, including, historically, a nomadic way of life."

It should also be pointed out that **all** existing academic analysis currently supports the thesis that Travellers are an ethnic group (See Appendix A for a bibliography of works on the ethnicity of Travellers). Given the experience of Irish Travellers, CAJ feels that this group should be specifically and clearly protected by any forthcoming legislation in Northern Ireland.

3. Allegations of Racial Discrimination in Northern Ireland

Minority ethnic groups experience discrimination on a daily basis without recourse to any effective remedy. In our view this represents a violation of Article 6 of ICERD. The following points illustrate how such discrimination manifests itself in Northern Ireland. See Appendix B for examples of specific allegations which have been reported to CAJ in the last year.

VIOLENT ATTACK AND VERBAL ABUSE

- Regular vandalism of property owned by members of the minority ethnic communities
- Complaints of verbal and physical abuse
- Deficient police response

EDUCATION

- Lack of culturally appropriate curricula
- Inadequate provision for the teaching of English as a second language
- Particular problems for Traveller children in gaining access to schools
- Failure by school authorities to adequately address racist abuse, comments, and attitudes among some schoolchildren and teachers

EMPLOYMENT

- Discrimination in the recruitment and promotion processes within the public and private sectors

ACCOMMODATION

- Setting of 'quotas' to limit the number of Travellers in particular areas (a letter which illustrates this practice is included in Appendix C)
- Difficulties in obtaining accommodation in the public and private housing sectors
- Failure to respond to the accommodation needs of Travellers

CRIMINAL JUSTICE AND IMMIGRATION

- Little or no provision for translation facilities within the criminal justice system

- Allegations of racial harassment by some police officers
- Complaints from members of minority ethnic communities about racism on the part of immigration officials

WELFARE SERVICES

- Serious health disadvantages, e.g high infant mortality and low life expectancy (For a detailed discussion, see *The Health of Travellers* by Pauline Ginnety, 1993)
- Lack of any clear policy on the part of Government to meet the welfare and social service needs of the minority ethnic communities
- Official response to problems within the communities is often culturally inappropriate

4. Response to the UK Government's Report

The Government began its Twelfth Periodic Report to CERD by detailing a list of improvements which have been made to the **Race Relations Act 1976**. It is essential to point out that the Act does not apply to Northern Ireland.

The Northern Ireland portion of the report is disappointingly short. It consists of only three paragraphs (as compared, for example, to the 2-page discussion of Anguilla, a small Caribbean island with a population of 7000). This alone suggests the Government's continuing ambivalence with regard to racism in the region. Paragraph 8 commences with an estimation that "there are believed to be around 10,000 members of ethnic minority groups in Northern Ireland." This figure led the Government to the assertion that "the scale of racial discrimination [is] limited," yet no evidence is provided as to how this level of discrimination was measured: indeed, there has never been any official Government research carried out in Northern Ireland with regard to the minority ethnic population.

It should be pointed out that the 10,000 figure is only a vague estimate given that, in contrast to Great Britain, no ethnicity question is included in the Northern Ireland census. Moreover, it is probable that the minority ethnic communities number considerably more than 10,000. Indeed, the Chinese community, which has previously been estimated by the Government as totalling approximately 5,000 people (see *Race Relations in Northern Ireland*, 1992), has been assessed at 7,000 - 8,000 by the Chinese community itself.

Regardless of the actual numbers involved, it is clear that there is a pressing need for anti-racist legislation in Northern Ireland. Racism is unacceptable whether there is only one person of minority ethnic background in the region or whether there are 100,000. Further, there is a strong argument for suggesting that smaller numbers of minority ethnic people are at greater risk of experiencing discrimination given the reduced size of their communities. Therefore the need for protection is heightened.

In paragraph 9, the Government mentioned that it has been "examining the question of legislation on race and the needs of ethnic minorities including travelling people." The Government's ambiguous position on the ethnicity of Travellers is also illustrated in the Consultative

Document, which says only that the Government is “prepared to consider” Irish Travellers as an ethnic group for the purposes of any new race legislation for Northern Ireland.

Moreover, the Government has been “examining the question” of racism and anti-racism legislation in the region since 1984, when the **Standing Advisory Commission on Human Rights** initiated a review of laws and institutions designed to promote equality of opportunity in Northern Ireland. While CAJ welcomed the December 1992 publication of a Consultative Document on racism in Northern Ireland, it is disappointing that the Government concludes its Northern Ireland segment of the **CERD** report without making a firm commitment to the introduction of anti-racism legislation.

In paragraph 10, the Government outlined the “full range of services” available for Northern Ireland’s ethnic minority communities and claimed that government agencies have “developed policies and programmes to assist the ethnic minority communities make the full use of these services”. Such statements are inaccurate at best and strongly contested by the minority ethnic communities themselves.

5. Remedial Action

The Government should immediately introduce effective legislation which ensures equality of opportunity for minority ethnic groups in Northern Ireland and meets the international obligations set forth under the **International Convention on the Elimination of All Forms of Racial Discrimination**. CAJ recommends attention be given to the following issues:

- **Separate Anti-racism legislation should be introduced immediately for Northern Ireland. This legislation should be an improvement on the law in Great Britain, which has shown itself to be deficient.**

The **Race Relations Act 1976** is the obvious model for anti-racist legislation in Northern Ireland. However, the **Commission for Racial Equality** has identified a number of problems with this legislation and has suggested reforms to enhance its effectiveness. The legislation for Northern Ireland should include these reforms. In addition, it is recommended that legislation for Northern Ireland should: (i) supersede any existing law in the region and should further repeal any existing discriminatory legislation; (ii) shift the burden of proof to the alleged discriminator once the complainant has set out a prima facie case of racial discrimination; (iii) require racial monitoring of places of employment along the lines of the religious monitoring requirement already in place; (iv) apply to all government bodies, state and local, and should not exclude any government body from the ambit of the legislation; (v) require all public bodies to adopt anti-racist policies, and mandate training for public officials; (vi) provide monetary compensation for victims of racial discrimination which is equal to that available to victims of religious discrimination; (vii) allow for class actions or some other form of group remedy; (viii) establish the provision of legal aid to those who wish to bring a complaint of racial discrimination; (ix) nullify all legislation which discriminates against Irish Travellers; and (x) make the acceptance of public monies and government contracts contingent upon compliance with race law and policies which outlaw racial discrimination.

- **A separate enforcement/development agency should be established for Northern Ireland**

A dedicated and specific response to the problem of racist discrimination is essential if effective protection is to be provided. There is a serious danger that if monitoring racism were to be subsumed within an existing agency, it would be completely lost. The existing monitoring agencies, the **Equal Opportunities Commission** and the **Fair Employment Commission**, are inappropriate to engage in anti-racist work. Moreover, there is a consensus among minority ethnic groups that it would not be desirable to extend the remit of the **Commission for Racial Equality** (Great Britain) to Northern Ireland. CAJ therefore advocates the creation of a **Commission for Racial Equality (Northern Ireland)** which would have the same remit as **CRE (Great Britain)** but would be equipped to work within the very specific context of racism in Northern Ireland.

- **The new legislation must recognize Travellers as an ethnic group in Northern Ireland**

If it is to be effective, any anti-racist legislation must identify Irish Travellers as a protected minority ethnic group. There is no room for ambiguity on this question -- if Travellers, the second largest minority ethnic group in Northern Ireland, are not protected, the legislation will have failed one of the society's most oppressed and marginalized segments.

- **Appropriate changes should be made to incitement to hatred legislation**

In its present state, the **Public Order (NI) Order 1987** is an empty formula which is unworkable within the Northern Ireland judicial system. No one has ever been prosecuted for incitement to racial hatred, let alone convicted for it. To be effective, the existing anti-incitement legislation should be reformed and amended in order to facilitate the prosecution of those groups and individuals who incite hatred against Travellers and all other minority ethnic groups in Northern Ireland.

APPENDIX A

A Bibliography on the Ethnicity of Travellers

Niall Crowley, "Racism and the Travellers," *Anti-Racist Law and the Travellers* (1993). Dublin: The Irish Traveller Movement.

J.P. Liégeois, "Gypsies and Travellers: Socio-cultural data, Socio-political data," a paper for the Strasbourg Council for Cultural Cooperation (1987). Strasbourg: The Council of Europe.

Patricia McCarthy, "The Sub-Culture of Poverty Theory - A Response," a paper delivered at an Anthropological Association of Ireland Conference, 'Irish Travellers - History, Identity, Culture' (1991).

Robert McVeigh, "Racism and Travelling People in Northern Ireland," a paper for the Standing Advisory Commission on Human Rights (1992). London: Standing Advisory Commission on Human Rights.

John O'Connell, "Ethnicity and Irish Travellers," *Anti-Racist Law and the Travellers* (1993). Dublin: The Irish Traveller Movement.

Sinead Ni Shuinear, a paper presented at the 'With Not For' Conference on the Ethnicity of Travellers (1992). Belfast: Advisory Committee on Travellers.

APPENDIX B

Allegations of Racial Discrimination in Northern Ireland

Racism is certainly not a recent phenomenon in Northern Ireland. The following are merely some of the most recent examples of allegations of racial discrimination which have been reported to CAJ.

CASE 1

DR. Z was born in Iran and spent many years studying in the United Kingdom. He has been a British citizen for several years. He has completed his PhD in Engineering and has been applying for jobs in his field. He applied for a post with a large company in Northern Ireland. He was informed that he had been unsuccessful in his application for that post but that his details would be retained on their waiting list for consideration for future posts. Dr. Z did not hear anything further from the company for several months. During that time, he came to know of two individuals who had been offered posts as engineers with the company. Although he suspects that he has been discriminated against on the grounds of his race, Dr. Z cannot bring his allegations to any body, tribunal or court for investigation or determination. He feels frustrated and angry at the lack of protection against racial discrimination in Northern Ireland.

CASE 2

Mr. and Mrs. E own a Chinese take-away restaurant in Belfast. A member of the public entered their premises and began to cause a disturbance, throwing food around the shop. Mr. and Mrs. E telephoned the police, who, on their arrival subsequently arrested Mr. and Mrs. E instead of the person causing the disturbance. During the arrest, Mrs. E sustained a broken breast bone and Mr. E suffered injuries to his arm. The matter is currently the subject of a complaint.

CASE 3

Mr. S. is Jamaican. He worked in England for a number of years and then took a job as a telephone engineer for a company in County Antrim. He worked there for two years and was then dismissed. He felt

that he was dismissed because of his color. He complained to the Fair Employment Commission and Equal Opportunities Commission. Both bodies are designed to protect against religious and sex discrimination; thus, neither commission could investigate his complaint. He also raised the issue with the CRE who could not deal with it as they have no power to act in Northern Ireland. Mr. S had no effective remedy for his allegation of racial discrimination.

CASE 4

Ms. G. was born in Northern Ireland and her parents are Hong Kong Chinese. When she obtained a place at Queen's University she began to look for accommodation to share with some other friends. She was told by three different landlords that they did not want to rent flats to "Chinese people." On another occasion one of her white friends visited a flat and a verbal agreement was made to rent it subject to the agreement of his friends. When the group returned that evening and the landlord saw Ms G. he said that he had not been told that one member of the group was Asian. In light of this he would not rent the flat to the students. The group was very angry at this and the absence of any suitable remedy.

CASE 5

Mr. X was born in Sri Lanka. He is a British citizen and is married to a woman who was born in Northern Ireland. He has been living in the United Kingdom for many years. In 1975, he began to work for a manufacturing company in England. In 1989, he was transferred to Northern Ireland where he continued to work for the same company. Following a take-over, there was a change in management at the factory. Mr. X was made redundant in 1991. He felt that he was unfairly dismissed and that the main reason for his dismissal was the color of his skin and the racial prejudice of the company's Managing Director. Mr. X brought an action for unfair dismissal against his former employers. At the hearing before the Industrial Tribunal, his representative raised the allegation of racial discrimination. The Chairperson of the Tribunal indicated that the Tribunal had no authority to deal with the issue of race discrimination. The Tribunal found on another ground that Mr. X had a genuine case for unfair dismissal and the case was subsequently settled for £6,000 compensation. Mr. X felt frustrated that he could not bring allegations of racial discrimination to a body specifically designed to investigate them nor to a Tribunal with

power to award damages on that basis.

CASE 6

Ten Traveller families were intimidated from an unofficial site in central Belfast by a self-appointed group and moved several miles to an illegal roadside camp which lacked water, electricity, toilets and other basic amenities. A short time later, a local councillor organized a petition among area residents, gathering over 1000 signatures to urge the local government to evict the families. Accompanied by two officials from the Department of the Environment and a crowd of forty people, the councillor led a march to the camp, where he told the families about the petition and instructed them to leave the area. As the Travellers had already found two unexploded petrol bombs behind their caravans the previous evening, they moved to another unofficial site later that same day. En route to the third site, one of the caravans broke down, necessitating its temporary abandonment about 200 yards from the new camp. The caravan was set on fire during the night by residents of a nearby housing estate, and when its destruction was reported, no action was taken either by the police or by the Government's Advisory Committee on Travellers.

CASE 7

Mr. C's family is of South Asian origin, but he was born and educated in Northern Ireland. He completed a degree in Engineering at Queen's University and subsequently applied for the same job as one of his former classmates. Mr. C knew his classmate, who is white, had inferior qualifications to himself but his classmate was hired for the job. Mr. C says he originally felt that his failure to get the job must be due to his interview technique. When the two men met, the classmate agreed that Mr. C should have been offered the job instead. The classmate admitted that it was a case of racial discrimination, explaining that while he had inferior qualifications he was deemed to 'fit in better'.

CASE 8

Mr. M. was born in South America. He is married to a woman born in Northern Ireland and he is a British citizen. He had been working for 10 months in a temporary post in the catering department of a large institution in Belfast when permanent posts in the same department were advertised. Mr. M was very well qualified for the post he applied for as he had trained and worked in the same area both in South America and

in other parts of the United Kingdom. He had also been doing exactly the same job in a temporary capacity for the last 10 months and his supervisors, who gave him excellent references, had encouraged him to apply for the permanent position. When Mr. M failed the interview and found out that "local people" had been given the jobs, some of whom had both less experience and less qualifications, he requested an explanation. He was told that on the basis of his failing to understand one question in the interview, he did not meet the final selection criteria. Mr. M had been doing the same job for 10 months. There had been no apparent difficulties with his English and a particular level of competency in English had not been a prerequisite for the job. The job itself involved no contact with members of the public. Mr. M felt that he had not been offered a permanent position on the grounds of his race. Mr. M tried to pursue his complaint of racial discrimination and was very angry when he discovered the absence of protection in Northern Ireland.

APPENDIX C

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2. Recognition of Irish Travellers as a Minority Ethnic Group in Northern Ireland

In paragraph 9 of the UK report to CERD the Government states that it has been “examining the question of legislation on race and the needs of ethnic minorities including travelling people.” The report’s reference to Travellers as an ethnic group is encouraging, and this concept should be carried over into any forthcoming anti-racism legislation for Northern Ireland. A clear case could be made on the basis of the *Mandla v Lee* decision for the inclusion of Irish Travellers in any new anti-racism measures.

The **Race Relations Act 1976** identifies a “racial group” as a “group of persons defined by reference to colour, race, nationality or ethnic or national origins”. This definition was further codified by the House of Lords in 1983 when it ruled in *Mandla v Lee* that for a group to be classified as “ethnic” under the terms of the **Race Relations Act of 1976** it had to regard itself and be regarded by others as a distinct community. This distinctiveness was to be evident by virtue of a range of possible characteristics, the first two of which were essential:

- A long shared history of which the group was conscious;
- A cultural tradition of its own including family and social customs;

In addition, the following characteristics could also be relevant:

- Descent from a small number of common ancestors;
- A common language;
- A common religion;
- The characteristic of being a minority or an oppressed or a dominated group within the larger community.

Clearly the Irish Travellers fulfill all of these criteria. As far as the first two ‘essential characteristics’ are concerned, the Travellers have a long shared history of which they are conscious as distinguishing them from other groups, and they have a cultural tradition of their own which is specifically associated with nomadism. In addition, they have a common geographical origin (Ireland) and descend from from a small number of common ancestors (Travellers are an endogamous group with powerful kinship ties). They have a common language which is peculiar to the group -- ‘Gammon’ or ‘Cant’. They also have a common religion (Catholicism). It is further the case that the *way* in which Travellers

practice Catholicism distinguishes them from settled Catholics.

Also, Travellers are a minority and an oppressed group within the larger community. According to Paul Noonan, director of the Belfast Traveller Education and Development Group, and author of the *Save the Children Report on Travelling People in West Belfast*, 'Being a Traveller in Northern Ireland involves low life expectancy, high infant mortality and morbidity, low educational achievement, appalling living conditions and differential access to a range of state services. Clearly these outcomes cannot be viewed as a result of individual antipathies. The evidence of these obvious disparities is ipso facto evidence of discrimination, racism and institutional culpability.'

Additionally, a model definition of Travellers has been prepared by a committee of experts. The **Draft Equality (Protection Against Racism) Bill** defines the Traveller community as "an identifiable group of people identified both by themselves and by other members of society as people with their own shared history, culture and traditions, including, historically, a nomadic way of life."

It should also be pointed out that **all** existing academic analysis currently supports the thesis that Travellers are an ethnic group (See Appendix A for a bibliography of works on the ethnicity of Travellers). Given the experience of Irish Travellers, CAJ feels that this group should be specifically and clearly protected by any forthcoming legislation in Northern Ireland.

3. Allegations of Racial Discrimination in Northern Ireland

Minority ethnic groups experience discrimination on a daily basis without recourse to any effective remedy. In our view this represents a violation of Article 6 of ICERD. The following points illustrate how such discrimination manifests itself in Northern Ireland. See Appendix B for examples of specific allegations which have been reported to CAJ in the last year.

VIOLENT ATTACK AND VERBAL ABUSE

- Regular vandalism of property owned by members of the minority ethnic communities
- Complaints of verbal and physical abuse
- Deficient police response

EDUCATION

- Lack of culturally appropriate curricula
- Inadequate provision for the teaching of English as a second language
- Particular problems for Traveller children in gaining access to schools
- Failure by school authorities to adequately address racist abuse, comments, and attitudes among some schoolchildren and teachers

EMPLOYMENT

- Discrimination in the recruitment and promotion processes within the public and private sectors

ACCOMMODATION

- Setting of 'quotas' to limit the number of Travellers in particular areas (a letter which illustrates this practice is included in Appendix C)
- Difficulties in obtaining accommodation in the public and private housing sectors
- Failure to respond to the accommodation needs of Travellers

CRIMINAL JUSTICE AND IMMIGRATION

- Little or no provision for translation facilities within the criminal justice system

- Allegations of racial harassment by some police officers
- Complaints from members of minority ethnic communities about racism on the part of immigration officials

WELFARE SERVICES

- Serious health disadvantages, e.g high infant mortality and low life expectancy (For a detailed discussion, see *The Health of Travellers* by Pauline Ginnety, 1993)
- Lack of any clear policy on the part of Government to meet the welfare and social service needs of the minority ethnic communities
- Official response to problems within the communities is often culturally inappropriate

4. Response to the UK Government's Report

The Government began its Twelfth Periodic Report to CERD by detailing a list of improvements which have been made to the **Race Relations Act 1976**. It is essential to point out that the Act does not apply to Northern Ireland.

The Northern Ireland portion of the report is disappointingly short. It consists of only three paragraphs (as compared, for example, to the 2-page discussion of Anguilla, a small Caribbean island with a population of 7000). This alone suggests the Government's continuing ambivalence with regard to racism in the region. Paragraph 8 commences with an estimation that "there are believed to be around 10,000 members of ethnic minority groups in Northern Ireland." This figure led the Government to the assertion that "the scale of racial discrimination [is] limited," yet no evidence is provided as to how this level of discrimination was measured: indeed, there has never been any official Government research carried out in Northern Ireland with regard to the minority ethnic population.

It should be pointed out that the 10,000 figure is only a vague estimate given that, in contrast to Great Britain, no ethnicity question is included in the Northern Ireland census. Moreover, it is probable that the minority ethnic communities number considerably more than 10,000. Indeed, the Chinese community, which has previously been estimated by the Government as totalling approximately 5,000 people (see *Race Relations in Northern Ireland*, 1992), has been assessed at 7,000 - 8,000 by the Chinese community itself.

Regardless of the actual numbers involved, it is clear that there is a pressing need for anti-racist legislation in Northern Ireland. Racism is unacceptable whether there is only one person of minority ethnic background in the region or whether there are 100,000. Further, there is a strong argument for suggesting that smaller numbers of minority ethnic people are at greater risk of experiencing discrimination given the reduced size of their communities. Therefore the need for protection is heightened.

In paragraph 9, the Government mentioned that it has been "examining the question of legislation on race and the needs of ethnic minorities including travelling people." The Government's ambiguous position on the ethnicity of Travellers is also illustrated in the Consultative

Document, which says only that the Government is “prepared to consider” Irish Travellers as an ethnic group for the purposes of any new race legislation for Northern Ireland.

Moreover, the Government has been “examining the question” of racism and anti-racism legislation in the region since 1984, when the **Standing Advisory Commission on Human Rights** initiated a review of laws and institutions designed to promote equality of opportunity in Northern Ireland. While CAJ welcomed the December 1992 publication of a Consultative Document on racism in Northern Ireland, it is disappointing that the Government concludes its Northern Ireland segment of the **CERD** report without making a firm commitment to the introduction of anti-racism legislation.

In paragraph 10, the Government outlined the “full range of services” available for Northern Ireland’s ethnic minority communities and claimed that government agencies have “developed policies and programmes to assist the ethnic minority communities make the full use of these services”. Such statements are inaccurate at best and strongly contested by the minority ethnic communities themselves.

5. Remedial Action

The Government should immediately introduce effective legislation which ensures equality of opportunity for minority ethnic groups in Northern Ireland and meets the international obligations set forth under the **International Convention on the Elimination of All Forms of Racial Discrimination**. CAJ recommends attention be given to the following issues:

- **Separate Anti-racism legislation should be introduced immediately for Northern Ireland. This legislation should be an improvement on the law in Great Britain, which has shown itself to be deficient.**

The **Race Relations Act 1976** is the obvious model for anti-racist legislation in Northern Ireland. However, the **Commission for Racial Equality** has identified a number of problems with this legislation and has suggested reforms to enhance its effectiveness. The legislation for Northern Ireland should include these reforms. In addition, it is recommended that legislation for Northern Ireland should: (i) supersede any existing law in the region and should further repeal any existing discriminatory legislation; (ii) shift the burden of proof to the alleged discriminator once the complainant has set out a prima facie case of racial discrimination; (iii) require racial monitoring of places of employment along the lines of the religious monitoring requirement already in place; (iv) apply to all government bodies, state and local, and should not exclude any government body from the ambit of the legislation; (v) require all public bodies to adopt anti-racist policies, and mandate training for public officials; (vi) provide monetary compensation for victims of racial discrimination which is equal to that available to victims of religious discrimination; (vii) allow for class actions or some other form of group remedy; (viii) establish the provision of legal aid to those who wish to bring a complaint of racial discrimination; (ix) nullify all legislation which discriminates against Irish Travellers; and (x) make the acceptance of public monies and government contracts contingent upon compliance with race law and policies which outlaw racial discrimination.

- **A separate enforcement/development agency should be established for Northern Ireland**

A dedicated and specific response to the problem of racist discrimination is essential if effective protection is to be provided. There is a serious danger that if monitoring racism were to be subsumed within an existing agency, it would be completely lost. The existing monitoring agencies, the **Equal Opportunities Commission** and the **Fair Employment Commission**, are inappropriate to engage in anti-racist work. Moreover, there is a consensus among minority ethnic groups that it would not be desirable to extend the remit of the **Commission for Racial Equality (Great Britain)** to Northern Ireland. CAJ therefore advocates the creation of a **Commission for Racial Equality (Northern Ireland)** which would have the same remit as **CRE (Great Britain)** but would be equipped to work within the very specific context of racism in Northern Ireland.

- **The new legislation must recognize Travellers as an ethnic group in Northern Ireland**

If it is to be effective, any anti-racist legislation must identify Irish Travellers as a protected minority ethnic group. There is no room for ambiguity on this question -- if Travellers, the second largest minority ethnic group in Northern Ireland, are not protected, the legislation will have failed one of the society's most oppressed and marginalized segments.

- **Appropriate changes should be made to incitement to hatred legislation**

In its present state, the **Public Order (NI) Order 1987** is an empty formula which is unworkable within the Northern Ireland judicial system. No one has ever been prosecuted for incitement to racial hatred, let alone convicted for it. To be effective, the existing anti-incitement legislation should be reformed and amended in order to facilitate the prosecution of those groups and individuals who incite hatred against Travellers and all other minority ethnic groups in Northern Ireland.

APPENDIX A

A Bibliography on the Ethnicity of Travellers

Niall Crowley, "Racism and the Travellers," *Anti-Racist Law and the Travellers* (1993). Dublin: The Irish Traveller Movement.

J.P. Liégeois, "Gypsies and Travellers: Socio-cultural data, Socio-political data," a paper for the Strasbourg Council for Cultural Cooperation (1987). Strasbourg: The Council of Europe.

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John O'Connell, "Ethnicity and Irish Travellers," *Anti-Racist Law and the Travellers* (1993). Dublin: The Irish Traveller Movement.

Sinead Ni Shuinear, a paper presented at the 'With Not For' Conference on the Ethnicity of Travellers (1992). Belfast: Advisory Committee on Travellers.

APPENDIX B

Allegations of Racial Discrimination in Northern Ireland

Racism is certainly not a recent phenomenon in Northern Ireland. The following are merely some of the most recent examples of allegations of racial discrimination which have been reported to CAJ.

CASE 1

DR. Z was born in Iran and spent many years studying in the United Kingdom. He has been a British citizen for several years. He has completed his PhD in Engineering and has been applying for jobs in his field. He applied for a post with a large company in Northern Ireland. He was informed that he had been unsuccessful in his application for that post but that his details would be retained on their waiting list for consideration for future posts. Dr. Z did not hear anything further from the company for several months. During that time, he came to know of two individuals who had been offered posts as engineers with the company. Although he suspects that he has been discriminated against on the grounds of his race, Dr. Z cannot bring his allegations to any body, tribunal or court for investigation or determination. He feels frustrated and angry at the lack of protection against racial discrimination in Northern Ireland.

CASE 2

Mr. and Mrs. E own a Chinese take-away restaurant in Belfast. A member of the public entered their premises and began to cause a disturbance, throwing food around the shop. Mr. and Mrs. E telephoned the police, who, on their arrival subsequently arrested Mr. and Mrs. E instead of the person causing the disturbance. During the arrest, Mrs. E sustained a broken breast bone and Mr. E suffered injuries to his arm. The matter is currently the subject of a complaint.

CASE 3

Mr. S. is Jamaican. He worked in England for a number of years and then took a job as a telephone engineer for a company in Country Antrim. He worked there for two years and was then dismissed. He felt

that he was dismissed because of his color. He complained to the Fair Employment Commission and Equal Opportunities Commission. Both bodies are designed to protect against religious and sex discrimination; thus, neither commission could investigate his complaint. He also raised the issue with the CRE who could not deal with it as they have no power to act in Northern Ireland. Mr. S had no effective remedy for his allegation of racial discrimination.

CASE 4

Ms. G. was born in Northern Ireland and her parents are Hong Kong Chinese. When she obtained a place at Queen's University she began to look for accommodation to share with some other friends. She was told by three different landlords that they did not want to rent flats to "Chinese people." On another occasion one of her white friends visited a flat and a verbal agreement was made to rent it subject to the agreement of his friends. When the group returned that evening and the landlord saw Ms G. he said that he had not been told that one member of the group was Asian. In light of this he would not rent the flat to the students. The group was very angry at this and the absence of any suitable remedy.

CASE 5

Mr. X was born in Sri Lanka. He is a British citizen and is married to a woman who was born in Northern Ireland. He has been living in the United Kingdom for many years. In 1975, he began to work for a manufacturing company in England. In 1989, he was transferred to Northern Ireland where he continued to work for the same company. Following a take-over, there was a change in management at the factory. Mr. X was made redundant in 1991. He felt that he was unfairly dismissed and that the main reason for his dismissal was the color of his skin and the racial prejudice of the company's Managing Director. Mr. X brought an action for unfair dismissal against his former employers. At the hearing before the Industrial Tribunal, his representative raised the allegation of racial discrimination. The Chairperson of the Tribunal indicated that the Tribunal had no authority to deal with the issue of race discrimination. The Tribunal found on another ground that Mr. X had a genuine case for unfair dismissal and the case was subsequently settled for £6,000 compensation. Mr. X felt frustrated that he could not bring allegations of racial discrimination to a body specifically designed to investigate them nor to a Tribunal with

power to award damages on that basis.

CASE 6

Ten Traveller families were intimidated from an unofficial site in central Belfast by a self-appointed group and moved several miles to an illegal roadside camp which lacked water, electricity, toilets and other basic amenities. A short time later, a local councillor organized a petition among area residents, gathering over 1000 signatures to urge the local government to evict the families. Accompanied by two officials from the Department of the Environment and a crowd of forty people, the councillor led a march to the camp, where he told the families about the petition and instructed them to leave the area. As the Travellers had already found two unexploded petrol bombs behind their caravans the previous evening, they moved to another unofficial site later that same day. En route to the third site, one of the caravans broke down, necessitating its temporary abandonment about 200 yards from the new camp. The caravan was set on fire during the night by residents of a nearby housing estate, and when its destruction was reported, no action was taken either by the police or by the Government's Advisory Committee on Travellers:

CASE 7

Mr. C's family is of South Asian origin, but he was born and educated in Northern Ireland. He completed a degree in Engineering at Queen's University and subsequently applied for the same job as one of his former classmates. Mr. C knew his classmate, who is white, had inferior qualifications to himself but his classmate was hired for the job. Mr. C says he originally felt that his failure to get the job must be due to his interview technique. When the two men met, the classmate agreed that Mr. C should have been offered the job instead. The classmate admitted that it was a case of racial discrimination, explaining that while he had inferior qualifications he was deemed to 'fit in better'.

CASE 8

Mr. M. was born in South America. He is married to a woman born in Northern Ireland and he is a British citizen. He had been working for 10 months in a temporary post in the catering department of a large institution in Belfast when permanent posts in the same department were advertised. Mr. M was very well qualified for the post he applied for as he had trained and worked in the same area both in South America and

in other parts of the United Kingdom. He had also been doing exactly the same job in a temporary capacity for the last 10 months and his supervisors, who gave him excellent references, had encouraged him to apply for the permanent position. When Mr. M failed the interview and found out that "local people" had been given the jobs, some of whom had both less experience and less qualifications, he requested an explanation. He was told that on the basis of his failing to understand one question in the interview, he did not meet the final selection criteria. Mr. M had been doing the same job for 10 months. There had been no apparent difficulties with his English and a particular level of competency in English had not been a prerequisite for the job. The job itself involved no contact with members of the public. Mr. M felt that he had not been offered a permanent position on the grounds of his race. Mr. M tried to pursue his complaint of racial discrimination and was very angry when he discovered the absence of protection in Northern Ireland.