

**Briefing note from the
Committee on the Administration of Justice (CAJ) to**

Special Rapporteur on Freedom of Religion or Belief

May 2007

The Committee on the Administration of Justice (CAJ) is an independent cross community non-governmental human rights group based in Belfast and affiliated to the International Federation of Human Rights. Founded in 1981, we were awarded the Council of Europe Human Rights Prize in 1998 for our efforts to mainstream human rights and equality considerations into the peace process in Northern Ireland. CAJ has published extensively on issues of racism, religious and political inequality, criminal justice, and policing; we work across the whole spectrum of civil, political, economic, social and cultural rights and campaign for a Bill of Rights for Northern Ireland. The following is a brief note prepared for Ms Asma Jahangir, Special Rapporteur, shortly prior to a visit to Northern Ireland and Britain.

a. Smaller religious groups in Northern Ireland

Northern Ireland's population is almost exclusively Christian (Catholic and a wide range of Protestant and Evangelical Christian denominations) and most of this briefing note addresses issues of concern to this constituency. Given the predominance of the Christian faiths in Northern Ireland however, there are particular problems for those from a non-Christian background, which are not necessarily found in Britain or many other western societies. The influence of both the "mainstream" Protestant churches and the Catholic church is more influential in broader society than many other countries. Indeed, it is noteworthy that the current First Minister is himself the leader of a small Protestant church – the Free Presbyterian Church.

This preponderance of Christians, both in numerical terms and in the extent of regular church-going, has led to a "crowding out" of non-Christian faiths from Northern Irish life. For example, minority religious concerns are often overlooked in policy terms: mainstream religious leaders from non-Christian faiths have faced harassment at the hands of the authorities; and the siting of non-Christian places of worship has been opposed. There is also a general problem in Northern Ireland in that some faiths do not have a "critical mass" of followers, which then makes adherence to dietary or worship practices practically impossible. Accordingly, government would be quite right to claim that there is no outright ban on religious worship – but the absence of support and resourcing to enable people to comply with the requirements of a particular faith, may result in the same problems in practice.

Below CAJ indicates some of the problems that we are aware of in relation to those of a non-Christian faith:

1. There is a small Muslim population (some having lived in Northern Ireland for decades and even centuries – see “Muslims in Northern Ireland – contributions and achievements” book published by Al Nisa, Muslim Women’s Group). This population face intolerance by way of physical attack (normally undifferentiated from racist violence); institutional and political prejudice - there was strong opposition to the building of a mosque in Craigavon, and there are reports of failures by police and prison staff to respect the religious needs of detainees/prisoners (regarding prayer mats, access to Koran, diet etc). In a press release attached herewith (Appendix 1), details are provided of the case in 2005, when a Muslim cleric was subject to unacceptable treatment when visiting a prison in connection with his pastoral duties. The treatment included being required to submit to a search before entering the prison and the use of a passive drugs dog; CAJ believes that such treatment of a Christian prison chaplain would have been unthinkable. There is also a fear that future Muslim immigrants (responding to NI’s transition to peace and greater economic prosperity) might more routinely face some of the difficulties faced by their co-religionists in Britain and elsewhere because of the “war on terror”.
2. The Jewish population of NI is extremely small (according to the last census there were less than 400 persons in total), having been in decline for a number of years. This has resulted in a community that faces particular problems with regard to capacity – lacking appropriate dietary provision and sufficient Hebrew language instruction, together with a mainstream education system that is unsympathetic to non-Christian faiths. In addition, the Jewish community faces problems with respect to low level intimidation, violence and vandalism of property; in some cases, this low level hostility is directly linked to hostility towards the Israeli state - with antagonism towards the Jewish community allegedly increasing at times of heightened conflict in the Middle East.
3. CAJ is unaware of particular difficulties facing other religious groups living in Northern Ireland, for example Sikhs, Hindus, Buddhists, or Christian Orthodox believers - other than those difficulties indistinguishable from, and often more readily attributable to, intolerance linked to the person’s racial or ethnic origin.

As noted above, the issue of resourcing is a key concern, and it was raised by various religious and racial groups testifying before parliament on hate crime (see material attached, Appendix 2). The kinds of serious problems that this lack of capacity can create is exemplified in the recent review of religious education in publicly-funded schools. The revised core syllabus for religious education was, according to the Department of Education “*drawn up by the four main churches (ie Catholic, Church of Ireland, Methodist and Presbyterian) and specified by the Department*”. In controlled (ie state) schools, “religious education has to be non-denominational and based on ‘an

authoritative version of the Holy Scriptures". CAJ understands that consideration is currently being given by groups such as the Inter-Faith Forum and the NI Council for Ethnic Minorities (NICEM) to taking a judicial review of these decisions, because of the unique role given to Christian churches.

In spite of the passage of recent legislation outlawing hate crime, there remain particular difficulties with respect to how the police and criminal justice system both record, and investigate crimes with a religious motive. Historically, the view in minority communities was that religious hate crimes would not be taken seriously, and so it is alleged that under- or indeed non-reporting of such crimes became established practice. It is unclear the extent to which more recent changes in the law (see on) are beginning to address this pattern. (For further background see report by Robbie McVeigh for NICEM; material by the Institute for Conflict Research; and report by ANIMATE on migrant workers).

b. Majority traditions in Northern Ireland – Protestant and Catholic

Northern Ireland's last census (in 2001) showed the population to be 97% Christian - 53% Protestant and 44% Catholic. The conflict in Northern Ireland is very often depicted as a "religious" conflict between "Protestants" and "Catholics", but this is in large part due to the very strong correlation between religious belief and political allegiances (with Protestants predominantly self-describing as British and unionist/loyalist, and Catholics as Irish and nationalist/republican).

The kinds of problems that the Rapporteur may want to explore with the authorities include:

1. Religious inequalities in the labour market/housing/education.

See some basic statistics in "CAJ's briefing on religious/political differentials in Northern Ireland" produced in March 2006 and attached herewith (Appendix 3). The Rapporteur may want to ask questions such as:

- The Fair Employment Act (1989) is credited with largely ending religious discrimination at the point of recruitment – what lessons from this could be applied to other problem issues in Northern Ireland, or indeed to other societies?
- What steps have been taken (in legislative and policy terms) to address the religious differentials in terms of unemployment, long-term unemployment, and economic inactivity?
- What is government doing to address differential experiences when it comes to public housing (see chart attached – Appendix 4) from the

Northern Ireland Housing Executive showing marked differences in waiting lists between Catholics and Protestants)?

- What is government doing in educational terms to end the cycles of disadvantage in both communities? Whilst there is an increase of Catholics and Protestants leaving school with the qualifications necessary for third-level education ie 81.6% and 78.2% respectively, there remain high percentages of pupils leaving school with few or no qualifications ie 8.6% Catholics and 7% Protestants (see Table 4 of 29 May Statistical press release issued by Department of Education, Appendix 5).
- Why is investment not being targeted effectively at those areas that are either almost entirely Catholic or Protestant, have consistently been poor, and have disproportionately suffered from the conflict (see maps in the May 2006 paper attached as Appendix 3 herewith)?

In the final section below, CAJ comments on some of the initiatives that government claim are aimed at tackling community differentials but about which we have very serious reservations.

2. Religiously motivated hate crimes

Most hate crimes committed in Northern Ireland are sectarian in nature (almost 1700 incidents in the year 2006/07). The Rapporteur may want to ask questions such as:

- Why, given an extensive array of legislation over many years, have so few successful prosecutions been secured to tackle religiously motivated hate crime? For example –
 - o Section 1 of the Protection of the Person and Property Act (NI) 1969 makes it an offence if a person *“unlawfully causes, by force, threats or menaces or in any way whatsoever, any other personto do or refrain from doing any act”*.
 - o Article 14 of the Public Order (NI) Order 1981 makes it an offence to publish or circulate any statement or report likely to stir up hatred or fear of any section of the public in Northern Ireland on the basis of race, *religion*, or national origin.
 - o Article 9 of the Public Order (NI) Order 1987 makes it an offence to use or display threatening, abusive, or insulting words or behaviour, with intent to stir up hatred or fear of a section of the NI community, or where such fear or hatred is likely to be stirred up. The fear or hatred must be directed against a group of persons defined by *religious belief*, colour, race, nationality or ethnic or national origins.

In CAJ's Civil Liberties Handbook, published in 2003, we noted in relation to this latter example that "*prosecutions are extremely rare. Indeed CAJ has referred some matters to the police with a view to prosecution under this section, but none has actually resulted in prosecutions*" (p.183).

- New legislation intended quite explicitly to address hate crime (including religiously motivated hate crime) was introduced in 2004 (Criminal Justice (No.2) (NI) Order 2004). This legislation was meant to fill the lacunae created by earlier legislation, and allow the courts to determine additional penalties for crimes aggravated by religious, racial or other hate motives. The Rapporteur may want to ask how many cases have been prosecuted under this legislation; whether the courts have in fact applied additional penalties to those found guilty of religiously motivated hate crime; and how do these numbers compare to the police statistics recording religiously motivated hate crime?
- When the 2004 legislation was being introduced, CAJ argued unsuccessfully for both a review of why previous legislation had proved so ineffective, and for a wider definition in legislation of "religiously motivated hate crime". CAJ believed that the Scottish legislation on hate crime provided a useful model which better reflected the particularities of the conflict here. For example, in Scotland (Criminal Justice Act 2003), reference is made to "*...the victim's membership (or presumed membership) of a religious group, or of a social or cultural group with a perceived religious affiliation*". In the definitions section of this same legislation, reference is made *inter alia* to "*support for the culture and traditions of a church or religious organisation or participation in activities associated with such a culture or such traditions*". CAJ argued that this would cover issues such as wearing the "wrong" football shirt, or being in the "wrong" part of town, in a way that might be difficult to capture in a strictly literal interpretation of "religious" belief.

The Rapporteur may want to ask if interpretative problems have in fact arisen in the operation of the legislation. Further possible issues to seek information on include:

- Who records the number and nature of attacks on churches, cemeteries, Orange Halls, or other places targeted because of their religious affiliation? Where are these figures published?
- What breakdown do the police give for religiously motivated hate crimes – between victims who were Catholic, Protestant, Jewish, Muslim....?
- Have any legislative or policy changes been introduced in the wake of the Holy Cross dispute (Catholic primary schoolchildren and their parents physically attacked by adults on way to school in a Protestant area)?

- Schoolchildren are often targets of abuse/attack from other schoolchildren (their school uniforms, or direction of travel, labelling them as either Catholic or Protestant) - are these incidents recorded by the authorities, and what steps are taken to reduce such incidents?
- To what extent is the parading dispute seen by the authorities, and responded to, in terms of religious intolerance?

c. **Responsiveness by criminal justice agencies**

The Rapporteur may want to know what efforts have been undertaken to ensure that staffing in the criminal justice agencies reflects the religious beliefs of the communities served?

- On the positive side, great efforts have been made to ensure that the **police** can recruit a more representative workforce. The government sought an exemption under EU law to apply affirmative action measures to ensure (for a limited time period) that recruitment to the Police Service for Northern Ireland be undertaken on a 50/50 basis to ensure greater representation of Catholics (previously 8% of the workforce of the Royal Ulster Constabulary). The PSNI workforce is steadily changing and becoming more representative, though there is a marked differential between those leaving during/after training (in one timeframe - out of 99 leavers, 72 were Catholics, 26 Protestant, and 1 non-determined). The establishment of policing quotas for Catholics and non-Catholics may have a detrimental impact on people of other religious faiths, and certainly is seen by many Protestants as having a discriminatory impact on individual Protestants. CAJ was never pro-active in promoting a quota system, but in light of the enormity of the under-representation needing to be addressed, the importance of representative policing to Northern Ireland's transition to peace and the rule of law, and given its time-limited nature, we have determined that the measures are both necessary and proportionate. The arrangements also seem to be working and making the PSNI more representative.
- The **Prison Service** has undergone nothing like the fundamental overhaul that the police had to undergo. Latest figures from the Prison Service show a very small proportion of women and Catholics on staff. In 2005, 80.2% of the prison grade staff were Protestant and 8.7% were Catholic (with 11.1.% non determined). CAJ has expressed concern to the Prison Service about these figures, particularly since it is vital that people who are incarcerated, and who are deprived of their liberty, do not suffer any religious intolerance (appendix 6 is a recent submission by CAJ to a parliamentary inquiry into prisons in Northern Ireland).
- Regarding **other criminal justice agencies** – a series of official recommendations were made in the wake of the Good Friday/Belfast agreement regarding the need for policing and criminal justice agencies to (a) have staff representative of the communities served and (b) to

develop an effective system for monitoring those passing through the criminal justice system in terms of their religious background and other indicators. The latter (an equity monitoring system) was intended to ascertain if particular religious (or other) groups were disproportionately represented as victims or suspects and, in the latter case, what happens in terms of remand, charging, sentencing etc. The Rapporteur may want to ask about the timetable for the introduction of this equity monitoring system - its long delay implies a lack of willingness on the part of the authorities to address these problems.

3. Proposals for consideration by Rapporteur

- a) A key problem in Northern Ireland is inequality between different religious groups. An important tool introduced in the political negotiations, included in the Good Friday/Belfast Agreement, and subsequently put into legislative form is a statutory equality duty on all public authorities (often referred to as “section 75 of the Northern Ireland Act”). All public bodies are obliged to promote equality across a range of categories (including religion, politics, race and ethnicity). However, groups like CAJ and many other equality networks and constituencies believe that this mainstreaming policy tool is being applied in a mechanistic way, and is not securing the changes expected. Political leadership needs to be exercised energetically by the incoming Executive and Assembly. A recommendation from the Rapporteur could be very influential in this regard.
- b) Clearly, any measure of the extent to which freedom of religion in a society is guaranteed is dependent upon the extent to which adherents to a particular faith are permitted to worship freely. There have been a number of particular problems in Northern Ireland in relation to how adherents to different faiths have been enabled to exercise this right. In one case, this had resulted in the withdrawal of proposals to construct a mosque. In another case, there have been problems regarding an open air religious service in a cemetery, which was deemed to be offensive to those from other faiths. Clearly, these issues need to be addressed if Northern Ireland is truly to provide for freedom of religion or belief. We believe that the Rapporteur should as a matter of priority seek to ensure that those wishing to worship are facilitated in doing so by government.
- c) Government is placing extensive credence in a new policy entitled “Shared Future”. Obviously, religious intolerance can flourish in divided societies; integration rather than segregation must be an aspiration, as must ‘sharing’ rather than division. However, a “shared future” can only be truly established on a basis of equality and human rights. “Sharing” cannot be pursued at the cost of the most unequal, poorest and most vulnerable communities. The examples provided above outline why any policy aimed at a “Shared Future”, must be formulated in terms of a “Shared and Equal Future”. One of the arguments put forward in opposition to the Catholic religious service in the Belfast cemetery was

that it would be offensive to those from other faiths. This problem only arose however as a result of the fact that the cemetery was being “shared” by a number of faiths. The same analogy could be applied to Muslims wanting to engage in public space to call their adherents to prayer. Clearly, “sharing” can only be successful, if there is a guarantee to respect the rights of all. “Sharing” should not come to mean assimilation, based on a notion of neutrality that may merely amount to *status quo* and one that does not respect the needs of individual faiths. CAJ has urged government to overhaul its current approach to a “Shared Future” and ensure an approach that *“puts equality and a rights based approach at the heart of building relationships between communities”*.

- d) It should also be noted that the overwhelming majority of Northern Irish children are educated in schools that are predominantly Catholic or Protestant. While there has been some movement towards integrated education, it is important to point out that “integrated” education is very much seen as meaning “Catholic and Protestant”. The recent consultation around a revised religious education curriculum for Northern Ireland did not reveal any recognition of the need to engage with those of a non-Christian faith.
- e) CAJ has alluded in passing to the worldwide scandal created in what became known as the “Holy Cross dispute”. In 2001/2, a group of adult protestors sought to block the passage of a group of Catholic schoolgirls from attending school. CAJ, along with others, expressed concern at the time about the extent to which government’s response to the protest, and the policing of events, complied with the “best interests” of the child principle. Fortunately the protest has now ended. The Rapporteur might want to examine what learning the authorities took from these events; the response at the time was wholly inadequate.
- f) CAJ is critical in its equality report (“Equality in Northern Ireland: the rhetoric and the reality” – submitted separately) about government’s creation of a Taskforce on Protestant Working Class Communities that, in our view, merely served to sectarianise the debate on tackling genuine disadvantage. We believe that anti poverty strategies, economic investment, and government procurement policies must all be targeted at individuals and groups on the basis of objective need. In setting this as the target, religious inequalities will be addressed, without risking feeding prejudice, intolerance or further sectarianism. Resources aimed at Catholic or Protestant communities must be objectively justifiable on the grounds of need; anything else will damage good community relations.
- g) The staffing of criminal justice agencies need to reflect the communities served; the Equality Commission should be asked as a matter of priority to carry out an inquiry into the obstacles faced, and develop action plans with the various agencies affected.
- h) Equity monitoring systems need to be introduced urgently by the various criminal justice agencies so that if statistics show that certain groups in

society are disproportionately represented in the numbers of those arrested/prosecuted etc. these findings can be closely examined for signs of unfairness or unequal treatment.

- i) Human rights and equality training should be integrated throughout the public sector. In recent times, preference appears to be being given to “diversity” training, or “cultural” training, with the implication that anti-racist or anti-sectarian training is too contentious/difficult. While CAJ accepts that language should not be allowed to become a barrier to communication, we also believe that institutions, and their staff, must explicitly accept that intolerance and prejudice are all too commonplace, and it is only in so doing that appropriate solutions can be introduced.
- j) A Single Equality Act has also long been promised. A comprehensive framework for tackling discrimination and promoting equality will be an important step forward, but only if it harmonises upwards and extends the current legislative protections against discrimination and intolerance.
- k) A Round Table Forum to discuss a Bill of Rights for Northern Ireland has recently been established. It is to be warmly commended, and the Rapporteur may want to comment on the way in which both the process of debate around the creation of a Bill of Rights, and the eventual content of such a document, might be used to address Northern Ireland’s problems of religious intolerance.