

Sectarianism: **THE KEY FACTS**

DECEMBER 2019



INTRODUCTION FROM THE EQUALITY COALITION

This research report, *Sectarianism: The Key Facts*, has been commissioned by the Equality Coalition and undertaken by Dr Robbie McVeigh. Founded in 1996, the Equality Coalition is a civil society alliance of non-governmental organisations (NGOs) and trade unions that aim to promote equality in Northern Ireland. The Equality Coalition is co-convened by a Belfast-based human rights organisation, the Committee on the Administration of Justice (CAJ), and the public service trade union, UNISON. Cumulatively, the 90 member organisations in the Equality Coalition work across all nine equality categories covered by the statutory equality duty in Section 75 of the Northern Ireland Act 1998, in addition to working on other recognised protected equality grounds.

The Coalition undertakes its work in a spirit of collective solidarity within a political context whereby most equality issues are heavily politically contested, including (but not limited to) those relating to sectarianism. As the Co-Conveners of the Equality Coalition have pointed out previously, we are still in an environment in which you can be accused of being sectarian because you have raised evidence of ongoing sectarianism, particularly when it relates to those in power. Addressing the subject and its powerful protagonists is therefore often avoided, or spoken of in codified language, or reduced to interpersonal behaviour focused on relationships, rather than on the application of power.

By contrast, the Equality Coalition has never shied away from evidence-based work to address sectarianism at an institutional level. As recently as 2016, we published the action research report *A Fresh Start for Equality?* by Professor Christine Bell and Dr Robbie McVeigh, focusing on the equality impacts of the finance and welfare provisions of the Stormont House Agreement. This report featured considerable mapping of contemporary sectarian inequalities and is available to download from the Equality Coalition website (www.equalitycoalition.net).

The Equality Coalition is conscious of the intersectionality of sectarianism with other equality constituencies. For example, there is commonly an intersection between issues of sectarianism and gender and/or LGBT rights. Additionally, the approach taken towards sectarianism can impact upon other protected groups. At our 2017 conference on countering incitement to hatred, it became apparent that the common ‘do nothing’ approach exercised by NI public bodies towards sectarian expression also had a knock-on effect on the approach to racist and homophobic expression in public spaces. In early 2019, the Equality Coalition produced a Manifesto for a Rights Based Return to Power Sharing that sought to address the failure to implement key safeguards in the NI peace agreements, including the development of a Bill of Rights. If taken forward, this Bill of Rights would have countered abuses of power, discriminatory decision-making, and rights deficits, and hence could have provided a framework for countering sectarianism in Northern Ireland.

The initial trigger behind the commissioning of this new piece of research on sectarianism by Dr McVeigh was the launch of the high profile report, *Sectarianism: A Review*, authored by Ulster University’s Duncan Morrow and supported by the Sir George Quigley Fund. We were concerned that the report provided a fundamentally flawed blueprint for addressing sectarianism. We felt it reverted to past community relations approaches and missed out key strategic issues, including any seeming reference to the sectarianism in decision-making that contributed to the collapse of power sharing in 2017. The report also seems to position intervention against sectarianism outside the framework of well-tested human rights standards.

The Equality Coalition Co-Conveners met with Professor Duncan Morrow in June 2019 and spoke with him further in July 2019 at a Belfast seminar organised by the Department of Foreign Affairs (DFA) to promote the report.

On both of these occasions, the author himself openly acknowledged the limitations of his report, but it is of concern that DFA and the representatives of business, churches and other organisations present at the July seminar took an uncritical view of *Sectarianism: A Review*, despite it not reflecting the current reality of sectarianism in our society.

The lone critical voice came from the trade union movement, which, in conjunction with a number of employers' organisations, had recently reworked and relaunched the Joint Declaration of Protection (for Dignity at Work and Inclusive Working Environment), a charter to challenge sectarianism in the workplace, originally launched 25 years previously. Despite the fact that the Irish Congress of Trade Unions (ICTU) and others had launched the new declaration at a well-publicised event in late 2017 and it remains available online (see: <http://bit.ly/2OG5DnH>), there was little knowledge of it from those attending the DFA event in July 2019.

This uncritical view of *Sectarianism: A Review* suggests that outdated views on the nature of sectarianism and its root causes are still prevalent amongst influential players in Northern Ireland society. These views, whether unwittingly or not, contribute to the current dangerous 'status quo'.

The intended role of *Sectarianism: The Key Facts*, the terms of reference for which are set out overleaf, is in part to critique past approaches. It also aims to move the focus from perceptions towards indicators of inequality and discrimination, and to propose alternative areas of focus that would make serious inroads into tackling contemporary sectarianism and its manifestations.

Patricia McKeown, UNISON

Daniel Holder, CAJ

Co-Conveners Equality Coalition

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TERMS OF REFERENCE:

This research paper was commissioned as 'a framework report on tackling sectarianism', with the following terms of reference:

- 1-** A report is to be produced, based on desk-based research and any other method deemed appropriate by the researcher, for discussion with Equality Coalition members and subsequent launch at an Equality Coalition event;
- 2-** The report is to focus on key current issues in relation to sectarianism and make recommendations for state action;
- 3-** The report is to include sections on the following:
 - A)** A brief outline of the fate of post-Good Friday Agreement initiatives to tackle sectarianism (e.g. good relations duty, shared future, 'CSI' strategy, T:BUC & the 'Equality and Good Relations Commission', A Fresh Start)
 - B)** The current state of sectarian inequality in Northern Ireland, including questions over the manner in which data on this is gathered and presented (including NIHE and Labour market stats);
 - C)** A critique of the recent Sectarianism: A Review report, including its Northern Ireland exceptionalism approach to the concept of sectarianism;
 - D)** Brief case studies of sectarianism in decision-making at Stormont and by councils.

ABOUT THE AUTHOR:



Dr Robbie McVeigh is an independent researcher. He has extensive experience of working with statutory and community organisations across Northern Ireland. He has published extensively, with a particular focus on human rights and equality in Northern Ireland. His work includes theoretical and policy-oriented research, as well as primary research with minority ethnic groups and community organisations.

Much of his research and academic work has focused on racism and sectarianism in Ireland, North and South. His publications include *Racism and Anti-racism in Ireland* (with Ronit Lentin, Beyond the Pale, 2002) and *After Optimism? Ireland, Racism and Globalisation* (with Ronit Lentin, Metro Eireann 2006).

He has extensive experience of working internationally on minority ethnic issues, including commissions from the European Year Against Racism, European Union Monitoring Centre on Racism and Xenophobia, and European Roma Rights Centre. With Christine Bell, he researched Bougainville Referendum Outcome Issues for the National Research Institute, Papua New Guinea, as a contribution to the recent independence referendum in Bougainville.

BEYOND SECTARIANISM IN NORTHERN IRELAND: A REVIEW

When the Sir George Quigley Fund's *Sectarianism in Northern Ireland: A Review* appeared in 2019 (henceforth 'Sectarianism: A Review'), it set itself a bold task: "To understand and identify the continuing and changing nature of sectarianism in Northern Ireland, its extremely negative impact on economic, social and cultural life, together with opportunities for its replacement by a concerted process of reconciliation throughout society". The Review even hinted at a new approach that might herald "the end of sectarianism". Here it seemed was a game-changing reframing of sectarianism for the 21st century.

When we read *Sectarianism: A Review*, however, it has an oddly retro feel to it. The ambiguously shared authorship is modish – "Duncan Morrow of Ulster University in conjunction with the members of the Sir George Quigley Fund Committee." – but much of the analysis reads like a blast from the distant past. The appeal to 'community relations' rather than 'good relations' also takes us back a generation. The analysis avoids the concept of 'good relations' completely. It is as if someone has finally realised that you cannot graft community relations to the analysis of race without bringing some of the intellectual rigour of anti-racism – and its commitment to equality – with you.

This jettisoning of twenty years of post-GFA 'good relations' theorising, forces the authors back to the notion that sectarianism can only be understood *sui generis* – disconnected from international standards, disconnected from anti-discrimination measures in Britain, disconnected from wider understandings of equality and inequality. Any resonance with other racisms that overlap with religious categories – like antisemitism and Islamophobia – is eschewed. By default as much as design it takes us back to the earlier model of Northern Ireland exceptionalism. Thus, despite all the similarities with civil rights in the US and anti-racism in Britain and democratisation in South Africa, in this reading, sectarianism can only be understood on its own terms. In short, *Sectarianism: A Review* presents a revitalised community relations-focused approach to sectarianism. Crucially from our perspective, equality is either ignored or problematised: ignored presumably because it is assumed to no longer be an issue; problematised because addressing it might be bad for community relations.

There are aspects of *Sectarianism: A Review* that situate the approach in an even earlier analysis. There is even the suggestion that we need a new 'department of sectarianism'. This notion reprises the establishment of the first community relations infrastructure in fin-de-siècle Stormont. There is more than a hint of the late 1960s and Terence O'Neill's 'Ulster at the Crossroads' approach with its appeal to 'all law-abiding people' and its commitment to building a 'culture of lawfulness'. It becomes clear that some are still beyond the pale of community relations. This outlook defines the approach to tackling sectarianism within the report. Page 5 states: "'Reconcilliation' is understood as meaning a general willingness on the part of people throughout the community to tolerate and respect the rights of other law-abiding people to hold views at variance from those which they hold themselves." Recent Northern Ireland history has, however, been dominated by people who were far from entirely law-abiding across their careers – including First Ministers Ian Paisley and Peter Robinson and deputy First Minister Martin McGuinness. Moreover, it remains highly debatable whether any of the institutional sectarianism that characterised the Northern Ireland state in 1969 would have been transformed by abiding by the law – this would exclude all the unlawful marching, all the housing occupations, all the direct action employed by the civil rights movement and, most poignantly of all, the participants in the Bloody Sunday march.

Locating anti-sectarianism ‘within the law’ also encourages wider reflection across different equality struggles. Ambiguity towards the law was as true for the suffragists as it is for contemporary climate change activists. Rosa Parks didn’t abide by the law; nor did those involved in the Stonewall uprising in 1969. In other words, the struggle for equality often adopts methods that are distinctly anti-pathetic to uncritical ‘law-abiding’. Activists in equality struggles often must get the law to abide by equality norms before they can start to encourage people to obey the law.

In this regard, *Sectarianism: A Review* presents an approach to equality in general - and sectarianism in particular - that is fifty years out of date. If it is a blueprint for reconciliation, it is essentially about reconciliation with inequality for the ‘law abiding’, for those who see nothing needing changed except the unpleasant ideas of those that are not ‘law abiding’. This captures the essence of the ‘constructive ambiguity’ at the heart of the GFA. For some people it marked the end of road on sectarian equality – this was as far as it would go and unionist and nationalist rights were to be entrenched henceforth; for others it was supposed to be an organic, dynamic agreement that would continue to make Northern Ireland more equal over time. For some it was a state – the historical compromise of unionism with the demographic transition; for others it was a process towards a more equal society. From this latter perspective, *Sectarianism: A Review* offers very little.

Nevertheless, there is some evidence of the contemporary state positioning *Sectarianism: A Review* as its template for anti-sectarianism. The document was launched with considerable fanfare and received widespread media coverage ¹. We suggest that this is a profoundly flawed analysis and should not be adopted in this way. It makes no contribution to the equality agenda and for that we must look elsewhere.

Here we might reference the old Fair Employment Commission (FEC) publication *The Key Facts: Religion and Community Background in Northern Ireland* (henceforth ‘The key Facts’) to remind ourselves of just how we have reached this point. This FEC publication appeared in 1995 - nearly 25 years ago and before the Good Friday Agreement (GFA). It was in many ways a last hurrah of the reformist ‘fair employment’ mechanisms put in place under direct rule. So, the new review provides an opportunity to usefully compare where we were before the GFA with where we are now. With this juxtaposition we might expect to get a sense of how far we have come. When we compare the two documents, however, we are struck not so much by the empirical change ‘on the ground’ in Northern Ireland but rather the epistemological differences between the two reports. *The Key Facts* did what it said on the tin – it proffered what it regarded to be the evidence base for the broader debates about sectarianism and inequality in Northern Ireland. In contrast, the new analysis from Duncan Morrow and the Sir George Quigley Fund is all ‘focus groups’ and ‘perceptions’ and ‘one person commenting’; at pains not to be ‘judgemental or pejorative’. This move towards the uncertainty principle is, of course, much more widespread than discourse on sectarianism. It is reflective of a broader transition to a post-truth world of not just facts but also ‘alternative facts’. For example, *Sectarianism: A Review* frames housing inequality as part of a ‘nationalist narrative’ (Morrow et al 2019: 14) – despite the clear indication by the Equality Commission for Northern Ireland (ECNI) that this remains a key inequality (ECNI 2017: 18).

¹ ‘We need a new department at Stormont to combat growing sectarianism, says UU report’ Belfast Telegraph May 14 2019. <https://www.belfasttelegraph.co.uk/news/northern-ireland/we-need-a-new-department-at-stormont-to-combat-growing-sectarianism-says-uu-report-38108400.html>

Of course, even in 1995 the facts that the FEC presented were hardly uncontested. For many observers, the FEC itself was a lightweight, reformist institution. It was generally recognised of that it had made some effective interventions in the NI workplace. Equally, however, the FEC Chairman Bob Cooper – who introduces The Key Facts – had been sponsored by the British government to go to the US to lobby against the MacBride Principles (a corporate code of conduct for US companies doing business in NI). This was an odd kind of intervention on fair employment – what kind of equality organisation intervenes against an effective equality campaign that was modelled on the intervention against investment in apartheid South Africa? And in the North, the FEC was only too aware of the limits of its reach – it had never undertaken a Section 12 investigation of Harland and Wolff – the quintessentially sectarian employer for most of the history of the state ². The FEC monitoring numbers told part of the story of Harland and Wolff (even as recently as 1995 it only employed 5.5% Catholics) ³. The rest was left to anecdote and oral histories of ‘Belfast confetti’ and the routine expulsion of Catholics (and socialists) through sectarian intimidation and violence. Since we are keen to reference the key facts, however, it bears emphasis that the company was also a nationalised, state-owned employer for most of the existence of the FEC (and its predecessor the Fair Employment Agency). In other words, whatever its failings on equality, it is impossible to lay blame at the vagaries of the market or the private sector. It was the same state that comprised both the FEC and Harland and Wolff. Even in 1995 ‘key facts’ weren’t always the only key facts.

Twenty-five years on, Northern Ireland is a very different place. Shipbuilding at Harland and Wolff has gone completely ⁴. This is symptomatic of the change in the wider industrial base of Northern Ireland. There are only vestiges of both the ‘old’ heavy industries that underpinned the NI state at its formation and the ‘new’ artificial fibres that supplemented these in the 1960s. Both economic models involved workforce profiles that were heavily sectarianised (and gendered). There was in effect a sectarian dual labour market – with Protestants accessing skilled, secure, better-paid employment and Catholics largely confined to less secure, less skilled and less well-paid jobs. This reality made the relationship between employment practice and sectarianism relatively easy to ‘read’.

The contemporary dynamic is undoubtedly more complex. In an era in which the association with Game of Thrones is trumpeted as one of the few success stories of the Northern economy, the economic base merges quite literally with fantasy. Nevertheless, there is no disputing that the economic base of sectarianism has transformed since 1972. We only need to look to the civil service for confirmation – in the early years of Northern Ireland state, this was a service in which the Minister of Agriculture Sir Basil Brooke could openly and proudly reassure people that there was not a Catholic about the place; by 2018 there was a suggestion that Catholics were now over-represented (NISRA 2018: 8-9). So, it would be wrong to suggest that nothing has changed. Equally importantly, however, people tend not to ‘see’ or indeed to look for any remaining sectarian imbalances at all. One of the consequences of the outworking of the GFA is that it seems bad table manners to mention the issue. Under the hegemony of good relations discourse, these facts don’t attract the same attention that they once did. Moreover, there is a suspicion lurking in the back of people’s minds that it might well be sectarian to raise uncomfortable questions regarding sectarian inequality ⁵.

² This section of the Fair Employment Act addressed the “Investigation and remedying of practices which fail to afford equality of opportunity’ and empowered the FEA/FEC to formally investigate ‘any employer”.

³ The Fair Employment Commission’s Monitoring Report No6 – A Profile of the Northern Ireland Workforce –Summary of the Monitoring Returns 1995 provides information for ‘Harland and Wolff Shipbuilding and Heavy Industries’. Of 1448 employees, 1326 were Protestant, 77 were Catholic and 45 ‘N.D.’.

⁴ In 2017, its successor company ‘Harland & Wolff Heavy Industries Ltd’ employed only 114 people – ECNI records its workforce as 84% Protestant and 16% Catholic.

⁵ Infamously, Ivan Lewis – former Labour Shadow Secretary of State – suggested, “Nobody talks like that anymore”, in response to homeless mothers from the Catholic community in North Belfast asking him to address sectarian inequality in housing.

From this perspective, when we return to The Key Facts in the light of everything that has happened since 1998 – and specifically in the context of the contemporary reframing of sectarianism in *Sectarianism: A Review* – we are struck at how radical this 1995 analysis was. At the core was its commitment to bringing evidence-based argument to the debate on sectarian inequality. In other words, it was premised on the notion that sectarianism isn't only about perceptions or social attitudes or the views of unnamed focus groups. This approach addressed the reality of structural, institutionalised sectarianism through the lens of statutory data sources - publicly available statistics, produced by the state. These data were used in this context to critique the performance of that same state in creating an infrastructure that could and would deliver 'fair employment'.

Of course, *The Key Facts* was not the only research publication of this type. There were many other similar interventions that helped unpack the mechanics of sectarian discrimination – such as Smith and Chambers' definitive work on *Inequality in Northern Ireland* (1991). This work was conducted by the Policy Studies Institute (PSI) – the same group that monitored racial inequality in Great Britain in a series of definitive reviews (Daniel 1966; Smith 1974; Brown 1982; Modood et al 1994). The weight of all this evidence of both inequality and discrimination made it hard not to be 'judgemental or pejorative' back in those days. For example, Smith and Chambers' work drew on a wider range of material: "statistical analysis of a database of 9000 individuals, covering details of jobs and housing; a survey of 1600 adults; a survey of 250 workplaces and associated case studies". Thus, when they concluded that inequality between Protestants and Catholics remained pervasive and that these inequalities could not be explained by factors other than discrimination, their conclusions went beyond perceptions. This was serious, sustained quantitative analysis undertaken by researchers of the highest academic and professional standing. When they insisted that the weight of evidence in their research "emphatically contradicted" the notion that "any remaining inequality of condition would gradually disappear without further corrective action", the analysis had to be taken seriously by state and non-state actors alike (Smith and Chambers 1991: 370).

It would be wrong to suggest that this kind of critical research stopped in 1998. Post-GFA, ECNI continues to collect and publish crucial monitoring data while government agencies like NISRA and The Executive Office supply important analyses on aspects of sectarian inequality across issues like the labour market income. The Northern Ireland Civil Service continues to monitor its own performance in detail in its biennial reports specifically on the sectarian composition of its workforce (NISRA 2018: 8-9). Other government agencies provide valuable monitoring data on equality in general and sectarian inequality in particular. More recently, Paul Nolan's work for the Community Relations Council – now sadly discontinued – provided an important overview of sectarian dynamics within wider developments post-St Andrews Agreement (Nolan 2012, 2013, 2014; Wilson 2016).

Likewise, the reissuing of the Joint Declaration of Protection (for Dignity at Work and Inclusive Working Environment) by employers, trade unions, ECNI and LRA both confirmed a significant problem with sectarianism within workplaces as well as the need for significant efforts made at the workforce level to tackle it (CBI et al. 2017).

Despite all this good work, there is no doubt that attention to sectarian inequality has lost focus. For example, the NI Human Rights Commission (NIHRC) recently published an analysis of the impact of reforms to the tax and social security system (Reed and Portes 2019). But this failed to provide any analysis of sectarian impact:

We do not perform any analyses examining gender reassignment, religion or belief, or sexual orientation. The omission of analysis by religious belief is particularly unfortunate in a Northern Ireland context due to the relatively high degree of religious segregation in many facets of Northern Ireland life including education and social housing. (Reed

The report, a Cumulative Impact Assessment of tax and social security reforms did desegregate its findings by other protected equality grounds (including age, gender, disability). The report goes on to explain that the omission in relation to sectarian inequality relates to the official data sets on which the methodology relies, namely the Family Resources Survey (FRS) and the Living Costs and Food Survey (LCF). It is not that these surveys do not gather data on religious belief, but rather that the data is not currently made available. Accordingly, among the report recommendations is a change in government policy:

The religious affiliation variable in the FRS and LCF data should be made part of the End User Licence datasets available to researchers. This would make it possible to analyse the distributional impact of tax and social security reforms by religious community, which is particularly important in the socio-economic and policy context of Northern Ireland. (Reed and Portes 2019: 143)

The notion that it is possible to measure the impact of these kinds of issues in Northern Ireland without attention to any differential sectarian impact gives some sense of how much things have changed since the GFA. The GFA itself brought in the statutory nine-category Section 75 equality duty, which included analysis of sectarian inequality. Twenty years on it is notable that it is possible to find Cumulative Impact Assessments or other exercises on subjects where there are continuing or exacerbating sectarian inequalities, but analysis on such grounds is absent. Even with Section 75 there have been concerted efforts to evade analysis of sectarian inequality. One notable example is the Equality Impact Assessment (EQIA) of Welfare Reform by the then NI Department of Social Development (DSD). The EQIA missed out four of the nine categories, including those that are indicators for sectarian inequality⁶. Ostensibly, this was undertaken under the argument that the data was not gathered on such grounds, despite there being a duty to do so and such data clearly actually being gathered in at least the FRS and LCF. The Equality Coalition was furthermore concerned that these failures were compounded by ECNI declining to use its Section 75 enforcement powers against DSD in relation to the partial EQIA (Bell and McVeigh: 2016: 62).

We should expect more than this. After fifty years of state intervention against sectarian inequality, we would anticipate regular updates on how well the state is performing in its equality duties. Not least because the UK has international legal obligations to do this. Nor is this approach particularly radical or innovative – it mirrors monitoring on race and gender across the water – as well as broader equality monitoring elsewhere around the world. This kind of monitoring is necessary to ensure that the equality guaranteed by the GFA is secured. Insofar as it has been achieved, monitoring ensures that it is maintained; insofar as it has not been achieved, monitoring ensures that the trajectory remains towards equality rather than inequality.

This contrasts starkly with an approach that regards sectarianism as ‘ugly mindsets’ or, as Sectarianism: A Review puts it, “The question of how to deal effectively with basic sectarian prejudice and hostility”. Reducing everything to perception, all we must do is change what is perceived. But this approach is not without its limitations. For example, it may be true that some Protestants think that Catholics have benefitted massively from peace, but this isn’t the same thing as Catholics benefitting massively from peace.

⁶ Namely religious belief and political opinion; the other two missing grounds were racial group and sexual orientation.

If we want to test this hypothesis, we must move beyond what Protestants – or anyone else for that matter – thinks. Even if we want to limit our exploration to thinking, there must be some obligation to engage with all sides in this story – to also ask Catholics if they too think they have benefitted massively from the peace process. And then we need to juxtapose these two perceptions and see whether we can deduce any ‘facts’ at all from this investigation. At this point the more unreconstructed amongst us might want to reference further evidence – say for example the revelation that one third of children in parts of West Belfast, North Belfast and Foyle are now living in poverty – and then ask what that tells us about contemporary sectarianism⁷. We might also suggest that this kind of fact should move us towards conclusions that are both judgmental and pejorative.

In short, the inadequacy of this new analysis encourages anyone committed to equality to return to a focus on the kinds of substantive inequalities that were signalled by The Key Facts. We might address this directly - if hardly imaginatively - by asking what are the key facts of sectarianism in Northern Ireland in 2020? We should then turn to ask what these facts might suggest about how the Equality Coalition – as well as other key statutory and non-statutory actors – should frame anti-sectarian work over the next period. These two questions should also constitute our response to *Sectarianism: A Review*. This alternative approach works towards a methodology for the Equality Coalition and others that might continue to address - and reduce - those inequalities and injustices that continue to define the experience of sectarianism across Northern Ireland in 2019.

Any framework for tackling sectarianism has to begin with a definition of what sectarianism is (McVeigh 2014a). At one level it seems silly to suggest that people don’t know what sectarianism is – anyone who has suffered sectarian abuse on the street knows it only too well. Moreover, Northern Ireland has been routinely witness to the most egregious consequences of sectarianism of all. Here we might cite the list of deaths through Lost Lives (McKittrick et al. 1999) for which the adjective ‘sectarian’ is sufficient explanation of causality. More broadly, it remains the case that almost any issue can be sectarianised in the context of Northern Ireland. For example, a recent story on abuse in care homes in the South of Ireland was linked by BBC Northern Ireland as ‘Protestant Care Home Survivors call for apologies’⁸. The very ubiquity of perceptions of sectarianism makes it hard to pin down.

Increasingly, however, understanding sectarianism has been made easier by the recognition that sectarianism should be viewed as a specific form of racism. The Equality Coalition has supported this analysis for several years (McVeigh 2014a). As has the Committee on the Administration of Justice (CAJ): “Sectarianism shall mean the belief that a ground such as religion, political opinion, language, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons” (CAJ 2013). This approach is also held by the Northern Ireland Human Rights Commission (HRC 2011); the Committee of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (CERD 2011); and the Council of Europe (Council of Europe 2011).

⁷ ‘One in three children growing up in poverty in some parts of NI, according to report’ Irish News 24 Jan 2019.

⁸ The actual story appeared as, ‘Bethany Home survivors call for state and Church apologies’ and included testimony from a survivor who suggested: “The Dublin government don’t think we’re fit to get redress, yet all the Catholic homes got redress, so is it discrimination against Protestants?”. The notion that Catholic abuse survivors in the 26 counties have been somehow privileged by the Southern state would be risible if it were not so offensive.

<https://www.bbc.co.uk/news/uk-northern-ireland-49699449>

The recognition of sectarianism as a form of racism by the UN and Council of Europe treaty bodies and NIHRC is notably not referenced at all in *Sectarianism: A Review*, which instead, while unclear, appears to revert to a more exceptionalist approach⁹. But this approach eschews all of the advances that have been made in understanding racism and equality.

For example, in its review of the circumstances surrounding the death of Stephen Lawrence, the Macpherson Inquiry developed a definition of institutional racism that transformed the UK state understanding of – and response to – racism. This was:

The collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.

Arguably this definition ‘works’ in terms of sectarianism in Northern Ireland without any editing at all. Given the widespread acceptance of sectarianism as a form of racism outlined above, the paradigm is immediately transferable. However, for the sake of clarity we can substitute ‘Catholics, Protestants and ‘Others’” for ‘minority ethnic people’ to leave no ambiguity to the appropriateness of a similar definition of ‘institutional sectarianism’ in the Northern Ireland context. As Macpherson suggested, this appreciation of the ways in which discrimination is institutionalised is crucial for any organisation that wishes to address discrimination. We should be investigating and reviewing the ‘collective failure’ of organisations across the public and private sectors, not hunting for sectarian bigots with ‘ugly mindsets’.

ANTI-SECTARIANISM AND ‘COMMUNITY RELATIONS’

As this broader definitional analysis suggests, any focus on ‘community relations’ frames the understanding of sectarianism within a very different paradigm from human rights, equality and anti-racism. Drawing on community relations approaches to race by the state in the US and the UK, this intervention took a new form in Northern Ireland in the late 1960s. Thus ‘community relations’ became the state’s answer to sectarianism. This was, in effect, the leitmotif of the reformist state project – something that would turn the ‘Protestant state for a Protestant people’ model into something less hostile and more inclusive of Northern Catholics. Thus, a community relations infrastructure was first established in the last ‘reformist’ phase of Stormont with the twin institutions of the Ministry of Community Relations and Community Relations Commission. The model went into abeyance under direct rule but re-emerged with the establishment of a new Community Relations Council in 1990. This was an odd formation: not quite a QUANGO, at arm’s length from the state and yet completely state funded.

⁹ *Sectarianism: A Review* states that: “In this document, the word [sectarianism] is used, with all of its uncertainties, to describe an inter-group struggle for power, in which both religion and politics have played a consistent part, and which is widely used to describe the wider division. What is consistent is the hostility; what may have changed over the years is the precise role of faith and doctrine” (2019: 7). It is notable that this definition despite its historical focus neither mentions racism or colonialism – the latter is alluded to in the report but is referred to as an “age of expansion, as European explorers conquered new territories and reshaped the political and economic map of the world” (2019:7).

This model was reenergised in the wake of the GFA – now sectarianism and community relations were bundled within a broader ‘good relations’ paradigm. There were three key stages in the evolution of this approach in Northern Ireland. First ‘good relations’ was named in legislation in Section 75(2) of the Northern Ireland Act 1998. (It bears emphasis that this term was not used in the GFA but bolted onto the legislation to replace the GFA ‘parity of esteem’ commitments.) This new phase signalled that ‘good relations’ rather than ‘community relations’ was the defining concept in this new statutory approach. Second, the role of good relations expanded further, and it became the key framing device for ‘normalisation’ in Northern Ireland in the A Shared Future document of 2005. Third, it became a leitmotif of the attempts to address ongoing tensions and conflict (within both government and wider society) through the Together: Building a United Community (T:BUC) Strategy.

A Shared Future engaged directly with the Community Relations/Good Relations overlap:

There was criticism that the terms ‘community relations’ and ‘good relations’ were not properly defined. ‘Community relations’ refers specifically to division between the Protestant and Catholic communities in Northern Ireland. ‘Good Relations’ refers to Section 75 (2) of the Northern Ireland Act 1998 which includes persons of different religious belief, political opinion or racial group. (2005: 63)

Crucially, this approach to ‘good relations’ was to include race alongside Protestant/Catholic relations and exclude other equality grounds. This fusing of racism and sectarianism was important since it further undermined the case for the exceptionalism of sectarianism. Since racism and sectarianism were being addressed ‘equally and together’ while other equality issues were being excluded, it begged the question of whether there was any substantive difference between racism and sectarianism at all.

The strategy did not address sectarianism discretely but rather ‘community division’. Nevertheless, the paradigm was located very specifically within the Section 75 categories that covered sectarianism – in this sense it was specifically about racism and sectarianism and specifically not about other forms of inequality or hate crime or violence:

This new good relations policy and strategic framework aims to address particular manifestations of community division between the Section 75 (2) categories – persons of different religious belief, political opinion or racial group. This does not diminish the importance of other equality categories and this document represents just one facet of a multi-dimensional approach to the promotion of equality of opportunity and good relations. (2005: 62, emphasis added)

This approach was confirmed by the Together: Building a United Community Strategy when it was published in May 2013. T:BUC was the post-St Andrews Agreement variant and represented the efforts of the devolved DUP/SF administration to develop a good relations policy in its own image.

By now, however, the tensions between ‘good relations’ as a strategy to address a ‘particular manifestation of community division’ and a vague wider social good were beginning to see the approach unravel. At its worst, the focus on good relations can become a veto on rights and equality.

For example, the recent Fourth Opinion on the United Kingdom by the Council of Europe (CoE) Advisory Committee on the Framework Convention for National Minorities emphasised the need to implement the 'good relations' duty in S75(2) of the Northern Ireland Act 1998 in a human rights compliant manner¹⁰. These contradictions are at their most extreme when they overlap with manifestations of violence and 'hate' that are central to criminal justice. Since 'hate crime' might be regarded as the quintessential example of 'bad relations', it was unclear why some forms of violence – like racist and sectarian violence – should be addressed by good relations while others should not.

This tension is raised throughout T:BUC – particularly in terms of homophobia and the LGBT community. Thus, T:BUC acknowledges: “Lesbian, gay, bisexual and transgender people have and do play a role in building good relations across our community. This was highlighted extensively throughout the public consultation when a number of individuals and representatives of lesbian, gay and bisexual groups, and transgender people, spoke of the need to apply good relations principles more widely across all S75 groupings” (2013: 16-17).

One of the most striking aspects of *Sectarianism: A Review* is that it dodges this bullet completely – 'good relations' is not mentioned once in the analysis. The 'problem' of sectarianism in Northern Ireland is to be understood *sui generis* and the solution is once again 'community relations' which also – we have to assume – should also now develop *sui generis* post-review. This, of course, frees the paradigm from any wider scrutiny. It removes it from the wider understanding of human rights and equality. It ditches the oversight imposed by CoE and CERD. It regresses to the late 1960s when practitioners could do more or less what they wanted so long as it took place under the banner of 'community relations'.

From this perspective, *Sectarianism: A Review* provides a fascinating insight in terms of the current nature of the state in Northern Ireland. As we have seen, over the past fifty years the community relations/good relations paradigm has been the touchstone of reformist government policy. It signals that government acknowledges a problem with 'community division' and promises a different way of managing that division. In this regard, *Sectarianism: A Review* begins to imagine a model for anti-sectarianism in a situation in which there is no functioning government at all. In the absence of either the Assembly or direct rule, the temporary nature of suspension threatens to become a permanent state of exception. This raises the question of what if Northern Ireland just kept going in this form? If Northern Ireland were to continue with no accountable government at all – a state without government – it seems likely that this is the ideology that would reframe and manage 'community division'.

¹⁰ The Advisory Committee refers to interlocutor reports of the 'good relations' duty appearing “on several occasions to take priority over wider equality and minority rights initiatives, which were blocked on grounds that they would lead to ‘community tensions’”, and elaborates that: “This would be due to the fact that, unlike the rest of the country, Northern Ireland does not interpret the ‘good relations’ duty as including a duty to tackle racism, including sectarianism. Instead, the lack of proper definition allows this notion to be used rather as a ‘tool’ to set aside politically contentious issues, such as legislating on the Irish language, and to justify a “do-nothing” attitude, eventually based on ‘perceptions’ rather than objective criteria. The Advisory Committee reiterates its opinion that the concept of ‘good relations’ apparently continues to be substituted for the concept of intercultural dialogue and integration of society, which would include other national and ethnic minorities present in the region, and regrets that this is used to prevent access to rights by persons belonging to these minorities.” [FCNM 2017:85]

THE DEMOGRAPHY OF SECTARIANISM AND THE DEMOGRAPHIC TRANSITION

The Northern Ireland state was conceived on a sectarian demographic logic – it was created in order to maximise the dominion of Protestant majoritarianism in Ireland. This key fact answers the core question posed by *Sectarianism: A Review*: this remains the “basic reason behind the sectarianism which underlies life in Northern Ireland today”. The state itself was an explicitly sectarian invention to guarantee a Protestant and unionist majority in perpetuity. There is little ambiguity around this – the new state included four Ulster counties with Protestant/unionist majorities, but it also included two with Catholic/nationalist majorities while it excluded three with more sizeable Catholic majorities. (In 1920 there were very few ‘Others’ to disrupt this binary dynamic.) In other words, the state itself was unambiguously a sectarian gerrymander. Thus, sectarianism was embedded in the body politic of the state from the first. It was a state that assumed it would manage the consequent sectarian algorithm – a population that was roughly two-thirds Protestant/unionist (and ‘loyal’) and one-thirds Catholic/nationalist (and ‘disloyal’) – in perpetuity.

This reality, however, has changed markedly over recent years. Arguably this demographic transition underlies the profound political transformation in Northern Ireland. Essentially, this involves two parallel demographic shifts – the rise in the proportion of Catholic population and the rise in the proportion of the BME/‘Other’ population. In combination, these developments constitute a demographic transition that has reconstituted the ethnic composition of the state. This has immediate ramifications given the sectarian logic which underpinned the formation of Northern Ireland. This was a state that expected Protestants to outnumber Catholics, in a ratio of roughly two to one, and derived its legitimacy from this fact. Yet it now faces a future in which there is Catholic majority with distinct Protestant and ‘Other’ minorities.

This ongoing transition was traced in the 2011 Census report:

Since the 1960s, against a backdrop of overall population increases, the proportions belonging to these religions have tended towards convergence, with that of Protestants and Other Christians steadily declining and that of Catholics generally increasing, reaching 42 per cent (0.75m) and 41 per cent (0.74m) respectively in 2011. Their combined share has, however, fallen from almost 100 per cent to 82 per cent, with the remainder in 2011 consisting of 0.8 per cent (0.01m) following Other religions, 10 per cent (0.18m) with no religion and a further 6.8 per cent (0.12m) not stating their religion. (NISRA 2011)

The ‘Other’ proportion falls substantially once people are asked their religion or ‘religion brought up in’. This is what is characterised as ‘community background’ in other contexts and it accords with notion that the labels ‘Protestant’ and ‘Catholic’ are a proxy for ethnicity in Northern Ireland.

| Religion/ Religion brought up in | Protestant or Other Christian 48% | Catholic 45% | None 6% | Other 1% |
|----------------------------------|--------------------------------------|-----------------|------------|-------------|
|----------------------------------|--------------------------------------|-----------------|------------|-------------|

Source: NISRA – 2011 Census

As unionists and others have been keen to emphasise, there is no inevitable correlation between being Catholic and being nationalist or republican. Indeed, the census national identity question receives a more complex and nuanced sense of identity split between 'British', 'Irish' and 'Northern Irish' - with yet another sizeable 'Other'.

| | British Only | Irish Only | Northern Irish Only | Other |
|-----------------------------|---------------------|-------------------|----------------------------|--------------|
| National Identity | 40% | 25% | 21% | 14% |
| Source: NISRA - 2011 Census | | | | |

From an equality perspective, however, this is not the most important aspect of the demographic transition - except insofar as 'national identity' may often constitute a ground for race and sectarian discrimination. Rather the key equality interface within the Northern Ireland state - the Protestant majority/Catholic minority dynamic - is in the process of being flipped. Increasingly in most areas of equality concern, the dynamic involved is with a Protestant minority/Catholic majority. This profoundly changes the dynamic of equality work - and impacts immediately on the modus operandi of actors like the Equality Coalition.

This is significant for a number of reasons - not least because numerical majorities do not imply power majorities. Contemporary Northern Ireland is in a situation of transition and flux. It bears emphasis that in the new demographic context, Catholics may well find what women have known for many years - that being in the majority does not necessarily guarantee any protection from discrimination and inequality. Contrariwise, of course, new issues may well emerge from Protestant minority status. The recent sustained focus on the experience of Protestants in education illustrates the ways in which new inequalities may develop. Either way, there is every argument for enhanced vigilance and continued monitoring.

By way of illustration, we can trace this demographic transition across the crucial area of the labour force. The last census suggested a Catholic plurality/majority across the working age population. In other words, this suggests that the point at which Catholics form the plurality of the working age population has already been reached - 40% of the working age were Protestant, 41% were Catholic and 19% were 'Other/non-determined' (OFMDFM 2016: 10).

The most recent Labour Force Survey (LFS) figures from 2017 make this transition palpably clear. Their research suggests a breakdown of 43% Catholics, 38% Protestant and 18% Other/non-determined. When the total is confined to Catholics and Protestants, the ratio is even starker: Catholic 53%/Protestant 47%. (Crucially this Protestant/Catholic binary - with 'Others' excluded - is used in much of the crucial fair employment data.) This transition also holds across the 'economically active' - 48% Protestant to 52% Catholic (Executive Office 2019: 25); and the unemployed - 44% Protestant to 56% Catholic ((Executive Office 2019: 38); and the 'economically inactive' - 45% Protestant to 55% Catholic (Executive Office 2019: 31).

This trend is confirmed across the last thirty years – and culminates in the Catholic plurality in recent years.

| Table One: Composition of the working age population, 1990-2017 | | | | | |
|---|-----------|-------------|-----------|-------------|------------------------------|
| | P | | C | | Other/ non Determined |
| | % | % | % | % | % |
| 1990 | 54 | [57] | 41 | [43] | 6 |
| | | | | | |
| 2010 | 48 | [53] | 42 | [47] | 10 |
| 2011 | 46 | [52] | 43 | [48] | 12 |
| 2012 | 45 | [51] | 43 | [49] | 13 |
| 2013 | 45 | [51] | 43 | [49] | 12 |
| 2014 | 44 | [50] | 43 | [50] | 13 |
| 2015 | 40 | [47] | 46 | [53] | 14 |
| 2016 | 40 | [48] | 44 | [52] | 16 |
| 2017 | 38 | [47] | 43 | [53] | 18 |
| Figures in [] reflect percentages where the total adds to 100% for Protestants and Catholics only with Other/ND excluded. | | | | | |
| Source: Table A2.3 LFS Religion Report 2017 | | | | | |

The most recent LFS Religion Report confirms this trajectory:

In 2017, the religious composition of the working age population was 38% Protestant, 43% Catholic and 18% 'other/non-determined'. In 1990, the corresponding figures were 54% Protestant, 41% Catholic and 6% 'other/non-determined'.... Over this period, the number of Protestants of working age decreased by 10% (from 495,000 to 446,000), the number of working age Catholics increased by 36% (from 375,000 to 509,000), and the number of those classified as 'other/non-determined' more than quadrupled (from 53,000 to 216,000) (2019: 13)

There are thus three broad demographic trends being reflected in the Northern Ireland labour market, with the Catholic and 'Other' proportions growing as the Protestant proportion falls. As we argue below, this new reality has enormous implications for the reading of sectarianism and inequality. The core point, however, is a very simple one. Other things being equal, the LFS ethnic breakdown is what – broadly – every workplace would look like in terms of its ethnic/sectarian composition if sectarianism was no longer a structuring factor. It would have 43% Catholics, 38% Protestants and 18% 'Other'. That so few spaces across Northern Ireland reflect this demography gives immediate pause for thought. We can propose a similar algorithm for all other key resources – like housing and education – although of course these would not be measured primarily in terms of the working age population but the population as a whole.

THE 'OTHER' CATEGORY

In the midst of this demographic transition, one of the most important questions for sectarian equality is just how the growing 'Other' population is constituted. Put simplistically, it might be regarded as people who do not self-identify as either 'Protestant' or 'Catholic'. Clearly some of these people are captured by the religion question in the census, which provides a figure of 6% for 'none'. For some people the identification as 'Other' indicates resistance to pigeonholing within traditional sectarian categories – the enduring example of 'mixed marriages' make 'community background' a complex notion. But traditionally this mixing was often no antidote to sectarian differences and sectarian discrimination: people often crossed sectarian boundaries, but the boundaries remained as fixed as ever. Thus, sectarian identities in Northern Ireland have always involved a complex interaction of self- and other- definitions. In reality, the labels 'religion' or 'political opinion' are inappropriate to a category which effectively constructs the identities 'Protestant' and 'Catholic' as ethnicities. This is increasingly captured by the notion of 'community background' which insists that people have a Protestant or Catholic 'background' even if they repudiate these labels for themselves.

Clearly, however, the marked growth in the 'Other' category has also been a consequence of immigration. Thus, in part at least, the term 'Other' reflects an entirely new BME/migrant population – here the 'community background' question is almost meaningless for someone from, say, the Philippines or Poland or China. In this case, 'Other' is entirely appropriate for people who don't have such a community background - in both the strict sense they didn't go to school in Northern Ireland and in the general sense they are most likely to be first generation migrant to Northern Ireland. However it is constructed, their community background is neither 'Protestant' nor 'Catholic' in the sense in which these terms are used in Northern Ireland - and it becomes offensive to crowbar them into either of these categories.

It is safe to assume that the 'Other' category usually reflects some combination of these trends. This signals a complex, multifarious 'Other' community. Clearly its ethnicity is different from both 'Protestant' and 'Catholic', but it is not reducible to the categories of 'BME' or 'migrant worker'. One of the major contemporary challenges for anti-sectarian work is thus to negotiate the integration of this population into the broader analysis of sectarianism. Traditionally it was often ignored – as it is in key fair employment statistics – but this is no longer sustainable. When the state was formed, while this was hardly addressed explicitly, it was not expected that Northern Ireland would ever have a sizeable 'Other' population of any description. In so far as it had an existing BME population in 1920 – mostly Jewish people and Travellers – this was disregarded. Their opinions on partition were largely ignored and it was never anticipated that they would come to form a determining proportion of the overall population of Northern Ireland.

This quandary matters because - as the 'Other' category increases towards 20% - it cannot be abstracted from the specific anti-sectarian dynamic. A crucial part of addressing sectarianism in 2020 is understanding how it impacts on this poorly researched section of the Northern Ireland population. We address some of this dynamic in the discussion on intersectionality below. Part of the answer is that all relevant parties – including the Equality Coalition of course - need to explore how this growing 'Other' constituency wishes to be represented. We have suggested that it is notably diverse. Nevertheless, the key point is that if we want to understand and challenge contemporary sectarianism, this population cannot continue to be simply constructed as 'Other' alongside the Protestant and Catholic categories and then ignored as if sectarianism has no impact upon it whatsoever.

FAIR EMPLOYMENT, ETHNICITY AND THE 'OTHER' CATEGORY

It is useful by way of illustration to critique fair employment (FE) statistics in the context of the rise in the 'Other' population. This illustrates the reality of the ongoing 'demographic transition' in Northern Ireland, both generally and more specifically across the workforce. In 'fair employment' data, ECNI does not use the 'Other' label but rather uses 'non-determined' to describe those employees who are not 'Protestant' or 'Roman Catholic' (in FE terms). ECNI constructs this information as 'Community Composition':

The legislation specifies that "composition" refers to the numbers who are to be treated for the purposes of monitoring as belonging to each community. "Community" means the Protestant community, or the Roman Catholic community, in Northern Ireland. (ECNI 2019e: 3)

In this context, people are identified by 'Community Background':

Protestant refers to those determined by monitoring methods as members of the Protestant community. Roman Catholic or 'Catholic' refers to those determined by monitoring methods as members of the Roman Catholic community. Individuals for whom it was not possible to determine a community background are described as 'Non-determined'. (ECNI 2019e: 3)

ECNI also explains how it records Workforce Community Background:

On a monitoring return, employers are required to specify the composition of their workforce by community background, sex and occupational grouping, and whether they were employed for more or less than 16 hours per week.... Current legislation requires employers to determine the community background of their employees via the 'Direct Question'. This requires the applicant or employee to state in writing whether they belong to the Protestant or Roman Catholic community or belong to neither. (ECNI 2019e: 3-4)

It bears emphasis that at this stage the formally religious labels used bear little relationship to the faith of the individuals involved. In other words, ECNI have moved away from the binary approach towards an overall ethnicity analysis – but by default rather than design:

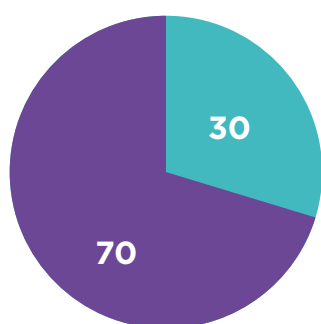
The residuary method is to be used when the Direct Question fails to provide a determination of community background. The residuary method is based on the fact that there are a number of pieces of information about an individual which, if known, can give a reasonable indication of community background. (ECNI 2019e: 4)

The principle 'residuary method' is the primary school attended. This, of course, provides no obvious connection to anyone's adult religious belief or political opinion - it bears emphasis that the only pieces of information that would indicate either the religious or political belief of an individual would be their personal identification of such. This information remains, however, a reasonably accurate proxy indicator for Protestant or Catholic ethnicity. In this context, 'community background' is in an indicator of ethnicity and offers only a much weaker correlation with either religious belief or political opinion.

From this perspective, let us turn to one example which illustrates just how distorting the 'fair employment' (FE) analysis can be in this context - the example of Moy Park. It characterises itself as: "one of the UK's top 15 food companies, Northern Ireland's largest private sector business and one of Europe's leading poultry producers". It bears emphasis that in terms of the demography of Protestant/Catholic/ND this is an unusual outlier. But the company is a major employer and routinely identified as 'Northern Ireland's leading company'. The most recent (ECNI 2109c,e) monitoring returns provide the following data:

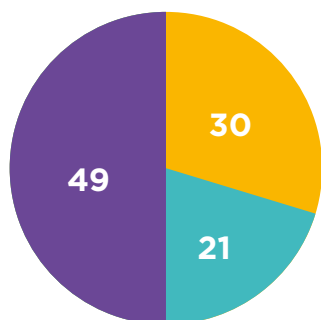
| Table Two: Companies Data for Moy Park (ECNI Monitoring returns 2017) | | | | | | |
|--|-------------------|-----------------|-----------------------|--------------|----------------|----------------|
| Company Name | Protestant | Catholic | Non-Determined | Total | [%P] | [%RC] |
| MOY PARK LTD Employees | 1020 | 2423 | 1475 | 4918 | [29.6%] | [70.4%] |
| % | 20.7 | 49.2 | 30 | 100 | | |
| MOY PARK LTD Appointees | 166 | 455 | 851 | 1472 | 26.7% | [73.3%] |
| % | 11.2 | 30.9 | 57.8 | 100 | | |

In other words, the most immediate reading of the figures in traditional FE terms for Moy Park in 2017 is that the workforce breaks down in binary terms:



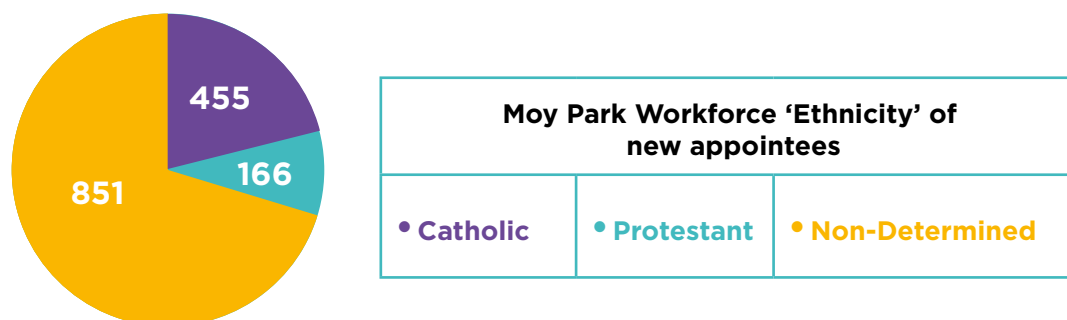
| Moy Park Workforce 'Ethnicity' % | |
|---|--------------|
| • Catholic | • Protestant |

This ratio might just avoid alarm bells if this were the make-up of the company - it is not dissimilar to the imbalance in the PSNI for example. In reality, however, the workforce is much more diverse:



| Moy Park workforce 'FE' Protestant/Catholic % | | |
|--|--------------|------------------|
| • Catholic | • Protestant | • Non-Determined |

Moreover, the likely profile of the future workforce composition is suggested by the new appointees in 2017 (ECNI 2019e). This workforce ethnic composition is far removed from the binary dynamic that operated in places like the Harland and Wolff shipyard and the Northern Ireland Civil Service when the FEC was established in 1976. Fifty years on, the NI labour market is much more open and equality dynamics are correspondingly transformed:



The Moy Park example is unusually stark. (Moreover, the religious belief indicator is particularly curious for Moy Park as many of the Polish, Lithuanian and Portuguese 'non-determined' will be in formal religious terms, 'Catholic'.) But there are several other employers in which the non-determined form a sizeable proportion of the workforce. And there are others in which the 'non-determined' outnumber either Protestant or Catholic categories. This new reality begins to illustrate how unfit for purpose the FE paradigm is becoming. Clearly in a context in which the majority of appointees is being excluded from FE monitoring, there is something wrong. The obvious answer is to recognise the categories 'Protestant' and 'Catholic' as ethnic categories in the Northern Ireland context and monitoring accordingly in terms of ethnicity rather than 'religious or political identity'.

There are two obvious conclusions. First, if this kind of profile reflects the broad trajectory of ethnicity in the Northern Ireland labour market, then employers and trade unions need to be sensitive and responsive to this profoundly changing make-up. Second, insofar as individual company profiles do not correspond to the ethnic balance of the NI labour market, then employers, trades unions and equality agencies need to regard this as prima facie evidence of inequality and proactively ensure that this does not reflect direct or indirect discrimination.

READING SECTARIANISM: THE STRUCTURAL REALITY OF SECTARIAN DIFFERENCE

Once we move beyond the ‘ugly mindsets’ formulation of sectarianism, we get closer to what it means to suggest that sectarianism should be understood as a ‘structure’. Sectarianism is not just about perceptions, but it is also institutionalised in a whole range of ways across Northern Ireland. It can be measured and monitored.

Moreover, the material, ‘lived experience’ of Northern Ireland reproduces this fundamental division daily in concrete form – literally so in ‘peacelines’ or ‘interface structures’ for example (Executive Office 2013: 20-21). This provides a definitive example because at one level it does not matter what individuals think about Protestants or Catholics either side of these structures, the structures still define and delimit the lives of people on either side.

Table Three: ‘Peacelines’

The Department of Justice is responsible for 54 interface structures, 41 walls or fences and 13 gates. Of the 54 structures, 9 have been erected since 1998 (8 fences and 1 gate), although none have been erected since 2008.

| Area | Walls/Fences | Gates |
|---------------|--------------|-------|
| East Belfast | 4 | |
| West Belfast | 12 | 6 |
| North Belfast | 15 | 5 |
| Derry City | 4 | 2 |
| Craigavon | 6 | |

This provides an obvious example of what we mean by reading sectarianism. From this perspective, sectarianism is not so much evidenced by prejudice or ‘ugly mindsets’ – albeit the surfeit of genocidal ‘Kill all Taigs’ and ‘Kill all Huns’ graffiti remains an indication of just how deep-seated this kind of prejudice can be. Rather, we find sectarianism embedded in the infrastructure of Northern Ireland life. It is measured in ‘key facts’ – in the differences and disparities between Catholics and Protestants and ‘Others’ across a whole range of lived experiences – employment, housing, education and so on. The difficulty in obtaining ‘political agreement’ to remove peace lines, despite an official policy of doing so is a case in point ¹¹. Even when the case for retention for safety is no longer credible removal may be resisted for the unspoken reason that Catholics in areas of high housing pressure, may subsequently move to what was the ‘other’ side of the peaceline. In this sense peacelines become further instruments to reinforce sectarian housing inequality.

It also bears emphasis that we must bring a critical eye to what is presented to us. Official statistics can often obfuscate as much as they illuminate. For example, the most recent figures are at pains to emphasise the dovetailing of Protestant and Catholic experiences in the labour market. This is characterised as ‘convergence’ by the Labour Force Survey (OFMDFM 2016: 2-3) and emphasises that differences between Protestants and Catholics are broadly reducing. From this we might deduce that there is ‘less’ sectarianism.

¹¹ ‘Will NI’s peace walls come down by 2023 to meet 10-year target?’ BBC News 3 May 2018. <https://www.bbc.co.uk/news/uk-northern-ireland-43991851>. ‘Peace walls: Support for removing barriers in Northern Ireland grows’ BBC News 12 November 2019. <https://www.bbc.co.uk/news/uk-northern-ireland-50390275>

However, this analysis gets more interesting when we deconstruct the data and the way it is represented. The LFS goes out of its way to provide us with data that confirms that the majority of people over 16 remain Protestant. But what is odd about this is that it is a 'Labour force survey' - in other words, it should be primarily about people of working age not people over 16. If you are really interested in the broader community characteristics, you would include young people as well - but of course those too begin to confirm a Catholic majority. Likewise, if we abstract people of working age from people over 16 (see page 31), their own data confirms a clear Catholic majority across the workplace when you include only Catholics and Protestants (as in ECNI monitoring figures). If you factor in the 'Other' category, the proportion of 'Others' is growing significantly, but a Catholic plurality (and Protestant minority) is also confirmed.

This is symptomatic of a routine resistance to acknowledging the reality of a Catholic majority/plurality and Protestant minority. Of course, in a society defined by majoritarianism, it is not surprising to find a degree of sensitivity on this issue. But this brings us back to the structural realities of contemporary sectarianism. Post demographic transition, we should expect a plurality of Catholics rather than Protestants across any monitoring - in employment, education, housing, goods, facilities and services. This also has the virtue of being a simple rule-of-thumb - applied to ECNI monitoring statistics, there is ipso facto evidence of continuing inequality in any workplace that has fewer Catholics than Protestants. (This approach forgoes the commitment to needs-based provision at this point, but that requires a slightly more subtle approach.)

This point holds across all sectarian equality data. This should reframe the way in which we read and address sectarianism. It bears emphasis that is not all one-way traffic. For example, the unemployment differential used to be the key indicator of Protestant/Catholic inequality: so much so that it was specifically integrated into the equality commitments embedded in the GFA. But the fact that Catholics constituted a majority of unemployed of Northern Ireland in 1972 when they also formed around one third of the population was evidence of profound inequality. Contrariwise, when Catholics form a majority of the unemployed but also a majority of the population of working age, this might actually represent 'fair unemployment', if such a concept exists.

Alongside this aspect of the demographic transition, however, Catholics might also now expect a 'fair share' of more positive statistics. For example, it is possible to interrogate Housing Executive data from the same perspective. By the same rule of thumb, we would expect a plurality/majority of Housing Executive services - housing, client base, repairs and so on - anything that can be measured and monitored - to go to Catholics - and, by extension, roughly 20% to 'Others'. This same rule of thumb holds across all other dimensions of state provision - planning, education and so on. Thus, we need to 'read' the available statistics from this new perspective in order to even begin to characterise sectarianism in contemporary Northern Ireland. This is another 'key fact'. The ongoing demographic transition means that we must read sectarian equality statistics in NI in an entirely new way.

SECTARIAN VIOLENCE AND CRIMINAL JUSTICE

Historically, sectarian violence provided the defining context for understanding sectarianism in Northern Ireland. The synergy between sectarianism and violence - and the consequent overlap with criminal justice - led to some of the most egregious examples of discrimination (CAIN 2019a). During the Troubles many of the deaths and injuries had an explicit or implicit sectarian component. In other words, many people were killed or injured simply because they were perceived to be 'Protestant' or 'Catholic'. This categorisation was sufficient cause for them to be targeted. This sectarian differential also held across the issue of impact. For example, summarising the conflict, *Lost Lives*, suggests that, "by far the biggest segment of those killed were Catholic civilians" (McKittrick et al 1999: 1477).

Thus, even this simple register of the dead provides an immediate sectarian differential – one section of the population experienced an unequal share of the most immediate and terrible consequence of sectarianism. If we abstract the sectarian identity of non-combatants, the difference is stark: 1,232 Catholic civilians died while 698 Protestant civilians died. In other words, roughly one third of the population in 1969 experienced roughly two-thirds of the civilian deaths by 1998.

Arguably, the most tangible consequence of the peace process and the GFA has been the reduction in the incidence of sectarian violence. The numbers of deaths have reduced greatly since the GFA. But there has been a period of what Paul Nolan characterised as ‘cruel peace’ with over 150 ‘security related killings’ since the GFA. Moreover, these deaths include several brutal and high-profile sectarian murders which continue to structure the understanding of sectarianism:

Whichever way the figures are counted the largest single victim group is Catholic civilians (a category that excludes republican paramilitaries or Catholic PSNI officers). This represents the continuation of a trend very marked in the 1968-98 period. In that period they constituted 32.4% of victims. In the period since 1998 the percentage share has moved up to 39.7%. (Nolan 2018)

Beyond the continued experience of sectarian murder, we find a whole series of criminal and unlawful behaviours which continue to indicate the currency of sectarianism. This falls under the rubric of either ‘incitement to sectarian hatred’ or ‘sectarian hate crime’. The PSNI, approach leads to three separate sub-categories of hate crime connected to racism and sectarianism – ‘racist’, ‘sectarian’ and ‘religious’¹². These too must be unpacked as key facts in understanding contemporary sectarianism.

Beyond these experiences of victimisation, criminal justice continues to be sectarianised in a whole range of ways. Strikingly this remains the single contemporary state sector in which ‘fair employment’ convergence is far from complete, specifically across policing and the wider security apparatus. At the point of its disbandment the RUC was only 8% Catholic (Patten 1999: 82). The Patten Commission was tasked by the GFA with creating, “a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole” – and transforming Catholic participation was one of its key challenges. In 2001, Catholics made up fewer than one in ten officers and women slightly more; today, Catholics comprise around three in ten, women slightly less. After a decade of the new PSNI, the Catholic proportion of police officers had risen to the critical mass (30 per cent) identified by Patten as the threshold for the ‘50-50’ (Catholic /non-Catholic) recruitment quotas he recommended to come to an end. They were duly removed by the Alliance Party Justice Minister, David Ford in 2011.

Table Four: breakdown of officers and other staff of the PSNI, September 2019 (%)

| | Police Officers | Police Staff |
|-----------------------------------|-----------------|--------------|
| % Perceived Protestant | 66.73 | 78.14 |
| % Perceived Roman Catholic | 31.95 | 19.46 |
| % Not Determined | 1.32 | 2.40 |
| % Female | 29.52 | 58.18 |
| % Male | 70.48 | 41.82 |
| % Ethnic Minority | 0.54 | 0.66 |
| Total | 6881 | 2420 |

Source: PSNI ‘Workforce Composition Statistics’ 1st September 2019.

<https://www.psnipolice.uk/inside-psni/Statistics/workforce-composition-statistics/>

¹² Six hate crime categories are recorded by the Police Service of Northern Ireland (PSNI) - sectarian, racist, homophobic, faith/religion, disability and transphobic. Yet only three of these is presented as directly negative in terms of good relations in the T:BUC strategy. This contrasts starkly with the situation in the UK where the application of good relations “extends to all equality strands, including social class” (Wigfield and Turner 2010: 9).

In the intervening years, however, there has been little advance in the Catholic proportion. Of course, since that period has been marked by austerity, the opportunities offered via new recruitment have been limited to less than the rate of natural wastage. Yet the proportion of Catholic applicants remains stuck at around 30 per cent, despite the Catholic plurality among the relevant age cohort for recruits. It remains equally problematic that the proportion of Catholic employees among other policing staff remains stubbornly stuck around one in five. Thus, with a plurality of people of working age Catholic, Catholics still remain even more significantly under-represented among support staff.

This imbalance holds in terms of the wider 'security' industry. Prison officers are now integrated with wider civil service figures, but these too reflect a profound imbalance. In 2018 across the 1224 'prison grades' staff, the breakdown was 76.9% Protestant, 14.0% Catholic and 9.2% 'Non-determined'. This one sector now appears 'stuck' in a limbo well short of any notion of 'fair employment'. In other words, a significant sectarian imbalance persists across much of the 'security sector' and criminal justice system. The sector is hugely significant. First, because it employs a significant number of people in relatively secure and well-paid employment – it is a key economic sector. More importantly, however, it is symbolic of the whole state. This is precisely why the Patten Commission was established by the GFA and why the state went to such extraordinary lengths to de-sectarianise policing. If the aim was to create a police service that looks broadly like the community it polices, the process has failed. As we have seen, we are moving towards a situation in which a Protestant majority police force polices a Catholic majority community. Rather than an end to sectarianism, this threatens to open a whole new chapter in the sectarianisation of policing and criminal justice in Northern Ireland. This indicates another key fact: in this crucial sector convergence appears to have stopped. This raises a further – acutely worrying – key fact. This marked sectarian differential holds across a sector that is especially sensitive to sectarian dynamics. If we apply the rule-of-thumb suggested above, Catholic employment is hovering around 30% in a sector in which a plurality of employees should now be Catholic. If the aim is to be 'reflective of the wider community it serves', the NI criminal justice system (NICJS) has a significant way to go.

This raises a wider failure of the NICJS to adequately proof for any 'collective failure' on sectarianism across its organisations. It needs to both collect and put in the public domain robust data that allows proper assessment of its performance. It bears emphasis that the NICJS continues to fail palpably in comparison its comparator organisations and the data provided on race in Great Britain (Ministry of Justice 2017). We can, however, draw on existing sources to at least signal some of the issues of concern. For example, the Owers Review of the Northern Ireland Prison Service made it clear that Catholics were disproportionately overrepresented in both prison and the prison punishment regime (Prison Review Team 2011: 75). They also made it clear that appropriate data should be made available:

Equality and diversity reports should be presented in a form that signals clearly where there are differential outcomes in relation to religion, race or ethnicity. They should be routinely examined in equality committees and if necessary action taken. Ethnicity and disability should be better recorded and monitored. (2011: 39)

Likewise, the revelation by the Commissioner for Children that in 2017 more than three-quarters of the children detained in the juvenile detention centre in Northern Ireland came from a Catholic background, raised once again the impression of 'collective failure' within the NICJS. Again, it bears emphasis that, other things being equal, we would expect the distribution of Protestants, Catholics and 'Others' to be proportionate and these kinds of data provide a prima facie case for institutional sectarianism (Morris 2019). There is a requirement for robust monitoring and reporting across the NICJS in order to establish the reality of any sectarian differential right across the service.

SECTARIAN ‘DUAL MARKETS’ IN EMPLOYMENT, HOUSING AND EDUCATION

Beyond the immediate issues of violence and criminal justice, sectarian identity still structures almost every aspect of most people’s lives – where they are born, where they go to school, where they live, where they work, who and where they marry, where they die and where they are buried. It is broadly accepted that this is manifest in ‘dual markets’, which continue to institutionalise sectarian differences across Northern Ireland – in employment, housing and education. Not surprisingly, therefore, such structural difference and segregation is often marked by a sectarian differential in life experiences between Protestants and Catholics. In other words, their experience is often not just different or separate but also unequal.

At this point, the notion of sectarian equality and inequality enters the picture. It is of course in theory possible that people experience these things in broadly the same way. (This has been characterised as ‘pillarisation’ in the Netherlands and Belgium where Protestants and Catholic communities were regarded as being ‘separate but equal’.) In Northern Ireland, however, these differences have been routinely characterised by inequality and often involve a measurable sectarian differential. We can identify this across most areas of lived experience. We can also measure it accurately with the statistics that record this difference or, where these are not provided, by other proxy indicators.

As we have already suggested, the labour market was the key site of inequality and discrimination (CAIN 2019b). With the notable exception of criminal justice, however, there is no question that direct rule marked the beginning of a transformation in the sectarian labour market. Recent overviews of trends confirm this increase in Catholic employment more generally. The Labour Force Survey Northern Ireland Religion Report 2017 (Executive Office 2019) suggests a continuing convergence in the labour market across most indices (2019: 4-5). In other words, this analysis suggests that the stark inequalities that incontrovertibly existed between Protestants and Catholics in the labour market in 1972 – and to a lesser extent in 1998 – are reducing or have disappeared. While full equality is some way off, there has been broad dovetailing of Protestant and Catholic experience across the Northern Ireland economy (ECNI 2014: 7).

The Northern Ireland Civil Service (henceforth ‘NICS’) is a paradigm case ¹³. The civil service was one of the key institutions for complaint of sectarian bias under the old Stormont; and the direct rule period saw strenuous attempts by the British government to improve its record on the employment of Catholics and the grades and contexts in which they were employed. This involved not only the application of new fair employment legislation but also proactive policy engagement within the Civil Service itself. These efforts undoubtedly led to a radically changed workforce. Thus, the contemporary NICS suggests:

Catholics made up almost half of NICS staff in 2019; 41% of the senior civil service were Catholic in 2019 compared with 25% in 2000. (NISRA 2019:2)

Issues remain, of course: as we have seen, Catholics remain markedly underrepresented in the ‘Prison grades’ category and Catholics remain under-represented at senior grades:

Males and Protestants outnumber females and Catholics at the most senior grades while the opposite tends to be true at the more junior levels. (DFP 2017: 2)

¹³ In this case, monitoring contemporary performance is helped by the existence of periodic equality statistics. Of course, the provision of such data was itself a crucial part of the ‘fair employment’ intervention (see, for example, DFP 2015; NISRA 2019).

As this suggests, NICS has also begun to identify areas of Protestant under-representation (NISRA 2019: 8-9; DFP 2015, 2017):

The Article 55 Review also found fair participation in 20 of the 31 professional and specialist occupational groups assessed. Protestants were found to be under-represented in 5 groups and Roman Catholics under-represented in 6 groups. (DFP 2017:2)

Nevertheless, the contrast with the civil service under Stormont in the early years of the NI state – which had fetishized the project of ensuring that there was ‘not a Catholic about the place’ – and the current iteration is extraordinary¹⁴. By any standards, the ‘convergence’ over the past 50 years has been remarkable.

As we have already seen, this Protestant/Catholic convergence is taking place in the context of a demographic transition in the Northern Ireland labour market. The LFS provides the most up-to-date data:

In 2017, the religious composition of the working age population was 38% Protestant, 43% Catholic and 18% ‘other/non-determined’. In 1990, the corresponding figures were 54% Protestant, 41% Catholic and 6% ‘other/non-determined’. (Executive Office 2019: 6)

Alongside this demographic change, there has been a general dovetailing of the profile of Protestants and Catholics over time. This ‘convergence’ holds across most but not all indicators. Between 1992 and 2014, Catholics consistently experienced higher rates of unemployment than Protestants. The ‘unemployment gap’ - the percentage point difference in unemployment rates between Protestants and Catholics - and the ‘unemployment differential’ - the ratio of these unemployment rates - have both been central to discussion of inequality in the labour market in Northern Ireland. This remained a key issue in the peace process.

In the GFA, the British government explicitly committed to “measures on employment equality ...a range of measures aimed at combating unemployment and progressively eliminating the differential in unemployment rates between the two communities by targeting objective need”. Tracing this differential over the period since 1992, the LFS figures provide no cause for complacency. In 1992 the differential was 2 (2.4 for men and 1.3 for women); this rose to its highest point of 2.3 in 1997 and 2005. It then fell to its lowest point of 1.2 in 2011 and 2012 before rising again to 1.5 in 2013 and 1.3 in 2014 (OFMDFM 2016a, tables A5.1, A5.8). The numbers of unemployed for both communities have also fallen over this period (from 36,000 to 22,000 for Protestants and from 45,000 to 28,000 for Catholics). However, unemployment rates and the number unemployed have risen for both communities since 2008 (OFMDFM 2016: 33).

Catholics also remain much more likely to be long-term unemployed. Broadly, unemployment remains disproportionately concentrated among the Catholic community and the differential has fluctuated since the GFA and shows only partial evidence of ‘progressive elimination’. There are continuing concerns regarding the unemployment differential and increasing proportions of Catholics among the long term unemployed. The differential remains the ‘gold standard’ benchmark mentioned in the GFA against which sectarian inequality is measured and assessed – as we have seen the GFA committed the British government to “progressively eliminating the differential in unemployment

¹⁴ There is, of course, an irony that the notion that there are ‘too many’ Catholics in the civil service repeats the accusations from the height of the hyper-sectarian Stormont of the 1920s and ‘30s (Campaign for Social Justice 1969: 33-35). At that time one Catholic was ‘too many’ while by 2014 Catholics were in a majority in some grades (DFP 2015). The Orange Order has also suggested more recent unfair treatment of Protestants (Loyal Orange Institution 2016).

rates between the two communities by targeting objective need". The explicit commitment to eliminate the sectarian differential in unemployment remains one key tangible indicator of whether the commitments of the GFA have been met. Likewise, significant differences remain within the 'economically inactive' population: Protestants are more likely to be retired than Catholics; Catholics are more likely to be students or permanently sick or disabled¹⁵. In summary, Northern Ireland remains some way away from the point at which there are no significant differences between Protestants and Catholics across the labour market. Thus, acknowledging that the labour market in Northern Ireland is 'fairer' than it was twenty or forty years ago, is not the same as suggesting that it is 'fair'. Marked imbalances and disproportions remain. The point at which these imbalances should trigger concern remains ambiguous. For example, the NICS has a 'relatively tight' threshold:

The test for fair participation adopted by the NICS is that there should be a variation of no more than 5% either way, between the composition of its workforce in a given occupation and grade(s) and the comparable segment of the overall NI workforce. The "5% either way" test is a relatively tight one, and in most cases is more rigorous than, for example, the test commonly used to assess indirect discrimination. Where the comparison shows that either community may not enjoy fair participation the Service has considered what lawful affirmative action may be appropriate. (DFP 2015: 15)

While ECNI is right to observe that, "every job category does not have to reflect the overall proportion of both communities in Northern Ireland", there must be some point at which alarm bells are raised. We can suggest that employers with less than 30% of Protestants or Catholics in their workforce continue to present a prima facie case for concern (bearing in mind that 'travel-to-work' areas and qualifications also play a key part in this process). This 30% is arbitrary but it is the threshold that Patten used to trigger extraordinary additional equality mechanisms in the PSNI. In this sense it offers an appropriate rule-of-thumb indicator. In this context, the public sector is 'fairer' than the private sector. The most recent ECNI figures suggest that widespread issues remain. Thus, in the public sector 86 'specified authorities' there are 8 with less than 30% Catholic employees and 9 with less than 30% Protestant employees (ECNI 2019b). Among these, however, only two are employers with more than 1000 employees. (The aforementioned Policing Board – 20.6% Catholic - alongside the Western Health and Social Care Trust which is disproportionately Catholic – 29.1% Protestant.) Local councils also perform poorly on this <30% measure - with nationalist councils employing low proportions of Protestants and unionist councils employing low proportions of Catholics (ECNI 2019b). Generally, however, public sector employers have relatively minor disproportions between Catholics and Protestants. While the process is far from finished, again the trajectory is towards 'fair employment'.

The private sector exhibits more profound evidence of 'unfair employment'. Using the same <30% indicator - using the data from firms with more than 26 employees - there are 243 firms with less than 30% Catholic employees and 162 firms with less than 30% Protestant employees (ECNI 2019c)¹⁶. Many of these are significant employers recognised for their 'outstanding success' despite their palpable failures in terms of employment equality. For example, Short Brothers PLC is Northern Ireland's second largest employer and characterised by the BBC as "a jewel in the crown of the Northern Ireland economy". Short has a workforce that is only 18% Catholic despite its being situated in Belfast which – excluding the 'Other' category – has a working age population that is 55% Catholic. Several other large employers have less than 10% Catholic employees. In contrast, Norbrook Laboratories – characterised by the BBC as "the holy grail for economic development in Northern Ireland ... locally owned, hi-tech, export-focused firms which employ lots of skilled people" - has only 16% Protestant employees.

¹⁵ This confirms the reality that the 'economically inactive' population is markedly heterogeneous – it includes categories characterised by both privilege and disadvantage.

¹⁶ Individual statistics are correct for 2019. It bears emphasis that these figures represent the Protestant/Catholic breakdown with N.D. excluded. There are also many hundreds of additional smaller firms, of course, for which the sectarian differential is unavailable.

As these examples suggest, there is some evidence of a post-GFA 'balancing' of unfair employment, with more employers with disproportionate numbers of Catholic employees 'matching' employers with continuing disproportionate numbers of Protestant employees. It bears emphasis, however, that this balancing of inequality provides no easy or principled calculus for 'fair employment'. Until all employers employ fairly, there is every danger in a strategy focussed on private sector growth leading to further sectarian disproportion. Nevertheless, in terms of the history of the NI state, this represents a significant shift from the days of a dual Protestant/Catholic labour market with an effective division between skilled working-class Protestants and unskilled working-class Catholics alongside a state sector that was hugely disproportionately Protestant.

ECNI figures also support convergence in terms of 'Employment Stocks':

In 2017, while members of the Protestant community [51.1%] continued to comprise the majority of the workforce, members of the Roman Catholic community [48.9%] continued to increase (by [0.5 percentage point (pp)]) their share, albeit at a slower rate than observed as a whole over the period 2001- 2017 (averaging around [0.6 pp] per annum). (ECNI 2019a: 1)

Thus, the broad trajectory is confirmed as one of convergence in the context of the demographic transition outlined above:

Since 2009, members of the Roman Catholic community [53.1%] comprised a greater proportion of applicants than those from the Protestant community [46.9%]. However, this marks a discontinuation of the trend of a gradual increase in the share of applicants from members of the Roman Catholic community over the period 2001-2016. Although, overall the Roman Catholic community share of applicants increased by [8.3 pp] from [44.8%] in 2001.... Since 2006, members of the Roman Catholic community [53.0%] have annually comprised a greater proportion of appointees than members of the Protestant community. During the period 2001-2016, the share of members of the Roman Catholic community has steadily increased. However, in 2017 their share decreased by [0.8 pp], although overall has increased by [8.2 pp] from [44.8%] in 2001. (ECNI 2019a: 1,)

In 2016, however, the Catholic community composition of those in monitored employment diverged significantly from estimates of Catholics available for work:

Over time, the increase in the Roman Catholic community share of the monitored workforce has been close to estimates of Roman Catholics available for work. In 2016, the Roman Catholic community composition of those in monitored employment ceased to approximate estimates of Roman Catholics available for work. However, by 2017, this gap had reduced to 2.8 percentage points from 4.9 percentage points in 2016. (ECNI 2019a: 1)

In other words, the fair employment dynamic may be entering a more 'mature' (and less equalising) phase:

Members of the Roman Catholic community comprised [51.0%] of leavers from the monitored workforce. Overall, the share of leavers from the Protestant community has decreased by [6.8 pp] from [55.8%] in 2001 to [49.0%] in 2017. (ECNI 2019a: 1)

These trends – suggesting divergence rather than convergence – confirm the need for vigilance in a context in which Catholics constitute a majority of leavers and yet remain a minority of those in monitored employment and a minority of promotees (ECNI 2019a: 6). Fair employment has not been achieved and even the broad convergence observed over the last couple of decades appears under threat.

This contemporary reality of continued inequalities across a dual labour market is also found in other key sectors. The GFA specifically identified two other areas:

An essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education and mixed housing.

We turn to review these now.

HOUSING

Historically housing was one of the key issues in terms of Catholic inequality and one of the key sites of discrimination (CAIN 2019c). The GFA made explicit commitment to the “the right to freely choose one’s place of residence”. Yet marked sectarian differences and inequalities persist. In the most recent comprehensive research, Wallace identifies a number of ‘community differentials’:

Using data for all of Northern Ireland, Catholic households wait longer than Protestant households to be allocated social housing and are allocated proportionately fewer homes, despite comprising a greater proportion of the waiting list and a greater proportion of applicants in housing stress. Earlier analysis suggests differentials existed in previous periods and therefore that this is a persistent problem. Community differentials in terms of proportionate allocations may have narrowed over time for a variety of reasons, reflecting population shifts and changes in self-identification, but lengthening waiting times for social housing have been uneven, disproportionately affecting applicants from other religions and Catholics. (182)

As Wallace observes, the situation is made much more complex by the existence of the dual housing market:

These patterns are complicated by the fact that dual housing markets exist with different pressures on housing demand and supply in different locations. In areas with the greatest shortages of new social housing supply, Catholic applicants wait the longest prior to being allocated a home; except in North Belfast, where people from other or unknown religions wait the longest. In terms of housing conditions, people from other religions or no religion have the smallest homes in terms of square metres and experience the most overcrowding, despite the fact that the average Catholic household is slightly larger (in terms of family size) than households from other religions. However, Catholics comprise the largest proportion of people in overcrowded homes. People from other religions, mixed religions or no religions are the most likely to live in non-decent homes, and Catholic households the least likely.

Notably the Participation and the Practice of Rights (PPR) report Equality Can’t Wait records in relation to North Belfast that the Northern Ireland Housing Executive (NIHE) in 2009 altered its monitoring methodology precisely when questions were increasingly being asked about housing inequality.

The change was from one of 'perceived community background' to only include those who had 'self-reported' their community background as Catholic or Protestant. This resulted in a significant transfer of housing applicants in housing stress into the 'Other' categories. While it did not manage to remove the Catholic – Protestant differential, the methodological change did produce “annual reduction averages around an 11% drop in Catholic representation and 7% drop for Protestants” from the statistics. The change in its first year also produced a dramatic increase in the 'Other' ('unknown'/ 'undisclosed') category to 55% of the total. When PPR asked NIHE to explain the cause of this the NIHE responded that they were 'undecided' as to the cause (PPR 2013: 19-20). In this instance therefore the 'Other' category is not reflective of new inward migration from outside NI but the movement of one existing category into another, with the effect (and possibly purpose) of making housing inequality for 'Catholics' appear less pronounced than before.

Returning to Wallace he also concludes that, “Catholic households are now more likely to live in better quality homes than Protestant households” (2015: 104). If this is true, it would, of course represent another remarkable example of sectarian 'convergence' since the stark inequalities of housing provision in the 1960s. But it would also indicate a new issue of concern regarding sectarian equality. Beyond this, of course, the continued dual housing market and other evidence of sectarian differentials suggest that equality is far from being achieved.

This dual housing market was established by a combination of sectarian discrimination and intimidation. Moreover, it is obviously maintained by the continued operation of sectarian intimidation. From this perspective, it remains a key site of sectarianism.

In this regard, the North Belfast case study – as documented in forensic detail by PPR – suggests that profound concerns also remain in terms of sectarian inequality in housing (PPR 2013; McCaffrey 2014). The broader context is a longstanding demand for housing for Catholics in North Belfast that is not being met by the statutory sector. In that sense, if nothing else, the situation is disturbingly redolent of the 1960s when one of the principle mechanisms for maintaining a gerrymander was simply refusing to build any houses at all. Housing in North Belfast has attracted the attention of the United Nations equality mechanisms in two specific interventions. The Concluding Observations of the United Nations Committee on Economic, Social and Cultural Rights, May 2009 included the following excerpt:

The Committee is concerned about the chronic shortage of housing, in particular social housing, for the most disadvantaged and marginalized individuals and groups, such as Catholic families in Northern Belfast, in spite of the financial resources provided, and other measures taken, by the State party in this regard.

This specific North Belfast dynamic continues to raise serious questions in terms of equality between the two communities. But it also illustrates some of the difficulties of finding a 'discourse' for this in the context of contemporary attitudes to naming Catholic or Protestant disadvantage. More generally this begins to signal the palpable failure to address housing equality issues in the wake of the GFA.

The contemporary Northern Ireland Housing Executive stands out as an example of the failure to address the question of what it means to service a client base that is increasingly Catholic, not just in North Belfast but across Northern Ireland. It is an institution that currently administers a housing stock that is profoundly structurally segregated – often bounded by 'peace walls' – with areas continually reinforced by sectarian intimidation and violence. Yet it can produce a report entitled Demographic Change and Future Housing Need in Northern Ireland (2014) without any mention of Protestant and Catholic dynamics in public sector housing – let alone any acknowledgment of the fact that it has now entered an entirely new phase in which an increasingly large proportion of its clients and

potential clients are Catholic and 'Other' rather than Protestant. This gives some indication of just how far the equality agenda in housing has fallen from the commitments embedded in the GFA.

In response to widespread concern – including the Equality Coalition's A Fresh Start for Equality? (FS4E) report - ECNI reissued their Statement on Key Inequalities in Housing and Communities in Northern Ireland and conceded the inequality for Catholics in North Belfast and beyond:

Catholic household reference person applicants for social housing continue to experience the longest waiting times. An examination of Northern Ireland Housing Executive (NIHE) waiting list time data for social housing for the period 2004 to 2009 and for 2013/14 shows that Catholic household reference person applicants experienced the longest median waiting times for social housing at the point of allocation in Northern Ireland as a whole. (2017: 18)

Thus, the issues of sectarian segregation and inequality in housing remain pressing. And as we shall see there is also more direct evidence of continuing sectarian discrimination.

EDUCATION

There is also a persistent sectarian dual market in education. Historically there were significant sectarian inequalities in education (CAIN 2019c). But while the sectarian dual system has obtained, some of the inequalities have reduced. Thus, while it is not characterised in this way, much of the contemporary experience of education might be regarded as 'convergence'. Certainly, this is the tone of the most recent research Inequalities in Education: Facts and Trends 1998-2008 (2011). This report presented the latest educational data relevant to the Equality Commission's Statement on Key Inequalities in Northern Ireland and compared it to data from ten years before. Over the period 1998 to 2008, it shows evidence of the differentials in the educational attainment including 'community background'.

Its conclusions on 'community background' suggest:

When the different groups are compared, community background is the area where fewest differences exist in 2007/08. Amongst the population, the economically active from both communities hold very similar levels of highest education attainment. Amongst school leavers, there has been considerable improvement in the highest level of educational attainment of both communities, although this rate of improvement has been slightly greater for Roman Catholics than for Protestants. Thus, the gap between highest educational attainment of Protestant and Roman Catholic school leavers has widened. (2011:11)

A subsequent review by Burn et al included - inter alia - specific analysis of 'religious belief inequalities in education' (Burn et al. 2015 114-144) and 'political opinion inequalities in education' (Burn et al. 2015 145-156).

ECNI has drawn on this research to include this dimension on its Key Inequalities in Education:

Protestants continue to have lower levels of attainment than Catholics at GCSE, GCSEs including English and Maths, and A Level. Fewer Protestant school leavers enter higher education than do Catholics. There is persistent lower achievement and lack of progression to further and higher education of school leavers entitled to free school meals, particularly Protestants, notably Protestants males. (2017: 58)

As we shall see later, this new focus on Protestant inequality has come to characterise much of the discussion around education and inequality in Northern Ireland.

In summary, contemporary Northern Ireland remains characterised by two key facts which suggest institutionalised, structural sectarianism. First, it continues to exhibit a sectarianised criminal justice system. Second, it exhibits sectarian dual labour markets in employment, housing and education. Even if this institutionalized structural segregation were 'fair', it still would be regarded as unacceptable in discrimination law. This accepts that there is no such thing as 'separate but equal' and that separation is itself an indication of discrimination¹⁷. Moreover, once we begin to investigate the process of how these differences and inequalities are reproduced, there is clear evidence of continuing contemporary sectarian discrimination.

¹⁷ This principle was established by the famous landmark *Brown v Board of Education of Topeka* in the US Supreme Court in 1954. This ruled unanimously that racial segregation of children in public schools was unconstitutional. Previously in 1896, the Supreme Court had ruled in *Plessy v Ferguson* that racially segregated public facilities for blacks and whites were legal, so long as the provision was equal. *Brown v Board of Education* was a defining moment of the civil rights movement and established the precedent that 'separate-but-equal' provision was not equality. See also Article 3 of ICERD which provides that: "States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction."

CONTEMPORARY SECTARIAN DISCRIMINATION

Recognition of the continued existence of institutionalised sectarianism across Northern Ireland begs the more complex question of whether the uncontested structural separation and inequality is still a consequence of discrimination. In the old days of the 'Protestant state', discrimination was easy to read. When in the 1930s Sir Basil Brooke (Minister of Agriculture and later to become Prime Minister of Northern Ireland) urged employers to discriminate against Catholics at least there was no ambiguity surrounding this sectarian imperative¹⁸. This was a classic case of incitement to sectarian discrimination from the highest echelons of Northern Ireland government. Fast forward to the 1990s and there was less of this kind of intervention around - not least because direct discrimination had been rendered unlawful (although incitement to discriminate remains less obviously outlawed)¹⁹. But inequality can remain stubbornly resistant to change even when such discrimination is repudiated or outlawed. Still the evidence remained clear. Thus, in the run-up to the GFA, Smith and Chambers concluded that inequality between Protestants and Catholics remained pervasive and that these inequalities could not be explained by factors other than discrimination (Smith and Chambers 1991: 370). In other words, not just inequality but also discrimination remained a 'key fact' for anyone wishing to reduce sectarian differentials.

But does this remain true in 2019? The GFA made several strong commitments related to 'tackling sectarianism'. There is also, of course, a package of anti-discrimination legislation in place in Northern Ireland covering a wider range of protected grounds - including religion, race and political opinion. So how much of the continuing inequality between Catholics and Protestants can be attributed to discrimination? The evidence reviewed above confirms that sectarian differences and inequalities remain across a range of different indices. The continued reality of a 'dual labour market', 'dual housing market' and 'dual education market' provides some sense of the reality of institutionalised sectarianism. This is probably the primary 'key fact' in terms of any attempt to 'tackle sectarianism'. It bears emphasis that the structural differences and inequalities outlined earlier remain *prima facie* evidence of discrimination. Unless a reasonable, counter explanation is provided, continuing sectarian differences in the experience of the labour market and housing and education should remain problematised and form part of the challenge of 'tackling sectarianism'.

The most obvious contributing factor is the legacy of some of the more egregious discrimination that we have outlined above. For example, most people would now accept that the decision to locate the New University of Ulster in Coleraine instead of Derry was an act of sectarian discrimination. The egregiousness of this case made it a mobilising issue for the civil rights movement from the 1960s onwards. But once this decision was 'concretised' - once the university was built in Coleraine rather than Derry - this act continued to impact in a sectarian manner. It continues to structure the present: Derry still awaits the long-promised expansion of its Magee campus; Coleraine still has a much more extensive university campus. In other words, one simple act of sectarian discrimination committed over fifty years ago continues to have some lasting impact in the present.

¹⁸ "Thinking out the whole question carefully ... I recommended those people who are Loyalists not to employ Roman Catholics, ninety-nine per cent of whom are disloyal" (cited in Campaign for Social Justice 1969: 33).

¹⁹ The provisions of S76 Northern Ireland Act 1998 are limited to acts of public authorities; and the criminal offences regarding 'stirring up' hatred under the Public Order NI Order 1987 do not cover incitement to discrimination.

This is only one example but more broadly the whole infrastructure of Northern Ireland developed in the Matthew Plan in the 1960s carries a similar legacy. More than fifty years after these sectarian planning decisions were taken, the M1 still stops in Dungannon and the train service between Northern Ireland's two major cities still stops at every town in-between. In other words, even if there had been no more recent sectarian discrimination, this legacy continues to sectarianise the present. Concerns around the sectarianisation of infrastructure continued into the peace process. For example, at one time the Springvale Campus was presented a key peace dividend for West Belfast. Ultimately, however, the investment was redirected to the city centre ²⁰.

More recently, the DUP – Conservative Confidence and Supply Agreement in 2017 highlighted the risks of a return to past practices, with, among other matters, £200 million allocated to infrastructure projects singling out “flexibility as to the choice of project to ensure the [NI] Executive is able to deliver the York Street Interchange project and other projects” (Financial Annex to C&S deal 2017:1). In addition to the singling out of this Belfast based project, where most of the infrastructure deficit remains west of the Bann, the implementation of the C&S Agreement was overseen by a joint UK government and DUP Coordinating Committee raising profound questions as regards the application of the statutory equality duties.

Second, doing nothing may also constitute discrimination. With sectarianism the omissions are often as significant as the acts. For example, the failure to tackle sectarian expression in public space is in effect an act of egregious discrimination. Over twenty years after the GFA commitment to “the right to freedom from sectarian harassment” and “right to freely choose one’s place of residence”, no public authority has a proper policy on these basic rights. This is quite astounding in an age in which ordinary citizens are now routinely sanctioned for ‘offensive communications’. The official toleration policy towards this incitement is striking (Brexit Law NI 2018: 18-23; CAJ 2018). It is intolerable twenty years after the GFA public space is still allowed to be occupied by unlawful racist and sectarian materials – including graffiti and flags – and explicitly associated with the paramilitary organisations that continue to play a role in enforcing their ‘single identity’ status. Beyond these two issues, however, there is further evidence of continuing, contemporary discrimination. This compounds the historical legacy and undermines any attempt to render Northern Ireland ‘free’ of sectarianism. In terms of the overarching commitment to equality, there has been a general failure to implement Section 75 properly in public policy decision-making. For example, the Equality Coalition has suggested that, “research from both ECNI and the Coalition has found significant concerns regarding patterns of non-compliance by many public authorities with the Section 75 Duties” (2019: 1).

The Coalition research also raised significant concerns regarding the way ECNI was exercising its S75 powers, including issues of prolonged delay (2019). The key point is that if equality proofing is working robustly, then more egregious examples of discrimination should not arise. In theory, if the Section 75 duties were being properly discharged then we should never see discriminatory decisions like those discussed below and on the following pages. This analysis draws directly on material from CAJ equality interventions. These provide brief case studies of sectarianism in decision-making in Stormont and by councils including material under Freedom of Information and other reports.

²⁰ ‘Millions wasted’ on Springvale’ BBC News 30 November 2006 http://news.bbc.co.uk/1/hi/northern_ireland/6158193.stm. ‘Springvale ‘stamped with failure’ BBC News 11 November 2007 http://news.bbc.co.uk/1/hi/northern_ireland/7038749.stm

DEPARTMENT FOR COMMUNITIES FUNDING DECISIONS: LÍOFA AND COMMUNITY HALLS

Recent examples of alleged sectarian discrimination by the Department for Communities were particularly significant since this was a central issue in bringing down the power-sharing executive which left Northern Ireland without a government. The Líofo decision was taken by DUP Minister Paul Givan MLA on the eve of Christmas to cut a modest (£55k) bursary scheme to allow low income families to attend summer schemes in the Gaeltacht (the Líofo bursaries). The same minister had also been responsible for a fast tracked 'community halls' funding scheme. Both cases were widely regarded as discriminatory (BBC News 2016; Belfast Telegraph 2018).

LÍOFA BURSARIES

In relation to the Líofo bursaries, the scheme had previously been the responsibility of the former Department of Culture, Arts and Leisure (DCAL), but switched to the Department for Communities (DfC) in 2016 with the restructuring of the departments. Funding was made available annually in each of the four years from 2012 to 2016. A decision on the scheme in 2017 was then to be made by the Minister for Communities Paul Givan MLA.

The bursary was described by officials to the Minister in a submission on its continuing funding as aiming "to help adults and young people from disadvantaged backgrounds across communities to access summer courses in the Irish language that they could not otherwise afford to attend". This submission to the Minister and his Special Advisor was an options paper, which presented the positive impacts of Líofo Bursaries scheme in the past and set out the adverse impacts of discontinuing the scheme. The paper set out how maintaining the scheme would contribute towards several Programme for Government targets and maintained that "the advantages of running the Gaeltacht bursary scheme are many" (DfC Submission paper to the Minister, 13 December 2016). Despite this advice, the Minister in an email on 18 December 2016 limited his response to 'no scheme', a decision communicated publicly on 23 December 2016.

The outcry following the decision focused on sectarianism in decision-making and was a significant factor in the collapse of devolved government. Givan responded by claiming that the decision had been driven by a need to find 'efficiency savings'. However, while the Minister was in office DfC refused to respond to a Freedom of Information (FOI) request from CAJ on how the decision was taken and what 'efficiency savings' had been under consideration. No response was received at all until a complaint was issued to the Information Commissioner who issued a Compliance Notice obliging DfC to respond. An initial response to withhold the papers on public interest grounds was overturned when CAJ appealed. DfC subsequently released the papers (although this was after Givan had departed office due to the collapse of devolution). Both the Submission to the Minister and his response were then released – however after DfC officials had also conducted a 'detailed search' of all its information (electronic records, paper files, e-mails) and confirmed DfC did not hold any information whatsoever about efficiency savings being considered in December 2016 at the time the Líofo decision was taken.

On 6 January 2017, pre-action correspondence was issued for judicial review proceedings of the decision on, among other grounds, sectarian discrimination and compliance with the Section 75 equality duty. On 12 January 2017, the Minister reinstated the scheme (KRW 2017).

THE COMMUNITY HALLS FUND

The second controversial scheme was the fast tracked 'Community Halls Fund'. The scheme was widely regarded as disproportionately advantaging Loyal Order institutions (Ainsworth 2017). Considerable detail on the fund is now known following the release of information under FOI and set out in a submission to ECNI by CAJ (CAJ 2017).

After Paul Givan MLA took up office in May 2016, he identified investment to improve "the fabric of Community Halls" as one of his Ministerial Priorities at an early stage in the mandate. The predecessor department to DfC (the Department of Social Development) had run a 'very popular' £3m 'Community Facilities Improvement Scheme', but this had been closed as no funding had been allocated. DfC instead quickly developed what would become a 'Community Halls Pilot Programme'. It was maintained that the new scheme was in response to requests from voluntary and community sector stakeholders, however, DfC holds no information as to who these stakeholders were.

Submissions to the Minister in August 2016 set out scope of the proposed 'Community Halls Refurbishment Programme' initially proposing a £1m+ joint programme with the Department of Agriculture, Environment and Rural Affairs (DAERA), but noting that this would require Department of Finance (DoF) approval and instead suggesting to proceed with a £200k pilot in current financial year.

In October 2016, the criteria and application process for the Community Halls fund were devised, but no records at all were kept of either this process or how the criteria were arrived at. Some of the criteria (e.g. halls are prioritised if in a rurally isolated location and deprioritised for receiving previous statutory or National Lottery funding – as would be the case with many sporting groups and women's organisations) appeared to particularly advantage Orange Halls.

The rationale for these choices, and an examination of their likely impact upon equality of opportunity, should have been set out in an equality screening conducted by the department. However, this mandatory duty under the department's Equality Scheme was bypassed. This was despite the Equality Coalition for Northern Ireland signing off, during the same month, the implementation of recommendations to DfC following a previous investigation into the failure of the department to equality screen housing policy decisions, including a pilot programme.

On 19 October 2016, the fund was launched as the 'Community Halls Minor Works Pilot Programme' in Salterstown Orange Hall by Givan and the First Minister, Arlene Foster. By this time the budget had, however, already increased to £500k. DfC emphasised that the fund was open to all types of halls including Scout, church, Masonic, Orange Order, Ancient Order of Hibernians (AOH), other not for profit community halls, and sports clubs (albeit qualifying the latter to sports clubs that delivered benefits to the wider community).

The fund closed for applications on 23 November 2016. Following an analysis of the applications received, a business case was produced proposing a significant increase in the budget of the programme by £1.3m from 'slippage monies' elsewhere in DfC. The analysis noted that the most successful category of applications had been the diverse umbrella category of 'Community Organisations', with the next largest applicant category being 'Orange Halls and Church Halls', which had not scored so well due to more limited and less varied activities. The increment of the budget, however, allowed more of the applicants in the latter category to receive funding.

On 13 January 2017, the DfC Minister announced at Sixmilewater Orange Hall details of successful applicants, with £1.9 million allocated to 90 organisations. The list of recipients was not published at the time – although it was subsequently after extensive media coverage and allegations from nationalist parties the fund had been discriminatory.

At the time, DfC declined to respond to requests from CAJ for the equality screening conducted on the scheme. The department also did not respond to an FOI request on how the funding criteria were devised. Following a formal breach of Equality Scheme complaint, DfC published a screening template on its website. However, this screening had only been started on 17 January 2017 after the funding allocations had already been announced. Additionally, the screening exercise provided no analysis of impact on any specific Section 75 category. Rather, all S75 categories had been merged into one box and no differentials had been identified.

CAJ issued a formal review request on the grounds that the one already conducted was a ‘sham’ screening exercise. A complaint was also issued to the Information Commissioner in relation to the department’s failure to respond to the aforementioned FOI request – this resulted in an instruction to comply being issued to DfC. A response to the FOI was finally received on 3 March 2017 (the day after the 2017 Assembly election), with further information released on appeal. A revised screening exercise was also released by DfC, this time containing equality assessment data – and identifying significant differentials on the grounds of gender, religious belief, and political opinion. However, the gender impact was not commented on. Furthermore, in relation to the sectarian differential, the revised screening stated that this did not constitute discrimination (an adverse impact) as the policy would have a positive impact by reflecting an ‘unmet’ need within Protestant faith-based organisations (including the Orange Order), who do not apply for lottery funding.

While clearly meeting unmet and existing inequality would render the targeting of such groups by a fund a positive action rather than discrimination, the problem is that no empirical evidence was presented that showed unmet need within this group. Rather DfC relied on the assertion that unmet need was resultant from Protestant faith-based groups not drawing down lottery funds. However, problematically, this is not true either. Figures obtained by the Irish News in response to the revised screening detailed how 40 Orange Lodges had received Big Lottery Fund grants in the preceding two years, with over £1 million having also been awarded to churches under the Heritage Lottery Fund. (CAJ 2017).

THE ECNI INVESTIGATION

After pressure from equality organisations, as well as significant media coverage, ECNI formally investigated both DfC decisions ²¹. While the two cases outlined above were quite different in nature, ECNI combined them and offered a more general critique of the department and sectarian discrimination in its investigation report:

An Equality Commission Investigation has found that the Department for Communities failed to comply with its approved Equality Scheme commitments on screening and equality impact assessment relating to funding decisions for the Líofo Gaeltacht Bursary Scheme for 2017 and the Community Halls Pilot Programme.

²¹ The subsequent ECNI investigation into both is available at:

<https://www.equalityni.org/Footer-Links/News/Delivering-Equality/Funding-decisions-should-have-been-informed-by-equ>

It is striking, however, that ECNI, despite what was widely considered to be straightforwardly sectarian behaviour of the Minister, studiously avoided any criticism of him whatsoever in their investigation. Nor does it appear from ECNI's report that the Commission subjected what would have constituted a substantive breach of the department's Equality Scheme to any inquiry as part of their investigation. Instead ECNI ignored the issue of substantive breaches of the scheme for sectarian acts, blamed officials and stuck very closely to the procedural analysis. The investigation was not initiated until June 2016, six months after the events in question, and took a year to complete. The key point is that ECNI effectively ignored the elephant in the room by focussing on process failings, rather than the failure to apply the substantive duty at all. All this suggests that the enforcement body feels unable to address sectarianism in decision-making, even when it is this blatant.

This caution, however, cannot disguise the wider significance of the episodes. It bears emphasis that in the Líofo case, this decision was cited by Sinn Féin as the final straw which precipitated Martin McGuinness's resignation as deputy First Minister ²². In other words, it was an episode of contemporary sectarian discrimination that had profound consequences for the government of Northern Ireland. If nothing else, it confirms the contemporary traction of sectarianism in the Northern Ireland political process over twenty years after the GFA.

'SINGLE IDENTITY' HOUSING

The broad concerns around sectarian inequality and discrimination in housing outlined above have been compounded by 'good relations' or 'community cohesion' policy approaches, which have begun to normalise the suggestion that 'cross-community consensus' be required for housing provision. Such an approach threatens to become a wider, more institutionalised approach to housing and sectarianism. This problem is combined and compounded by more traditional methods of manipulating where houses are built with concerns over gerrymandering and political interference in places like North Belfast in particular having emerged since the restoration of devolution ²³.

In addition to this, however, have been approaches based on maintaining good relations or community cohesion that have exacerbated and further institutionalised housing policy. Such interventions are often unwritten - including declining planning permission for housing so as not to change the 'make-up of the area' but officially giving other reasons. Occasionally, however, codified and ambiguous examples emerge into the public domain.

For example, on 14 June 2014, Northern Ireland Housing Executive planners responded to a housing association which had written for support for a proposed housing development on the former Dunnes Stores / Hillview sites on Belfast's Crumlin Road. This is an area of high housing need for Catholic families. The NIHE response however was to decline to support the development until there was cross party consensus.

²² 'Givan U-turn on Líofo Bursaries' Belfast Media Group 12 January 2017 <http://belfastmediagroup.com/givan-u-turn-on-liofa-bursaries/>

²³ For example see PPR, 2013; and the work by The Detail:

<https://www.thedetail.tv/articles/nelson-mccausland-s-dsd-department-to-be-investigated-by-equality-commission>;
<https://www.thedetail.tv/articles/documents-reveal-dup-lobbying-over-north-belfast-housing-and-allegations-of-gerrymandering>;
<https://www.thedetail.tv/articles/mccausland-challenged-over-special-housing-preference-for-loyalist-areas>

Correspondence from NIHE referred to the area as an interface area and stated that any plans to alter the status quo would “require both political and community agreement” - it was suggested that the housing association commence engagement with both community and political representatives. Only once ‘consensus’ was reached would NIHE consider the proposal ²⁴. Essentially NIHE granted unionist parties a veto over housing likely to be predominantly taken up by Catholic families on the basis of objective need.

A second example relates to a planning application for just 12 units in an adjacent area of the Crumlin Road, which was considered by Belfast City Council. A letter of objection to the development was submitted to the council by DUP MP Nigel Dodds. His letter makes reference to the area being a community interface and states that “any move that would upset the finely balanced equilibrium of the area must be avoided at all costs”. Citing numerous objections from local residents, Mr Dodds states that the application fails to command the required support ²⁵. CAJ wrote to Belfast City Council stating that the representation appears to ground this objection in the likelihood of persons from a Catholic/ nationalist background ultimately residing in such properties (as is likely given well known social housing need statistics) and on this upsetting the ‘finely balanced equilibrium’ of the area which is currently predominantly ‘Protestant/unionist’. CAJ also reminded the council that it was unlawful for a public authority to discriminate or aid another to discriminate on grounds of political opinion or religious belief ²⁶. The council responded to CAJ’s letter stating that the finely balanced equilibrium was in reference to the “sensitive location” of the site and retention of site as an open space was in the “interests of both communities” ²⁷.

This approach now threatens to consolidate as a principle of housing development. In this context, the notion of ‘cross-community support’ becomes a mechanism to prevent allocation based on need – and creates the possibility of a whole range of new sectarian discrimination on this basis. For example, in a draft policy proposal for the Belfast City Council Local Development Plan seen by the author, Policy CGR1 ‘Community Cohesion and Good Relations’ referred to planning permission for interface areas or indeed any ‘contested space’ whereby any ‘new developments’ are to be subject to ‘confirmation of cross-community support’. In reality this implies no houses for Catholics (or Protestants) if the other ‘community’ - or their political representatives - do not agree since it would require “confirmation of cross-community support for the development proposed”. If adopted, this approach would firmly institutionalise the principle that one ethnic group can determine whether accommodation is built to include another ethnic group. It hardly bears emphasis that this approach embeds discrimination in housing policy. While the language was changed in the version of the policy published for consultation, the original proposal is enlightening as towards institutional thinking.

Thus, the ‘good relations’/community cohesion’ approach to housing is arguably reinforcing single identity housing and the dual housing market, and consequently housing inequality. First, the policy focus is on ‘new mixed’ estates rather than the more obvious strategy of recognising the right of people of any ethnic background to live anywhere safely. In other words, it is important that relevant agencies repudiate rather than endorse the notion that areas should be recognised as ‘single identity’.

²⁴ NIHE Correspondence ref DM/RH 13 June 2014, copy on file.

²⁵ Correspondence 5 December 2018 from Right Hon Nigel Dodds MP in relation to planning application LA04/2018/1917/F, copy on file.

²⁶ CAJ Correspondence 20 March 2018 to Belfast City Council Head of Planning, copy on file.

²⁷ Belfast City Council correspondence to CAJ 5 April 2019.

Obviously when the new build estates are produced and there is racist and/or sectarian intimidation to prevent Catholics/migrants living in them, the state should intervene proactively rather than accept the paramilitary definition of 'single identity' spaces. The recent episode around Cantrell Close, close to the Ravenhill Road became a prime example of this (CAJ 2018) ²⁸.

The current toleration policy for single identity housing is, of course, a far cry from the rights-based and needs-based approach that was 'affirmed' in the GFA with the "right to freely choose one's place of residence". This also sets a dangerous wider precedent. For example, we can imagine a context in which white residents refuse support to people of colour residents or straight residents apply the 'single identity' exclusion to gay residents. Such an approach would become a charter to discriminate and undermine any attempts to deliver equality in housing. In this regard, the ongoing discrimination in North Belfast threatens to become the template for housing allocation across Belfast – and perhaps the whole of Northern Ireland. This would further institutionalise the 'dual housing market' identified above and undermine the wider convergence which appears to have taken place in sectarian differentials in housing.

SECTARIANISM AND THE IRISH LANGUAGE

While the Irish language has long been a subject of disagreement, this dynamic has intensified in Northern Ireland over recent years. At an interpersonal level, Irish language speakers, from all community backgrounds, have often experienced sectarian abuse and discrimination for their very association with the language. A number of these experiences have been recorded by CAJ. They range from experiences of verbal sectarian abuse shouted at those on demonstrations supporting the Irish language (regardless of community background); to sectarian hostility in the workplace (including practices of 'banning' speaking the language); or to an oppressive environment to even speaking the language in public. This often fits into a pattern of the 'sectarianisation' of the Irish language – whereby despite advocates of the language often stressing its cross-sectarian heritage, a climate is created where the language is labelled as exclusively nationalist. One example recounted by Irish speakers was the refusal of a high-profile funder to entertain an Irish language proposal on the grounds it could not possibly be 'cross-community'. There are more visual examples of hostility, for example, the burning of Irish language signage on loyalist bonfires. One high profile example of contempt related to an MLA mimicking Irish in the Assembly ²⁹. At an institutional level the record is even more poignant: The Northern Ireland state managed to oversee 'language death' of Irish within its borders within a generation of its establishment ³⁰.

²⁸ 'PSNI: 'UVF behind intimidation of Catholic families'' Belfast Media Group 5 October 2017 <https://www.bbc.co.uk/news/uk-northern-ireland-41515142>

²⁹ "Curry my yoghurt": Gregory Campbell, DUP, barred from speaking for day' BBC News 4 November 2014 <https://www.bbc.co.uk/news/uk-northern-ireland-29895593>

³⁰ There were significant Gaeltacht areas in Northern Ireland at the formation of the state (McPóilin 1997). The most prominent of these were the Sperrin Mountains and Rathlin Island in County Antrim. With the death in 1985 of Bella McKenna - the last native speaker of Rathlin Irish - came the 'language death' of the East Ulster dialect of Irish which had been spoken in much of what is present-day Northern Ireland.

While minority languages often face levels of ambivalence or opposition particularly within the context of a largely monolingual society, this does not explain the high level of political hostility towards the Irish language in NI. An example is provided by overt recent political opposition to bilingual signage in a 'unionist area' with particular concern from elected representatives that the Irish language was 'first' on the signage (a recommended method of minoritised language promotion)³¹. Even more tellingly, the heralded cross-city rapid transit Glider bus system which travels from West to East Belfast finds its bilingual destination/stops system is switched to 'English only' when it traverses the city centre.

While this dynamic raises a specific language rights brief, it has also become a convenient proxy for sectarian discrimination. At one level it is difficult to explain such hostility as anything but sectarianism. This is both due to the historical context but also the lack of alternative explanation for objections, which instead tend to be justified through the deployment of clichés around 'politicisation' or the contention the language is a 'weapon'. However, it is worth noting that hostility to the Irish language is very rarely discussed as a manifestation of sectarianism.

The institutional framework for the Irish language in NI has changed significantly since the 1990s both because of the GFA and the UK ratification of Council of Europe treaties. Public authorities in NI are now obliged to take 'resolute action' to promote and safeguard the Irish language, for which the use of bilingual branding and signage is particularly recommended as an effective measure. Yet the implementation of bilingual policies has met with significant resistance. This includes the misuse of Equality Impact Assessments and 'good relations' considerations to impede the adoption of language promotion policies, often on little more than the basis that there is hostility to them, or there are differentials with regards to the numbers of speakers, despite neither matter constituting an 'adverse impact' (discrimination) on equality of opportunity under the terms of the legislation. Policy making based on acting on hostility and opposition to the Irish language is a common place way of the former risking institutionalising sectarianism in decision-making³². Broader policy making also sees the adaptation of 'English only' policies, despite the treaty-based obligations. There has been a move towards monolingualism policies in departments controlled by the DUP, with the following case study from the Department of Education (DE) demonstrating how this has been undertaken in a summary manner.

Following the GFA, DE adopted trilingual branding inclusive of English, Irish and Ulster Scots. Prior to the incoming Executive of 2016, DE had an Irish language policy, which had been last revised in 2009, and contained extensive measures for promotion and bilingual provision, in accordance with international standards³³. A DUP MLA, Peter Weir, then took up office as Education Minister on 25 May 2016. In June 2016, the Irish language policy was subject to review and an entirely new draft 'languages policy' had been produced. No consultation or equality screening took place, nor does there appear to have been any engagement with Irish language speakers or advisory bodies. No records were kept as to what prompted the sudden review and re-writing of the policy. As regards to purpose, the DE stated that the new policy changed the language for the administration of the department's functions from English and Irish to 'English only'. It also led to a monolingual logo being adopted.

³¹ 'Nationalist Council under fire for Irish signs in mainly unionist area' News Letter 26 November 2019

<https://www.newsletter.co.uk/news/people/nationalist-council-under-fire-over-irish-signs-in-mainly-unionist-area-1-9154491>

³² For examples see the case study in CAJ, 2013:40-47.

³³ Among other matters, the policy commits to bilingual DE signage [5.1]; receiving and responding to correspondence / submissions in Irish [5.3]; inclusion of Irish in logos/letterheads; bilingual school circulars and consultation documents; bilingual press releases; bilingual DE schools/parent correspondence; promotional materials; bilingual Inspectorate reports/materials when sent to Irish medium schools [5.5]; bilingual advertisements [5.6]; the use of Irish in ministerial business [5.7]; provision for telephone communication / meeting in Irish. The policy also references employment of two Irish language officers [5.9/5.10]. (Polasaí Gaeilge Na Roinne Oideachais/ Department of Education Language Policy for Irish).

The June ‘review’ of the policy was somewhat speedy with what is referred to as “the revised policy to make English the principle language for the administration of the Departments business” being drafted by the beginning of July. The Minister then approved the new policy on 25 July 2016, subject to an amendment removing a provision that had committed DE to ‘considering’ producing translations of executive summaries of key documents. Although the new policy had then been approved, a further amendment was then made at the instigation of the Minister’s Special Advisor in late August. The further amendment was to remove a commitment (referencing the statutory duty to promote Irish medium education) for certain official documents to be provided to Irish medium schools in Irish ³⁴. Consequently a DE email states that material that had already been translated into Irish for Irish medium schools (the school omnibus survey)- would now have “to go in English only now” due to the new policy ³⁵. The policy was again approved and published in early September 2016.

Around the same time the Education Authority dispensed with its multilingual logo, which had included Irish, to adopt instead ‘English only’ branding policy. CAJ sought clarification of what had prompted this change and was initially told in September 2018 that it had been on the basis of a ministerial instruction ³⁶. This was understood as a verbal ‘instruction’ as no record of it was disclosed. Subsequently the EA changed its position and argued that the “the Chief Executive made an operational decision to use the mono-lingual option in line with the DE practice at the time” ³⁷. This does not of course mean that the Minister did not make representations to the EA to adopt a monolingual logo, rather it clarifies that the decision was for EA to make, as there was no formal Ministerial Direction issued. No records however appear to exist of this representation, or otherwise reason for the decision.

Such practices of summary adaptation of ‘English only’ language policies were not limited to DE. In the Department of Environment, Agriculture and Rural Affairs (DEARA), the DUP Minister Michelle McIlveen MLA managed to inform the Assembly in September 2016 that her department “adopts a single language policy” before any such policy had in fact been produced ³⁸. The Minister made this statement in response to a question as to why she had changed the name of a fisheries protection vessel from Irish to English. While DEARA initially refused to release documents to CAJ, the Information Commissioner ultimately ordered their disclosure ³⁹. The documents revealed that a policy had not in fact been adopted and a submission to the Minister had only been made in November 2016, two months after the Minister had announced a ‘single language policy’ had been adopted. DEARA were unable to confirm if a draft document predated November 2016. The DEARA submission to the Minister set out legal and broader advice as to why the Department could not adopt a ‘single language policy’ and instead set out a policy which would meet minimum legal requirements to the Irish language. Notably however, the Minister did not sign off on this before leaving office ⁴⁰.

³⁴ DE Submission to Minister 2 September 2016.

³⁵ DE internal email 23 August 2016.

³⁶ EA correspondence to CAJ 25 September 2018.

³⁷ EA correspondence to CAJ 16 November 2018.

³⁸ Assembly Question AQW 2327/16-21.

³⁹ Information Commissioner Decision Notice FS50698484 (CAJ v DEARA).

⁴⁰ ‘DUP Minister informed of language obligations by Department Officials’ Irish News 19 March 2018

This dynamic has also featured at local council level. Antrim and Newtownabbey Borough Council provides a case in point. At an early stage of the peace process, the UK government agreed to revoke the blanket ban on bilingual streets signs legislated for by the old Stormont Parliament ⁴¹. However, in response to a request from residents seeking to add Irish to signs on five streets, Antrim and Newtownabbey Borough Council on 26 February 2018, voted by a majority to reintroduce a blanket ban on bilingual street signage through an ‘English only’ policy. Among the comments in the Council Chamber and the media made by those councillors opposed to bilingual signage included the suggestion that the requested Irish signs were ‘an attempt to ghettoise the area’. The decision-making process was also summary, with no equality screening or consultation on the new policy.

While CAJ, Conradh na Gaeilge (CnaG) and local Irish speakers intervened with the council to point out the policy was unlawful in both domestic and international law, the council’s response was to maintain that its decision on the matter was ‘lawful and proportionate’. This position was maintained until the prospect of the judicial review court on 7 September 2018, when the council announced it was rescinding the policy and agreed to pay the costs of the applicant, (a local Irish speaker) and stated that a “new, more detailed policy would be drafted for the council to consider” ⁴². This was, however, not the end of the matter. Almost a year passed before there was word of a new policy, and in the interim, in June 2019, the same council used legislation designed to regulate commercial advertisements to threaten to prosecute an 85 year old woman for the presence of a small Irish sign on her property ⁴³. Attention again turned to the council’s new policy, a draft of which was approved for consultation at a committee on 4 September 2019 ⁴⁴. However, CAJ and CnaG raised concerns that the proposed policy “would simply replace the councils previous unlawful de jure ban on Irish language signage with a de facto ban, insofar as the policy appears designed to draw on the worst possible practice from elsewhere with the effect of precluding the provision of Irish language signage in almost all circumstances” ⁴⁵. The policy would require first a petition in support of Irish language signage signed by at least 50% of the street’s residents. Only if the full council then voted in favour of the signage would the council survey all the residents of the street for views. A two-thirds majority (with anyone not responding automatically considered as opposing the provision of a bilingual sign) would be required for a further discretionary vote in council as to whether to permit the sign. The policy also added that any sign in Irish (or any other language) that is erected must have the “size of the lettering” smaller than English “to avoid any risk of confusion to the emergency services”⁴⁶. Following the intervention from CAJ and CnaG, the council dropped the proposal to consult on the policy.

⁴¹ The legislation, from 1949, which legally bound councils to put up street signs in ‘English only’ was consequently repealed by the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1995.

⁴² ‘Court hears council ban on Irish street signs has been rescinded’ Irish News 9 August 2018 <https://www.irishnews.com/news/northernirelandnews/2018/09/08/news/court-hears-council-ban-on-irish-street-signs-has-been-rescinded-1427964/>. ‘Council U-turn on ‘English Only’ Street Signs policy’ Newtownabbey Today 7 August 2018 <https://www.newtownabbeytoday.co.uk/news/council-u-turn-on-english-only-street-signs-policy-1-8627693>

⁴³ Council threatens to prosecute 85-year-old woman over Irish language street sign’ Irish News 18 June 2019 <https://www.irishnews.com/news/northernirelandnews/2019/06/18/news/council-threatens-to-prosecute-85-year-old-woman-over-irish-language-street-sign-1644039/>

⁴⁴ Community Planning and Regeneration Meeting (item 4.9): https://antrimandnewtownabbey.gov.uk/getmedia/5bd4a187-a24c-49e2-a44e-96ea70070b94/06-Web-Agenda-CP-R-9-September-2019_1.pdf.aspx

⁴⁵ Joint Correspondence from CAJ and Conradh na Gaeilge, to Chief Executive Antrim and Newtownabbey Council, 19 September 2019.

⁴⁶ Joint Correspondence from CAJ and Conradh na Gaeilge, to Chief Executive Antrim and Newtownabbey Council, 19 September 2019.

INTERSECTIONALITY

It is not much of an exaggeration to suggest that sectarian inequality was the only equality issue that appeared on the radar in Northern Ireland before 1972. This is, of course, very different to suggesting that there were no other equality issues that mattered – most obviously there were profound issues of inequality in both gender and race. Still, Northern Ireland was able to avoid providing any protections on race at all until 1998 – over thirty years after they had been introduced in Great Britain. Other inequalities made little impact on public discourse. When the UK government did move on issues like gender equality or disability in Northern Ireland, this was usually because of GB-focussed concerns and these rarely addressed the specific dynamics of inequality in Northern Ireland. Even as late as 1991, the question of sectarian equality was still so overwhelmingly dominant that the definitive Smith and Chambers analysis of sectarian differentials could be simply titled *Inequality in Northern Ireland*.

Clearly any contemporary account addressing the specific question of differences between Catholics and Protestants would now require the qualifier ‘religious’ or ‘sectarian’. Moreover, anything aspiring to the title ‘inequality in Northern Ireland’ would have to address the wider range of equality issues and constituencies that was both reflected in and generated by the GFA. (This is, of course, also the broad range of constituencies which is brought together in the Equality Coalition ⁴⁷). For example, the mass equality mobilisations on rights issues in NI in recent years have been on three issues only tangentially connected to sectarianism – Irish language rights, women’s reproductive rights and LGBT rights, including marriage equality. This shift undoubtedly changed the way in which Northern Ireland frames equality work. Thus the struggle for equality in Northern Ireland has moved a long way from a single-issue intervention focussed on anti-Catholic discrimination – as it seemed to many people in 1964 ⁴⁸. Arguably there is no longer an equality agenda but rather a much more complex mosaic of overlapping – and sometimes competing – equality agendas.

This, of course, resonates with wider advances in equality theory and practice. Arguably the key recent development is the notion of intersectionality. This recognises that various forms of social stratification and related inequalities – such as gender, class, race, sexual orientation, age, religion and disability – can reinforce each other. A sensitivity to intersectionality identifies the ways in which these forms of discrimination are related to one another and takes these relationships into account when working to promote equality in terms of specific category like sectarianism. This is not completely new in terms of discussions around sectarianism. We have already observed how the LGBT community intervened strongly in arguing that the notion of ‘good relations’ being developed through T:BUC needed to include its unique perspectives (Executive Office 2013: 16-17). This argument was accepted in the final report: “Lesbian, gay, bisexual and transgender people have and do play a role in building good relations across our community” (Executive Office 2013: 16).

⁴⁷ The Equality Coalition is jointly convened by UNISON and the Committee on the Administration of Justice (CAJ): “Cumulatively, the member organisations in the Equality Coalition work across all nine equality categories covered by Section 75 of the Northern Ireland Act 1998, as well as on other recognised protected equality grounds, including (but not limited to) socio-economic status, language, citizenship, irrelevant criminal record, and immigration status.” The Section 75 categories are: Political Opinion; Religious Belief; Ethnicity; Disability; Gender; Dependents; Marital Status; Sexual Orientation; Age.

⁴⁸ The Campaign for Social Justice was established in 1964 for “the purpose of bringing the light of publicity to bear on the discrimination which exists in our community against the Catholic section of that community representing more than one-third of the total population”.

This approach was not, however, particularly developed in T:BUC – it was unclear that the ‘good relations’ referred to were good relations between LGBT people and ‘non-LGBT’ people or wider ‘anti-sectarian’ good relations across the whole community. Moreover, this kind of appreciation of multidimensionality needs to go much further and deeper. In terms of our own focus on ‘tackling sectarianism’, arguably all equality constituencies should begin to develop their own practice in terms of sectarianism and anti-sectarianism. This holds both in terms of the way that sectarianism impacts within these communities and the way in which they bring their particular competencies to addressing wider sectarianism.

This is crucial for a couple of reasons. First, sectarianism often combines very directly with other oppressions. This was never more poignantly witnessed than in the death of Darren Murray – a 12-year-old Catholic child of colour – in the context of Drumcree stand-off in 1996. He was killed by a car after taunts of ‘Fenian Nigger’ led to him confronting a group of loyalist youths (McKittrick et al.1999: 1400). Second, whatever their own sense of distance from conflict in Northern Ireland, ‘Other’ groups are often sectarianised. In other words, people who belong to the ‘Other’ category are often forced into the ambit of sectarian categories. The most obvious example of this is the ubiquitous ‘joke’ in which someone is asked if they are a Protestant or Catholic Jew/Muslim/Sikh/Baha’i and so on ad nauseum. But the sectarianisation of ‘Other’ identities also assumes real forms for real people. For example, Polish people have often been sectarianised as ‘Catholic’ in this way in Northern Ireland. Most notoriously, Polish flags have routinely been burned on loyalist bonfires (BrexLaw NI: 8) ⁴⁹. Thus, the ‘Other’ community in Northern Ireland has never been entirely insulated from sectarianism – even if it wanted to be. The key point is that all of these intersectionalities continue to be structured by sectarianism in Northern Ireland. One of the key questions for gender equality or race equality or gay equality or class equality is whether sectarian identity makes any differential impact on the way in which these are experienced in Northern Ireland.

The Sectarianism: A Review approach, however, puts sectarianism back in its silo. First, sectarianism is to be understood as ‘community relations’ restricted to Protestant and Catholics and excluding other constituencies; second, instead of understanding the synergy between different inequalities, these are to be hierarchised:

Although it receives relatively little attention, economic inequality across society, especially in the area of employment, is now clearly more significant than the differential between communities. (Morrow 2019: 35)

In contrast, we need an approach that engages with the complex ways in which inequalities reinforce each other. In other words, it is unhelpful to juxtapose sectarianism with gender inequality or class inequality and attempt to hierarchize them. Rather the question is how these multiple discriminations impact on real people who inhabit the intersections of many or all of them.

Ironically, there has been one sustained example of this approach in Northern Ireland. There has been extensive attention to the specific question of the educational achievement of Protestant working class boys (or, more accurately, Protestant boys in receipt of free school meals).

⁴⁹ ‘Poland flags burned on bonfires across Belfast on 11 July’ BBC News 19 July 2012 <https://www.bbc.co.uk/news/uk-northern-ireland-18895671>

This specific sub-category has attracted a great deal of attention, not only in the work of Nolan and Morrow but also in the work of the Equality Commission, so much so that this was regarded as one of the main targets within ECNI's Key Inequalities in Education report (2017: 39-41). But this same kind of intersectionality might be explored more comprehensively in a host of different ways across contemporary Northern Ireland: What is the experience of Catholic women in housing? What is the experience of BME gay men in the workplace? What is the experience of disabled girls in education?

From this perspective, the focus on Protestant working class boys in education remains a notable exception. Here ECNI and others have concentrated on the educational disadvantage of a very specific intersectional category. This is a good example of intersectionality in action – the premise is obviously that this category is specifically disadvantaged because of a combination of ethnicity (or 'community background'), gender and class (or 'free school meals entitlement'). But this is an odd outlier in the context of equality interventions in Northern Ireland. Not least because class is not a protected characteristic at all in Northern Ireland equality law. In other words, this example of intersectionality analysis begs the question of why it alone deserves attention – what about all the other categories that do less well out of education that are protected characteristics? And what about all the other issues that might exhibit similar intersectional disadvantage – housing, employment, goods and services. Few analyses would deny that class is indeed a key determinant across all of these examples - but it is not one that usually attracts the attention of ECNI or other statutory equality mechanisms⁵⁰. All this suggests that the challenges of intersectionality need to be addressed much more comprehensively and rigorously in Northern Ireland. This task is particularly pressing in the context of the demographic transition outlined earlier. The changing demography undoubtedly transforms the dynamics of tackling sectarianism.

⁵⁰ Although there have been recent moves to see 'disadvantaged socio-economic status' – which might be regarded as a proxy for class – a protected characteristic in Irish law: 'Proposal to make 'disadvantaged socio-economic status' a prohibited ground of discrimination under Irish law' Oxford Human Rights Hub 13 March 2018.

<https://ohrh.law.ox.ac.uk/proposal-to-make-disadvantaged-socio-economic-status-a-prohibited-ground-of-discrimination-under-irish-law/>

CONCLUSIONS AND RECOMMENDATIONS

We can reaffirm a series of key facts by way of conclusion. First, contemporary sectarianism in Northern Ireland is structured by an ongoing demographic transition. The Catholic/Protestant/‘Other’ sectarian ratio is changing and this in turn profoundly transforms the way in which sectarian equality and discrimination is both lived and understood. Second, significant differences and inequalities between Protestants and Catholics remain across a range of indices. The continuance of a ‘dual labour market’, a ‘dual housing market’ and a ‘dual education market’ provides some sense of how profoundly sectarianism remains institutionalised across Northern Ireland. Third, things have improved very significantly in key areas like the labour market and housing and education. There has been a significant convergence between the Protestant and Catholic communities over the past 50 years. Some of this convergence is attributable to the effectiveness of the raft of anti-sectarian measures by the state and some to wider shifts in the industrial base and demography of Northern Ireland⁵¹. Fourth, despite convergence, sectarian differences and inequalities continue to be explained – at least in part – by historical and contemporary discrimination.

In summary, the evidence shows that there has been a degree of convergence between Protestants and Catholics across many but not all areas. It also bears emphasis that convergence is not confluence. Just because things are less bad, does not mean that they are resolved. As we have seen the legacy of institutionalised sectarianism in infrastructure and planning throughout the state casts a long shadow across contemporary Northern Ireland. Sectarian equality remains a live and politically charged issue. The only effective response to this reality is a robust anti-sectarian recommitment to sectarian equality. Put bluntly, what people think about equality is much less important than delivering equality itself. Moreover, such an approach protects all citizens – implying allocation based on need rather than sectarian head counting or political influence or pork barrel politics.

Part of this approach must be recognition of the centrality of sectarianism to the Northern Ireland state. The state had a range of reactionary positions on a range of equality issues for most of its history – no-one could suggest that there was much of an equality agenda for women or gay people or disabled people before the GFA. But this toleration of inequality remains qualitatively different to the centrality of sectarianism to the very idea of the state. Northern Ireland was not created in order to deny equality to women or people of colour or disabled people – but it was deliberately constructed in order to deny equality to Catholics. Like other discriminations, sectarianism has been institutionalised in Northern Ireland. But it has been also – this time uniquely – constitutionalised. The Northern Ireland state was constructed to make and keep Catholics unequal. That this is more than an historical legacy was brought back with telling in the current Brexit negotiations. The widespread concern at the proposed ‘DUP veto’ illustrated the currency of notions of privileging ‘one side’ of the community in Northern Ireland (CAJ 2019). The plan to give the DUP a veto over the status quo of not having a regulatory border in the middle of Ireland could be read as a novel form of constitutionalising sectarianism into the governance structures of Northern Ireland (Prime Minister 2019). But the negotiations also brought home the reality of the demographic transition outlined above. As the words, ‘simple majority’ in Northern Ireland threatened to undermine the whole Brexit Deal, it was striking that it was now a simple majority for ‘non-unionism’ rather than ‘unionism’ that was regarded as so problematic.

⁵¹ Russell suggests regarding fair employment: “It is impossible to measure or quantify with any precision the contribution made by equality legislation to greater equality in the labour market. As Shuttleworth and Osborne (2004) observed, while the 1989 Act and the work of the FEC clearly had a substantial effect, it is impossible to isolate the precise independent contribution of such factors to employment outcomes from the effects of educational, demographic and social trends. While it is impossible to run ‘what if’ scenarios, such as ‘what if there had been no employment legislation?’ it seems unlikely, however, that progress would have been so rapid if there had been no legislation” (2012: 30).

This was a stark reminder that sectarianism remains the central algorithm of equality in Northern Ireland - whatever the current balance of Protestant and Catholics and 'Others' within the state. Arguably this makes sectarianism an equality concern of a different order to all others; most certainly it means that it cannot be left to the community relations paradigm - now revived in its latest iteration as *Sectarianism: A Review* - to resolve. We need to guard against the apparent moves to adopt *Sectarianism: A Review* as a 'lowest common denominator' approach to sectarianism in contemporary Northern Ireland. Moreover, we can suggest that any such adoption by the state should be robustly contested by different equality constituencies. This is because the approach adopted in *Sectarianism: A Review*, as well as being a shallow analysis, is also a dangerous one. It does not begin to address the reality of sectarianism institutionalised across the Northern Ireland state for the last 100 years. Crucially, it fails to frame anti-sectarianism as an equality project at all. This is arguably its biggest mistake because the commitment to equality protects everybody and, in that context, becomes a vital mechanism for reconciliation.

So, what might a different 'framework for tackling sectarianism' look like? Most obviously, the state could relatively easily integrate and improve its monitoring of sectarian equality and inequality. Here there is a useful template in the recent 'Race Disparity Audit' intervention by the last Conservative government ⁵². In Northern Ireland there is every need for a similar 'Sectarian Disparity Audit' that would 'explain or change disparities' between Catholic, 'Other' and Protestant backgrounds ⁵³. The state should strive to make such an audit an "essential resource in the battle to defeat ethnic injustice" in Northern Ireland, the same core objective the Race Disparity Audit was given upon its launch ⁵⁴. One of the most obvious consequences of such an approach would be the provision of more robust ethnic data on criminal justice - including the categories 'Protestant' and 'Catholic' - in the manner of the Ministry of Justice statistics on Race and the Criminal Justice System (1918) ⁵⁵. With this model of good practice in mind, it is vital that the NICJS is finally proofed against the Macpherson Report (which resulted from the inquiry into the murder of Stephen Lawrence), with the provision of robust data that allows the investigation of any 'collective failure' by any of its constituent parts.

Our analysis insists that we need an approach which re-centres the commitment to equality and human rights of all citizens - Protestant, Catholic and 'Other' - who meet at the interface of sectarianism in the very particular circumstance of the Northern Ireland state. At the core of this approach is the recognition that tackling sectarianism is about building a radically different future rather than reconciling people to the present - a present that remains contested, unequal and profoundly sectarian.

⁵² Race Disparity Audit: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686071/Revised_RDA_report_March_2018.pdf

⁵³ Launching the Audit, Prime Minister May suggested that she was 'challenging society' to 'explain or change' disparities in how people from different ethnic backgrounds are treated. She suggested the audit would become an "essential resource in the battle to defeat ethnic injustice".

⁵⁴ Quote found here: <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/562/56202.htm>

⁵⁵ These periodic reports compile statistics from data sources across the CJS, to provide a combined perspective on the typical experiences of different ethnic groups in England and Wales. <https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-2016>

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EQUALITY COALITION

c/o CAJ

1st Floor, Community House, Citylink Business Park
6A Albert Street, Belfast, BT12 4HQ

T: 028 9031 6000

www.equalitycoalition.net

E: equalitycoalition@caj.org.uk

Twitter: @EqualityCoal

The Equality Coalition is co-convened by CAJ and UNISON.

