

**VOICE FOR ALL  
GENERAL OVERVIEW REPORT:  
NORTHERN IRELAND**

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## 1. Introduction

Over the years Northern Ireland became synonymous with perceptions of violence and disorder linked to the euphemistically named “Troubles” which began in October 1968 in Derry/Londonderry with the “Battle of the Bogside”. The outbreak of violence was not something new; periodic violence and political upheaval had been a feature of Irish life dating back centuries. The purpose of the **first** section of the report is to briefly outline the background to the political situation which developed in Northern Ireland and which to a degree helped fan the flames of the violence from the late 1960s onwards. In essence, Northern Ireland’s social, political and economic history have intrinsically influenced a number of the developments in the field of anti-discrimination legislation in particular relation to the introduction of fair employment legislation to deal with religious/community background inequalities. A contextualisation of the situation in Northern Ireland is necessary in order to examine the implementation and impact of various reform measures in the field of anti-discrimination, dating from before the beginnings of the most recent manifestation of the conflict while bringing us up to date with the contemporary situation in what would appear to be relatively politically stable and peaceful times.

The **second** section of the report deals with other developments, most notably developments within the rest of the UK and the impact of subsequent EU directives relating to race and gender and which more recently saw the establishment of legislation aimed at dealing with disability, age and sexual orientation inequalities.

Section **three** provides a demographic overview of the current situation in Northern Ireland regarding population structure by gender, age, religion, ethnicity and disability as well as providing some information on current labour market activity.

Section **four** outlines the political and legislative framework under which the Good Friday/Belfast Agreement led to a general commitment to an equality agenda which led to the establishment of the Equality Commission for Northern Ireland and the introduction of Section 75 of the Northern Ireland Act of 1998 which specifically aims to provide for the equality of opportunity for all individuals regardless of age, gender, religion or beliefs, disability, sexual orientation or race. This section also

provides a brief description of the legislative framework governing the anti-discrimination practice in Northern Ireland.

Section **five** provides statistics and other relevant information and research pertaining to the current situation in Northern Ireland in accordance with the six categories of discrimination identified by the Amsterdam Treaty.

Section **six** offers some concluding thoughts on the trajectory of the development of future anti-discriminatory measures in Northern Ireland.

## 2. Historical overview

In the sixteenth and seventeenth centuries, Ireland's strategic importance in providing the "balance of power" between warring European nations had not gone unnoticed by the British ruling elite. Although by the end of Queen Elizabeth's reign most of Ireland had been conquered militarily, the northern Province known as Ulster continued to offer the most local resistance to British rule. As a means of ensuring Ireland's acquiescence and loyalty (particularly against the Spanish) to the British monarch, English and Scottish planters were settled in the Irish province of Ulster in the north-east of the island. The Plantation of Ulster began in 1608<sup>1</sup> and led to significant numbers of English and Scottish settlers arriving in the northern part of the island, with particularly large numbers of settlers arriving in counties Antrim and Down. The Plantation resulted in the confiscation and redistribution of the lands of the native Irish to the newly arrived settlers who were not only from a different country, but were also a different religion (they were Protestants compared to the Catholicism of the Irish). By 1703, less than 5 per cent of the land of Ulster was still in the hands of the Catholic Irish (Darby 1995).

The Act of Union of 1801 formalised the link and Ireland became politically and economically administered by the British. During the nineteenth century a succession of movements attempted to overthrow the union. These attempts varied between constitutional and physical force means. The events of the early 20<sup>th</sup> century saw significant upheaval in Ireland linked to the beginning of the First World War in 1914 and the subsequent Easter Rising in Dublin in 1916. These developments were followed by the Anglo-Irish war between Britain and the IRA between 1919 and 1921, in the middle of which the Government of Ireland Act (signed in 1920) allowed for a "two state solution" to the situation in Ireland.

In effect the partition of the 32 counties of Ireland in 1921 created two distinct political entities, a 26 county Irish state (Éire) which held Dominion status in its relationship with Great Britain<sup>2</sup> while the six remaining counties located on the north-east of the island would form what would become Northern Ireland which would

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<sup>1</sup> See the CAIN website at: <http://cain.ulst.ac.uk/othelem/chron/ch67.htm#1603>

<sup>2</sup> The 26 county Irish state did not become fully independent until 1949.

remain within the Union with the rest of the United Kingdom.<sup>3</sup> The six counties in the north-east contained a Protestant majority and were essentially the largest area which could be comfortably held with a majority in favour of the union (Darby 1995).

## 2.1 The “Orange” State 1921 - 1972

Although the Government of Ireland Act 1920<sup>4</sup> section 5 (1) provided that the Parliament of Northern Ireland could not “*give a preference, privilege or advantage, or impose any disability or disadvantage, on account of religious belief*” this was not the reality of the experience for a significant number of Northern Ireland’s minority Catholic population since the formation of the Northern Irish state.

The Northern Irish state between 1921 and the restoration of Direct Rule (government from London) in 1972 has been termed the “Orange State”<sup>5</sup> when there was effectively one party unionist (and Protestant) rule for over 50 years.<sup>6</sup> A siege mentality amongst many within the government and other agencies led to a general mistrust of Catholics as “disloyal” to the new state and where possible Protestant business owners were encouraged to employ what Sir Basil Brooke on 12<sup>th</sup> July 1933, then a junior government whip, referred to as “*good Protestant lads and lassies*” (Hepburn 1980: 164).

These developments led to claims that under the unionist regime at Stormont northern Catholics were marginalized and treated like second-class citizens and were discriminated against particularly in terms of employment, electoral participation and housing. Debate continues about the extent of this discrimination,<sup>7</sup> but there is general consensus that at the very least Catholics were treated less favourably than their Protestant counter-parts in many aspects of daily life.

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<sup>3</sup> For a socio-economic explanation for the thinking behind partition, see O’Dowd et al (1980).

<sup>4</sup> The Act was repealed on the 2<sup>nd</sup> of December 1999.

<sup>5</sup> Referring to the link of the unionist elites to the exclusively Protestant organisation, the Orange Order which was established in 1795.

<sup>6</sup> In a similar vein, leaders in the 26 counties referred to the primacy of the Catholic state. In his 1935 St. Patrick’s Day address to the Irish people, Irish Prime Minister Eamon de Valera commented, “Since the coming of St.Patrick, Ireland has been a Christian and a Catholic nation. She remains a Catholic nation”.

<sup>7</sup> See for example Whyte, J. (1983) ‘How much discrimination was there under the unionist regime 1921 - 1968?’ for further discussion.

In response to what they saw as the inferior treatment of their community, a number of Catholics (and some Protestants) organised protests against the various aspects of discrimination in housing, employment and the electoral franchise. In 1967 the Northern Ireland Civil Rights Association (NICRA) was formed to demand reforms, including the removal of discrimination in the allocation of jobs and houses, permanent emergency legislation and electoral abuses. The campaign was modelled on the civil rights campaign in the United States, involving protests, marches, sit-ins and the use of the media to publicise minority grievances. The local administration was unable to handle the growing civil disorder, and the local security forces the B-Specials and the Royal Ulster Constabulary (RUC) increasingly handled the protests arbitrarily, the most visible demonstration of which was television images of policemen batoning protesters on the streets. In 1969 the British government sent in troops to enforce order. Initially welcomed by the Catholic population, they soon provided stimulus for the revival of the republican movement (Darby 1995). Further stimulus was provided by the actions of the British Army in Derry/Londonderry on 30<sup>th</sup> January 1972 when the Parachute regiment opened fire and killed 13 protesters on a NICRA civil rights march.<sup>8</sup> What was to become known as the Troubles which began in the late 1960s was to last for over 30 years, and result in the deaths of over 3,500 people with over a further 40,000 maimed or injured as a result of the conflict (Morrissey and Smyth 2002: 3).

## **2.2 Discrimination in Employment**

In Belfast particularly, the industrial heartland of the north, major industries such as Harland and Wolff shipbuilding and Shorts Brothers aircraft manufacturing overwhelmingly employed Protestants since the end of the nineteenth century for a variety of factors. One reason was that they were traditionally located in Protestant areas such as East Belfast rather than Catholic West Belfast.<sup>9</sup> Secondly, some Protestant employers preferred not to employ Catholics for a number of reasons, one of which was a general belief that Catholics were “disloyal” to the new six county state and therefore “could not be trusted”:

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<sup>8</sup> Another 13 people were shot and injured and a fourteenth victim was to die in hospital several weeks after the shootings. For a summary of the days events see: <http://cain.ulst.ac.uk/events/bsunday/sum.htm>

<sup>9</sup> It has been argued that this was a deliberate sectarian policy carried out by the Stormont regime. See O’Dowd et al. (1980).

*Myths of Protestant self-reliance, enterprise, thrift and loyalty were contrasted to the improvidence, fecklessness and disloyalty of Catholics who were prone to rely on state welfare rather than work (O'Dowd 1980: 61).*

Thirdly, a system of unionist and Orange “clientism” whereby fathers and uncles would often secure jobs for their sons or nephews on apprenticeships in engineering and similar trades in heavy industry invariably led to jobs being passed from Protestant father to son.<sup>10</sup> As well as being less likely to be in employment, Catholics were also much less likely to be represented among the upper echelons of management or in more professional and skilled occupations:

*Overwhelmingly Protestant and unionist managers; at the other end were the largely female and disproportionately Catholic labourers (O'Dowd et al.1980: 53).*

Catholics, and particularly Catholic males suffered from extremely high levels of unemployment especially in predominantly Catholic towns in the regional areas such as Derry/Londonderry or Newry where in 1970 unemployment rates were 11.3% and 13.9% respectively (O'Dowd 1980: 55). This led to Catholics being “disproportionately represented among the unemployed comprising 45% of the workforce outside of Belfast and 61% of the unemployed” (O'Dowd 1980: 57).

Indeed using the District Council data from the 1971 census it is clear to see the regional differentials in employment for Protestants and Catholics:

*In Derry 23% of Catholic males were unemployed compared to 8% of Protestant males, in Strabane 23% of Catholic males were unemployed compared to 11% of Protestant males (O'Dowd 1980: 57).*

The 1971 Census offered the first opportunity to assess the extent of any discrimination in employment, as it was the first census since 1911 that provided cross-tabulation by religion and occupation. The Census documented that Protestant

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<sup>10</sup> This would see the Catholic community increasingly look towards education as a “way out” and this new generation of third level educated Catholics would form the backbone of what would become the civil rights movement in the late 1960s. They were aided in this respect by the 1947 Education Act, which increased state funding for Catholic education and provided more Catholics with the opportunity to go to university (O'Dowd 1980: 19).

male unemployment was 6.6% compared to 17.3% for Catholic males, while the equivalent rates for women were 3.6% and 7% respectively (Fay et al 1999a: 96). Gillespie similarly indicates trends which would suggest that Catholics, and particularly Catholic males were at a disadvantage in access to employment compared to their Protestant counterparts (Gillespie 1997: Table 1.2). Explanations for this disparity vary and it is not within the remit of this report to discuss such explanations.<sup>11</sup> Similarly Smith and Chambers (1987) found that between 1975 and 1983 the proportion of Protestant men who were unemployed rose by 8% and the proportion of Catholic men by 18%. Estimated unemployment rates for the period 1983 to 1985 were 14.9% for Protestants and 35.1% for Catholics.

Osborne and Cormack (1987) found that unemployment was higher in the 1980s than the 1970s due to the decline of many traditional industries, and despite the introduction of Fair Employment legislation in 1976 the scale of differential between Protestants and Catholics was such that Catholics continued to experience rates twice those of Protestants (both male and female two times greater). Between 1981 and 1991 the number of economically inactive Protestant men rose from 9,557 to 19,288, over 100%. The equivalent figures for Catholic males were 6,846 and 17,146, over 250% (Gillespie: 1997: Table 1.2).

### **2.3 Political discrimination**

One of the slogans adopted by the campaign for civil rights in Northern Ireland was that of “One Man One Vote”, somewhat echoing the calls of the African-American civil rights movement in the United States in the 1960s. This was in reference to the local government franchise which was, with some exceptions, based on plural vote and limited to the owners of a dwelling and spouses of the owner. This invariably disenfranchised a significant number of poorer people, and in the context of Northern Ireland as discussed above, disproportionately affected Catholics more than Protestants. The extent of this electoral discrimination is still debated although there is no doubt that alongside this restriction in the franchise some electoral boundaries were “gerrymandered” by the unionist regime at Stormont to ensure unionist control of a number of local councils. In Derry/Londonderry, although Protestants were in the

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<sup>11</sup> For a more detailed discussion see Fay et al (1999a) pp.97 – 103.

minority in the city with an electorate in 1964 of 10,573, the drawing of the electoral boundaries meant that they elected 12 unionist councillors compared to the much larger Catholic electorate of 19,870 who elected just 8 nationalist councillors.<sup>12</sup>

*The political shape of local government in the north was largely characterised by one party, Protestant Unionist control from well before the partition of Ireland until the early 1970s (O'Dowd 1980: 97).*

The pressure for reform led to the Unionist Parliamentary Party voting to introduce universal adult suffrage in local government elections in Northern Ireland in April 1969 while the Macrory report of May 1970 recommended the abolition of the existing local government structures and their replacement by 26 new district councils, which have remained in place to the present day. The new reforms also removed many powers from the hands of local authorities and created a number of area boards to manage the health, education and library system in Northern Ireland. The Review of Public Administration (RPA) which began in June 2002 aims to provide a:

*comprehensive examination of the arrangements for the administration and delivery of public services in Northern Ireland covering almost 150 bodies, including the 26 district councils, the Health Boards and Trusts, the five Education and Library Boards, and about 100 other organisations<sup>13</sup>.*

This review reported in March 2006 and made recommendations for a significant overhaul to the current administration and delivery of public services, including the reduction of local councils from 26 to seven.

## **2.4 Housing discrimination**

In 1968 the Caledon Affair brought to the fore Catholic complaints of discrimination in the allocation of housing by local authorities. The house in Caledon, County Tyrone had been allocated to a single Protestant woman while some large Catholic

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<sup>12</sup> Gerrymandering varied depending on the locality but was particularly an issue in Derry/Londonderry and in Dungannon in County Tyrone.

Available at: <http://cain.ulst.ac.uk/events/crights/pdfs/cs84.pdf>

<sup>13</sup> For an overview of the RPA see: <http://www.rpani.gov.uk/>

families remained unhoused. The Cameron Commission (1969) found that there was a rising sense of injustice among large sections of the Catholic community in relation to:

- The inadequacy of housing provision by certain local authorities;
- Unfair methods of allocation of houses built and let by such authorities, in particular refusals and omissions to adopt a points system; and
- Misuse in certain areas of discretionary powers of allocation of houses in order to perpetuate Unionist control of the local authority (Gibson et al. 1994).

## **2.5 Government Response**

Although the then Prime Minister for Northern Ireland Terence O'Neill announced a package of reform measures in late 1968, the British government realised that there were a number of issues in relation to legitimate Catholic grievances which needed to be addressed, and that continuing governance from Stormont was untenable. The government appointed the Cameron Commission in 1968 amidst the outbreak of the violence to assess the validity of such grievances. Indeed O'Dowd et al. (1980) referred to the outbreak of the Troubles from 1968 onwards as:

*Forcing British politicians to become reluctantly involved in a series of 'reformist' exercises to meet the complaints of the Catholic minority and above all to restore stability (O' Dowd 1980: 19).*

The Cameron Commission reported on 12<sup>th</sup> September 1969 that the civil disturbances in 1968/1969 which would lead to the outbreak of the Troubles were associated with a sense of injustice related to complaints of discrimination in housing and employment, and to the unwillingness of Government to accept and investigate these complaints (Gibson et al 1994). Indeed, the restoration of Direct Rule from Westminster by the British Government in 1972 was a recognition that Stormont rule was no longer acceptable and efforts had to be made to attempt to redress the imbalance in housing, employment and voting particularly. Therefore, historically in

Northern Ireland the primary focus in the development of anti-discrimination legislation was to deal with discrimination based on religion/community background, reflecting the inequalities historically facing Catholic citizens of the Northern Irish state.

Following the Cameron Commission report, the establishment of a new central housing authority was agreed and the Northern Ireland Housing Executive (NIHE) was established in October 1971. This new body was to introduce a points system for the allocation of houses, which was primarily based on housing need, and it was hoped that this would put an end to sectarian discrimination in housing allocations (Gibson et al. 1994). There is general consensus that the NIHE has been much more fair in its allocation of accommodation than previous organisations such as the Northern Ireland Housing Trust (NIHT) or local councils.

In 1973, the Northern Ireland Constitution Act made void any legislation created by the Northern Ireland Assembly which discriminated against any person or class of person on the grounds of religious belief or political opinion. In 1976 the Fair Employment (Northern Ireland) Act provided for the creation of a Fair Employment Agency (FEA), which had two functions:

- The elimination of unlawful discrimination on the grounds of religious belief or political opinion;
- The promotion of equality through “affirmative action”, i.e. positive action to promote equality of opportunity.

It should be noted at this juncture that Fair Employment legislation was (and is) only concerned with the religious composition of the workforce in Northern Ireland, and does not relate to any of the five other areas of discrimination.

The effectiveness of this legislation in 1976 in attempting to “square the circle” in relation to employment has been criticised because employers were not required to comply, it relied largely on a voluntary response, the burden of proof required in discrimination cases was very high and discrimination was difficult to prove.

Described in some quarters as a “*watchdog without teeth*”, the FEA did little to affect the balance of the Northern Ireland workforce in terms of its religious composition. Smith and Chambers (1987) concluded that:

*The rate of unemployment has been substantially higher among Catholics than among Protestants in Northern Ireland for many years. Over the period 1971 – 1985, Catholic men were about two and a half times as likely as Protestant men to be unemployed (Smith and Chambers 1987)<sup>14</sup>.*

Gallagher (1991) reported that although it was difficult to prove direct discrimination during this period, in all likelihood indirect discrimination persisted:

*On balance therefore, it would seem appropriate to suggest that indirect discrimination has played a role in maintaining the unemployment gap between the communities, if only because the existence of indirect discrimination helps to maintain and reproduce relative advantage for Protestants in the labour market (Gallagher 1991: 58)*

The 1989 Fair Employment (NI) Act abolished the FEA and replaced it with a Fair Employment Commission (FEC) which had wider powers. All firms with ten or more employees from 1992 were required to register with the FEC which was entrusted with the power to implement monitoring procedures, set goals and timetables and examine work practices.

The notion of indirect discrimination was only introduced into Northern Ireland’s Fair Employment law for the first time by the Fair Employment (NI) Act 1989. This legislation was strengthened by the Fair Employment and Treatment (NI) Order 1998 which now requires all employers with a workforce of more than ten employees to register with the Equality Commission for Northern Ireland (ECNI) which has subsequently assumed the responsibilities of the FEC, as well as being granted further powers which will be discussed later in the report. Failure to register with the ECNI can incur a £2,000 fine. The Fair Employment Order of 1998 extended the remit of

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<sup>14</sup> The research was based on data from the Continuous Household Survey between 1983 -1985.

areas covered by anti-discrimination and makes discrimination on the grounds of religious belief and/or political opinion unlawful in the following areas:

- Employment;
- The provision of goods and facilities;
- The sale or management of land or property;
- Further and higher education; and
- Partnerships and barristers.

To ensure the active practice of fair employment in Northern Ireland the legislation places five key duties on employers with ten or more employees:

- Registration;
- Monitoring;
- Reviewing the composition of the workforce every three to five years;
- Taking affirmative action if necessary; and
- Setting goals and timetables to fair participation.

Referring to the situation in Northern Ireland, Livingstone (2003: 248) argued that anti-discrimination provisions alone in legislation are unlikely to ensure that employment, qualifications and promotions are genuinely open to all regardless of their religion or political opinion. The legislation therefore contains other measures to ensure “equality of opportunity” and “fair participation”. Registered employers and public authorities are obligated to monitor the composition of their workforce by religion with particular focus on community background rather than religious beliefs.

Employers of more than 250 individuals are also now required to produce monitoring returns and information on those who have ceased to be employed by the employer. Employers are also required to carry out reviews of workforce composition at no more than three year intervals after registration to discover if members of each community have fair participation in the workplace. Although direct quotas are not permitted employers can establish targets and timetables to improve their employment uptake of historically marginalized groups in society. The Labour Market report in

2007 indicated that monitoring covers an estimated 73.2% of all employee jobs in Northern Ireland (DETINI 2007a).

## **2.6 Fair Employment Legislation: A Success?**

A review of Fair Employment a generation on found that there had been a substantial improvement in the employment profile of Catholics in Northern Ireland, particularly in the public sector. Further research has highlighted that despite this, there are some growing levels of Protestant under representation in the public sector, most notably in health and education (Osborne et al. 2004).

The key finding of the review was that there have been major changes in fair employment since the mid 1970s with Catholics increasingly represented in managerial, professional and senior administrative posts although still remaining somewhat under represented in local government and security positions.<sup>15</sup> Statistical evidence would appear to support this view: as of 2001 only a slightly higher proportion of Protestants (28.3%) than Catholics (25.8%) were working in 'managerial and professional occupations'. However, it is important to bear in mind that Catholics remain more likely to be in the category of 'never worked and long-term unemployed' (9.8%) compared to 5.1% for their Protestant counterparts (ECNI 2006a).

Alongside the progression of Catholic involvement in the labour market, the ECNI noted in 2006 that the Catholic share of security force jobs increased by 1.3% between 2005 and 2006 and now stands at 13.8% (ECNI 2006a). Historically there has been an under-representation of Catholics within the security forces within Northern Ireland for a number of reasons. The Patten Report in 1999 suggested a name change from the RUC to the Police Service of Northern Ireland (PSNI) and recommended affirmative action in the form of 50:50 recruitment of Catholics and Protestants to the new police service which was formally constituted in November 2001. The Police (Northern Ireland) Act 2000, the Race Relations (Northern Ireland) Order 1997 and the Fair Employment and Treatment (Northern Ireland) Order 1998 have given effect to the temporary 50:50 recruitment provisions and the provisions are

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<sup>15</sup> For more detailed discussion of this topic see Fay et al. 1999a.

due to be phased out over the coming years as the proportion of Catholics in the police service increases:

*The St Andrews Agreement makes it clear that the temporary 50:50 recruitment arrangements to the PSNI will lapse when the Government's target of 30% Catholic officers has been achieved. We are on course to reach this target by 2010/2011 (speech by the Minister of State Paul Goggins, Wednesday 5<sup>th</sup> March 2008<sup>16</sup>).*

The review of the impact of fair employment provisions documented that “*strong legislation has played its part*” with employers indicating that the legislative requirements have altered practices while further evidence suggests that affirmative action agreements between the ECNI and employers have helped redress the historic imbalance in terms of the employment rates of the two main communities in Northern Ireland (Osborne et al.2004).

In terms of increasing the numbers of Catholics in the labour market, since 1990 the net number of Catholic full-time employees has risen by 42.2% (48,636) while Protestant employment also grew, albeit at a much slower rate by 0.7% (1,449) (ECNI 2007b: 5). Other statistical sources also appear to indicate the growth in the Catholic share of the labour market. The 2001 Census statistics when broken down in terms of religion/community background would appear to indicate higher rates of participation in employment amongst Catholics than in previous decades. Although the rate of economic activity was higher among Protestants (63.8%), it was 60% for Catholics, which is significantly higher than figures in the 1970s and 1980s. Unemployment has also significantly reduced among Catholics standing at 36% between 1985 and 1987 (CHS 1987), and falling to 8.7% in 2001 (NISRA 2001).

The most recent monitoring report of the Northern Ireland workforce of 2006 which was published in December 2007 highlights that the Catholic share of employment in the public sector has increased from 43.5% in 2005 to 43.8% in 2006, while in the private sector the Catholic share rose from 42.7% to 43.6% for the same time period. The overall number of Protestant employees fell in 2006 by 1.3% while Catholic

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<sup>16</sup>Available:<http://www.nio.gov.uk/30-catholic-composition-within-psni-is-achievable-goggins/media-detail.htm?newsID=15021>).

employment increased by 1.5% and the overall monitored workforce increased to 43.7% Catholic in 2006 compared to 43% in 2005 (ECNI 2007b).

In terms of educational qualifications, these are now virtually the same for both Protestants and Catholics but the ECNI voice two areas of concern. Firstly, there is clear evidence that Protestants from poorer backgrounds do less well than Catholics from the same types of areas (ECNI 2007a). For example, the area with the lowest educational attainment in Northern Ireland is the working-class loyalist (Protestant) Shankill Road in West Belfast (NINIS 2005<sup>17</sup>). Indeed, research commissioned by OFMDFM in 2001:

*Concluded that the educational non-progressor was most likely to be a Protestant working-class male (ECNI 2007a: 7)*

Secondly Osborne et al. (2004) note increasing patterns of the exodus of Protestants to universities and colleges in the rest of the UK, with a tendency amongst a significant number not to return. In terms of education Protestants rather than Catholics were more likely to have no educational qualifications, 42.6% compared to 41.3% respectively (NISRA 2001).

O’Cinneide (2005) has suggested that there is a general perception that the Northern Irish positive statutory duty has proved in the main largely successful and states:

*The single most extensive positive duty imposed in the UK is that provided for in Northern Ireland by Section 75, which imposes a duty on specified public authorities to have “due regard to the need to promote equality of opportunity” across all the equality grounds, including religion, political opinion, race, age, marital status. Sexual orientation, gender, disability and family status, in carrying out their public functions (O’Cinneide 2005: 53).*

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<sup>17</sup> NINIS provides free access to statistical and locational information relating to small areas across Northern Ireland. Information is available across a range of themes including Population, Social and Welfare, Agriculture, Education and Crime.

He outlines that in addition to the role of Section 75 in promoting a positive statutory requirement on public bodies, the “*FETO duty is a key element of protecting rights in Northern Ireland*” (O’Cinneide 2005: 56). O’Cinneide contends that that there are sound policy reasons and comparative experience that support the introduction and extension of such duties across all the equality grounds, on the basis that this may result in substantially enhanced protection against discrimination.

### 3. Demographic Overview

This section documents the demographic statistics relating to the 2001 Census of Northern Ireland households where information is up to date, although alternative statistical sources are referenced where this data is sufficiently out of date. In particular information is provided on the overall population of Northern Ireland, and the population breakdown in terms of age, gender, religion/community background and persons with a disability. Statistical data is also provided from other sources on current estimates of minority ethnic populations in Northern Ireland, as well for those individuals living with a disability and finally the section contains a number of key labour market characteristics.

#### 3.1 Gender and Age

The first report based on the 2001 Census was published on the 30<sup>th</sup> September 2002. According to the report the population of Northern Ireland on Census Day (29th April 2001) was 1,685,267 (1.685 million).

There were 821,449 males (48.7% of the population) and 863,818 females (51.3% of the population). The population of the United Kingdom on Census Day 2001 was 58.789 million. Northern Ireland therefore constitutes 2.87% of the total UK population. The age structure of the Northern Ireland population is the youngest in the UK. Children aged under 16 represent 24% of the Northern Ireland population compared to 20% in the UK as a whole. Furthermore, 54.6% of the population are under the age of 35. Conversely, Northern Ireland has proportionately fewer people of pensionable age (16% of the population) compared to the UK (18%). In Northern Ireland, only 12.8% of the population are aged over 65 years, compared with 15.7% for the UK as a whole, and an EU average of 15.8% (NISRA 2001). Mid-year estimates from NISRA for 2006 estimated that the population of Northern Ireland was 1,741,619 in total, with 853,404 males and 888,215 females.<sup>18</sup>

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<sup>18</sup> Available online at: <http://www.nisra.gov.uk/>

### **3.2 Religion/Belief**

The second report of the 2001 Census was published on the 19th December 2002. The report provided information on the religious breakdown of the population which was recorded in 2001 as 43.76% Catholic and 53.13% Protestant.

In Northern Ireland in 2001 233,853 individuals did not state their religion (over 13.8% of the population) while 59,234 indicated that they were of no religion. In total therefore in 2001 293,087 individuals in Northern Ireland indicated that they were either of no religion or they did not document their religion (NISRA 2001). In terms of the Census data however, all of these individuals are assigned a religion regardless of whether or not they have indicated one. There are two methods, the principal method involving the direct question and if this is not answered by the respondent a secondary, residuary method is applied. This involves using a person's name, school, address or membership of any organisations to make an informed "guess" as to which religious community he/she belongs to. Therefore, there exists the situation in Northern Ireland where an individual may come from a Protestant or Catholic community background (parents and extended family primarily) but themselves may be of no religion or do not identify with a specific community background, but they will be assigned a religion/community background for the purposes of the Census.

### **3.3 Minority ethnic statistics/estimates**

The 2001 Census recorded that there were 14,279 persons of an ethnic minority background living in NI (including Irish Travellers), or 0.8% of the population. However, these figures relating to the numbers of minority ethnic individuals living in Northern Ireland are likely to under represent the situation particularly given the fact that the census occurred before the accession of the A8 countries in May 2004 and Romania and Bulgaria (A2) from 2007. These figures will be updated later in the report.

According to the statistics relating to the 2001 Census, although females are in the majority for the white population, (51.3% compared to 48.7%), the majority of other ethnic groups noted have proportionately more males than females. For example, in

2001 the Black population in Northern Ireland<sup>19</sup> was categorised as being 56.3% male and 43.7% female and the Asian population was recorded as 52.9% male and 47.1% female.

Overall, NISRA estimates of direct international in-migration have risen in absolute terms from around 7,000 people per annum in 2000/2001 to 18,000 people in 2005/2006 (NISRA 2007c).

### **3.4 Disability statistics**

The 2001 Census indicated that 179,660 individuals recorded that they were “not in good health” (NISRA 2001). Results from the Northern Ireland Survey of people with Activity Limitations and Disabilities (NISALD) show that 18% of the Northern Ireland population of all ages living in private households face limitations in their daily living as a consequence of a disability or long term condition. Almost two out of every five households in Northern Ireland include at least one person with a limiting disability with over one-fifth (21%) of adults in Northern Ireland having at least one disability. Amongst children, 6% are affected by a disability (NISRA 2007a).

There is a clear increase in disability with age, rising to 60% amongst those aged 75 and above. Indeed, amongst the very elderly, aged 85 and above, two-thirds are living with a disability or disabilities. Females, generally, have a higher prevalence of disability than males. Almost one-quarter (23%) of adult females living in Northern Ireland households indicated that they had some degree of disability, compared with around one-fifth (19%) of adult males (NISRA 2007a).

However, amongst the very youngest within Northern Ireland’s households, the prevalence of disability is higher amongst boys than amongst girls. Around 8% of boys aged 15 and under were found to have a disability, compared with 4% of girls of the same age (NISRA 2007a).

The most common types of disabilities reported by adults were associated with chronic illnesses, pain, mobility difficulties and dexterity difficulties. Amongst

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<sup>19</sup> Unfortunately this categorisation is applied and no difference is made between different ethnic groups such as Black African, Black Caribbean and so on.

children, the most common types of disabilities were linked with chronic illnesses, learning difficulties and social / behavioural difficulties (NISRA 2007a).

The impact of the Troubles and the violence has undoubtedly had an effect on the mental and physical-well being of a significant number of the Northern Ireland population given that more than 40,000 individuals were physically injured or maimed as a result of the conflict (Morrissey and Smyth 2002: 3). In their study involving approximately 1200 participants, Morrissey and Smyth found that 390 individuals (around 30% of the sample) suffered from the symptoms of Post Traumatic Stress Disorder (PTSD) (Morrissey and Smyth 2002: 125). Although research has documented that males were overwhelmingly both the victims and perpetrators of Troubles related violence in Northern Ireland and 91% of those killed during the conflict were male (Morrissey and Smyth 2002), Morgan (1996) argues:

*The long-term impact and consequences of violence for individuals and families has probably weighed most heavily on women, especially in terms of bereavement and separation (Morgan 1996).*

This will be discussed later in the report in relation to the disproportionate role of women generally as carers for members of their family in Northern Ireland.

### **3.5 Labour market activity**

According to the 2008 “Labour Market Bulletin” from the Department for Employment and Learning (DEL), the Northern Ireland unemployment rate in 2007 was between 4 to 4.5% and was lower than the EU 27 average of 7% and the UK average of 5%. The report also highlighted that in 2007, 779,000 people in Northern Ireland were in employment, the highest ever on record with an employment rate around 70%. The report suggests that this growth was underpinned by the arrival of increasing numbers of migrant workers in Northern Ireland, an issue which will be discussed in more detail later in the report. As of October to December 2007 Northern Ireland’s unemployment rate was 4.2% compared to 5.2% in the UK as a whole and 6.9% in the EU 27 countries (DEL 2008).

## 4. Legislative Framework

This section documents the more recent developments within Northern Ireland with particular reference to the signing of the Good Friday/Belfast Agreement<sup>20</sup> in 1998 and subsequent establishment of the Equality Commission for Northern Ireland (ECNI) as well as the Northern Ireland Act 1998 which under Section 75 expanded equality measures in Northern Ireland. This section also discusses the existing anti-discrimination legislation, including law introduced as a result of the implementation of a variety of EU Directives in this area, as well as some of the relevant provisions of human rights law.

### 4.1 Good Friday/Belfast Agreement

The paramilitary ceasefires in 1994 and ongoing peace process which led to the signing of the all-party Good Friday/Belfast Agreement in 1998 opened up the Northern Ireland economy to potential investment, particularly from the private sector and trans-national companies who for years had “opted out” of investing in Northern Ireland as a result of the conflict. The Equality Commission for Northern Ireland in their 2007 report “*Statement on Key Inequalities in Northern Ireland*” reported that:

*Northern Ireland’s economy grew faster than that of any other UK region in the 1990s, with the creation of over 100,000 jobs and unemployment levels falling considerably (3.7% unemployment rate, July 2007) (ECNI 2007a: 8).*

Not only did the ceasefires create the opportunity for increasing inward investment in Northern Ireland, furthermore the 1998 Agreement signalled a commitment by all of the signatories to an agenda increasingly focused upon equality and human rights. Section 1 (V) of the Agreement states that the British government will:

*Affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their*

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<sup>20</sup> Although the document was officially termed the Agreement, it is usually referred to as the Good Friday or Belfast Agreement, hence the terminology used within this report.

*identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities* (The Agreement 1998: Section 1 V)

The Agreement also contains safeguards to prevent the dominance of one community over the other. The Agreement further committed the parties to the promotion of “equality of opportunity” and for the first time provided a statement of intent with a view to creating a statutory obligation in this regard:

*...on public authorities in Northern Ireland to carry out all their functions with due regard to the need to promote equality of opportunity in relation to religion and political opinion; gender; race; disability; age; marital status; dependents and sexual orientation* (The Agreement 1998).

## **4.2 Formation of the Equality Commission**

Section 5 (e) of the Agreement provided for the establishment of an Equality Commission for Northern Ireland to monitor a statutory obligation to promote equality of opportunity in specified areas and parity of esteem between the two main communities, and to investigate individual complaints against public bodies. The Equality Commission was established under Sections 73 and 74 of the Northern Ireland Act (1998), and was formally constituted on 1<sup>st</sup> October 1999 when the Commission took over all the functions previously performed by the Fair Employment Commission, the Equal Opportunities Commission for Northern Ireland, the Commission for Racial Equality for Northern Ireland and the Northern Ireland Disability Council.

The Equality Commission’s main duties and functions include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting affirmative/positive action;
- promoting good relations between people of different racial groups;

- overseeing the implementation and effectiveness of the statutory duty on public authorities; and
- keeping the relevant legislation under review.

Another key aspect of the ECNI's duty is to provide legal advice and assistance to individuals in respect of their potential rights under the legislation. ECNI deal with general legal enquiries, complaints and applications for assistance as well as ongoing legal representation in respect of assisted cases both in industrial and Fair Employment tribunals. In the event that a complainant decides to pursue their complaint by way of litigation, they may wish to apply to the Commission for legal assistance with their claim.

The Fair Employment and Treatment (NI) Order 1998 (FETO) requires the ECNI to “*identify and keep under review patterns and trends of employment and of occupations in Northern Ireland*” and requires it to keep itself informed about complaints to the Fair Employment Tribunal (art, 10). (233)

### **4.3 Section 75: Mainstreaming Equality**

The Northern Ireland Act (1998) Section 75 (1) imposes a duty on public authorities, when carrying out functions with reference to Northern Ireland to have due regard to the need to promote equality of opportunity (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; (b) between men and women generally; (c) between persons with a disability and persons without; and (d) between persons with dependents and persons without.

Section 75 and Schedule 9 to the Northern Ireland Act 1998 came into force on the 1st January 2000 and therefore placed a statutory obligation on public authorities in carrying out their various functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity. Section 75 (2) further states that:

*Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability*

*of promoting good relations between persons of different religious beliefs, political opinion or racial group*<sup>21</sup>.

It should be noted that Section 75 applies only to Northern Ireland, it is not UK wide. There are nine categories listed under Section 75 which are religious belief, political opinion, racial group, age, marital status, sexual orientation, gender, disability and existence or not of dependents (Beirne 2003: 221). These categories have their roots in the 1993 Policy Appraisal and Fair Treatment Guidelines (PAFT), however it was decided that these guidelines were not enough, legislative requirements were needed. Beirne (2003) has highlighted that there have been campaigns by a number of groups to increase the list to include ex-prisoners, people of differing social classes, and rural or urban abode, all of which cannot currently be argued upon on the basis of the Section 75 statutory requirement.

The ECNI have been responsible since the 1<sup>st</sup> January 2000 for ensuring that all public bodies have due regard for their statutory obligations as documented under Section 75 of the Northern Ireland Act 1998<sup>22</sup>. The statutory obligations are implemented through Equality Schemes, approved by the Equality Commission, and by screening and carrying out Equality Impact Assessments (EQIAs<sup>23</sup>) on policies.

#### **4.4 Anti-discrimination provisions<sup>24</sup>**

The legislative framework in Northern Ireland includes a comprehensive set of legal provisions in the area of equality and non-discrimination. These go beyond discrimination in “traditional” areas such as employment and include, for example, access to goods and services, provision of training and education. Some – such as legislation relating to discrimination based on sexual orientation – have been introduced as a direct effect of EU Directives, others have been amended to comply with EU minimum standards.

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<sup>21</sup> See also Beirne (2003: 219).

<sup>22</sup> Since 2001 part-time employees (those working less than sixteen hours per week) have also been monitored (ECNI 2008: 3).

<sup>23</sup> EQIAs are designed to screen for any adverse impact that policies may have on the Section 75 groups.

<sup>24</sup> This section is, with some exceptions, based on information provided by the Equality Commission for Northern Ireland ([www.equalityni.org](http://www.equalityni.org)) and has been written by Agnieszka Martynowicz, who also contributed to the conclusions of the report.

The main pieces of legislation are discussed below, with a comprehensive list of all equality and anti-discrimination legislation included in Appendix A to the report.<sup>25</sup>

### *Gender*

The longest-standing piece of legislation relating to the prohibition of discrimination in Northern Ireland is the *Equal Pay Act (Northern Ireland)*, introduced in 1970. Provisions of the Act, as amended by subsequent legislation, guarantee equality for women in relation to pay for work: **like** that of a man; **rated as equivalent** to that of a man or **work of equal value** to that of a man.

The provisions of the Act apply to all men and women, regardless of age, not only in relation to remuneration but also in relation to other conditions and terms of employment. These include pensions, performance related pay (including bonuses), concessionary travel, share options, holiday pay and leave entitlement. The Act guarantees rights to employees and other workers (for example, those who are self-employed but are contracted to fulfil a contract).

Discrimination based on gender has been outlawed in Northern Ireland by the *Sex Discrimination (Northern Ireland) Order (1976)*, later amended by, among other laws, the *Employment Equality (Sex Discrimination) Regulations (Northern Ireland) 2005*.

The law on sex discrimination makes unlawful less favourable treatment based on the grounds of sex<sup>26</sup> or marital status in:

- a) employment;
- b) training and related activities;
- c) education;
- d) sale and management of premises and
- e) the provision of goods, services, facilities or premises.<sup>27</sup>

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<sup>25</sup> This chapter is, with some exceptions, based on information provided by the Equality Commission for Northern Ireland ([www.equalityni.org](http://www.equalityni.org)).

<sup>26</sup> The *Gender Reassignment Regulations (Northern Ireland) 1999* amended the Order, making unlawful discrimination in employment and training on the basis of gender reassignment. The *Sex Discrimination (Amendment of Legislation) Regulations 2008* provide similar protection in relation to the provision of goods, facilities, services and premises.

The sex discrimination legislation covers a number of types of unlawful behaviour:

- **direct discrimination** – when the person is treated less favourably than other persons in the same or similar position, and this differential treatment is based on the person’s sex or marital status;
- **indirect discrimination in employment** – where a provision, criterion or practice is applied or would be applied equally to men and women *but* in practice puts or would put women at particular disadvantage when compared with men; puts women at this disadvantage and cannot be shown to be proportionate means to achieve a legitimate aim (for instance, for reasons of safety);
- **indirect discrimination in the provision of goods, facilities and services** – where a provision, criterion or practice is applied or would apply equally to men and women but in effect disadvantages a considerably larger proportion of persons of one sex; cannot be justified by objective factors relating to sex and acts to the person’s detriment;
- **victimisation** – when a person is treated less favourably as a result of her bringing proceedings under sex discrimination or equal pay legislation; giving evidence or information in connection with such proceedings; alleging unlawful behaviour under the legislation or as a result of her intention to do any of the above;
- **discrimination due to pregnancy/maternity** – when a person is treated less favourably in employment or training on the grounds of pregnancy or taking a maternity leave; and
- **sexual harassment** – when a person is subject to unwanted conduct which has the purpose or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Complaints on sexual harassment can be lodged against the harasser, as well as the employer (the latter being liable even when they did not know about the offending behaviour of an individual employee);

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<sup>27</sup> The legislation allows for certain exceptions, in particular those related to genuine job requirements; acts relating to participation in sporting events; acts relating to some insurance policies; acts relating to provision of communal accommodation; in relation to the protection of women during pregnancy. It also allows for affirmative action/positive discrimination in certain circumstances.

- *discriminatory advertisements.*

The sex discrimination legislation has a very wide area of application and creates protection against behaviour of employers, as well as recruitment agencies; sub-contractors; trade unions and employer organisations; bodies which confer qualifications; vocational training providers; bodies or individuals that have a statutory power to select employees for others; those who select office holders; office holders; barristers and partnerships. Certain protections offered by sex discrimination legislation may extend to former employees.

Examples of discrimination in education prohibited by the legislation include discrimination in terms offered for admission to an educational establishment; refusal of admission; discrimination in access to facilities or services provided to students of a particular establishment; or any other unfavourable treatment.<sup>28</sup> The legislation also outlaws discrimination in the sale or management of properties or premises, for instance it would be unlawful for a landlord to refuse to rent premises to a person because they are of a particular sex.

Complaints of discrimination based on sex are considered by an industrial tribunal (when relating to employment) and by county court (in relation to other complaints).

### *Disability*

The protection from discrimination on the basis of disability is ensured in Northern Ireland in accordance with the provisions of the *Disability Discrimination Act (DDA)* (1995), amended subsequently by a number of pieces of legislation, not least the *Special Educational Needs and Disability Order (Northern Ireland) (SENDO)* (2005).<sup>29</sup> While covering the areas of employment, education and training, as well as access to goods, services and premises, the legislation also creates a positive duty on employers and service providers to make ‘reasonable adjustments’ to enable the person’s employment or access to other means.

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<sup>28</sup> Single-sex schools are exempted from the legislation.

<sup>29</sup> For a full list of legislation relating to this area please see: Appendix A.

The DDA and SENDO cover a number of types of discrimination against persons with disabilities:

- ***direct discrimination*** – this occurs when, on the grounds of the person’s disability, they are treated less favourably than a person not having that particular disability whose relevant circumstances, including his/her abilities, are the same as, or not materially different from, those of the disabled person;
- ***disability related discrimination*** – applicable to complaints of discrimination in employment, vocational training, education and the provision of goods, facilities, services or premises. This type of discrimination is defined as one that occurs when, for a reason related to a person’s disability, such person is treated less favourably than other people to whom the reason does not or would not apply, and this treatment cannot be materially and substantially justified;
- ***failure to make reasonable adjustments*** – type of discrimination occurring when an employer or service or education provider fail to comply with a duty to enable the person to access employment or service;
- ***victimisation*** – when the person is subject to less favourable treatment because they have complained about disability discrimination or have assisted someone else to do so;
- ***harassment*** – where, for a reason related to the person’s disability, he or she is subjected to unwanted conduct which has the purpose or effect of violating the disabled person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

In relation to employment, the DDA applies to all employers and makes it unlawful to discriminate in:

- recruitment and selection;
- the terms and conditions of employment;
- the opportunities offered in relation to promotion, transfer, training or any other benefits.

It is also unlawful for an employer to dismiss a person because of their disability, or cause any other detriment, or to harass an employee for reasons relating to the person's disability. Employers are also prohibited from placing job advertisements that would suggest that they will/would discriminate against a person with a disability.

Under DDA, employers<sup>30</sup> are required to make such adjustments as are *reasonable* so that employment arrangements/workplace arrangements do not place a disabled person at a *substantial* disadvantage when compared to non-disabled co-workers. The duty to make reasonable adjustments encompasses provision of training, mentoring or support to enable the person to take up employment. It also encompasses the need to alter the hours of work as required, allow for absences for rehabilitation/treatment; re-allocation of minor duties, etc.

The legislation makes it unlawful for the providers of goods, services or premises to discriminate against people with disabilities, in particular by refusing to provide a service; failing to make a reasonable adjustment that would enable the disabled person to use the service; providing a lower standard of service to the person with a disability or altering the terms on which such service is provided.

The DDA and SENDO provide a number of protections in relation to discrimination in education. In particular, the legislation makes it unlawful for the body responsible for a school or other educational facility (including FE colleges) to discriminate against a disabled person in relation to admission or provision of services to pupils. Additionally, SENDO placed a number of duties on such bodies in relation to reasonable adjustments, which in education encompass physical features, as well as policies and practices of particular institutions or bodies. The DDA also makes it unlawful for public authorities to discriminate against persons with disabilities, or to subject them to harassment in the course of carrying out any of its functions.

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<sup>30</sup> The legislation also applies to: trade organisations; bodies that confer qualifications; providers of work placements; partnerships; contract workers; barristers; councillors; trustees and managers of occupational pension schemes, and office holders.

### *Race*

Discrimination on the grounds of colour, race, nationality or ethnic or national origin is made unlawful in Northern Ireland by provisions of the *Race Relations (Northern Ireland) Order (1997)* (the RRO), amended in 2003 by the *Race Relations Order (Amendment) Regulations (Northern Ireland)* (the Regulations). The RRO prohibits discrimination in the fields of employment, education, sale or management of property or premises, as well as in access to goods, services or premises. The RRO specifically identifies the Irish Traveller community as a racial group protected under the legislation, and states that any segregation on racial grounds constitutes discrimination.

As is the case in the provisions mentioned earlier in this section, the RRO covers a variety of types of discrimination:

- ***direct discrimination*** – in cases when a person is treated less favourably than others on account of their race, colour, nationality or ethnicity;
- ***indirect discrimination*** – defined in the legislation separately for claims of discrimination based on race, national or ethnic origin and for claims based on colour or nationality;
- ***victimisation*** – in cases when a person is treated less favourably than other because they made a complaint in relation to race discrimination or they have assisted someone else to do so; and
- ***harassment*** – in cases when a person is subject to an unwanted conduct based on race or ethnic or national origins, with the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Complaints of racial harassment can be made against the harasser, as well as against his/her employer.

Discrimination in employment on account of race is prohibited equally in relation to persons who are employees, as well as in recruitment and selection (prior to

employment).<sup>31</sup> Similarly, such discrimination is outlawed in relation to the provision of education, as well as the provision of goods, facilities or services.

The RRO includes some important exceptions from the principle of race discrimination. While the scope of this report does not allow for detailed discussion of all exceptions, it is worth mentioning that they include, among others:

- a) access to facilities or services which meet the special needs of racial groups with regard to their education, training or welfare; or in relation to the provision of education or training for persons not ordinarily resident in Northern Ireland;
- b) certain restrictions based on nationality or residence or length of residence in the UK with regard to employment by the Crown;
- c) certain judicial and legislative acts; and
- d) certain acts in immigration cases.

The RRO makes provision for positive action in favour of members of a particular racial group, when such action enables them to particular work, training, education or services, and where a particular racial group is under-represented or absent.

### *Religion and political belief*

The *Fair Employment and Treatment (Northern Ireland) Order 1998* (FETO) makes unlawful any discrimination based on the person's religious belief and/or political opinion in the area of employment; in the provision of goods, facilities and services; in further and higher education, as well as in the sale and management of land or property.<sup>32</sup>

FETO prohibits four types of discrimination:

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<sup>31</sup> Except in cases where the employer can show that the person's race or ethnic or national origin is a genuine and determining requirement of the job or is a genuine occupational qualification (GOQ).

<sup>32</sup> Following amendment in 2003, the provisions of FETO meet the requirements of the EU Framework Directive for Equal Treatment in Employment and Occupation.

- **direct discrimination** – when a person is or would be treated less favourably than others in the same or similar position because of that person’s religious belief and/or political opinion;
- **indirect discrimination** – applicable in cases when a provision, criterion or practice is or would be applied equally to everyone *but* in effect puts people of particular religion or political opinion at a disadvantage, and such actions cannot be shown to be a proportionate means of achieving a legitimate aim;
- **victimisation** – when a person is treated less favourably than others because she/he brought proceedings under the FETO; testified in other case brought under the legislation; or intends to do any of the above or take any other action under the legislation;
- **harassment** – when a person is subjected to unwanted conduct which has the purpose or effect of violating the person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

In relation to employment, FETO protects equally persons already in employment, as well as during recruitment and selection. Employers are directly liable for actions of their employees, unless the employer can show that he took steps that could be reasonably practicable to prevent the discrimination occurring.<sup>33</sup>

FETO also outlaws discrimination in further and higher education, by prohibiting less favourable treatment on grounds of religion and/or political belief in relation to the terms in which a university or other institution offers to admit a student; in the way it affords students access to benefits or services; by excluding a student or subjecting to him/her to any other detriment or by subjecting a student to harassment.

Additionally, FETO guarantees equal access to goods, services, and facilities, and prohibits publication of discriminatory advertisement – either in connection with employment opportunities, or access to any other type of service protected under the legislation.

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<sup>33</sup> FETO contains some important exceptions in the area of employment. For instance, it does not cover clergymen and ministers of religion. More controversially, it does not apply to the recruitment of school teachers.

As mentioned in previous section of the report, FETO places a number of duties on employers. These requirements, for historic reasons are unique to Northern Ireland and are not found in legislation operating in any other part of the UK. They include: the requirement on all private employers to register with the Equality Commission if they employ ten or more people; the requirement to provide the Commission with monitoring information; and – in the case of large employers with staff exceeding 250 (including public sector employers) - the requirement to provide the Commission with details of all those who were promoted or who left employment in a given year. The Equality Commission for Northern Ireland has the power to investigate employment practices of any employer at any time.

### *Sexual orientation*

Discrimination in employment, as well as in education and the provision of goods, facilities and services, is prohibited in Northern Ireland by the provisions of the *Employment Equality (Sexual Orientation) Regulations (NI) 2003* and the *Equality Act (Sexual Orientation) Regulations (NI) 2006*. Similarly to other legislation described above, the Regulations in their application cover ***direct discrimination, indirect discrimination, victimisation and harassment***.

In relation to employment, the Regulations cover all employees, as well as agency workers and office holders.<sup>34</sup> In accordance with the Regulations, it is unlawful for an employer to discriminate:

- in recruitment and selection;
- in terms and conditions of employment;
- in access to promotion, transfer, training or any other employment-related benefits;
- by dismissing an employee or causing them any other detriment on the grounds of their sexual orientation.

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<sup>34</sup> The application of the Regulations also extends to: vocational organisations (trade unions and professional bodies); employment agencies; bodies that confer qualifications; providers of vocational training; partnerships; contract workers; police and police bodies; barristers; trustees and managers of occupational pension schemes; institutions of further and higher education.

The Regulations outlaw discrimination in further and higher education, by prohibiting less favourable treatment on grounds of sexual orientation in relation to the terms in which a university or other institution offers to admit a student; in the way it affords students access to benefits or services; by excluding a student or subjecting to him/her to any other detriment or by subjecting a student to harassment. Unlike in the case of FETO, this prohibition extends to schools of all levels.

The Regulations include provisions prohibiting any public authority from discriminating against a person on the basis of his/her sexual orientation, or subjecting such a person to harassment in the course of carrying out any functions of the authority.

It is worth noting that the Regulations provide an exemption for religious organisations, unless they are an organisation with a commercial purpose or constitute an educational body.

### *Age*

Age discrimination legislation, introduced in 2006, is the ‘youngest’ piece of anti-discrimination law in Northern Ireland. The *Employment Equality (Age) Regulations (Northern Ireland) 2006* prohibit discrimination in employment, vocational training and further and higher education. They **do not** extend to the provision of goods and services, or any other area. Similarly to other legislation mentioned in this section, the Age Regulations in their application cover ***direct discrimination, indirect discrimination, victimisation and harassment***.

The Age Regulations outlaw discrimination against existing employees, as well as job applicants. It is unlawful, therefore, for an employer to discriminate:

- in recruitment and selection;
- in terms and conditions of employment;
- in access to promotion, transfer, training or any other employment-related benefits;

- by dismissing an employee or causing them any other detriment on the grounds of their age.<sup>35</sup>

In relation to vocational training, providers of such training are not allowed to discriminate in access to training; by refusing training to persons of certain ages; terminating training because of the person's age or subjecting a trainee to harassment. Similarly, institutions providing further and higher education are prohibited from discriminating in access or provision of services to pupils on grounds of their age.

The Age Regulations allow for some lawful exceptions. These include, for example, the exception on the basis of genuine occupational requirement; exception for retirement and exception for provision of certain benefits based on length of service. The Age Regulations do not apply at all to service in the army, navy or air force.

#### *Non-discrimination provisions of the Human Rights Act 1998*

The Human Rights Act 1998 (HRA, came into force in 2000) incorporates into the UK law the provisions of the European Convention on Human Rights (ECHR), and its Protocols.<sup>36</sup> The HRA incorporates Article 14 (prohibition of discrimination) but, similarly to the practice of the ECHR, non-discrimination on this basis is only guaranteed in relation to the rights protected by the Convention. The UK Government has so far refused to sign the Twelfth Protocol to the ECHR, introducing a self-standing right to freedom from discrimination.

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<sup>35</sup> The Age Regulations also prohibit discrimination on the basis of age by: trade organisations; employment agencies; bodies that confer professional qualifications; people providing vocational trainings or services; partnerships; people for whom work is done under contract; police and police bodies; barristers; trustees and managers of occupational pension schemes; institutions of further and higher education; persons who appoint office holders; persons with statutory power to select employees for others; government departments and agencies.

<sup>36</sup> The HRA incorporates: Articles 2 to 12, and Article 14 of the ECHR, as well as rights and freedoms guaranteed by Articles 1-3 of the First Protocol and Articles 1 and 2 of the Sixth Protocol.

## **5. Statistical Information**

The following section focuses on the six forms of discrimination as defined by the Amsterdam Treaty of 1999 which include age; race; gender; religion or belief; disability and sexual orientation and provides an overview of statistical data relating to each of the six forms of discrimination in Northern Ireland in relation to education, employment, participation in civil society, reports of discrimination, societal attitudes, police statistics on hate crime, fair employment and industrial tribunal statistics and other relevant information.

### **5.1 Age**

The report has previously highlighted that the Northern Ireland population is the youngest in the UK. Children aged under 16 represent 24% of the Northern Ireland population compared to 20% in the UK as a whole while 54.6% of the population are under the age of 35. According to the National Society for the Prevention of Cruelty to Children (NSPCC), the most recent mid-year estimates for 2005 in the key indicators for personal and social services for Northern Ireland highlight that the population of children under 18 decreased between 2001 and 2005 from 451,514 to 436,785. Children under the age of 18 years old therefore make up approximately 25% of the population in Northern Ireland (NSPCC 2007). In Northern Ireland, only 12.8% of the population are aged over 65 years, compared with 15.7% for the UK as a whole (NISRA 2001).

### **Education**

According to the 2001 Census, age had a substantial effect on the highest educational qualification achieved by either men or women. The proportion of both men and women with no qualifications increased with age. For example, while in the 20 to 24 age group, 13.7% of men and 8.1% of women had no qualifications, in the 55 to 59 year old age group the respective figures had increased to 69.1% and 68.3% (ECNI 2006a: 32). Age also appeared to be an important factor related to the achievement of a Higher Level qualification with the highest levels recorded in the 25 to 29 age group for both men and women (26.8% and 31.8% respectively).

## Employment

A report published by the ECNI in 2008 indicated that a difficulty in obtaining employment was perceived as the main work-related issue facing both younger (54%) and older respondents (47%).<sup>37</sup> Two other issues for younger people were meeting the essential criteria when applying for a job (35%) and the National Minimum Wage (25%) (ECNI 2008a). A survey carried out by ECNI illustrated that of respondents who were between 16 and 29 years, 74% were put off applying for a job as they considered the amount of required experience was excessive (ECNI 2008a). These trends tend to be borne out by the statistics. Unemployment figures were much higher for the 18 to 24 year old group at 10.8% between October and December 2007 compared to just 2.9% of the 25 to 49 year old age group (DETINI 2008).<sup>38</sup>

Between October and December 2007, 59.4% of the population over the age of 16 were economically active. The highest economic activity rate was perhaps not surprisingly found for the 25 to 49 age group at 82% while the lowest rate of economic activity was for the over 60 age group at 9.5%. In the 50 plus age group, males were much more economically active than females, a theme that will be eluded to again later in the report. For example during the same period of time, 41.5% of males over 50 years old were economically active compared to just 26.7% of females (DETINI 2008).<sup>39</sup>

According to the ECNI:

*Proportion of both males and females who were economically inactive due to permanent sickness or disability tended to increase with age (ECNI 2006: 25).*

## Elderly/Youth Care Provision

The “*Children Order Statistical Bulletin*” published by the Department of Health, Social Services and Public Safety (DHSSPS 2006a) and Tables (DHSSPS 2006b) provide information on child protection statistics for the financial year 2005/2006. According to the report, during this period of time 19,391 children were referred to

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<sup>37</sup> Young refers to the 18 to 29 age group and older refers to individuals over 50 years of age.

<sup>38</sup> The sample size for individuals over 50 years of age was too small to reliably use. See <http://www.detini.gov.uk/cgi-bin/downdoc?id=3441>

<sup>39</sup> Available online in table format at <http://www.detini.gov.uk/cgi-bin/downdoc?id=3434>.

social services a total of 29,158 times. Of the children referred in 2005/2006, 52% were male and 48% female, while a further 6.4% of the children referred had a disability.

The DHSSPS also document how many children in Northern Ireland are living in care. According to statistics accurate to 31<sup>st</sup> March 2006, 2,436 children were being looked after in care, 53% (1,285) were male and 47% (1,151) female. According to the report in Northern Ireland the proportion of children in care who are placed in foster care (62.5%) is lower than the equivalent figures in England (70%) and Wales (74%) but higher than in Scotland (29%). As of the 30<sup>th</sup> September 2006, there were 52 children's statutory homes in Northern Ireland providing 385 places (DHSSPS 2006a).

The report further indicates that a significant proportion of school age children placed in care (22%) in 2003 had a statement of special needs (SEN). This compares with 27% for the same group in England and constitutes 4% of the total school population in Northern Ireland.<sup>40</sup> Only 57% of care leavers whose economic activity was known were in education, training or employment compared to the Northern Ireland average of 91% of all 16 to 18 year olds. Other research found:

*The proportion of care leavers (11%) achieving five or more GCSE grades A\* - C or higher compares very badly with that of all Northern Ireland school leavers, 59% of whom attain these grades (NSPCC 2007: 10).*

In terms of persons over the age of 65 years in care homes, statistics indicate that in total in 2000/2001, 8,461 individuals over the age of 65 years old were in homes, 3,421 persons in residential homes, and 5,040 in nursing homes (DHSSPS 2001).<sup>41</sup> Most recently published by the DHSSPS in 2007 were the Community Statistics for Northern Ireland, which indicate an increase in the numbers of elderly people in both residential and nursing homes in Northern Ireland. As of 31st March 2007, there were 189 residential homes for elderly people in Northern Ireland, providing 3,945 places. There were 15,194 elderly people in Northern Ireland benefiting from care

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<sup>40</sup> See DHSSPS OC1 OC2 and OC3 collections.

<sup>41</sup> See [http://www.dhsspsni.gov.uk/he-appendix\\_5.pdf](http://www.dhsspsni.gov.uk/he-appendix_5.pdf)

management as of 31st March 2007, over two fifths (6,444) of whom were in nursing homes (DHSSPS 2007). Research by the Northern Ireland Human Rights Commission in 2004 found serious concerns over breaches of older patients human rights in the level of care they received (NIHRC 2004).

### **Attitudes/Perceptions**

The ECNI (2008) have highlighted negative assumptions about the capacity of older people, even with the introduction of the Employment Equality (Age) Regulations (NI) in 2006. Similar surveys have revealed the perceptions of barriers to both education and employment. In the last year that the question was included in the Northern Ireland Life and Times survey (NILT)<sup>42</sup>, 66% of respondents felt that people aged 40 to 59 were treated worse by prospective employers when seeking work (ARK 2004). The NILT for 2004 found that 9% of respondents reported that a friend or a family member had been treated worse than their younger work colleagues. Similarly, research has suggested that 70% of younger respondents were of the view that the different rates of payment for young people in terms of National Minimum Wage between the ages of 16 and 22 were unfair (ECNI 2008a).

The ECNI report also indicated that 17% of respondents felt that a lot of age discrimination still exists in the workplace, while a further 59% indicated they did not know if this was the case (ECNI 2008a). The report highlights that much fewer people in Northern Ireland felt that employers may discriminate with age (4%) when compared to research in Great Britain in 2007 which indicated that 59% of workers claimed to have witnessed ageist behaviour in the workplace during the course of the last year. Given that the research was conducted only six months after the introduction of the new Age Regulations in October 2007:

*Awareness of what constitutes age discrimination may still be relatively limited (ECNI 2008a: 5).*

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<sup>42</sup> The Northern Ireland Life and Times Survey was launched in October 1998. The survey puts on record the attitudes, values and beliefs of the people in Northern Ireland to a wide range of social policy issues.

Concerns have been raised as to the social inclusion (or rather exclusion) of older people within Northern Ireland in recent years. Over 80,000 older people in Northern Ireland live alone (NISRA 2001), with the Equality Commission outlining that their social isolation is caused by a number of factors which include the lack of affordable transport, differentials in access to health and social care and to financial services (ECNI 2007a: 20). The ECNI further note the difficulties facing older women particularly as their participation in society is constrained by pensioner poverty since most of the current pension schemes are based on the traditional models of work (and ignoring the upbringing of children) (ECNI 2007a: 20).

### **Tribunals**

Data from the ECNI (2007) would appear to reveal that age is becoming an issue of increasing importance. During the first thirteen months of the Age Regulations being in force (October 2006 – November 2007), the Commission received 277 enquiries relating to age discrimination, or 9% of the total number of inquiries during that period (ECNI 2007a).<sup>43</sup> A recent case of an industrial tribunal has indicated the success of the implementation of the Employment Equality (Age) Regulations (Northern Ireland) on the 1st October 2006. The Equality Commission provided support to a man who was ruled to have been discriminated against as a result of his age and as a consequence the individual concerned was awarded £70,000 compensation.<sup>44</sup>

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<sup>43</sup> Available at: [http://www.equalityni.org/archive/pdf/AgeSurveyResearchUpdate\(F\)180608.pdf](http://www.equalityni.org/archive/pdf/AgeSurveyResearchUpdate(F)180608.pdf)

<sup>44</sup> The Tribunal drew an inference of discrimination from the use in the recruitment advertisement of the phrase “*youthful enthusiasm*” as the gentleman in question was 58 years old.

## 5.2 Race

Northern Ireland over recent years has undergone something of a transformation in terms of the increasing numbers of migrants coming to live and work here. This development has been partly linked to the peace process thanks to which Northern Ireland is proving to be a more attractive option as a viable place in which to live and work.

The number of members of ethnic minority communities is hard to ascertain. The 2001 Census statistics which documented the minority ethnic community as standing at just over 14,000 (NISRA 2001) cannot be relied upon as they are out of date and do not take into consideration developments since the accession to the EU of the A8 countries in May 2004 and the A2 countries (Bulgaria and Romania) in 2007.

The growing ethnic diversity is, however, evident in statistics for the 2006 School Census (DENI 2006) which indicate that during that year over 2,400 primary school children had a language other than English as their first language, with over 1,000 children having Polish and Lithuanian as their first language (45% of the total).

The Equality Commission have noted that the rate at which migrant workers have arrived in Northern Ireland over recent years is in part responsible for the lack of reliable statistical data on the numbers of new residents coming into Northern Ireland, their average period of residency and the numbers of migrant workers leaving the jurisdiction (ECNI 2006a: 15). A number of studies have identified the difficulties in establishing the exact numbers of new migrants residing in Northern Ireland (Bell et al 2004; Jarman 2006; McVeigh 2006; Jarman and Martynowicz 2008).

There have been some attempts by NISRA to provide accurate statistical data. Between July 2005 and June 2006 the estimated net international migration to Northern Ireland was 9,023 in total, 5,320 males and 3,703 females. Additionally it should be noted that over twenty per cent of the males and twenty five percent of females in these estimates are under the age of 18 (NISRA 2007c). This highlights first that increasingly migrants are likely to be families travelling to Northern Ireland, or family members joining existing migrants; and second that the relatively large

numbers of children will have to be acknowledged in particular with regard to educational provision and language support (Jarman and Martynowicz 2008: 5). Furthermore:

*The levels of international in-migration to Northern Ireland continue to rise. This is shown in figures gathered from administrative data sources [...]. Estimates of direct international in-migration have risen in absolute terms from around 7,000 people per annum in 2000/1 to 18,000 people in 2005/6. In addition there is likely to be some secondary foreign national migration through Great Britain (NISRA 2007c: 16).*

While there have been cases where immigration detainees have in the past been held in Maghaberry and Hydebank Wood prisons in Northern Ireland, individuals are now no longer held in such custody for immigration-related matters. Northern Ireland has no immigration detention centre, rather individuals since 2006 have been removed to such centres in Scotland or elsewhere in Great Britain. Immigration control in Northern Ireland, as a matter reserved for the UK government, is the responsibility of the UK Border Agency (UKBA) which is also responsible for publication of any statistics relating to this area. Figures relating to “asylum removals” are collected for the whole of the UK and do not include separate sections on immigration-related removals from Northern Ireland. The statistics for 2006 show that 16,330 people were removed, an increase of 19% on the previous year (Home Office 2007); when dependents are included in this number, this figure increases to 18,280.

The *Racial Equality Strategy* (2005) stresses that the ever-increasing diversity of the society can transform its character and that the presence of increasing numbers of members of ethnic and national minorities has ‘a genuinely leavening effect on a society that has long been frozen in its ‘two traditions’ divide’. It also recognises however that the long-standing sectarian divide which shaped communal relations requires actions that are specific to Northern Ireland and take that context into consideration (Jarman and Martynowicz 2008: 8). The pattern initially experienced of young males coming to live and work in Northern Ireland is increasingly being replaced by families now coming to live and work. The Equality Commission believes that this will extend the scope of the issues of concern to include health care, education and wider community engagement (ECNI 2006: 15).

### **Employment registration**

Between 1<sup>st</sup> May 2004 and 31<sup>st</sup> March 2007 a total of 605,000 people registered with the Worker Registration Scheme (WRS) in the UK<sup>45</sup>. Of these, just under 24,000 (4%) were working in Northern Ireland with around half registering for part-time employment (NISRA 2007c). Furthermore, between mid 2005 and mid 2006 8,700 people who were registered with the WRS were working in Northern Ireland. This represents an increase from the 7,200 people who registered in the mid 2004 to the mid 2005 period. The majority of people registered on the WRS in Northern Ireland (13,000) are from Poland (NISRA 2007c).<sup>46</sup>

NISRA (2007c) statistics show that between 1st April 2004 and 31<sup>st</sup> March 2006 there were just over 6,700 National Insurance Numbers issued to people from outside the UK and Ireland working in Northern Ireland (2.1% of the UK total). In terms of National Insurance registrations, just over 10,400 people arrived in the UK in the 2004/2005 financial year and registered for a National Insurance Number with a Northern Ireland address by the end of 2006. A8 countries accounted for roughly two-thirds of the new National Insurance Numbers allocated (NISRA 2007c: 6).

### **Labour Market activity**

In terms of the working age population of migrants in Northern Ireland, the latest Labour Force Survey estimate relating to the period between July and September 2007 recorded 44,000 non-UK or Irish nationals of working age, 39,000 of whom were in employment (89%). The Department for Employment and Learning estimated, therefore, that this figure equates to 5% of the Northern Ireland workforce as of mid-2007 (DEL 2008).

Recent figures from March 2008 would suggest that the main industrial sector for migrant workers was Administration, Business and Management which accounted for

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<sup>45</sup> The WRS was introduced in 2004 as a result of certain conditions placed on A8 nationals to allow them to work in the UK.

<sup>46</sup> For more detailed discussion of the estimated number of migrant workers in Northern Ireland, as well as their characteristics and the position of the labour market, see: Toucas, S. and Martynowicz, A. *Investigation into the Role of Employment Agencies and Employment Businesses in the Recruitment and Employment of Migrant Workers in Northern Ireland: A Literature Review* (Belfast: ECNI, forthcoming).

nearly 30% of all A8 employment.<sup>47</sup> Other sectors included manufacturing (which accounted for 17% of all employment of A8 nationals) and food processing and construction (which accounted for 13%). In Northern Ireland, the numbers of migrant workers employed in agriculture or catering were lower than the UK figures (DEL 2008: 83).

McVeigh (2006) suggested that there was widespread exploitation and abuse of migrant workers across Northern Ireland with the distinct possibility that the situation may get even worse, and that “*there was ample evidence of unlawful discriminatory practice by some companies in the recruitment agency sector*”. In 2003, research by the Institute for Conflict Research (Bell et al 2004) identified problems with racist harassment and discrimination in the workplace and elsewhere (for example in bars, shops and around their homes).

Bell et al (2004) further recorded a number of concerns in relation to employment practices. In particular, it highlighted the fact that often salaries paid to migrant workers did not reflect their professional skills and experience and problems faced by those hired by employment agencies in receiving payment for the work they have already done.

There is an increasing recognition that migrant workers are often employed in jobs well below the level of their skills and experience. Problems regarding recognition of relevant overseas qualifications and reluctance of employers to count relevant experience into the requirements of a particular position largely contribute to this situation (Holder et al 2006; Jarman and Martynowicz 2008: 13). In terms of perceived racism in employment, there were 88 cases of racial discrimination brought before the industrial tribunal between April 2004 and May 2005, an increase of 1.7% on the previous year (Office of the Industrial Tribunals and the Fair Employment Tribunal 2005) while more recently racial harassment in the work place has increased dramatically by 46% between 2006 and 2007 with the ECNI reporting an increase from 220 inquiries in 2006 to 321 inquiries in 2007 (ECNI 2007a).

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<sup>47</sup> The vast majority of workers in this category are those working through employment agencies and employment businesses (agency workers).

There has also been some recognition at the political level in recent times of the problems facing migrant workers, particularly those recruited by employment agencies. The Minister for Employment and Learning, Sir Reg Empey, stated in February 2008:

*Migrant workers, who are working here legally, have the same employment rights as all other workers. Many but not all migrant workers use the services of, or are employed by employment agencies. In the next couple of months I will bring forward a package of legislative measures before the Assembly to increase protections for all vulnerable agency workers (Sir Reg Empey speaking during a debate in the Northern Ireland Assembly, 5<sup>th</sup> February 2008)<sup>48</sup>.*

### **Education**

According to the ECNI in 2007, there is a lack of data on the numbers and educational attainment levels of children from black and minority ethnic communities (BME). The same report highlights the attainment levels of Traveller children, and of the 31 Traveller pupils measured at Key Stage 3 in 2004/2005, only 19% achieved level 5 or above in English compared to an average of 74% for all pupils. Similarly, at GCSE level 92% of the Irish Traveller community achieved no qualifications at all. The research identified the impact that the bullying of Irish Traveller children had on their high levels of non-attendance and the high drop-out rate for those over 14 years old, which in turn impacted upon their academic attainment levels (ECNI 2007a). Fear of bullying, perceived irrelevance of education and disillusionment were the main factors contributing to their exclusion from the education system (Connolly and Keenan 2000).

It has been reported that children of migrant workers face difficulties in accessing grammar schools in Northern Ireland and that problems with accessing academic selection result in systemic, indirect discrimination in education in relation to this group of pupils (Watts and McGaughey 2006; Jarman and Martynowicz 2008: 14).

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<sup>48</sup> <http://www.northernireland.gov.uk/news/news-del/news-del-february-2008/news-del-050208-migrant-worker-exploitation.htm>

There is a scarcity of quantifiable data on the performance of minority ethnic individuals who “have been through” the education system in Northern Ireland. Comparative research conducted in England however would indicate in terms of Further Education (FE) minority ethnic students do not do as well in degree performance as their white counterparts, even when background and other variables known to affect degree classification are considered (Institute for Employment Studies 2004). Similarly the report notes that overall, minority ethnic school leavers tend to have lower qualifications for university entry, with fewer numbers achieving A-levels and they are more likely to enter university from Further and Higher Education Colleges (Institute for Employment Studies 2004).

Research commissioned by the Department for Employment and Learning (DEL) attempted to develop a clearer understanding of race and ethnicity issues in the local FE sector. The report found that at six FE Colleges in Northern Ireland, 45% of full-time minority ethnic students had experienced some form of harassment at college, while 20% experienced it on weekly basis. A further 36% of the minority ethnic students spoken to felt it necessary to conceal parts of their ethnic background to fit in. The report recommended that the Colleges should constantly monitor policy and procedures to enable them to react quickly to any issues arising which impact upon the educational achievement of minority ethnic groups (DEL 2008: 113).

### **Attitudes**

Results from the Omnibus Survey published in January 2007 showed high levels of perceived prejudice towards migrant workers. The study indicated that 24% of respondents thought that people were very prejudiced towards migrant workers, with a further 60% stating that people in Northern Ireland are ‘fairly prejudiced’ (NISRA 2007b).

Indeed, surveys on overall attitudes to minority ethnic individuals provide interesting reading. The NILT survey in 2006 indicated that only two out of five people would accept an Eastern European or other minority ethnic person as a resident in their local area, while fewer than one in three would accept an Irish Traveller or Muslim in their area (ARK 2006). Other surveys have shown that there is a growing awareness of the difficulties facing some minority ethnic individuals living in Northern Ireland. When

asked if they felt that “sectarian hatred is now being directed towards minority ethnic communities, especially foreign workers coming into Northern Ireland?”, 69% of young people responding to the Young Life and Times survey (YLT)<sup>49</sup> of 2007 indicated that they either agreed or strongly agreed with this statement (ARK 2007b).

Research commissioned by Amnesty International in 2003<sup>50</sup> provided slightly more positive results in relation to the attitudes towards persons seeking asylum, with 70% of respondents believing that asylum seekers should be allowed to work while their claim is being considered. The survey did reveal a number of misconceptions of the definition of an asylum seeker and highlighted a perception that the media has a tendency to antagonise issues further, particularly tabloid newspapers. 62% of respondents believed that the media referred most commonly to all asylum seekers as “illegal immigrants”, while 25% of people felt that the media highlighted the economic reasons for many migrants deciding to live and work elsewhere (Amnesty International 2003). Another report produced the following year surveyed the attitudes of younger people, which again although with some positive results, concluded:

*An alarmingly high level of misunderstanding among young people of certain asylum issues (Amnesty International 2004: 1).*

While 84.2% of the young people surveyed appreciated the right to seek asylum in another country in the event of war or political persecution, a further 52% of young people felt that “economic reasons” were behind the desire to seek asylum in Northern Ireland (Amnesty International 2004).

### **Hate crimes**

There have been a number of incidents involving attacks on minority ethnic communities in Northern Ireland in recent times. Reports in the media have suggested that there are “high levels” of racist attacks with a commonly used headline referring to Northern Ireland and Belfast in particular as the new “race hate capital of

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<sup>49</sup> From 1998 to 2000, Young Life and Times sought the views of all 12 to 17 year olds living in the same household as respondent to the [Northern Ireland Life and Times survey](#). From 2003 onwards, Young Life and Times recorded the attitudes of 16 year olds only.

<sup>50</sup> n = 300

Europe”<sup>51</sup>. One explanation for this has been linked to suggestions that despite progressing in attempts to move beyond the traditional sectarian divide, racism has in fact become the “new” sectarianism:

*We should also note that increasingly small clusters of migrants are being established in previously predominately Protestant or Catholic areas, and this may have implications for issues of hostility or racism within the wider local community, particularly in areas with no previous experience of engaging with minorities (Jarman and Martynowicz 2008: 16).*

Whilst societal hostility has somewhat tended to be sensationalised by certain elements of the media in particular, PSNI statistics highlight that between the 1st April 2007 and 31st May 2008 there were 976 racist incidents, a figure which perhaps should be noted was significantly down from 2006/2007 by 71 overall incidents (6.8%). Similarly crimes motivated by race hate were down by 12.1% (104 crimes less) than for between the same period in 2006/2007 (PSNI 2008).

The increasing inward migration into Northern Ireland is proving to be challenging to service providers but has also impacted upon the general public who until relatively recently would have had in the main little contact with individuals from an ethnic background other than “White Irish” and/or “White British”. While this section has shown a number of indicators of negative attitudes and perceptions of migrant workers amongst some members of the general public, as well as fluctuating degrees of racist incidents and racist crimes, it is perhaps worth noting that despite this, in March 2007 Anna Lo of the cross-community Alliance party was the first Chinese candidate elected to any parliament in the UK when she was elected as MLA for South Belfast.<sup>52</sup>

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<sup>51</sup> See [http://www.allianceparty.org/news/003835/hendron\\_condemns\\_cregagh\\_road\\_racist\\_attack.html](http://www.allianceparty.org/news/003835/hendron_condemns_cregagh_road_racist_attack.html)

<sup>52</sup> Parts of South Belfast have been the locations of a series of racist attacks in recent years on the minority ethnic (and particularly Chinese) community.

## 5.3 Gender

### Employment and economic activity

Women in Northern Ireland are currently experiencing historically high levels of economic participation with an estimated 363,000 women economically active between April and June 2007 (DETINI 2007b). Similarly, women in Northern Ireland have been experiencing high levels of employment (i.e. those who reported one hour or more of paid employment in the reference week) with an estimated 352,000 women employed between April and June 2007, up 0.8% on 2006 (DETINI 2007b). In total, women in Northern Ireland comprise 45.2% of those currently in employment compared to 46.4% in Great Britain. Despite this:

*The female working age employment rate here (65.1%) is 4.6 percentage points lower than that in Great Britain (DETINI 2007b).*

Female unemployment in Northern Ireland has increased from 2.7% to 3.4% during October to December 2007 compared to the previous quarter and the numbers of females of working age that are economically inactive has increased from 331,000 to 335,000 during the same period. The female employment rate had also slightly increased from 63.8% to 64.3% (DETINI 2007b). Since 1984, the numbers of unemployed in Northern Ireland have decreased by 65% for women and 78% for men compared to just 47% for women and 52% for men in Great Britain during the same period. In Northern Ireland, unemployed females have been out of work for less than one year (short-term) more so than their male counterparts. This was the case between April and June 2007 with 72% of women falling into the short term unemployed category, while the estimate for men was too small to be reliably used. Despite the unprecedented numbers of females entering the Northern Ireland labour market:

*[...] there are notable gender differences in employment rates and in the nature of employment between the sexes in NI (sic) (DETINI 2007b: 1).*

Male unemployment in Northern Ireland has dropped from 6.1% between October and December 2004 to 4.9% between October and December 2007. However during the same period of time the number of economically inactive males aged between 16

and 59/64 rose from 197,000 to 213,000. The employment of men of working age has increased slightly from 73.3% between October and December 2004 to 73.4% in the three years to October to December 2007 (DETINI 2007b).

### **Childcare impact/provision**

It can be argued that the gender differential in the labour market is related to childcare. Recent statistics show that 41% of working age economically active females in Northern Ireland have dependent children (DETINI 2007b).

In 2006 there were 40,220 day-care places for children under the age of 12, a rise of 6% since 1996 (DETINI 2007b). In 2005 the Children's Commissioner for Northern Ireland calculated that £121 was spent per head on childcare in Great Britain compared to just £22 in Northern Ireland.<sup>53</sup> Despite progress that some statistics would suggest there has been general criticism of the inadequacy of childcare provision in Northern Ireland. Ward (2007a) points out that:

*90% of public sector employers and 96% of private sector employers do not provide assistance with childcare (Ward 2007a: 5).*

Similarly, statistics from 2007 indicate that the number of day nursery places in Northern Ireland is much lower than the corresponding figure in England. Based on June 2005 mid-year estimates, the number of day nursery places per 1,000 children was 92.5 in Northern Ireland compared to 195.5 in England in 1996 (DETINI 2007b). DHSSPS statistics in 2007 indicate that per capita spending on family and childcare in Northern Ireland is lower than is the case in England. In 2004/2005, per capita spending on family and child-care in Northern Ireland was £287.60 which although being a 9.7% rise from 2003/2004 was still significantly lower than in England at £402.10 in 2004/2005 (DHSSPS 2007).

### **Working patterns**

Lack of adequate provision of childcare in Northern Ireland contributes to the high levels of female part-time employees (Hillyard et al. 2006: 46). DETINI highlight that

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<sup>53</sup> Barney McNeany, key-note speaker at a conference entitled 'Children First in the 21<sup>st</sup> Century' held on the 20<sup>th</sup> June 2005 in Belfast.

39% of female employees work part-time compared to just 6% of male employees in Northern Ireland, while the corresponding figures for Great Britain are 42% and 10% for females and males respectively. Indeed, in Northern Ireland 87% of all part-time employees are women (DETINI 2007b).

The period 1984 to 2007 saw a large (73%) increase in the number of female part-time employees while the number of full-time female employees has also risen (albeit more slowly) by 39%. An ECNI report from 2006 on the statistics relating to men and women from the 2001 Census highlighted that the gender gap in full-time employment tended to increase with age (ECNI 2006a: 22). Similarly, the report notes that the rate of female part-time work tended to increase with age rising from 10.4% among 16 to 19 year olds to 59.8% among 65 to 69 year olds (ECNI 2006a: 23).

Statistics from the 2001 Census indicate that as well as tending to work part-time, women remain under represented at higher managerial and professional occupations in comparison with males in Northern Ireland (9.2% males to 3.7% females ECNI 2006: 29). However, 37% of all managers/senior officials in Northern Ireland are women, which is higher than the figure of 35% in Great Britain (DETINI 2007b). There have also been some increases in female involvement in the Northern Ireland civil service at a more senior/managerial level. Indeed:

*The percentage of women at Deputy Principal level increased from 21% in 1999 to 28% in 2002 and the percentage of women at Senior Principal/Principal level increased from 18% in 1999 to 23% in 2002 (UK govt report to CEDAW 2003: 28).*

While there have been some developments in the representation of females at more professional and senior levels it remains the case that in Northern Ireland 93% of female employees work in the service sector compared to just 63% for males, and almost all women employed in part-time jobs (98%) work in the service sector (DETINI 2007b). In addition:

*There are differences in the type of work carried out by men and women. Women predominate in personal service, administrative, secretarial and sales jobs, whilst men predominate in skilled trades and as process, plant and machine operatives.*

*Professional jobs and associate professional and technical jobs are divided equally between men and women (Hillyard et al. 2006: 44).*

### **Earnings**

Despite the introduction of the Equal Pay Act (Northern Ireland) 1970 (as amended), and the Sex Discrimination (NI) Order 1976 (as amended) statistics indicate that in general in Northern Ireland women still tend to earn less than their male counterparts. The median gross wage for full-time females at April 2006 in Northern Ireland was £378.50 while for males the equivalent figure was £422.90. This ratio between male and female median hourly earnings has increased from 2005, which is an improvement and “*represents a narrowing of the gender pay gap*” (DETINI 2007b: 10). It is the case that female hourly earnings as a percentage of male hourly earnings continue to be much higher in Northern Ireland (99.8%) than in the rest of the UK (87.4%). Despite this the GMB General Union have suggested stated that:

*this is not a reflection of high women’s pay, instead it highlights the exceptionally low pay of men in these areas (Press release, GMB, 19<sup>th</sup> January, 2004).*

Ward (2007b: 3) notes that although the gender pay gap has decreased:

*Partly due to the introduction of the national minimum wage in 1999, the greatest differentials exist at the higher levels of occupation where women earn over £200 less than men per week (Ward 2007b: 3).*

Similarly, the Equality Commission in their recent submission to the UN Committee (2008) note that the part-time pay gap between men and women remains significantly higher:

*This reflects complex factors such as occupational segregation, under-representation of women in management and the higher proportion of women working part-time (almost two in five (39%) female employees work part-time compared with 6% of male employees) (ECNI 2008b: 23).*

It should also be kept in mind that there are substantial differences in earnings between those working in the public and private sectors. In Northern Ireland, median earnings for women working full-time in the public sector (£465.30) were much higher than those in the private sector (£305.20) (DETINI 2007b).

The Equality Commission noted that gender related matters form the highest proportion of queries to the Commission's legal help-line. Between 1<sup>st</sup> April 2001 and 31<sup>st</sup> March 2007 the Commission recorded 13,917 legal enquiries with 35% of these relating to gender (ECNI 2006a: 24). According to the Equality Commission:

*A generation on from the Sex Discrimination (Northern Ireland) Order, it is noteworthy that gender issues still comprise the largest single category of complaint – almost 40% of the total number of legal enquiries received by the Commission since 2001 (ECNI 2006a: 37).*

### **Educational attainment**

In 2005/2006, girls left school with higher levels of qualifications than boys, as 71% of girls left school with at least 5 GCSE grades A\* - C compared to 57% of boys. Only 3% of girls left school with no GCSEs compared to 6% of boys. Furthermore, 53% of girls left school with two or more A-levels compared to 37% of boys. After leaving school 75% of girls progressed to higher education compared to 56% of boys in 2005/2006 while 60% of all students enrolled at Northern Ireland universities in 2005/2006 were female, while 56% of all enrolments at Northern Ireland Further Education Colleges in 2005/2006 were also female (DETINI 2007b).

The Labour Force Survey from December 2006 documented the benefits of educational attainment on future earnings. On average graduates earn approximately £13,000 more per year than non-graduates with the weekly rate for graduates 94% higher at £558 compared to £308 for non-graduates (DETINI 2007a).

### **Political participation**

In Northern Ireland women are under represented in politics and public life generally. There was an attempt made in 1998 at the time of the signing of the Good Friday/Belfast Agreement to increase women's participation in politics with the

formation of the Women's Coalition. Despite some initial success with the party winning two seats to the Northern Ireland Assembly in the June 1998 elections, subsequent elections saw support for the party fall as voting patterns in Northern Ireland shifted more towards the "extremes" in terms of the Democratic Unionist Party (DUP) and Sinn Féin, and the party is no longer in existence as of 11<sup>th</sup> May 2006.

The figures highlight that 21% of councillors in local government districts are female, and 32% of public appointments in Northern Ireland are held by women. (In the May 2004 elections in England, 29% of local councillors were female). Northern Ireland currently has three elected women MP's and one woman Member of the European Parliament (MEP) (DETINI 2007b).

The March 2007 elections to the Northern Ireland Assembly saw 18 women elected (17%) out of the 108 Members of the Legislative Assembly (MLA's), a figure which is lower than the number of female councillors in Northern Ireland. The numbers of female representatives can vary from party to party with the Alliance party securing the election of two female representatives out of their seven candidates (28.6%) and similarly eight of Sinn Féin's 28 representatives were women (28.6%), compared to just three female DUP MLAs (8.3%) of their 40 representatives elected. Unlike the Welsh Assembly, there are no quotas specified to secure the election of female candidates to the Assembly in Northern Ireland although half (50%) of those people interviewed in a survey in 2003:

*[...] believed that parties should be encouraged to put forward a proportion of women candidates* (Hillyard et al. 2006: 22).

It should also be noted that despite the general under-representation of women in politics and public life generally, women hold four of the nine ministerial portfolios of the Northern Ireland Executive, including the departments of education, trade and investment, social development and agriculture and rural development. Perhaps a somewhat more surprising recent development was the succession of a woman in January 2007, Dawn Purvis, as leader of the small loyalist working-class Progressive Unionist Party (PUP) which has historically been linked to the Ulster Volunteer Force

(UVF) and Red Hand Commando (RHC), both male dominated loyalist paramilitary organisations<sup>54</sup>.

### **Care Sector**

The number of individuals living with a long-term limiting illness or a disability in the Northern Ireland context has historically been exacerbated by the effects of the conflict, and in part the responsibility of caring for family members disproportionately affects women more than men, with women accounting for 66% of the recipients of care allowance (DSD 2005). The Equality Commission in their submission to the UN Committee on CEDAW state:

*The unequal sharing of caring responsibilities means that, of those females who are economically inactive, almost half (45%) are unavailable for work due to family/home commitments (ECNI 2008b: 24).*

Lone parentage also remains slightly higher in Northern Ireland than in Great Britain, with approximately 92,000 lone parent families in Northern Ireland, over a quarter of all families (Gingerbread NI 2005). Again the effects of this would appear to be felt disproportionately by women, as according to the 2001 Census females headed 87.4% of lone parent households in Northern Ireland (NISRA 2001).

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<sup>54</sup> Dawn Purvis replaced the late David Irvine as party leader.

## 5.4 Religion/Belief

The report has noted that historically one aspect affecting the development of anti-discrimination legislation in terms of fair employment in Northern Ireland was linked to the position of northern Irish Catholics within the state vis-à-vis their Protestant counterparts. The progressive developments since the advent of fair employment legislation beginning in 1976, (and subsequently strengthened in 1989 and 1998) have recently been noted by the Equality Commission in relation to women's participation in the labour market:

*The period 1990 – 2006 witnessed a sharp improvement in the labour market participation rates of women in general and Roman Catholic women in particular. Although a direct casual link cannot be established, as there were a myriad number of factors involved, it is noteworthy that the observed changes coincided with the implementation of fair employment legislation in Northern Ireland: namely, the Fair Employment (Northern Ireland) Act 1989 and its successor, the Fair Employment and Treatment (Northern Ireland) Order 1998 (ECNI 2008b: 25).*

### Employment

Having already assessed the historical under-representation of Catholics at various levels of society in Northern Ireland, in the more recent context during 2006, the overall number of Protestant employees fell by 1.3% (3,718) while Catholic employment grew by 1.5% (3,046). The overall composition for 2007 of the monitored Northern Ireland workforce was 56.3% Protestant and 43.7% Catholic (ECNI 2007b).

The public sector workforce as of 2006 employed 192,768 employees, 56.2% of whom were Protestant and 43.8% were Catholic. This was a decline of 1.6% in Protestant and 0.2% Catholic public sector employment. In terms of the private sector, as of 2007 there were 328,071 employees 56.4% of whom were Protestant and 43.6% Catholic. This was a fall of 1.2% in Protestant private sector employment and a rise by 2.5% in Catholic private sector employment. The monitored full-time work force in 2006 contained a total of 432,906 employees, a decrease of 1.4% in Protestant employment and an increase by 1.9% in Catholic full-time employment.

Correspondingly, in 2006 the monitored part-time work force consisted of 87,933 employees, 53% of whom were Protestant and 47% Catholic (ECNI 2007b: 6).

Between 2001 and 2006, the number of Protestant female employees rose by 3.7% from 132,106 to 136,989 while Catholic female employment increased significantly more and was up by 17.3%, from 98,719 to 115,829. The Catholic proportion of the female workforce rose from 42.8% in 2001 to 45.8% in 2006.

According to the classification by the Standard Occupational Classification (SOC) in 2006,<sup>55</sup> Catholic female employment was highest in professional occupations (51%) and associate and technical occupations (48.2%) while the corresponding Protestant female share was highest in administrative and secretarial occupations (57.2%) (ECNI 2007b: 26). The Equality Commission suggest that the differences which exist between Protestant and Catholic women in the monitored workforce are relatively minor compared to the gender differences between men and women (ECNI 2007b: 26).

Indeed there have been significant increases in the Catholic proportion of the workforce over the past two decades. Since 1990, the Catholic male share of the full-time monitored workforce has increased by 8.8% from 32% in 1990 to 40.8% in 2006, while the Catholic female share has risen by 7.1% during the same period from 38.5% in 1990 to 45.6% in 2006. Although the trends tend to show positive developments in the increasing religious balance of the Northern Ireland workforce, Fair Employment Tribunal statistics document that there was a rise in complaints made between 2002/2003 and 2004/2005 (514 and 673 complaints respectively)<sup>56</sup> (Office of the Industrial Tribunals and the Fair Employment Tribunal 2005).

## **Education**

One area of increasing concern for the Equality Commission is the educational attainment of working-class children in Northern Ireland, with working-class Protestant males being the most likely to leave school at the earliest opportunity and

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<sup>55</sup> The Standard Occupational Classification was first published in 1990 to codify the kind of work performed and the skills required for the job.

<sup>56</sup> The Fair Employment Tribunal is an independent judicial body in Northern Ireland that hears and determines complaints of discrimination on the grounds of religious belief or political opinion.

with the least qualifications (ECNI 2007a: 7). A report commissioned by OFMDFM in 2001 found that 29% of Protestant pupils who were entitled to free school meals achieved five or more A\* - C GCSE's compared to 42% of Roman Catholic working-class pupils (OFMDFM 2001). Statistics relating to the 2001 Census show, as previously indicated, that Protestants were more likely to have no educational qualifications, 42.6% compared to 41.3% of the Catholic population (NISRA 2001).

The OFMDFM study further aimed to assess cross-community participation in the take up of places at Further and Higher education in the Belfast Education and Library Board area. The report noted a significant number of religious and gender differences in participation rates in third level education. The report found that Protestants, and Protestant males in secondary schools were the least likely to progress to third level education and also found that Protestant females were more likely to leave school after their GCSE's or to wish to attend an FE College, whilst Catholic females were more likely to choose 'University only' as a destination (OFMDFM 2001).

Armstrong (1997<sup>57</sup>) found that females and Catholic females in particular were the most likely to progress further through the educational system. Armstrong utilises a "discouraged worker" explanation and argues that due to the Catholic community facing barriers to their employment prospects in the past, a significant number of Catholic students felt that they needed to gain extra qualifications just to compete with their Protestant counterparts in the labour market.

### **Attitudes**

The 2007 NILT highlighted that 65% of respondents felt that relations between Protestants and Catholics in 2007 were better than five years previously (ARK 2007a). Similarly, the 2007 YLT survey of the attitudes of young people to a variety of issues indicated fairly positive responses to community relations between Catholics and Protestants in Northern Ireland, with 61% of young respondents believing that they were better than five years previous while only 8% felt they were worse (ARK 2007b).

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<sup>57</sup> For a brief discussion see:  
<http://209.85.215.104/search?q=cache:DOK5ZBAKj64J:www.ofmdfmi.gov.uk/partrate.pdf+armstrong+1997+participation+rates+in+further+and+higher+education&hl=en&ct=clnk&cd=1&gl=uke>

These results would indicate fairly positive trends, but other questions on the NILT survey appear to highlight a certain reticence amongst some members of both communities for increasing contact with the ‘other’ side. The 2007 NILT survey revealed that 59% of surveyed adults would mind a little or a lot if a relative married someone from a different religion while almost one third (32%) would prefer their children to attend a school of their own religion (ARK 2007a).

### **Hate crimes**

Despite the relatively stable political situation in Northern Ireland, the PSNI statistics reveal that between 1st April 2007 and 31st May 2008 there were still 1,584 sectarian incidents, a figure which is down by 111 or 6.5% from 2006/2007. There was a significant decrease, however, in sectarian crimes – down by 161 (13.2%) from the previous year (PSNI 2008).

## 5.5 Disability

Gordon (2004) has noted that there has been a general acceptance of the data indicating that the proportion of disabled people in Northern Ireland is higher than in Great Britain (174 per 1,000 in Northern Ireland compared to 142 per 1,000 in Great Britain) (Gordon 2004).

Recent research has shown that almost one in five people of working age in Northern Ireland are disabled (DETINI 2007a). The Bamford Review of Mental Health and Learning Disability (2006) found that mental ill-health affects one in every four people in Northern Ireland.<sup>58</sup> The Review concluded that there was clear evidence of inequalities in the investment associated with mental health and learning disability over many years compared with other jurisdictions in the UK. Such a situation continued despite higher levels of general ill-health in Northern Ireland, and the prevalence of conditions resulting from the conflict and associated cases of PTSD and other psychological conditions.

Fay et al. (1999b) found that the severity and location of the violence of the Troubles in some of Northern Ireland's most socio-economically deprived areas such as North and West Belfast impacted upon the psychological condition of a substantial proportion of the population in those areas. The research found that a quarter of people living in wards (defined by electoral boundaries) of the highest intensity of violence suffered had taken some form of medication for PTSD compared to just under an eighth in middle intensity wards (Fay et al. 1999b). Antidepressant prescribing in Northern Ireland has increased over fivefold in the decade 1989 to 1999 and this has in part been ascribed to social and political factors specific to Northern Ireland (Kelly et al. 2003).

### Education

The Special Educational Needs and Disability (NI) Order 2005 (SENDO) came into effect in Northern Ireland on the 1<sup>st</sup> September 2005 and applies to schools, education

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<sup>58</sup> The Disability Discrimination Order (2006) included individuals who have HIV, cancer or Multiple Sclerosis (MS) and individuals diagnosed with mental health problems as disabled, extending the number of people classified as disabled from the Disability Discrimination Act 1995. The Order came into effect on the 31<sup>st</sup> December 2007.

and library boards, universities and colleges including teacher training and agricultural colleges. The SENDO aims to:

- Introduce disability discrimination law to the education sector in Northern Ireland;
- Strengthen the rights of children with Special Educational Needs to be educated in mainstream education.

The ECNI have commended the distinction made between disabled children and children with special needs and argue that the SEN process does provide a mechanism to prescribe a child's educational needs, and to set out to address them (ECNI 2006: 7).

According to the ECNI (2006a: 6) there is an extremely limited amount of data available on educational outcomes for people with disabilities. In terms of the overall population however, 41% of disabled people had no qualifications, more than twice the proportion of non-disabled people (17%). The report further states that people with a disability are less qualified than those without; for example only 13% of disabled people held higher qualifications compared to 27% of non-disabled people (ECNI 2006a).

## **Employment**

Research conducted in Northern Ireland suggests a strong correlation between disability and poverty as almost half (48%) of households with at least one disabled child and disabled adult live in income poverty (DSD 2005).

The employment rate for those individuals without disabilities (79%) is more than twice the rate for those living with disabilities (32%) (DETINI 2007a). Almost double (13%) the number of economically active disabled individuals were unemployed compared to 6% of the economically active who were not disabled (ECNI 2006a).<sup>59</sup>

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<sup>59</sup> The Northern Ireland 2001 census defined disability as “any long-term illness, health problem or disability which limits daily activities or work”.

The Labour Force Survey of 2002 found that only 21% of individuals suffering with mental ill-health or a learning disability are in employment (DETINI 2002). However, the Equality Commission point out that research from the United States found that with effective rehabilitative support up to 58% of adults with severe and enduring ill-health are able to work using the Individual Placement and Support Approach. The Bamford Review (2006) proposed that a target should be set for 50% of people with mental ill-health or a learning disability to be in full-time employment. A 2005 report from DTZ Piedad Consulting documented that in general, labour market outcomes for people with work-limiting disabilities are significantly worse than for people without disabilities. The report found that nearly 50% of all individuals with work-limiting disabilities are in workless households (DTZ Piedad 2005).

The Equality Commission (2007a) has noted a number of key barriers impacting upon disabled people's access to employment:

*Education* – Over twice the amount of disabled individuals have no qualification when compared to non-disabled persons (DETINI 2007a).

*Societal Attitudes* – Research by the Disability Rights Commission in 2005 found that 45% of those small employers surveyed felt it would be “quite/very difficult” to employ a disabled person. Significantly, this figure is much higher than the corresponding figures for women, minority ethnic groups and older people.

*Transport* – It would appear that access to reliable transport remains a significant barrier to employment opportunities for people with disabilities. In the past, the Equality Commission argued that under the Disability Discrimination Act (1995) disabled individuals have limited protection with regards to transport provision in comparison to other provisions such as access to goods, facilities and services (ECNI 2005).

The barriers facing a number of disabled individuals in either seeking or securing employment resulted in 153 cases of alleged discrimination being brought to industrial tribunals between April 2004 and March 2005, an increase of just over 3%

on the previous year (Office of the Industrial Tribunals and the Fair Employment Tribunal 2005)<sup>60</sup>.

### **Youth Service provision**

Gordon (2004) highlighted the barriers facing young disabled people in Northern Ireland with regards to the enjoyment of youth service provision and cited statistics from the various education and library boards which support this view. The highest involvement of young disabled people in youth provision was in the Belfast Education and Library Board at 1,066 young people, but this represented only 3.1% of the total number of young people using youth service provided by the Board (Gordon 2004).

### **Disability Care**

There are some statistics relating to the numbers of individuals with a disability and service provision Northern Ireland. In 2000/2001 there were 4,295 individuals with a learning disability attending statutory day care centres and a further 319 individuals in statutory residential homes. There were 1,359 individuals in residential and nursing homes with a further 670 individuals in care packages in independent residential and nursing homes<sup>61</sup>.

As of March 31<sup>st</sup> 2007 there were 47 residential homes solely for people with mental illness which provided for 602 places; 75 residential homes in Northern Ireland solely for people with a learning disability providing 1,005 places and four residential homes in Northern Ireland solely for people with a physical disability/sensory impairment providing 64 places. Between the 1st April 2006 and the 31st March 2007 9,459 people with a learning disability were in contact with the Health Trusts and a further 1,550 people with a physical disability/sensory impairment were benefiting from care management, three quarters of whom were being supported in their own homes (DHSSPS 2007<sup>62</sup>).

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<sup>60</sup> Industrial Tribunals are independent judicial bodies in Northern Ireland that hear and determine claims to do with employment matters. These include a range of claims relating to unfair dismissal, breach of contract, wages and other payments as well as discrimination on the grounds of sex, race, disability, sexual orientation, age, part time working and equal pay.

<sup>61</sup> Appendix 8 from the DHSSPS, available online at: [http://www.dhsspsni.gov.uk/he-appendix\\_8.pdf](http://www.dhsspsni.gov.uk/he-appendix_8.pdf)

<sup>62</sup> Available at: <http://www.northernireland.gov.uk/news/news-dhssps/news-dhssps-october-2007/news-dhssps-081007-community-statistics-for.htm>

### **Hate crime**

The PSNI Annual Report providing figures for 1st April 2007 to 31st March 2008 indicates that there were 49 recorded incidents of disability hate crime, up one from 2006/2007. Of all hate crimes recorded during 2007/2008, crimes with a disability related motivation were the only ones to *increase* from the previous year and were up 61.5% (16 extra crimes) (PSNI 2008).

## 5.6 Sexual Orientation

Due to the extremely sensitive nature of declaring one's sexual orientation, it is extremely difficult to access reliable data which would give an overall indication of the size of the Lesbian, Gay, Bisexual and or Transgender (LGBT) community in Northern Ireland.

*The perceived widespread homophobia throughout Northern Irish society means that it is still difficult for many people to come out as lesbian, gay and bisexual, while for those who do it can create problems among erstwhile friends, work colleagues and even family members (Jarman and Tennant 2003: 11).*

Jarman and Tennant (2003) note the presence of a more visible and structured LGBT community in Northern Ireland's two main cities, Belfast and Derry/Londonderry with a number of individual support organisations such as the Rainbow Project, the Butterfly Club or the Coalition on Sexual Orientation (COSO).<sup>63</sup> Jarman and Tennant (2003) note that in Northern Ireland in smaller, rural areas people can feel isolated and vulnerable, and there are few local facilities offering support, advice or resources. Any support provided to the LGBT community in Northern Ireland tends to be Belfast or Derry/Londonderry orientated.

Although there is currently consideration being given to introducing a question on sexual orientation in the 2011 Census, at present the only source of quantifiable data is the NILT survey. In 2007 1% of respondents to NILT indicated that they were homosexual (gay or lesbian), 1% stated that they were bisexual and 1% stated that they did not wish to answer the question (ARK 2007a). In all likelihood these figures are an under representation of the actual numbers of the LGBT community in Northern Ireland.

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<sup>63</sup> The Coalition is an umbrella organisation providing support and advice to the LGBT community in Northern Ireland. The network of COSO includes over 10 LGBT groups in Northern Ireland as well as individual members.

## Hate crime

There have been a number of recent violent attacks on individuals as a result of their sexual orientation<sup>64</sup> and indeed PSNI statistics relating to hate crime record that between the 1st April 2007 and the 31st March 2008 there were 160 homophobic incidents and a further 7 transphobic incidents.<sup>65</sup> This figure was up from 2006/2007 (+5) although hate motivated *crimes* were in fact down from the previous year by 2.6% (PSNI 2008).

Jarman and Tennant's research (2003) involving 186 individuals from the LGBT community found that 82% had experienced harassment and 55% had been subjected to homophobic violence at some point (Jarman and Tennant 2003: 6). They note that:

*The proportion of people who had experienced violence and harassment was higher than indicated by comparable surveys in Great Britain and Ireland* (Jarman and Tennant 2006: 6).<sup>66</sup>

These statistics are however likely to be an underestimation of the figures due to many incidents going unreported. Jarman and Tennant (2003) found that only 42% of individuals in Northern Ireland who had experienced homophobic violence reported it to the police, with a variety of factors given for this. One was the reluctance to explain that any incident was homophobic; another reason cited was a belief that the police would not or could not help, or that the police were perceived to be homophobic themselves. A more recent research study carried out in 2006 would appear to support this. Radford et al. (2006) found that 32% of LGBT respondents experienced problems with the police between 2005/2006 with 42% finding the service unsatisfactory and 40% stating that police officers had been impolite or rude (Radford et al. 2006: 6).

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<sup>64</sup> See BBC news story from Friday 6<sup>th</sup> June 2008 at: [http://news.bbc.co.uk/1/hi/northern\\_ireland/7439296.stm](http://news.bbc.co.uk/1/hi/northern_ireland/7439296.stm)

<sup>65</sup> The police have been recording data on homophobic incidents since July 2000. (Jarman and Tennant: 2003: 5).

<sup>66</sup> Mason and Palmer (1996) indicated that 32% of the LGBT community in Great Britain had experienced homophobic violence.

## Attitudes

A recent controversy at a political level in Northern Ireland has involved comments made by the MLA for Strangford, Iris Robinson of the DUP (the wife of the current Northern Ireland First Minister Peter Robinson<sup>67</sup> and current Chair of the Health Committee of the Northern Ireland Assembly) who suggested that homosexuality was an “abomination” which could be “cured” by counselling.<sup>68</sup> Mrs Robinson further seemed to have compared homosexuality to “*child abuse and sodomy*” according to the Hansard *verbatim* transcription of a Commons Committee meeting at Westminster.<sup>69</sup> A 23 year-old Belfast man is currently in the process of suing Iris Robinson and has requested the assistance of the ECNI over a “human rights breach”.<sup>70</sup>

Surveys of public attitudes however reveal that Mrs Robinson may not be alone in her views regarding the LGBT community. According to an international survey conducted in 1998/1999 and involving 34,557 individuals across 29 countries, Northern Ireland was the sixth least tolerant of the 29 nations with regards to homosexuality. Indeed Great Britain ranked as the 12<sup>th</sup> most tolerant country, twelve places higher than Northern Ireland while the Republic of Ireland was ranked five places “better” than Northern Ireland (Sikora 2001). This evidence does not appear to exist in isolation. Borooah and Mangan (2007) found that in every country except Greece and Italy, people were more tolerant of homosexuality than in Northern Ireland:

*Homophobia was, by far, the main source of bigotry in most Western European countries: over 80 percent of bigoted persons in Northern Ireland and Canada, and 75 percent of bigoted persons in Austria, the USA, Great Britain, Ireland and Italy would not want homosexuals as neighbours* (Borooah and Mangan 2007: 13).<sup>71</sup>

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<sup>67</sup> Robinson officially replaced Ian Paisley as First Minister on Thursday 5<sup>th</sup> June 2008.

<sup>68</sup> See: <http://www.belfasttelegraph.co.uk/news/local-national/police-probe-iris-robinsonrsquos-8216gay8217-remarks-13507747.html>

<sup>69</sup> This is not the first condemnation of homosexuality by a leading DUP member. Former party leader Ian Paisley once led a "Save Ulster from Sodomy" campaign.  
See: <http://www.irishtimes.com/newspaper/ireland/2008/0723/1216740957164.html>

<sup>70</sup> See: <http://www.belfasttelegraph.co.uk/news/local-national/man-suing-iris-robinson-over-her-comments-on-gays-13507743.html>

<sup>71</sup> Borooah and Mangan (2007) borrowed from well-known measures of poverty to propose analogous measures for the amount of prejudice in a country. The study involved 32,000 people in 19 countries worldwide. Individuals were asked if they would like five categories of people as neighbours. The list included people of a different race; immigrants; Muslims; Jews and homosexuals.

More locally, almost one in three people (29%) stated that they would mind if a close relative were in a relationship with an LGB person (ECNI 2006b). Perhaps indicative of the views of the wider population, survey data from a study by the Northern Ireland Policing Board (NIPB) highlighted that only 1% of respondents placed tackling homophobic attacks among their top five concerns (NIPB 2004).

Not all recent surveys, however, show negative views towards the LGB community in Northern Ireland.<sup>72</sup> A survey commissioned by the Lesbian Advocacy Services Initiative (LASI) in 2006<sup>73</sup> found that 75% of respondents stated that they were either quite or very accepting of the principle that LGB individuals should not be discriminated against because of their sexuality. Perhaps, somewhat more ambiguously, the survey highlighted that although 59% of respondents believed that Northern Ireland was either not very or not at all accepting of LGB people only 21% of people say they themselves actually hold these views (LASI 2006).

### **LGBT experiences**

Additional research into the needs of young people in Northern Ireland who identified as lesbian, gay bisexual and/or transgender (LGBT) found that 44% of young people were bullied at school because of their sexuality; 48% of lesbian and gay students had been violently attacked and nearly half of these attacks occurred in schools (Youthnet 2003). Quiry (2002) explored women's experience of discrimination due to their sexual orientation and found that:

*women were either so closeted that their work colleagues and family were not aware of their sexual orientation or that they had minimised the discrimination they had experienced (Quiry 2002: 3).*

The author found that of those lesbians who were "out" at work, 46% reported experiencing discrimination in the workplace (Quiry 2002). Perceptions amongst some members of the LGBT community in Northern Ireland of discrimination based on their sexual orientation led to 18 cases of alleged discrimination being brought to

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<sup>72</sup> LASI services do not cover the transgender or transsexual community in Northern Ireland.

<sup>73</sup> n = 1009.

industrial tribunal in 2004/2005, an increase of 0.3% on the previous year (Office of the Industrial Tribunals and the Fair Employment Tribunal 2005).

### **Recent developments**

The Civil Partnership Act came into force in December 2005, enabling same-sex couples to obtain legal recognition of their relationship. During 2006 there were 116 civil partnerships registered in Northern Ireland.<sup>74</sup> In the first full year since the Civil Partnership Act came into force 116 civil partnerships (65 male and 51 female) were registered in Northern Ireland. In terms of the average age of partners, the average age of males entering into civil partnerships was 42.7 years old, while females on average were 39.5 years old.<sup>75</sup>

With regards the situation in the UK, the Office of National Statistics revealed that 15,672 civil partnerships were registered between December 2005 and September 2006. England hosted 84% of all ceremonies while Northern Ireland held just 1%. More men than women registered civil partnerships, with males making up 62% of partnerships in England, 57% in Scotland, 56% in Northern Ireland and 51% in Wales. The ratio between men and women appears to be changing over time with the gap between the proportion of male and female partnerships in England and Scotland reducing.<sup>76</sup>

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<sup>74</sup> Available at: <http://www.northernireland.gov.uk/news-dfp-280607-increased-number-of> .Marriage and civil partnership figures are based on returns from local registrars.

<sup>75</sup> See NISRA website at <http://www.nisra.gov.uk/demography>

<sup>76</sup> Office of National Statistics – UK civil partnership statistics. Available at: <http://www.changingattitude.org.uk/news/newsitem.asp?id=269>

## 6. Conclusions

This report set out to outline in some detail the historical and social background to the development of equality and non-discrimination legislation and policy in Northern Ireland; to analyse their practical application and to provide statistical and other data indicating their effectiveness.

While the success of anti-discrimination measures in some areas, particularly in relation to the balancing of the workforce in terms of religious breakdown, is undeniable, the data in this report shows that a number of issues are yet to be addressed. This is particularly true in relation to the difficulties faced by migrant workers in Northern Ireland, as well as the black and minority ethnic population, and the LGBT community. The effectiveness of the newest measures – such as the Age Regulations or legislation prohibiting discrimination on the grounds of sexual orientation – is hard to assess at this stage as the practice of their application is as yet underdeveloped.

The legislative and policy framework relating to the area of equality and non-discrimination in Northern Ireland was developed over more than 30 years and provides a very comprehensive legal protection, as well as introducing positive duties on public authorities. It is, however, also seen as complicated and requiring reform, possibly through an introduction of single equality legislation in the near future.

Perhaps somewhat more concerning has been the recent controversy at a political level over comments made by elected representatives with regards to the LGBT community in Northern Ireland. This recent controversy would appear to highlight the need for strong legislation dealing with anti-discrimination measures to guarantee the rights of all individuals living in Northern Ireland, regardless of their gender, age, sexual orientation, race, religion or whether or not they have a disability. Northern Ireland has experienced the problems of the past when certain sections of the community were in a less advantageous position than others, and we have surely come too far to see “new” forms of discrimination replace “old” ones.

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## Appendix A

### Law relating to equality and anti-discrimination in Northern Ireland (by category).<sup>77</sup>

#### Age

- The Employment Equality (Age) Regulations (Northern Ireland) 2006

#### Disability

- The Special Educational Needs and Disability (Northern Ireland) Order 2005 (Amendment) (Further and Higher Education) Regulations (Northern Ireland) 2006
- Disability Discrimination (Northern Ireland) Order 2006
- The Special Educational Needs and Disability (Northern Ireland) Order 2005
- Disability Discrimination Code of Practice (Goods, Facilities, Services and Premises) (Appointed Day) Order (Northern Ireland) 2004
- Disability Discrimination Act 1995 (Amended) Regulations (Northern Ireland) 2004
- The Disability Discrimination Act 1995 (Pensions) Regulations 2003
- Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations (Northern Ireland) 2003
- Disability Discrimination Act 1995 (Commencement No. 9) Order (Northern Ireland) 2003
- The Equality Commission (Time Limits) Regulations (Northern Ireland) 2001
- Special Educational Needs and Disability Act 2001
- The Equality (Disability, etc) (2000 Order) (Commencement No. 1) Order (Northern Ireland) 2000
- The Equality (Disability, etc) (Northern Ireland) Order 2000
- The Disability Discrimination (Meaning of Disability) Regulations (Northern Ireland) 1996
- Disability Discrimination Act 1995

#### Gender

- Equal Pay Act 1970 (Amendment) Regulations (Northern Ireland) 2005
- Employment Equality (Sex Discrimination) Regulations (Northern Ireland) 2005

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<sup>77</sup> The list is based on information provided by the Equality Commission for Northern Ireland ([www.equalityni.org](http://www.equalityni.org)).

- [Equal Treatment Directive 76/207/EEC](#)
- [Sex Discrimination Order 1976 \(Amendment\) Regulations \(Northern Ireland\) 2004](#)
- [Equal Pay Act 1970 \(Amendment\) Regulations \(Northern Ireland\) 2004](#)
- [The Sex Discrimination Act 1975 \(Amendment\) Regulations 2003](#)
- [Equal Pay Act 1970 \(as amended\)](#)
- [The Maternity and Parental Leave \(Amendment\) Regulations 2002](#)
- [Sex Discrimination \(Indirect Discrimination and Burden of Proof\) Regulations \(Northern Ireland\) 2001](#)
- [The Maternity and Parental Leave etc. Regulations 1999](#)
- [Sex Discrimination \(Gender Reassignment\) Regulations \(Northern Ireland\) 1999](#)
- [Equal Pay \(Complaints to Industrial Tribunals\) \(Armed Forces\) Regulations \(Northern Ireland\) 1998](#)
- [Sex Discrimination \(Northern Ireland\) Order 1988](#)
- [Sex Discrimination \(Northern Ireland\) Order 1976 \(as amended\)](#)
- [Equal Pay Act \(Northern Ireland\) 1970](#)

### **Race**

- [The Race Relations Act 1976 \(Amendment\) Regulations 2003](#)
- [Race Relations Order \(Amendment\) Regulations \(Northern Ireland\) 2003](#)
- [The Race Relations Act 1976 \(Statutory Duties\) Order 2001](#)
- [Council Directive 2000/43/EC Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin](#)
- [Race Relations \(Amendment\) Act 2000](#)
- [Race Relations \(Prescribed Public Bodies\) Regulations \(Northern Ireland\) 1998](#)
- [Race Relations \(Complaints to Industrial Tribunals\) \(Armed Forces\) Regulations \(Northern Ireland\) 1998](#)
- [Race Relations \(Northern Ireland\) Order 1997](#)
- [Local Government Act 1988 \(18 Race Relations Matters\)](#)

### **Religion / politics**

- [Fair Employment and Treatment Order \(Amendment\) Regulations \(Northern Ireland\) 2003](#)
- [Fair Employment and Treatment \(Northern Ireland\) Order 1998](#)
- [Fair Employment \(Northern Ireland\) Act 1989](#)

### **Sexual orientation**

- [The Civil Partnership \(Contracted-out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005](#)
- [Civil Partnership Act 2004](#)
- [The Employment Equality \(Sexual Orientation\) Regulations 2003 \(Amendment\) Regulations 2004](#)
- [The Employment Equality \(Sexual Orientation\) Regulations 2003](#)

- Industrial Tribunals (Interest on Awards in Sexual Orientation Discrimination Cases) Regulations (Northern Ireland) 2003
- The Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003
- The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006

## General

- The Industrial Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations (Northern Ireland) 2005
- The Fair Employment Tribunal (Rules of Procedure) (Amendment) Regulations (Northern Ireland) 2005
- Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2005
- Draft Guidance on the Information and Consultation Regulations (Northern Ireland) 2005
- Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004
- The Employment Relations (Northern Ireland) Order 2004
- Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2004
- Tribunal Regulations (Northern Ireland) 2004
- Employment Relations Act 2004
- The Employment (Northern Ireland) Order 2003
- The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- Employment (Northern Ireland) Order 2002
- Council Directive 2000/78/EC Establishing a General Framework for Equal Treatment in Employment and Occupation
- The Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- Equal Opportunities (Employment Legislation) (Territorial Limits) Regulations (Northern Ireland) 2000
- Human Rights Act 1998
- Public Interest Disclosure (Northern Ireland) Order 1998
- Northern Ireland Act 1998
- The Employment Rights (Dispute Resolution) (Northern Ireland) Order 1998
- Treaty of Amsterdam
- The Employment Rights (Northern Ireland) Order 1996
- Employment Rights Act 1996
- Pensions Act 1995 (c. 26)
- Children Act 1989 (c. 41)