How to Support and Encourage Racial Equality in Northern Ireland
Discussion Papers

This paper is one in a series of six pursuing the aim of racial equality in Northern Ireland. In their five-year race equality strategy, the Office of the First Minister and Deputy First Minister envision what they are working towards as:

> *A society in which racial diversity is supported, understood, valued and respected, where racism in any of its forms is not tolerated and where we live together as a society and enjoy equality of opportunity and equal protection.*[1]

This vision is further specified by six strategic aims, the **third** of which is the topic of this paper:

SIX SHARED AIMS

- Elimination of Racial Inequality: To eliminate racism, racial inequality and unlawful racial discrimination and promote equality of opportunity in all aspects of life, including public life, for people of different ethnic backgrounds in Northern Ireland.
- Equal Protection: To combat racism and provide effective protection and redress against racism and racist crime.
- **Equality of Service Provision: To ensure equality of opportunity for minority ethnic people in accessing and benefiting from all public services.**
- Participation: To increase participation and a sense of "belonging" of people from minority ethnic backgrounds in public, political, economic, social and cultural life.
- Dialogue: To promote dialogue between, and mutual understanding of, different faiths and cultural backgrounds, both long standing within Northern Ireland and recent arrivals to these shores, guided by overarching human rights norms.
- Capacity Building: To build capacity within minority ethnic communities to develop a vibrant and sustainable minority ethnic sector at both local and regional level and to help minority ethnic people to fulfil the Government's aim of a shared future for Northern Ireland.[2]

The discussion papers in this series are all authored by Omar Khan of the Runnymede Trust.

The Runnymede Trust is an independent policy research organisation focusing on equality and justice through the promotion of a successful multi-ethnic society. Founded as a Charitable Educational Trust, Runnymede has a long track record in policy research, working in close collaboration with eminent thinkers and policymakers in the public, private and voluntary sectors. We believe that the way ahead lies in building effective partnerships, and we are continually developing these with the voluntary sector, the government, local authorities and companies in the UK and Europe. We stimulate debate and suggest forward-looking strategies in areas of public policy such as education, the criminal justice system, employment and citizenship.

Since 1968, the date of Runnymede's foundation, we have worked to establish and maintain a positive image of what it means to live affirmatively within a society that is both multi-ethnic and culturally diverse. Runnymede continues to speak with a thoughtful and independent public voice on these issues today.

[1] OFMDFM (2005b: 7).
[2] OFMDFM (2005b: 8).

Aim 3: Equality of Service Provision

To ensure equality of opportunity for minority ethnic people in accessing and benefiting from all public services.

Achieving a just society in Northern Ireland as elsewhere requires that important standards such as equal opportunity are realised. This means, of course, that the public sector and government more broadly has a central role in ensuring that Northern Ireland becomes a fair and tolerant society. Although government by itself cannot ensure that everyone in society lives up to the values of equal treatment and tolerance, the responsibility of government in terms of equality of opportunity has been increasingly recognised in Northern Ireland. In the case of racial equality, *A Racial Equality Strategy, 2005–2010*[3] is the most recent document outlining the government's aims and responsibilities.

BACKGROUND

Before discussing more recent government policy, it is worthwhile to chart a brief background of race equality legislation and policy provision. As part of the United Kingdom, Northern Ireland has long had a general commitment to the principle of equal opportunity. However, it was only in 1997 that racial equality was independently legislated with the Race Relations (Northern Ireland) Order.[4] Some of the provisions in this Order have been superseded by the 1998 Northern Ireland Act, and other sections have been amended in 2003, but its central features outlawing racial discrimination in employment and training (Articles 6–17), education (Articles 18–20), provision of goods, facilities and services (Article 21), disposal and management of premises (Articles 22–24) and advertisements (Article 29) remain in place, and in some cases exceed the reach of those set out for the rest of the UK.

Indirect and Direct Discrimination

The 1997 Order, following developments in the UK from the 1970s, also distinguished between direct and indirect discrimination (see Article 3 of this series). What is called 'direct' discrimination is perhaps what most observers would identify as the morally unacceptable side of discrimination: explicitly treating someone less favourably solely because they belong to a certain racial group. However, the concept of 'indirect discrimination' has also been deployed as a way of capturing those forms of unfair treatment that violate the spirit of equal opportunity in a less explicit way. Government action and policies can be examples of indirect discrimination if:

- a considerably smaller proportion of members of certain 'racial groups' are able to comply with it;
- it is a requirement or condition that cannot be shown to be justifiable; and
- it is to the detriment of members of those 'racial groups' because they cannot comply with it.[5]

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[3] OFMDFM (2005b).

[4] Race Relations (Northern Ireland) Order 1997 (amended 2003). This follows the 1976 Race Relations Act in many respects, but diverges in important ways, for example in including the Irish Traveller community as a minority ethnic group and in allowing for positive action in certain circumstances.

[5] This particular elaboration derives from Connolly (2002: 10). It is similarly worded in the UK Race Relations (Amendment) Act 2000 and applies to all public bodies as described there. For extremely similar wording for non-government entities, see Oxford University's Equal Opportunities Policy and Code of Practice as well as Barclay's Equal Opportunities policy. The term 'indirect discrimination' probably derives from a 1971 US Supreme Court Case

The key idea is that while differential treatment can be justified, it must be shown to be directly relevant to the position or job in question. For example, certain physical attributes may be necessary for fighter pilots and medical training is vital for administering effective health care, but there remain too many instances of examples where what are called qualifications are in fact unjustifiable standards that inordinately exclude certain individuals on the basis of race, gender, disability, sexual orientation, age, belief or (in Northern Ireland) political opinion.

Victimisation and Harassment

In addition to distinguishing between direct and indirect discrimination, the amendments to the Order made in 2003 identified 'harassment' and 'victimisation' as unlawful forms of discrimination. There were defined as follows:

- *Harassment*: occurs where there is unwanted conduct which has the purpose or effect of violating one's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment; and
- *Victimisation*: occurs where someone is treated less favourably because they have, for instance, complained of unlawful racial discrimination or have assisted someone else to do so. The law covers relationships that have come to an end where the discrimination arises out of and is closely connected to that relationship, such as in an employment contract.[6]

While both offences are common in civil society, and will be addressed in the context of combating racism and racist crime (see **paper 2** of this series), it is important to recognise that harassment and victimisation also exist in the workplace, meaning that action will have to be taken where the practices persist, particularly by public bodies. Harassment and victimisation are obvious impediments to the achievement of equal opportunity, but their persistence further indicates the centrality of removing all features of racist discrimination from the workplace, especially those that have been characterised by institutional racism.

Institutional Racism

The persistence of practices such as victimisation and harassment has led to greater acceptance of the concept of institutional racism. Though the most widespread current definition derives from the inquiry into the murder of Stephen Lawrence and at first was applied principally to the police services, it has been more widely applied to other agencies.

> *'Institutional Racism' consists of the collective failure of an organisation to provide an appropriate and professional service to people because of the colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantage minority ethnic people.*[7]

From this definition, it is clear that all public bodies need to be more aware that their practices and their workplace environments might be institutionally racist. Mention of 'unwitting' prejudice further indicates why discrimination needs to be understood beyond its more 'overt' forms and why positive action in terms of the workplace environment and hiring practices need to be implemented. Furthermore, the 'collective' nature of the problem shows how individual acts of

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Griggs vs. Duke Power, but has also been applied in other countries and international institutions. See the unattributed website resource 'Indirect Discrimination'.

[6] OFMDFM (2005b: 21).

[7] Macpherson (1999).

prejudice, while still too common, are not always the primary problem for public institutions and indeed civil society more generally. Understanding the role that institutional cultures play in making life difficult for minority ethnic people in the workplace further underscores the importance of advancing the values of fairness, tolerance and equal opportunity more widely in civil society.

Duties under the 1997 Order

The three principal duties of the Commission for Racial Equality for Northern Ireland, duties that have since been taken over by the Equality Commission for Northern Ireland, were to:

- work towards the elimination of discrimination;
- promote equality of opportunity, and good relations, between persons of different racial groups generally; and (see also 1997 Order, article 67)
- keep under review the working of this Order and, when it is so required by the Department or otherwise thinks it necessary, draw up and submit to the Department proposals for amending this Order.[8]

Reference to the 'Order' here is the 1997 Order discussed above, although the Equality Commission was in fact established by the 1998 Northern Ireland Act. Just as policies outlawing explicit discrimination have been supplemented to include the possibility of indirect discrimination, government duties have been expanded from the negative aim of not discriminating to the requirement that public bodies have a 'positive duty' to promote equal opportunity. While the government was obliged to aim to 'promote' equality of opportunity, a number of organisations, particularly community organisations based in Northern Ireland, expressed concern about the relative weakness of this provision.[9]

Positive Duty and the Northern Ireland Act 1998

The Northern Ireland Act 1998 was a wide-ranging document that covers far more than race relations. Part VII of the Act, entitled Human Rights and Equal Opportunities, established a Human Rights Commission (see sections 68–72) as well as the Equality Commission for Northern Ireland (section 73). While other sections explain the functions of the body (section 74) and make it unlawful for a public authority to discriminate (section 76), section 75 states an explicit statutory duty for all public authorities to *promote* equality of opportunity:

> *75. (1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity –*

[8] Connolly (2002: 11) further specifies the powers as follows: 'In carrying out these duties, CRENI and now the Equality Commission is empowered to: provide financial or other assistance to organisations concerned with promoting equality of opportunity and good relations between persons of different 'racial groups' (Article 43); undertake or assist research and education into race relations matters (Article 44); issue codes of practice for the purposes of eliminating discrimination and promoting equality of opportunity in employment and housing. While failure to comply with any such code may not render a person liable to proceedings in itself, it can be admissable in evidence and a tribunal or court will take account of the code's guidance in its determination (Article 45); conduct formal investigations as it thinks fit and for any purpose connected with the pursuance of its duties (Article 46). If the Commission finds, as a result of its investigation, that a person or person(s) are unlawfully discriminating it can issue a 'nondiscrimination notice'. This requires the person on whom it is served not to contravene specified provisions of the Order and to the Commission such information as may be required by the notice in order to verify their compliance with that notice (Article 55). Should a person fail to comply with the notice, they may apply to a county court for an injunction restraining them from continuing to discriminate.'

[9] See SACHR (1996) and NICEM (1998). Connolly (2002) has summarised these criticisms as 'the limited definition of discrimination contained within the Order and its failure to address the more subtle and fundamental elements of institutional racism and sedentarism; and its failure to make it a duty of statutory bodies and other public authorities to proactively eliminate discrimination and 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 dependants and persons without.*[10]

This positive duty to promote equal opportunity is given further teeth by the fact that public authorities are required to submit an 'Equality Scheme' to the Commission and that the Commission is given responsibility to ensure that public bodies meet their obligations in compliance with the Act.

The provisions provided here are quite extensive in their scope and if effectively administered will do much to ensure that equal opportunity is realised in Northern Ireland. In particular, the fact that public bodies have a positive duty to promote equality of opportunity, beyond the negative duty not to discriminate, and that the Equality Commission has powers to ensure that this duty is fulfilled, indicates how institutions have been set up that can – both in theory and in practice – contribute to the goal of racial equality in Northern Ireland.

THE FIVE-YEAR STRATEGY: 2005–2010

Having explained the development of institutions for achieving equal opportunities in the public sector, it is important to emphasise that government policy in the area has developed further through the publication of *A Racial Equality Strategy for Northern Ireland, 2005–2010.* In that document, 'equality of service provision' is listed as one of the six aims and principles for Northern Ireland's five-year strategy. Some specific areas are identified as needing particular attention, with the aim of meeting the duties under section 75 and in the Race Relations Order.

The needs of minority ethnic communities can sometimes create barriers to equal opportunities, barriers that are particularly important to rectify where individuals seek to use key services provided by the public sector. Fortunately, there is good evidence that the government is aware of these difficulties and is aiming to improve access for minority ethnic individuals. As the Racial Equality Strategy notes:

> *Service providers do not always respond appropriately to all the needs of people from minority ethnic backgrounds. Minority ethnic people may not know about their entitlement to services. They may be reluctant to approach service providers for various reasons. They may have difficulty in understanding what is said or written to them, or in saying what they require. They may be forced to rely on their children or others to act as interpreters often limiting or inhibiting discussion of sensitive topics. They may find that health, education and other services do not take account of their cultural or religious needs. They may find that they are automatically perceived as being ineligible or having some lesser entitlement. Public sector staff may not have knowledge and understanding of the issues affecting minority ethnic people.*[11]

In this context, the strategy notes that a 'colour-blind, one size fits all approach' often fails to treat people equally. This is because achieving equal opportunities for people with different needs and ensuring that all are treated with equal respect, will often require different treatment for those who are presently disadvantaged. While positive action will not always be the appropriate way to

[10] Section 75, Northern Ireland Act 1998.
[11] OFMDFM (2005b: 40-41).

respond to inequality, it is clear that the government recognises that it can be a useful means for achieving equal treatment and equality of opportunity, particularly in the area of service provision.

Citing Connolly's 2002 report, the strategy paper notes four specific areas that must be addressed in order to translate the ideals of equal treatment and equal opportunities into a reality:

1. The language barrier
2. Lack of information
3. Training needs of staff
4. The cultural needs of minority ethnic people[12]

These four areas are supplemented by a strong commitment to monitoring and 'mainstreaming' to ensure that public bodies meet their responsibilities for promoting racial equality. In concluding this section, the five-year strategy lists four actions that have been taken to further equality of service provision, namely: developing tailored approaches to meet the needs of minority ethnic communities; ensuring that monitoring is adequately carried out; having the Race Equality Unit help departments meet their duties with the aid of a self-assessment tool; and focusing on what departments 'need to do to tackle these problems', engaging with minority ethnic communities directly to identify the most pressing concerns.[13] We endorse all of these goals, and would add that minority ethnic liaison officers can provide an important bridge between public authorities and minority ethnic communities, provided of course that they and the employees in public authorities are adequately trained to respond to the needs of the various communities in Northern Ireland.

EDUCATION

So far this paper has focused on public sector duties for ensuring equality of opportunity in service provision and specifically the commitment to racial equality in key legislation and government policy in Northern Ireland. While these are indeed admirably clear and worthwhile aims, public provision in the key areas of education and housing continue to obstruct the possibility of a shared public sphere in the country. The Runnymede Trust's *Complementing Teachers* promotes 'the education and achievement of all' and emphasises the role of equality of opportunity and access so that 'every child has equal access to [education's] content, resources and pedagogic content' while ensuring that high standards are met, each child's cultural and personal identity is encouraged and pupils are finally prepared for citizenship.[14]

As is generally known, education in Northern Ireland is segregated, with the vast majority of Protestants attending schools where they constitute a preponderant majority and the vast majority of Catholics attending schools that are similarly divided. Indeed, while only 4% of students in Protestant schools are Catholic, and only 1% of students at Catholic schools are Protestant, only 3% of each community attends an 'integrated school' at the primary level (see Table 1), thus clearly limiting the chances for interaction between people of different backgrounds. Given the importance of public education in creating a democratically minded citizenry, it is not surprising that much effort has been expended on trying to integrate schools. Indeed, in *A Shared Future*, the government has emphasised the opportunity for education to create 'greater sharing and address the potential diseconomies of duplication' as well as

[12] See Connolly (2002).
[13] OFMDFM (2005b: 43-44).
[14] Runnymede (2003).

preparing both teachers and young people 'to be effective and responsible members of a shared society'.[15]

Table 1: Percentage of Catholics and Protestants in various schools[16]

	Catholic	Protestant	Not recorded	Total
Protestant schools	4	86	10	100
Catholic schools	99	1	0	100
Integrated schools	41	44	15	100
All Schools	50	44	5	100

Evidence for minority ethnic students' attendance of the various schools in Northern Ireland is more difficult to collect, but there are figures for their educational attainment (see Table 2). In general, minority ethnic communities do as well as and often better than the white community, with the exception of the Irish Traveller community who do substantially worse, with 71% having no qualification at all, compared to 42% of the white community, 15% for the Black African community, 19% for the Indian community, 23% for the Black Caribbean population, 35% among Pakistanis and 43% among the Chinese.

When it comes to higher education the minority ethnic communities do even better in surpassing the white community, with the notable exception of the Irish Traveller community. This strongly suggests that Travellers have clear needs in education above those from other communities. At the same time, some have pointed out that comparisons with the 'white' community are somewhat misleading, given the continuing differential attainment between Protestants and Catholics. This perhaps indicates that it is more meaningful to compare minority ethnic communities to Protestants and Catholics separately, though recent evidence suggests that the latter community is increasing its proportion of university students and indeed creating a middle class.[17]

Table 2: Qualifications Achieved by Ethnic Group (%)[18]

	White (%)	Irish Traveller	Mixed	Indian	Pakistani	Bangladeshi	Other Asian	Black Caribbean	Black African	Other Black	Chinese	Other
None	42	71	24	19	35	42	20	23	15	33	43	21
Lower	43	21	48	27	32	36	26	53	39	52	31	28
Higher	15	8	28	54	33	22	54	24	46	15	26	51
Total	100	100	100	100	100	100	100	100	100	100	100	100

However, despite the relatively strong performance of minority ethnic pupils, much remains to be done in education, particularly in terms of intercultural dialogue and multicultural training, for teachers and for students. Language difficulties persist, and many of the provisions made by

[15] OFMDFM (2005a: 24–28). The document also notes that the issue of 'school choice' for parents, central to the government's education policy, can cut against these ideals, but it phrases the challenge in terms of a 'balance to be struck'. The importance of school choice to the current government is presumably why the idea of 'greater sharing in education' is considered more important than that of integration.
[16] Department of Education (2002) cited in Gallagher et al. (2003).
[17] See 'Northern Ireland – Still Troubled' (2006).
[18] NISRA (2001).

teachers are of an 'ad hoc' nature.[19] Education is perhaps the key arena of service provision where the government can not only enforce punitive measures but seek to change attitudes for the future. We can therefore endorse the following recommendation made by Connolly and Keenan in the hopes that creating dialogue in schools can have long-term implications for race relations in Northern Ireland:

> *As a matter of priority, the Department of Education should begin to develop an intercultural dimension to the Northern Ireland Curriculum to be added as part of a cross-curricular theme and to be taught through all Key Stages and including a specific focus on Travellers. This should be done in consultation with minority ethnic people and organisations.*[20]

HOUSING

If integrated education and a shared public sphere have been difficult to create in Northern Ireland, a strong contributory factor is that of residential segregation. In urban areas, Catholics and Protestants are so divided that public education will remain segregated such that children have little interaction with members of the opposite community. Although there has been some small improvement in residential integration between the 1991 and 2001 Censuses, the level of segregation is still greater than it was in 1970 before the 'Troubles' had begun. For example, while the Shankill area is only 3% Catholic, Ardoyne is a mere 1% Protestant.[21]

The existence of residential segregation has had a substantial impact on minority ethnic populations in Northern Ireland, especially in terms of securing public housing. Since areas are deemed Catholic or Protestant, there can often be outright hostility to 'outsiders' moving into a residential area. Here too there is a need to create minority ethnic liaison officers to assist new residents and also to try to change the views of housing associations and tenants. This is probably the only way to develop equal respect and tolerance, especially since so much racist violence and harassment occurs at home or in respect of private property.[22] In *A Shared Future*, the government noted that less than 10% of social housing is integrated and that an estimated '400 families with a mixed background' were on a waiting list, recommending that:

> *residence in a particular area should be a matter of housing need or personal choice rather than an insistence that only 'one sort or one colour' live on certain streets or districts…applicants wishing to live in areas where people of all backgrounds are welcome should have a real choice.*[23]

As that document notes, lack of trust and safety still substantially prevent these aims from being realised, but it is significant that it affirms how strongly the Housing Executive is committed to promoting 'mixed housing', which must be seen as an integral part of its obligation to discharge its important public duties fairly for all.

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[19] Connolly and Keenan (2002).
[20] Connolly and Keenan (2002). They further suggest the following methods: 'Initially, it should include: An extensive review of existing multicultural and anti-racist initiatives in Britain and elsewhere and the debates surrounding these; and, On the basis of this review, the development and piloting of specific resources and material for use in schools.'
[21] See Census 1991 and 2001. See also 'Northern Ireland – Still Troubled' (2006).
[22] See Connolly and Keenan (2002); see also Poole and Doherty (1996), Lloyd et al. (2004) and the Northern Ireland Housing Executive at: www.nihe.gov.uk
[23] OFMDFM (2005a: 29).

CONCLUSION

The public sector has a crucial role in furthering the aim of racial equality in society. In Northern Ireland, the government has recognised this responsibility both in terms of preventing racial discrimination and in creating a positive duty to promote equality of opportunity in service provision. The aim of such duties is to ensure that justice in society is realised as far as possible, requiring that barriers to fairness be removed for all individuals. Ensuring that all individuals can equally access important public services is some way off in Britain as well as Northern Ireland, but as we have indicated there are some important and potentially effective pieces of government legislation, policy and reports that offer real instruments for achieving what may seem like a lofty aim.

In this paper we also pointed out where difficulties remain in specific service areas, focusing on education and housing because of their potential role in fostering tolerance and integration. Although we have not provided discussion of it here, political parties must also become more representative by including more minority ethnic leaders and ultimately candidates for election, though this will of course be difficult so long as parties are perceived as representing the interests of a particular community. The need for the police to combat racist violence is another vital area in which racial equality must be fostered, and is addressed in the **second paper** of this series.

As the Race Equality Strategy and other equality strands of government policy recognise, creating equal opportunities requires responding to the needs of individuals from different communities. This will occasionally demand that positive action be taken, not because of some commitment to the ephemeral notion of 'equality of result', but rather because even the most procedural forms of equality require that those with different needs receive particular attention. Some of the more concrete measures that should everywhere be implemented are: monitoring by each public authority, ensuring that all staff are adequately trained in delivering services to minority ethnic communities, and creating minority ethnic liaison offices that can engage with the various communities in Northern Ireland.

In a democracy, participation is absolutely critical not only for effective governance but also for political legitimacy. When individuals of minority (or majority) ethnic communities are incapable of participating as equals because of systematic disadvantage and discrimination, fair and effective government becomes impossible. Public authorities cannot change the values and ideals of every citizen, but they can ensure that they are committed to promoting equality of opportunity in the provision of important services so that all individuals are able to participate as equals in democratic society.

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