



**Bill of Rights for Northern Ireland**

**Equality - Rights**  
**and**  
**Differentials**

**The Ulster Unionist Party's  
Position**

**by**  
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## **1. Introduction:**

The duties that Government, by law, places upon both the public sector - including the Equality Commission - and the private sector are extensive.

In order to demonstrate effectiveness there is a clear need to identify, within already defined policy objectives, both the problem (baseline) and the anticipated outcomes required to alleviate the problem (effectiveness). There has been neither a clearly established baseline for the equality problem, or an effective measurement methodology to gauge the level of policy success.

To compound the problem, various perspectives are held with regard to the 'equality problem' from within different sections of the community. Therefore, some clearly perceived overall objective assessment based on equality and human rights is required that will impact upon Government policy and, in turn, be communicated effectively to the public. Since both the 'values' of equality and justice are central to human rights and also Economic and Social rights are viewed as central to the discussions, the *Bill of Rights Forum* must play its part in this assessment.

Both Governments have taken a continuous interest in equality/human rights matters. For example, the British-Irish Intergovernmental Conference (BIIC) reported:

*"The Conference reiterated its commitment to tackling inequality and disadvantage on the basis of objective need. In that context it reviewed progress on the commitment in the Good Friday Agreement to tackle the differential in unemployment rates between the two communities. It also looked forward to the publication of a study on changing patterns of inequalities in the Northern Ireland labour market."*<sup>1</sup>

Also, the Northern Ireland Assembly debated an SDLP motion on 2 October 2007 which related to a report published by the Committee on the Administration of Justice (CAJ), titled 'Equality in Northern Ireland: the rhetoric and the reality'. The motion called upon the Assembly's Executive:

*"... to ensure that the content and conclusions of the report inform decisions and proposals."*<sup>2</sup>

The proposer of the motion stated:

*"I cannot do justice to a 200-page report; I urge Members to read it themselves. Its good authority is based on the statistics and data of Departments in the North, and it should be a catalyst for the next phase of equality. [and] Yes, disadvantage, for historical and other reasons, is more acute on the Catholic side of the community, and those differentials must be addressed..."*<sup>3</sup>

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<sup>1</sup> BIIC: 'Joint Communiqué of the BIIC', 19 October 2005.

<sup>2</sup> Northern Ireland Assembly Official Report (Hansard): Private Members' Business, 'Equality in Northern Ireland' Report, Tuesday 2 October 2007

<sup>3</sup> Alex Attwood: Ibid.

Another SDLP MLA indicated that:

*“Alex Attwood cited the facts. The report contains a lot of factual information, from which it draws conclusions. I have no difficulty with people disagreeing with those conclusions - I disagree with some of them - but the facts cannot be ignored. For some Members, the less their arguments are based on facts, the louder their voices become. If those people do not attend to the facts that are included in the report, they do not deserve to be taken seriously in a debate on equality.”*<sup>4</sup>

Also, the Deputy First Minister: stated that he was “*speaking for the First Minister in this debate*”; that the CAJ document was: “*a thorough and detailed report that deals with a wide range of complex issues*”<sup>5</sup>; and voted in support of the SDLP motion.

Mindful of the content of the above quotations in the Assembly debate, a careful consideration of the underlying assumptions of the CAJ report is required. But first, to put the CAJ report in context, a consideration is needed regarding the Unemployment Differential - as background to a more general equality/human rights debate.

## **2. Unemployment Differential:**

The Unemployment Differential has been defined by The Northern Ireland Statistics and Research Agency (NISRA) as follows:

*“This differential is the ratio of Roman Catholic to Protestant unemployment rates and is calculated by dividing the unemployment rate of the group with the higher rate of unemployment by that of the group with the lower rate.”*<sup>6</sup>

For example, if the Catholic unemployment rate is 12% and the Protestant unemployment rate 6%, the differential is 2:1.

The Unemployment Differential has long been a central aspect of the Equality Agenda. A wider phrase, ‘Community Differentials’ refers to differences between both communities on a wide range of social issues, such as mortality rates. The CAJ report alludes to these wider social differentials. However, it has been the traditional view that the over-arching measurement of difference, and disadvantage, between the two communities is the Unemployment Differential.

The 1987 Standing Advisory Commission on Human Rights (SACHR) Report recommended targets for the reduction in the Unemployment Differential as follows:

*“4.8 An interim target to aim for would be the reduction in the differential between the male Catholic unemployment rate and the male Protestant unemployment rate from two and a half times to one and a half times within*

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<sup>4</sup> Declan O’Loan: Ibid.

<sup>5</sup> Martin McGuinness: Ibid.

<sup>6</sup> Department of Finance and Personnel: ‘2000 Labour Force Survey Religion Report’: Page 8, (2001)

*five years. This is not a prediction that the recommendations made in this Report will result in this being achieved. Rather the Commission recommends this as a reasonable target which on public policy grounds, the Government should set itself to achieve. The Commission knows of no evidence which demonstrates that this is an impossible goal to achieve.”*<sup>7</sup>

The 1997 SACHR Report<sup>8</sup> represented a comprehensive review of employment equality after five years experience of the operation of the Fair Employment (NI) Act 1989. It again concluded, like the 1987 Report, that attention must be paid to the Unemployment Differential as follows:

*“2.29 The Government should publicly adopt realistic targets for the reduction of long-term unemployment and unemployment differentials over five, ten and fifteen years. ....it is clear that any optimism within government at the time of the 1989 Act - that the differential would be reduced to 1.5 within 5 years unaccompanied by any strategy for greater labour market intervention - was misplaced. If the current rate of progress continues, the differential will still be unacceptably high by the time of the next census.”*

One example of commentary on Government policy at that time was as follows:

*“Although the Fair Employment Act was introduced to prevent discrimination on political and religious grounds, it has failed to remove the unemployment differentials and discrimination that continues to characterise Northern Ireland Society.*

*The UN Committee should therefore ask the incoming UK Government whether it will amend current legislation to reduce the unemployment differentials and strengthen measures to fight religious and political discrimination.”*<sup>9</sup>

**(a) The Government’s Response to the above 1997 SACHR Report:**<sup>10</sup>

**(i) Introduction by the Secretary of State:**

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*“We promised reform in Northern Ireland too - not only devolution within an agreed framework, but also measures to safeguard human rights and counter unjust discrimination in the labour market. This White Paper sets out our plans and seeks views on a number of proposals to enhance equality in a range of areas centering on jobs and employment. They relate to the particular circumstances of Northern Ireland and do not carry implications for equal opportunities and race relations strategies in the different context of Great Britain.”*

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<sup>7</sup> SACHR: ‘Religious and Political Discrimination and Equality of Opportunity in Northern Ireland: Report on Fair Employment, October 1987.

<sup>8</sup> SACHR: ‘Employment Equality: Building For The Future’, Cm 3684, June 1997.

<sup>9</sup> UNISON: ‘Submission to UN Committee on Economic, Social and Cultural Rights, May 1997

<sup>10</sup> Cm 3890: ‘Partnership for Equality’ White Paper, March 1998.

(ii) Employment and Unemployment: (Chapter 2)

Par. 2.12

*“The Secretary of State has already indicated her intention to clarify the law in this respect. It is now proposed to amend the Fair Employment and race relations legislation to clarify that an employer will not be liable to complaints of discrimination by seeking to recruit only from those not in employment, or only from those who have not had a job for a given period.”*

Par. 2.21

*“Not all of the factors determining the differential are within the Government control but the measures outlined above, particularly the New Deal and children initiatives, together with the proposals listed in Chapters 3 and 4, [Education/Training/ Equality of Opportunity/ New TSN] should reduce the levels of long-term unemployment and, with them, the ratio between the percentage of Catholics and Protestants who are unemployed.”*

Par. 2.22

*“To assess the rate of progress the Government proposes to commission the new Equality Commission to agree with the representatives of employers, employees, political parties and other interests, benchmark measures for the future reduction of the unemployment differential.”*

**(b) The Northern Ireland Affairs Committee:**

The NI Affairs Committee considered the issue of fair employment<sup>11</sup>. By way of indicating its acceptance of the viewpoint that discrimination was prevalent in NI, at the outset the Report stated that: *“In the course of this inquiry, we visited the United States of America from 10 to 13 May to seek to draw on American experience in combating discrimination in employment.”* (page vi, par.5)

The Report noted that: *“considerable attention was given by several witnesses to the problem of long-term unemployment in NI and the issue of differences in unemployment rates between Catholics and Protestants”* (page xiv, par.42), yet *“one witness, Dermot Nesbitt, who dissented from the SACHR report in 1997 on this issue, regarded the Government’s focus on the unemployment differential as mistaken.”* (page xv, par. 42). Nevertheless, it concluded: *“we consider that the community differences in unemployment should remain an appropriate and important issue of concern for Government. While not a simple measure of success of the legislation, it is one measure of the success or failure of government policy generally in the area, but not the only one.”* (page xv, par.47)

It noted that *“it remains to be seen to what extent”* recruitment from the long-term unemployed *“will affect the unemployment differential.”* (par. 127).

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<sup>11</sup> NI Affairs Committee (House of Commons): ‘The Operation of the Fair Employment (NI) Act 1989: Ten Years On’, July 1999.

The Report referred to the hope that the Equality Commission would have an early agreement on the “*benchmark measures for the future reduction of the unemployment differential*” (par. 129) noting that the next review in five years “*will consider any deviation between the benchmarks established and the available data.*” (par. 130) It added that: “*this would provide a suitable opportunity for appropriate policy initiatives on the unemployment differential.*” No further review has been conducted by the NI Affairs Committee.

**(c) Dignan’s Research:**

The following represents elements of this Government (OFMDFM) sponsored research<sup>12</sup> that is relevant to this paper. An important element related to New TSN, and viewed as crucial by the Government, was the recruitment from the unemployed. Two comments by Dignan are as follows:

*“Thus, for example, in the case of unemployment, the overall ratio of unemployment rates can be reduced if resources are disproportionately skewed towards the long-term unemployed. This is not because of the higher per capita incidence of long-term unemployment amongst Catholics. Rather it is due to the fact that the long-term unemployed account for a greater share of total Catholic unemployment than Protestant unemployment.”* (par. 132)

*“This example illustrates the general point that, if the mix needs in a given policy area does not vary between the two communities then there is no effect on the overall ratio of rates from skewing towards the greater objective need, even if the per capita incidence of total need is higher in one community than in the other.”* (par. 133)

Taking away all the carefully crafted language used by Dignan, these paragraphs support the view concerning a lack of impact that Government policies can have on the Unemployment Differential, notwithstanding that New TSN’s purpose is to skew resources to appropriate need.

It is worth noting however that this skewing of resources is a wholly acceptable policy and should be supported by all, as it is based on the skewing of resources according to need. The UUP’s concern is not with the logic of this policy but rather the measurement techniques used to gauge success or otherwise of this policy and if such measurement techniques are flawed, it could result in a call for changes in policy that would be neither equitable or rights based.

**(d) Worked Examples:**

(i) Explanation of some concepts:

**Equality of Opportunity:** This means equality of opportunity between persons of different religious beliefs in that every person has the same opportunity for appointment to a job as any other person, due allowance being made for any material difference in their suitability for the job.

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<sup>12</sup> Tony Dignan: ‘Community Differentials and New TSN: Summary Report’ OFMDFM, 2003

Equality of Outcome: If all candidates from both the Catholic and Protestant communities have the same profile of educational attainment and experience, then the outcome of an appointment process should result in the same proportion of a particular community being appointed as the proportion that applied. In short, if 60% of a group of candidates applied were Catholic then 60% of the successful applicants should be Catholic. In reality, the bigger the number involved - in both applications and appointments - the more likely is such a result to occur.

Active Population: This comprises all persons in the labour market, either in work or seeking work. It does not include, for example, retired persons or students.

Employed Population: Of the Active Population, this represents the number actually in work. The difference between the Active and Employed populations represents the unemployed.

New Active Population: The working population is constantly changing - new people come into the labour market and people retire. A particular characteristic of the Northern Ireland labour market has been that the New Active Catholic population coming into the labour market has been steadily increasing over time, in comparison with the Protestant population. Over the last 10-year period the Active Catholic population has increased approximately from 39% to 43%. Also, this means that in any one year the proportion of New Active Catholic population coming into the labour market is likely to be greater than its present Active proportion. For example, assuming the present Active Catholic population is 43%, the New Active Catholics coming into the labour market may be 45% of this year's total New Active population - Catholic and Protestant.

(ii) Application of above concepts to worked examples:

Each worked example will be laid out as follows. The numbers used here are different from reality but this has no bearing on the dynamics of the labour market, it is merely for ease and clarity of working. It is the relative relationship in size between the Catholic and Protestant communities that is important.

Initial position

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>100</b>	<b>95</b>	<b>5</b>	<b>5</b>	
<b>Protestant</b>	<b>200</b>	<b>190</b>	<b>10</b>	<b>5</b>	<b>1</b>
<b>Total</b>	<b>300</b>	<b>285</b>	<b>15</b>		

**Catholics:** The above assumes that there are 100 Catholics either in work or seeking work (Active), 95 are in work (Employed) and with 5 people unemployed, the unemployment rate is 5%.

**Protestants:** The Active Protestant proportion is twice the Active Catholic proportion (2 to 1).

**Unemployment Differential:** Since both Catholics and Protestants have the same unemployment rate, the differential is 1:1. In reality, this means that there is no differential in unemployment between the two communities.

The above labour market could be described as stable in that the proportions are in balance (so there is no potential disadvantage to either community) and, on the assumption that New Active Catholics and New Active Protestants reflect existing proportions, the market should remain stable.

New position

We now introduce some dynamics into the labour market. Suppose: 18 New Active people in total come into the labour market, 6 Catholics and 12 Protestants; there are only 9 new jobs available; and that all jobs will go to the New Active. How is this reflected numerically, mindful of the concepts mentioned at the beginning?

**Appointment procedure:** In all examples it is assumed that there is equality of opportunity and that both communities have the same profile of educational attainment and experience. It follows therefore that the proportion appointed from either community should reflect the proportion of applicants from that community. If 50% of the applicants are Catholic then 50% of the appointments should be Catholic. The selection process should ensure that no unlawful discriminatory criteria are applied in order to select the number of applicants to reflect the number of jobs available.

This could be represented numerically in two ways. The result in both cases is of course the same.

(i) Since 6 out of 18 of the New Active population are Catholic, Catholics are entitled to 6/18 (or 1/3) of the 9 new jobs.

**Thus: 9 new jobs x 1/3 = 3 C new jobs**

**OR**

(ii) Since there are 18 applicants seeking 9 new jobs, each Catholic and Protestant applicant has a 50% chance of obtaining, or not obtaining, a job. The number of jobs available is 50% [9/18] of the number of total applicants.

**Thus: 6 C x 50% = 3 C new jobs**

The worked examples in each case will show these calculations. Looking at the new position, compared with the initial position above, the outcome is as follows:

New position

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	106 <sup>1</sup>	98 <sup>2</sup>	8	7.5	
<b>Protestant</b>	212	196 <sup>3</sup>	16	7.5	1
<b>Total</b>	318	294	24		

<sup>1</sup> 106 = 100 + 6 (increase in the Active Catholic population)

<sup>2</sup> 98 = 95 + 3 (6 C x 50%)

<sup>3</sup> 196 = 190 + 6 (12 P x 50%)



If instead of 9 new jobs 16 new jobs were available, the outcome would be as follows.

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>106</b>	<b>100.33<sup>1</sup></b>	<b>5.67</b>	<b>5.3</b>	
<b>Protestant</b>	<b>212</b>	<b>200.67<sup>2</sup></b>	<b>11.33</b>	<b>5.3</b>	<b>1</b>
<b>Total</b>	<b>318</b>	<b>301</b>	<b>17</b>		

<sup>1</sup> 100.33 = 95 + 5.33 ( 6 C x 16/18)

<sup>2</sup> 200.67 = 190 + 10.67 (12 P x 16/18)

Note: In both cases the Unemployment Differential has remained stable but more people are unemployed than in the initial position because the number of new applicants coming into the labour market in each case was greater than the new jobs that were available. We shall now consider the above in the context of the application of Government policy, by way of the following two scenarios.

#### 1. Recruiting directly from the Unemployed:

In an effort to convey more reality the following two examples use actual labour market statistics as provided by NISRA. The year 1997 has been chosen as a year when there was a marked numerical degree of difference between the two communities.

This policy of recruiting directly from the unemployed was recommended by the Government in 1998 (page 5, par. 2.12 above) and actively welcomed by both the Fair Employment Commission (and its successor the Equality Commission) as follows:

*“... But the unacceptable discrepancies in the unemployment rate remain and it is a matter of satisfaction that the recent Government White Paper identifies this as the major outstanding issue and concentrates on measures to remove them.”*<sup>13</sup>

*“The unemployment differential is an unacceptable inequality which must be tackled if there is to be equality and fair participation for all. It is hoped that the new legislative provisions allowing for recruitment directly from those not in employment and religion specific training will go some way to bringing this about.”*<sup>14</sup>

However, the reality of the labour market presents a different picture.

<sup>13</sup> Fair Employment Commission (FEC): Monitoring Report No. 8, March 1998.

<sup>14</sup> Equality Commission (EC): Corporate Plan 2000 – 2003.

### Initial Position

	<u>Active</u> (‘000’s)	<u>Employed</u> (‘000’s)	<u>Unemployed</u> (‘000’s)	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>289 (41.4%)</b>	<b>254 (39.6%)</b>	<b>35</b>	<b>12.11</b>	
<b>Protestant</b>	<b>409 (58.6%)</b>	<b>388 (60.4%)</b>	<b>21</b>	<b>5.13</b>	<b>2.36</b>
<b>Total</b>	<b>698</b>	<b>642</b>	<b>56</b>		

Source: NISRA for 1997

### New Position

Assume: Government policy is targeted at reducing the unemployed by 7,000 in one year (12.5%) by permitting recruitment directly from the unemployed. Since it is assumed that equality of opportunity obtains, a fair and proportionate number from both communities would be expected to benefit from this policy initiative.

	<u>Active</u> (‘000’s)	<u>Employed</u> (‘000’s)	<u>Unemployed</u> (‘000’s)	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>289</b>	<b>258.375<sup>1</sup></b>	<b>30.625</b>	<b>10.60</b>	
<b>Protestant</b>	<b>409</b>	<b>390.625<sup>2</sup></b>	<b>18.375</b>	<b>4.49</b>	<b>2.36</b>
<b>Total</b>	<b>698</b>	<b>649</b>	<b>49</b>		

<sup>1</sup> 258.375 = 254 + 4.375 (7,000 x 62.5%).

<sup>2</sup> 390.625 = 388 + 2.625 (7,000 x 37.5%).

Since Catholics comprise 35 of the 56 total number unemployed, given Equality of Opportunity and both communities having the same educational profile, Catholics should obtain 35/56 (62.5%) of the 7,000 jobs that Government has targeted for the unemployed.

Protestants comprise 21/56 (37.5%) of the total unemployed and thus, like Catholics, should receive their fair share of the 7,000 jobs targeted by Government.

Yet, while Catholics receive 63% of the 7,000 jobs the differential is unchanged. We can now begin to see how both Catholics and Protestants could potentially feel unfairly treated. Catholics see the Unemployment Differential (or any other differential) not being reduced while Protestants see more Catholics getting jobs (or any other benefit).

In the consideration of employment issues, the *Bill of Rights Forum* must consider these issues for the benefit of the whole community, both Catholic and Protestant.

### 2. Recruiting directly from the Long-term Unemployed:

Assume: Government policy is targeted at reducing the Long-term Unemployed (LTU) by 7,000. Again both communities would be expected to benefit from the policy initiative. In 1997 there were 28,000 LTU - Catholics 19,000 and Protestants

9,000. The same initial position is assumed as above so we need only consider the new position.

New Position

	<u>Active</u> (‘000’s)	<u>Employed</u> (‘000’s)	<u>Unemployed</u> (‘000’s)	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>289 (41.4%)</b>	<b>258.750<sup>1</sup> (39.9%)</b>	<b>30.250</b>	<b>10.47</b>	
<b>Protestant</b>	<b>409 (58.6%)</b>	<b>390.250<sup>2</sup> (60.1%)</b>	<b>18.750</b>	<b>4.58</b>	<b>2.29</b>
<b>Total</b>	<b>698</b>	<b>649</b>	<b>49</b>		

<sup>1</sup> 258.750 = 254 + 4.750 (7,000 x 67.86%)

<sup>2</sup> 390.250 = 388 + 2.250 (7,000 x 32.14%)

Catholics comprise 19,000 of the total 28,000 LTU and thus should obtain 19/28 (67.86%) of jobs targeted for the LTU. Protestants comprise 9/28 of the LTU and thus should receive 9/28 (32.14%) of the jobs.

Catholics obtain 68% of the jobs, long-term unemployment is reduced by 25% and there is a reduction in the Unemployment Differential of only 0.07. This very small reduction is because, within the total unemployed, Catholics have a higher proportion of the LTU (see ‘Dignan Research’ above). However, the Unemployed Differential is based on data supplied by NISRA and its estimate for the margin of error is 0.40 (resulting from sampling error). The reduction in the Unemployment Differential is so small - only 18% of the margin of error (0.07/0.40) - that it is for all practical purposes fairly meaningless, compared with the major outcome of jobs provided to those who were LTU.

There are many other factors over which government has no control that could change the Unemployment Differential. For example, people from one community may migrate into Northern Ireland and increase the Active labour market for that community.

Therefore, it is not really possible to measure any actual contribution by Government policy to the reduction in the Unemployment Differential measured as a ratio and so it should not be used as a measurement tool by which to judge the success, or otherwise, of Government policies.

What is more noteworthy is that the original absolute differential has been reduced from 6.98% points (12.11% - 5.13%) to 5.89% points (10.47% - 4.58%). This is a reduction of 1.09% points. This is referred to as the ‘gap’ in the unemployment rates between Catholics and Protestants. In similar manner there would be a reduction in the ‘gap’ in the employment rates between the two religious denominations.

Today’s unemployment rate is below 5% - the lowest it has been for many years. There is also a lower difference in unemployment rates measured either as an absolute gap or as a ratio (the Unemployment Differential). Also, the difference in the employment gap within the Catholic community has been reduced. Such dynamics can be seen from the above example, based on recruitment from the long-term unemployed. Namely: the difference in the absolute gap reduced by 1.09% points; the Unemployment Differential was reduced by 0.07; and, the Employment gap for Catholics reduced from 1.8% points [41.4% - 39.6%] to 1.5% points [41.4% - 39.9%].

### **3. Committee on the Administration of Justice: ('Equality in Northern Ireland: the rhetoric and the reality')**

#### **(a) Introduction:**

Two issues form central themes within this CAJ book: (i) differentials (i.e. the means of *measuring* disadvantage/inequality); (ii) the *occurrence* of disadvantage/inequality. Regarding the former, the measurement theme used by CAJ is fundamentally flawed and for the same reason as measurement of the 'Unemployment Differential' above was flawed: the use of ratios compared with absolute changes.

The UUP agrees entirely that the latter dimension must be addressed. The occurrence of disadvantage/inequality, highlighted by CAJ, is very important and the UUP has no disagreement with CAJ in that it must be tackled as best possible, given the dynamics of the problem.

#### **(b) Measurement of disadvantage and/or inequality:**

The relevant flawed argument prevails: the concentration on 'ratio' measures, as opposed to 'gap' (or absolute) measures, as used by CAJ, is both inappropriate to assess Government policy and also is in contradiction of Fair Employment law, in particular Section 75 (NI Act 1998) relating to equality of opportunity.

##### **(i) Discrimination and Inequality:**

The CAJ book indicated what it was endeavouring to address:

*"To the extent that religious and political discrimination or community differentials still exist, where are the problems, and is anything being done to address them effectively?"*<sup>15</sup>

It then concluded:

*"The focus of the campaign to end political and religious discrimination at the point of recruitment has been, in large part effective."*<sup>16</sup>

However, it further added:

*"Current government initiatives risk not merely ignoring issues of inequality but of seriously exacerbating them and indeed sectarianising them."*<sup>17</sup>

The message was simple: discrimination in recruitment largely disappeared but differentials still remain. It is interesting to note that CAJ now focuses on other 'differentials' yet the Unemployment Differential has remained, notwithstanding a low level of unemployment. As above, the UUP has always argued that the presence

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<sup>15</sup> CAJ: 'Equality in Northern Ireland: the rhetoric and the reality' 2006, Executive Summary, page 1.

<sup>16</sup> Ibid: Executive Summary, Part c.

<sup>17</sup> Ibid: Executive Summary, Part d.

of equality of opportunity at the point of recruitment (no discrimination) would not have any measurable impact on the Unemployment Differential. Since recruitment monitoring began, following the 1989 Fair Employment Act, there was no evidence of discrimination against Catholics in recruitment. Thus policies derived in 1998, based on combating discrimination which would hopefully reduce the Unemployment Differential measured as a ratio, were based on a flawed analysis.

More generally, government policy can have no measurable impact on differentials generally (measured as a ratio), whether they be unemployment or other. The UUP is not aware that CAJ either understands this point, nor has it demonstrated any inclination to do so. Had it done so, the policy analysis by CAJ contained in the book under consideration may have been on a sounder base.

(ii) The Unemployment Differential:

The CAJ book is now more dismissive of the benefit of using the Unemployment Differential as a measurement tool by stating that:

*“... persistent inequalities which are no longer (if they ever were) adequately measured by merely using the traditional ‘unemployment differential’ indicator”.*<sup>18</sup>

CAJ further argued (page 106-107) that New-TSN could not be assumed to reduce the Unemployment Differential, citing the 1999 NI Affairs Committee Report (NIACR). Yet, this conclusion by CAJ in late 2006 is in *sharp contrast* to both the full picture presented by the NIACR and also CAJ’s contribution at that time to the NIACR.

Briefly, and in precise detail, some of the evidence to justify these CAJ-related comments just mentioned is as follows. The NIACR concluded:

*“We consider that New-TSN should be adequately resourced to enable it more effectively to target a reduction in the unemployment differential than it has proven to be in the past...”*<sup>19</sup>

In order to justify this conclusion the NIACR cited specifically the evidence presented to it by the CAJ. An extract of this CAJ evidence to the NI Affairs Committee was as follows:

*“I think one of our principal disappointments was the Government’s response to SACHR’s recommendations on the unemployment differential...this is principally a matter of Government policy and that Government should set realistic goals and timetables to tackle the problem of the unemployment differential.”*<sup>20</sup>

It would be helpful to the debate had CAJ clarified what in its thinking has changed and not to simply present a different perspective while ignoring the contrary one it

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<sup>18</sup> Ibid: Page 59

<sup>19</sup> NIACR: ‘Fourth Report, Volume 1; page xxxii.

<sup>20</sup> NIACR: ‘Fourth Report, Volume 11, Minutes of evidence and Appendices’; Martin O’Brien, Director CAJ, page 123 (par. 418).

held previously. Yet, even with CAJ's now apparent dismissal of the Unemployment Differential, it still holds firm to the rationale underpinning its support for this measurement device in the first place. In short it presents a rather illogical position.

(iii) General approach to differentials by CAJ:

Regrettably and overall, the comments in CAJ's book seem to demonstrate its lack of understanding of the statistical dynamics associated with differentials and their usage for judging Government policy success in any area, not just employment.

CAJ quoted a Government Minister as saying that:

*“Socio-economic differentials between the two main communities in Northern Ireland have decreased, reflected particularly in relation to unemployment levels which have decreased by a much greater extent for Catholics than for Protestants in recent years.”*<sup>21</sup>

CAJ then immediately refuted this Government assertion, quoting the Government's own statistics, by stating that the unemployment rate for both Catholics and Protestants had been halved (Catholics: 16% down to 8%; Protestants 8% down to 4%). CAJ then concluded:

*“These figures clearly do not however bear out the statement that unemployment levels have decreased to a much greater extent for one community rather than another.”*

CAJ does not recognise at all that the Catholic unemployment rate fell by twice the amount compared with the Protestant rate (i.e. 8% fall for Catholics compared with a 4% fall for Protestants). And, importantly, if government unemployed reduction policy was being targeted on a proportionate and thus fair basis of equality of opportunity, this is the outcome that should be expected. Of course the Unemployment Differential (at 2:1) remains unchanged, but the 'gap' has been reduced from 8% (16% - 8%) to 4% (8% - 4%). CAJ totally misses the implication of equality of opportunity policy (and equality to a right to employment) in what is thus a flawed analysis.

Another example of CAJ's numerical analysis is worthy of brief consideration. Under the section in its book 'TSN and the New Deal programme', CAJ presented two tables (page 108) and they are reproduced below.

The tables below led CAJ to conclude (page 112) that:

*“The gap between rhetoric and reality is well exemplified in the New Deal programme”* [adding] *“change is needed.”*

This quotation embraces part of the book's title - 'the rhetoric and the reality'- thus it would seem a good example to use, judging by CAJ's approach to the importance of the example.

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<sup>21</sup> Op. cit: Page 104.

The two tables in the CAJ book are as follows:

**Percentage of New Deal leavers in 2002 by religion  
who found work within 3 months of leaving New Deal 18-24**

	<u>Leavers</u>	<u>No. Found Work</u>	<u>% Found Work</u>
<b>Catholic</b>	<b>3172</b>	<b>932</b>	<b>29%</b>
<b>Protestant</b>	<b>1962</b>	<b>657</b>	<b>33%</b>
<b>Unknown</b>	<b>328</b>	<b>101</b>	<b>31%</b>
<b>Unknown</b>	<b>1820</b>	<b>552</b>	<b>30%</b>
<b>Total</b>	<b>7282</b>	<b>2242</b>	<b>31%</b>

**Percentage of New Deal leavers in 2002 by religion  
who found work within 3 months by leaving New Deal 25+**

	<u>Leavers</u>	<u>No. Found Work</u>	<u>% Found Work</u>
<b>Catholic</b>	<b>4540</b>	<b>701</b>	<b>15%</b>
<b>Protestant</b>	<b>2927</b>	<b>512</b>	<b>17%</b>
<b>Unknown</b>	<b>419</b>	<b>99</b>	<b>24%</b>
<b>Unknown</b>	<b>2360</b>	<b>356</b>	<b>15%</b>
<b>Total</b>	<b>10246</b>	<b>1668</b>	<b>16%</b>

Yet a more careful analysis of the first data set above (second data set has similar proportions) shows that of those Catholic and Protestant leavers (5134 in total), 61.8% were Catholic and 38.2% were Protestant. Assuming a fair allocation towards the number entering work, by using these proportions, 982 Catholics and 607 Protestants should have obtained employment. The actual outcome was 932 and 657 respectively: this represents 50 less Catholics than it should have been, in order to be fair. Of the total Catholics and Protestants who found work (1589): Catholics represented 58.7% and the number of Catholics (932) is 42% more than the number of Protestants (657).

Some conclusions are clear: in this sample less Catholics (50) obtained work than would otherwise be expected and this needs to be examined to identify whether this number is a trend or due to it being a sample (if it is a trend corrective action is required); and, importantly from CAJ’s analytical perspective, even if the proper and fair proportion had obtained work the relevant differential would remain. On the basis of these data, it is inappropriate for CAJ to state (page 110) that there is a: *“failure of public bodies to address differentials.”*

In this context of New TSN that CAJ was considering, the Northern Ireland Economic Council (NIEC) previously conducted research. The following quotation is relevant:

*“Reducing the Community Differential: New TSN is seen as a way of reducing the Catholic/Protestant unemployment differential expressed as a ratio. In administering the New TSN, government will not discriminate ‘in favour of one community against the other ...’ While this will lead to a reduction in the Catholic/Protestant unemployment differential measured as a **percentage** point difference, it is unlikely to lead to a reduction in the **ratio**. Thus it appears that New TSN is internally inconsistent. The Council recommends that both of these problems should be addressed as a matter of urgency.”*<sup>22</sup>

The UUP is not aware that either of these problems identified by the NIEC was ever overtly recognised, let alone addressed by Government. And, CAJ does not seem to recognise the impact of this quotation on its analysis. It is a grave indictment on the part of Government and other interested parties (like CAJ) that this concern has been articulated for many years and yet has been ignored by them.

#### **(c) Occurrence of disadvantage and/or inequality**

The UUP agrees entirely with CAJ when it stated that poverty should be: *addressed on the basis of objective need rather than addressed by way of some kind of sectarian head-count.*” (page 111) This rationale of ‘need’ applies whether it is housing, health or any other occurrence of disadvantage. The same viewpoint, but by a different author, was expressed in 1997 as follows:

*“What needs to be addressed today is the inequality between Catholic/Protestant/Other ‘haves’ and Catholic/Protestant/Other ‘have-nots’...All involved in securing the economic welfare of Northern Ireland need to focus on the relevant issues.”*<sup>23</sup>

The above has been, is and will remain the position of the Ulster Unionist Party.

#### **4. Conclusion:**

Presenting data accurately to the public is a continuing problem. The Equality Commission relatively recently conducted a survey of attitudes and presented its results. The first paragraph of its press release stated:

*“Most people in Northern Ireland believe that it is not Protestants or Catholics who are treated most unfairly, but racial or ethnic groups.”*<sup>24</sup>

This tone was replicated in the media coverage of the survey data. On closer examination of the survey it is noted that:

*“A greater proportion of respondents from the Protestant community (36%) than Roman Catholic community (27%) and Unionists (40%) compared to*

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<sup>22</sup> NIEC: ‘Occasional Paper 11: Growth with Development. A Response to New TSN’ (Executive Summary), 1998. (The NIEC is responsible for the emphasis in this quotation)

<sup>23</sup> Dermot Nesbitt: SACHR Report (Cm 3684); ‘Note by Dissenting Member’; pages 107-108, June 1997

<sup>24</sup> Equality Commission: Press Release, 21 June 2006.



*Nationalists (30%) expressed agreement ... [that]... Equality laws protect one group at the expense of another.”*<sup>25</sup>

The Chief Commissioner of the Equality Commission viewed these data with “concern” and that “*this is a real crux in the public understanding of equality*” which presents “*a real challenge to the Equality Commission.*”<sup>26</sup> From a UUP perspective, this also presents a real challenge to members of the *Bill of Rights Forum* in considering not only a Bill of Rights for Northern Ireland but also potential expectations by the community following any introduction of a Bill of Rights.

The UUP strongly supports fairness for all. It realises that equality is a sensitive issue and disadvantage must be addressed by Government and others who have such responsibility. The challenge to government and by implication the *Bill of Rights Forum*, in the event of the latter considering economic rights, is to address accurately the issues of equality that are of concern to people in Northern Ireland. Until realistic and accurate information is deployed, it will be difficult to turn away from past perceptions and look to a different future - a future beneficial to both Catholics and Protestants.

From a positive perspective: the CAJ book contains some useful information about the existence of inequality/disadvantage in Northern Ireland. It is probably fair to say that this is not a unique problem to NI - but that is no excuse for not endeavouring to address the on-going problems correctly identified by CAJ and others.

Yet, for too long Government and others have inadequately addressed both the dynamics of policy related to disadvantage/inequality and also how to measure policy success. The CAJ book points up in stark terms that this inadequacy still prevails today. Will Government strongly rebuke CAJ’s assertion of Government’s failure? Not likely: because to do so, it would be required to admit its own failings in properly analysing the dynamics of disadvantage.

Where the UUP has real difficulty is the manner in which CAJ addresses and, importantly, measures these inequality concerns. CAJ along with others gave an analysis some years ago, when some others tried to point out the flaws in their argument. Today, and precisely because of the flaws in analysis at the earlier time of the review of equality legislation (1990s), we have the concerns today as expressed by CAJ regarding policy impact on differentials. It is truly sad, but these concerns of CAJ are a product of its own making.

Overall and regrettably: a situation of ‘failed’ policies (according to CAJ) is derived from, in the first instance, an actual failed analysis of the problem.

Indeed, this attitude by CAJ continues to fuel tension within the community regarding the issue of equality. This is against a background of consideration being given to not only a Bill of Rights by the *Bill of Rights Forum* but also a new Single Equality Bill that aims to harmonise existing equality/fair employment law, along with other elements of the law.

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<sup>25</sup> Equality Commission: ‘Research Update’ June 2006.

<sup>26</sup> Bob Collins: Platform Article, Belfast Telegraph, 21 June 2006.

And as always, but not necessarily correct, if the outcomes that were expected following a previous change in the law are not delivered - as CAJ is arguing - then the view that normally prevails is that more stringent law is required. Until the problem of measurement is fully recognised by all the 'players' then progress will be difficult in obtaining a general consensus as to the way forward.

For all of the above reasons, the UUP firmly believes that the *Bill of Rights Forum* has, potentially, a very beneficial role to play. The arguments have been presented in this paper - hopefully clearly - and it is the UUP's very firm view that a judgement should be made by the *Bill of Rights Forum* in this regard. To do so would form an integral part of its deliberations on Economic rights.

It should be noted that this paper has focused only on the narrower issue of 'differentials' between Catholics and Protestants. Concern could be expressed that New TSN only resulted in, for example, 16% of all leavers (25+) finding work after three months - see second table on page 15 of this paper. This is an issue not addressed in this paper.

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