

RD

**SETTING
THE CRITERIA**

**TACKLING
DISCRIMINATION**

*Sinn Fein's analysis and proposals**

**Proposed Ard Chomhairle policy document for the Sinn Fein Ard-Fheis,
October 30th - November 1st 1987*

Sinn Fein's analysis and proposals

ALMOST 20 YEARS after the issue of job discrimination against nationalists was highlighted by the civil rights struggle, the response of the British government has been the begrudging acknowledgement that discrimination does exist. Last year (September 1986), it published proposals ostensibly aimed at tackling the problem. Sinn Fein argues that not only are these proposals inadequate but that they would not have been made at all had it not been for the MacBride Principles campaign in the USA which has put international pressure on Britain. The MacBride Principles are seen in the USA as acceptable and reasonable objectives on a parallel with the campaign for the adoption of the Sullivan (Anti-Apartheid) Principles, upon which they are based.

Furthermore, the reaction of the British government (and direct-ruler Tom King's recent visit to the USA) validates this campaign.

Sinn Fein is highly critical of SDLP leader John Hume's attempts to scuttle the MacBride campaign.*

*"The (British) government has powerful allies. John Hume of the Social Democratic and Labour Party, whose influence in Irish America is tremendous, strongly opposes MacBride. So, largely because of Mr Hume, do powerful Irish Americans in the Senate, centring on Teddy Kennedy."—David McKittrick, *The Independent*, October 2nd 1987.

BACKGROUND

Discrimination in Ireland on the grounds of religious belief and/or political opinion has been synonymous with and is a product of British colonial rule. Privilege was the foundation stone of British control. Inequality is the price of a system of privilege.

When Britain partitioned Ireland in 1921, it was a sectarian head-count which decided the territory of the Northern state. Partition led to a much more structured sectarianism in the system than that which had existed before. The state in all its decisions — political, social, economic, educational, employment practices — reflected that basic sectarianism.

So it is the British government and its predecessors (the ultimate guarantors of the Six-County state) which must be held responsible for the discrimination against Catholics during the period of the Stormont regime **but even more so since Stormont was prorogued in 1972.**

From 1921 until 1969, Britain maintained the convention that “the domestic affairs of Northern Ireland” were not discussed at Westminster. Since 1972, it has been directly responsible for the deliberate refusal to take the necessary steps to eradicate job discrimination. As can be shown, it has not undertaken reform voluntarily and has always had to be pushed: firstly, by the Civil Rights Movement and by international media exposure of loyalist rule; more recently, as a result of the MacBride campaign and by the need to undermine nationalist dissent by delivering reforms to the SDLP leadership and Dublin government as part of the battle between republicans and constitutionalists for the hearts and minds of the nationalist people.

This paper does not intend arguing the republican contention that Britain cannot reform the Six-County state to the extent that support dwindles for the aspiration for Irish reunification. Its purposes are:

- (i) To show that Britain — as the *de facto* government — is responsible for job discrimination against Catholics/nationalists and that it has shown no genuine interest in tackling the problem;
- (ii) To set down alternative proposals which deal more effectively with the problem at this time; and
- (iii) To set as the ultimate criterion of any proposals the actual effect of their implementation.

EXERCISE

Fourteen years ago, over a four-year period from 1973 to 1976, Britain was engaged in a seen-to-be-doing-something exercise which successfully removed discrimination as a live issue from the political agenda.

The *Report and Recommendations of the Working Party on Discrimination in the Private Sector of Employment* (the van Straubenzee Report) was published in 1973. The Fair Employment Act was passed in 1976, followed by the creation of the Fair Employment Agency.

Clearly, Britain was engaging in the illusion of movement as a brief chronological review of statistics shows:

1968: Stormont rule: Civil Rights Movement campaign against, among other issues, job discrimination.

1971:	Unemployment rate	
	Catholic/nationalist	Protestant/unionist
Male	17.3%	6.6%
Female	7.0%	3.6%

1972: Direct rule from Westminster.

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1973: Van Straubenzee Report.

1976: Fair Employment Act and creation of Fair Employment Agency.

	Unemployment rate	
1981:	Catholic/nationalist	Protestant/unionist
Male	30.2%	12.4%
Female	17.1%	9.6%

	Unemployment rate*	
1985:	Catholic/nationalist	Protestant/unionist
Male	38-40%	18-20%
Female	18-19%	11-12%

1987: Almost twenty years on and against a background of disimprovement, the structural nature of job discrimination has not been tackled.

Twenty years on and the only areas in which there is broad public agreement is an acknowledgement that job discrimination does exist and the general manner in which it manifests itself.

The public debate on the issue has forced the British government to acknowledge and reiterate the basic facts:

1. Discrimination and inequality of opportunity in employment on the grounds of religious belief and/or political opinion does exist;

2. Its effects are both qualitative and quantitative on the Catholic/nationalist population.

3. The rate of unemployment for Catholics/nationalists has varied between double and two-and-a-half times that of the Protestant/unionist population;

4. The former suffer more long-term unemployment;

5. They are over-represented in semi-skilled and unskilled occupations and in industries which are more

4 * Estimated figures by Bob Rowthorn, a Cambridge economist.

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susceptible to the effects of economic recession and recurrent high unemployment;

6. They have a major problem in gaining access to the higher grades and earnings of, for example, supervisory and managerial positions;

7. That pattern applies to both public and private sector employment;

8. It obtains throughout the Six Counties — even in areas of relatively high employment. This structural inequality is shown by the disparity between the mainly Catholic rural west and the mainly Protestant industrial east, and again by the high rate of Catholic unemployment in those areas where they are a minority and industry is located; (See Table below)

Unemployment Rates by District Council Area, Sex and Religion (%)

District	Male		Female	
	Catholic	Protestant	Catholic	Protestant
Antrim	24.5	10.5	20.4	9.6
Ards	21.2	9.8	12.0	9.8
Armagh	28.8	10.2	15.9	9.5
Ballymena	22.1	11.1	14.0	9.0
Ballymoney	22.1	16.4	13.7	9.1
Banbridge	30.0	11.0	18.9	9.8
Belfast	23.1	15.6	18.3	14.1
Carrickfergus	31.4	22.7	8.9	10.6
Castlereagh	20.5	9.2	6.9	16.4
Coleraine	8.6	16.4	13.9	10.1
Cookstown	27.5	14.4	26.6	12.6
Craigavon	43.3	11.0	19.5	9.6
Down	30.4	8.9	11.6	9.0
Dungannon	19.7	12.7	24.0	11.6
Fermanagh	36.7	11.1	17.1	9.6
Larne	30.1	13.1	13.7	10.9
Limavady	34.0	14.3	16.2	11.4
Lisburn	36.7	8.8	15.8	9.6
Derry	22.1	14.4	17.6	10.1
Magherafelt	35.8	16.5	17.5	11.0
Moyle	31.9	21.0	16.2	15.1
Newry and Mourne	31.1	14.8	20.0	12.0
Newtownabbey	35.5	11.8	11.5	8.9
North Down	18.1	7.1	9.2	7.0
Omagh	11.1	10.9	15.6	9.4
Strabane	27.2	21.9	20.4	13.6

Source: 1981 Population Census, unpublished data.

Note: The true figures for Catholic unemployment rates may actually be higher; the 1981 census was boycotted by many nationalists in protest at the British government's 'criminalisation' policy.

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9. It persists despite an annual turnover of 100,000 jobs in the Six-County workforce (representing some 20% of that workforce) and despite a progressive convergence of educational attainment between the two communities.

MacBRIDE

Sinn Fein supports the MacBride Principles for equality of opportunity in employment because of their inherent justness.

We support the ethical investment campaign for the adoption of these modest measures by US companies operating in the Six Counties.

Our position is based on the clear understanding that equality of opportunity has not been realised.

Investors have a responsibility for the provision of equality of opportunity in employment. They should be obliged to uphold that responsibility.

In a very real sense, the MacBride Principles campaign has put job discrimination back on the political agenda and provoked the Department of Economic Development's (DED) consultative document *Future Strategy Options* and the *Guide to Effective Practice* in September 1987, with legislative proposals in the pipeline.

BRITISH PROPOSALS

Sinn Fein suspects that the British government is involved in creating yet again another illusion of movement on the discrimination issue, aimed at relieving the political pressure and getting the issue off the agenda. Its attitude to affirmative action would indicate that this is the case.

In formulating the legislation based on the van Straubensee Report, the then British Labour government totally ignored one of the major elements within the key affirmative action proposal of that report — the use of statistics for purposes of monitoring and establishing goals and timetables.

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The DED's consultative document *Future Strategy Options* does not even make reference to the goals and timetables concept. It is dealt with in the *Guide to Effective Practice* but only in relation to job applications, thus excluding a vital element in affirmative action from being applied to hiring, training, transfer or promotion.*

There is no legal obligation to implement anything contained in the guide. There is no indication that the explicit use of goals and timetables will be codified in any future legislation.

CONTRACT COMPLIANCE

In addition, the British government has been trumpeting 'contract compliance' as a major incentive for ensuring that employers provide equality of opportunity in employment. Sinn Fein agrees that contract compliance can be an effective contributory measure.

However, it is the detail of what employers are required to comply with which ascertains the potential effectiveness of that measure. In this case they must be signatories to a new Declaration of Practice. Indications are that the wording of the affirmative action content of that new declaration will be very restricted, immediately diluting its potential. In effect, the current 8,000 signatories of the Declaration of Principle and Intent will simply be transferred to a register of signatories of the new Declaration of Practice, thus validating their contract compliance.

*The Department of Economic Development, the agency tasked with informing employers on employment practices aimed at countering discrimination, is itself at the heart of the controversy. Shorts, the aircraft manufacturers, is wholly owned by the British government. In effect, it is controlled by the DED through public funding. Composition of the Shorts workforce of 7,000 is approximately 95% Protestant/unionist, 5% Catholic/nationalist. It is also the department responsible for government training schemes (GTS) in which, in 1985, it was found that of 110 senior posts only 16 were held by Catholics/nationalists. Further allegations about discrimination in the employment practices of the GTS were made in June of this year.

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Overall, the British government version of contract compliance appears unlikely to be an effective measure in either the short or medium term.

Furthermore, the British government's deliberate use of the 'merit principle' as the sole criterion for employment can only be interpreted as deliberately insulting. Implicit in that criterion is the suggestion that the victims of discrimination are:

1. Unemployed because they are incapable of working;
2. Unskilled because they are incapable of learning a skill;
3. Excluded from higher grades and earnings because they are incompetent.

It implies that it is the victims of discrimination who are the problem and not the system of discrimination. For those most affected by discrimination — its victims — the 'when' is of at least as much importance as the 'how'.

CHALLENGE

On the basis of its proposals, the British government must be challenged to answer the following:

1. When does it estimate that discrimination will be eradicated?
2. When does it estimate that equality of opportunity will be realised?

The British government has refused to answer these questions. It is clear that it is once again engaged in a seen-to-be-doing-something exercise and that there will be no real change.

Political pressure has proven to be the only effective measure to cause the British government to move in any direction on this issue.

Political pressure must be maintained until that movement proves to be constructive, until evidence of positive qualitative and quantitative effect is produced, until

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discriminatory practices are eradicated and until equality of opportunity is realised.

To realise fair employment, equality of opportunity and the eradication of job discrimination, Britain must dismantle the system of economic apartheid on which the state is maintained (and on which it was founded).

Sinn Fein does not believe that the eradication of discrimination can be achieved within the confines of the Six-County state or under the auspices of a British government. Nevertheless, the responsibility of attempting to tackle this historic/structural problem lies with the British government as creators of and apologists for the Six-County state. We repeat that the ultimate criterion of any proposals is the actual effect of their implementation — they must lead to an end to sectarian discrimination in employment within tangible time-scales.

PROPOSALS

ONLY the eradication of discrimination and the realisation of equality of opportunity in employment — clearly visible in a workforce which by and large reflects the denominational ratios in the community as a whole — will indicate that the definitive effective policies and practices concerning those issues have been arrived at and implemented.

Until such a situation is reached, all measures — legal, institutional, procedural and remedial — must be considered, subject to ongoing regular review on the basis of their effectiveness. There must be no blind allegiance to any legislation or agency established by law.

Subject to that criterion, Sinn Fein submits its proposals:

1. The existence of discrimination in employment on the grounds of religious belief or political opinion is irrefutable, as is the denial of equality of opportunity in employment which flows from that discrimination. Clear and comprehensive legal powers are required to eradicate discrimination and to ensure that equality of opportunity is realised.

2. Current provision outlaws direct discrimination on the grounds of religious belief or political opinion. Legal provision must be made for the outlawing of indirect discrimination and the practices entailed therein, which have the same consequences as direct discrimination.

3. Self-regulation has proved almost totally ineffective. Statutory obligations for the eradication of discrimination and the provision of equality of opportunity are essential.

The obligation to provide equality of opportunity must be imposed on all employers in both the public and private sectors.

That obligation must entail, as a minimum, the eradication of all discriminatory practices — both direct and indirect — and monitoring.

4. Failure to meet those obligations must be met with effective legal sanctions in the form of fines, grant withdrawal or ineligibility to tender for public contracts. This must include not just public funding but grants from the International Fund established after the signing of the Hillsborough Treaty.

Legal provision must allow for the imposition of sanctions not just against employers but also members of staff — particularly personnel staff — who practise discrimination.

5. Monitoring is essential but it should not be construed as, nor advanced as being, affirmative action.

Of itself, when effectively carried out, it does no more than to inform us in detail of what we already know more generally.

Effective monitoring, therefore, provides the information upon which the need for remedy is identified.

The following appropriate affirmative action is proposed:

(a) Employers must be obliged to monitor the perceived religious affiliation of:

(i) Their current workforce, including job category (i.e. skilled, unskilled, clerical, supervisory, managerial etc);

(ii) All job applicants for new-starts or those judged suitable for training, transfer, promotion and those appointed;

(iii) All those who resign, are dismissed, made redundant, retire etc;

(b) Employers must be obliged to conduct such monitoring on an ongoing basis, make regular returns to the relevant agency and be open to assessment *vis-a-vis* the effectiveness and accuracy of their monitoring programme;

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(c) This requirement to apply to all employers with ten or more employees;

(d) Financial assistance must be made available to employers in the public and private sectors to set up monitoring programmes.

6. Legislation must allow for the initiation of investigation into both discrimination and the provision of equality of opportunity by the relevant agency on:

(a) The initiative of the agency itself;

(b) The issuing of a complaint by an individual;

(c) The issuing of a complaint by individuals or groups which have a legitimate third-party interest and, where either or both are identified, to impose appropriate effective remedies.

Such remedies must be subject to on-going review *vis-a-vis* their effectiveness and, where necessary, subject to revision without the requirement of a new investigation.

7. Where discrimination or failure to provide equality of opportunity are identified either as a result of monitoring programmes, investigation by the relevant agency or where evidence of such already exists in reports of investigations carried out by the Fair Employment Agency, appropriate agreed affirmative action programmes must be implemented.

The scope of such affirmative action programmes — the explicit use of which must be codified in legislation — must include as a minimum:

(a) Outreach programmes which will effectively attract candidates from the under-represented group by bringing job opportunities to their attention and providing them with the skills to compete:

(i) Through advertisement of job opportunities in the appropriate media;

(ii) Through advertisements expressly welcoming applicants from the under-represented group;

(iii) By developing sustained contact with schools,

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youth organisations, community groups etc in the community from which, hitherto, the workforce has not traditionally been drawn;

(iv) By the provision of special training facilities, on an exclusive basis where necessary, to an under-represented group to off-set the traditional denial of the required skills through discriminatory employment practices;

(v) By the provision of comprehensive training on government training schemes at secure, accessible locations;

(b) The use of statistics for purposes of establishing goals and timetables to eradicate discriminatory practices, to realise equality of opportunity practices, or both, and to redress the imbalance in the make-up of workforces which such abuses have resulted in;

(c) The exercise of preferential treatment between equally qualified candidates in favour of the under-represented group where there is gross under-representation.

8. The current practice of self-certification whereby an employer simply signs the Fair Employment Agency's Declaration of Principle and Intent in order to be entitled to an Equal Opportunity Certificate — and eligibility for inclusion in British government contract lists — is at best ineffective, at worst, a fraud.

The FEA cannot refuse to allow an employer to sign the Declaration and the requirement of a long formal investigation before a signatory can be removed from the register of certified declarants guarantees its ineffectiveness.

To date, not one employer has been removed from the register of declarants.

(a) The disbursement of all British government grants — training, equipment, investment grants and employment subsidies — and eligibility for inclusion in British government contract lists must be made conditional on all employers committing themselves to equal opportunity practices in a new Declaration of Practice. This to apply to

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all grants from the International Fund and, where applicable, to Industrial Development Board (IDB) grants and Local Enterprise Development Unit (LEDU) grants and financial assistance.

(IDB and LEDU grants must also have a general equality discipline.)

(b) The wording of a new Declaration of Practice, to have any potential effect, must encompass the full scope of effective equality of opportunity practices.

(c) All current signatories must have their employment practices vetted in a specified period of time — the length of that period being conducive to the realisation of equal opportunity practice in the short term.

(d) All new declarants must have their employment practices vetted before being allowed to take the Declaration.

(e) The life-span of the Declaration must not be open-ended. It must be limited, after which an employer must justify renewal of the Declaration. The life-span of the Declaration must be conducive to the realisation of equal opportunity practice in the short term.

(f) A new Declaration of Practice will be as potentially ineffective and fraudulent as the current Declaration of Intent and Principle if British government funding for the relevant agency is not commensurate with its task (i.e. it would take ten years to vet the current 8,000 signatories of the Declaration of Intent and Principle at the rate of 15 per week).

RESOURCES

The British government must publish immediately the financial and personnel resources it intends putting at the disposal of the relevant agency so that its seriousness in regard to these issues can be assessed.

9. The effects of discrimination and/or the failure to provide equality of opportunity are both qualitative and

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quantitative. Evidence of progress can be easily measured and verified.

Annual progress reports — both general to the workforce as a whole and specific to individual employers — must be published on an annual basis and made available to members of the public on request. Statutory obligation to do so must be placed on the relevant agency and all employers with ten or more employees.

10. All major economic decisions must have an equality discipline.

In this context, steps must be taken to redress the discriminatory effects of such matters as the location of industry.

The British government must provide the necessary incentives and infrastructure to attract proposed new enterprises and actively encourage co-operative enterprises in the most disadvantaged areas.

11. Equality of opportunity in employment is directly impinged upon in a workplace where the working environment is provocative, offensive, intimidatory or perceived as such by a section of the workforce.

Employers must be obliged to keep the workplace free of all political/religious emblems, flags, graffiti, rallies, marches etc which might be offensive or intimidatory to other groups of workers.

Legal sanctions must be used against employers who refuse to comply with the necessary stipulated measures.

Employers, in consultation with the relevant trade unions, must adopt effective disciplinary procedures for dealing with transgressors.

Legal sanctions must be used against employees or others who intimidate.

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