

#### Option 4: Provisions against communal discrimination

The least radical approach would be to include in a new Northern Ireland Constitution Act a revised and strengthened provision against discrimination on the grounds of religion or political opinion. Sections 17-19 of the Northern Ireland Constitution Act 1973 currently cover directly discriminatory legislation by the Northern Ireland Assembly (and thus also Orders in Council) and directly discriminatory action by government and public bodies. SACHR has already recommended that these should be extended to include indirect discrimination and that all legislation or governmental action applying to Northern Ireland (including Westminster Acts) should be covered. (Cm. 1107, paras. 4.23 & 4.37-38)

#### (C) Education and language rights

The right to maintain distinctive schools as a means of preserving communal identity is typically one of the primary demands of minority communities. The current provisions of the European Convention on Human Rights on parental rights in respect of education, as interpreted in the Belgian Linguistics case, do not give much effective protection in this respect. It may be thought desirable to make specific provision in a new Northern Ireland Bill of Rights for schools to be provided at state expense for those parents in both major communities who wish their children to be educated in communally distinctive schools as well as in integrated schools. The Canadian Constitution of 1982 provides a possible model:

The right of citizens of Canada ... to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds. (art. 23)

A provision could be formulated along these lines to give a right to parents to have Catholic, Protestant, and integrated schools provided at state expense throughout Northern Ireland where numbers were sufficient.

This approach could also be extended to education in the Irish language. It may also be thought desirable to provide more general formal protection for those who wish to use the Irish language for official purposes. A possible approach may be to grant a general right subject to specific legislative provision of the kind provided in Wales under the Welsh Language Acts along the following lines:

All persons in Northern Ireland shall be entitled to use the Irish language individually or collectively for official purposes and legislation shall be enacted to prescribe the conditions under which this right may be exercised.