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# Fair Employment in Northern Ireland: the decades of change (1990 – 2010)

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This paper chronicles the significant change which has occurred in the community composition of the workforce since the Fair Employment (Northern Ireland) Act 1989 came into operation on 1st January 1990. Part 1 sets the scene with a brief historical overview of the various government initiatives which ultimately led to the 1989 Act. This is followed in Part 2 by an analysis of patterns and trends in fair employment monitoring data for the period 1990 – 2010. The paper concludes with some observations on the current situation and future trends.

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## Key Points

- In March 2009, the Government of Northern Ireland appointed a Commission to hold an enquiry into disturbances in Northern Ireland during the autumn of 1968. Among other conclusions, the Commission reported that grievances related to housing and employment issues had fuelled the violence.
- Beginning in 1969, reform measures were implemented by the Government of Northern Ireland. Following suspension and eventual abolition of the Northern Ireland parliament in 1972, the reform programme was continued by the UK government at Westminster.
- The first Fair Employment Act (1976), which had limited success in promoting fair participation in employment, was replaced by the Fair Employment (Northern Ireland) Act 1989. The 1989 Act introduced compulsory workforce monitoring, discouraged informal recruitment, and promoted objective recruitment and selection procedures.
- In 1990, the community composition of the monitored workforce was [65.1%] Protestant and [34.9%] Catholic. When compared to labour availability data, this represented a shortfall of around 4 percentage points in the Catholic share of the workforce.
- By 2010, the composition of the monitored workforce had changed to [54.1%] Protestant and [45.9%] Catholic. This figure is close to the estimated Catholic proportion of those available for work (around 44.9%).
- Compared with 1992, by 2010 the number of monitored Catholic full-time employees had increased by almost 49,000, a rise of 37 per cent. In contrast, the Protestant count fell by over 16,000 (7.0%) over the same period.
- Factors such as demography, educational attainment, the decline of manufacturing industry, and the influence of equality legislation, are implicated in the changes.
- According to the Equality Commission, the composition of the monitored workforce now appears to more closely reflect labour availability than was the case when fair employment monitoring was first introduced in 1990.



## Executive Summary

### 1 Introduction

In the autumn of 1968, serious disturbances erupted on the streets of Northern Ireland. A Royal Commission set up to examine the causes of the unrest concluded that grievances relating to housing and employment were important contributory factors in fuelling the violence.

In response to the unrest, a series of reform measures were introduced by the Government of Northern Ireland (1969 – 1971) and the UK Parliament at Westminster (1972 – onwards). The Van Straubenzee Report (1973) recommended specific legislation to tackle discrimination (a fair employment act), and proposed a new body to oversee the implementation of the legislation.

The Fair Employment (Northern Ireland) Act 1976 adopted many of the recommendations from Van Straubenzee. The new Act prohibited religious and political discrimination, created a mechanism for dealing with individual complaints, established the Fair Employment Agency (FEA), and empowered the Agency to conduct investigations. The voluntary nature of the provisions, however, soon proved to be a significant drawback.

In 1985 the Standing Advisory Commission on Human Rights (SACHR) launched a wide-ranging review of the 1976 Act. As part of the review, the Policy Studies Institute (PSI) conducted 260 interviews with personnel managers. Eighty-five per cent reported that the 1976 Act had no impact at all on personnel policies, while 12 per cent reported that the Act had some impact. Only 3 per cent said it had had a major impact.

SACHR also found that informal “word of mouth” recruitment was a common practice in Northern Ireland, particularly for unskilled and semi-skilled jobs. The Commission concluded that the Act had failed to encourage widespread voluntary change in employment practices. SACHR recommended a new fair employment act, compulsory in nature, and backed by powerful sanctions for non-compliance.

In May 1988, the Government responded to the SACHR report with a White Paper which accepted many of the SACHR recommendations.

### 2 Fair Employment (Northern Ireland) Act 1989 and FETO 1998

The 1989 Act made substantial changes to the 1976 Act. The Act set up the Fair Employment Commission (FEC), imposed six duties on employers (including compulsory workforce monitoring); directed the FEC to produce a Code of Practice for employers; made provision for formal investigations; and set up the Fair Employment Tribunal (FET) as part of the industrial tribunal system.

In 1998, the law was further strengthened by the Fair Employment and Treatment (Northern Ireland) Order (“FETO”). FETO retained the essential features of the 1989 Act and added additional provisions. These included the monitoring of part-time employees, and the outlawing of religious and political discrimination in the provision of goods, facilities and services.

### **3 The Decades of Change: 1990 to 2010**

The first Monitoring Report was published in 1991. Excluding those whose community background could not be determined, in 1990 the community composition of the monitored workforce was [65.1%] Protestant and [34.9%] Catholic. On the basis of labour availability data, these figures suggested a 4 percentage point shortfall in Catholic representation in the workforce.

The composition of the workforce changed significantly in the first decade of monitoring. By the year 2000 the Catholic share of the monitored full-time workforce rose from [34.9%] to [39.6%], an increase of 4.7 percentage points. There was a corresponding fall in the Protestant share. Numerically, the number of Catholic full-time employees rose by 32,339 (28.2%), compared with an increase of 10,777 (5.0%) in the Protestant count.

For technical reasons, 1992 is a better baseline for comparative purposes. Looking at the entire period (1992 – 2010), the number of monitored Catholic full-time employees increased by almost 49,000, a rise of 37 per cent. In contrast, the Protestant count fell by over 16,000 (7.0%) over the same period.

From 2001 onwards, the monitoring of part-time employees enabled the community composition of the entire monitored workforce to be ascertained. The Catholic share of the monitored workforce (all employees) rose from [40.3%] in 2001 to [45.9%] in 2010, an increase of 5.6 percentage points.

Changes of a similar magnitude were recorded in both the public and private sectors. By 2010, the Catholic share of the monitored workforce was [46.4%] in the public sector and [45.6%] in the private sector.

Analysis of monitoring data also reveals that women have made substantial gains in employment during the past two decades. The first Monitoring Report (1991) showed that women accounted for around 45 per cent of the total monitored full-time workforce, 42 per cent in the private sector, and 49 per cent in the public sector. By 2010, women represented just over half (53%) of the total monitored workforce, 46 per cent in the private sector, and 64 per cent in the public sector.

The depth of the current recession makes it difficult to predict future trends with any degree of accuracy. The most likely scenario, however, is that the Catholic and female proportion of the workforce will continue to grow.

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## 1 Introduction

On 5 October 1968 a Civil Rights march in Derry / Londonderry, which had previously been banned by the then Minister of Home Affairs, was stopped by the police. The ensuing violence and public disorder was filmed by a television camera crew and created headlines in Europe and the United States. The violence grew in scale and intensity throughout the autumn and winter of 1968 – 1969 .

The Governor of Northern Ireland, acting on the advice of the Government of Northern Ireland, appointed a Commission on 3 March 1969 to hold an enquiry into the immediate causes and nature of the disorder. The Cameron Report, as it became known, concluded that a sense of injustice and grievance among large sections of the Catholic community had been a general contributory factor behind the outbreaks of violence <sup>1</sup>:

Much of the evidence of grievance and complaint which we heard, when analysed, was found ... to be concentrated upon two major issues – housing and employment. (para 129)

The housing issue was largely addressed within two years, with the enactment on 25 February 1971 of the Housing Executive Act (Northern Ireland) 1971 <sup>2</sup>. The Act removed the power of local councils to build and allocate social housing, and transferred this function to a new central housing organisation, the Northern Ireland Housing Executive.

As the following section will show, however, it would be nearly twenty years before the more intractable employment issue was finally and comprehensively addressed, through the landmark Fair Employment (Northern Ireland) Act 1989.

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<sup>1</sup> Government of Northern Ireland (1969) **Disturbances in Northern Ireland**: Report of the Commission appointed by the Governor of Northern Ireland, Cmd. 532, September 1969, Belfast: HMSO. Available at: <http://cain.ulst.ac.uk/hmsocameron.htm>

<sup>2</sup> In August 1969 the Governments of the United Kingdom and Northern Ireland issued a joint statement of policy in relation to Northern Ireland. This statement (known as The Downing Street Declaration) re-affirmed the principle that "every citizen of Northern Ireland is entitled to the same equality of treatment and freedom from discrimination as obtains in the rest of the United Kingdom, irrespective of political views or religion." The Downing Street Declaration was followed by specific commitments on the part of the Northern Ireland Government towards a reform programme, as set down in the Joint Communiqués of 29 August and 10 October 1969. The programme, which included universal adult suffrage ("one man, one vote") and local elections under Proportional Representation (PR); the reform of the police, appointment of a new Police Authority and Public Prosecutor; a radical reshaping of local government services and boundaries (26 District Councils); the Housing Executive, and a new Community Relations Commission, was largely completed by 1973. For further details of the reform programme, see: Government of Northern Ireland (1971) **A Record of Constructive Change**, Cmd. 558, August 1971, Belfast: HMSO. Available at: <http://cain.ulst.ac.uk/hmsocmd558.htm> and the Standing Advisory Commission on Human Rights (1987) **Report on Fair Employment**, pp. 9 -11 (full citation on page 9).

## 2 A Brief History of Fair Employment

### 2.1 Religion and the Labour Market 1971:

One of the earliest attempts to examine religion and the labour market was made by Aunger (1975), a Canadian academic, who analysed data from the 1971 Census<sup>3</sup>.

Aunger found that 41 per cent of economically active Protestants were in professional, managerial, and 'white collar' jobs, compared with 31 per cent of Catholics. By contrast, Catholics were substantially over-represented in the categories of semi-skilled, unskilled and unemployed (52%), compared with their Protestant counterparts (40%).

According to Aunger, Catholics predominated in lower status occupations, such as clothing manufacturing, bricklaying, plastering and labouring in the construction industry, and pubs and betting shops. Members of the Catholic middle-class were to be found primarily servicing their own community as doctors, lawyers, teachers, bookmakers and publicans. In contrast, members of the Protestant middle class serviced their own community, but in addition provided province-wide services in sectors such as banking, insurance and public administration.

Hepburn (1987) showed that the pattern of disadvantage described above existed in 1901 and did not significantly alter in the ensuing fifty years<sup>4</sup>.

In the Joint Communiqué of 29 August 1969, the Northern Ireland Government agreed to take effective action to promote "equality of opportunity for all in public employment, without regard to political considerations." (para 8)<sup>5</sup>. It was not until 1972, however, that a substantive response to the employment issue began to emerge.

### 2.2 Van Straubenzee Report

The Northern Ireland Parliament was suspended in March 1972. In August 1972, the new Direct Rule Administration established a Working Party to consider what steps should be taken to counter religious discrimination where it may exist in the private sector in Northern Ireland<sup>6</sup>. The Working Party was first chaired by Paul Channon MP and then by William Van Straubenzee MP, both Ministers in the Northern Ireland Office.

The Working Party, whose Report was published in May 1973, developed a series of best-practice proposals for combating discrimination in employment based on a review

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<sup>3</sup> Aunger, EA (1975) **Religion and Class: an Analysis of 1971 Census Data**, in RJ Cormack and RD Osborne (eds) *Religion, Education and Employment: aspects of Equal Opportunity in Northern Ireland*, 1987, Belfast: Appletree

<sup>4</sup> Hepburn, AC (1987) **Employment and Religion in Belfast, 1901 – 1951**, in RJ Cormack and RD Osborne (eds) *Religion, Education and Employment: aspects of Equal Opportunity in Northern Ireland*, 1987, Belfast: Appletree

<sup>5</sup> The Hone Office (1969) **Northern Ireland: Text of a Communiqué issued on 29 August 1969 at the conclusion of the visit of the Secretary of State for the Home Department to Northern Ireland**, Cmnd 4158, London: HMSO.

<sup>6</sup> Ministry of Health and Social Services (1973). **Report and Recommendations of the Working Party on Discrimination in the Private Sector of Employment**. William Van Straubenzee (Chairman), 23 May 1973, Belfast: HMSO.

of other jurisdictions, notably Great Britain, the United States, Ontario and New Zealand. The Van Straubenzee Report was to play a central role in the development of fair employment in Northern Ireland.

The Report defined religious and political discrimination; introduced the concepts of equality of opportunity and affirmative action; advocated specific legislation to tackle discrimination (a fair employment Act); and proposed a new body, the Fair Employment Agency (FEA), to oversee the implementation of the legislation. The FEA would have general responsibility for countering religious discrimination in employment, and have specific functions of investigation, conciliation and enforcement.

The Working Party advocated a voluntary approach to fair employment backed up by sanctions:

While therefore we commend policies of conciliation and persuasion, we are convinced that they will be inadequate unless they are supported by a comprehensive system of administration and enforcement. This should include effective forms of redress for those found to have suffered from discrimination ... (para 37)

The main mechanism which Van Straubenzee proposed for promoting voluntary change was a *Declaration of Principle and Intent* to observe the principles of full equality in all aspects of employment opportunity (see section 2.4).

### 2.3 Fair Employment (Northern Ireland) Act 1976

The first fair employment statute – the Fair Employment (Northern Ireland) Act 1976 – adopted many of the recommendations of the Van Straubenzee Report. The Act was divided into six parts. Part I established the Fair Employment Agency (FEA). Part II defined equality of opportunity and how it was to be promoted. Part III prohibited religious and political discrimination, and established a mechanism for dealing with individual complaints. Part IV dealt with other unlawful acts, while Part V set out a number of exceptions from the provisions of the Act. Part VI dealt with miscellaneous matters<sup>7</sup>.

### 2.4 Fair Employment Agency

The Fair Employment Act conferred two major duties on the FEA, namely:

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

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<sup>7</sup> Standing Advisory Commission on Human Rights (1987) **Religious and Political Discrimination and Equality of Opportunity in Northern Ireland: Report on Fair Employment**. 1987/88 Cm 237, London: HMSO. Available at: [http://parlipapers.chadwyck.co.uk/fullrec/fullrec.do?area=hcppp&resultNum=1&entries=1&source=config.cfg&queryId=../session/1337339415\\_19578](http://parlipapers.chadwyck.co.uk/fullrec/fullrec.do?area=hcppp&resultNum=1&entries=1&source=config.cfg&queryId=../session/1337339415_19578)

The FEA had the power to investigate and adjudicate individual complaints<sup>8</sup>, and conduct investigations into employment practices in public bodies and private sector concerns<sup>9</sup>. Employers were also provided with a *Guide to Manpower Policy and Practice*, and asked to subscribe to a *Declaration of Principle and Intent*, which committed them to fair and non-discriminatory employment practices<sup>10</sup>. Those who subscribed to the Declaration were registered by the FEA and became entitled to describe themselves as equal opportunity employers. By 1987 around 8,000 employers had registered with the Agency<sup>11</sup>.

As part of a wide-ranging review of the 1976 Act by the SACHR (see Section 2.5), the Policy Studies Institute (PSI) were asked to survey and interview Personnel Managers in local companies to establish whether signatories of the Declaration had improved their employment practices as a result<sup>12</sup>. It was found that, in respect of a number of equality of opportunity practices considered, more than three quarters of signatories failed to put each practice into effect.

A further problem was that no systematic checks were carried out to ensure that those who had signed the Declaration were in fact adhering to it. In the absence of checks for compliance, the Agency was largely dependent on the good will of the employer as to whether the spirit of the Declaration was translated into action.

SACHR (1987) concluded:

These findings suggest that while the Declaration might have played a marginal role in encouraging fair employment practice it has failed to encourage widespread voluntary change in employment practices. (para 9.38).

The FEA, argued Cormack and Osborne (1987), operated in a hostile political environment throughout most of its existence<sup>13</sup>.

Unionist politicians saw the Agency as a threat to their community's interests; while nationalist politicians have either dismissed the Agency as a toothless sop or, more supportively, as tackling a major problem with inadequate resources. (p. 281).

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<sup>8</sup> The procedure whereby the Agency was responsible for investigating a complaint, adjudicating upon it, and providing redress was sometimes criticised as a denial of natural justice. The FEA, it was argued, should not be both prosecutor and judge in the same case.

<sup>9</sup> Between 1977 and 1992, the FEA conducted investigations into a wide range of public and private sector employers. The list included banks, building societies, engineering companies, education and library boards and local councils. Statistical analysis usually related to the religious composition of applicants, appointees and employees. With the advent of statutory monitoring in 1990, this information began to be routinely collected by employers themselves, and the use of investigations as a strategic tool ceased.

<sup>10</sup> McCrudden, C (1983). **The experience of the legal enforcement of the Fair Employment (Northern Ireland) Act 1976**, in RJ Cormack and RD Osborne (eds). *Religion, Education and Employment: aspects of equal opportunity in Northern Ireland*, pp 201 – 221. Belfast: Appletree Press.

<sup>11</sup> SACHR (1987) *Op. cit.*

<sup>12</sup> Policy Studies Institute (1987) **Equality and Inequality in Northern Ireland; Part II, The Workplace**, cited in SACHR (1987) *Op. cit.*

<sup>13</sup> Cormack, RJ. and Osborne, RD. (1987) **Fair Shares, Fair Employment: Northern Ireland today**. *Studies, An Irish Quarterly Review*, Vol. 76, No. 303 (Autumn 1987), pp 273-285. Available at: <http://www.jstor.org/stable/30090911>

The argument that the Agency was under-resourced is not without merit. While the resources of the FEA were significantly increased in the late 1980s, in 1980-81 the organisation had only 12 staff (in addition to a Chief Executive who was also Chairman of the Agency) and a budget of £208,000. As McCrudden observed, given the wide remit of the Agency, the small staff and low budget were unlikely to have helped the FEA reach its full potential. Moreover, the limited budget was in contrast to the Labour Relations Agency (LRA) which had a budget of £595,917 in the same year<sup>14</sup>.

In 1985 the Government completed a statistical review which indicated that<sup>15</sup>:

... despite almost ten years of anti-discrimination legislation and enforcement, the Catholic community remained at a serious disadvantage in employment in both quantitative and qualitative terms: that this obtained throughout the Province (even in areas of high employment); and that it persisted despite progressive convergence of educational attainment between the Protestant and Catholic communities. (Foreword, p. 6)

By the mid-1980s the hope that the fair employment legislation would produce significant change had not been realised, and there was growing pressure on the Government for a review of the 1976 Act. This pressure came from a number of sources, including the United States<sup>16</sup>.

In January 1985, the SACHR wrote to the Secretary of State for Northern Ireland, informing him of the Commission's decision to undertake a major review of the 1976 Act. The Report, which was published in October 1987, turned out to be a major milestone in the history of fair employment<sup>17</sup>.

## 2.5 The SACHR Review 1987

The SACHR began by outlining the historical background to fair employment, including the reform programme of 1969 – 1977, and statistical evidence from the 1971 and 1981 Census of Population. The major sections of the review, however, involved a forensic examination of the key provisions of the 1976 Act and their impact. The review concluded with a series of recommendations to Government.

<sup>14</sup> McCrudden, C (1983) *Op cit.*

<sup>15</sup> Department of Economic Development (1986) **Equality of Opportunity in Employment in Northern Ireland, Future Strategy Options: a Consultative Paper**, Belfast: HMSO. The statistical evidence was drawn from the 1971 and 1981 Census, the 1983 and 1984 Continuous Household Surveys and the 1984 and 1985 Labour Force Surveys.

<sup>16</sup> In the United States, the Irish National Caucus, Noraid, and other Irish-American organisations, spearheaded a campaign to compel U.S. companies operating in Northern Ireland to adopt the MacBride Principles. These were a set of nine affirmative action proposals developed by Sean MacBride, a Nobel Laureate and former minister in the Irish Government. While some of the principles were acceptable to Government, for example, principle 3 which advocated the banning of provocative religious or political emblems from the workplace, others were deemed to be unacceptable or even dangerous (e.g. principle 2, which may have led to the bussing of minority employees to and from work). Principles 7 and 8, which essentially advocated reverse discrimination on behalf of Catholics, were particularly controversial and considered to be unlawful.

<sup>17</sup> Standing Advisory Commission on Human Rights (1987) *Op. cit.*

To assist in its review, the SACHR commissioned a series of research studies from the Policy Studies Institute (PSI). One of the projects was termed '*The Workplace*'. This involved a total of 260 interviews with the Personnel Managers of small, medium and large employers. The interviews covered the general attitudes of employers to the issue of discrimination and equality of opportunity, plus current practices (1987) in recruitment.

- Perhaps the most striking finding in the survey was that the overwhelming majority of respondents (85%) reported that the 1976 Act had no impact at all on personnel policies, while 12 per cent reported that the Act had some impact. Only 3 per cent said it had had a major impact.
- Similarly, 61 per cent reported no knowledge of the statutory *Guide to Manpower Policy and Practice* (forerunner to the current Code of Practice on recruitment and selection).
- Although a majority (62%) reported they had signed the *Declaration of Principle and Intent*, only a quarter of those respondents had reviewed their recruitment and selection procedures, as recommended by the Guide.

The Personnel Managers were also asked about their recruitment and selection procedures. A distinction was made between formal and informal procedures. *Formal* procedures included notifying job centres, open advertising of vacancies, standardised application forms and structured interviews. *Informal* procedures included recruiting through personal contacts (word-of-mouth), maintaining a waiting list, and contacting ex-employees.

- It was found that almost half of employers used informal procedures for the recruitment of skilled manual (49%) and unskilled or semi-skilled manual workers (45%). This finding was not restricted to small employers. More than one third of those with more than 100 employees used informal procedures for such recruitment.

The SACHR also considered the issue of workforce monitoring. The Commission pointed out that relatively little statistical information existed on the religious composition of the workforce in 1987. In the absence of such data, it was notoriously difficult to prove discrimination or the absence of equality of opportunity.

The failure to record and monitor the race, sex or religion of employees and applicants for employment ... means there is no explicit statistical evidence which will bring pressure on employers to enquire into their practices and procedures. It has often been claimed that employers who claim to have no interest in the sex, religion or race of employees and applicants for employment are often found to be those with the most unbalanced workforces. (para 7.69)

The Commission noted that anti-discrimination agencies in every jurisdiction of which the Commission was aware regarded workforce monitoring as an essential tool in controlling discrimination and promoting equality of opportunity.

SACHR therefore recommended the compulsory workforce monitoring of community background, backed up by legal sanctions for non-compliance. The Commission further recommended that employers should also monitor the gender composition of their workforce.

The Commission concluded the Report with a series of recommendations to Government. The proposals included a new fair employment body with a new mandate, and a new fair employment Act. SACHR reinforced its message with a stark warning:

The Commission considers that, unless Government action is taken to provide equality of opportunity, the sense of grievance in the Catholic population will continue, talents will be under-utilised, and political progress will be difficult to achieve. (para 9.102)

In May 1988, the Government responded to the SACHR report with a White Paper which set out its proposals for legislation to strengthen fair employment law, administration and practice in Northern Ireland<sup>18</sup>. Many of the recommendations from SACHR were accepted, including statutory monitoring, a new fair employment body and a revised fair employment Act.

The White Paper also noted that:

While allegations against Protestants are less frequently heard, it would be wrong to imagine that it is something which only affects the Catholic section of the community, as a number of cases determined by the Agency (FEA) indicates. Legal protection against discrimination is, of course, already available to Protestants in exactly the same way as to Catholics: discrimination is unlawful and intolerable no matter where it arises in Northern Ireland (para 1.7).

## 2.6 Fair Employment (Northern Ireland) Act 1989

The Fair Employment (Northern Ireland) Act 1989 (“the 1989 Act”), which came into operation on 1st January 1990, made substantial and far-reaching changes to the 1976 Act. The 1989 Act:

1. set up the Fair Employment Commission for Northern Ireland (FEC);
2. imposed six duties on employers, including:
  - a. mandatory registration with the Commission;
  - b. statutory monitoring of the community background and sex of applicants, appointees, employees; and

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<sup>18</sup> H.M. Government (1988) **Fair Employment in Northern Ireland**. White Paper, May 1988, 1987/88 cm 380. Available at: <http://parlipapers.chadwyck.co.uk/ima...326105-22561.pdf&WARNING=N&DOWNLOAD=Y&Filename:1987-083762-p1to47.pdf>

- c. a triennial review of recruitment, training and promotion practices;
3. directed the Commission to produce a Code of Practice for employers;
4. empowered the Commission to conduct formal investigations of public bodies and private sector concerns; and
5. set up the Fair Employment Tribunal as part of the industrial tribunals system.

The 1989 Act was the beginning of a new phase in the history of fair employment. Henceforth, voluntary action by employers was replaced with compulsory compliance, supported by powerful enforcement powers.

All public sector organisations were deemed to be automatically **registered** with the new Fair Employment Commission (FEC), while those private sector concerns with 26 or more employees were required to register from January 1990<sup>19</sup>. Registration imposed a series of duties on employers, including monitoring, regular review of their employment practices, and adherence to the new Code of Practice<sup>20</sup>.

**Statutory monitoring** of the workforce became the cornerstone of the legislation. For the first time, employers produced an annually updated record of their workforce composition. Armed with this information, they could then identify patterns and trends in the data, and any imbalances in community composition. Employers were also required to submit their monitoring returns to the FEC, where they were compiled and published in summary format in the annual Monitoring Report<sup>21</sup>.

Under Section 31 of the 1989 Act, employers were required to conduct a **triennial review** of the composition of their workforce in order to determine whether members of each community were enjoying fair participation in employment. Where an under-representation of one community was identified from their monitoring exercise, employers were obliged to examine their recruitment and selection procedures, and consider suitable affirmative action measures<sup>22</sup>. Once appropriate affirmative actions had been decided on, employers were also expected to set goals and timetables for remedial action.

Employers were expected to adhere to the recommendations in the new **Code of Practice** when recruiting and selecting staff<sup>23</sup>. Section 5.3 of the Code set out the guiding principles for systematic and objective recruitment, selection and promotion<sup>24</sup>. Informal methods of recruitment (“word of mouth”) were strongly discouraged. Instead,

<sup>19</sup> The requirement to register with the FEC was extended in 1992 to all private sector concerns with 11 or more employees.

<sup>20</sup> Department of Economic Development (1989) **Code of Practice: Fair Employment in Northern Ireland**, December 1989, Belfast: HMSO.

<sup>21</sup> The first Monitoring Report was published by the FEC in 1991.

<sup>22</sup> Affirmative Action was defined in the Code as “action designed to secure fair participation in employment by members of the Protestant, or members of the Roman Catholic, community in Northern Ireland.” Examples of lawful measures included ‘Welcoming Statements’ in job advertisements; targeted advertising aimed at particular groups, and outreach measures, such as school visits by employers. Other measures, such as the removal of flags and emblems from workplaces, and the ending of ‘word of mouth’ recruitment, were also cited in the Code.

<sup>23</sup> Although a failure to observe any of the provisions of the Code was not, in itself, unlawful the document was given significant status under the legislation. For example, the Fair Employment Tribunal could draw an adverse inference in employment cases where the Code was found to have been ignored by the respondent employer.

<sup>24</sup> Department of Economic Development (1989) *Op. cit.*

vacancies were to be publicly advertised and application forms used rather than CVs. It was also recommended that only job-related criteria be used in selection and short-listing. Interview panels were to contain two or more people, and all documentation and records of assessment were to be retained for 12 months in order to deal with any subsequent complaints<sup>25</sup>.

One measure of the success of the Code is that such procedures are now perceived as standard and common place across both the public and private sectors in Northern Ireland. However, as the Policy Studies Institute discovered in 1987, this was far from being the case before the 1989 Act (see Section 2.5)<sup>26</sup>.

In a major departure from the 1976 Act, the 1989 Act also set up the **Fair Employment Tribunal** (FET) as part of the industrial tribunals system. The purpose of the FET, a quasi-judicial body, is to hear and adjudicate on complaints of alleged discrimination in employment on the grounds of religious belief and/or political opinion. Before the advent of the FET, complaints of religious or political discrimination were investigated and decided by FEA staff, an arrangement which attracted considerable criticism (see Section 2.5).

The FET was an important innovation, as it went beyond the 1976 Act in providing a direct remedy and redress for individual complainants, and a corresponding financial penalty for those employers who were found to have discriminated against their employees on religious or political grounds. There is currently no limit on the amount that may be awarded by the Fair Employment Tribunal<sup>27</sup>.

The 1976 and 1989 Acts were repealed and re-enacted in consolidated form by the **Fair Employment and Treatment (Northern Ireland) Order 1998** ("FETO"). FETO retained the essential provisions of the 1989 Act, and further strengthened the law with additional provisions. These included the statutory monitoring of the part-time workforce<sup>28</sup>, and the outlawing of discrimination on the grounds of religious belief or political opinion in the provision of goods, facilities and services<sup>29</sup>. Lawful measures to encourage job applications from an under-represented community, and direct recruitment from the unemployed, were also exempted from legal challenge<sup>30</sup>.

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<sup>25</sup> Department of Economic Development (1989) *Op. cit.*

<sup>26</sup> Standing Advisory Commission on Human Rights (1987) *Op. cit.*

<sup>27</sup> Office of the Industrial Tribunals and the Fair Employment Tribunal (2011) **Annual Report 2010/11**. Available at: [http://www.employmenttribunalsni.co.uk/annual\\_report\\_2010-2014.pdf](http://www.employmenttribunalsni.co.uk/annual_report_2010-2014.pdf)

<sup>28</sup> Prior to the 1998 Order, only full-time employees were monitored (i.e. those working 16 hours or more per week).

<sup>29</sup> HMSO (1998) **Fair Employment and Treatment (Northern Ireland) Order 1998**, 1998 No. 3162 (N.I. 21). Available at: <http://www.legislation.gov.uk/nisr/1999/81/article/3/made>

<sup>30</sup> Equality Commission for Northern Ireland (2004) **Fair Employment and Treatment**. Available at: [http://www.equalityni.org/sections/default.asp?cms=Your+Rights+Fair+employment+%26+treatment&cmsid=2\\_56&id=56&secid=2](http://www.equalityni.org/sections/default.asp?cms=Your+Rights+Fair+employment+%26+treatment&cmsid=2_56&id=56&secid=2)

In 1999, the FEC was merged with the Equal Opportunities Commission, the Commission for Racial Equality and the Northern Ireland Disability Council to form the Equality Commission for Northern Ireland <sup>31</sup>.

## 2.7 Summary

In the 1970s, the UK government took action to legislate against religious discrimination in employment. The Van Straubenzee Report (1973) recommended a fair employment act and a new body with specific responsibility for countering discrimination in employment. The Fair Employment (Northern Ireland) Act 1976 prohibited discrimination in the workplace on the grounds of religious belief and/ or political opinion, and established the Fair Employment Agency. The 1976 Act was strengthened with a new Fair Employment Act in 1989, which outlawed informal recruitment, introduced a duty on employers to monitor the religious composition of their workforce, and created the Fair Employment Commission to replace the Fair Employment Agency. The law was extended further in 1998 to cover the provision of goods, facilities and services under the Fair Employment and Treatment (Northern Ireland) Order.

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<sup>31</sup>HMSO (1998) **Northern Ireland Act 1998**, chapter 47. Available at: <http://www.legislation.gov.uk/ukpga/1998/47/data.pdf>

### 3 The Decades of Change

In 1991, in the first policy statement of the newly formed FEC, the chairman, Sir Robert Cooper, wrote that the Commission 'has set itself the target of bringing about an equitable distribution of employment and employment opportunities between Catholics and Protestants in Northern Ireland.'<sup>32</sup> The main purpose of this section is to ascertain how much progress has been made over the past two decades in achieving this goal. The analysis will utilise data compiled and published by the Equality Commission during the period, 1990 – 2010.

#### 3.1 The State of Play in 1990

The 1989 Act became operational on 1 January 1990, and in April 1991 the FEC published its first annual monitoring report for the year 1990<sup>33</sup>. Table 1 shows the community composition of the monitored full-time workforce in 1990<sup>34</sup>.

The Table shows that, excluding those whose community background could not be determined, the community composition of the monitored workforce was [65.1%] Protestant and [34.9%] Catholic. Using the 1991 Census results, the FEC estimated that Catholics comprised around 39 per cent of the economically active<sup>35</sup> (working age). On this basis the Commission suggested there was an overall under-representation of Catholics in the workforce of approximately 4.1 percentage points (34.9% versus 39.0%)<sup>36 37</sup>.

Table 1: Composition of the Monitored Northern Ireland Full-time Workforce, 1990

Sex	Protestant		Catholic		Non-Determined		Total	
Males	123,202	63.9% [68.0%]	57,979	30.1% [32.0%]	11,491	6.0%	192,672	55.1%
Females	91,489	58.4% [61.5%]	57,287	36.6% [38.5%]	7,952	5.1%	156,728	44.9%
<b>Total</b>	214,691	61.4% [65.1%]	115,266	33.0% [34.9%]	19,443	5.6%	349,400	100.0%

<sup>32</sup> Fair Employment Commission (1991) **A Profile of the Northern Ireland Workforce: A Summary of the 1990 Monitoring Returns**. Research Report 1, Belfast: Fair Employment Commission.

<sup>33</sup> All public sector bodies, irrespective of size, have been monitored since 1990. In the private sector, only those concerns with 26 or more employees were initially required to monitor their workforce. However, from January 1992, the requirement to monitor was extended to all private sector concerns with 11 or more employees. Only full-time employees were monitored during the period 1990 – 2000. Part-time workers (those working less than 16 hours per week) were not monitored until 2001. The following are not monitored: the self-employed, the unemployed, school teachers, Ministers of Religion, those on government training schemes, and those working in private sector concerns with 10 or less employees.

<sup>34</sup> Fair Employment Commission (1991) *Op cit*.

<sup>35</sup> The **economically active** include all those who are working (employed or self-employed) and all those classed as unemployed and actively seeking work. In brief, it is a measure of labour availability.

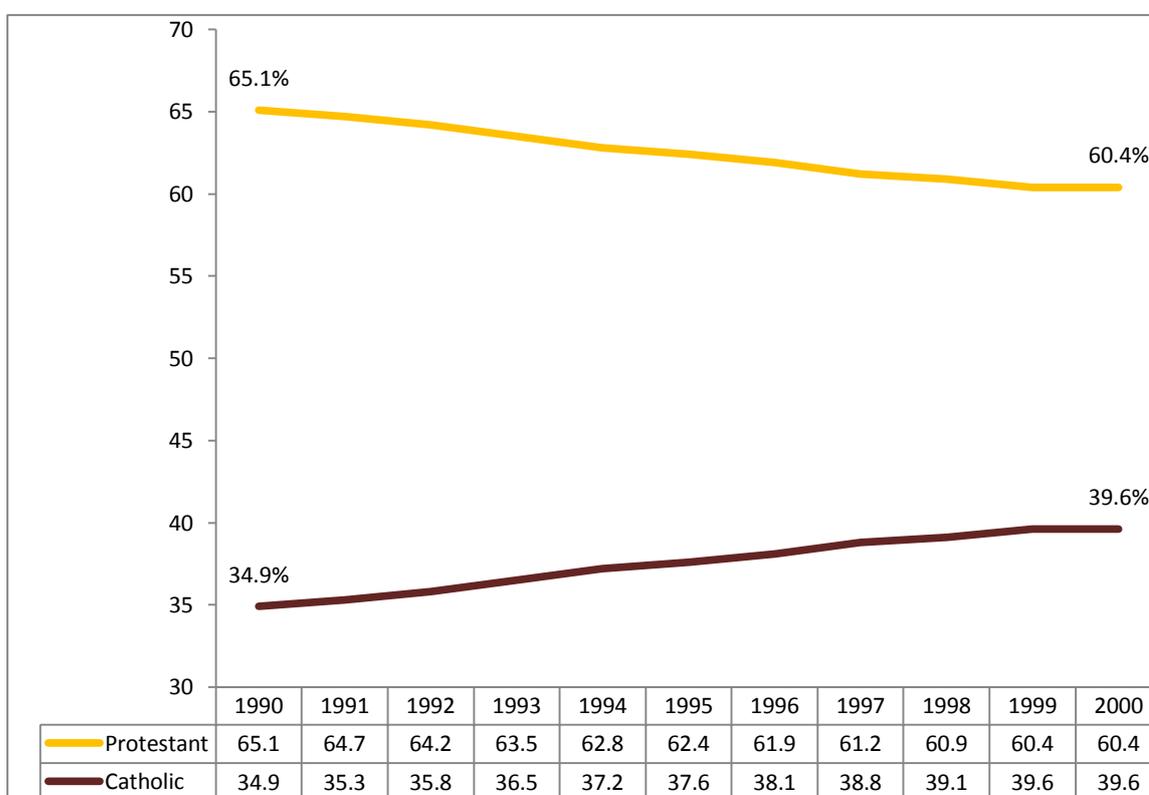
<sup>36</sup> Fair Employment Commission (1993) **Monitoring Report No. 3: a profile of the Northern Ireland Workforce – summary of monitoring returns 1992**. Belfast: FEC

<sup>37</sup> There is no generally accepted or precise benchmark against which to measure progress towards fair participation in employment. In the first Monitoring Report (1991) the FEC adopted the religious composition of the economically active (working age) as a measure of those available for work. This indicator has subsequently been used by the Equality Commission to the present day.

### 3.2 Composition of the Monitored Full-time Workforce, 1990 – 2000

By the year 2000, the composition of the workforce had changed significantly. Comparing the same sections of the workforce in 2000 that were monitored in 1990, Figure 1 reveals that the Catholic share of full-time employees rose from [34.9%] to [39.6%] in 2000, an increase of 4.7 percentage points. There was a corresponding fall in the Protestant share. In numerical terms, the number of Catholic full-time employees rose by 32,339 (28.2%) during the first decade of monitoring, compared with an increase of 10,777 (5.0%) in the Protestant count.

Fig 1: Community Composition of the Monitored Full-time Workforce (all public bodies and those private concerns with 26 or more employees), 1990 – 2000.



Source: Equality Commission (2001) Monitoring Report No. 11

### 3.3 Composition of the Monitored Workforce, 2001 – 2010

The monitoring of part-time employees (those working less than 16 hours per week) began in 2001. This marked the first occasion in which it became possible to ascertain the community composition of all employees in the monitored workforce.

Table 2 presents the community composition of the monitored workforce (all employees) in 2001. The monitored workforce stood at 479,517, and the table shows that, excluding those whose community could not be determined, the community composition was [59.7%] Protestant and [40.3%] Catholic.

Table 2: Composition of the Monitored Northern Ireland Workforce (All employees), 2001

Sex	Protestant		Catholic		Non-Determined		Total	
Males	140,312	59.0% [62.2%]	85,371	35.9% [37.8%]	11,948	5.1%	237,631	49.6%
Females	132,106	54.6% [57.2%]	98,719	40.8% [42.8%]	11,061	4.6%	241,886	50.4%
<b>Total</b>	272,418	56.8% [59.7%]	184,090	38.4% [40.3%]	23,009	4.8%	479,517	100.0%

The Census 2001 estimate for the economically active (working age) is shown in Table 3. The table reveals that the Catholic proportion of those classified as 'available for work' was [42.7%] at that time, a shortfall of around 2.4 percentage points. Table 3 also shows that the proportion of Catholics available for work in those age bands where recruitment generally takes place (16 – 24 and 25 – 34 years) was even higher at 49.6 per cent and 45.1 per cent respectively<sup>38</sup>. Given recent demographic trends, the likelihood is that Census 2011 will show the Catholic proportion of the younger economically active groups (16 – 34) has increased even further over the past decade.

Table 3: Community Background (Religion or Religion brought up in) of Economically Active persons of Working Age in Northern Ireland by Age-band, 2001.

Age Band	Protestant (Per cent)	Catholic (Per cent)
<b>All Ages</b>	57.3	42.7
16 to 24	50.4	49.6
25 to 34	54.9	45.1
35 to 44	57.4	42.6
45 to 59/64	63.9	36.1

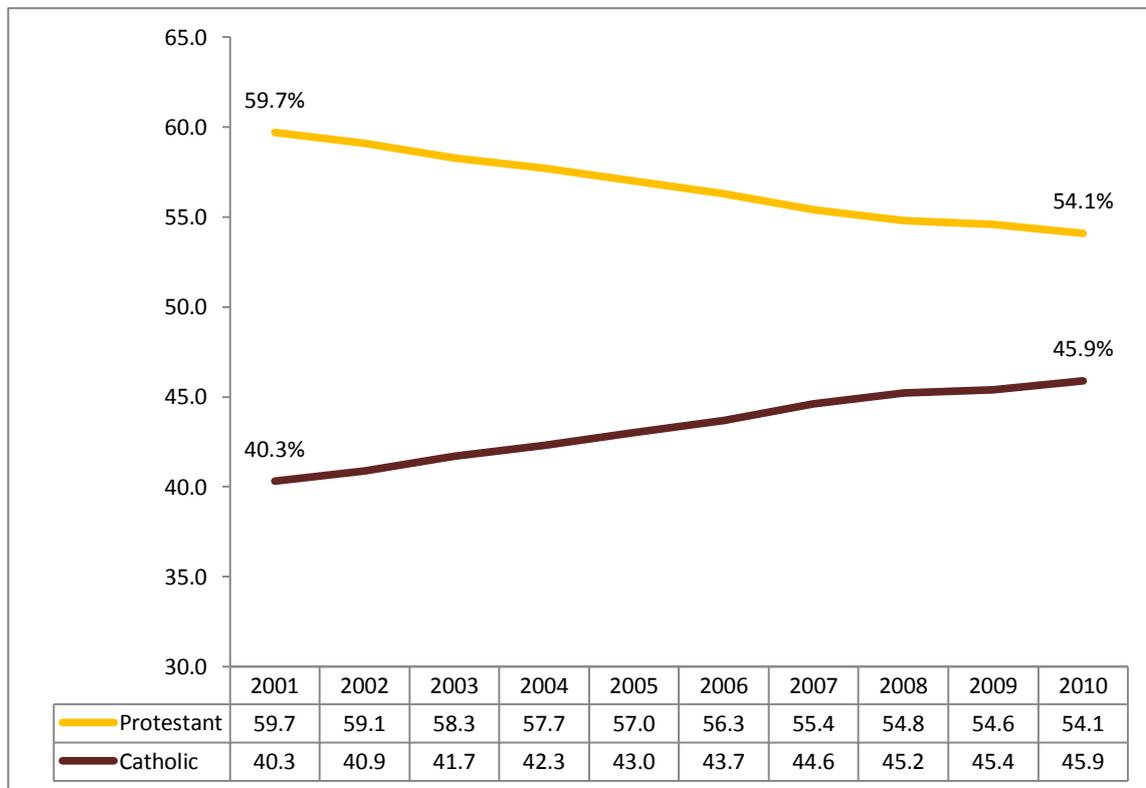
Source: NISRA, Census 2001, Table ext 20030506a

By 2010 the community composition of the monitored workforce (all employees) had changed considerably. In numerical terms, the number of Catholic employees increased from 184,090 in 2001 to 218,705 in 2010, a rise of 34,615 (18.5%). In contrast, the Protestant count fell by 14,453 (5.3%) during the same period, from 272,418 in 2001 to 257,965 in 2010. As a result the Catholic share of the monitored workforce rose from [40.3%] in 2001 to [45.9%] in 2010, an increase of 5.6 percentage points. There was a corresponding fall in the Protestant share (see Fig 2).

<sup>38</sup> The Census 2011 results concerning the religious composition of the population will become available in Autumn 2012.

In 2010, the Labour Force Survey (LFS) <sup>39</sup> estimated that the Catholic share of the economically active (working age) was around 44.9 per cent (+/- 1.6%) <sup>40</sup>.

Fig 2: Community Composition of the Monitored Workforce (All Employees), 2001 – 2010.



Source: Equality Commission (2011) Monitoring Report No. 21

### 3.4 Composition of Full-time and Part-time Workforces

Data from the annual monitoring reports published by the Equality Commission also makes it possible to examine trends in the composition of the **full-time workforce**. As 1992 was the first year in which the smaller private sector concerns (11 – 25 employees) were monitored, it is helpful to use this as the baseline.

Table 4 shows the trend in community composition for the full period 1992 – 2010. It reveals that, compared with 1992, by 2010 the number of monitored Catholic full-time employees had increased by almost 49,000, a rise of 37 per cent. In contrast, the Protestant count fell by over 16,000 (7.0%) over the same period. The community

<sup>39</sup> Office of First and deputy First Minister (2011). **LFS Religion Report 2010**. Available at: <http://www.ofmdfmi.gov.uk/labour-force-religion-report-2010.pdf>

<sup>40</sup> The LFS is a sample survey, and results are therefore subject to sampling error, i.e. the actual proportion of the population with a particular characteristic may differ from the proportion of the LFS sample with that characteristic. Thus, the variable “religious composition of the economically active (working age)”, has a confidence interval of +/- 1.6% in the 2010 LFS Religion Report. This means there is a 95 per cent certainty that the true figure for the Catholic share of the economically active (working age) lies somewhere between 43.3% and 46.5%. Please note that, as LFS estimates refer to the entire workforce whilst monitoring data relates only to the monitored workforce, inferences should be drawn with some caution.

composition of the monitored full-time workforce in 2010 was [54.6%] Protestant and [45.4%] Catholic <sup>41</sup>.

Table 4: Trends in the composition of the monitored full-time workforce, 1992 - 2010

	1992	2010	Diff	Percent Change
Protestant	235,330	218,801	-16,529	-7.0
Catholic	132,694	181,642	48,948	36.9

Source: Equality Commission, Monitoring Report Nos. 3 and 21

A similar analysis can be conducted for the part-time workforce, this time for the period 2001 – 2010. In 2010, excluding those whose community could not be determined, the community composition of the part-time workforce was [52.8%] Protestant and [47.8%] Catholic <sup>42</sup>. The number of monitored Protestant part-time employees rose by 335 (0.9%) over the decade, compared with a rise of 5,676 (18.1%) in the Catholic count.

The monitored Northern Ireland workforce is comprised of the public and private sectors. The following two sections will review trends in the composition of both sectors.

### 3.5 Trends in composition of the Public Sector

In 2010, the public sector accounted for over a third (37%) of the total monitored workforce. Trends in composition can be viewed over two separate periods, namely: 1990 – 2000 (full-time) and 2001 – 2010 (all employees).

In 1990 the composition of the public sector full-time workforce was [64.7%] Protestant and [35.3%] Catholic <sup>43</sup>. Ten years later the Catholic share had increased to [39.7%], with a corresponding fall in the Protestant proportion of the workforce. In numerical terms, the number of Catholic full-time employees rose by 3,573 (7.1%) while the Protestant count dropped by 10,464 (11.4%) <sup>44</sup>.

The community composition of the public sector (all employees) changed substantially during the second decade of monitoring, 2001 – 2010 (see Fig 3). The Catholic count increased from 66,288 in 2001 to 83,638 in 2010, a rise of 17,350 (26.2%). The number of Protestant employees fell by 2,040 (2.1%) during the same period, from 98,564 in 2001 to 96,524 in 2010. As a result the Catholic share of the monitored public sector workforce rose from [40.2%] in 2001 to [46.4%] in 2010, an increase of 6.2 percentage points. There was a corresponding fall in the Protestant share.

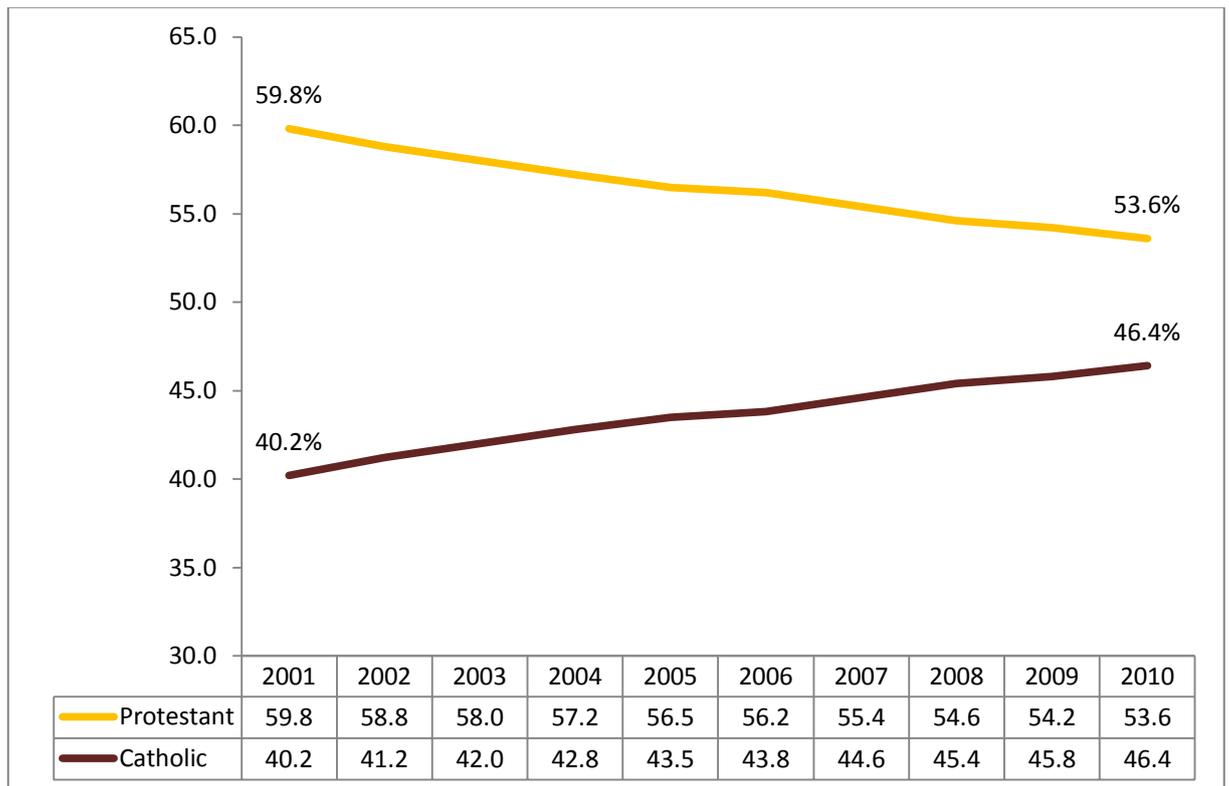
<sup>41</sup> Equality Commission for Northern Ireland (2011). **Monitoring Report No. 21**. Available at: <http://www.equalityni.org/archive/pdf/MonitoringReport%202010.pdf>

<sup>42</sup> *Ibid.*

<sup>43</sup> Fair Employment Commission (1991) **A profile of the workforce: a summary of the 1990 Monitoring Returns**. Belfast: FEC

<sup>44</sup> A proportion of the fall in Protestant full-time employment can be accounted for by the transfer of Northern Ireland Electricity (NIE) from public to private ownership in 1992.

Fig 3: Community Composition of the Public Sector Workforce (All Employees), 2001 – 2010



Source: Equality Commission (2011) Monitoring Report No. 21

### 3.6 Trends in composition of the Private Sector

In 2010, the private sector accounted for nearly two-thirds (63%) of the total monitored workforce. Similar to the public sector, trends in composition can be viewed over two separate periods, namely: 1992 – 2000 (full-time)<sup>45</sup> and 2001 – 2010 (all employees).

In 1992 the composition of the private sector full-time workforce was [63.8%] Protestant and [36.2%] Catholic<sup>46</sup>. Eight years later the Catholic share had increased to [39.6%], with a corresponding fall in the Protestant proportion of the workforce. In numerical terms, the number of Catholic full-time employees rose by 22,727 (27.7%) while the Protestant count increased by 15,417 (10.7%).

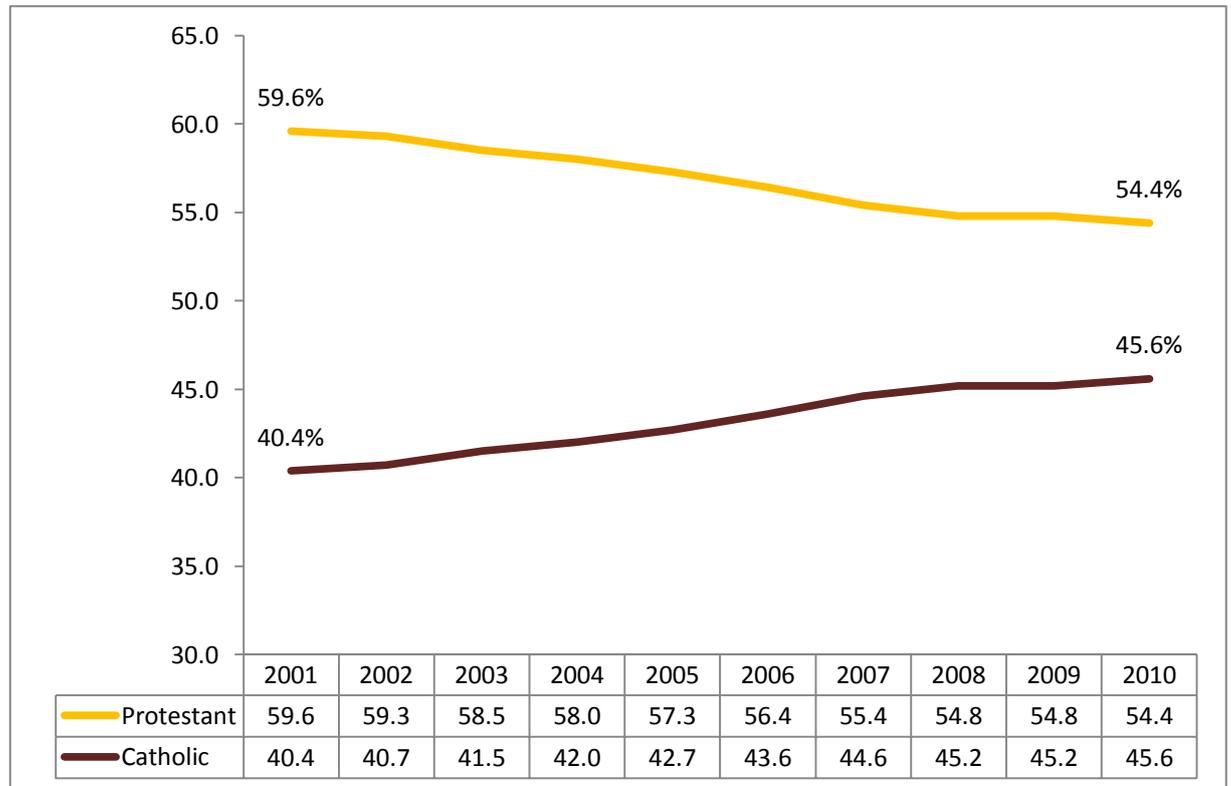
Similar to the public sector, the community composition of the private sector (all employees) underwent a marked change during the second decade of monitoring, 2001 - 2010. In numerical terms, the Catholic count rose from 117,802 in 2001 to 135,067 in 2010, an increase of 17,265 (14.7%). During the same period, the number of Protestant employees fell by 12,413 (7.1%), from 173,854 in 2001 to 161,441 in 2010. As a result, the Catholic share of the monitored private sector workforce rose

<sup>45</sup> 1992 has been chosen as the base year as this was the first year in which all registered private sector concerns were monitored. The smaller concerns with 11 - 25 employees were not monitored in 1990 and 1991.

<sup>46</sup> Fair Employment Commission (1991) **A profile of the workforce: a summary of the 1990 Monitoring Returns**. Belfast: FEC

from [40.4%] in 2001 to [45.6%] in 2010, an increase of 5.2 percentage points. There was a corresponding fall in the Protestant share (see Fig 4).

Fig 4: Community Composition of the Private Sector Workforce (All Employees), 2001 – 2010



Source: Equality Commission (2011)

It is ultimately ‘flows’ into employment over time, in the form of appointments, which influences or changes the community composition of the workforce (‘stocks’). The next section will consider this aspect of the monitoring process, in the form of applicants and appointees.

### 3.7 Applicants and Appointees

The Equality Commission recently published an analysis of applications and appointments in Northern Ireland since 1991<sup>47</sup>. For technical reasons, the analysis was split into two separate periods, namely: 1991 – 2000 and 2001 – 2010<sup>48</sup>.

According to the Commission, ‘In theory it would generally be expected that, all things being equal, the proportion of appointments from one community background would broadly mirror the proportion of applications from that same community background.’

<sup>47</sup> Equality Commission for Northern Ireland (2012). **Trends in community proportions of applications and appointments to the private and public sectors: analysis of fair employment monitoring report data, 1991 – 2010**. Available at: [http://www.equalityni.org/archive/pdf/FETO\\_ApplAppoint\\_WorkingPaper\\_Mar2012\\_v0h\\_300312.pdf](http://www.equalityni.org/archive/pdf/FETO_ApplAppoint_WorkingPaper_Mar2012_v0h_300312.pdf)

<sup>48</sup> Between 1991 and 2000, all public authorities and only those private concerns with 251 or more employees were required to monitor applications and appointments. Since 2001, all public authorities and private sector employers with more than 10 employees are required to monitor applications and appointments.

(p. 6). The Commission notes that the community composition of appointments will not only be affected by the composition of applicants, but also factors associated with the relative suitability of individuals – for example qualifications, skills and relevant experience. ‘Discrimination could potentially also be a factor impacting on community appointment rates, but this could not be directly inferred from a simple difference in rates.’ (p. 7) <sup>49</sup>

Table 5 shows the community proportions of applicants and appointees to the private sector for the periods, 1991 – 2000 and 2001 – 2010. Using the Protestant community for illustration, the table reveals that, over both periods, the community composition of appointments has been broadly similar to the community composition of applications.

Table 5: Applicants and Appointees to the Private Sector, 1991 - 2010

	251+ Only	All Employers
<b>Applications</b>	<b>1991 - 2000</b>	<b>2001 - 2010</b>
No. of Protestant Applications	814,302	2,092,636
No. of Catholic Applications	661,221	1,939,197
No. of Non-determined Applications	189,194	642,367
% Protestant Applications	[55.2%]	[51.9%]

	251+ Only	All Employers
<b>Appointments</b>	<b>1991 - 2000</b>	<b>2001 - 2010</b>
No. of Protestant Appointments	128,137	332,343
No. of Catholic Appointments	104,239	313,913
No. of Non-determined Appointments	14,211	81,380
% Protestant Appointments	[55.1%]	[51.4%]

Source: Equality Commission (2012)

A similar analysis of aggregated data was conducted for the public sector (Table 6). The table shows that the total Protestant proportion of appointments has been slightly lower than their aggregate share of applications over each period, 1991 – 2000 (0.8 percentage points lower) and 2001 – 2010 (1.6 percentage points lower) <sup>50</sup>.

Longer-term trends are also evident in the data. One key finding is that the total number of Protestant applicants has been in decline since 2001, while the Catholic count has been increasing (see Fig. 5) <sup>51</sup>. The Catholic proportion of applicants exceeded their Protestant counterparts for the first time in 2007, and again in 2009 and 2010. The observed growth in the number of Catholic applicants can partially be

<sup>49</sup> Equality Commission (2012). *Op Cit.*

<sup>50</sup> It is important to note that the use of aggregated data in Tables 5 and 6 obscures the variability of the data, both within individual years and across sub-sectors of the public sector (i.e. health, education, district councils, civil service, and security-related employment). A more detailed analysis is contained in the Equality Commission's paper (2012, *Op. Cit.*).

<sup>51</sup> The year 2008, when recorded applications from both communities fell, was atypical. Eleven public authorities affected by the Review of Public Administration (RPA) did not submit applicant or appointee data that year. Full recording was resumed in 2009.

accounted for by, among other factors, the growing proportion of Catholics in the younger population age bands (see Table 3 above) <sup>52</sup>.

Table 6: Applicants and Appointees to the Public Sector, 1991 - 2010

Applications	1991 - 2000	2001 - 2010
No. of Protestant Applications	790,381	710,803
No. of Catholic Applications	585,964	660,792
No. of Non-determined Applications	127,526	137,811
% Protestant Applications	[57.4%]	[51.8%]

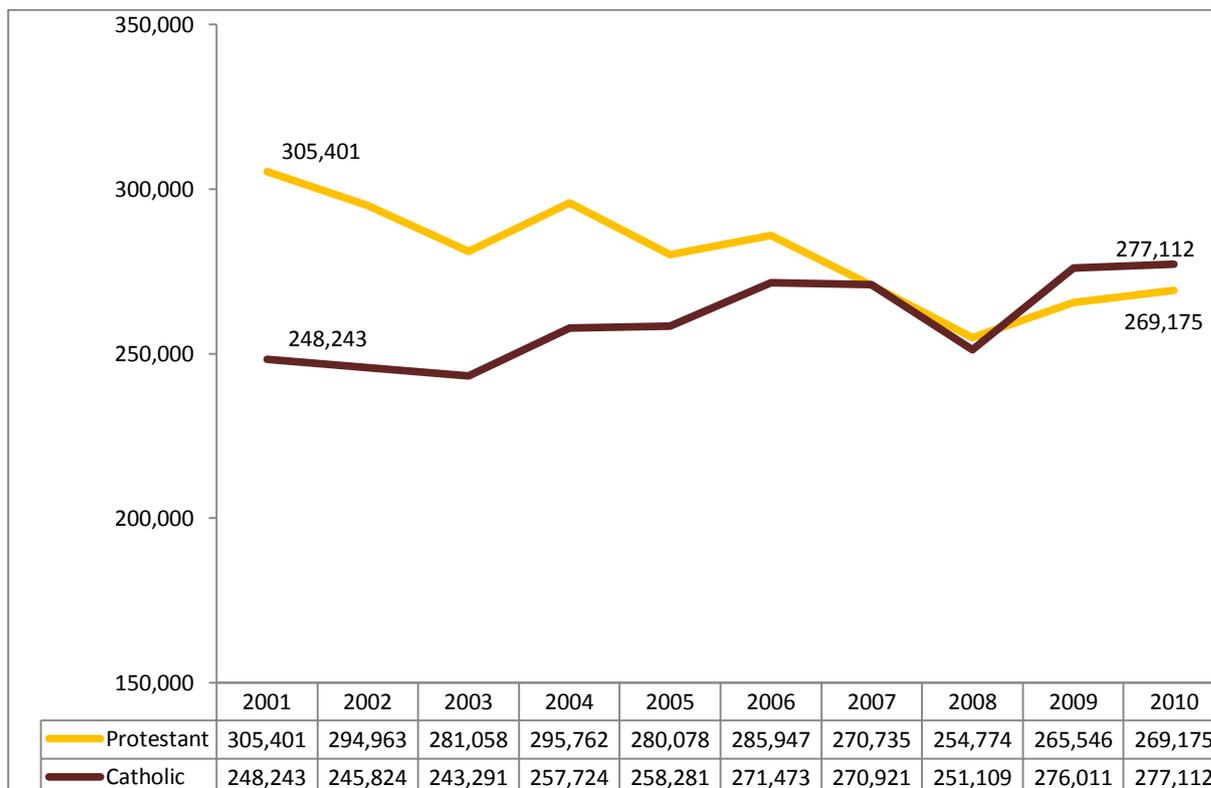
  

Appointments	1991 - 2000	2001 - 2010
No. of Protestant Appointments	83,288	91,716
No. of Catholic Appointments	63,832	91,039
No. of Non-determined Appointments	12,861	15,312
% Protestant Appointments	[56.6%]	[50.2%]

Source: Equality Commission (2012)

The Equality Commission paper concludes by reminding readers that the analysis ‘does not offer any insights into the prevalence or otherwise of “fair participation” in appointments across employers in Northern Ireland ..’ (p. 31).

Fig 5: Total number of applications by community background, 2001 – 2010



<sup>52</sup> The latest estimate, from the LFS Religion Report 2010, suggests that the Catholic proportion of the economically active is around 48 per cent in the 16 – 24 age band, and 52 per cent in the 25 – 34 age bands. Both statistics are subject to sampling error. See OFMdfM (2011). **Labour Force Survey Religion Report 2010**. Available at: <http://www.ofmdfmi.gov.uk/labour-force-religion-report-2010.pdf>

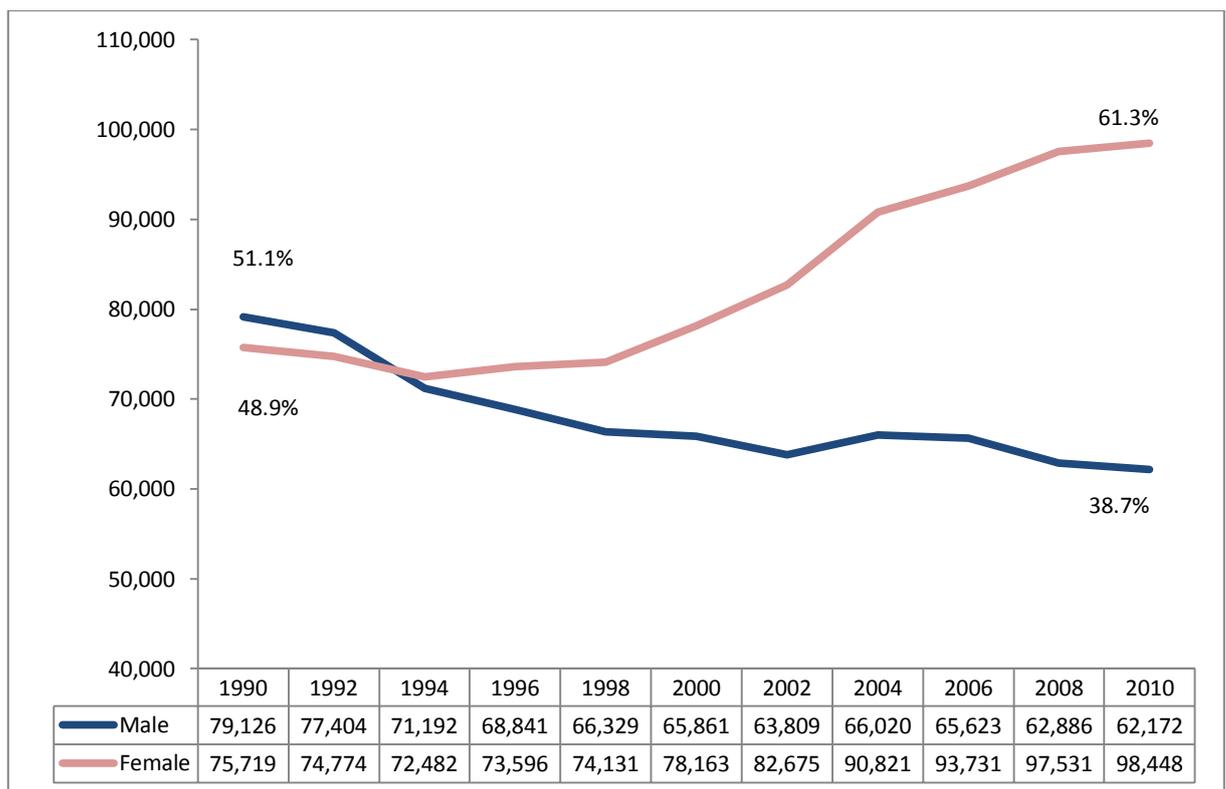
The 1989 Act introduced compulsory workforce monitoring, not only for community background (religion) but also for gender. The next section will briefly review the progress made by women in the Northern Ireland labour market over the past two decades.

### 3.8 Women in the Labour Market, 1990 – 2010

The first Monitoring Report in 1991 showed that women accounted for 44.9 per cent of the total monitored full-time workforce, 41.6 per cent in the private sector, and 48.9 per cent in the public sector<sup>53</sup>. However, it was acknowledged that monitoring data covered full-time employment alone, and that only an enumeration of both part-time and full-time employment would adequately profile the employment position of women. This situation did not arise until 2001 (see below).

A striking finding to emerge from two decades of monitoring data is the remarkable change which has taken place in the gender composition of the public sector. Looking only at full-time employees, Fig 6 shows trends in the gender composition of the public sector, 1990 – 2010.

Fig 6: Composition of Public Sector full-time employees by gender, 1990 – 2010



Source: Equality Commission, Monitoring Report Nos. 1 – 21.

Fig 6 reveals that the male and female components of the public sector full-time workforce, though similar in size in 1990, experienced a reversal of fortunes during the

<sup>53</sup> Equality Commission (1991). *Op cit.*

following twenty years. While the female workforce underwent a decline over the first few years of the decade, after 1994 the number of employees grew steadily, and by 2010 was 30.0 per cent higher, an overall increase of 22,729 employees. In contrast, male employment underwent continuous decline during this period, and by 2010 the male workforce was 21.4 per cent smaller than it had been in 1990, a loss of 16,954 employees. As a consequence, the female proportion of the public sector full-time workforce moved from slightly under half (48.9%) in 1990 to nearly two-thirds (61.3%) by 2010. The decline in male full-time employment was spread over all of the major divisions of the public sector.

In contrast to the public sector, changes in the gender composition of the private sector full-time workforce have been more modest (Table 7).

Table 7: Composition of Private Sector Full-time employees by gender, 1992 - 2010

Private Sector	1992	2010	Difference	Percent change
Male	134,924	155,479	20,555	15.2
Female	98,973	113,620	14,647	14.8
Total	233,897	269,099	35,202	15.1
Male (%)	57.7	57.8		
Female (%)	42.3	42.2		

The table shows that the female proportion of the private sector full-time workforce barely changed in the past two decades, from 42.3 per cent in 1992 to 42.2 per cent in 2010. Overall, total female representation in the private sector (full and part-time combined) moved from 45.5 per cent in 2001 to 46.3 per cent in 2010.

As noted above, the monitoring of part-time employees (working less than 16 hours per week) from 2001 onwards, enables the composition of the entire monitored workforce to be established. Fig 7 shows the gender composition of the monitored Northern Ireland workforce (all employees), and its two components, the private and public sectors.

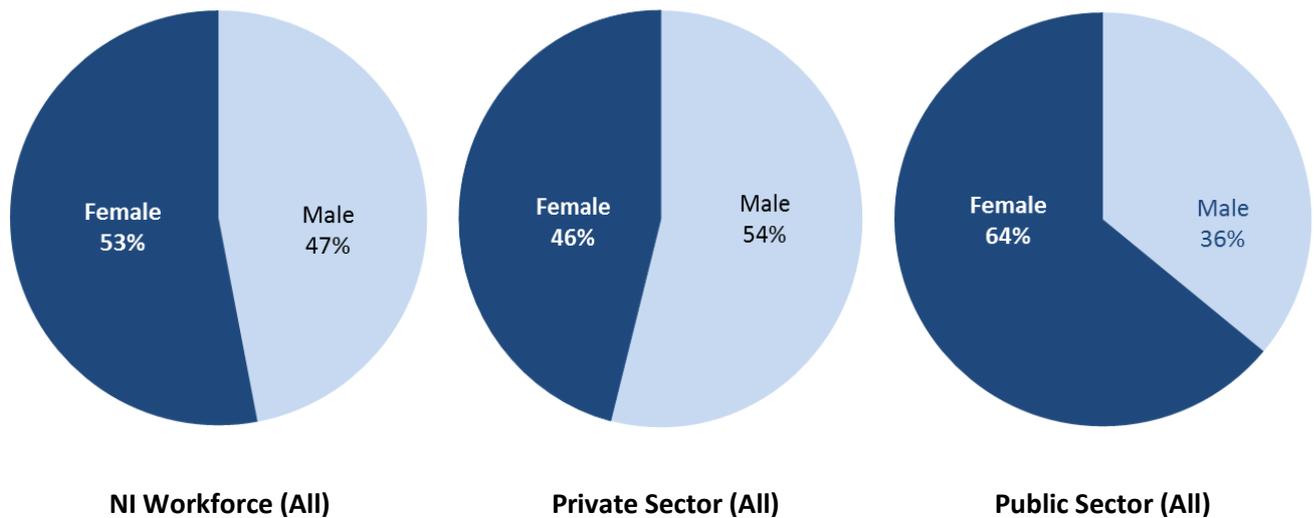
In 2010, women accounted for 70.2 per cent<sup>54</sup> of the total monitored part-time workforce. Fig 7 shows that the addition of part-time workers changes the gender composition even further. In 2010, women represented 53 per cent of the total monitored workforce, 46 per cent of the total private sector workforce, and 64 per cent of the total public sector workforce.

Overall, during the period 2001 – 2010, the total female count rose by 11.8 per cent (an additional 28,484 employees), while the number of male employees increased by a more modest 2 per cent (4,725). As a result, the total female proportion grew by 2.3 percentage points during the decade, from 50.4 per cent in 2001 to 52.7 per cent in 2010.

<sup>54</sup> Equality Commission (2011) Monitoring Report No. 21, *Op cit.*

Three broad conclusions can be drawn from the above analysis. Firstly, there are substantially more female employees now than there were in 1990. Secondly, while the gender balance of the public sector has moved significantly in favour of women, in the private sector (particularly the full-time component) the changes have been more modest. Thirdly, women are disproportionately represented in part-time employment.

### Composition of Employees by Gender 2010



### 3.9 Factors implicated in the change

The previous sections of this paper have illustrated the considerable changes which have taken place in labour market composition since 1990. During this period, two groups in particular, namely Catholics and women, have made substantial gains.

It is beyond the scope of this paper to examine the myriad factors implicated in this change. Two important factors, however, stand out<sup>55</sup>. Nolan (2012), reviewed a series of indicators for the Community Relations Council Peace Monitoring Report and stated<sup>56</sup>:

To date, the two main drivers for equalisation have been demography and educational attainment. Between 1990 and 2009 the number of Catholics of working age increased by 114,000, or 30 per cent, while the Protestant increase was only 4 per cent. Within an

<sup>55</sup> The possibility that a proportion of the observed change in composition came about through individual acts of discrimination by employers cannot be discounted. However, as the Equality Commission observed, inferences of discrimination cannot be drawn from a high level analysis of aggregated data. Claims of unlawful discrimination are decided by the Fair Employment Tribunal, a quasi-judicial body set up under the 1989 Act.

<sup>56</sup> Nolan, P. (2012) **The Northern Ireland Peace Monitoring Report, Number One**. Community Relations Council, February 2012, Belfast: CRC. Available at: [http://www.community-relations.org.uk/fs/doc/publications/NIPMR\\_2012\\_new\\_1.pdf](http://www.community-relations.org.uk/fs/doc/publications/NIPMR_2012_new_1.pdf)

equal opportunities framework this had led to an increased Catholic share of the job market, and the trend had been pointing to a shift from a 60/40 split in favour of Protestants a decade ago to one where a 50/50 split appeared likely. Allied to that numerical increase, the higher educational attainment by Catholics at every level in the schooling system, and the 60/40 split in favour of Catholics in higher education enrolments, has meant the Catholic share of the labour market is no longer so 'bottom heavy'. In major employment sectors like the civil service not only are there more Catholics in post but they have increasingly moved up the managerial ranks. In the latest figures, the Catholic median wage overtook that of Protestants for the first time (£9.44 as against £9.11 per hour). (p. 9)

According to Nolan (2012)<sup>57</sup>, the relative success of females throughout schooling works through to university entry, where female enrolments in Northern Ireland's universities are consistently higher:

The attainment gap between Catholics and Protestants is widening, as is that between females and males. As university education is the gateway to the professions and to higher paid management and administration posts, access to higher status jobs is likely to tilt towards Catholics and females. (p. 107)

Other factors associated with labour market change include the decline of traditional manufacturing industry<sup>58</sup> and a fall in security-related employment since the Patten reforms of 1999<sup>59</sup>.

## 4 Summary and Conclusion

This paper has chronicled the significant changes which have occurred in the community composition of the workforce since the Fair Employment (Northern Ireland) Act 1989 came into operation.

The first fair employment Act (in 1976) formed part of the reform programme introduced by the Government of Northern Ireland and subsequently, following the abolition of the Northern Ireland parliament, by the UK parliament at Westminster. Important weaknesses in the legislation, however, led to its replacement by the landmark Fair Employment (Northern Ireland) Act 1989. The 1976 and 1989 Acts were repealed and re-enacted in consolidated form in the Fair Employment and Treatment (Northern Ireland) Order 1998.

Among its various provisions, the 1989 Act transformed recruitment and selection procedures, discouraged informal recruitment, introduced compulsory workforce

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<sup>57</sup> *Ibid.*

<sup>58</sup> In 1992, manufacturing accounted for 44.5 per cent of the monitored full-time workforce. By 2001, this figure had fallen to 36.5 per cent. In 2010, the manufacturing sector accounted for only 21.9 per cent of the entire monitored workforce (both full- and part-time employees).

<sup>59</sup> The security-related sector includes the PSNI and the Northern Ireland Prison Service. The Protestant proportion of security-related employment fell from [91.6] per cent in 2001 to [77.9] per cent in 2010. Source: Equality Commission (2011). **Monitoring Report No. 21.** *Op cit.*

monitoring and established the Fair Employment Tribunal to hear and provide a remedy for cases of individual discrimination.

In a recent paper, the Equality Commission<sup>60</sup> found that ‘... the composition of the monitored workforce at the Northern Ireland level, when data is aggregated across all employers, now appears to more closely mirror labour availability than was the case when fair employment monitoring was first introduced in 1990.’ (p. 1).

It is impossible to measure or quantify with any precision the contribution made by equality legislation to greater equality in the labour market. As Shuttleworth and Osborne (2004) observed, while the 1989 Act and the work of the FEC clearly had a substantial effect, it is impossible to isolate the precise independent contribution of such factors to employment outcomes from the effects of educational, demographic and social trends<sup>61</sup>. While it is impossible to run ‘what if’ scenarios, such as ‘what if there had been no employment legislation?’, it seems unlikely, however, that progress would have been so rapid if there had been no legislation.

Finally, the gains made by under-represented groups in the 1990s and early twenty-first century occurred in the context of a relatively benign economic and political environment. As the current recession deepens, it is more difficult to predict future trends with any degree of accuracy. The likelihood, however, as Nolan opined, is that the Catholic and female proportion of the workforce will continue to increase.

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<sup>60</sup> Equality Commission (2012) **Fair Employment Monitoring: Composition of employment (aggregated to Northern Ireland level) – trends over time**. Available at <http://www.equalityni.org/archive/pdf/FairEmpMonitoringComptrendsovertimeDec11.pdf>

<sup>61</sup> Shuttleworth, I and Osborne, RD (2004). *Concluding Remarks*, pp 185 – 189, in Bob Osborne and Ian Shuttleworth (eds) **Fair employment in Northern Ireland: a generation on**. Belfast: Blackstaff Press.