



CHALLENGE HATE CRIME

DEAL WITH IT

REPORT 02

**DEFINING SECTARIANISM
AND SECTARIAN HATE CRIME**

Defining Sectarianism and Sectarian Hate Crime

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Introduction

Sectarianism is widely acknowledged as a fundamental and persistent feature of Northern Ireland society, and yet there is still some lack of clarity on how the term should be defined and what should be included within the parameters of the concept of sectarianism. This was highlighted in a debate in the Northern Ireland Assembly on Part 4 of the Justice Bill,¹ which was specifically concerned with responding to the problems of abusive chanting at certain categories of sporting events. The original draft of the Bill set out the offence as:

38. (1) It is an offence for a person at any time during the period of a regulated match to engage or take part in chanting falling within subsection (3).

(2) For this purpose "chanting" means the repeated uttering of any words or sounds (whether alone or in concert with one or more others).

(3) Chanting falls within this subsection if -

(a) it is of an indecent nature; or

(b) it consists of or includes matter which is threatening, abusive or insulting to a person by reason of that person's colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability.

The Justice Minister made clear at the outset of the debate (22 February 2011 c 6.50pm) that '*it had always been my intention that the new chanting offence would cover sectarian chanting*', and it might be assumed that the concept of sectarianism would be covered by the references to religious belief (Protestant and Catholic) and nationality (British and Irish). However the minister also noted that the Justice Committee had recommended that the section '*should make specific reference to sectarianism*' and thus an amendment to this effect was tabled:

(3A) For the purposes of this section chanting is of a sectarian nature if it consists of or includes matter which is threatening, abusive or insulting to a person by reason of that person's religious belief or political opinion or to an individual as a member of such a group.

The new amendment thus provided greater clarity of the Minister's understanding of the term 'sectarian' through the specific reference to 'political opinion' in addition to the existing reference to 'religious belief', but the amendment also suggested that 'national identity' was not assumed to be a component of sectarianism. However, while this clarification was welcomed by Sinn Féin, concerns were raised by members of the Ulster Unionist Party, in part because of the inclusion of reference to 'political opinion' (for which they cited concerns related to freedom of speech) and in part because of the potential for any formal definition of sectarianism to be read across to other and subsequent legislation.

Three sessions of debate failed to secure a cross-community consensus on various versions of the proposed definition, with nationalist politicians supporting the proposed inclusive definition and unionists opposing it. Therefore the amendments were defeated and the Justice Act (Northern Ireland) 2011 was passed with the text of Section 37 reading:

37. (1) It is an offence for a person at any time during the period of a regulated match to engage or take part in chanting falling within subsection (3).

(2) For this purpose "chanting" means the repeated uttering of any words or sounds (whether alone or in concert with one or more others).

¹ The debate took place on 22 and 23 February 2011 and 7 March 2011. For the full transcript see: <http://www.niassembly.gov.uk/record/reports2010/110222.htm#k> <http://www.niassembly.gov.uk/record/reports2010/110223.htm> and <http://www.niassembly.gov.uk/record/reports2010/110307.htm>

(3) Chanting falls within this subsection if -

(a) it is of an indecent nature;

(b) it is of a sectarian or indecent nature; or

(b) it consists of or includes matter which is threatening, abusive or insulting to a person by reason of that person's colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability.

While the legislation outlaws sectarian chanting, it does not include any definition of the term 'sectarian' and thus it may be difficult to determine which specific chants should be included within the framework of a sectarian chant. In a subsequent debate in the Assembly, the Minister of Justice announced, in response to a question, that he had no intention of attempting to introduce legislation that would provide such a definition.² The position was clarified by the Department of Justice in a guidance note for sports authorities issued in June 2011.³

Neither "sectarian" nor "indecent" is defined in law. It will be for the prosecuting authorities and ultimately for the courts to decide whether the matter that was chanted in a particular case is either sectarian or indecent or is otherwise caught by the offence. Clubs will wish to raise any concerns about specific instances of chanting with the local police in the first instance.

The guidance note thus clarifies that as the Assembly was unable to agree a definition of sectarian chanting, and thus also the wider concept of sectarianism, the Executive would leave it to the courts, and by extension the wider criminal justice system, to develop and adopt a working definition of sectarian chanting and sectarianism.

In the absence of an agreed legal definition of sectarianism this paper offers a review of current understandings of the term both within the context of Northern Ireland and in other jurisdictions. It then considers some of the current definitions that are being used by criminal justice agencies in Northern Ireland and finally outlines a proposed definition of the term 'sectarianism' and sectarian hate crime.

As a part of this research we wrote to each of the political parties represented in the Assembly to request a meeting to discuss party views on hate crime and specifically their views on a definition of sectarianism. We subsequently held meetings with representatives of four of the political parties: Alliance Party, Green Party, Sinn Féin, and the Ulster Unionist Party. The discussions with party representatives have informed the following discussion.

Current Definitions of Sectarianism

Sectarianism remains a relatively vague and elusive legal term in Northern Ireland which may be alluded to, but rarely named in legislation. A brief review of relevant local legislation reveals a reluctance to name the problem and/or an inability to agree a formal definition of the term. The section of the 1987 Public Order (Northern Ireland) Order, which deals with 'stirring up hatred or arousing fear', does not use the terms sectarian or sectarianism, but rather states that hatred means:

*hatred against a group of persons in Northern Ireland defined by reference to religious belief, colour, race, nationality (including citizenship) or ethnic or national origins.*⁴

2 <http://www.theyworkforyou.com/ni/?id=2012-05-22.7.13>

3 http://www.dojni.gov.uk/index/publications/publication-categories/pubs-legislation/justice-act-_ni_-2011-sports-provisions-guidance-for-sports-authorities.pdf

4 <http://www.legislation.gov.uk/nisi/1987/463/part/III/made>

This is a broad category of persons and while it does not include any reference to political opinion does include 'nationality' alongside 'religious belief' as grounds that might affect hostility and which might be considered as encompassing sectarian behaviour.

Article 2 of the Criminal Justice (No 2) Order 2004, which is generally accepted as addressing sectarian hate crime, actually does not use the term sectarian in the text. Instead it refers to hostility based on 'the victim's membership (or presumed membership) of a religious group', or where the offence is motivated by hostility towards 'members of a religious group based on their membership of that group'.⁵ However, while sectarianism has been assumed to be included within the category of hostility based on membership of a religious group, this category also includes attacks on Muslims, Jews, Sikhs, Hindus and members of other faiths.

The Public Processions (Northern Ireland) Act (1998), which was introduced following extensive protests and violence at parades in the second part of the 1990s, makes no reference to sectarianism or religious belief, but rather permits the Parades Commission to impose restrictions if a procession may have an 'impact ... on relationships within the community'. The Commission's Code of Conduct does specify that participants and supporters of parades and protests should 'refrain from using words or behaviour which could reasonably be perceived as being intentionally sectarian, provocative, threatening, abusive, insulting or lewd'⁶. However, there is no definition of the term 'sectarian'.

Section 75 of the Northern Ireland Act (1998) provides an obligation on statutory authorities to have due regard to the need to promote equality of opportunity and the desirability of promoting 'good relations' between people of different religious beliefs and political opinion.⁷ And although the legislation makes no explicit reference to sectarianism it is reasonable to assume that political opinion and religious belief are thus both considered as key underpinnings of social identity, and therefore sectarian attitudes and practices in Northern Ireland.

A number of recent policy documents have also aspired to respond to the issue of sectarianism in Northern Ireland, although none have provided a clear definition of the subject. The first objective of *A Shared Future* was to 'eliminate sectarianism, racism and all forms of prejudice' and although one could gauge a sense of the authors' understanding from the subjects included in the policy, there was no attempt at a definition. In a similar fashion the consultation on *Cohesion, Sharing and Integration*⁸ aims to respond to sectarianism but did not offer any definition. In contrast the *Community Relations, Equality and Diversity in Education* policy issued by the Department of Education in 2011 focused on religious discrimination as a form of racism:

The UN Committee on the Elimination of Racial Discrimination has regarded discrimination on religious grounds as racial discrimination when there is an overlap with another indicator of ethnicity. Other Human Rights instruments explicitly include religion among the determinants of forms of racism, including the definition recommended by the Council of Europe which states:

"racism shall mean the belief that a ground such as a race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons".⁹

5 <http://www.legislation.gov.uk/nisi/2004/1991/article/2/made>

6 <http://www.paradescommission.org/fs/doc/publications/acf440b.pdf>

7 <http://www.legislation.gov.uk/ukpga/1998/47/section/75>

8 http://www.nidirect.gov.uk/reformatted_final_print_version_csi_-_26.07.10.pdf

9 http://www.deni.gov.uk/cred_policy_doc1.pdf

However, the document then continued by referring to '*the legacy of the conflict period and continuing sectarianism*' and to the importance of interacting with people of another '*religion, nationality or race*' which suggests that these are the key sites of social fracture, with religion and nationality perhaps being the constituent components of sectarianism.

The reference in the CRED document to sectarianism as an aspect of racism is mirrored in a response by the Northern Ireland Human Rights Commission to the Justice Bill in which they also argued that sectarianism is simply a '*particular form of racism*', although the Commission continued that this did not mean the sectarianism '*should not continue to be individually named and singled out just as other particular forms of racism are, for example anti-Semitism and Islamophobia*'.¹⁰

Another perspective was included in the draft Public Assemblies, Parades and Protests Bill that was issued for consultation in 2010, which offered a definition of sectarian harassment as '*harassment on the grounds of religious belief or political opinion*'.¹¹

There is thus a variety of working definitions of sectarianism within Northern Ireland law and policy. Depending on which definition one is working to the term may relate to prejudice based solely on religious belief, but may also include prejudice based on nationality and/or political opinion, in which sectarianism is a stand-alone prejudice or is to be considered as a sub-category of racism.

Sectarianism in Northern Ireland

Academic and practitioner views on sectarianism in Northern Ireland have similarly struggled to agree a commonly accepted definition of sectarianism, with various definitions that include reference to religious background and national identity.

Gareth Higgins and John Brewer in a paper entitled *The Roots of Sectarianism in Ireland*¹² focus on the association between religious beliefs and sectarianism, although they also note that religion is also invoked as an indicator of social stratification and conflict, thus implying both a class dimension and a relationship to national identity:

What is sectarianism? ... It can be considered as 'the determination of actions, attitudes and practices by practices about religious difference, which results in them invoked [*sic*] as the boundary marker to represent social stratification and conflict' (Brewer, 1992: 359). It thus refers to a whole cluster of ideas, beliefs, myths and demonology about religious difference which are used to make religion a social marker, to assign different attributes to various religious groups and to make derogatory remarks about others. It is more than a set of prejudiced attitudes but refers to behaviours, policies and types of treatment that are informed by religious difference.

Higgins and Brewer also argue that sectarianism functions at three levels: as ideas, as individual action and as social structure, and which serve to express stereotypes, prejudice and forms of personal and institutional discrimination and harassment.

The Community Relations Council includes the following elements of a definition in an article on its website entitled *What is Sectarianism in Northern Ireland?*¹³. The article explicitly identifies religion as one of the markers of national identity, rather than as a fundamental attribute of sectarianism:

10 [http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/114/Submission_to_Justice_Bill_\(November_2010\).pdf](http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/114/Submission_to_Justice_Bill_(November_2010).pdf)

11 http://cain.ulst.ac.uk/issues/parade/docs/ofmdfm_20100420_parades.pdf

12 http://www.google.co.uk/search?hl=en&biw=1179&bih=754&q=the+roots+of+sectarianism+in+north+ireland&oq=the+roots+of+sectarianism+in+north+ireland&aq=f&aql=&gs_sm=e&gs_upl=25901758210187051171151210101212961257210.7.6113

13 <http://www.community-relations.org.uk/resources/what-is-sectarianism/>

Sectarianism is not just a matter of economic, social or political consideration; nor is it simply a question of personal attitude or behaviour. It is an historical and cultural phenomenon arising out of religious and political differences and perpetuated by group and self-interests.

The dispute is not ... at heart religious. It is rather about allegiances – one community to 'Britain' and 'Britishness' and the other to 'Ireland' and 'Irishness'. Clearly religion is a major part of the identity of the two communities but it is much more important as what has been described at a 'stereotypical cue'. It is a major apparent difference between the two communities and the difference that conveniently labels each one.

Another definition was developed by Robbie McVeigh¹⁴ in a paper that explored the development of sectarianism in the context of the historical and colonial process, through structural forms of discrimination, in relation to the state and national identity as well as to religious identity. McVeigh also argued that sectarianism needs to be recognised as a process that was distinctive to Ireland, notwithstanding its similarities to sectarianism and communalism elsewhere. His essay concludes with a definition of sectarianism as follows:

Sectarianism in Ireland is that changing set of ideas and practices, including, crucially, acts of violence, which serves to construct and reproduce the difference between, and unequal status of, Irish Protestants and Catholics.

He argued that this definition includes a number of key issues relevant to an understanding of the concept of sectarianism – that sectarianism is associated particularly with Ireland, where it is not a theological dispute but rather is a 'constituent part of Irishness'; that it is a changing and contemporary phenomenon and which involves ideas and actions, structures and individual behaviour, which serve to emphasise the difference between the two communities, which are social rather than political identities.

Finally, Joseph Liechty and Cecilia Clegg discuss sectarianism at length in their book *Moving Beyond Sectarianism*¹⁵ and which they define as:

A system of attitudes, action, beliefs and structures, which arises as a distorted expression of positive, human needs especially for belonging, identity and the free expression of difference and is expressed in destructive patterns of relating.

In a commentary on their definition they note that sectarianism functions at personal, communal and institutional levels, always involves a religious element and typically also involves a negative mixing of religion and politics (2001: 102-103).

These four attempts at a definition each aim to highlight the complexity underpinning the relatively simple concept of sectarianism. Each acknowledges the role of religion as a component of sectarianism, but only as one of many components and where religious terms serve to act largely as a marker of, or as shorthand for, a broader sense of identity, which necessarily relates to an individual's national and or political identity. Importantly each of these definitions highlights sectarianism as a contemporary reality, and which involves the outworking of ideas thorough practice. Finally, sectarianism is a means of creating and sustaining boundaries between different communities, as much as it is a reflection of the continued existence of such boundaries.

14 R. McVeigh (1995) *Cherishing the Children of the Nation Unequally*. In Clancy, P., Drudy, S., Lynch, K. and O'Dowd, L. (eds) *Irish Society: Sociological Perspectives*. Dublin, Institute of Public Administration.

15 Liechty, J. and Clegg, C (2001) *Moving Beyond Sectarianism: Religion Conflict and Reconciliation in Northern Ireland*. Dublin, The Columba Press.

The next section briefly reviews each of these three definitions of sectarianism within a wider context. First we discuss the interpretation of sectarianism as religious prejudice through recent law and policy in Scotland. Then we set out some wider interpretations of sectarianism as the intersection of religious prejudice and political contest, and thirdly we consider the view that sectarianism should simply be defined as a sub-category of racism.

Sectarianism as Religious Prejudice

The issue of sectarianism in Scotland has been subject to considerable interest in recent years, with the Scottish Executive commissioning a working group report (2002)¹⁶, introducing hate crime legislation (2003)¹⁷, producing an action plan on sectarianism (2006)¹⁸ and proposing draft legislation on offensive behaviour at football matches (2011)¹⁹, while Glasgow City Council also commissioned research on sectarianism in the city.²⁰

The debate on how to address the continuance of sectarianism in Scotland, particularly in relation to education, sport, marches and parades and within faith groups, has been largely framed as a form of religious intolerance. However, the working group report (notably entitled *Tackling Religious Hatred*) acknowledged that '*religion may be only one factor in an interconnected cultural, political, territorial and ethnic identity*' and also highlighted the '*muddled combination of Catholic/ Protestant religious differences, Northern Ireland politics and nationalistic iconography*' in relation to sectarianism in sport.

Nevertheless, notwithstanding this acknowledgement of the complexities and layers of meaning contained within any understanding of sectarianism, the legal framing of the term in Scotland has been couched in terms of religious prejudice and without any reference to political opinion or nationality. Within the Criminal Justice (Scotland) Act 2003, sectarian hate crimes are defined as 'offences aggravated by religious prejudice', although the definition of the term 'religious' has been made rather broad since Section 74 (7) of the Act defines a 'religious group' as a group of persons defined by reference to their:

- *religious belief or lack of religious belief;*
- *membership of or adherence to a church or religious organisation;*
- *support for the culture and traditions of a church or religious organisation;*
- *participation in activities associated with such a culture or such traditions.*

The definition of a 'religious group' is further clarified in the Offensive Behaviour at Football and Threatening Communications Bill, published in June 2011 which relates to behaviour directed at a religious group (as defined above) and '*a social or cultural group with a perceived political affiliation*'. This presumably extends the framework to more explicitly include groups associated with football teams, but notably still excludes any reference to political opinion or national identity. The Policy Memorandum published with the bill²¹ frequently links the term 'sectarian' with 'religious prejudice', although it also notes the lack of any precise definition of the term sectarian:

"Sectarian" is a term which is not defined in Scots law and there are many competing viewpoints about what is or should be included and excluded from any definition. (Para 4)

16 <http://www.scotland.gov.uk/Resource/Doc/46932/0027034.pdf>

17 <http://www.legislation.gov.uk/asp/2003/7/section/74>

18 <http://www.scotland.gov.uk/Resource/Doc/90629/0021809.pdf>

19 <http://www.scottish.parliament.uk/s4/bills/01-offbehfoot/index.htm>

20 <http://www.glasgow.gov.uk/NR/rdonlyres/DA614F81-4F1B-4452-8847-F3FDE920D550/0/sectarian-ism03.pdf>

21 <http://www.scottish.parliament.uk/s4/bills/01-offbehfoot/b1s4-introd-pm.pdf>

As a result it extends the remit of the bill to a variety of other forms of prejudicial behaviour, including racism (broadly defined), homophobia, transphobia and prejudice towards people with a disability. Nevertheless it is clear that the focus is on 'sectarian' behaviour which is based on a prejudice based on religious difference.

One of the differences between the situation in Scotland and Northern Ireland, and which perhaps justifies the relatively narrow perspective on sectarianism as religious prejudice, is the lack of any strong correlation between the sectarian divisions and political beliefs. Unlike in Northern Ireland the political parties in Scotland are not defined in sectarian terms as appealing to one community or the other, nor is there any sense in which questions of national identity or aspirations for Scottish independence are couched within a sectarian framework. Rather, as noted above, the sectarian dimension of politics and nationalism in Scotland is largely framed by reference to the politics of Ireland and Northern Ireland.

Sectarianism and Politics

In the wider global arena sectarianism is generally used to refer to prejudice and hostility towards individuals or groups of different faiths or religions. However, most current understandings almost always also acknowledge a political or power dimension to the way that sectarianism is expressed within any country, rather than the concept being based on theological matters.

As such sectarianism is a widely used concept in relation to countries where social and political structures and divisions are expressed through reference to an element of religious faith. Examples include Lebanon, where the political system is formally divided between Maronite Christians, Sunni and Shia Muslims; Syria, where the current wave of protests against the government of Bashar Al-Assad are exposing or creating fault-lines between Sunni, Shia and Alawite Muslims; Bahrain and Iraq where tensions and power differentials have been mapped onto a Sunni-Shia divide; and Nigeria, where tensions between Muslim and Christian communities have frequently erupted into outbursts of serious rioting. The term sectarian has also been used to describe some aspects of the hostilities in the former Yugoslavia by highlighting the religious differences between erstwhile 'nationalist' identities of Catholic Croatia, Orthodox Serbia and Muslim Bosnia. In south Asia the term 'communalism' is used to describe prejudice, tension and violence that is associated with the main faith based communities – Hindus, Muslims, Sikhs and Christians.

These examples highlight contexts where the term sectarianism is used to describe competitive or hostile political relationships between social groups who are broadly defined by reference to their faith background. This can be applied to tensions between groups adhering to a broad faith community such as Muslims, where tensions between Sunni and Shia appear widespread, (in a similar manner to tensions between Catholics and Protestants in Europe) and also between different faiths such as between Christians and Muslims, or Muslims and Hindus. However, in each of these situations while religious identity serves as a marker of difference between individuals and communities, tensions emerge and are sustained over political issues, or are related to perceptions of political discrimination or of exclusion from power rather than being associated with differences over religious beliefs or practices.

Sectarianism as a form of Racism

The NI Human Rights Commission argued that sectarianism should be considered as a specific form of racism since that is how it would be considered in international human rights law. The commission argues that 'the ethnic divide between the two largest groups in Northern Ireland is often characterised on the basis of religion, or political opinion, but is manifest also in nationality' and thus falls within the framework definition of a number of human rights texts relating to racism. In particular it

cites the 1966 International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) and the UNESCO Declaration on Race and Racial Prejudice (1978).

The text of ICERD, however, does not make any reference to religious belief, but rather limits its definition of "racial discrimination" to '*any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin*'. In contrast, the later UNESCO Declaration²² takes a broader view and refers to:

Any distinction, exclusion, restriction or preference based on race, colour, ethnic or national origin or religious intolerance motivated by racist considerations ... (UNESCO, Article 3)

Similarly the Council of Europe also takes a broad definition of racism²³ to mean:

the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.

These definitions suggest that sectarianism may readily be included within the framework definition of racism, although it should be noted that this would be based on a definition which is based on religion and nationality as none of the above definitions include political opinion within their understanding of racism.

However, while this suggests that it may be both reasonable and appropriate to understand sectarianism as a form of racism, it still does not address the issue of a formal definition of sectarianism. The NIHRC noted that both anti-Semitism and Islamophobia may be considered as forms of racism, albeit particular and distinctive forms, but once you give a name to individual distinctive forms of racism you also need to define the parameters of each distinctive form. Anti-Semitism and Islamophobia have for example been defined in the following ways:

- Anti-Semitism is suspicion of, hatred toward, or discrimination against Jews for reasons connected to their Jewish heritage.
- Islamophobia is the fear and/or hatred of Islam, Muslims or Islamic culture.

It should be noted, however, that as is perhaps the case with all attempts to define a belief or a prejudice, other more elaborate definitions of anti-Semitism and Islamophobia have been suggested²⁴.

Based on the earlier analysis of the NIHRC it would be reasonable to assume that their interpretation of sectarianism in the Northern Ireland context would be as a form of racial prejudice that was directed at an individual based on a person's actual or perceived ethno-religious background, nationality or political opinion.

A Criminal Justice Definition of a Sectarian Hate Crime

One of the aims for trying to agree a definition of sectarianism is that there can be a clear, precise and concise definition of a sectarian hate crime. This is particularly important for agencies within the criminal justice system which are required to provide working interpretations of the law in the course of their work. A number of agencies have developed and adopted their own working definitions of hate crime and more specifically of sectarian hate crime.

²² http://www.unesco.org/webworld/peace_library/UNESCO/HRIGHTS/107-116.HTM

²³ http://www.coe.int/t/dghl/monitoring/ecri/activities/gpr/en/recommendation_n7/ecri03-8%20recommendation%20nr%207.pdf

²⁴ <http://www.ushmm.org/wlc/en/article.php?ModuleId=10005175> and <http://www.islamophobia-watch.com/islamophobia-a-definition/>

The Criminal Justice Board agreed the following general definition of a hate crime in 2009²⁵:

Any incident which constitutes a criminal offence, perceived by the victim or any other person as being motivated by prejudice or hate towards a person's race, faith or religion, sexual orientation, disability, political opinion, or gender identity; or a person's perceived race, faith or religion, sexual orientation, disability, political opinion, or gender identity.

This broad definition includes some of the potential elements of a sectarian hate crime, namely reference to faith or religion, and political opinion, although it only includes reference to nationality or national identity indirectly through the reference to race.

The PSNI has developed a revised definition of sectarian hate crime in recent documents. On its website the police service states that sectarian hate crime is 'broadly understood to describe incidents based on a person's perceived religion or political opinion'.²⁶ In other documents relating to hate crime the PSNI has included a more elaborated definition of sectarian hate crime.²⁷ The definition states:

A sectarian incident is defined as any incident which is perceived to be sectarian by the victim or any other person. The term 'sectarian', whilst not clearly defined, is a term almost exclusively used in Northern Ireland to describe incidents of bigoted dislike or hatred of members of a different religious or political group. It is broadly accepted that within the Northern Ireland context an individual or group must be perceived to be Catholic or Protestant, Nationalist or Unionist, or Loyalist or Republican.

A very similar definition has been adopted by the Public Prosecution Service and is included in its *Hate Crime Policy* within the section on 'religion'²⁸ and is also being used by the Probation Board in its draft hate crime policy.

The criminal justice agencies thus appear to have been able to agree a definition of a sectarian hate crime as involving elements of religious background and political opinion. This is broadly similar to that which had been proposed in the Justice Bill, but which the members of the Assembly could not agree upon.

Whilst this is preferable to the absence of any definition it has excluded any reference to nationality or national identity as a factor in sectarianism. Presumably, this is because reference to nationality is included within definitions of racism. This potentially creates a situation where if someone was abused because of their religious background (Protestant, Catholic), or their political identity (Republican, Loyalist) the offence would be included as a sectarian hate crime, but if the abuse involved reference to nationality (British, Irish) it would be classified as racist.

What of more abusive terms such as 'hun' or 'taig'? Does it make sense to try to classify these as proxies of religion or of nationality or as the type of abuse that bridges both? And what about sports shirts? If a person is attacked wearing a Republic of Ireland football shirt would this be classified as a sectarian or as a racist crime?

25 <http://www.uniteagainsthate.org.uk/about-hate-crime/>

26 http://www.psnipolice.uk/index/advice-and-legislation/advice_hate_crime/advice_hate_crime_sectarian.htm

27 http://www.psnipolice.uk/hate_motivated_incidents_and_crimes_in_northern_ireland_2004-05_to_2011-12.pdf at page 6.

28 <http://www.ppsni.gov.uk/SiteDocuments/PPSNI%20HATE.pdf> at page 8.

Defining Sectarianism

The review of different understandings and definitions of sectarianism has highlighted some difficulties in trying to create a narrowly precise definition that might cover all possibilities in and about Northern Ireland. All definitions agree that sectarianism in Ireland is related to the different identities of members of the two largest communities and that these identities may be expressed through a variety of terms and frames. Some favour a narrow religious-based definition, others argue for a political-based definition or in terms of national identity or both.

We suggest that sectarianism is a mixture of each of these, differently blended in different contexts. This is not to suggest that these different forms of label are equal or synonyms, rather that they are variations and interpretations on a common theme, and which is based on a set of binary oppositions: Catholic – Protestant; Irish – British; Unionist – Nationalist; and Loyalist – Republican; with the assumption that everyone can or should be accommodated within such a scheme of equivalent differences.

The definitions of sectarianism and sectarian hate crime currently being utilised by the criminal justice agencies in Northern Ireland is too narrow and should be redrafted in line with the definition set out below.

Recommendations

A definition of sectarianism should be tight enough to be specific to the context in which it is enacted in (Northern) Ireland, but should also be broad enough to be inclusive of all of the dimensions that comprise sectarianism in Ireland: religious, political, national and ethnic as well as to the intersections between those components.

We propose the following definition of sectarianism:

Sectarianism should be considered as a form of racism specific to the Irish context. Sectarianism is the diversity of prejudicial and discriminatory attitudes, behaviours and practices between members of the two majority communities in and about Northern Ireland, who may be defined as Catholic or Protestant; Irish or British; Nationalist or Unionist; Republican or Loyalist; or combinations thereof.

This definition of sectarianism thus leads to the following as a definition of a sectarian hate crime:

A sectarian hate crime is any verbal, physical or other action that is negatively directed at, or perceived to be negatively directed at, a member of one of the two majority communities in and about Northern Ireland (defined by their religious background, nationality and or political opinion as Catholic or Protestant, British or Irish, Nationalist or Unionist, or Republican or Loyalist or combination thereof) by a member of the other majority community (defined by their religious background, nationality and or political opinion as Catholic or Protestant, British or Irish, Nationalist or Unionist, or Republican or Loyalist or combination thereof).

This definition focuses on sectarianism as being based on the negative interactions of members of the two majority communities, which in turn are based on perceptions of difference structured on religion, nationality and political opinion or combinations thereof.

These two definitions should be adopted by the Department of Justice and by the different criminal justice agencies and be used in place of the current definitions.

**The organisations which delivered
the Challenge Hate Crime project were:**

Northern Ireland Prison Service

www.dojni.gov.uk/index/ni-prison-service.htm

NIACRO

www.niacro.co.uk



Carecall

www.carecallwellbeing.com

Corish Film Productions

www.corish.tv

Institute of Conflict Research

www.conflictresearch.org.uk

Mediation NI

www.mediationnorthernireland.org

Violence Prevention Network

www.violence-prevention-network.de



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