

Submission to the United Nations Committee on the Elimination of all Forms of Racial Discrimination on the UK's 18th, 19th and 20th periodic reports: Summary

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Introduction

This report is a summary version of the Equality and Human Rights Commission's shadow report to the UK's 18th, 19th and 20th periodic reports to the United Nations Committee on the Elimination of Racial Discrimination. The Commission welcomes the opportunity to make this report to the Committee. It has three main aims: firstly, to draw attention to issues which impact on race equality in Great Britain not brought out in the Government's report; secondly, to highlight any inaccuracies in the Government's report and, finally, it makes a number of recommendations in respect of the issues which the Commission considers will help to improve racial equality in Great Britain.

The report considers the performance of Great Britain in relation to Article 1 (special measures), Article 2 (protection from discrimination), Article 4 (media reporting), Article 5 (civil and political rights), Article 6 (the equality and human rights infrastructure), Article 9 (state reporting), and Article 14 (individual right to petition) of the International Convention on the Elimination of all Forms of Racial Discrimination.

The key issues the report focuses on are:

- Protection from discrimination
- Media reporting
- Civic and political participation
- Criminal justice
- Education
- Employment
- Health
- Gypsies and Travellers
- The human rights and equality infrastructure
- State reporting, and
- The right to individual petition.

Article 2 – Rights to non-discrimination

Durban Declaration and programme of action

The race equality strategy for England and Wales was a positive development. However, it did not go far enough to satisfy the requirements of an action plan as recommended by the Durban Declaration. This is because it fails to set out the steps the Government is taking in response to the Committee's concluding observations. The Government has introduced an integrated equality strategy to replace the race equality strategy, however the integrated strategy has **little specific focus on race equality**. Furthermore, the Minister with responsibility for race has not publicly set out a strategy for tackling race inequalities.

Equality legislation

Great Britain's record on protecting ethnic minorities from discrimination has been strengthened by the **Equality Act 2010**. However, Government proposals to repeal or not bring into force new protections introduced by the Equality Act 2010, coupled with **significant cuts to civil legal aid and funding to third sector organisations providing advice services** on discrimination could impact adversely on ethnic minorities' ability to enjoy their full rights under the Convention.

Discrimination in the exercise of immigration functions

The exception to discrimination in the exercise of immigration functions under the Equality Act is too wide because it **permits discrimination on grounds of ethnic and national origins** as well as nationality. Also, the process for making authorisations under the Equality Act is not sufficiently transparent.

In Scotland, there is real difficulty identifying disaggregated data about the experience of ethnic minorities. In addition, the **race equality duty has not had any significant impact on the delivery of services or on ethnic minority communities**. Therefore councils need to do more to build a better understanding of community needs, make race equality integral to routine management arrangements and give higher priority to race equality in the delivery of services.

The Commission recommends the Committee asks government to:

- **provide detailed plans for tackling race inequality in its equality strategy and/or provide an effective race equality strategy**
- **monitor the impact of its policy initiatives on equality outcomes, particularly on race**
- **outline what mechanisms it will put in place to ensure that individuals have fair access to justice for discrimination**
- **outline how it will ensure that its policies and proposals for tackling the economic crisis does not adversely impact on ethnic minority groups**
- **remove ethnic and national origin from the exception for immigration functions and/or ensure greater transparency in the process of making authorisations**
- **ask the Scottish Government to require Local Authorities and Community Planning Partnerships to address data gaps in their Area Profiles and support them, where necessary, by augmenting official statistics with boosters or local sample which address the current gaps in national statistics, and**
- **ask the Scottish Government if in framing new Specific Duties for Scottish Public Authorities they have ensured that financial decisions about resourcing are specifically addressed in Equality Analyses.**

Article 4 – Media reporting

There has been much good work undertaken to tackle negative media reporting in relation to vulnerable groups. However, throughout Great Britain, negative reports on Gypsies and Travellers, asylum seekers and refugees and Muslims continue to make headlines. Such **negative reporting can impact adversely on race relations**. The Press Complaints Commission (PCC) could do more to tackle the problem.

The Commission recommends the Committee asks government to:

- **act on the Committees previous recommendation**
- **continue the work set out in the State report, and**
- **require the PCC to consider class and group complaints.**

Article 5 – Civil and Political rights

Political rights

There has been measurable progress in the representation of ethnic minorities in civic and political life across Great Britain, particularly since the launch of the 'Speakers Conference', which was established to consider and make recommendations for addressing the disparity between the representation of women, ethnic minorities and disabled people in the House of Commons. However, many groups remain under-represented and face **barriers to participation** at all levels.

The Electoral Commission and the Cabinet Office's initiative to tackle under-representation and increase individual voter registration is a positive step. However, **proposals to change political boundaries** present a challenge for the government and ethnic minority communities.

The Commission recommends the Committee asks government to:

- **review and report on progress in implementing the final recommendations of the Speakers Conference (Parliamentary Representation) as part of its wider political reform agenda**
- **encourage ethnic minority civic participation to support effective decision making at the local level and encourage local action to support diversity in public life**
- **put in place measures to tackle under-participation of ethnic minorities in civic and political life**
- **outline how it will mitigate the ethnic minority under counting and the effects that that could cause, and**
- **undertake a comprehensive voter registration campaign to address ethnic minority non-voter registration.**

Criminal justice

There has been some progress in the experiences of ethnic minorities in their encounters with the criminal justice system. However, there remain serious concerns in relation to stop and search, deaths in police custody, race hate crime, and counter-terrorism measures.

Stop and search

Stop and search continues to be one of the most intractable problems facing black and Asian communities in Great Britain. There has been a notable increase in the use of stop and search against these groups compared with their white counterparts.

Authorised stops and searches under section 44 of the Terrorism Act (TA) 2000 and section 60 of the Criminal Justice and Public Order Act (CJPOA) 1994, (i.e. stops and searches that do not require reasonable suspicion in the exercise of the powers) contribute to the marked increase in disproportionality.

In addition, officers have wide discretion when exercising powers of stop and search. This gives too much scope for **stereotyping and generalisations based on race and other personal factors**. It is therefore a concern that the Government has removed some of the stringent recording requirements around stop and search. The new 'streamlined' policy on recording of stops and searches (which allows forces to decide for themselves what level of recording to carry out) and the reduced central direction to forces may lead to **less accountability and weaker safeguards**.

The Commission recommends the Committee ask government to:

- **ensure there are stringent safeguards built into the authorisation powers under section 44 of the Terrorism Act, such as requiring authorisations to be subject to judicial oversight, limiting the duration of the authorisation to 48 hours and restricting the geographical scope and length**
- **monitor the changes to section 44 TA, and**
- **conduct a full review of section 60 CJPOA authorisation powers as a matter of urgency.**

Deaths in custody

The overall number of deaths of ethnic minorities in police custody in England and Wales has fallen steadily over the last 14 years. However, a disproportionate number of deaths of ethnic minorities in police custody involve **excessive police restraint**. This is an area on which research would be helpful to understand why restraint techniques are more likely to be used in the detention of ethnic minorities. In Scotland data on deaths in custody is not broken down by ethnicity.

The Commission recommends the Committee asks the Scottish Government to monitor and publish data on deaths in custody disaggregated by ethnicity.

Hate crime

There has been welcomed commitment and action by the Government in recent years to tackle hate crime. However, there remain many challenges, and **racist and religiously aggravated attacks are a persistent phenomenon in Great Britain**. It is, therefore, a concern that some public authorities do not address hate crime in their policy or involve people from ethnic minority or religious groups when developing hate crime policy. It is also a concern that there is no recording of religious hate crimes despite evidence of significant levels of violence targeted at Muslims and Mosques. There is a need for better data collection on religious hate crime particularly anti-Muslim hate crimes.

In Scotland there has been an increase in recorded racist incidents which could be attributed to work by police forces and victim support agencies to encourage reporting, increasing public intolerance of, and increasing public confidence in reporting, racist incidents.

There is not enough work done with perpetrators of racist crimes as a preventative measure. Therefore, national policies for work with hate crime offenders need to be developed.

The Commission recommends that the Committee asks government to develop a national policy for work with hate crime offenders.

Counter-terrorism

It is acknowledged that the Government has to have policies and measures in place to tackle terrorist threats for the protection of the public. However, it is a serious concern that legislative measures and social policies on tackling terrorism impact adversely on Muslim communities and foreign nationals.

There are **proposals to amend counter-terrorism legislation** in relation to pre-charge detention and control orders which should help improve protection of human rights of terrorist suspects. However, the changes are unlikely to lead to any reduction in their disproportionate impact on Muslims. Furthermore, there are a number of other legislative counter-terrorism measures which also create a climate of fear for Muslim communities, for example stop and search powers at ports and airports, preparing for acts of terrorism, disseminating terrorist publications, training for terrorism and attendance at a place used for terrorist training.

The 'Prevent' strategy, which was introduced to tackle terrorism and build 'safe, cohesive and empowered communities', has not been effective at meeting its stated objective. The review of the strategy which highlighted **major shortcomings** with its implementation was welcomed. However, it is not clear how the recommendations of the review are to be implemented, if at all.

The Commission recommends the Committee asks government to:

- **conduct a further review of counter-terrorism measures to include all those not the subject of the recent review, and**
- **outline how it intends to take forward the recommendations set out in the review of the Prevent policy and ensure that any new policy will no longer stigmatise Muslim communities.**

Economic, social and cultural rights

Education

Attainment: There has been marked improvement in narrowing the gaps in educational attainment rates for those ethnic minority groups that have been shown to have underachieved persistently. Various initiatives to tackle under-achievement in education such as the ethnic minority achievement grant were welcomed in this regard. However, **changes to education policy and the withdrawal of the ethnic minority achievement grant** raises concern about how the Government will tackle underachievement of these groups. What is required is a strong anti-racist commitment by government and changes in other areas of policy such as the national curriculum and changes in the behaviour and practices of teachers and managers.

In Scotland, there is a lack of information about attainment levels in early years.

In Wales, it appears that issues pertaining to underachievement for ethnic minority groups in education are more influenced by socio-economic factors.

The Commission recommends the Committee ask government to:

- **place a duty on schools/LEAs to provide a strategic plan for how it intends to spend the Dedicated Schools Grant**
- **consult with parents and pupils on how funds should be spent**
- **ensure the inclusion of mentors in the provision of education**
- **set targets for increasing the number of black and ethnic minority teachers and school governors and**
- **asks the Scottish Government what their plans are for disaggregating the 'All other' category when presenting data to enable greater analysis of the experience of groups who are particularly marginalised, and separate out data on Gypsy Travellers and Caribbean pupils.**

School exclusions: Black Caribbean, Mixed White/Black Caribbean and Gypsy and Traveller pupils continue to experience **disproportionate levels of permanent school exclusions**. It is therefore encouraging to note that some progress has been made in tackling disproportionality in this area. However it is disappointing that the Government has not acted on all of the recommendations in the Priority Review (conducted by OFSTED) by the DfES. Furthermore, there are proposals to remove the power of Review Panels, set up to consider appeals against exclusions, to order a school to reinstate an excluded pupil. This may reduce Review Panels' ability to hold schools to account and is unlikely to lead to a reduction in disproportionality in exclusions.

In Scotland the record on school exclusions is far more positive for ethnic minorities.

Bullying: A large percentage of local authorities recommend that schools report race and ethnicity incidents and have good evidence on the prevalence of racist bullying in schools. However, there is a limited amount of national evidence about the nature and extent of racist bullying and **little advice available to schools on preventing and responding to this form of bullying**. It is worth noting that bullying between different ethnic groups is on the increase and that this is more likely to be related to the child's religious or cultural differences.

For young people seeking asylum, young refugees and children of migrant workers **threats of direct violence in the classroom** or the wider school environment is a common experience which can severely disrupt engagement in learning. Schools approaches to bullying makes a significant difference to these groups experiences of bullying. Three key issues mark the distinction between schools: the presence of specialist teachers, peer support and a positive school ethos which allowed children to identify themselves as refugees. An inclusive ethos can help to prevent bullying based around identity.

Access and participation in post-16 education: The proportion of students from ethnic minority backgrounds attending university has been rising steadily over the last 12 years. However, they are **under-represented at the top universities** and are less likely to find employment commensurate to their qualifications. The picture is similar for Scotland.

The Commission recommends the Committee asks government to:

- **respond to the findings in the OFSTED study, and**
- **undertake focused work with relevant organisations to strengthen race equality awareness in school leadership and management programmes and coverage of race equality issues (and their relationship to effective behaviour management) in performance management and initial teacher training**

Employment

The ethnic minority employment gap has narrowed over the last decade. However, there still remain **significant disparities and inequalities** in different groups' experiences of work: Bangladeshis and Pakistanis and young black men are the worst affected groups in terms of unemployment and economic inactivity. The recession and measures to tackle it are likely to lead to the employment gap widening for ethnic minorities.

There have been various measures put in place to address the employment gap such as public service agreements and the establishment of the Ethnic Minority Employment Taskforce. However, these have been now been displaced.

The Government's focus on encouraging self-employment and business start-ups opens up possibilities for ethnic minorities, who tend to have high rates of self-employment. However, **access to finance and an inability to secure public service contracts** will be a challenge for ethnic minorities who may wish to take advantage of starting up their own businesses. It is therefore encouraging that the Government has set aside 25 per cent of public service contracts for small businesses.

The Commission recommends the Committee asks government to:

- **outline how it will ensure that the employment gap for ethnic minorities does not increase disproportionately during the recession**
- **set targets for increasing ethnic minorities in senior posts, including board level, and**
- **monitor the new arrangements for procurement and act on any disparity identified.**

Health

Race is one of the key factors for national frameworks aimed at reducing health inequalities. However, overall improvements to health outcomes do not always benefit ethnic minority groups. It is encouraging that the Government recognises that the general and specific duties in the Equality Act are key tools by which national aspirations can be embedded into outcomes at local levels. However, this has not been matched in practice, as monitoring of Strategic Health Authorities and Primary Care Trusts show **poor join up between national aspirations and tackling health inequalities at a local level.**

Ethnic minorities should benefit from increases in access to primary care provision planned for the poorest areas because they are more likely to be resident in such areas. However, performance to date of preventative screening and associated preventative services suggest these do not reach ethnic minority communities sufficiently.

The provision of **mental health services** is a long-standing issue for ethnic minority communities. The Government's intention to increase the use of less invasive and institutional modes of mental health care could address concerns about the disproportionate number of black men who tend to be most affected by these methods of treatment. The 'Count Me In' programme shows that some ethnic minority groups continue to experience higher rates of admission to mental health institutions; they are also more likely to be detained under the Mental Health Act, placed on community treatment orders and be under supervised confinement. It is therefore a concern that the Count Me In programme has reached the end of its lifespan and will not be continued.

In Scotland, recording of equality data in relation to health has improved across health boards. However, progress towards full data capture remains slow; this has a cyclical effect – a lack of evidence on the health outcome of ethnic minorities is taken as a lack of need. Thus **services are planned in ways which fail to address ethnic minority health concerns.**

The Commission recommends the Committee asks government:

- **what steps it will take to ensure that engagement between local health planners, commissioners and providers is measurably reaching ethnic minorities and other diverse communities to a greater extent than is recorded at present**
- **to outline its intention in respect of retaining the 'Count Me In' programme**
- **how it will effectively tackle the disproportionately high number of ethnic minority patients in mental health institutions**
- **ask the Scottish Government what plans they have to ensure that proper data on ethnicity in primary and secondary is available to aid planning, and**
- **ask the Scottish Government what steps they will take to ensure that research and surveys commissioned by the Scottish Government, or Scottish Health Board, is inclusive of ethnicity in its design and reporting, making plans for booster samples to be conducted where necessary.**

Gypsies and Travellers

Gypsies and Travellers continue to experience some of the worst forms of discrimination in Great Britain and it is encouraging to note that various initiatives have been taken to improve their life chances. However, there is considerable scope for improvement in the areas of accommodation, health, education, social inclusion and media reporting.

Accommodation

Many local authorities have done much good work to meet the needs of nomadic groups to preserve their traditional lifestyles. However, reviews of progress across local authorities show that provision of **accommodation remains patchy and insufficient**. There has also been a slowing down in progress of increasing authorised sites.

The Government has committed to fairness in the planning system and the creation of incentives for local authorities to provide authorised sites. However, proposals to decentralise public services and increase local participation in decision making could be problematic. Also proposals to move away from central government targets, end the regional delivery framework of Regional Spatial Strategies, end retrospective planning permission and revoke Planning Circular 1/2006 will impact on the accommodation needs of Gypsies and Travellers.

The Welsh Assembly Government has a dedicated Gypsies and Travellers team that has made considerable efforts to ensure that the needs of Gypsies and Travellers are reflected in devolved policies. However, the lack of authorised sites continues to cause tension between this group and local groups. This has an impact on the health and wellbeing of Gypsies and Travellers in Wales.

The position in Scotland is not dissimilar to that in England and Wales. Therefore it is disappointing that the Scottish Government has withdrawn the financial aid programmed to local authorities that enabled them to develop transit and permanent sites.

Health

Overall, Gypsies and Travellers have **poorer than average health outcomes** and limited access to healthcare provision. The new commissioning framework could be helpful if it effectively responds to these challenges. In Scotland, there is little data on the health outcomes of Gypsy Travellers.

Education

Attainment levels for Gypsy and Traveller children are some of the worst in Great Britain: **they are the only ethnic group whose performance has deteriorated in recent years**. The problem is most serious for secondary age pupils whose attendance is unlikely to continue past aged 14. It is therefore a concern that funding to support Traveller education teachers is to be withdrawn.

There is **little evidence on the experiences of bullying of Roma, Gypsy and Traveller children**. However, small-scale research suggests that they experience persistent bullying which can be harmful and negatively affect their wellbeing and involvement in the school community. This can lead to children retaliating against their treatment and/or not attending school. This in turn leads to permanent/temporary exclusions. The problem appears to be exacerbated by lack of support from teaching staff in dealing with complaints of bullying by Gypsy and Traveller children.

Economic exclusion

Gypsies and Travellers experience **high rates of economic and social exclusion** which leads to their increasing involvement in crime and substance misuse. They also experience racism in employment and training opportunities. It is therefore a concern that they are not categorised as an ethnic group by the Department of Works and Pensions. Consequently, they are excluded from research focused on other ethnic minority groups and do not benefit from economic and social support which might be targeted at other ethnic groups

Media

Negative portrayals of Gypsies and Travellers in the media help to perpetuate stereotypes and generalisations about this group. This also encourages misunderstanding and derision by other groups towards them. More needs to be done by Government to discourage inflammatory media coverage of Gypsies and Travellers.

The Commission recommends the Committee ask government to:

- **provide adequate and decent sites for Gypsy and Traveller communities**
- **consider ways of obtaining comprehensive information across the whole of Wales in relation to site provision**
- **ask Government to ask the Scottish Government what plans they have to:**
 - **address the issue of site provision for Scottish, and other, Gypsy Travellers given the clear mismatch of supply and demand evident in the Commission research. In particular we recommend that the Committee asks the Scottish Government what plans it has to offer further financial aid to local authorities to assist in site development**
 - **ensure that leadership is shown at a senior level by Ministers, by officials in the Scottish Government, and in their partnership with local authorities to address issues of community opposition to local site provision**
 - **promote the inclusion of Scottish, and other Gypsy Travellers as part of the fabric of Scottish society**
- **provide details of the action it will take to improve educational outcomes for Gypsy and Traveller children, and**
- **outline what steps it intends to take to counteract economic exclusion of Gypsies and Travellers.**

Article 6 – The human rights and equality infrastructure

The Equality and Human Rights Commission (the Commission) and the Scottish Human Rights Commission are A' status accredited National Human Rights Institutions. They have **duties to promote and protect human rights in Great Britain**. The Commission also has a duty to promote equality and diversity in Great Britain.

There are currently a number of proposals to reform the Commission, particularly in relation to its governance and equality duties.

The Human Rights Act 1998 provides for the protection of human rights in the UK. It incorporates the European Convention on Human Rights into domestic law. This has been a positive development. However, the Act has come under severe scrutiny and criticism by the tabloid media and politicians. The Government is currently undertaking a review of the Act and should inform the Committee of the outcome.

Article 9 – State reporting

The UK submitted its report to the CERD Committee in February 2010, four years after the due date. It is imperative that the UK submits its next report on time. This is important because there are significant policy changes taking place which are relevant to the rights contained in the Convention and it is too early, at this time, to assess the impact of these policies on those rights.

Article 14 – Right to individual petition

The UK has ratified the Optional Protocols for individual petition to CEDAW and CRPD. However, it has not made the Optional Declaration for individual petition in respect of CERD.

The Commission recommends the Committee calls on government to ratify Article 14.

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