European Network Against Racism

ENAR SHADOW REPORT 2002

Racism and Race Relations in the UK

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Shadow Report: Racism and Race Relations in the UK –2002

This report seeks to provide information on the situation of racism and race relations in the United Kingdom during 2002. Since the effects of racism reach into most areas of society, it is not possible to provide a completely comprehensive picture of every aspect of racism in the UK. However, this report will set out the principle areas where its impact is felt. Most information relates precisely to 2002, however, where appropriate or necessary, information or opinions are sourced by reference to information which arose outside that year, but it is the most recent information available.

Introduction

Race in the UK in 2002

The context for the current discussion on race in the UK was set in 1999 with the publication of the Stephen Lawrence Inquiry Report. This report into the racist murder of Stephen Lawrence in South London in 1993 highlighted many failings in police procedures that 'could only be accounted for by something more than incompetence'. The element that the Report identified as the underlying cause was 'institutional racism' which it defined as:

> The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.[1]

As was highlighted in the 2001 ENAR Shadow Report, the Stephen Lawrence Inquiry Report was taken seriously and it led to the passing of a new Race Relations (Amendment) Act 2000 (RRAA) which strengthened and extended the race relations laws in the UK and created new duties for local authorities to promote equality.

These new duties for public authorities to eliminate race discrimination, to promote equality of opportunity and good race relations under the RRAA took effect during 2002. They represent a significant step in the struggle to counter discrimination at every level. They entail all public authorities adopting policies and procedures in order to avoid discrimination and to actively promote equality of opportunity. It will be important in the coming years to ensure that these measures are not allowed to become purely procedural and that they are clearly linked to outcomes. Additionally, the extension of these duties to the private sector would greatly increase their impact. At present, it is too early to measure the success of these provisions.

During the year, there have been some key threads that have run through the 'race agenda'. The first has been the continuing aftermath of September 11th and the consequent increase of anti-Muslim feeling, 'Islamophobia', shown as hostility towards and attacks on Muslims. This can often be a form of race discrimination, loosely masked as religious discrimination. Unfortunately, whilst the Race Relations Act 1976 (RRA) provides protection against race discrimination it does not provide protection from religious discrimination. Consequently those who are discriminated against because they are Muslims may have no protection against discrimination. The aftershocks generated by September 11th have been exacerbated by the ripple effect of the political problems in the Middle East and the build up to war in Iraq. The year of 2002 has seen attacks on both Muslim and Jewish communities.

The implementation of the Employment Directive in the UK means that there will be protection from discrimination on grounds of religion or belief in the field of employment after December 2003. However, this will still leave substantial areas relating to goods and services without protection on these grounds.

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[1] *The Stephen Lawrence Inquiry. Report of an Inquiry by Sir William Macpherson of Cluny,* 1999, HMSO, Cmmn 4262, Ch 6, para 34.

The second thread is an increasing antagonism directed at asylum seekers. This has been fed by the Government's policy of dispersing asylum seekers around the UK as well as the Home Secretary's characterising them as 'flooding' the UK. The media have been quick to pick up and build on this characterisation of immigrants as 'flooding' the UK, as well as the suggestion that terrorists are entering the UK under the guise of seeking asylum. The Rev Arlington Trotman, Secretary of the Churches Commission for Racial Justice, commented that 'racism flourishes when politicians talk of 'swamping' and 'being tough' on asylum seekers'[2]. These negative images of asylum seekers have also been exacerbated by the repeated diverse attempts by the Government to restrict their rights and contain them within limited areas separate from the rest of the population.

The third thread has been the electoral success of the far-right British National Party (BNP) in local council elections during 2002, particularly in the socio-economically deprived areas in the North West of England. It gained three seats in Burnley in May, a further seat at a by-election in Blackburn in November and another in Stoke on Trent in December. Although these gains were slight in proportion to the gains made by the far-right elsewhere in Europe, they represent a concerning trend within the UK political scene.

These key threads are not separate but constantly interact with each other according to the current political climate.

The debate highlighted in last year's shadow report around the concept of 'British-ness' and citizenship has continued. In 2001, the Home Secretary, David Blunkett triggered discontent by suggesting a new test of citizenship should be imposed before permitting a person to become a citizen of the UK. This was implemented in the Nationality, Immigration and Asylum Act 2002. He started 2002 by suggesting that British Asians should confine arranged marriages to partners from within the UK rather than flying in partners from the Indian sub-continent[3]. In September 2002 he provoked considerable controversy by asserting that immigrants should speak English at home, alleging that English is not spoken at home by 30% of Asian British households[4].

The year has seen an increasing consciousness of the multi-faceted nature of identity. Whereas in the past it may have been important to identify with the unity of the struggle against racism among people from ethnic minorities by using the universal classification of 'Black'. Now there is increasing recognition of the many variations within this broad class. Government research has shown that Indians and Chinese are on average doing well and often out performing White people in schools and in the labour market. On the other hand Pakistanis, Bangladeshis and Black Caribbean's experience significantly higher unemployment and lower earnings than White people. However, all ethnic minority groups, even those that are doing well, are not doing as well as they should be given their education and other characteristics[5]. Additionally, there has been an increasing awareness that discrimination is not limited to a single 'label' and that much discrimination is on more than one ground.

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[2] Letter published in the Guardian, 9.10.02.

[3] See BLINK report 8.2.02 at http://www.blink.org.uk/pdescription.asp?key=271&mid=%20&grp=22&cat=164

[4] See the Observer 15.9.02.

[5] *Ethnic minorities and the labour market: Final report,* Cabinet Office, 2003.

In parallel to this, greater research and monitoring, by the Government as well as NGOs, has enabled more sophisticated analysis to be done which has highlighted the differential achievement rates for different racial groups, so that sweeping generalisations are now less appropriate.

Structure of the Report

The first part of the report examines the objective evidence of racism and its impact within the UK. It starts by identifying the minority groups then looking at the spheres of life in which disadvantage is experienced. Discrimination within the migration laws is analysed. The next section of the report takes account of the views of those who are on the receiving end of racism and racist violence and some data is provided on racial violence in the UK. The final part deals with some of the services available to counter discrimination within the UK.

1. **Description of minority groups (e.g. immigrants, ethnic or religious minorities, refugees, visible minorities, etc).**

The main source of information on the racial breakdown of the UK comes from the National Census, which is undertaken every ten years. The results of the most recent census, conducted in 2001, have just become available. This census went further than the 1991 census. Acknowledging the diversity of ethnic backgrounds, it provided a wider range of definitions, which people might select as representing their ethnic origin. Furthermore, it introduced a 'mixed' category, which recognised the increasing proportion of British residents of mixed heritage. It also introduced for the first time a question on religion, in recognition that although there is no legislation to protect people on the grounds of their religion, a debate on the importance of religion is emerging.

The categories of ethnic groups in the 2001 census consisted of the following:

- White (British, Irish or any other White background)
- Mixed (White and Black Caribbean, White and Black African, White and Asian, or Any other Mixed background)
- Asian and Asian British (Indian, Pakistani, Bangladeshi, Any other Asian background)
- Black or Black British (Caribbean, African, or Any other Black background
- Chinese or other ethnic group (Chinese or Any other)

The question on religion had the following categories:

- None
- Christian (including Church of England, Catholic, Protestant and other Christian denominations)
- Buddhist
- Hindu
- Jewish
- Muslim
- Sikh
- Any other religion

The results of the 2001 census show that 7.9% of people in the UK did not classify themselves as White; this figure includes those who classified themselves coming from a mixed ethnic group[6]. The census shows that of the people who did not classify themselves as White, 50.2% are from South Asia (India, Pakistan and Bangladesh), 5.3% are Chinese and 24.8% classify themselves as Black or Black British.

It is significant also that no figures were collected in relation to Gypsies or Travellers in the census, although the Traveller Law Research Centre has estimated that there are about 200,000 Gypsies and Travellers in the United Kingdom[7].

The vast majority of the UK population identifies itself as being Christian[8]. The information from the census 2001 shows that there are 1.5 Million Muslims, 2.7% of the population, 0.55m Hindus, 0.33m Sikhs and 0.26m Jews in the UK[9].

Ethnic monitoring

The information from the census will be used to assist in the process of ethnic monitoring. This process is used in the UK in order to identify areas of inequality in both the areas of employment and in the provision of goods and services. It entails comparing the actual figures or proportions of particular groups with those represented in a particular workforce or set of service users in order to see whether there is equivalent representation at all levels. When large disparities are found this should be a trigger for positive steps to be taken to encourage greater participation of the under represented sections of the community. The RRAA requires all public authorities to undertake ethnic monitoring in order to ensure that they are fulfilling their duties to promote equality. These duties do not yet extend to the private sector.

In Northern Ireland there are very extensive duties to monitor in relation to religion.

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[6] See Census results 2001 at www.statistics.gov.uk

[7] See www.cf.ac.uk/claws/tlru/Inf.html

[8] About 26 Million are nominally Anglican, and 5.7 Million Roman Catholic. The other Christian denominations account for about 5.5. Million according to the Parekh Report, 'The Future of Multi-Ethnic Britain', published by the Runnymede Trust and Profile Books Ltd, 2000, page 236.

[9] See Census results 2001 at www.statistics.gov.uk

2. **Specific areas in which racism is visible/hidden in the national context, such as the labour market, housing, education, personal experiences, etc.**

Employment

There have been no major changes in relation to employment since the last report. Ethnic minorities form 7.2% of Britain's population of working age[10]. Ethnic minority groups such as those of Black Caribbean, Pakistani and Bangladeshi origin, are particularly disadvantaged in the labour market[11].

The areas in which ethnic minorities live are geographically very concentrated; half the ethnic minority population of Britain lives in Greater London, an eighth in the West Midlands while Greater Manchester and West Yorkshire also have substantial ethnic minority populations. 70% of people from ethnic minorities live in the most deprived local authority districts, compared to 40% of the general population[12].

These figures reflect the location of the industries to which the early immigrant workforce came for work. These areas have seen high rates of unemployment among the immigrant communities reflecting a decline in those industries. Ethnic minority unemployment is more than double that of comparable White groups and ethnic minorities are more adversely affected than the White population when unemployment increases as a result of economic downturns[13].

However, the picture is more complex when different ethnic groups are considered. In 2001 5% of White men were unemployed compared with 13% of black African or 9% Afro-Caribbean men, 7% of Indian, 16% of Pakistanis and 20% of Bangladeshi men[14]. These differentials are likely to be partly due to the younger age structure of the black population[15] (for men from ethnic minority groups unemployment is much higher amongst the under 25 age group), partly because of the over-representation of black workers in areas of high unemployment[16] and partly because of continuing discrimination in the job market.

People from ethnic minorities are disproportionately represented among the unemployed, low-waged and socially excluded. For example, 41% of African-Caribbean people have incomes less than half the national average (compared to 28% of White people); the unemployment rate for people of working age from ethnic minority communities is 14% (compared with 6% for White people); and these figures rise significantly in the 16-24 age-group (to over 30% for some communities)[17]. The Policy and Innovation Unit of the Cabinet Office has concluded,

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[10] *The size and characteristics of the minority ethnic populations of Great Britain – latest estimates*, Scott, Pearce and Goldblatt, Population Trends, 105.

[11] *Ethnic minority participation and achievements in education, training and the labour market, Race research for the future*, Owen, Green, Pitcher and Maguire (2000) DfEE and University of Warwick, no 225.

[12] See *Improving labour market achievements for ethnic minorities in British society*, Performance and Innovation Unit, Cabinet Office, July 2001, p4-5.

[13] See *Improving labour market achievements for ethnic minorities in British society*, Performance and Innovation Unit, Cabinet Office, July 2001,p7 see also *An Investigation of Racial Discrimination* D Leslie et al (Eds), Manchester University Press, 1998.

[14] Census 2001.

[15] See *Improving labour market achievements for ethnic minorities in British society*, Performance and Innovation Unit, Cabinet Office, July 2001, p4.

[16] See *Ethnic Minorities and the labour market: Final Report*, Cabinet Office, 2003, p 10.

[17] UK's 15th Periodic Report to the UN Committee on the Elimination of all Forms of Racial Discrimination

'Given the evidence that has been presented it is undeniable that racial harassment and racial discrimination persist in the UK labour market'[18].

Ethnic minority women often face double discrimination although women's work patterns do differ significantly between ethnic groups. A high proportion of Black Caribbean women and Black African women are economically active, although the proportions of Pakistani and Bangladeshi women are substantially smaller[19]. Ethnic minority women who work are much more likely to work full time compared to White women[20].

There are no figures in relation to the employment of Gypsies and Travellers. This may be because Gypsies and Travellers more commonly pursue self-employment, it is also because Gypsies and Travellers are not identified as a separate group and are therefore hidden in any of these figures.

Education

There has been continuing evidence that Black, Bangladeshi and Pakistani pupils achieve less well than other pupils at all stages of their education[21], and there is also evidence that Black Caribbean pupils are four times more likely to be excluded from school compared to White pupils[22]. By contrast, Indian and Chinese/other Asian pupils do better than their White counterparts[23]. Bangladeshi, Black and Pakistani pupils in particular achieve less well than others - many of these children enter the school system with equal ability to White children, but underachieve progressively as they go through the school system[24]. A report commissioned in 2000 for Ofsted, the Government schools inspectorate, concluded that:

> Inequalities of attainment in GCSE examinations place African-Caribbean, Pakistani and Bangladeshi pupils in a disadvantaged position in the youth education, labour and training markets, and increase the likelihood of social and economic exclusion in later life … evidence shows that in some cases the inequalities have increased in recent years. African-Caribbean and Pakistani pupils, for example, have not shared equally in the rising levels of GCSE attainment.[25]

Consequently, in 2001, the Government put £1.5 million into projects focussed on providing support for Afro-Caribbean boys. This has not had much effect on their performance figures yet. Additionally, the Government has just issued a Consultation Paper, *Aiming High: Raising the achievement of Minority Ethnic Pupils,* to consider

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18 *Ethnic Minorities and the Labour Market: Interim Analytical Report,* Performance and Innovation Unit, 2002, p128.

19 See Social Exclusion Unit Report *'Jobs for All'* cited in *Ethnic Minorities and the Labour Market: Interim Analytical Report,* Performance and Innovation Unit, 2002, p41, see also *'Ethnic Minorities in Britain: Diversity and Disadvantage'* T Madood, R Berthoud et al, Policy Studies Institute, 1997.

20 *Ethnic Minorities in Britain: Diversity and Disadvantage,* T Madood, R Berthoud et al, Policy Studies Institute, 1997, p86.

21 *Aiming High: Raising the Achievement of Minority Ethnic Pupils,* DfES, 2003.

22 *Aiming High: Raising the Achievement of Minority Ethnic Pupils*, DfES, 2003 and *Statistics of Education: Permanent Exclusions from maintained Schools in England,* DfES, 2002.

23 *Aiming High: Raising the Achievement of Minority Ethnic Pupils,* DfES, 2003 and *Improving labour market achievements for Ethnic Minorities in British Society*, Performance and Innovation Unit, Cabinet Office, July 2001,p5.

24 Cabinet Office, Ethnic Minorities and the Labour Market Project, (July 2001)

25 Gillborn and Mirza, op cit.

what further action can be taken to prevent this inequality in achievement and build on existing examples of good practice.

The Race Relations Act 1976 specifically outlaws race discrimination in the provision of education[26]. This applies to admissions, access to benefits facilities and services, exclusions or any other detriment. Additionally, Local Education Authorities, governing bodies of all publicly maintained schools and certain other educational establishments, are subject to a general duty to 'have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between people of different racial groups'[27]. Such bodies were also required to prepare written statements of their policies for promoting race equality before May 31st 2002 and to undertake an impact assessment and monitoring exercise of their policies[28].

In UK cities with large ethnic and religious minority populations, there has been concern at the way in which 'mono-cultural' schools, in particular, single faith schools, many of them state funded, have contributed to segregation and to tension between the communities. The Cantle report[29], commissioned by the Home Office in the wake of the riots in Bradford, Oldham and Burnley in Summer 2001, drew attention to this problem, and recommended that at least 25% of places in single-faith schools, both state and private, should be given to children of backgrounds within a different faith. Noting that the problem of de facto segregation was not confined to faith schools, the report also recommended that all schools should avoid having more than 75% of pupils from any single ethnic background[30].

Concern has also been raised about the content of the curriculum and the extent to which it reflects a 'White' view of society and its history[31]. The 2001 census shows that 1 in 8 pupils come from an ethnic minority background. In order to ensure the full engagement of ethnic minority pupils their culture, history and experience needs to be reflected in their school experience.

Housing

Cabinet Office studies have shown that all ethnic minority households are more likely to live in deprived areas than White households, although this is less true for Indians than other ethnic minority groups. Particularly significant is that over half of the Pakistani and Bangladeshi households live in the 10% most deprived wards in England, as do over a third of Black Caribbean households compared to only 14% of White households[32]. About one third of Pakistani and Bangladeshi households live in unfit properties compared to about 6% of White households[33]. Bangladeshi and Pakistani households are also more likely to be overcrowded than other households[34].

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26 RRA 1976 ss 17-18
27 RRA 1976 s71.
28 RRA 1976 (Statutory Duties) Order 2001 SI No 3458.
29 *Community Cohesion* ,London, Home Office,2001.
30 Cantle Report, para.5.8.1 et seq.
31 See, for example, *Racial Equality in the School,* Gillian Klein, BLINK, 18.2.02.
32 1999/00 Survey of English Housing, DTLR, 1996 English House Condition Survey, DTLR quoted in *Improving labour market achievements for ethnic minorities in British society*, Performance and Innovation Unit, Cabinet Office, July 2001, p11.
33 Cabinet Office, Performance and Innovation Unit, op cit.
34 Ibid

Homelessness is also a continuing problem. People from minority ethnic groups are most likely to be homeless. For example, in London between June and September 2000, 49% of households accepted as homeless by local authorities were from ethnic minorities. Of these 23% were from African and Caribbean households, although they comprise only 11% of households in London[35].

The RRA makes specific provision for the disposal of premises, whether as tenancies, business or residential, or in sales and purchases. It is unlawful for someone who has power to dispose of premises to discriminate in the terms on which the premises are offered, in refusing an application or in his treatment of him/her[36]. It seems that although the laws are in place there has not been any significant redistribution of housing provision.

Health

The link between bad health and poverty is well established.

> Certain Black and Asian communities, particularly Bangladeshi and Pakistani communities, are more likely than the rest of the population to live in deprived districts, be unemployed, have low incomes, live in poor quality accommodation and be the victims of crime[37].

It is also known that there are certain conditions that have a higher incidence among the ethnic minority communities compared with the population as a whole; these are diabetes, hypertension, coronary heart disease, stroke and vascular disease. For example, the rate of diabetes is 2.2% in the population as a whole, 5.9% among Afro-Caribbeans and 7.6% among South Asians[38].

In addition to these problems, people from ethnic minorities can suffer problems in accessing health services, for example, where there are languages and communications differences or the services offered are culturally unacceptable or insensitive. Guidelines on both policy and practice within the NHS should incorporate a specific race equality dimension. The need for the provision of appropriate interpretation services, (not dependant on support from family members), and sufficient female staff to permit women to be examined and treated by women, where requested, needs to be recognised and incorporated into health service provision. The Cabinet Office has recommended to the Government that: -

> When you present policy proposals they must include an impact analysis which clearly brings out the effect on particular sections of the population and how you have addressed any relevant data. If necessary commission new data, ensuring that statistics are separated by race, as far as it is possible to do so.[39]

The Government has continued to initiate research to highlight both problems and areas of good practice; during the year it issued a Consultation paper, *Tackling Health Inequalities,* to look at ways to improve the delivery of health services. However, recent research undertaken by the CRE indicates that many of the Strategic Health Authorities had not yet managed to translate the promotion of racial equality into sustained mainstream practice[40].

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35 Ibid

36 RRA 1976 s 20

37 *Bringing Britain Together: a national strategy for neighbourhood renewal,* Social Exclusion Unit, September 1999, quoted in *The Future of Multi-Ethnic Britain: the Parekh Report,* 2000.

38 See Lord Parekh, House of Lords, Hansard 11.2.02 discussing the NHS National Plan (Cm 4818).

39 *Policy Appraisal for Equal Treatment,* Cabinet Office, 1998.

40 *Connections,* CRE, Autumn 2002, p7.

Mental health services

> Black people mistrust and fear mental health services seeing them as the 'last resort' while professionals and the police are wary of and also fear Black service users. The result is a vicious 'circle of fear' perpetuated by prejudice, misunderstanding and misconception.[41]

The statistical evidence shows that Black and Afro-Caribbean people are over-represented as users of mental health services and they experience poorer outcomes[42]. In particular, their experience is more likely to be characterised by hospital admissions under the Mental Health Act 1983, involvement of the police, forcible administration of medication and difficult relationships with staff[43]. Black people are more likely to be subjected to compulsory admission under the Mental Health Act[44]. Black service users are the most disaffected of those using mental health services[45]. Research seems to suggest that a lack of relevant care that is seen as accessible by the Black community, results in a reluctance to seek help at the early stages of illness, so that problems become acute before there is any medical intervention[46].

An American study has shown that the distress arising from experiences of racism itself can be a factor that brings people into contact with the mental health services[47]. This is likely to be true for the UK as well.

The NHS has adopted a plan to address the inequalities in health provision for those from ethnic minorities[48]. Additionally it is now both a general and specific duty under the RRAA to promote racial equality in all it's functions.

AIDS

The incidence of new AID infections of heterosexuals within the UK is significantly higher among Black Africans (71% of new infections). In 2000, 1842 men and 3021 women (a total of 4863) classed as 'Black African' were living with diagnosed HIV infection and attending for HIV treatment and care in England. Levels of HIV infection are particularly high amongst certain ethnic and immigrant groups, in particular those from sub-Saharan Africa. Significant racial differences exist both in the way HIV develops and the treatment offered, with 35% of Black Africans having an AIDS defining illness within a month of diagnosis compared to 13% for non-

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41 *Breaking the Circles of Fear: a review of the relationship between mental health services and the African and Caribbean communities*, Sainsbury Centre for Mental Health, 2002.

42 See *Breaking the Circles of Fear: a review of the relationship between mental health services and the African and Caribbean communities*, Sainsbury Centre for Mental Health, 2002.

43 N Goater and others (1999) *Ethnicity and outcome of psychosis,* British Journal of Psychiatry, 175 (1) 34-42 and G Thornicroft and others (1999) *Health service research and forensic psychiatry: a Black and White case.* International Review of Psychiatry 11 (2/3) 250-257.

44 *Mental Health Act Commission, 8th Biennial Report (1999),* London, HMSO see also *Ethnic differences in risk of compulsory psychiatric admission among representative cases of psychosis in London,* British Medical Journal, 312 (7030) 533-7.

45 *No change: A Report by the National Schizophrenia Fellowship comparing experiences of people from different ethnic groups who use mental health services,* G Sandamas & G Hogman (2000),London: National Schizophrenia Fellowship and *Ethnic differences in satisfaction with mental health services among representative people with psychosis in South London*, S Parkman and others, PRiSM study no 4, British Journal of Psychiatry, 171, (3) 260-264..

46 See *Breaking the Circles of Fear: a review of the relationship between mental health services and the African and Caribbean communities*, Sainsbury Centre for Mental Health, 2002.

47 *Racism: Perceptions of distress among African Americans*, V Sanders-Thompson, 2002, Community Mental Health Journal, 38(2) 111-118.

48 *The NHS Plan, a Plan for Investment, A Plan for Reform*, Department of Health, 2000, London, HMSO.

Africans[49]. Black Africans are also less likely to be referred to specialist mental health services[50]. The high prevalence of HIV in some African communities, leads to discrimination, racist abuse, unemployment and isolation[51]. New measures are needed to target HIV education at vulnerable groups and provide medical services for communities with high rates of HIV.

Policing

Annual Home Office statistics consistently show that ethnic minority people are more likely to have worse experiences in the criminal justice system, to be over represented at all stages of the criminal justice system and to be under represented as employees of criminal justice services and agencies[52].

In England and Wales in 2001/2, there were 714,000 police stops and searches recorded; 12% of these were of Black people, 6% of Asian people and 1% of other ethnic minority people. This meant that a Black person was eight times more likely to be stopped and searched than a White person[53]. Additionally, Black people were four times more likely to be arrested for a notifiable offence than a White person or someone from another ethnic minority group[54].

These findings, together with the impact of the new duties to promote racial equality under the RRAA, have led the Home Office to set up a new unit to devise a programme of action and support for the criminal justice system to enable it to meet its responsibilities under the RRAA.

Recruitment and retention

It is rightly recognised that to be a credible and respected force the make up of the police force as a whole needs to reflect all the minorities within the population as a whole. It can only command trust and confidence by engaging members of all communities in the fight against crime. Efforts have been made to recruit more ethnic minority officers and recruitment targets have been set which aim to achieve a 7% representation of ethnic minority officers nationally by 2009[55]. Between 2001 and 2002 there was a 14 % rise in the recruitment of ethnic minority officers, however, the proportion of ethnic minority officers was still only 2.6% in March 2002 and they remain concentrated in the lower grades.

The UN Human Rights Committee in considering the fifth report on the UK's obligations under the International Covenant on Civil and Political Rights commented:-

> The Committee is disturbed at the sharply increased number of racist incidents within the criminal justice system, particularly those reported as having been

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[49] Burns, FM., et al (2001) Africans in London continue to present with advanced HIV disease in the era of HAART9, accepted for publication in AIDS2

[50] Malands, S., et al., (2001) Are we meeting the psychological needs of Black African HIV-positive individuals in London? Controlled study of referrals to a psychological medicine unit in AIDS Care (2001), Vol. 13, No. 4, pp. 413 -41

[51] John Aldonas et al, Refugee Health in London: Key Issues for Public Health (1999)

[52] See *Race and Criminal Justice System 2000/1*, Home Office

[53] See *Stop and Search Statistics 2001/2*, Home Office.

[54] See *Statistics for 2001/2 on Arrests for Notifiable Offences and the Operation of Certain powers under the Police and Criminal Evidence Act 1984 (PACE),* Home Office.

[55] *Dismantling Barriers*, Home Office, www.homeoffice.gov.uk

> committed by police and prison staff against inmates…the State party should pay particular attention to improving the representation of ethnic minorities within the police and prison services[56].

Political representation

The level of representation in the political process is significantly low compared to the composite parts that are represented. At the time of the census in 2001, 4.6 million of the 58 million people in the UK did not classify themselves as White, this was 7.9% of the population. By comparison with these figures, in 2002 only 12 of the 652 MPs (1.8%) were from non-White ethnic minority groups. Were the House of Commons to accurately reflect the UK's racial diversity one would expect to see 55 – 60 Black and Minority Ethnic MPs. Paradoxically, in this respect, the House of Lords is more representative than the House of Commons as it has 20 non-White peers out of 685 peers (2.9%). On May 1st 1997 662 of the 21,498 (3%) local councillors in England and Wales were from non-White ethnic minorities[57]. More committed political leadership could help to alter this problem.

The low representation of ethnic minorities in politics undoubtedly gives rise to a degree of voter alienation from the political process. A recent survey found that turn out, at the 2001 General Election, was 35% among Black voters, compared to 54% among White voters. The survey also found that 43% of Black Britons said that they would be more likely to vote if there was a better representation of Black people in politics.

Some positive steps have been taken. Before the General Elections in both in 1997 and 2001, at the suggestion of the Commission for Racial Equality, the leaders of all the main political parties agreed: -

> …not to publish or seek to have published by others, nor in any way endorse, any election material, including pamphlets, leaflets and posters, which stirs up or invites hostility or division between people of different racial or national groups…

Operation Black Vote was set up in 1996 as an initiative two NGOs, Charter 88 and the 1990 Trust. Its objective is to increase the participation of the ethnic minority communities with the political process. They have been successful both in raising the issue within the national consciousness and in setting up a number of separate initiatives, including a scheme to enable ethnic minorities to shadow an MP[58].

There are clearly problems associated with the selection of candidates for elected bodies, with people who are often subject to discriminatory treatment finding that they are not selected as a candidate or, alternatively are only selected for unwinnable seats. The courts have recently decided, in *Triesman (formerly McDonagh) v Ali* [59], that the selection of candidates for local elections by a political party is not regulated

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[56] *Concluding Observations of the Human Rights Committee: United Kingdom of Great Britain and Northern Ireland 06/12/01.CCPR/CO/73/UK;CCPR/CO/73/UKOT,Paragraph12.At www.unhchr/tbs/doc.nsf/(Symbol)/CCPR.CO.73;CCPR.CO.73.UKOT.En*

[57] Local Government Management Board (1998), *First National Census Survey of Councillors in England and Wales in 1997.*

[58] The first shadowing scheme was launched in 1999 and enabled 23 people from Black and Minority Ethnic backgrounds to shadow an MP. In September 2002 the second stage of the scheme was launched with a further 25 individuals taking up the chance to shadow an MP.

[59] [2000] EWCA Civ 93.

by section 12 of the RRA 1976 and cannot therefore be resolved in an Employment Tribunal; such complaints can only be made to the county court which is a more expensive and more difficult route to follow. Other aspects of candidature and campaigning may not come within the Act, and the significant under representation of ethnic minorities on all the public elected bodies indicates the continuing existence of bias, which may not be unlawful under current legislation.

Media

The printed media continues to use negative and emotive language about asylum seekers and migrants coming to the UK, unfortunately these are often fuelled by remarks of local or national politicians. So that, for example, the Home Secretary's disparaging comments about asylum seekers during the year, (see Introduction above), has only served to fuel the debate. This led the former Chair of the Commission for Racial Equality, Lord Ouseley, to comment on the Home Secretary:

> When he made his recent statement about certain communities, and schools in particular, being 'swamped' by asylum seekers, he knew he would cause a furore and he was unrepentant when this duly happened…racial tensions continue to bubble under the surface in northern towns and care and sensitivity are required to avoid destabilising fragile and vulnerable emergent relationships[60].

The Association of Chief Police Officers has commented that:

> Ill informed adverse media coverage has contributed to heightened local tensions and resentment of asylum seekers[61].

In contrast to the general trend, there are individual examples of local newspapers taking up the cause of particular refugee families. For example, the *Nottingham Evening Post* championed the cause of the Daoud family prior to their release from detention[62].

Since much of the general public finds difficulty in distinguishing between asylum seekers and migrants and long-standing residents of the UK, this contributes to a negative attitude to racial and ethnic minorities more generally. The media also, all too frequently, uses negative images and sweeping generalisations about people from ethnic minority groups and confuses asylum seekers with long standing UK residents from ethnic minorities. Asylum Aid has commented: There's general confusion in many newspapers between an asylum seeker and someone from abroad – everyone gets tarred with the same brush[63].

The language used to refer to the arrival of asylum seekers is frequently emotive using phrases such as 'invasion' as in a hostile assault by an enemy, or 'swamping' meaning to be overwhelmed to the point of loss of identity. Even the term 'refugee' with its emphasis on the seeking of refuge from persecution is much less widely used than the term 'asylum seeker' with its emphasis on the place to which people want to come.

The Code of Practice on discrimination enforced by the Press Complaints Commission only requires the avoidance of prejudicial, pejorative or unnecessary

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[60] *Guardian,* September 9th 2002.
[61] *Guardian,* June 8th 2002.
[62] RAM Bulletin, no 21, October 2002,p2 .
[63] Ibid.

reference to a person's colour, race or religion so it does not counter racist assumptions or stereotypes. Additionally, the Press Complaints Commission can only consider a complaint if it is made by an individual who is specifically named in a press report, the complaint cannot be considered if it comes from another person or if it is in respect of a group. This could be contrasted with the Broadcasting Standards Commission to which any viewer can make a complaint.

The increasing suspicion of immigrants and asylum seekers led the United Nations Committee on the Elimination of Racial Discrimination in August 2000 to recommend that: -

> …the State party take leadership in sending out positive messages about asylum seekers and in protecting them from racial harassment… [64]

Additionally, the Advisory Committee of the Framework Convention for the Protection of National Minorities has found that: -

> …complaints to the Press Complaints Commission have not proved affective mechanisms for reducing inflammatory attacks in the media against certain groups and *consider* that the United Kingdom and relevant authorities or bodies should reflect further on how these mechanisms could be made more effective...[65]

Since these comments were made the situation has not improved, it has probably deteriorated. Article 19, the Global Campaign for Free Expression, has therefore undertaken a research project into the presentation of asylum seekers and refugees in the UK. As part of this project between October and December 2002 they monitored six national newspapers and broadcast news bulletins. Their preliminary conclusions indicate that there is considerable confusion of language and terminology in press reporting on asylum issues. So that an article that is headlined to indicate that it is about asylum seekers then goes on to refer to the same people as 'illegal immigrants' and 'economic migrants'. They will also comment on the emotive use of photos to illustrate stories[66].

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[64] Concluding Observations of the Committee on the Elimination of Racial Discrimination, 2000.

[65] Advisory Committee on the Framework Convention for the Protection of National Minorities, opinion on the United Kingdom, adopted on 30 November 2001, at www.humanrights.coe.int/minorities/Eng/FrameworkConvention/Adviso…/uk

[66] Article 19 will release their report on May 15th 2003. www.article19.org

3. Racial violence in the United Kingdom

Racially aggravated offences and race and religious hate crimes

The Protection from Harassment Act 1997 created the new offence of causing harassment and causing fear of violence, both these offences can be, and are used, in cases of racist harassment. In 1998 further legislation, the Crime and Disorder Act 1998, created new racially aggravated offences, built upon existing offences involving harassment, assault, criminal damage these carry significantly higher maximum sentences than the basic offences[67].

Reports of racially motivated crime increased by 20% between April 2001 and March 2002 and the Government expects these to increase further. During this period, the Police passed 3,728 cases of racially aggravated crimes to the Criminal Prosecution Service. 72% of these were prosecuted, the remainder being discontinued or dropped at Court. 80% of the cases that were prosecuted resulted in a conviction[68].

In 2001 new measures to extend the principles relating to racially aggravated offences to offences that were religiously aggravated were put in place by the Anti-Terrorism, Crime and Security Act 2001. The Attorney General noted in February 2003 that since these provisions had come into force they had led to 15 prosecutions[69].

There have been very few prosecutions for incitement to racial hatred – 61 between 1998 and 2001, the vast majority of applications to the Attorney General are granted, there have only been 6 refusals since 1988. Apparently no racial breakdown of these prosecutions is available. This provision has not had any adverse effect on press freedom, even though it protects Jews and Sikhs whose racial identity is also a religious identity.

The law against incitement to racial hatred protects some, but not all, religious groups. It protects Jews and Sikhs but not Muslims, Christians, Hindus or Buddhists. This is inequitable and unjustifiable. The crime of incitement to racial hatred needs to be extended to cover religious hatred. This would act as an important measure to protect vulnerable minority communities and a marker of societal disapproval of such behaviour.

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[67] Crime and Disorder Act 1998. See also *Racist Offences – how is the law working?* Home Office Research Study 244, July 2002.

[68] Guardian report, 6.2.2003, quoting the Attorney General, Lord Goldsmith.

[69] Guardian report, 6.2.2003, quoting the Attorney General, Lord Goldsmith.

4. An analysis of possible discrimination in migration laws by Anneliese Baldaccini

Current UK immigration policy continues to be founded on the principles of the Immigration Act 1971. An important aspect of this Act is the power given to the Secretary of State to make Rules as to the practice to be followed in the administration of the Act for regulating entry to and stays in the UK[70]. This provision affords considerable executive discretion in the shaping of immigration policies, which are not reflected in statute law but have to be traced in modifications of the Immigration Rules and in administrative practice[71]. Thus, while on their surface UK immigration statutes have not been racially discriminatory, the very large discretion in this field has often meant that immigration control could potentially be exercised in a racially discriminatory manner. It is widely documented that instructions and procedures adopted under the power conferred by the Act have mostly been biased against would-be entrants from the non-White Commonwealth or other developing countries, whose citizens were more likely to be refused or detained at port or admitted under more restrictive conditions[72].

Given the way immigration policy has traditionally operated in Britain, it is not surprising that the government resisted the proposition that the field of immigration control should be brought entirely within the remit the UK race relations legislation.

The RRAA outlaws discrimination in immigration control, and complaints of race discrimination can be raised in immigration appeals along with human rights complaints. However, Section 19D of the Act does not make it unlawful for immigration officers to discriminate on grounds of nationality or ethnic or national origin where this is authorized by a Minister. The Minister must act personally and cannot delegate the power to authorise to an immigration officer. Whilst most immigration systems are founded on discrimination on grounds of nationality, since they must distinguish between nationals of the legislating state and non-nationals, the introduction of a statutory need to discrimination on grounds of national or ethnic origin raises significant problems and is unnecessarily wide.

The functions covered by Section 19D include decisions to deport, exclusion directions, leave to enter or remain, the grant of asylum, exceptional leave to remain, and naturalisation as a British citizen. The immigration exemption has generated significant controversy. Notable commentators have drawn attention to the fact that discrimination based on ethnic or national origins is as much racial discrimination as is discrimination based on colour or race, as made clear by the definition of racial discrimination in Article 1 of the International Convention on the Elimination of all forms of Race Discrimination, and that the sweeping broad exception in Section 19D is incompatible with the very principle of non-discrimination which the legislation is intended to secure[73].

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[70] Immigration Act 1971.
Immigration rules are not rules of law, because they are not made by statutory instrument. They give guidance to the various officers concerned and contain statements of general policy regarding the operation of the relevant immigration legislation. Immigration officers will often act also in accordance to unpublished administrative instructions. The use of non-statutory instructions to officials adds to the growing difference between stated immigration law and actual practice. Macdonald and Blake 1991: 30-33.

[72] See for example, CRE's 1985 report following its investigation into immigration control procedures.

[73] Lord Lester in the House of Lords, see Ministerial statements – the immigration exception in the Race Relations (Amendment) Act 2000, Ann Dummett, ILPA, April 2001.

Initial debates in Parliament indicated that this provision would enable immigration officials to discriminate in *favour* of certain groups[74]. However, the intention of the government were rather the opposite, as made clear by subsequent debates and confirmed on adoption of the Ministerial authorisations under the Act. The first ministerial authorisation under section 19D was made on 27 March 2001. Under its terms an immigration officer could, by reason of the person's nationality, refuse leave to enter and exercise powers to seek information and documents if there was statistical evidence of a pattern of breach of immigration law by persons of the applicant's nationality or if Home Office intelligence suggested that a significant number of persons of that nationality had breached or were likely to breach the immigration laws[75]. The national groups likely to be discriminated against were not named.

A second authorisation soon followed enabling discriminatory action to be taken *against* persons from enumerated ethnic and national groups. These were Tamils, Kurds, Pontic Greeks, Roma, Somalis, Albanians, Afghans and ethnic Chinese presenting a Malaysian or Japanese passport or any other travel document issued by Malaysia or Japan[76]. Immigration officers were allowed to subject these ethnic groups to a more rigorous examination than other persons in the same circumstances.

The Home Office has been subject of a challenge by way of judicial review by the Tamil Information Centre in respect of these Ministerial authorisations enabling immigration officers to prioritise arriving passengers for examination on the grounds of nationality or ethnic origin: *R v Secretary of State for the Home Department ex parte Tamil Information Centre (2002)*[77]. The Court quashed the first authorisation on the ground that it was unlawful. It was held that statistical patterns or trends of breaches of control were unlawfully vague conditions and not objectively justified. Neither enabled the immigration officer concerned properly to identify the nationalities against which he/she is authorised to discriminate. While a new authorisation is currently being considered, an interim authorisation allows the immigration exemption to operate against persons whose nationality appears on a list of nationalities which, however, is neither attached to the authorisation nor otherwise published[78].

The second authorisation also generated considerable controversy as the nature of the groups listed raised questions about discrimination on (prohibited) grounds of ‘race or colour’. It was suggested, for instance, that discrimination against a person on grounds of Chinese ethnic origin was indistinguishable from discrimination on grounds of race and colour. Likewise, discrimination on grounds of Tamil ethnic origin can be construed as discrimination on grounds of race or colour. In general, it has been argued that to describe someone as a Kurd, Roma, Albanian, Tamil or Somali is to describe them racially. Section 19D does not permit authorisation of discrimination on grounds of race or colour. An authorisation for discrimination on permissible grounds would, therefore, authorise discrimination on prohibited grounds.

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[74] Borders and Discrimination in the European Union, ILPA, MPG, 2002.
[75] Race Relations (Immigration and Asylum) Authorisation 2001.
[76] Race Relations (Immigration and Asylum) (No.2) Authorisation 2001.
[77] Case CO/4924, Judgment 18thOCtober 2002, Times 30 October 2002.
[78] Race Relations (Immigration and Asylum) Authorisation 2002.

In June 2002, days before the litigation referred to above was due to be heard in Court, the Home Office announced that it was revoking this second authorisation[79].

A further authorisation allows immigration officers to submit asylum seekers from countries listed in the schedule to language analysis testing to ascertain their nationality and take account of their refusal when establishing the facts of their case[80]. The countries listed are Afghanistan, Somalia and Sri Lanka.

Concern over the fact that the section 19D leaves ministers an unchecked discretion to discriminate on grounds of ethnic or national origin are barely assuaged by the establishment of the post Independent Race Monitor under Section 19E of the Race Relations (Amendment) Act 2000. The Act provides that the Independent Race Monitor will determine the likely effect of Ministerial authorisations to discriminate on the basis of nationality or ethnic origin and how they will operate in practice; and the operation of that exception in relation to acts which have been done by a person acting in accordance with such an authorisation. The Monitor will not be concerned with recommendations on individual cases nor will it act as an appellate authority.

Mary Coussey, the first Race Monitor, was appointed in April 2002. The interim report to the Home Secretary for 2002, as well as the Annual Report to Parliament, is yet to be published.

[79] JCWI, Immigration, Nationality and Refugee Law Handbook, 2002.
[80] Race Relations (Immigration and Asylum) (No.3) Authorisation 2001.

5. The victims' perception of racism and racial violence

Despite the increased consciousness of racism as an issue at every level of government within the UK, it is still part of everyday experience in a wide variety of social contexts for people from ethnic minorities. This is illustrated by the statistics set out in section 2 (above). Research done into the experience of racism for the Joseph Rowntree Foundation in 1999, found that racism had become part of the everyday experience of the Black and ethnic minority people who they contacted. Being made to feel different in a variety of social situations and locations was largely seen as routine and to some extent expected. Racist experiences were not always reported to the relevant agency, this was only done when harassment has become intolerable or the problem has escalated. Support was usually sought from family members and friends although their local doctor was often consulted too. In response to racist harassment many families adopted strategic measures to reduce or limit its effect; this could include getting better security round their home or changing routines. Although this research is no longer current it is likely that similar patterns of behaviour continue.

It is clear that ethnic minority people are more worried about being victims of crime than White people are. The British Crime Survey found that 'individuals and households from Black and Asian groups have consistently shown higher levels of concern about crime than individuals from other ethnic groups'. The Survey found that Black and Asian adults were twice as likely to be worried about suffering from some form of personal attack as were White people[81]. Asian adults were three times as likely to be worried about being insulted or pestered compared to White adults.

Since September 11th a number of communities have been left with a feeling of greater vulnerability, both Muslims, who are caught up in the anti-Al Qaeda sentiments, and Sikhs, who are thought to look like Bin Laden.

Since the Cantle Report into the race riots in Bradford, Oldham and Burnley considerable work and resources has gone into community cohesion. It was identified by Beverley Bernard, when she was acting Chair of the CRE, as 'the single most important issue of our times'. The Home Office has set up a Social Cohesion Unit and appointed a Minister responsible for Social Cohesion.

[81] See *Social Trends* no 32, 2002 ed, National Statistics, HMSO, p155, quoting the Home Office British Crime Survey 2000. These questions have not been raised in the British Crime Survey since, so it is not possible to give more up to date statistics on this.

6. Grave cases of racist attacks or attitudes should be described.

This section focuses on examples of racism that illustrate the trends set out in this report, in that sense they are each examples of a trend rather than isolated cases.

Asylum seekers

The current climate of condemnation of asylum seekers has led to a number of instances when asylum seekers have been subjected to racist attacks. In January 2001 Gian Singh Negra was attacked and died as a result of a racially motivated attack, in March 2001 Kosovan, Fetah Marku, was murdered, in August 2001, Firstag Dag, a Kurd, was stabbed to death on his way home. A further example occurred in August 2002, when Peiman Bahmani, an Iranian refugee, was visiting other Iranian refugees at their home in Hendon, Sunderland. A teenager whose mother lived opposite the house shouted racist abuse at them and threatened them with a knife. His mother removed the knife, but he then returned with two knives. The two other Iranians ran back to the house, but Mr Bahmani froze and was then fatally stabbed[82].

The situation cannot be said to be improving. Reports continue of attacks on asylum seekers with twelve men attacking three Iraqi Kurds in Plymouth on January 20th 2003[83], ten men attacking two asylum seekers at their home in Middlesborough on February 1st 2003[84] and the death of an Afghan asylum seeker in Southampton after he had been attacked while walking home on February 8th 2003[85].

Ferid and Ferida Ahmadi

The recent Ahmadi family case highlights some of the problems with the current immigration and asylum system as well as the system of enforced departures. Ferid and Ferida Ahmadi were Afghan refugees who had been persecuted by the Taliban. They sought asylum in the UK. After their claim to stay was rejected on compassionate grounds they sought refuge in the Stourbridge Mosque. In July 2002, 12 police officers equipped with a battering ram, some in riot gear, forcibly broke into the Mosque and arrested Ferid and Ferida Ahmadi.

The public funds this removal has cost are significant. These entailed £40,000 - £60,000 for chartering the special plane, several thousand pounds in legal fees in respect of four hearings concerned with the legality of the removal. The associated costs include a package of offers made by the Home Office to avoid the embarrassing effect of its unlawful decision, flying lawyers and experts to Germany and video links for the substantive appeal.

Where lawful and fair removals must be enforced, then using a cadre of trained and sympathetic officials to diminish conflict is necessary. Gags and manacles,

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[82] www.icnewcastle.icnetwork.co.uk and BBC News Online 20.3.03 http://news.bbc.co.uk/1/hi/england/2869199.stm.

[83] *Western Morning News* report, 23.1.03. reported on Independent Race and Refugee News Network, www.irr.org.uk

[84] Reported on Independent Race and Refugee News Network, www.irr.org.uk

[85] Reported on Independent Race and Refugee News Network, www.irr.org.uk

compulsory sedation and undignified denial of access to sanitary facilities are demeaning to all who operate the system of immigration control.

Sylbert Farquharson

The case of Sybert Farquharson illustrates the destructive misuse of stereotypes, particularly by the Police, and their consequences. Although the events concerned took place in 1995 the case has only just been concluded.

Sybert Farquharson was a middle aged Black man with no criminal record. He arrived at a café in South London just as his cousin was being arrested for protesting to the police about the handcuffing of the Black café owner who was being searched on suspicion of involvement in dealing cannabis. The café owner, in his 50s, had no criminal record. The police suspected him of dealing in drugs because they had seen him wave to a Black man driving a BMW car.

When Sybert Farquharson arrived he saw his cousin and immediately went to find out what was happening. As a result he was assaulted by three police offices and thrown face down in the gutter. He was restrained by two sets of handcuffs that should have been double locked to prevent them racheting up and damaging his wrists. He suffered permanent damage to his wrists and still has chronic pain syndrome. A police officer knelt on his back and called him a 'fucking Black bastard'. Sybert Farquharson and his cousin were prosecuted but the case against them was thrown out.

Subsequently, they sued the Police for assault, false imprisonment and malicious prosecution. The Judge concluded that Sybert Farquharson had been subjected to 'explicit racist abuse in the street and a particularly vicious and cowardly form of racist abuse at the police station'. Sybert Farquharson's physical and psychological injuries meant that he would never work again. The Judge commented:

> '…There is a clear public interest in condemning racist behaviour on the part of persons in authority to assure the diverse elements of our community that the police have no warranty to treat any citizen with contempt and oppression…'

He was awarded £243,488 in damages against the Police; this sum included 'exemplary damages' which are awarded only when it can be shown that they have acted 'in an oppressive, arbitrary or unconstitutional manner as agents of the state'[86].

[86] *Guardian* report by Clare Dyer, 1.2.03.

7. **Services available for victims of racism Information about service providers with an NGO background could be provided.**

Legal aid and assistance

The system of legal aid in the UK makes provision for legal assistance through the Legal Services Commission. This is available from franchised solicitors and other agencies, subject to a means and merits test, for cases in the County Court or the High Court. These are cases concerning non-employment civil law matters.

The remedy for race discrimination in an employment context lies in an application to the Employment Tribunal (ET). These were set up to provide an informal and accessible remedy for employment cases. As a remedy for victims of discrimination the ET procedure has proved inadequate – recent research indicates that only 16% of race discrimination cases win at tribunals compared to 65% of redundancy claims and 43% of all employment tribunal claims[87]. The Labour Research Department analysed the figures from Employment Tribunals since 1990 and they concluded that it is still 'far harder to get justice through the tribunal system for race discrimination than any other claim'. They found that:-

- Claims involving race discrimination are more likely to be dismissed than other claims,
- Race claims are less likely to be settled than other claims once an ET claim has been made, however
- When applicants do win they are likely to receive higher levels of compensation, particularly in respect of the injury to feelings award.

There is a further link between legal assistance and outcome. Legal Aid is not available for representation at hearings in the ETs except in 'public interest' cases[88]and no such 'public interest' cases in the field of race discrimination are known to have occurred. Claimants are therefore reliant on the lottery of whether they can obtain legal assistance from the Commission for Racial Equality (which assists about 180-200 cases per year)[89], a Race Equality Council, a Law Centre, Citizens Advice Bureau or Trade Union. The Commission for Racial Equality also funds complainant aid organisations taking employment discrimination cases for no fee.

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[87] *Claims of race bias fall by the wayside*, Labour Research, April 2002.

[88] Under section 6(8)(b) of the Access to Justice Act 1999, the Lord Chancellor has the power to authorise funding for exceptional cases for which legal aid is not normally available. He has not yet authorised funding for advocacy in an employment tribunal, but he is prepared to consider doing so if a case raises matters of significant wider public interest, is of overwhelming importance to the applicant or if, without representation, it would be practically impossible for the applicant to proceed or there would be obvious unfairness. In 2000, the Government asked Sir Andrew Leggatt to conduct a review of all tribunals, including employment tribunals, to ensure that they operated efficiently and enabled their users to participate effectively. This included consideration of the circumstances in which publicly funded legal representation was necessary. Sir Andrew Leggatt produced a report on his findings, entitled 'Tribunals for Users', and the Government is currently analysing the responses to consultation on this report.

[89] A breakdown of the applications for assistance and their outcomes is to be found in the CRE Annual Report. The CRE has no mandate to fund cases of discrimination under the HRA, it can only run human rights arguments in parallel to a RRA argument.

Research has shown a direct link between the results obtained in discrimination cases and the type of legal assistance available to claimants. For example, in the field of disability discrimination law the assistance of a legally qualified representative was found to make a significant difference to an applicant's chance of success, an applicant who was represented by a friend or relative had a 11.8% chance of success, an applicant who representing him/herself had a 13.7% chance of success compared to those represented by a barrister (28.9%) or a Law Centre representative (27.3%)[90].

There are no provisions to enable class actions to be brought in respect of breaches of the RRA, such actions could enable the Courts to test out the legality of controversial areas of policy in a more cost effective way than by individual test cases. The CRE, and other interested bodies, should be able to bring class actions in their own name.

Commission for Racial Equality and Race Equality Councils

The Commission for Racial Equality (CRE) was established in 1977 as a result of the implementation of the Race Relations Act 1976. It is an independent body funded by the Government. The duties of the CRE are:-

- To work towards the elimination of discrimination;
- To promote equality of opportunity, and good relations, between persons of different racial groups generally; and
- To keep under review the working of the RRA and, when necessary, make proposals for amending it.

The Commission for Racial Equality can provide assistance and/or legal representation for a person who considers that s/he has been subjected to race discrimination; it assists about 180-200 cases per year. The Commission for Racial Equality also funds complainant aid organisations taking employment discrimination cases for no fee. Additionally, the CRE was intended not merely to provide remedies for individual wrongs but also to combat entrenched and widespread discriminatory practices and barriers. One of its tools for achieving this lies in its power to conduct a Formal Investigation into an organisation where they believe that discrimination on racial grounds has taken place. This has been an extremely useful tool in achieving organisational change. These powers were intended to perform a very significant role in Government's anti discrimination strategy, however, decisions of the House of Lords in its judicial capacity, restricting the scope of these powers[91]; as well as the limited financial resources available to the CRE, mean that they have not been as widely used as they could have been. Frequently, the fact that the CRE is considering undertaking such an investigation is sufficient for the organisation concerned to introduce changes in its procedures and practices to prevent racism occurring.

An example of the constructive use of Formal Investigations might be that in relation to the Crown Prosecution Service (CPS). Since 1990 the CPS has had twenty claims of race discrimination brought against it by nine members of staff. This culminated in 1999 when two Asian Crown prosecutors won separate cases in the Employment Tribunal against the CPS[92]. In 1999, the CRE decided to launch a Formal

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[90] *Monitoring the Disability Discrimination Act 1995 (Phase 2), Final report,* Incomes Data Services, Sarah Leverton, 2001.

[91] Hillingdon LBC v CRE [1982] AC 779; R v ex parte Prestige Group PlC [1984] ICR 472.

[92] *Bamieh v Crown Prosecution Service* and *Neeta Amin v Crown Prosecution Service.*

Investigation into the CPS. This was postponed while the CPS conducted its own inquiry into the allegations and pending the publication of its report. The report concluded that the CPS's Croydon office was racially segregated and that its management had done nothing to prevent this. The CRE investigation of the Croydon office confirmed this finding and a programme of action was agreed. There is still progress to be made, the CPS has a nationally representative workforce with 12% of staff coming from minority ethnic groups, but progress is still needed at the higher grades. Targets have been set with a view to ensuring better representation at the higher grades. All CPS staff have now been trained in diversity and eleven regional equality and diversity managers have been appointed. In September 2002 the formal investigation was lifted and the CPS formally committed itself to new partnership arrangements with the CRE designed to assist in its continued progress towards the elimination of race discrimination in the CPS.

The Government is currently proposing to set up a Single Equality Body to combine the work of the CRE, the Equal Opportunities Commission and the Disability Rights Commission and to be responsible for the new strands of discrimination, namely, sexual orientation, religion or belief and age.

There are also 95 Community Relations Councils throughout GB. They are funded by the CRE to promote equality between races at a local level.

Equality Commission for Northern Ireland

Northern Ireland's race relations legislation was not introduced until 1997 and it is modelled on that of Great Britain. It is set out in the Race Relations (Northern Ireland) Order 1997. The Equality Commission for Northern Ireland is a Single Equality Commission, which deals with all the strands of discrimination- sex, race, disability, religious opinion or political belief – within one organisation. A similar body is now being proposed for Great Britain.

8. Good/best practice of NGO work against racism.

Within the UK there are a large number of NGOs working at every level against racism. Some are specifically anti-racist organisations, while others are organisations aimed at providing legal assistance more generally or those working on legal policy in the administration of justice. There are both national and local organisations working on race discrimination in each of the areas discussed in section 2. Each one has an important and valuable contribution to be made to the whole; to single out one or two would be to imply that the work of others is less worthy because, by chance perhaps, they are less well known. Many of the smaller, local NGOs find it frustrating that they do not have sufficient resources to enable them to take a full part in the national debates on policy.

Resources to consult for fuller coverage of the NGO sector fighting racism in the UK, include:

- The European Network Against Racism (ENAR) has a list of contacts of the UK Race & Europe Network which are mainly NGOs and Community based organisations working locally and nationally to fight racism or promote race equality.[93]
- The European Monitoring Centre Against Racism and Xenophobia (EUMC) collects data on organisations in the EU member states working in the field of race relations, through its European Racism and Xenophobia Information Network (RAXEN).[94]
- The Black Information Link is an Internet site that provides information on Black and minority ethnic issues.[95]
- Similarly, the Institute of Race Relations carries out research in the field of institutional racism and racial violence and has an informative website with links to various campaigns for race equality.[96]

[93] www.enar-eu.org
[94] www.eumc.eu.int
[95] www.blink.org.uk
[96] www.irr.org.uk

9. Conclusions

This report shows that racism continues to present problems within the UK. The key threads identified in the introduction are not separate but constantly interact with each other according to the current political climate.

The Government recognises the negative impact of racism in our society and has backed this up with anti discrimination legislation and considerable resources. It is therefore disappointing that these gains are constantly undermined by the negative impact created by the asylum and immigration debate with its focus on keeping asylum seekers and potential immigrants out, or at least wholly separate from the rest of the population of the UK.

The year has ended with the passing of the Nationality, Immigration and Asylum Act 2002 despite the considerable concern expressed both by anti-racism NGOs and members of both Houses of Parliament. This Act has increased the focus on segregating asylum seekers, restricting their procedural rights and reducing their access to basic necessities. The Government plans to house asylum seekers outside major cities. This dispersal policy implies that asylum seekers must be kept separate from the rest of the population and it has contributed to the encouragement of racist attitudes. The Government's attempts to find alternative out of town sites for camps for refugees and asylum seekers has provoked a series of protests. There have been local protests in Sittingbourne in Kent, Portland in Dorset, Saltdean in Sussex, Caythorpe in Lincolnshire, Bicester in Oxfordshire and Throckmorton in Worchestershire where possible sites for dispersal centres had been discussed. The debate about asylum seekers seems unlikely to diminish during 2003[97].

The continuing political problems in the Middle East, both in respect of Iraq and Israel, are likely to continue to affect race relations and present challenges for the NGOs within the UK.

[97] see www.irr.org.uk/january/ak000017