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Message from the President

ENAR's 2004 European Shadow Reports cover a period of 12 months. They are not a scientific study of the state of racism or discriminatory practices in EU Member States, but a compilation of information and data collected and provided by a vast network of NGOs working with antiracism, protection of human rights and provision of legal help and moral support to victims of discrimination, unequal treatment and marginalisation in the European Union.

This commendable work is done by many dedicated individuals, groups and organisations, who every year put a lot of effort in piecing together vital information in preparing reports from each EU country. Since official reports often paint a rosier picture of the local situation by excluding what NGOs say or experience, ENAR's reports have the added value of providing an overall picture from the ground.

EU institutions can use this information to check the performance of Member States and ask them to live up to the letter and spirit of Directives and Guidelines. In 2003, many international organizations, journalists, institutions of higher learning, European and non-European students and sister NGO networks utilized these reports.

ENAR wishes to highlight the fact that a number of diverse groups who live in the EU do not enjoy the socio-economic rights, equal opportunities and even legal protection they are entitled to. This lack of equality is not only a strong barrier in the process of mutual integration of these communities in society, but is also a tremendous financial loss to local economies.

Situations vary from country to country. Some have a long tradition of living with ethnic minorities, while others have only a few years experience. Some countries have good and functional anti-discrimination legislation in place, while others are still hesitant to comply.

Populist political statements and distorted media coverage has not helped to better the situation. Politicians hide behind "freedom of speech" to get away with the most hateful propaganda against certain groups, while the media holds the microphone. Mainstream media not only indulge in the generalisation of minorities but are also

steadfast in denying any responsibility in creating an atmosphere in which racism thrives.

EU institutions have taken many important steps to rectify this situation through directives, information campaigns and even legal steps against some countries have been taken. ENAR is hopeful that by being a bridge between ethnic minorities, NGOs and EU institutions, it can help to create a Europe where all its inhabitants can live in harmony. Our expertise is there as well as our resolve. We are here to help because we believe in truth, justice and even-handedness.

I was pleasantly surprised when I was introduced to a prominent journalist from India at a conference in Brussels recently. When he was told that I was the Chair of ENAR, he smiled and said, “I wish we also had such an organisation in Asia that can bring civil society’s wishes to the decision makers.”

Bashy Quraishy
President – ENAR

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Executive Summary

Minority ethnic groups in the UK make up 8% of the population. They have a younger age profile than the majority 'White' community. Nearly half of the UK's minority ethnic community live in London, over 10% live in the West Midlands, just under 10% in the South East, the North West and Yorkshire and Humberside.

As well as being multi-ethnic, the UK also has a multi-faith population. The largest minority faith community is Muslim, followed by Hindus, Sikhs, Jews and Buddhists. There are varying degrees of ethnic diversity within these faith communities. Some faith communities, like Sikhs and Jews are concentrated in one ethnic group, others like Muslims, Christians and Buddhists are very ethnically diverse.

In recent years new members of minority ethnic communities have come as refugees and asylum seekers. In 2004 just over 30,000 applications for asylum were made in the UK. The largest numbers of applications were from Iran, Somalia, China, Zimbabwe and Iraq. By the end of 2004, 1,515 persons who had sought asylum were in detention in the UK. Asylum detainees accounted for 78% of all Immigration Act detainees.

Minority ethnic communities continue to experience disadvantage and discrimination on a wide range of social indicators. There is, however, significant variation in the levels of disadvantage experienced between different minority ethnic communities. As a consequence, policies need to be focused on reaching the most disadvantaged groups.

In education, statistics reveal high levels of attainment by Chinese and Indian pupils and lower levels of achievement by Roma/Gypsy, Black Caribbean, Pakistani and Bangladeshi pupils. 74% of Chinese and 66% of Indian pupils achieved 5 GCSEs at grades A*-C. The national average is 51.9%. The attainment of this by pupils from other minority ethnic groups was lower: 48% Bangladeshis, 45% Pakistanis, 43% Black Africans, 35% Black Caribbeans, 22% Romany Gypsies and 17% Irish Travellers.

The disproportionate exclusion of pupils from minority ethnic groups persists. Pupils from Black, Roma and mixed heritage groups are three times more likely to be excluded from school than White pupils. Irish Traveller pupils are four times more likely to be excluded.

Despite educational disadvantage many minority ethnic communities continue to place value on higher education. Participation in higher education is higher among minority ethnic groups than Whites. Given the differing levels of attainment at GCSE between different minority ethnic communities, the level and nature of participation varies between minority ethnic groups. Minority ethnic students tend to be clustered in post-1992 universities in London. There is also some evidence of racial bias in admissions processes to degree courses at some universities which may affect minority ethnic representation levels. Improving labour market potential is a key driver for participation in higher education. However, the highest initial graduate unemployment rate is found among male Pakistani and Chinese graduates even when comparing students with the same degree classification.

In 2004 the unemployment rate for the minority ethnic working age population was 7.6%, compared to 3.9% for the overall population of Great Britain. The highest unemployment rates were for the Black Caribbean and Mixed groups. Survey evidence shows that race discrimination is considered by Asian and Black people as the main obstacle to obtaining a job or promotion. Some positive progress had been made. By spring 2004 the minority ethnic employment rate increased by 1.6% and the gap with the overall rate reduced by around 1.4 percentage points. However, even those who are in work remain concentrated in poorly paid jobs with few prospects for progression. As a consequence, they have lower average earnings than the White population.

For some minority ethnic communities, racial discrimination in the labour market is compounded by religious discrimination. Muslims have the lowest labour market achievement when compared to other faith groups. In 2004, a BBC survey in which fictitious applications were made for jobs using applicants with the same qualification and work experience but different names, found that applicants with Muslim names were the least likely to secure an interview compared to applicants with White or Black African sounding names.

Minority ethnic households are more likely to be overcrowded and living in poor housing conditions. 40% of minority ethnic households live in 'non-decent' homes compared to 32% of White households. The Government has committed itself to ensuring that all social tenants live in decent accommodation by 2010. The concentration of minority ethnic households in such accommodation means that one in ten minority ethnic households will benefit from this measure.

There are also indications that the deprivation and disadvantage experienced by many minority ethnic people in the UK may also have implications for their health

status. Gypsies and Traveller men and women have a life expectancy that is ten and twelve years less than that of the general population.

As a result of the socio-economic disadvantage they experience, individuals from minority ethnic groups are more likely to live in areas with a high risk of crime. Those from mixed ethnic and Asian groups face a significantly higher risk of being the victim of crime. The disproportionate representation of minority ethnic groups in the criminal justice system remains a significant concern. Black people are six times more likely to be stopped and searched, three times more likely to be arrested and seven times more likely to be in prison than White people. Following the BBC documentary 'The Secret Policeman', exposing the failure of police training to tackle racism, a Formal Investigation by the Commission for Racial Equality found a failure by police authorities to implement their existing race equality schemes.

In 2004 there were two key Government consultations in policy areas that will have a long term impact on minority ethnic communities. The first was the consultation on the development of the Government's race equality strategy. The second was the consultation on the creation of a single Commission for Equality and Human Rights (CEHR), which would eventually replace the CRE. There were concerns both about the proposal to abolish the CRE and about the powers and priorities of the CEHR.

The CEHR would have responsibility for supporting and enforcing religious discrimination legislation. At present funding is focused on telling people about their rights but not in assisting those who face religious discrimination in bringing a case. The Government has announced that it will introduce legislation prohibiting discrimination on the grounds of religion or belief in the provision of goods and services but that this will only cover direct and indirect discrimination but will not cover discrimination by way of harassment. The Serious Organised Crime and Police Bill 2004 creates a new offence of incitement to religious hatred.

Evidence is also growing of the extent of Islamophobia or anti-Muslim racism experienced by Muslims in the UK. In one large-scale survey 80% of respondents reported experiencing some religious discrimination. 8% experienced such discrimination on an almost daily basis. White British Muslims reported the highest levels of religious discrimination. Muslims also report that they face religious profiling, and that they are being stopped and searched by police on the basis of their appearance. The higher number of stop and searches - and the gap between the number of stop and searches and that of actual arrests, charges and convictions - is leading to a perception among British Muslims of being unfairly policed and is fuelling a strong disaffection and a sense of being 'under siege'.

Surveys shows that there has been an increase in the proportion of people feeling that there is now more racial prejudice in Britain than there was five years ago. The majority of people said that this prejudice was aimed at asylum seekers and refugees. According to the British Crime Survey, there were 206,000 racially motivated incidents (including those on White people). The number of racist incidents reported to the police increased by 9.7% from 49,078 in 2002/3 to 52,694 in 2003/4. During elections in 2004, the racist British National Party narrowly missed wining seats to the European Parliament and the London Assembly. Its vote, at close to 5%, was an increase in its performance at previous elections.

2. Introduction

This report will give an overview of racism in the UK in 2004. It begins with a description of the size and characteristics of minority groups and the specific areas of discrimination and disadvantage, including education, employment, housing, health and the criminal justice system. It examines recent legislative developments and racism in Government policies in respect of asylum and immigration. It explores the changes in the perceptions of racism and racial discrimination and the impact of media reporting on discrimination and prejudice.

3. Description of victim groups

3.1 Minority Ethnic Groups

The UK 2001 National Census (hereafter, 2001 Census) remains the key source of information about minority ethnic communities in the UK. In Great Britain the number of people from an ethnic group other than White grew by 53% between 1991 and 2001. The UK has a minority ethnic population of just over 4.6 million, (7.9% of the population). The largest minority ethnic population is Indian, followed by Pakistanis, those of mixed ethnic backgrounds, Black Caribbean, Black Africans, Bangladeshi, Chinese and Other Asians. Within the ethnic majority 'White' group, 691,000 were White Irish.¹ The census did not collect data on Roma or Irish Travellers. In the absence of census statistics there are estimates for the Traveller community of up to 300,000.² Within this the largest groups is estimated to be Romany Gypsies who have been in England since the early 16th Century.

Minority ethnic communities have a younger age profile than the majority white population. According to the 2001 Census, 20% for the White group was under 16, this compares to 38% for Bangladeshis and 'Other Black' groups, and 30% of Black Africans and Pakistanis.

The UK's minority ethnic communities are concentrated in the large urban centres. Nearly half of the UK's minority ethnic community live in London, over 10% live in the West Midlands, just under 10% in the South East, the North West and Yorkshire and Humberside. Within these urban areas, minority ethnic communities live in the most deprived areas, 67% of the minority ethnic population live in the 88 most deprived local authority districts, compared to 37% of the White population.

However, there is considerable diversity in the settlement patterns of different minority ethnic communities: 78% of Black Africans and 61% of Black Caribbeans live in London. More than half the Bangladeshi group lives in London. By contrast, only 19% of Pakistanis live in London, while 21 live in the West Midlands, 20% in Yorkshire and Humberside and 16% in the North East.³

The collection of information on ethnicity and religion in the 2001 Census allowed analysis of the intersection between these two factors. It showed varying degrees of

¹ *Focus on Ethnicity and Identity*, Office for National Statistics, 2004, London, p. 2.

² *Gypsies and Travellers: A Strategy for the CRE*, Commission for Racial Equality, 2004, London, p. 6.

³ *Focus on Ethnicity and Identity*, Office for National Statistics 2004, London, p. 2.

religious diversity within ethnic groups. A majority of White, Black Caribbean, Black African and those from mixed ethnic backgrounds also identified themselves as Christian. 92% of the Pakistani and Bangladeshi group were Muslim. Indians were the most religiously diverse ethnic group, 45% of Indians were Hindus, 29% Sikh and 13% Muslim. Over half of Chinese and a quarter of people of mixed ethnic backgrounds stated they had no religion.⁴

3.2 Minority Religious Groups

The 2001 census for the first time included a question on religion. The results from the census provide information about different faith communities. The census statistics show that almost three quarters of the UK population (71%) are Christians. There are 1.6 million Muslims in the UK⁵, making them the largest minority faith group and over half the non-Christian religious population. There are just over half a million Hindus, 333,600 Sikhs, 267,000 Jews, 150,000 Buddhists and 179,000 from other religions. A further 13.6 million stated that they had no religion or did not state a religion.⁶

The statistics also reveal varying degrees of ethnic diversity within religious groups. Some faith communities were concentrated within one ethnic group. 91% of Sikhs were Indian, and 97% of Jews described their ethnicity as White. Other religious groups were ethnically diverse. Muslims were 42% Pakistani, 17% Bangladeshi, 12% of Muslims in the UK described themselves as White UK or White other. In addition, 6% of Muslims were of Black African origin. 35% of Buddhists gave their ethnicity as White, 24% Chinese, 24% 'Other' and 8% as 'Other Asian'.⁷

3.3 Asylum Seekers and Refugees

33,930 applications for asylum were made in 2004; this was a 31% decrease on the previous year. The five largest applicant nationalities were Iran (3,450), Somalia (2,590) China (2,370) Zimbabwe (2,050) and Iraq (1,715). The number of initial decisions fell by 29% between 2003 and 2004 from 64,940 to 33,930. Of these, 3% were granted asylum and a further 9% were granted humanitarian protection or

⁴ *Ethnicity and Religion*, Office of National Statistics, 2004, London.

⁵ However, Ansari suggests that 'the broad consensus considers two million to be more realistic since it is contended that a significant number of "undocumented" and asylum seeking Muslims remain unaccounted for. See H. Ansari, *The Infidel within: Muslims in Britain since 1800*, Hurst, 2004, London, p. 172, fn. 12.

⁶ *Focus on Religion*, Office of National Statistics, 2004, London, p. 2.

⁷ R. Richardson, *Islamophobia, issues, challenges and action: a report of the Commission on British Muslims and Islamophobia*, Trentham Books, 2004, Stoke-on-Trent, p. 29.

discretionary leave and 88% were refused, compared with 6%, 11% and 83% respectively in 2003.⁸

There were 55,975 appeals against initial decisions determined by adjudicators in 2004. This was 32% lower than in 2003 (81,725). 78% of appeals were dismissed and 19% allowed.⁹ 12,430 principal applicants were removed in 2004; this was a 4% fall from the record high number of removals in 2003 (13,005). 89% of asylum detainees were male. In some cases children under 18 are detained as part of a family that is being detained. In December 2004 there were 25 children under 18 detained in this manner.¹⁰

⁸ Asylum Statistics: 4th Quarter 2004, Home Office, 2004, London, pp. 2-3

⁹ Asylum Statistics: 4th Quarter 2004, Home Office, 2004, London, p. 5.

¹⁰ Asylum Statistics: 4th Quarter 2004, Home Office, 2004, London, p. 10

4. Specific areas in which racism is visible/hidden in the national context

4.1 Education

Due to the demographic profile of the community, minority ethnic communities are a larger proportion of the school age population than the population as a whole. In 2004 17% of pupils were from minority ethnic communities.¹¹ The age profile of minority ethnic communities means that education remains a crucial area of concern.

“The school system is the first mainstream institution with which young people come into sustained contact. The extent to which schools respect and accommodate diversity send out strong signals about the value society as a whole places on diversity. Second, educational attainment is a key determinant of opportunities for finding employment and improving future life chances. Third, schools provide an opportunity to develop bonds and friendships across different ethnic and faith groups, and the education system itself is a mechanism by which pupils are able to develop an understanding of the different groups within their community.”¹²

There are significant disparities in the attainment of pupils for different ethnic groups. Statistics reveal high levels of attainment by Chinese and Indian pupils and lower levels of achievement by Roma/Gypsy, Irish Traveller, Black Caribbean, Pakistani and Bangladeshi pupils.

Achieving 5 or more GCSEs at grades A*-C is a key benchmark for attainment used by policymakers. Figures for Roma/Gypsy pupils and Irish Traveller pupils were only available for 2003, these show that 22% of Roma Gypsy pupils and 17% of Irish Traveller pupils obtained no passes, compared with 6% for all pupils. 42% of Travellers of Irish Heritage and 23% of Roma/Gypsy pupils achieved five or more GCSEs grades A*-C.¹³ In 2004 this was achieved by only 35% of Black Caribbean, 43% of Black African, and 45% of Pakistani and 48% of Bangladeshi pupils, compared to a national average of 51.9%. Indian (66%) and Chinese (74%) pupils achieved above the national average.¹⁴ Most worryingly the gap in attainment of

¹¹ *Ethnicity and Education: the evidence on Minority Ethnic Pupils, Research Topic Paper: RTP01-05*, Department for Education and Skills, 2005, London, p. 3.

¹² Open Society Institute, *Muslims in the UK: Policies for Engaged Citizens*, Open Society Institute, 2005, Budapest, p. 34.

¹³ *Ethnicity and Education: the evidence on Minority Ethnic Pupils, Research Topic Paper: RTP01-05*, Department for Education and Skills, 2005, London, p. 9.

¹⁴ ‘Minority Pupils Make Further Progress at GCSE,’ Department for Education and Skills, 2005, London.

Black Caribbean pupils compared to other pupils widens as they progress through the education system.¹⁵

These overall percentages for different ethnic groups may also mask important and increasing differences in the achievement of boys and girls. In general there is an 11 percentage point gap between boys and girls at GCSE. However the gender gap is larger for Black Caribbean pupils (16%), pupils of mixed White and Black African Heritage (16%), and Bangladeshi pupils (14%).¹⁶

Socio-economic deprivation can be a significant factor in educational attainment. In education, eligibility for free school meals (FSM) is an indicator of economic deprivation. Using FSM as an indicator for deprivation, research shows that variation in ethnic achievement cannot be explained on the basis of deprivation alone. For example, Bangladeshi pupils are doing much better than expected, when their high rate of FSM is taken into account; for Pakistanis and mixed White and Black African pupils FSM explains most of the difference in results. However, for Black Caribbean and Roma/Gypsy pupils attainment is much lower than FSM indicates. Thus their lower attainment cannot be wholly explained by deprivation factors.¹⁷

The disproportionate exclusion of minority ethnic pupils from schools has been a concern for many years. Research shows that Travellers of Irish Heritage had a rate of exclusion four times the national average. Black Caribbean pupils, Roma/Gypsy, Black Other, White/Black Caribbean and White/Black African pupils are three times more likely than White pupils to be permanently excluded from school.¹⁸

In 2004 a detailed study was published examining the nature and extent of ethnic minority participation in higher education (HE).¹⁹ The report found that the 'higher education initial participation rate' (HEIPR) for minority ethnic groups was

¹⁵ *Ethnicity and Education: the evidence on Minority Ethnic Pupils, Research Topic Paper: RTP01-05*, Department for Education and Skills, 2005, London, p. 9.

¹⁶ *Ethnicity and Education: the evidence on Minority Ethnic Pupils, Research Topic Paper: RTP01-05*, Department for Education and Skills, 2005, London, p. 13

¹⁷ *Ethnicity and Education: the evidence on Minority Ethnic Pupils, Research Topic Paper: RTP01-05*, Department for Education and Skills, 2005, London, p. 15.

¹⁸ *Ethnicity and Education: the evidence on Minority Ethnic Pupils, Research Topic Paper: RTP01-05*, Department for Education and Skills, 2005, London, p. 19.

¹⁹ Connors, H., C. Tyers, T. Modood and J. Hillage, *Why the Difference? A Closer Look at Higher Education Minority Ethnic Students and Graduates*, Research Report 552, Institute of Employment Studies, 2004, London. The report did not cover the experience of Gypsy/Roma or traveller communities.

considerably higher than the average. The study finds that minority ethnic pupils are, on the whole, more influenced than Whites by the expected better labour market opportunities that HE qualifications would bring. Their entry route into HE also varies significantly between different minority ethnic groups. The Indian and Chinese group are the most likely to take the traditional 'A' Level route to HE and are better qualified as HE entrants. Pakistani and Bangladeshi groups do not gain as high 'A' level qualifications as Indian or Chinese. Black groups, and Black Caribbeans in particular are generally older on entry and more likely to progress to HE from Further Education (FE) colleges or to have vocational entry qualifications. Minority ethnic students tend to be clustered in post-1992 universities in London.

The report finds that there is some evidence of racial bias in admissions processes to degree courses at some universities which may affect minority ethnic representation levels. A study of UCAS applications found that when entry-level qualifications and other socio-economic characteristics were controlled for, minority ethnic students, particularly Black Caribbean and Pakistani students, had less chance of success in gaining a place at a pre-1992 university. Black students are more likely than Asian or White students to leave early from degree courses. Among the factors that may contribute to this are patterns of term time working and the different financial situation of minority ethnic and White students. At graduation, minority ethnic students gain fewer first and upper second-class degrees; in particular Black students are more likely to get a third or lower class degree. The report also notes that minority ethnic degree graduates have a higher initial average unemployment rates. The highest graduate unemployment rate is found among male Pakistani and Chinese graduates even when comparing students with the same degree classification. Other factors that influence graduate outcomes include subject studied, institution attended, age, entry-level qualification to degree course, entry route and socio-economic background. However, the study found that even allowing for these factors does not explain fully the difference in employment outcomes of different ethnic groups of graduates.

4.2 Labour market

There is a lack of evidence about the labour market experience of Gypsy and Traveller communities. The CRE notes that:

“Unemployment is high among Gypsies and Travellers and few of the general programmes set up to tackle unemployment have initiatives or schemes developed specifically for Gypsies and Travellers.”²⁰

²⁰ *Gypsies and Travellers: A Strategy for the CRE*, Commission for Racial Equality, 2004, London, p. 12.

The most comprehensive study of minority ethnic disadvantage in the labour market remains the 2003 Cabinet Office report *Ethnic Minorities and the Labour Market*. The report showed minority ethnic groups to be disadvantaged in the labour market on a broad range of measures of achievement, including employment and unemployment rates, levels of self employment and progression in employment. Despite economic growth over the past 15 years, the gap in the overall employment rate between minority ethnic and White people has remained at around 16 percentage points. The report noted that there were significant variations in the labour market achievements within minority ethnic groups. Most notably, Indian and Chinese ethnic groups out-perform their White majority counterparts on a variety of measures. However, they are still not performing as well as they should given their education and other characteristics relevant to the labour market. Furthermore, during the course of the 1990s, no significant improvement in employment prospects could be observed for Bangladeshi and Black Caribbean men.²¹

As a result of the Cabinet Office report, the Government set itself the goal of removing, within ten years, the disproportionate labour market disadvantage faced by minority ethnic groups.²² The Department for Work and Pension and the Department for Trade and Industry share a Public Service Agreement (PSA) target to increase the employment rates of ethnic minorities by spring 2006.²³ In 2004 the unemployment rate for the minority ethnic working age population was 7.6%, compared to 3.9% for the overall population of Great Britain. The highest unemployment rates were for the Black Caribbean and Mixed groups.²⁴ Some positive progress had been made. By spring 2004 the ethnic minority employment rate increased by 1.6% and the gap with the overall rate reduced by around 1.4 percentage points.²⁵ In particular, there has been a significant increase in the employment rates of Black Caribbean and African Groups.²⁶

²¹ See also: J. Wadsworth, "The labour Market Performance of Ethnic Minorities in the Recovery," in R. Dickens, P. Gregg and J. Wadsworth (eds.) *The Labour Market Under New Labour: the State of Working Britain II*, Centre for Economic Performance, 2003, London.

²² Cabinet Office, *Ethnic Minorities and the Labour Market*, Cabinet Office Strategy Unit, 2003, London, p. 3.

²³ HM Treasury, *Full Employment in Every Region*, HM Treasury, 2003, London, pp. 33-35.

²⁴ Ethnic Minority Employment Task Force, *Equality. Opportunity. Success. Year 1 Progress Report*, Department for Work and Pensions, 2004, London, p. 13.

²⁵ Department for Work and Pensions, *Progress against Spending Review 2002 targets: autumn Performance Report 2004*, Department for Work and Pensions, 2004, London, p. 32.

²⁶ Ethnic Minority Employment Task Force, *Equality. Opportunity. Success. Year 1 Progress Report*, Department for Work and Pensions, 2004, London, p. 14.

While increasing employment rates is important, it leaves unexamined the quality of the participation in the labour market (whether the employment individuals find is well paid and commensurate to their skills and experience). Data shows that certain ethnic groups are concentrated in particular industries. One in six Pakistani men in employment were cab drivers or chauffeurs, compared to one in 100 White British men. Two in five Bangladeshi men were either cooks or waiters, compared with one in 100 British White men.²⁷

There is also significant variation in the levels of self-employment among different minority ethnic groups. Pakistani and Chinese ethnic groups are more likely to be self-employed than those of other ethnic groups. It is not known the degree to which this tendency toward entrepreneurialism is cultural preference or a result of experience or fear of discrimination in the labour market.

Data for 2004 also shows that ethnic minorities, as a whole, have lower average earning²⁸ than the White population. There is significant variation within minority ethnic groups. Average earnings for Indians are on a par with that of Whites, while Black Caribbeans and Black Africans have slightly lower average earnings. Bangladeshi and Other Black workers have the lowest average earnings of any ethnic group.²⁹ 38% of minority ethnic households with children are of low income compared to 18% of White households. This overall figure hides significant variation within the minority communities, 27% of Black households are of low income, and for Pakistani and Bangladeshi households the figure is 65%.³⁰

In 2004 two reports were published that identified the role of the employer in addressing labour market disadvantage. In March 2004 the National Employment Panel launched *Fair Cities*, a report looking at employer led initiatives to engage minority ethnic groups in employment. In July, the Institute for Public Policy Research Task Force on Race Equality and Diversity in the Private Sector delivered its report, *Race Equality: the Benefits for Responsible Business*. The report called for leadership from business in placing race equality on the agenda by the appointment of an equal opportunities champion at Board Level, as well as greater use by companies and Government of their procurement powers to ensure race equality

²⁷ *Focus on Ethnicity and Identity*, Office for National Statistics, 2004, London, p. 6.

²⁸ Average Earnings refers to the gross weekly wage.

²⁹ Ethnic Minority Employment Task Force, *Equality. Opportunity. Success. Year 1 Progress Report*, Department for Work and Pensions, 2004, London, p. 17.

³⁰ Ethnic Minority Employment Task Force, *Equality. Opportunity. Success. Year 1 Progress Report*, Department for Work and Pensions, 2004, London, p. 18

from their suppliers. It called for companies with over 50 employees to report publicly on race equality and diversity.

For some minority ethnic communities, racial discrimination is compounded by religious discrimination. A report by the Open Society Institute found that Muslims had the lowest labour market achievement when compared to other faith groups. The unemployment rate for Muslims was 14%, the highest for any faith community in Britain, and three times the rate for Christian men (4%). Over 50% of Muslims are economically inactive, as compared to one-third of Christians, Hindus, Jews and Sikhs. Muslim women have the highest economic inactivity rate of any faith group. 60% of Muslim women are economically inactive, compared to 28% of Christian women and 35% of Hindu and Sikh women. Of young people Muslims have the highest unemployment rate of all faith groups. Some 17.5% of Muslims in this age category are unemployed, as compared to 7.9% of Christians and 7.4% of Hindus.³¹ Limitations of data meant that there was not sufficient evidence of the extent to which Muslims faced a ‘religion penalty’ in addition to any ‘ethnic penalty’ that they may be experiencing.

A BBC survey seems to indicate that religious discrimination does impact significantly on Muslims. In 2004, the BBC conducted a survey in which fictitious applications were made for jobs using applicants with the same qualification and work experience, but different names. A quarter of the applications by applicants with traditionally English sounding names – Jenny Hughes and John Andrews – were successful in securing an interview, compared with 13% of applicants with Black African names and only 9% for applicants with Muslim names.³²

4.3. Housing

Minority ethnic households are more likely to be overcrowded and living in poor housing conditions, including ‘unfitness’, substantial disrepair and insufficient heating. Results from the English Housing Condition Survey 2001 found that:

“Minority ethnic households tend to have the least living space. Black households have the least space per person when comparing like size households. However, Pakistani and Bangladeshi households, who tend to have larger households are most

³¹ Open Society Institute, *Muslims in the UK: Policies for Engaged Citizens*, Open Society Institute, 2005, Budapest, pp. 206-207.

³² See: ‘Shocking Racism in job market’, BBC News, 12 July 2004, available on the BBC website at <http://news.bbc.co.uk/1/hi/business/3885213.stm> (accessed). See also J. Wilson, ‘Muslim says he was sacked for wearing a beard,’ *The Guardian*, 11 August 2004; and V. Dodd, ‘City firm sued for Bin Laden jibes,’ *The Guardian*, 9 April 2004.

likely to have insufficient bedrooms to meet their needs because suitably sized homes are either unavailable or unaffordable”³³

40% of minority ethnic households live in ‘non-decent’ homes compared to 32% of White households.³⁴ For a minority ethnic household, disrepair, unfitness and the need for modernisation are twice as likely to be the reason for the home being non-decent than in White households. Within the minority ethnic group, Black households are less likely to live in homes that are non decent than Asian households. The survey size was too small however to pick up on differences within the Asian group, between Pakistani, Bangladeshi and Indian households.³⁵

Analysis of census data on minority faith communities allowed the housing experiences of different faith communities to be examined. The results show that Muslims are more likely to live in socially rented housing than all other faith groups (28% do, as compared to 20% for the general population). Muslims are also the most likely faith group to experience poor housing conditions: 32% of Muslim households live in overcrowded accommodation, as compared to 22% of Hindu, 19% of Sikh and 6% of Christian households.³⁶ Muslims have the highest percentage of households with the highest rating for overcrowding when compared with all religious groups, and more than four times the national figure.³⁷

The Government has committed itself to ensuring that all social tenants live in decent accommodation by 2010. The concentration of minority ethnic households in such accommodation means that one in ten minority ethnic households will benefit from this measure.³⁸

The housing needs of Travellers and Gypsies can be significantly different from that of the settled community. A particular issue for Travellers is the need for camping sites. Travellers themselves vary in their need for such sites, as they range from full time and seasonal travellers to special occasion and settled travellers. Even those that are settled may still have a ‘cultural aversion’ to bricks and mortar. For Gypsies

³³ *English Housing Condition survey 2001*, The Office of the Deputy Prime Minister, 2003, London, p. 28-32.

³⁴ *English Housing Condition survey 2001*, The Office of the Deputy Prime Minister, 2003, London, p. 57.

³⁵ *English Housing Condition survey 2001*, The Office of the Deputy Prime Minister, 2003, London, p. 58

³⁶ *Focus on Religion*, Office of National Statistics, 2004, London, p. 11.

³⁷ Hussein, S., *An Introduction to Muslims in the 2001 Census* at p. 16, the paper was presented on 7 September 2004 at the Muslims in Britain network meeting, Selly Oaks, University of Birmingham, available on-line at: <http://www.bristol.ac.uk/sociology/ethnicitycitizenship/urcresearch.html>

³⁸ *Improving Opportunity, Strengthening Society: The Government’s Strategy to increase race equality and community cohesion*, Home Office, 2005, London, p. 10.

and other Travellers in settled social housing, discrimination and racism are significant problems.

The duty to provide sites lies with local authorities. They are left to determine how sites are provided. Research indicates that local authorities are reluctant to provide sites for fear of attracting more Travellers to their area. As a result, there are an estimated 3000 unauthorised sites.³⁹ Travellers come within the statutory definition of homelessness if they are without an authorised place to stop. The lack of permanent sites for camping is a major factor in the high homelessness rate for Travellers, 18% of Travellers are homeless, compared to 0.6% of the settled community.⁴⁰ Gypsies and Travellers without permanent sites face considerable barriers in accessing health and education services and this is a major factor in their over representation in nearly all indices of deprivation and social exclusion. Housing laws rarely cover caravan sites. Gypsies on caravan sites have less security of tenure than any other residents and can face eviction within 28 days from a site they have occupied for years. Recommendations for reform have included calls to bring permanent and transit sites within the broader housing and planning system so that better planning of provision is made.⁴¹

Where sites are provided they are located remote from amenities and services and in poor quality areas that would be unsuitable for other residential use. In Northern Ireland, Travellers are eight times more likely to live in over-crowded conditions in comparison with the general population. Moreover, many Travellers still have extremely limited access to basic amenities such as running water, electricity and sanitation, including some of those living on serviced sites.⁴² In England 70% of sites are a kilometre from a primary school and over half are a kilometre from a post office. Compared to other housing, sites are more likely to suffer from litter, heavy traffic, vandalism, the presence of intrusive industry and derelict buildings.⁴³ A survey of the visual quality of sites found that 58% were of good or very good quality, 30% were of average quality, 10% of poor quality and 1% of very poor quality.⁴⁴ To improve the condition of existing sites, the Government has provided £16 million over three years since 2001 through the Gypsy Refurbishment Grant.

³⁹ P. Neier, *Local Authority Gypsy/Traveller Sites in England*, London: ODPM, 2003, London, p. 31.

⁴⁰ H. Crawley, *Moving Forward*, Institute of Public Policy Research, 2003, London, p. 6.

⁴¹ H. Crawley, *Moving Forward*, London: Institute of Public Policy Research, 2003.

⁴² Final Report of the Promoting Social Inclusion Working Group, Belfast, 2002 found at <http://www.newtsnni.gov.uk/consultation/contents.htm> [accessed 07/01/04]

⁴³ P. Neier, *Local Authority Gypsy/Traveller Sites in England*, London: ODPM, 2003, p. 75.

⁴⁴ P. Neier, *Local Authority Gypsy/Traveller Sites in England*, London: ODPM, 2003, p. 76.

The improvement of site provision has been accompanied by greater police powers for dealing with unauthorised sites.

4.4 Health

There are also indications that the deprivation and disadvantage experienced by many minority ethnic people in the UK may also have implications for their health status. It is estimated that on average Gypsies and Traveller men and women have a life expectancy that is respectively ten and twelve years less than that of the general population.⁴⁵ Research by the Department of Health confirms that many health problems were between two and five times more prevalent among Gypsy and Traveller groups. The report noted that Gypsies and Travellers expected to encounter difficulty in accessing healthcare provision and expected to encounter racism and prejudice.⁴⁶

The 2001 Census asked the following question on health: ‘Over the past twelve months would you say your health has on the whole been Good, Fairly Good, Not Good’. Pakistanis and Bangladeshis were the most likely to report that their health was ‘not good’ and had the highest rates of disability, one and a half times that of White people. White Irish and Pakistani women in England had higher GP contact rates than women in the general population. Bangladeshi men were three times more likely to visit the GP than men in the general population, after standardising for age.⁴⁷ Pakistani and Bangladeshis also have the highest rates of diagnosed heart disease.

4.5 Crime and Criminal Justice

Statistics from the British Crime Survey (BCS) 2003/04 show that those from mixed ethnic and Asian groups face a significantly higher risk of being the victim of crime. White and Black people face similar levels of risk and people from ‘Other’ ethnic groups have the lowest levels of risk.⁴⁸ Age is a significant variable in the risk of being a victim of crime. Analysis of earlier BCS statistics indicated that, the higher risks of victimisation experienced by Asian people disappeared after allowing for

⁴⁵ Crawley, H., *Moving Forward: Provision of Accommodation for Travellers and Gypsies*, Institute for Public Policy Research, 2003, London.

⁴⁶ Parry G, van Cleemput P., Peters J., Moore J., Walters S., Thomas K., and Cooper C., *the Health Status of Gypsies and Travellers in England*, A Report of Department of Health Inequalities in Health Research Initiative Project 121/7500, Department of Health, 2004.

⁴⁷ *Focus on Ethnicity and Identity*, Office for National Statistics, 2004, London, p. 13.

⁴⁸ Barclay, G., Munley, A., and Munton, T., *Race and the Criminal Justice System: An overview of the complete statistics 2003-2004*, Criminal Justice System Race Unit, 2005, London, p. 3.

age.⁴⁹ All minority ethnic groups report higher levels of worry about burglary, car crime and violent crime than the White group. A quarter of Black and Asian people reported being 'very worried' about burglary compared to 11% of White people; one third of people from Black and Asian groups reported feeling very worried about violent crime compared to 14% of White people.⁵⁰ In 2002/03 compared to a White person, Black people were five times more likely, and Asian people twice as likely, to be victims of a homicide.⁵¹

The disproportionate representation of minority ethnic groups in the criminal justice system remains a significant concern. Black people are six times more likely to be stopped and searched, three times more likely to be arrested and seven times more likely to be in prison than White people. According to Home Office statistics across all police forces in 2002/03, there was a 36% increase in the number of Asian, 38% increase in the number of Black people and 47% increase in the number of 'other minority ethnic groups' stopped and searched under the Police and Criminal Evidence Act.⁵² This is not due to differing levels of involvement in criminal activity; the Home Office Crime and Justice survey indicates that Black people are no more or no less likely to commit crime than their White counterparts. The British Crime Survey suggests that drug use is significantly less common among young Black people relative to their White counterparts.⁵³ The disproportionate representation of Black people in the criminal justice system seems to be the result of the impact of institutional racism within the criminal justice system itself.

The persistence of racism in the police force and the failure of the current race equality training measures to address this were exposed in by the BBC documentary, *The Secret Policeman*, shown in October 2003. Following the broadcast, the Commission for Racial Equality was asked in December 2003 to carry out a Formal Investigation into the Police Service of England and Wales. The focus of the investigation is on the adequacy of race equality schemes drawn up by police authorities and forces, the screening and training of recruits, the identification and

⁴⁹ Salisbury, H., and Upson, A., *Ethnicity, Victimization and Worry about Crime: findings from the 2001/02 and 2002/03 British Crime Surveys*, Home Office Research Findings No 237, Home Office, 2004, London.

⁵⁰ Barclay, G., Munley, A., and Munton, T., *Race and the Criminal Justice System: An overview of the complete statistics 2003-2004*, Criminal Justice System Race Unit, 2005, London, p. 4.

⁵¹ Barclay, G., Munley, A., and Munton, T., *Race and the Criminal Justice System: An overview of the complete statistics 2003-2004*, Criminal Justice System Race Unit, 2005, London, p. 5.

⁵² *Statistics on Race and the Criminal Justice System: A Home Office publication under section 95 of the Criminal Justice Act 1991*, Home Office, 2004, London, p. 27.

⁵³ Barclay, G., Munley, A., and Munton, T., *Race and the Criminal Justice System: An overview of the complete statistics 2003-2004*, Criminal Justice System Race Unit, 2005, London, p. iv.

management of racist behaviour, the effectiveness of disciplinary and grievance procedures and the effectiveness of inspectorates. In June 2004 the CRE published the interim report of its formal investigation of the Police Service of England and Wales.⁵⁴ The investigation examined the race equality schemes for 15 police forces, and eight police authorities and found that in only one instance did the scheme meet minimum legal requirements.⁵⁵ The CRE has subsequently threatened the police forces and authorities with legal action if they continue to fail to comply with their legal duties.⁵⁶

In January 2004 the Metropolitan Police Service set up an independent inquiry, led by Sir Bill Morris, into its handling of professional standards and employment matters. Although the inquiry was not focused directly on racism, concerns about discrimination formed the background to the setting up of the inquiry, in particular the handling of internal investigations concerning minority ethnic police officers.

In light of the above, it is not surprising that the minority ethnic community's level of confidence in the criminal justice system is low. A study of the Home Office shows that a lower proportion of minority ethnic respondents (58%) than respondents over all (63%) have confidence about how crime is dealt with in the area where they live.⁵⁷ The Government has set a national target to increase by 3% minority ethnic groups' confidence in the effectiveness of the criminal justices system in bringing offenders to justice. The Government also intends to set local targets for increased confidence in areas where there are high minority ethnic populations.⁵⁸

⁵⁴ *A Formal Investigation of the Police Service of England and Wales: an Interim Report*, Commission for Racial Equality, 2004, London.

⁵⁵ *A Formal Investigation of the Police Service of England and Wales: an Interim Report*, Commission for Racial Equality, 2004, London, p. 15.

⁵⁶ "CRE to take enforcement action against police forces and authorities" CRE Press Release, 14 June 2004.

⁵⁷ Page, B., Wake, R., and Ames A., *Public Confidence in the Criminal Justice System*, Home Office Research Findings 221, Home Office, 2004, London, p. 1.

⁵⁸ *Improving Public Satisfaction and Confidence in the Criminal Justice System Framework Document*, Home Office, 2003, London.

5. New legislative developments

5.1 Employment Equality (Religion or Belief) Regulations

The Employment Equality (Religion or Belief) Regulations 2003 (SI 2003/1660) came into force on December 2 2003. The regulations aim to implement the Employment Directive 2000/78/EC. The regulations prohibit direct and indirect discrimination, harassment and victimisation on grounds of religion and belief, in respect of employment and vocational training. They also apply to discrimination by institutions (including universities), which provide further or higher education.

While the additions to the legislation are welcome, the legislative framework remains uneven and inconsistent. There remains no protection from discrimination on the grounds of religion or belief in relation to the provision of goods, service and facilities. The Government has indicated that it will introduce legislation prohibiting discrimination on the grounds of religion or belief in the provision of goods and services but that this will only cover direct and indirect discrimination and will not cover discrimination by way of harassment.⁵⁹

Several measures have been taken to support the implementation of the new Directive. ACAS issued guidelines for employers on meeting requirements on religion and belief regulations. The Department of Trade and Industry has funded several faith community organisations to disseminate information about the new rights. However, there remains a lack of legal aid and institutional support for individuals bringing claims before employment tribunals. In effect, the Government is informing people about their new rights without providing them with the support necessary to enforce their rights.

5.2 Single Equality Bill for Northern Ireland

Steps towards the creation of a single equality Bill in Northern Ireland remain slow. The creation of a single equality bill was put forward in the Northern Ireland Assembly's first programme for Government in 2001. An initial consultation took place in 2001.⁶⁰ Following suspension of devolution by the Secretary of State for Northern Ireland in October 2002, ministerial responsibility for equality rested in the UK Government Northern Ireland Office. In July 2003 it announced that the

⁵⁹ *Improving Opportunity, Strengthening Society: The Government's Strategy to increase race equality and community cohesion*, Home Office, 2005, London, p. 40.

⁶⁰ *Promoting Equality of Opportunity: A Single Equality Bill for Northern Ireland*, Office of the First Minister and Deputy First Minister, 2001, Belfast.

consultation for a single equality bill would be taken forward by way of a Green Paper. In June 2004 the UK Government Minister with responsibility for equality in Northern Ireland, John Speller, launched a discussion paper for option for a single equality bill in Northern Ireland.⁶¹ The consultation period ran until November 2004.

5.3. Racist Violence

The Attorney General's powers to challenge unduly lenient sentences were extended in October 2003 to include racially and religiously aggravated offences, following a recommendation by the Crown Prosecution Service Inspectorate. In March 2004 the Court Appeal increased the sentence of an offender for racially aggravated violence following an appeal by the Attorney General.⁶²

5.4 Incitement to Religious Hatred

The Public Order Act 1986 created an offence of incitement to racial hatred. The gaps and anomalies that arise from the present law on incitement to racial hatred have been apparent for some time. Some religious groups (e.g. Jews and Sikhs) are covered by existing incitement to racial hatred laws as a result of decisions made by the courts. However this is on the basis of those groups also having a distinct ethnic origin. The existing law does not protect individuals belonging to other religions that do not have distinct ethnic origins (e.g. Christians or Muslims).

There is evidence that organisations such as the BNP are specifically exploiting this loophole in their campaign strategy by focusing their attacks on Muslims rather than any particular minority ethnic group. In evidence to the 2003 House of Lords Select Committee on Religious Offences, many organisations, including the Association of Chief Police Officers, gave examples of problems where they faced difficulties responding under existing legislation alone and where the extension of the incitement provision to religious hatred would help them combat extremism.

Attempts were initially made by the Government to introduce legislation on incitement to religious hatred after 11 September in the Anti-Terrorism Crime and Security Bill 2001. Proposals were withdrawn after opposition in the House of

⁶¹ *A Single Equality Bill for Northern Ireland: A Discussion Paper on Options for a Bill to harmonise, update and extend, where appropriate anti-discrimination and equality legislation in Northern Ireland*, Office of the First Minister and Deputy First Minister, June 2004, Belfast. See also: <http://www.nics.gov.uk/press/ofmdfm/040622a-ofmdfm.htm> [accessed 28 February 2005]

⁶² "Hate crime data show confidence building efforts are yielding results," Press Release, Attorney General's Chambers, 6 April 2004. See: http://www.lslo.gov.uk/pressreleases/rims_comment_06_04_04.doc

Lords. Some members of the House of Lords felt that the context of a package of emergency anti-terrorism measures, brought in the aftermath of the September 11 atrocities, was not an appropriate place to introduce such a measure. There were also concerns about the need for more time for debate on the impact on free speech of an incitement to religious hatred provision and that it should be pursued as part of a wider package of measures to address discrimination on religious grounds.

In 2002 an attempt was made to introduce the offence of incitement to religious hatred by Lord Avebury in a Private Members Bill. In 2003 evidence and arguments for and against the creation of such an offence was also considered by a House of Lords Select Committee on Religious Offences.

On 7 July 2004 the Home Secretary announced his intention to introduce an offence of incitement to religious hatred as soon as the legislative opportunity arises. This is now being introduced through clause 119 and schedule 10 of the Serious Organised Crime and Police Bill 2004. The introduction of this new offence has the support of the CRE and other organisations including Justice and the Muslim Council of Britain. However, concerns about it have been expressed by opposition political parties and the human rights group Liberty.

The Bill will make it an offence for a person to use words or behaviour or materials that they know are threatening, abusive or insulting and which is either intended to stir up racial or religious hatred; or having regard to all of the circumstances the words, material or behaviour are (or is) likely to be heard or seen by any person in whom they are (or it is) likely to stir up racial or religious hatred (the 'likelihood test').

Thus there are two limbs to the offence. Under the first limb there must be words/actions that are threatening, abusive or insulting. The defendant (D) must know that the words/actions are threatening, abusive or insulting. Once this first limb is established D can commit the offence in one of two ways.

This takes us to the second limb. Either D has the intent to stir up religious hatred or D can also commit the offence in the absence of any intention to stir religious hatred where the 'likelihood test' is satisfied, that is

“Having regard for all of the circumstances the words, material or behaviour are (or is) likely to be heard or seen by any person in whom they are (or it is) likely to stir up racial or religious hatred.”

‘Religious Hatred’ is defined as:

“Hatred against a group of persons defined by reference to religious belief or lack of religious belief.”

The legislation does not aim to criminalise material that just stirs up ridicule, prejudice, dislike, contempt or anger or which simply causes offence. The Government argues that the new offence covers stirring up hatred against groups that are targeted for their beliefs, but does not provide protection for the beliefs themselves. The provision aims to ‘protect people not ideologies.’ Critics argued that this distinction between hatred of a religion and its ideas but not of its followers is one that the Courts will find hard to make.

There is also concern about the lack of certainty in the legislation about what words/actions would lead to prosecution. In order for there to be an offence, words/action must be likely to stir up hatred against a religious group. Whether words have this effect is contextual, and certain words would be acceptable in one context may not be acceptable in another.

The new Bill creates a new likelihood test to that which exist at the moment in relation to incitement to racial hatred. If the Bill is passed the new likelihood test would apply to both racial and religious hatred. Under the old likelihood test an offence is committed where:

“Having regard to all the circumstances racial hatred is likely to be stirred up thereby’. Under the new ‘likelihood test’ an offence is committed where ‘having regard to all of the circumstances the words, material or behaviour are (or is) likely to be heard or seen by any person in whom they are (or it is) likely to stir up racial or religious hatred.”

According to the Government, this amendment is intended to make it clear that it is not necessary to prove that the offending material would have been seen or heard by such a person, though the court must decide in all the circumstances whether that is likely to be the case. In their view, without this clarification the offence could be ineffective in cases where it is clear that the material was used in circumstances where it is likely that hatred would have been stirred up, but the only person who can be proved beyond doubt to have seen it is a police officer or other responsible citizen who has passed it to the authorities.

The AGs consent is needed before a prosecution is started. The Government argues that this provides a further layer of protection from abuse of the new law. The Government has indicated that they do not expect a large number of prosecutions, just as there have not been a large number of prosecutions under incitement to racial hatred. In the past 3 years 84 cases have been referred to the CPS, of which 4 proceeded to prosecution and of which 2 resulted in convictions. The offence has however provided a powerful deterrent to the conduct of racist organisations.

6. Government and NGO activities carried out under ‘National Action Plans’

In June 2004 the Government launched a consultation on its race equality strategy, in a document entitled *Strength in Diversity*. In the paper, the Government acknowledged that it did not have all the solutions and was looking for ideas from others on how to develop its race equality strategy. Unfortunately, while it sought input from minority ethnic and other communities it was criticised for not providing a significant period of time in which that consultation could take place. The deadline for submission for responses to the consultation was in September 2004. The 1990 Trust in its response to the consultation paper argued that:

“The time period for consultation which was over the holiday period raised questions about the seriousness of the Government’s intentions to hold a consultation at all.”⁶³

Stakeholder groups were commissioned by the Home Office to carry out consultation exercises with minority ethnic groups and marginalised groups not always included in consultation exercises. The 1990 Trust was able to organise seven consultation meetings across the UK in which 370 mainly organisational representatives attended. The Government received 250 responses in total from a range of community and voluntary sector organisations, local authority and district councils, ethnic minority organisations and individuals.

Strength in Diversity did not set out a series of policy options but identified four broad themes. Firstly, promoting inclusive notions of citizenship, identity and belonging; secondly, eradicating racism and extremism; thirdly, tackling inequality and opening opportunities for all, and finally building cohesive communities. Both the Runnymede Trust and the 1990 Trust expressed concern about the lack of any reference in the consultation paper to the Durban Declaration and the National Action Programme Against Racism (NAPAR).⁶⁴ In the view of the 1990 Trust the concentration on four main Home Office issues reads as though:

⁶³ *Strength in Diversity: A Response from the 1990 Trust and associated Organisations*, September 2004, London, p. 13.

⁶⁴ *Response to Strength in Diversity – Towards a Community Cohesion and Race Equality Strategy*, Runnymede, 2004, London.

“The NAPAR agenda has been usurped by fears about integration, citizenship, immigration and cohesion which in turn seem based on the events since 9/11 and particularly based on concerns about ‘religious extremism.’”⁶⁵

The Government has subsequently said that its strategy reinforces the implementation of their obligations under the International Convention for the Elimination of All Forms of Racial Discrimination and its commitment to develop a National Action Plan Against Racism as agreed at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.⁶⁶

Many of those who responded to *Strength in Diversity* felt that there should be a stronger focus in the strategy on tackling structural and institutional inequalities, including institutional racism.⁶⁷ From the response to the consultation it was clear that:

“Minority ethnic stakeholders particularly felt that there needed to be a stronger and continuing consultation with communities to ensure that practices, policies and services, take on the views and needs of minority ethnic groups.”⁶⁸

Respondents also felt that the Commission for Racial Equality should:

“...play a more strategic role in enforcing the legislation more effectively and be more accountable to minority ethnic groups.”

Following the consultation, the Government set out its race equality strategy in *Improving Opportunity, Strengthening Society*.⁶⁹ The document states that at the heart of the Government’s strategy is ‘an overarching objective to reduce race inequalities’. The reduction of race inequalities is tied in to Public Service Agreement (PSA) targets for the period 2005-2008. The PSA targets will include specific goals to reduce perceptions of discrimination in a wide range of public services, reduce employment inequalities and monitor the progress of minority

⁶⁵ *Strength in Diversity: A Response from the 1990 Trust and associated Organisations*, September 2004, London, p. 11.

⁶⁶ *Improving Opportunity, Strengthening Society: The Government’s Strategy to increase race equality and community cohesion*, Home Office, 2005, London, p. 22.

⁶⁷ *Strength in Diversity, Towards a Community Cohesion and Race Equality Strategy- A Summary of Responses to the Consultation*, Home Office, 2005, London, p. 8.

⁶⁸ *Strength in Diversity, Towards a Community Cohesion and Race Equality Strategy- A Summary of Responses to the Consultation*, Home Office, 2005, London, p. 10.

⁶⁹ *Improving Opportunity, Strengthening Society: The Government’s Strategy to increase race equality and community cohesion*, Home Office, 2005, London.

ethnic communities across major public services, from education to health.⁷⁰ The strategy also acknowledges that:

“Generic programmes of support are important but not always sufficient’ and that ‘focused support is often appropriate in helping disadvantaged Black and minority ethnic groups.”⁷¹

⁷⁰ *Improving Opportunity, Strengthening Society: The Government’s Strategy to increase race equality and community cohesion*, Home Office, 2005, London, p. 8.

⁷¹ *Improving Opportunity, Strengthening Society: The Government’s Strategy to increase race equality and community cohesion*, Home Office, 2005, London, p. 16.

7. Victims' perception of racism and racial violence and racial violence

7.2 Perceptions of Racism

The results of the 2003 Home Office Citizenship Survey provide detailed evidence of people's perceptions of racial prejudice and discrimination.⁷² The survey shows that the proportion of people feeling that there is now more racial prejudice in Britain than five years ago increased from 43% in 2001 to 47% in 2003. Among minority ethnic groups, 39% of Pakistanis said there is more racial prejudice now than five years ago, compared to Indians 31%, people of mixed race 30%, Bangladeshis 25%, Black Caribbeans 24% and Africans 14%. However, the highest figure is found among the ethnic White group where almost half (49%) said there was more racial prejudice now than five years ago. People who said there was more racial prejudice today were asked whom this prejudice was likely to be against. 55% said there was more prejudice against 'asylum seekers' or 'refugees', 38% identified Asian people, 19% Black people, 18% cited prejudice against 'new immigrants' and 17% against Muslims.⁷³

Bangladeshis (36%) and Black Africans (35%) were the most likely to report that there was less prejudice today than five years ago, while around a quarter of Black Caribbeans, Indians and Chinese found this. Among the 30% of Black people who said there was less prejudice today, 84% said there was less prejudice against Black people. Similarly, among the 27% of Asian people who said that there was less prejudice today, 78% said there was less prejudice against Asian people.⁷⁴

The survey also examined whether, compared to people from other ethnic and racial groups, they would face discrimination by a range of organisations. The local GP practice, the local school and a bank or building society were among the organisations that were most trusted not to discriminate on the grounds of race. The organisations considered to be most discriminatory were immigration authorities, police, private landlords, council housing departments and the prison service. On the whole people from minority ethnic communities were more likely than White people to feel they would be treated worse than others. However, there are also considerable differences between different minority ethnic groups.

⁷² 2003 *Home Office Citizenship Survey: People, Families and Communities*, Home Office Research Study 289, Home Office Research, Development and Statistics Directorate, 2004, London.

⁷³ 2003 *Home Office Citizenship Survey: People, Families and Communities*, Home Office Research Study 289, Home Office Research, Development and Statistics Directorate, 2004, London, pp. 74-75.

⁷⁴ 2003 *Home Office Citizenship Survey: People, Families and Communities*, Home Office Research Study 289, Home Office Research, Development and Statistics Directorate, 2004, London, pp. 79-80.

For example, expectation of discrimination by the police was significantly higher among Black Caribbean people (40%) than Bangladeshis (30%) Black Africans (28%) and lower amongst Pakistanis (28%), Mixed Race (25%) and Indians (20%). Only 5% of White people thought they would be treated worse than other racial groups, while 29% of White people thought that, as White people, they would be treated better than other groups.⁷⁵ Half of White people said that, as White people, they would be treated better than another group by at least one organisation. Among Asian people who said they would be treated worse than other groups, 85% cited White people as the group that would be treated better than them. Among Black people, 88% cited White people and 21% cited Asians as the groups that would be treated better than them.⁷⁶

Asian and Black people considered race discrimination as the main obstacle to obtaining a job or promotion. Of those who had been refused a job in the past five years, Black Africans were the most likely (35%) to cite race as the reason, followed by Bangladeshis (24%) Indians (23%) Mixed Race (23%) Black Caribbeans (15%) and Pakistanis (12%). Only 1% of White respondents cited racial discrimination as a reason for being refused a job. Perceptions of religious discrimination, lower than perceptions of racial discrimination, were highest for Bangladeshi (13%) and Pakistanis (9%).⁷⁷

Racial discrimination was seen as more significant in relation to refusals for promotion in the past five. Over half of Pakistanis, Indians, and Africans cited racial discrimination in relation to promotion. The figure was lowest for Black Caribbean (44%) and mixed race (40%) workers. 27% of Pakistanis, 12% of Indians and 7% of Africans cited religion as a reason for being refused promotion in the past five years.⁷⁸

7.2 Muslim Experiences of racism and Islamophobia

Evidence is also growing of the extent of Islamophobia or anti-Muslim racism experienced by Muslims in the UK. Research prior to 11 September 2001 found that

⁷⁵ 2003 *Home Office Citizenship Survey: People, Families and Communities*, Home Office Research Study 289, Home Office Research, Development and Statistics Directorate, 2004, London, p. 86.

⁷⁶ 2003 *Home Office Citizenship Survey: People, Families and Communities*, Home Office Research Study 289, Home Office Research, Development and Statistics Directorate, 2004, London, p. 93

⁷⁷ 2003 *Home Office Citizenship Survey: People, Families and Communities*, Home Office Research Study 289, Home Office Research, Development and Statistics Directorate, 2004, London, p. 103.

⁷⁸ 2003 *Home Office Citizenship Survey: People, Families and Communities*, Home Office Research Study 289, Home Office Research, Development and Statistics Directorate, 2004, London, p. 104.

Muslims were the most likely to report ‘very serious’ problems or experiences in relation to seven out of nine indicators of unfair treatment.⁷⁹

A 2004 survey of over 1000 Muslims, asking them about their experiences of discrimination, found that 80% of respondents experienced some religious discrimination.⁸⁰ This large-scale study echoes findings by other Muslim NGOs, which found that since 11 September 2001, 80% of Muslim respondents reported being subjected to Islamophobia; that 68% felt that they had been perceived and treated differently; and that 32% reported being subjected to discrimination at UK airports.⁸¹ This is a significant increase from surveys in 1999 (35%) and in 2000 (45%). The survey found significant variation in the frequency of discrimination experienced. 15% did not experience any discrimination, the majority (55%) reported experiencing discrimination only on some occasions, 7.7% experienced discrimination on a monthly basis, 8% on a weekly basis and 8% reported experiencing discrimination on a daily basis.⁸² The survey examined the relationship between the level of ‘religiosity’ and experiences of discrimination. The survey found that there was a:

“...meaningful relationship between religiosity and discrimination. While 26% of secular and 23% of cultural Muslims never experienced discrimination, among highly practicing and practicing Muslims the figures for those who never experienced discrimination is 12% and 15% respectively.”⁸³

In previous surveys there was a significant gender gap, with Muslim women experiencing higher levels of discrimination than men. It was assumed that this was because Muslim women were often more visible than men. However, the 2004 survey found the gender gap had closed. The IHRC suggests that one probable reason for this is the increase of harassment by security forces towards Muslim

⁷⁹ Weller, P., Fieldman A., and Purdam K., *Religious Discrimination in England and Wales*, Home Office Research Study 220, Home Office, Research, Development and Statistics Directorate, 2001, London, pp. 105-6.

⁸⁰ Ameli, S., Elahi, M., and Merali, A., *British Muslim Expectations of the Government. Social Discrimination: Across the Muslim Divide*, Islamic Human Rights Commission, 2004, London.

⁸¹ Forum Against Islamophobia and Racism, Al Khoei Foundation and the Muslim College, *Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society: Discussion Paper – a Muslims Response*, FAIR, 2004, London, p.22. The FAIR survey was based on questionnaires sent out to Muslim schools, Mosques, charities, Islamic students’ societies, NGOs and members of the community. Over 200 people responded to the survey, providing information on how they had been affected by Islamophobia.

⁸² Ameli, S., Elahi, M., and Merali, A., *British Muslim Expectations of the Government. Social Discrimination: Across the Muslim Divide*, Islamic Human Rights Commission, 2004, London.

⁸³ Ameli, S., Elahi, M., and Merali, A., *British Muslim Expectations of the Government. Social Discrimination: Across the Muslim Divide*, Islamic Human Rights Commission, 2004, London, pp 26-27.

looking men. The survey also examined the relationship between ethnicity and religious discrimination. The survey found that the highest levels of religious discrimination were reported by White British Muslims.⁸⁴

⁸⁴ Ameli, S., Elahi, M., and Merali, A., *British Muslim Expectations of the Government. Social Discrimination: Across the Muslim Divide*, Islamic Human Rights Commission, 2004, London, pp. 45

8. Specific problematic areas in relation to racial discrimination

8.1 Anti-Terrorism policing

Muslims report that they face religious profiling and that they are being stopped and searched on the basis of their appearance.⁸⁵ It is difficult to obtain direct statistical evidence to support this, as data is not collected on the basis of religion. However, data on ethnicity shows, for example, that between 2001-02 and 2002-03, the number of White people stopped and searched under the Terrorism Act 2000 increased by 118%, while the corresponding increase for Black people was 230% and for Asian people 302%.⁸⁶ The higher number of stop and searches - and the gap between the number of stop and searches and that of actual arrests, charges and convictions – is leading to a perception among British Muslims of being unfairly policed, and is fuelling a strong disaffection and a sense of being ‘under siege’.⁸⁷

The Institute for Race Relations noted that in the year 2002/03 60 people a day on average were stopped and searched under terrorism legislation in England and Wales. They noted that while 13% of stop and searches under normal police powers resulted in an arrest, the arrest rate for stop and searches on suspicion of terrorism was just 1.7% and in the majority of instances the arrests were not related to terrorism. Only eighteen arrests in 2002/03 were made as a result of the stop and searches carried out.⁸⁸ Of those convicted only three have been Muslim, six of those convicted were White and their offences related to Northern Ireland.⁸⁹

According to the Forum Against Islamophobia and Racism (FAIR):

“The enforcement of anti-terrorism legislation has led to the victimisation and stigmatisation of the Muslim community.”

FAIR also found that:

⁸⁵ Liberty, *Reconciling Security and Liberty in an Open Society – Liberty Response*, Liberty, 2004, London. See also oral evidence given by the Muslim Council of Britain to the House of Commons Home Affairs Select Committee investigations into Anti-Terrorism Powers, 8 July 2004.

⁸⁶ Home Office, *Statistics on Race and the Criminal Justice System: A Home Office publication under section 95 of the Criminal Justice Act 1991*, Home office, 2004, London, p. 28.

⁸⁷ See: Liberty, *Reconciling Security and Liberty in an Open Society – Liberty Response*, Liberty, 2004, London, p. 8. See also: S. Bates, ‘Anti-Terror measures alienate Muslims’ *The Guardian*, 21 September 2004.

⁸⁸ Kundnani, A., “Analysis: the war on terror leads to racial profiling” Institute of Race Relations, 7 July 2004.

⁸⁹ “New study highlights discrimination in use of anti-terror laws,” Press Release, Institute of Race Relations, September 2 2004.

“Victimisation of Muslims under the anti-terrorism legislation has led to increased incidence of Islamophobia and racism against Muslims. This has manifested itself in the form of vandalism of Mosques, Muslim graves and homes, the increased hostility towards Muslims has also seen an increase in hate campaigns against Islam and Muslims from far right groups.”⁹⁰

Human Rights Watch has also found that the enforcement of the legislation ‘has harmed race and community relations’ and undermined the willingness of Muslims in the United Kingdom to cooperate with police and security services.⁹¹

The incarceration without trial, under anti-terrorism legislation, of detainees at HMP Belmarsh, also serves to further undermine Muslims’ confidence in the justice system.⁹² At the end of 2004 the House of Lords ruled that the incarceration of foreign (non-British nationals) was discriminatory and a violation of the ECHR. The case concerned section 23 of the *Anti-Terrorism Crime and Security Act 2001*. Under section 23 several foreign (non-British) nationals were detained without any criminal charges being placed against them. Each faced a deportation order but could not be deported from their country of origin, as they were likely to face torture there. However, the detainees were free to leave the UK if a third country could be found that would accept their presence. The detainees challenged their detention in the courts, in part on the basis that they faced discrimination in their treatment on the grounds of nationality. The Government argued that the treatment of the Belmarsh detainees, as foreign nationals, could not be compared to the treatment of UK nationals. This view was upheld by the Court of Appeal which found that UK nationals suspected of international terrorism were not an appropriate comparator because:

“Nationals have a right of abode in this jurisdiction but aliens only have a right not to be removed.”

The House of Lords rejected this view; they held that this approach was to:

⁹⁰ Forum Against Islamophobia and Racism, *A Submission to the Home Affairs Committee’s Inquiry into Terrorism and Social Cohesion*, FAIR, 2004, London, p. 4.

⁹¹ Human Rights Watch, *Neither Just nor Effective: indefinite detention without trial in the United Kingdom under Part 4 of the Anti-Terrorism, Crime and Security Act 2001*, Human Rights Watch Briefing Paper, HRW, 2004, New York, pp. 14-15.

⁹² Liberty, *Reconciling Security and Liberty in an Open Society – Liberty Response*, Liberty, 2004, London, p. 8. See also: *Concluding Observations/Comments of the UN Committee on the Elimination of Racial Discrimination*, para. 17.

“Accept the correctness of the Secretary of State’s choice of immigration control as a means to address the Al-Qaeda security problem, when the correctness of the balance is the issue to be resolved.”

In the view of the House of Lords suspected international terrorists who were UK nationals were the appropriate comparator as they were:

“In a situation analogous with the appellants because, in the present context, they share the most relevant characteristics of the appellants.”

Thus the UK may treat UK nationals differently from non-UK nationals in the context of immigration controls but it may not unjustifiably treat them differently in areas outside immigration.

9. Data collection: reliable data on discrimination cases and description of the process of collecting such data

Data collection through ethnic monitoring is an important tool for detecting discrimination, particularly institutional or structural discrimination. Identification as an ethnic group in the census is important as the census forms the baseline data for public policy. Information about ethnicity was first collected in 1991, which identified nine ethnic categories. The 2001 Census built upon this and included a 16-point structure on ethnic classification.⁹³

However, significant gaps remain in the collection of ethnic data. The main write-in response to the census 'Other' category was 'Arab'.⁹⁴ Furthermore, there was no census category for Roma/Gypsy and Irish Traveller communities, even though they are recognised as ethnic groups under the Race Relations Act 1976.⁹⁵ The Office of the Deputy Prime Minister collects estimates on the Gypsy/Traveller communities but these are deeply flawed and do not provide a viable alternative to systematic and comprehensive data collection. The ODMP figures are based on local counts on trailers on official sites or other 'known' unauthorised encampments. The estimate of the population is extrapolated from the 'estimated' occupancy per trailer. The collection of statistics here is incomplete, not least because it does not take into account the size of the settled or seasonally nomadic Traveller communities. Nor are these figures broken down further by ethnic groups to provide more detailed pictures of different Traveller communities.⁹⁶

From April 2003 all agencies of the criminal justice system were to begin collecting data on offenders, suspects, victims, witnesses and employees, based upon self classification, using the 16-point classification system employed in the 2001 Census. The adoption of this practice will make it possible to create a single common system for the collection of race and ethnic data in all agencies.⁹⁷ However it is acknowledged that it is not always possible to collect data on ethnicity by self-

⁹³ The UK 2001 Census contained a 16-point structure: 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 or Asian British (Indian, Pakistani, Bangladeshi, Any Other Asian Background); Black and Black British (Caribbean, African, Any Other Black Background); Chinese or other ethnic group (Chinese, Any Other).

⁹⁴ See: Oxford Centre for Islamic Studies, *Muslim housing experiences*, Housing Corporation, 2004, p. 7, London.

⁹⁵ See: *CRE v Dutton* 1988

⁹⁶ See: Power, C., *Room to Roam: England's Irish Travellers*, London, Community Fund, 2004.

⁹⁷ Home Office, *Statistics on Race and the Criminal Justice System – 2003. A Home Office publication under section 95 of the CJA 1991*, Home Office, 2004, London, p. 12.

classification under the 16-point structure. For example, asking a person to classify their ethnic identity may not be practical in a stop and search situation. It is also noted that while data may be collected using the 16-point classification system, reports that are then issued about minority ethnic representation within organisation and ethnicity targets that are set, tend to be presented according to a modified four or five point system (White, Black, Asian, Other and Mixed). In some instances targets are set for 'ethnic minorities' as whole. For policies to have an impact on the most disadvantaged minority ethnic communities, given the significant variations between different minority ethnic communities over most socio-economic indicators, individual targets should be set of specific minority ethnic communities where possible. For example the Government's target of employment rates of 'ethnic minorities' in the market may be achieved without significantly impacting on Black Caribbeans, Pakistanis or Bangladeshis who are the most disadvantaged minority ethnic community.

10. Discrimination cases and/or serious cases of racist attacks or attitudes

10.1 Racist incidents and offences

According to the British Crime Survey, there were 206,000 racially motivated incidents (including those on White people). The number of racist incidents reported to the police increased by 9.7% from 49,078 in 2002/3 to 52,694 in 2003/4.⁹⁸ Where there is a racial motivation to certain crimes, violence, harassment and criminal damage, the Crime and Disorder Act allows the crimes to be charged as racially aggravated offences. In 2003/04 just over 35,000 racially aggravated offences (including those experienced by White people) were recorded by the police, the majority of which (59%) took the form of harassment.⁹⁹

Between December 2001 and March 2003 there were 18 prosecutions for religiously aggravated offences. Of these ten involved Muslim victims, two Sikh victims, two Hindu victims, one Jewish victim, one Jehovah's Witness, one Christian and one victim whose religion was not stated.¹⁰⁰

10.2 Discrimination cases

Among the most significant discrimination cases in the past year were those concerned with racism against Roma Gypsies by UK immigration authorities (see section 12 below) and discrimination in the application of anti-terrorism legislation (see section 8.1 above).

10.3 Support for racist parties

One indicator of racist attitudes is the level of support for racist parties such as the BNP. The BNP has in recent years sought to downplay its racism; this was exposed in the BBC documentary *The Secret Agent*, broadcast in July 2004. Opportunities to vote for the BNP arose in June 2004 when elections to the European Parliament were held across the UK. In some areas there were also local council elections and in London, elections to the London Assembly and for the Mayor of London.

⁹⁸ Barclay, G., Munley, A., and Munton, T., *Race and the Criminal Justice System: An overview of the complete statistics 2003-2004*, Criminal Justice System Race Unit, 2005, London, p. v.

⁹⁹ Barclay, G., Munley, A., and Munton, T., *Race and the Criminal Justice System: An overview of the complete statistics 2003-2004*, Criminal Justice System Race Unit, 2005, London, p. 5.

¹⁰⁰ Racist Incident Monitoring Scheme, (2003) *Annual Report 2002-2003*, London: Crown Prosecution Service.

For election to the European Parliament and the London Assembly, a party must win at least 5% of the votes cast. The BNP only just missed breaking the 5% barrier and thus winning a seat in the European elections. It polled 4.9% of the vote, an increase of their 1999 result. In the London Assembly elections, the BNP narrowly missed gaining a seat, winning 4.6% of the votes, an increase from 2% in 2000. However, in some London areas, Havering and Redbridge, and City and East, the BNP vote was over 8%. Julian Leppert stood as the BNP mayoral candidate in London and gained 3% of first preference and 3.7% of second preference votes.

In addition to the votes cast, analysis of opinion polls and surveys at the time of the elections have led to suggestions that:

“There is a ‘racist rump’ of electors who have strong views on immigration and would consider voting for small parties of the right even if they do not do so currently.”¹⁰¹

They calculate this ‘racist rump’ to be at around 20%.

¹⁰¹ Margetts, H., John P., and Weir S., *Latent Support for the Far-Right in British Politics: the BNP and UKIP in the 2004 European and London Elections*, paper to the Political Studies Association EPOP conference, University of Oxford, September 10-12 2004.

11. Media coverage of discrimination

In relation to Gypsies and Travellers, the CRE has argued that the media's 'routine use of racist language and vicious stereotypes has legitimised public prejudice and made it more difficult for local authorities who find themselves caught between their responsibilities for planning and housing and hostile demands from members of the public to "move them on". In an opinion poll for MORI, one third of adults admitted being personally prejudiced against Gypsies and Travellers, the main sources of acknowledged prejudice were newspapers (33%) and television (34%).¹⁰² The Gypsy and Traveller Law Reform Coalition noted that 2004 had:

"...seen some of the worst race reporting witnessed in the UK. In March 2004 the Express played upon racist stereotypes against Gypsies/Roma and claimed that when the Eastern European accession states entered the EU hundreds of thousands of Roma/Gypsies would 'flood' into the UK to 'leech off the UK'. Journalists on the Express called upon the Press Complaints Commission to assist them in resisting the instruction of their editors and management to write such articles which they believed to be in breach of the National Union of Journalists code of conduct...The UK has witnesses a spate of media reports on planning cases involving Gypsies and Travellers. The reports have often been one sided and grossly inaccurate, also emotive language has been used, Traveller being referred to as 'thugs' and 'rural terrorists' and 'outlaws'."¹⁰³

In its response to the Strength in Diversity, the Gypsy and Traveller Law Reform Coalition commented on:

"...the need for much more to be done to positively promote Gypsy and Traveller representation in decision making forums and the media so that the general public can have greater contact and awareness of Gypsies and Travellers. Such a measure would do a great deal to end the negative stereotyping from which Gypsies and Travellers suffer."¹⁰⁴

The Institute of Race Relations also explores how press reporting around anti-terrorism arrests contributes towards an atmosphere of Islamophobia, they note that:

¹⁰² *Gypsies and Travellers: A Strategy for the CRE*, Commission for Racial Equality, 2004, London, p. 7.

¹⁰³ The Gypsy and Traveller Law Reform Coalition, *A report by the Gypsy and Traveller Law Reform Coalition which assesses the Progress made by the UK Government on Traveller issues in relation to the: concluding observations of the Committee on the Elimination of Discrimination*, 2004.

¹⁰⁴ *Strength in Diversity, Towards a Community Cohesion and Race Equality Strategy- A Summary of Responses to the Consultation*, Home Office, 2005, London, p. 21.

“In numerous occasions there is great media fanfare as the police herald the arrest of a so-called terrorist cell, only for the cases to be quietly dropped days, weeks or months later.”

They give the example of ten Iraqi and North African men who were arrested in April 2004 in Manchester, Staffordshire and Yorkshire and the West Midlands on suspicion of involvement in a plot to bomb Old Trafford football ground. Details of the alleged attack plan were leaked to the media, making for extensive coverage. The men were held for eight days for questioning yet no terrorism charges were brought. It later emerges that the so-called terrorists were ardent Manchester United fans. Furthermore, while arrests receive significant coverage, the conviction of non-Muslims is not widely reported.

“...So the public is left with the impression that the criminal justice system is successfully prosecuting Muslim terrorists in Britain. The reality is that large numbers of Muslims are being arrested, questioned and released while the majority of those actually convicted in an open criminal trial are non-Muslims.”¹⁰⁵

¹⁰⁵ “New study highlights discrimination in use of anti-terror laws,” Press Release, Institute of Race Relations, 2 September 2004. See also Fekete L., “Anti-Muslim racism and the European Security State” *Race and Class* 46(1) 2004 3-29.

12. Ethnic and racial discrimination in migration laws/policies

2004 saw the implementation of a new *Asylum and Immigration Act*. As Sonali Naik, the chair of the Joint Committee for the Welfare of Immigrants (JCWI) noted:

“The new Act heralds another stage in the Government’s continuing drive to toughen Britain’s stance on asylum through the criminalisation of those seeking protection, withdrawal of support from families, and increased fast tracking and detention. This never-ending flow of increasingly harsh measures has not only eroded the rights of migrants and refugees, but has also helped to set the negative tone of the immigration debate. It has given fuel to the populist media’s unabated onslaught in demonising refugees and asylum seekers.”¹⁰⁶

Section 36 of the 2004 Act introduced new powers enabling electronic tagging for those that are liable for immigration detention. The JCWI is among several refugee and human rights groups that has opposed this measure, arguing that:

“Detention, electronic tagging and tracking of asylum seekers, failed or not, are wrong in principle because they criminalise people that have committed no crime.” Furthermore, such measures they argue are “...out of proportion to the scale of any reporting issues because the vast majority of asylum seekers are at liberty to and do comply with reporting restrictions.”

Habib Rahman JCWI chief executive said that:

“Tagging and tracking are usually penalties for serious crimes and their use on asylum seekers is unjust and cruelly stigmatising.”¹⁰⁷

The Government has also introduced changes to the law that remove access to free NHS treatment for failed asylum seekers.¹⁰⁸ This will remove access to most free secondary (hospital) health care. The only exceptions are to allow a person to access free treatment in an emergency via accident and emergency departments. There are plans to introduce regulations that would exclude failed asylum seekers from accessing free primary (general practitioner) services.

¹⁰⁶ Joint Council for the Welfare of Immigrants, *2003-04 Annual Review*, JCWI, 2004, London, p. 4.

¹⁰⁷ *Statement of the Joint Council for the Welfare of Immigrants on new regulations on tracking and tagging of asylum seekers coming into force on Friday 1 October 2004*, JCWI Press Release, 22 September 2004, London.

¹⁰⁸ See: *National Health Service (Charges to Overseas Visitors)(Amendment) Regulations 2004 SI 614*

The most significant development in relation to discrimination in the area of immigration was the House of Lords ruling in December 2004 on a case challenging the practice of British immigration officers at Prague airport.¹⁰⁹ The legal challenge was to the practice put in place in July 2001 by which UK immigration officers screened all passengers boarding planes at Prague airport to prevent those that may claim asylum in the UK from travelling there. Evidence showed that this policy was used almost exclusively against Roma and that the Roma were 400 times more likely to be refused entry to the UK than non-Roma, that Roma were questioned for longer than non-Roma and that 80% of Roma were taken for a second interview while this only happened for 1% of non-Roma. At first instance, the High Court had found that there was no discrimination, the Court of Appeal then held that there was discrimination against Roma but that this was justified as the Roma were more likely than non-Roma to seek asylum.

The House of Lords found that while there may be good reasons for treating Roma more sceptically than non-Roma, this involved acting on racial grounds. Stereotyping on racial grounds was wrong and constituted direct racial discrimination and so could not be justified under the RRA. Baroness Hale in her judgment said:

“All the evidence before us supports the inference that Roma were, simply because they were Roma, routinely treated with more suspicion and subjected to more intensive and intrusive questioning than non-Roma.”

Thus the practice was ‘inherently and systematically discriminatory against Roma’. Commenting on the ruling, Shami Chakrabarti, director of Liberty, said that the ruling exposed the racism at the heart of the Government’s asylum policy.¹¹⁰

¹⁰⁹ *R. v Immigration Office at Prague Airport and another ex parte European Roma Rights Centre and others* [2004] United Kingdom House of Lords 55.

¹¹⁰ ‘Law Lords rule that Roma exclusion policy discriminatory’ Press Release, Liberty, 9 December 2004.

13. Services available for victims of racism

13.1 The Commission for Racial Equality

The Commission for Racial Equality is the main body with responsibility for enforcing legislation on racial discrimination and promoting good race relations. The CRE is able to provide support and assistance to victims of discrimination and to undertake Formal Investigations on racism. The Race Relations Act limits the CRE's powers. It does not have direct responsibility for enforcement of the regulations on religious discrimination. This means that minority groups that face discrimination on the grounds of religion or belief do not have any institutional support for bringing discrimination cases. They are left to rely on law centres and trade unions. Many of the most marginalised in society often work in sectors where they do not have access to trade unions. Legal aid is not available for representation in discrimination cases. Government funding is limited to providing advice and information.

Romany Gypsies¹¹¹ are recognised as an ethnic group and therefore come within the scope of the Race Relations Act 1976. As a consequence, the Commission for Racial Equality is able to provide support and assistance to Roma victims of racism. In April 2004 the CRE launched a three-year strategy for addressing the racism and discrimination faced by Gypsies and Travellers. Commissioner Sarah Spencer said that discrimination against Gypsies and Travellers appeared to be the last 'respectable' form of racism. It is still acceptable to put 'No Traveller' in pubs and shops. The CRE placed securing better site provision as its top priority. In October the CRE launched an investigation to examine what local authorities were doing to promote race equality in relation to Gypsies and Irish Travellers.¹¹²

13.2 Commission for Equality and Human Rights (CEHR)

In February 2003 the Government completed its initial consultation on the future of equality legislation, *Equality and Diversity: Making it Happen*. In October 2003 the Government announced its intention to establish a single Commission for Equality and Human Rights.

To support this project a Task Force was created, chaired by Jacqui Smith the Deputy Minister for Women and Equality, to advise on the details of a new body.

¹¹¹ *CRE v Dutton* [1989] 2 WLR 17

¹¹² Commission for Racial Equality, 'Gypsy and Traveller scrutiny launched by CRE', Press Release, 18 October 2004.

The Task Force included representatives from the existing commissions, representatives from the new equality strands (sexual orientation, religion and belief, and age) as well as human rights, and representatives from the trade unions, business community and local Government. The Commission for Racial Equality and the Runnymede Trust were members of the task Force as organisations with expertise in relation to race discrimination. The Task Force held discussions, commissioned papers and reports on many key issues for the powers and scope of action for the new commission.

In May 2004 the Government published *Fairness for All*, a paper setting out its vision of the powers and scope of the new CEHR. Although this was presented as a consultation paper, many of the key decisions regarding the CEHR had already been made and were not subject to consultation or discussion. The CEHR would replace the existing Commissions, including the Commission for Racial Equality as well as enforcing the law in relation to the new areas of sexual orientation, religion or belief and age. The remit of the CEHR extends beyond discrimination to include human rights. The CEHR's role in relation to human rights is restricted to promoting a culture of respect for human rights and providing advice and guidance to public bodies. The Government emphasised the benefits of a single Commission including a coherent approach to enforcing anti-discrimination legislation.

The Commission for Racial Equality, in its response to the White Paper, rejected the Government's proposal for the creation of a CEHR.¹¹³ The CRE said that it had reached this position having posed three key tests. Firstly, are the proposals right in principle, secondly, will they work in practice and thirdly, are they an improvement on the current Commission. The CRE answered these questions in the negative and found that a positive and conclusive case for a new body had not been made. They concluded that:

“The proposals would reduce our (or a successor body's) impact and authority and the process of merger would destroy our capacity to reduce conflict within communities, to combat the rise of racist sentiment and organisations, and to meet the challenging objectives set for us by the Government itself.”

Particular concerns included the reduced focus on legal enforcement in the new body and the absence of any proposals for a single equality act. The proposal to replace the CRE with the new CEHR was also opposed by the 1990 Trust.

¹¹³ *Fairness for All: A New Commission for Equality and Human Rights - a response*, Commission for Racial Equality, 2004.

Other organisations and NGOs welcomed the creation of the CEHR but were concerned about particular aspects of the proposals. In the consultation paper, it is proposed that the CEHR, like the existing Commissions, should be an executive NDPB (Non-Departmental Public Body). As an NDPB it will have a sponsoring department. One consequence of this is that the Secretary of State will appoint members of the Commission Board and approve the appointment of its Chief Executive. The budget for the Commission is derived from the budget of the relevant Department; its annual report is submitted to the Secretary of State. The Secretary of State then puts the annual report before Parliament; as a consequence the Commission is only indirectly accountable to Parliament. A report by the Parliamentary Human Rights Committee argued that the traditional NDPB model was not appropriate for the Commission. They note that unlike other NDPBs, a key role of the CEHR will be as a public watchdog over Government, to ensure that the executive and its public bodies are complying with their duties in relation to equality and human rights. They proposed making the CEHR directly answerable to Parliament rather than to a Government department.¹¹⁴ This recommendation received broad support from a range of NGOs.

Among the innovations for the new Commission that has been welcomed by most NGOs is a duty on the Commission to consult stakeholders on its strategic plan. The key functions of the Commission include five statutory duties:

- Encouraging awareness and good practice on equality and diversity
- Promoting awareness and understanding of human rights
- Promoting equality of opportunity between people in the groups protected by discrimination law
- Working towards the elimination of unlawful discrimination and harassment
- Promoting good relations among different communities, and between these communities and wider societies

In addition to this the CEHR would:

- Keep relevant legislation under review; and
- Act as a centre of expertise on equality and human rights.

Several NGOs noted that four out of five of the CEHR's statutory duties would involve promotion. There was particular concern that the law enforcement duty, to work towards the elimination of discrimination and harassment, is listed as fourth,

¹¹⁴ Joint Committee on Human Rights, Eleventh Report, April 2004, paras. 126 – 137.

whereas it is currently the first duty in race, sex and disability legislation. In their view this reversal suggests a downgrading of the duty.

The White paper proposed extending the current duty on the CRE to promote good relations between people of different racial groups, to a more general duty to promote good relations between and within different communities. According to the Government, many of the respondents to the consultation paper sought assurances that the CEHR would continue the CRE's work in promoting safer communities and addressing issues relating to hate and incitement crime and combating prejudice. There was concern expressed by organisations from minority ethnic communities that the CRE's work would be lost within the CEHR. In response to these concerns the Government has confirmed that while the CEHR would have a role in promoting good relations between and within different communities, combating prejudice and tackling crimes such as incitement to racial hatred would be explicitly included in the CEHR's remit and that Black and minority ethnic communities would be prioritised in the CEHR's work in this area.¹¹⁵

In order to carry out its function, the White Paper sets out some of the powers that would be vested in the Commission. The paper proposed giving the Commission enforcement powers in relation to all of the equality strands including race and religion. This includes the power to undertake 'general enquiries' and a 'named investigation'. As described in the White Paper, these powers appeared to conflict with the principle of non-regression since they represent a reduction from the existing powers of the CRE, EOC and especially the DRC. For example, the White Paper provided that any general inquiries by the CEHR could not target individual bodies¹¹⁶; no such restriction applies to the CRE, EOC or DRC. Furthermore, it appeared to add a 'public interest' test to the initiation of general inquiries which is not found in the current legislation. General inquiries would not be permitted into a named organisation, even though some, like the CRE's general investigation of immigration procedures, which was aimed at the Immigration and Nationality Department of the Home Office, can only be conducted into a specific body.

The new Commission will be able to enter into binding agreements with a named person instead of taking enforcement action for unlawful discrimination. The purpose of a binding agreement is to secure change without formal enforcement; it allows organisations that recognise the need for improvement in their practices to

¹¹⁵ *Commission for Equality and Human Rights: The Government Response to Public Consultation*, Department for Trade and Industry, 2004, London.

¹¹⁶ The White Paper implies that the CRE formal investigation into race equality in prisons was a general investigation while, in fact, it was a 'named-person' investigation into HMP Brixton, HMP and Feltham YOI.

approach the CEHR for support and assistance. A Binding Agreement would contain a plan of action of the steps that will be taken to improve practices and procedures within a given timescale. The CEHR is able to seek enforcement of the plan through the courts. The Government has ruled out giving the Commission powers to take class or representative actions and hypothetical cases or to act as *amicus curiae*.

The White paper proposes giving the Commission competence to make third party interventions in cases to assist the courts. Beyond providing information about the law, the Government does not envisage the Commission providing support for individual cases except in relation to test cases. Conciliation in employment cases remains the responsibility of ACAS, however the Commission will be given power to arrange for provision of conciliation services in disputes related to discrimination in the provision of goods, facilities, services and education.

In relation to individual cases, the White Paper envisages the CEHR providing advice and information to individuals. However, its role in directly supporting taking a case to a tribunal is more limited. The factors to consider in deciding to support a case include whether the cases raise a question of principle, affect a large number of people or highlight the need for legislative change.¹¹⁷ This list is not aimed at being exhaustive, other factors that could be taken into account include whether a case has a deterrent effect. The Discrimination Law Association has also suggested that an individual's need for independent representation and support should be a consideration. For example, in cases of acute harassment individuals cannot be expected to conduct their own cases.¹¹⁸

Many NGOs were critical of the absence of a Single Equality Act to ensure an equal level of protection for all grounds of discrimination. The Discrimination Law Association noted:

“Even the best resourced single equality body in the world cannot enforce legal rights against discrimination that do not exist.”

¹¹⁷ *Fairness for All*, p. 42.

¹¹⁸ Discrimination Law Association, (2004) *Fairness for All: A response by the DLA*, London: Discrimination Law Association

14. Good/best practice of NGO work against racism

Among areas of good practice were instances where NGOs joined together to increase the impact and effectiveness of their work. Instances of this include a joint Justice, Liberty, LAG, ILPA and BIHR briefing on legal aid provisions of clause 14 of the Asylum Immigration (treatment of claimants etc.) Bill 2004.

In respect of refugees, the Refugee Council combined with ten other NGOs to publish a working paper on improving the asylum system. The paper aimed to set the agenda and initiate debate on the issue of refugees and asylum outside the context of Government legislation. It aimed to create a small space in which to have high quality debate among opinion formers and policy shapers.¹¹⁹

The Gypsy and Traveller Law Reform Coalition won the Liberty Human Rights Award for 2004 for their work in tackling the racism and discrimination experienced by Gypsies and Travellers.

In preparation for their response to the Government consultation paper, *Strength in Diversity*, The 1990 Trust organised seven consultation meetings across the UK in partnership with other black-led organisations and local voluntary sector organisations. 370 mainly organisational representatives attended the meetings.

¹¹⁹ Refugee Council and other, *Refugees: Renewing the Vision – An NGO working paper on improving the asylum system*, Refugee Council, 2004, London.

15. Conclusion

Minority ethnic groups in the UK continue to suffer from discrimination and disadvantage in education, employment, housing and the criminal justice system. The cumulative impact of this discrimination means that they do not enjoy equal participation in civil, political, social, economic and cultural life in the UK. Most people from minority ethnic groups expect to face discrimination and racism in their interaction with key public services. On many indicators, progress towards tackling racism has been reversed. People indicate in surveys that there is more racial prejudice today than there was five years ago, while the racist BNP increased its share of the vote and came close to winning a seat in the European and London Assembly elections. Much of this prejudice is fuelled by the demonisation of asylum seekers and refugees by politicians and the media. Muslims have also become 'folk devils' of popular culture. They are the most disadvantaged minority faith group and their experiences of racial discrimination are compounded by additional religious discrimination.

Romany Gypsies and Irish Travellers are the most disadvantaged minority ethnic group in the UK. They have often been marginalized within the discourse on minority ethnic communities. The absence of a Roma/Traveller category in the 2001 Census is one example of their marginalisation. They remain vilified in the media. 2004 saw an important recognition of the need to tackle the discrimination and disadvantage they face both by the CRE and Government.

After eight years the Government at last consulted on and published a race equality strategy. Government policies in some areas are improving the life chances of some in minority ethnic communities. However, for a time in which the UK is enjoying a sustained period of economic prosperity, record levels of employment accompanied by large increases in the level of investment in public services, the pace of change remains too slow. The concern must remain that any improvement secured at present will not be sustained in an economic downturn.

Government policy tackling social exclusion was initially 'colour-blind'; this is now changing with policy measures targeted at improving the position of minority ethnic communities. However, data reveals significant differences in the nature and extent of discrimination and disadvantage experienced by minority ethnic communities, policy therefore needs to be more focused so that it reaches the most disadvantaged groups within minority ethnic communities.