



Oral statement of the Equality and Human Rights Commission at the examination of the UK under the International Convention on the Elimination of All Forms of Racial Discrimination

Delivered at the 90th Session of the Committee on the Elimination of Racial Discrimination

The Equality and Human Rights Commission (EHRC) is one of the UK's three National Human Rights Institutions. We have agreed with the Scottish Human Rights Commission that our advice to this Committee will cover the whole of Great Britain, including those issues reserved to the UK Government, and those devolved to the Scottish and Welsh Governments. We would like to highlight five issues from our report to the Committee.

On protecting and promoting the status of human rights in domestic law

The EHRC considers that the Human Rights Act 1998 is well-crafted, and is embedded in the constitutional arrangements across the UK's devolved administrations. If the UK Government takes forward proposals for a Bill of Rights, any changes to the human rights framework should not be regressive¹ and should consider options for better eliminating racial discrimination.

Additionally the UK Government should implement outstanding provisions of the Equality Act 2010, including Section 14 on intersectional or dual discrimination² which we believe will enhance protections on racial discrimination.

On access to civil law justice

Restrictions in the scope of legal aid in England and Wales are having a significant impact on the ability of people to access justice when their rights have been breached. These restrictions include ending legal aid for most housing, immigration, social security, employment and education cases and the introduction of more

¹ EHRC, *Strategic Plan 2016-2019*. Available at: <https://www.equalityhumanrights.com/en/what-we-do/our-strategic-plan/our-strategic-plan-2016-19> [accessed: 31 May 2016].

² Section 14 is the provision for tackling intersectional (dual) discrimination. In March 2011, the UK Government announced that it would not bring this section into force. HM Treasury and Department for Business, Innovation and Skills (2011) *The plan for Growth*, p. 18. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31584/2011budget_growth.pdf [accessed: 8 April 2016].

onerous evidence requirements for domestic violence cases.³ Reforms have led to nearly a 70 per cent drop in the number of cases in which people have received initial legal advice and assistance.⁴

These changes have had particularly adverse impacts on access to justice for people from ethnic minorities. Since the introduction of fees in employment tribunals across Great Britain, race discrimination cases have dropped by 61 per cent.⁵ The proposed 500 per cent increase in fees in UK immigration and asylum proceedings is likely to place people from ethnic minorities at a particular disadvantage.⁶ Unless they can be objectively justified, the proposals will be unlawfully indirectly discriminatory.

On criminal justice and immigration

As well as being more likely to be a victim of hate crime, people from ethnic minority communities and migrants are much more likely to experience disadvantage in the criminal justice system.

A sharp increase in racism and hate crime in England and Wales has been reported following the referendum on UK membership of the European Union.⁷ The latest Home Office statistics highlight that all forms of hate crime increased by 18 per cent in England and Wales in 2014/15 compared to 2013/14.⁸ In Scotland, while there

³ The Legal Aid, Sentencing and Punishment of Offenders Act 2012 was commenced in April 2013.

⁴ The number of new matters started for legal help fell from 573,672 in 2012–13 to 170,617 in 2014–15 (a 70% reduction) Legal Aid Agency, Legal aid statistics main tables: January to March 2015, Table 1.2: Civil legal aid workload summary since 2001–02. Available at:

<https://www.gov.uk/government/statistics/legal-aid-statistics-january-to-march-2015> [accessed: 17 November 2015]. The overall trend has levelled out at around one-third of pre-LASPO levels. In the last quarter (March-June 2016) new matter starts were, however, 13% lower than in the same period of 2015. Legal Aid Statistics in England and Wales: January to March 2016, 30 June 2016. Available at: <https://www.gov.uk/government/statistics/legal-aid-statistics-quarterly-january-to-march-2016> [accessed 1 July 2016].

⁵ Anthony, H. and Crilly, C. (2015), *Equality, human rights and access to civil law justice: a literature review*, Equality and Human Rights Commission Research Report 99, p. 92. Available at: <http://www.equalityhumanrights.com/publication/equality-human-rights-and-access-civil-law-justice-literature-review> [accessed: 17 November 2015].

⁶ In April 2016, the UK Government published a consultation paper proposing new fees for proceedings in the First-tier Tribunal (Immigration and Asylum Chamber) and Upper Tribunal (Immigration and Asylum Chamber). The consultation proposes increasing fees in those immigration and asylum proceedings where a fee is payable so that the fee meets the costs of those proceedings in full. For example, the cost of an application for a decision on the papers in the First-tier Tribunal would rise from £80 to £490. Dominic Raab, Parliamentary Under-Secretary of State for Justice, Minister for Human Rights, Hansard, written statement. Available at:

<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-04-21/HCWS691/> [accessed: 29 April 2016].

⁷ There was a 57% increase in reporting of hate crime to the police online reporting portal, True Vision, compared with the same period in the previous month, with 85 reports made between Thursday 23 June to Sunday 26 June compared with 54 reports in the corresponding four days four weeks ago. True Vision is a third party hate crime reporting website supported by all Police forces in England, Wales and Northern Ireland. Karen Bradley, 29 June 2016. Available at: <https://hansard.parliament.uk/commons/2016-06-29/debates/16062966000002/HateCrime> [accessed: 30 June 2016].

⁸ In 2014/15, there were 52,528 hate crimes recorded by the police, an increase of 18 per cent compared with the 44,471 hate crimes recorded in 2013/14. 42,930 (82%) were race hate crimes.

haven't been any reported increases since the EU vote, racially motivated hate crime remains the most commonly recorded by the police. Torture survivors are amongst those who have been the victims of racially motivated hate crime.⁹ These people came to the UK for safety, but in some cases have been exposed to risks by being inappropriately detained in our immigration system, and now face threats on our streets. 38 per cent of people detained in the immigration system have been held between 29 days to over two years, despite calls from the EHRC and parliamentarians to set a maximum time limit of 28 days, in line with European standards.¹⁰ We are also deeply concerned that the UK Government may have reneged on its commitment to end the immigration detention of children.¹¹

The latest Home Office figures on stop and search show that a black man in England and Wales is still five times more likely to be stopped and searched by police than a white man.

The latest Ministry of Justice figures for England and Wales show the rates of prosecution and sentencing for the Black ethnic group were three times higher than for the White group, while for the 'Mixed' group they were twice as high, mirroring arrests.¹² 40 per cent of prisoners aged under 18 were from the Black and ethnic minority communities.

On education

Ethnicity has been shown to impact a child's educational attainment in England, Scotland and Wales. In England, Gypsy/Roma, Irish Travellers and Black Caribbean pupils have the lowest attainment overall.¹³

Recent evidence suggests that children are still victims of bullying because of their race, ethnicity or religion.¹⁴ Racist incidents are under-recorded and under-reported, partly due to a lack of leadership training among staff in some schools.¹⁵

Home Office, Hate Crime, England and Wales, 2014/15: Statistical Bulletin, October 2015. Available at: <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2014-to-2015> [accessed: 17 March 2016]. ONS has indicated that greater awareness of hate crime and improved compliance with recording standards among the police is likely to be a factor in this increase.

⁹ Freedom from Torture, Racism and anxiety after the referendum. Available at: <https://www.freedomfromtorture.org/news-blogs/9164> [accessed: 28 July 2016].

¹⁰ Home Office. Immigration Statistics. October to December 2015, Table dt_06. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/501999/detention-q4-2015-tabs.ods [accessed: 13 April 2016].

¹¹ On 21 July, the UK Government announced its decision to close Cedars pre-departure accommodation, and replace it with new pre-departure accommodation near Gatwick Airport, as a discrete unit at Tinsley House immigration removal centre. Minister for Immigration Robert Goodwill, Written Ministerial Statement, Hansard, 21 July 2016. Available at: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2016-07-21/HCWS114/> [accessed 28 July 2016].

¹² Ministry of Justice, Race and the criminal justice system: 2014, 26 November 2015. Available at: <https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-2014> [accessed: 1 March 2016]. Comparable information for Scotland is unavailable.

¹³ DfE, 2016. Revised GCSE and equivalent results in England: 2014 to 2015. Main national tables: SFR 01/2016 –Characteristics summary table. Available at: <https://www.gov.uk/government/statistics/revised-gcse-and-equivalent-results-in-england-2014-to-2015> [accessed: 13 April 2016].

On access to work and just and favourable conditions of work

People from ethnic minorities have disproportionately high unemployment rates. EHRC's research of ethnicity and employment trends in 2013 found that white people had a higher employment rate at 74.7 per cent compared to those from ethnic minorities generally at 59.3 per cent.¹⁶ Just over half of Gypsies and Travellers in England, Wales and Scotland were economically inactive.¹⁷

Across Great Britain, Black and Asian workers are also moving into more insecure forms of employment at higher rates than White workers. Black and Asian workers were more than twice as likely to be in agency work in 2014.¹⁸ Gypsy or Irish Travellers (aged 16 and over) in employment were most commonly in elementary occupations (such as farm, process plant or service work).¹⁹

The EHRC would be happy to take questions on any of these issues or other issues covered in our submission to the Committee.

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¹⁴ Ditch the label (2015), Annual Bullying Survey 2015. Uk-wide, available at: <http://www.ditchthelabel.org/annual-bullying-survey-2015/> [accessed: 20 June 2016].

¹⁵ Show Racism the Red Card, undated. The Barriers to Challenging Racism and Promoting Race Equality in England's Schools. Available at: <http://www.theredcard.org/resources/publications?publication=2342> [accessed: 20 June 2016].

¹⁶ Employment rate is defined as the number of people in employment as a percentage of the population (our analysis uses the working age population, aged 16–64). The unemployment rate is number of people not currently in a job as a percentage of the 'economically active population' (those who are able to work and have adequate availability to work; this does not include those not working through sickness, disability or because they are studying). Our data on employment rates separates out women and men, as there are significant differences between men's and women's employment rates in some ethnic minority groups. (EHRC, 2015), *Is Britain Fairer?*, p. 36. Available at: <http://www.equalityhumanrights.com/about-us/our-work/key-projects/britain-fairer/great-britain-report> [accessed: 7 April 2016].

¹⁷ ONS (2014), Gypsy or Irish Travellers smallest ethnic minority at 58,000. Available at: <http://www.ons.gov.uk/ons/rel/census/2011-census-analysis/what-does-the-2011-census-tell-us-about-the-characteristics-of-gypsy-or-irish-travellers-in-england-and-wales/-sty-gypsy-or-irish-travellers.html> [accessed: 9 February 2016]; Scottish Government (2015), Gypsy/Travellers in Scotland – a comprehensive analysis of the 2011 Census. Available at: <http://www.gov.scot/Resource/0049/00490969.pdf>.

¹⁸ Trade Union Congress, Living on the Margins: Black workers and casualization, April 2015. Available at: <https://www.tuc.org.uk/sites/default/files/LivingontheMargins.pdf> [accessed: 30 September 2015].

¹⁹ 22 per cent of that group in England and Wales and 20 per cent in Scotland ONS (2014), Gypsy or Irish Travellers smallest ethnic minority at 58,000. Available at: <http://www.ons.gov.uk/ons/rel/census/2011-census-analysis/what-does-the-2011-census-tell-us-about-the-characteristics-of-gypsy-or-irish-travellers-in-england-and-wales/-sty-gypsy-or-irish-travellers.html> [accessed: 9 February 2016]; Scottish Government (2015), Gypsy/Travellers in Scotland – a comprehensive analysis of the 2011 Census. Available at: <http://www.gov.scot/Resource/0049/00490969.pdf> [accessed: 9 February 2016].