

**INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION**



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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Eighteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Fifth periodic reports of States Parties due in 1978

Addendum

UNITED KINGDOM 2/

[5 April 1978]

RACE RELATIONS

Shortly before the beginning of the period covered by this Report the new Race Relations Bill was introduced into Parliament. The Bill was based on legislative proposals set out in the Government's White Paper "Racial Discrimination", which was presented to the Committee with the Fourth Biennial Report. The Race Relations Act 1976 received Royal Assent on 23 November 1976 and came into force on 13 June 1977; it does not extend to Northern Ireland.

The Act which follows closely the form of the Sex Discrimination Act 1975 replaces the Race Relations Acts 1965 and 1968. It extends the scope of the law against discrimination and provides individual victims of discrimination with

1/ Copies of reference material and annexes referred to in the Report, as furnished to the secretariat by the Government of the United Kingdom, will be made available to the members of the Committee, in the original language, at its eighteenth session.

For previous reports submitted by the Government of the United Kingdom and the summary records of meetings of the Committee at which such reports were considered, see:

- (1) Initial report - CERD/C/R.3/Add.14 and Corr.1 (CERD/C/SR.42, 43, 56 and 57)
- (2) Second periodic report - CERD/C/R.30/Add.28 (CERD/C/SR.156 to 158)
- (3) Third periodic report - CERD/C/R.70/Add.34 (CERD/C/SR.244 to 245 and 248 to 249)
- (4) Fourth periodic report - CERD/C/R.90/Add.30 (CERD/C/SR.348 to 349)

fuller redress through the civil courts and industrial tribunals. The Act also strengthens the criminal law against incitement to racial hatred. Under the Act the Commission for Racial Equality has a strategic role in tackling discrimination and promoting equality of opportunity. It also has discretion to help individual victims of discrimination and is responsible for supporting and co-ordinating the work of the local community relations councils.

Definition of discrimination

The Act defines two kinds of conduct which constitute racial discrimination: direct discrimination which consists of treating a person less favourably on "racial grounds" (i.e. on the grounds of colour, race, nationality (including citizenship) or ethnic or national origins); and indirect discrimination which consists of the application of rules or conditions which may appear neutral, but which operate unfairly against minority groups and cannot be justified. The Act also defines as discrimination the victimization of a person who has, for example, asserted his rights under the Act or helped another to do so.

Employment

Part II of the Act applies to employment and related matters. It is for example unlawful under the Act for an employer to discriminate in the recruitment of new employees or in his treatment of existing employees (for example, in such matters as promotion, training, transfer and dismissal).

There are some limited exceptions in the employment field. These relate to employment in a private household; employment where being of a particular racial group is a qualification for a particular job; and employment and training (for example part of trade or aid commitments) for persons from abroad who come here to learn skills which they will then take back and use in their own countries.

Education

Discrimination is unlawful under the Act as regards admissions to, and the provision of facilities in, educational establishments in both the public and private sectors; and bodies in the public sector of education are further placed under a duty to ensure that the facilities for education are provided without racial discrimination. The extension of the definition of discrimination to cover indirect discrimination came into force in relation to the education provisions on 1 September 1977. Differential arrangements relating to non-residents are exempted under Section 41 of the Act.

Goods, facilities and services

Discrimination in the provision to the public or a section of the public of goods, facilities and services (including, for example, loans, finance, mortgages and facilities for recreation and entertainment) and of housing accommodation is unlawful. Fostering and the boarding of people in need of special care is excluded from the scope of this provision; and as regards the provision of accommodation there is an exception where the accommodation is in small premises, as defined in the Act.

Clubs and associations

It is unlawful for clubs and associations with 25 or more members to discriminate in the selection of new members and in the treatment accorded to existing members. However there is an exception for discrimination (though not for discrimination on the ground of colour) by a club or association whose main object is to enable the benefits of membership to be enjoyed by persons of a particular racial group.

General exceptions

There are a number of general exceptions in the Act: for discrimination (save on the ground of colour) in order to comply with charitable instruments; for nationality, place of birth or residence requirements relating to participation in sports and games; for acts done in pursuance of existing legislation and certain approved arrangements; and acts done to safeguard national security. There are also exceptions to permit the special needs of particular racial groups in education, training and welfare to be met; and to permit education or training to be provided only or mainly to people coming here from abroad on a temporary basis.

ENFORCEMENT

Individual complaints

Whereas under the Race Relations Act 1968 all complaints of discrimination had to be made to the Race Relations Board, which had the sole right to institute legal proceedings, under the new Act individuals generally have direct access to the courts or, in employment, training and related cases, to industrial tribunals. But for those educational bodies in respect of which the Education Ministers have powers of direction under the Education Acts, complaints will go first to the Education Ministers.

The remedies available from the courts are damages (including damages for injured feelings), a declaration of rights or an injunction. Industrial tribunals are able to declare the rights of the parties, make a recommendation as to a particular course of action, or award compensation (which can also cover injured feelings).

Commission for Racial Equality

The Commission is an independent body with wide-ranging powers. In its enforcement role it is able to investigate unlawful discriminatory practices and issue "non-discrimination notices" requiring the cessation of those practices; these notices are enforceable in the courts by way of injunction or order. It also has discretion to assist individuals with their complaints.

The Commission has a most important part to play in educating and changing public attitudes to give reality to the idea of equal opportunities. It is a principal source of advice and guidance both on the legislation and on good race relations practices in general as the Race Relations Board and Community Relations

Commission respectively have been hitherto. For example, it can issue codes of practice in the employment field. The Commission has also taken over the powers of the Community Relations Commission to support and co-ordinate the work of local community relations councils and other bodies.

Duty of local authorities

Section 71 of the Race Relations Act 1976 imposes a general duty on local authorities to take account of the racial dimension in the exercise of their functions. This provision was not anticipated in the White Paper and was introduced as an amendment as the Bill went through Parliament.

The section requires that local authorities make appropriate arrangements with a view to securing that their various functions are carried out with due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. This general duty, which is additional to other specific duties imposed by the Act, represents a new feature in the field of legislation on discrimination. Its effect will clearly differ from area to area between different local authority functions.

Guidance on the Act

A joint circular issued by central Government Departments to local authorities when the Act came into effect, is annexed to the Report. A layman's Guide to the Act prepared by the Home Office is available free of charge to the public from employment offices throughout Great Britain and from the Commission for Racial Equality. A copy of the Guide is annexed.

Progress

At the end of the period covered by this Report the Act has only been in operation for nine months. It is too early to assess its impact and this will be done in more detail in the Sixth Biennial Report.

The Government and the Commission will work together toward the elimination of racial discrimination and the promotion of equal opportunity. As an independent body the Commission's views may not always coincide with those of the Government, but the Government has undertaken to give its full support and to co-operate closely with the Commission in its work.

THE ADVISORY COUNCIL ON RACE RELATIONS

In its Fourth Biennial Report, the Government confirmed its intention of inviting members of the ethnic minorities to take part in a new standing Advisory Council on Race Relations. The intention to set up such a Council was announced in paragraph 21 of the White Paper on Racial Discrimination.

Membership of the Council, whose Chairman is the Secretary of State for the Home Department was announced in March 1977. It includes Ministers from the Department of Education and Science, the Department of Employment, the Department of the Environment and the Department of Health and Social Security;

representatives of the Confederation of British Industry, the Trade Unions Congress, the local authority associations and the Greater London Council, and the National Association of Community Relations Councils; the Chairman of the Commission for Racial Equality; and 14 members of the ethnic minorities.

The Council's terms of reference are to advise the Home Secretary on all aspects of the development and implementation of race relations policies. At its first meeting in June 1977 the Council decided that its first priority should be to examine the nature and extent of the disadvantage which may be experienced by the ethnic minorities and the action required to remedy it. At subsequent meetings the Council looked at the Government's policies in the fields of employment, education, housing and the health and personal social services and social security, and discussed the ways in which ethnic minority disadvantage in these fields is being remedied. The Council decided that specific issues requiring more detailed study should be identified and examined in greater depth at further meetings.

APPLICATION OF ARTICLE 7 OF THE CONVENTION

In July 1977 a Consultative Document on EDUCATION IN SCHOOLS was published by the Department of Education and Science (HMSO Cmd 6869). Whilst not primarily concerned with multiracial education, it commended the development of policies which took adequate account of the particular educational needs of children from the ethnic minorities, and recognized the social enrichment which can derive from cultural diversity in schools and the community.

Following one of the proposals in this document, local education authorities have been invited to review and report on various aspects of their arrangements for the school curriculum, including questions relating to the presence of children from the ethnic minorities. Once this information has been analysed, consideration will be given to the possibility of issuing advice and commending examples of good practice for wider adoption.

The United Kingdom Government is giving active consideration to the setting up of an inquiry into the educational achievement of children from the ethnic minorities, particularly children from the extensive West Indian community in the United Kingdom. Such an initiative may be seen as one step towards the development of policies which will ensure further equality of opportunity in education for all children in United Kingdom schools.

The Secretary of State for Education and Science, Mrs. Shirley Williams, has expressed her commitment to the development of more courses of teacher training, at initial and in-service levels, which will fit teachers for work in the multiracial and multicultural classroom. Thought is also being given to ways in which more members of the ethnic minorities might be encouraged to enter the teaching profession.

The United Kingdom Government has established two permanent advisory committees to oversee developments in those fields of policy which affect the ethnic minority communities in the United Kingdom and to suggest policies for the future; and to monitor research in the multiracial area and recommend subjects of interest for further research and investigation.

The decentralized education system in the United Kingdom leaves local education authorities free to make such special educational provision for the ethnic minorities as they consider appropriate in the light of local needs and available resources. For example, English language tuition may be given in special language centres or, increasingly, in withdrawal units attached to schools to ensure the ready integration of immigrant children into the day-to-day life of the school in which they will be educated. Financial help in these efforts is available from central Government in the form of grant under Section 11 of the Local Government Act 1966. Under the terms of this section, authorities with substantial Commonwealth immigrant communities (for the purposes of administration of the grant, authorities with 2 per cent or more Commonwealth immigrants in their population are considered eligible) may claim back 75 per cent of the salary costs of teachers and ancillary workers (in both the educational and social services fields) who are employed as a direct result of differences in language or custom existing between the immigrant and indigenous populations.

Measures taken towards harmonious integration in the fields of culture and information are less easy to define. Grants or salaries of local authority staff appointed for library duties in connexion with Commonwealth immigrants, and for entertainments officer duties directed towards Commonwealth immigrants are available under Section 11 and both the Commission for Racial Equality and the Arts Council of Great Britain have funds available to support ethnic minority cultural activities.

IMMIGRATION AND NATIONALITY

The Committee in its consideration of the Fourth United Kingdom Report sought the text of the new law on nationality and citizenship as well as the texts, previously requested, on the Immigration Act 1971 and the immigration rules.

Nationality

Following the Government's review of the law of citizenship, a Green Paper entitled "British Nationality Law, Discussion of possible changes" was published in April 1977 (copy enclosed). It is a consultative document which puts forward various ideas, for public discussion, the most important of which is that the present citizenship of the United Kingdom and Colonies might be replaced by two citizenships, a British Overseas Citizenship for the remainder. Only British citizens would have the right to enter and live freely in the United Kingdom. It is suggested that everyone born in the United Kingdom, and all those immigrants who have been registered or naturalized as citizens of the United Kingdom and Colonies in the United Kingdom, would become British citizens automatically. After the introduction of the new scheme, any person born here would be a British citizen, whether or not his parents were immigrants, and a person born abroad would have British citizenship automatically if his father or mother was a British citizen by birth or naturalization, etc. in the United Kingdom.

It is not possible at this stage to say when legislation may be introduced. The Government are anxious to ensure that any revision of the law should provide a system which is both satisfactory and lasting. They recognize that there is room for differing views on both the principles and details of a new scheme and they wish to give ample time for the ideas in the document to be studied and discussed.

Immigration

Copies of the Immigration Act 1971 and the Immigration Rules are appended in line with the Committee's request in their comment on our fourth report. Unfortunately the Rules are not consolidated. The Committee may wish to note that the Rules were changed in March 1977; the changes, however, are mainly concerned with bogus marriages and certainly do not affect what was said at serial 10 of the fourth report about the bearing of immigration policies on race relations.

As proposed in the White Paper the law on incitement to racial hatred has been strengthened by removing the need to prove a subjective intention to stir up hatred. The Government carefully considered representations for a more draconian approach made in response to the White Paper, but remains convinced that it is not justifiable in a democratic society to interfere with freedom of expression, except where it is necessary to do so for the prevention of disorder or for the protection of other basic freedom.

Parliament decided that the offence of incitement to racial hatred should form part of the law on public order rather than an addition to a civil code on discrimination. Section 70 of the Race Relations Act 1976 therefore takes the form of an amendment to the Public Order Act 1936. It is an offence to publish, distribute or use threatening, abusive or insulting language in circumstances in which it is likely that hatred will be stirred up against any racial group.

There are exceptions however for fair and accurate reports of judicial and parliamentary proceedings; and there is a defence for the unwitting publisher or distributor. As under the earlier legislation a prosecution for an offence of incitement to racial hatred in England and Wales requires the consent of the Attorney-General.

The Government has consistently reaffirmed its opposition to the action and sentiments of individuals or groups who seek to propagate racial hatred. In the past year increasing publicity has been given to the activities of groups who express racist views but there is no evidence that these groups are gaining in strength. The Home Secretary has said he will keep the law on incitement to racial hatred under review. However, it is difficult to gauge its effect until the law has been tested in the courts; the first prosecution to which the Attorney-General has given his consent is (in March 1978) pending trial.

The Government believe that in a democratic society unpopular views must be tolerated, no matter how distasteful, and that public education and debate must play a major part in defeating racist propaganda.

THE UNEMPLOYMENT SITUATION AND ITS EFFECT ON IMMIGRANTS

During the two years covered by the report unemployment in the United Kingdom has continued to rise but the rate of increase among minority group workers, as compared with indigenous workers, has levelled out.

Some of the measures introduced by the Government to alleviate the worst effects of unemployment, particularly among young people, have had a special relevance for those living in areas such as inner cities, where unemployment among minority groups is concentrated.

EQUAL OPPORTUNITY AND MONITORING

The Commission for Racial Equality (set up under the Race Relations Act 1976) is preparing guidelines on equal opportunity policies for the use of employers, trade unions and workers.

The TUC has recently set up an Equal Rights Committee and a Race Relations Advisory Committee which are responsible for issuing detailed guidance to unions on recruitment, training and equal opportunity policies.

LANGUAGE TRAINING

Twenty-four Local Education Authorities are now operating language training schemes and consideration is being given to ways in which training arrangements may be improved and promoted. These include the development of a national strategy and revised funding arrangements.

RACE RELATIONS ADVISORY SERVICE

The Department of Employment's Race Relations Advisory Service is being further developed. The number of full-time advisers is to be increased from 14 to 26. The Department of Employment's Parliamentary Under Secretary of State with responsibility for race relations employment matters has set up a Race Relations Employment Advisory Group to provide a high-level forum for the exchange of views between leaders of industry and the ethnic minorities and to improve co-ordination between organizations which are significantly involved in the promotion of good relations in employment. Its membership comprises senior representatives of employers and trade unions and the Advisory, Conciliation and Arbitration Service, the main agencies concerned with employment, the Commission for Racial Equality and representatives of the ethnic minorities.

The Group is examining the nature of employment problems affecting a multi-racial work force and reviewing ways of promoting work on equal opportunity in employment. It was formed in October 1977 and has held two meetings.

LANGUAGE TRAINING FOR UNEMPLOYED IMMIGRANTS

The Training Services Agency (TSA) provides vocational training embracing over 500 courses at its own Skillcentres, at colleges and in employers' establishments for those whose stay in Great Britain is not subject to time and/or work restrictions. It also provides preparatory courses, which are vocationally orientated and designed to help people (including immigrants) whose standard of literacy and numeracy prevents them from obtaining or keeping a job or being able to assimilate vocational training. In many areas with high immigrant populations certain courses are specially designed using "English as a foreign language" techniques.

The TSA has sponsored two pilot schemes in part-time language training for unemployed immigrants. The schemes have not yet been fully evaluated but early indications are most encouraging. As a result of these schemes it is hoped to provide this type of training on a much wider basis using the most effective methods possible.

INDUSTRIAL LANGUAGE TRAINING

The Industrial Language Training Service is organized as a form of in-company training and aims to improve communication skills on both sides by:

- (a) Improving the English language skills of workers from overseas in ways relevant to their work and workplace.
- (b) Providing supervisors, trade unionists and others with new information and skills relevant to effective communication in a multi-lingual situation.
- (c) Assisting managers with information and analysis which is relevant to appropriate practice in matters which are affected by difficulties of language and communication. For example, selection, induction, training and promotion procedures.

There is a commitment to a practical and identifiable task (improvement of communication skills) which will enable a better use to be made of manpower as well as increased opportunities for individuals.

The following is a summary of the work done since the scheme was launched nationally in 1975:

	<u>1975</u>	<u>1976</u>	<u>1977</u> (<u>estimates</u>)
<u>Workplaces</u>			
Number of employers providing projects	34	84	135
<u>English language courses</u>			
Number of trainees	600	1 607	2 900
<u>Courses on backgrounds and communication skills</u>			
Number of supervisors and managers	180	720	1 200
Number of shop stewards and trade union officials	50	370	500

Work also has to be undertaken on promoting the service to employers, in assessing workplace training needs and in securing the confidence and co-operation of trade unions and workers.

The scheme is provided in twenty-four local education authority areas and is financed by 75 per cent grants to LEAs under Section 11 of 1966 Local Government Act and Urban Aid.

Some important related areas of work are emerging from the scheme. There are pilot schemes (financed by TOPS) for part-time English Language training for unemployed adult immigrants; these schemes are applying the functional language approach developed for in-company work.

Testing the English Language of applicants born overseas is becoming an increasingly widespread practice and a few employers have been seeking help from the scheme.

The largest single activities of the National Centre for Industrial Language Training have been the development of the staff training programme and the establishment of a more comprehensive advice and information service. The Centre has also acted as consultant in the preparation of four BBC Worktalk Training films for supervisors and shop stewards in multi-racial workplaces. The TSA has agreed to fund the Centre until March 1980.

During the period February 1976 - December 1977 the Runnymede Trust was commissioned by the TSA to carry out a project aimed at increasing the knowledge and personal skills of managerial and supervisory staff responsible for coloured workers through the provision of training material on the culture and background of immigrant workers and on race relations in Britain. By the end of 1977 a manual on the background of employment of Asian immigrants had been published and the Trust had produced a series of trainees notes on a variety of tapes, e.g. facts and figures on immigration, culture and background of Asians, West Indians and Black Africans, attitude and behaviour, to the practical implications of the Race Relations Act.
