



The Refugee Council's response to the Government's White Paper:

"Fairness for All: A New Commission for Equality and Human Rights "

August 2004

1. Introduction

1.1 The Refugee Council is the largest organisation in the UK working with asylum seekers and refugees. We not only help and support asylum seekers and refugees, we also work with them to ensure their needs and concerns are addressed by decision-makers.

1.2 The Refugee Council welcomes the opportunity to respond to this consultation. We believe the creation of single commission for equalities and human rights presents an opportunity to refocus efforts towards a society free from discrimination and marked by equality of opportunity and good race relations between communities. However, we note the concerns raised by the Commission for Racial Equality, and would echo that unless race equality is given a high priority within the new body, many of the issues highlighted in this response risk not being tackled. We welcome the creation of an institutional focal point for human rights, and would concur with the Joint Committee for Human Rights that the new body should have a range of legal tools at its disposal to enable it to effectively protect and promote human rights.

2. Background

2.1 Britain's economic, social and cultural life has been enormously enriched by successive generations of migrants and, the UK has a long record of receiving people fleeing persecution. The Race Relations Act 1976 was formulated against a backdrop of discrimination faced by migrants from the former Commonwealth and although race equality has come long way since 1976 sadly, discrimination and inequality still feature in the experience of new arrivals including refugees and asylum seekers.

2.2 A growing body of research highlights the particular disadvantages faced by refugee and asylum-seeking communities in the labour market and access to services. In addition to this, recent public opinion and discourse on asylum highlights a growing intolerance by British people towards people seeking asylum. This has also been apparent in some local areas where tensions have led to harassment and attacks on asylum seekers and refugees. The Commission for Equalities and Human Rights (CEHR) must address these issues. We believe it will only be able to do so through leadership, use of both promotional and enforcement tools, and through a recognition that whilst experiences of inequality faced by this group may overlap with BME communities in some ways, in other key respects it may be very different.

3. Refugee settlements and new communities

3.1 In the past 30 years, patterns of migration to the UK have been marked by the end of primary migration from the Commonwealth and growth of migration for family reunion, work related and asylum purposes. For example, a rise in geo-political instability and conflict in 1990s led to a corresponding rise in numbers of people seeking asylum in the UK. The arrival of refugees has led to the growth of 'new communities', for example from the Middle East, Eastern Europe and the Horn of Africa. The asylum seeker dispersal programme has further contributed to diversity within neighbourhoods.

3.2 Alongside new patterns of migration and the growth of new communities, we have

seen the emergence of a diverse range of community organisations able to articulate the experiences of those communities to policy makers and practitioners, refugee community organisations in particular have an important role to play here.

4. Disadvantage and inequality

4.1 Refugees are virtually invisible in official data sets, resulting in a scarcity of data to enable quantitative analyses, and this is itself a barrier to change. However, a growing body of qualitative research reveals experience of inequality, racism and discrimination, language barriers and poor knowledge about social and legal rights. These studies also consistently highlight the need to involve refugees and their communities in service planning, development and delivery. Key areas of disadvantage and inequality include the following:

- **Employment:** Refugee unemployment is exceptionally high. The barriers to employment are complex but studies show these to include racism, discrimination and language.ⁱ
- **Education:** Bullying and racism towards refugee children is a problem identified by teaching professionals as well as organisations working with refugees. In one studyⁱⁱ, over half of the refugee children reported bullying and over 25 per cent reported the existence of racism. Refugee children experienced racism from both white pupils and UK born BME children. Underachievement in the school system by children from certain national and ethnic groups is of concern, as is the issue of access to a school place.ⁱⁱⁱ
- **Health:** The evidence points to poor access to health care. One study found a 14 per cent non-registration rate amongst the Horn of Africa community compared to 1 per cent non-registration rate for individuals from the host community.^{iv} Similar experiences are to be found with mental health services, where poor access is further compounded by staff who are often unaware of refugees' specific needs or rights to health and social care.
- **English Language:** Studies illustrate the importance of language to integration and in particular to access the labour market and services. However, research shows a chronic lack of supply of classes particularly in dispersal areas.^v
- **Racial harassment:** In the first 18 months of the dispersal programme, over 1,000 incidents of racial harassment were reported to the National Asylum Support Service.^{vi}
- **Refugee Women:** The socio-economic and legal position of refugee women requires attention. Recent studies have highlighted the particular disadvantage and multi discrimination they face. The lack of information about refugee women even within official data sets and the absence of a gender perspective in decisions about policy and service design are fundamental barriers to equality.
- **Financial services:** Access to financial services ranging from bank accounts through to credit based services and home insurance is a key indicator of social inclusion and essential for integration. Yet the Refugee Council has received correspondence over a number of years, which highlight the difficulties of access.

- The social, economic and legal position of asylum seekers: There have been five major pieces of asylum legislation in the past 11 years, and a plethora of initiatives that have placed asylum seekers in a very different (in many ways less favourable) social, economic and legal position from other groups. The impact of dispersal, detention, removal and support policies continue to raise concerns from the point of equality and good race relations.

4.2 In order to address these issues of inequality, the CEHR must be prepared to support show leadership and use the enforcement, promotional and public duty tools at its disposal.

5. Public debate and public attitudes

5.1 In recent years, inaccurate and unbalanced public debate has meant that, as surveys have demonstrated, the British public has a view of asylum and asylum seekers that has little connection with reality. Assertions, particularly in the print media, such as the UK being a 'soft touch', have served to reinforce myths and negative stereotypes about asylum seekers and refugees. We know that this can lead to increased tensions within communities, attacks on asylum seekers and refugees, and hinder the ability and willingness of different communities to connect and engage with each other. Studies have shown negative media coverage to result in refugees and asylum seekers feeling unwelcome and fearful¹ and to resident populations not wishing to have asylum seekers and refugees within their neighbourhoods.²

5.2 Immigration is currently ahead of both crime and education as a national issue with surveys also showing a major increase in those who see immigration as the most important issue facing Britain - from around 5 per cent of the public in the 1990s, the figure has been rising consistently to become one of the top issues facing Britain in the eyes of voters (40-45% in 2002/03)^{vii}.

5.3 This issue is therefore central to good community relations in Britain today.

6. The immigration exemption

6.1 Some of the duties under the Race Relations Act do not apply in the pursuit of immigration and nationality functions.³ We would urge the CEHR to carefully monitor the immigration exemption to ensure that acts carried out in the pursuit of immigration and nationality functions do not lead to unlawful discrimination against persons subject to immigration control, including asylum seekers. The role of the Race Monitor should be maintained.

6.2 The CEHR should also ensure that all public authorities, including those performing immigration and nationality functions observe the statutory duty to promote good race

¹ ICAR Media Image and Community Impact 2004.

² ICAR Understanding the Stranger, 2003.

³ S19(B) Race Relations Act 1976 provides that: *It is unlawful for a public authority in carrying out any functions of the authority to do any act which constitutes discrimination.* 'However, there are exceptions to section 19B, notably for immigration and nationality functions. Section 19D provides that: Section 19B does not make it unlawful for a 'relevant person' to discriminate against another person on grounds of nationality or ethnic or national origins in carrying out immigration and nationality functions.

relations. Under this limb of the public duty, policies on dispersal, accommodation centres, the education of children in detention and refugee integration need to systematically and effectively be scrutinised for their impact on race equality through race impact assessments.

7. Promoting human rights

7.1 We welcome the institutional support to be given to protection and promotion of human rights and believe that the creation of the CEHR could be a significant step towards a culture of human rights. However, we concur with the view of the Joint Committee on Human Rights (JCHR), that the CEHR must have a range of tools at its disposal including a public sector duty to promote human rights, and powers to conduct "general inquiries" into matters connected with human rights and support individual cases, and powers to enforce compliance with the Human Rights Act 1998.

8. Promoting citizenship and a cohesive society

8.1 We agree that integration is a desired outcome and would urge the CEHR to promote a model of integration which is based on it being a two-way process with requirements for the **both** host society and individual to adapt. We welcome the commitment to promote citizenship and cohesion through the regional network of Race Equality Councils (RECs). The RECs have an important role to play in building understanding between refugee and host communities, their local presence and expertise and knowledge enables them to bridge understanding. Race Equality Councils (RECs) could work alongside Refugee community organisations (RCOs) to promote cohesion and integration complementing each other's respective knowledge and understanding of race equality and refugees.

9. Engaging with stakeholders

9.1 Voluntary and community organisations working with refugee and asylum-seeking communities are well placed to facilitate dialogue between refugee and asylum-seeking communities and the CEHR. We hope that these bodies will be engaged actively in the process leading to the CEHR setting its priorities.

10. Promoting awareness and understanding of human rights

10.1 We would encourage the CEHR to raise public awareness and promote understanding about the 1951 Refugee Convention as a significant legal instrument for protecting human rights Internationally. The right to asylum is a human right and yet it is rarely promoted as such. We believe there is a major role for the CEHR through promotional work to address this.

11. Keeping the legislation under review

11.1 As part of its duty to keep equalities legislation under review we would urge the CEHR to retain the role of the Race Monitor. The Race Monitor role was established to

ensure the immigration exemption to the public duty established by the Race Relations Amendment Act does not lead to unlawful discrimination in the course of immigration control.

11.2 Asylum seekers and refugees are not defined for the purposes of the Race Relations Act as a racial group.^{viii} This could be a barrier to achieving equality for this group. We would urge the CEHR to consider a review of current provisions.

12. Governance of the CEHR

12.1 Many of the equality outcomes identified can be achieved within the framework of the Race Relations Act 1976 (as amended). The complexity of race relations legislation and policy demands that these issues be championed from the top of the organisation, and the expertise currently within the CRE be retained and further developed.

12.2 In setting governance structures, we would strongly encourage the CEHR to draw up on the talent, skills and experience within refugee communities.

13. Powers to enforce public sector duties

13.1 The public sector duty established by the Race Relations Act 2000 is an important tool for delivering equality outcomes in employment and service delivery for refugees and asylum seekers. Yet very few public authorities are aware that this duty exists in relation to asylum seekers and refugees. The CEHR should take forward the work begun by the CRE to ensure that public authorities are promoting equality for this group.

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ⁱ ICAR Media Image and Community Impact 2004.

ⁱ ICAR Understanding the Stranger, 2003.

AR/Hildergard Dumper 2003; Missed opportunities, GLA 2002.

ⁱ The labour market experiences of refugees with professional qualifications (1997); Beating the barriers; Refugees' opportunities and barriers in employment and training (2003) ;the employment and training needs of refugees in Newham (1996).

ⁱⁱ Lets Spell it Out; HAYS and Save the Children Fund 1998.

ⁱⁱⁱ Refugee Students' experiences of the UK education system; Jeremy McDonald 1998.

^{iv} Bariso, E.Y.U., 1997, *The Horn of Africa Health Research Project*.

^v Home Office Online Report 14/03 David Griffiths 2003.

^{vi} National Asylum Support Service-Investigation Team Statistics.

^{vii} Mori 2003.

^{viii} 'Racial grounds' means colour, race, nationality or ethnic or national origin and "racial group" – means a group of persons defined by reference to colour, race, nationality or ethnic origin (s3 of the Act).