

Monitoring Minority Protection in the EU:

*The Situation of
Muslims in the UK*

2002

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Monitoring Minority Protection in the EU:

THE SITUATION
OF MUSLIMS IN THE UK



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Preface

The **EU Accession Monitoring Program (EUMAP)** was initiated in 2000 to support independent monitoring of the EU accession process. More specifically, and in keeping with the broader aims of the Open Society Institute, EUMAP has focused on governmental compliance with the political criteria for EU membership, as defined by the 1993 Copenhagen European Council:

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, human rights, the rule of law and respect for and protection of minorities.

EUMAP reports are elaborated by independent experts from the States being monitored. They are intended to promote responsible and sustainable enlargement by highlighting the significance of the political criteria and the key role of civil society in promoting governmental compliance with those criteria – up to and beyond accession.

In 2001, EUMAP published its first two volumes of monitoring reports, on minority protection and judicial independence in the ten candidate countries of Central and Eastern Europe. In 2002, new and more detailed minority reports (including reports on the five largest EU member States) have been produced, as well as reports on judicial capacity, corruption and – in cooperation with OSI's Network Women's Program/Open Society Foundation Romania – on equal opportunities for women and men in the CEE candidate States.

EUMAP 2002 reports on minority protection and the implementation of minority protection policies point to areas in which minorities appear to suffer disadvantages or discrimination, and assess the efficacy of governmental efforts to address those problems. The reports offer independent analysis and evaluation, policy assessment and recommendations.

EUMAP methodologies for monitoring minority protection in 2001 and 2002 (available at www.eumap.org) were developed by EUMAP with input from an international advisory board. The case study methodology used in five EU member States (France, Germany, Italy, Spain, and the United Kingdom) provides for a broad survey of the legislation and institutions for minority protection, drawing on existing research, statistical data, and surveys on minority issues in conjunction with interviews carried out by country reporters to assess the situation of one vulnerable minority group.

The policy assessment methodology used in the CEE candidate States provides for an evaluation of the special programmes these States have adopted to ensure protection of vulnerable minority groups and to promote their integration into society. The Reports assess the background to and process of developing these policies, as well as their content and the extent to which they have been implemented.

First drafts of each report were reviewed by members of the international advisory board and at national roundtables. These were organised in order to invite comments on the draft from Government officials, civil society organisations, minority representatives, and international organisations. The final reports reproduced in this volume underwent significant revision based on the comments and criticisms received during this process. EUMAP assumes full responsibility for their final content.

Foreword

Minority protection has been a concern of the Organization for Security and Co-operation in Europe (OSCE) since the conclusion of the historic Helsinki Accords in 1975. Since its inception, monitoring respect for the Accords and for the human and minority rights commitments undertaken by OSCE Member States in successive OSCE Documents has been key to its mission. OSCE ODIHR, including the Contact Point for Roma and Sinti Issues, has engaged in case by case monitoring across the OSCE region, combining fact-finding with practical advice in shaping governmental policies for Roma.

The adoption of the Copenhagen criteria by the EU in 1993, which included “respect for and protection of minority rights,” *inter alia*, opened another chapter in minority rights protection in Europe. With the adoption of the Copenhagen criteria, the EU joined the OSCE, the Council of Europe, and other international organisations in the endeavour to articulate the content of minority rights, and to press States to respect those rights in practice.

Although the European Union is only one segment of the OSCE framework, it is nevertheless an extremely important segment, with capacity to influence the development of policies far beyond its political borders. Thus there is a critical need to streamline the EU’s own standards and practices, and monitoring is an optimal tool to this end.

The monitoring activity initiated by EU Accession Monitoring Program (EUMAP) of the Open Society Institute in 2000 is implemented in the spirit of the Helsinki Final Act. It encourages independent monitoring of governmental efforts to comply with the human rights principles to which they have expressed their adherence. Like OSCE commitments, EU candidate State commitments cannot be “met” once and for all; they must be revisited time and time again, and the role of independent, non-governmental monitors in ensuring that Governments remain honest in revisiting their commitments is key to the health of all democracies. Among EUMAP’s recommendations in its 2001 reports were the following:

- Make clear that the political criteria for membership in the European Union are applicable equally to candidates for EU accession and to EU member States.
- Undertake systematic monitoring of governmental policies and practices on a continuous basis throughout the EU and in the candidate States.

As revealed by EUMAP 2002 reports, which have taken up these recommendations by monitoring policies to protect Roma as well as the situation of Muslims and Roma in

five EU member States, there are new challenges to minority protection in Europe. Roma in EU member States face similar issues to those that have been highlighted in candidate States; member States must also find ways to affirm their commitment to protection of Muslim minorities, in the context of widespread anti-Muslim public sentiment and Islamophobia.

EU enlargement has drawn one step closer with the Commission's recommendation for the admission of ten new members, yet it is increasingly clear that enlargement will not in itself provide instant or easy solutions to the problems that Roma currently face in both candidate and member States. Indeed, as the OSCE has affirmed throughout its existence, and as EUMAP underlines through its reports, ongoing monitoring is more important than ever. It is the means by which international organisations can press States to honour their human rights commitments, by which States can ensure that public goods and benefits flow to all members of society; and by which citizens can hold their Governments to the highest standard of performance. I particularly welcome EUMAP's attempt actively to involve Roma, Muslims, Russian-speakers, and other minorities in monitoring State minority rights commitments; this is the only way to ensure that these commitments are judged to have been met in practice.

I welcome the EUMAP reports as a contribution to our joint efforts better to define and implement minority rights standards, and to the development of a culture of monitoring in Europe.

Nicolae Gheorghe
Adviser on Sinti and Roma Issues
OSCE-ODIHR

Monitoring the EU Accession Process: Minority Protection

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Monitoring the EU Accession Process: Minority Protection

1. INTRODUCTION

*The European Union's one boundary is democracy and human rights. The Union is open only to countries which uphold basic values such as free elections, respect for minorities and respect for the rule of law.*¹

This Overview and the accompanying country reports prepared by the EU Accession Monitoring Program (EUMAP) assess the state of minority protection in ten Central and Eastern European States seeking full membership in the European Union² and in five current member States.³

The geographical enlargement of the European Union has been accompanied by a parallel enlargement in the understanding of what the Union represents; from an essentially economic arrangement, the Union has evolved towards a political alliance based on common values. In the Community's foundational documents, there was little attention to fundamental rights or freedoms.⁴ However, over time, and especially

¹ *The Future of the European Union – Laeken Declaration*, available at: <http://europa.eu.int/futurum/documents/offtext/doc151201_en.htm>, (accessed 19 September 2002).

² In these reports, the term “candidate States” refers to the ten States in which EUMAP has conducted monitoring – Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia – and do not include consideration of Malta or Cyprus; nor does it include consideration of Turkey. References to the situation in specific candidate States in this Overview are generally made without citation; full citations are included in the accompanying country reports.

³ The situation of Roma in Germany and Spain, and the situation of Muslims in France, Italy, and the United Kingdom.

⁴ “The founding Treaties contained no specific provisions on fundamental rights. The credit for gradually developing a system of guarantees for fundamental rights throughout the European Union has to go to the Court of Justice.” See <<http://europa.eu.int/scadplus/leg/en/lvb/a10000.htm>>, (accessed 5 October 2002).

in response to the demands of enlargement, the EU has increasingly articulated its aspiration to represent not only stability and prosperity, but also democratic values, culminating with the adoption of explicitly political criteria for membership at the Copenhagen Council in 1993, including “respect for and protection of minorities.”

The immediate consequence of the Copenhagen declaration was that candidate States have been required to demonstrate that they ensure minority protection in order to gain admission to the EU. This has led to intense scrutiny of the situation of vulnerable minorities in candidate States, and triggered considerable activity by candidate State Governments,⁵ each of which has adopted a programme to improve the situation of minorities or to promote their integration into society. It has also led to the realisation that the EU’s own commitment to minority protection is insufficiently well-developed and inconsistently applied.

The accession process has thus done much to identify problems in thinking about the relationship of majorities to minorities, and to spur meaningful change. Yet the period of candidacy that marked the accession process is, for most States, coming to an end.

On the eve of enlargement, there is an urgent necessity to ensure that the momentum generated by the accession process is not lost. There are some indications that candidate State Governments have viewed their efforts to demonstrate compliance with the political criteria instrumentally, rather than as a genuine and permanent commitment. For example, a Bulgarian official recently observed that candidate State Governments “think in terms of closing chapters, not solving problems.”⁶ Such attitudes must be answered definitively, and prior to admission; it must be made clear that compliance with basic democratic standards is more than a condition for entry; it is a condition of membership. This will inevitably require a different approach that focuses on the EU’s ability and willingness to maintain its focus on minority protection in the post-enlargement context.

⁵ “The most important result of enlargement is how the parliaments of the new member states have worked day and night to change their legislations, to protect minorities, to [provide] local democracy. This is the most important job of Europe.” Romani Prodi, speaking at the Council on Foreign Relations. R. McMahon, “EU: Membership Depends Primarily on Human Rights Criteria,” RFE-RL Reports, 14 January 2002. Available at <www.rferl.org/nca/features/2002/01/14012002085048.asp>, (accessed 19 September 2002).

⁶ OSI Roundtable Meeting, Sofia, May 2002. *Explanatory Note: OSI held roundtable meetings in each candidate and member State monitored to invite critique of its country reports in draft form. Experts present generally included representatives of the Government, minority groups, academic institutions, and non-governmental organisations.*

Minority protection as a continuing condition of EU membership

As EUMAP argued in its 2001 reports, a comprehensive approach to minority protection should consist of specialised legislation, institutions, and policies to ensure both protection from discrimination and promotion of minority identity.⁷ In fact, such an approach has been reflected in the European Commission's Regular Reports on progress towards accession and in the statements of EU officials.⁸ Moreover, EU institutions consistently underline the benefits of multiculturalism and diversity, values that imply a commitment to this approach.⁹

Yet even though this is clearly the EU's position, the standards for minority protection require clearer articulation. The Union has not matched the strength of its rhetorical commitment to democratic values and inclusiveness with a comprehensive clarification of the content of those values in policy and practice.

At a minimum, to make it clear that respect for and protection of minorities is a core EU value, the Copenhagen criteria – including “respect for and protection of minorities” – should be fully integrated into existing EU standards,¹⁰ and stronger

⁷ See EU Accession Monitoring Program, *Monitoring the EU Accession Process: Minority Protection*, Open Society Institute, Budapest, September 2001, available at <<http://www.eumap.org>> (hereafter, *Minority Protection 2001*).

⁸ In addition to the clear EU non-discrimination standards, Commission officials have alluded to EU reliance on international minority rights standards elaborated by the UN, The Council of Europe, and the Organization for Security and Co-operation in Europe (OSCE). For example, when asked to spell out the Copenhagen criteria's description of “respect for minorities,” a Commission representative answered that: “the Commission devotes particular attention to the respect for, and the implementation of, the various principles laid down in the Council of Europe Framework Convention for the Protection of National Minorities, including those related to the use of minority languages.” Answer given by Mrs. Reding on behalf of the Commission to written parliamentary question by MEP Nelly Maes, 15 May 2001 OJ C 261 E, 18 September 2001, p. 162.

⁹ For example, one Commission representative stated that “respect for cultural and linguistic diversity is one of the cornerstones of the Union, now enshrined in Article 21 of the Charter of Fundamental Rights.” Written question E-3418/01 by Ionnis Marinos (PPE-DE) to the Commission 21 December 2001, C 147 E/174, Official Journal of the European Communities, 20 June 2002.

¹⁰ The requirement to demonstrate “respect for and protection of minorities” is not matched in internal EU documents binding upon member States. Art. 6(1) of the Treaty on European Union (TEU) defines the principles “common to Member States” as “liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law.” Art. 49 TEU makes clear that only a European state “which respects the principles set out in Article 6(1) may apply to become a member of the Union.” The EU Charter of Fundamental Rights and Freedoms does not mention minority rights explicitly.

mechanisms should be set in place to monitor compliance with human and minority rights standards by all EU member States.¹¹

Beyond this, EUMAP member State reports reveal that the EU framework for minority protection is itself in need of reinforcement and review. First, despite its clear declaration at Copenhagen concerning the obligations on *new* candidates for membership, there is no consensus within the EU as to whether recognition of the existence of minorities is a *sine qua non* of membership,¹² nor any clear EU standard in the area of minority rights.¹³ Even if they were applied clearly to candidate and member States, the Copenhagen criteria remain ill-defined, admitting of such broad and disparate interpretations as to render them of minimal utility in guiding States' actions.

Second, although the EU Race Equality and Employment Directives¹⁴ provide clear benchmarks against which States' performance in the area of non-discrimination can be measured, they give primacy to race and ethnicity as indicators, with the result that religion has largely been missing from the discourse on minority protection. Discrimination on grounds of religious belief is covered only under the Employment Directive.

The Union, and its members, must do more to clarify the content of the common values it proclaims. This will not be an easy task. It seems clear that, in part, the EU has not given clear voice to the content of its professed values because of the difficulties in defining them, especially when 15 members with widely varying practices on minority protection – ranging from extensive protections to a denial that minorities legally exist – each have a legitimate stake in ensuring that any common definition is fair. Yet although the scope for choice in adopting particular policies may be very

¹¹ For a recent and forceful articulation of the need for such mechanisms, see J. Swiebel, "Draft Report on respect for human rights in the European Union, 2001, 2001/2014(INI), European Parliament, 27 August 2002.

¹² Member States France and Greece do not recognise the existence of minorities. Bulgaria has expressed some ambivalence on the question. See EU Accession Monitoring Program, *Monitoring the EU Accession Process: Minority Protection in Bulgaria*, Open Society Institute, Budapest, 2001, available at <<http://www.eumap.org>>.

¹³ The European Court of Human Rights recently noted an "emerging international consensus... recognising the special needs of minorities and an obligation to protect their security, identity and lifestyle," but was "not persuaded that the consensus is sufficiently concrete for it to derive any guidance as to the conduct or standards which Contracting States consider desirable in any particular situation." *Chapman v. United Kingdom*, ECHR Judgement, 18 January 2001 (No. 27238/95), paras. 93–94.

¹⁴ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, published in the Official Journal of the European Communities, 19 July 2000, L 180/22; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, 27 November 2000, L 303/16.

broad, it is not infinite; to the degree that the Union and its members do wish to create a community of shared values, some measure of common standards should be identified that constitutes the minimum that membership requires.

The role of monitoring in defining standards

Equally importantly, the EU still has insufficient means of ensuring member States' compliance with the human rights commitments it is in the process of defining. While compliance with the *acquis communautaire* is subject to monitoring and compliance mechanisms, the fundamental political commitments expressed in the Copenhagen criteria are not considered part of the *acquis*; compliance with the Copenhagen criteria is monitored only in *candidate* States, and upon accession, this monitoring will end.

Yet such monitoring, if continued, would place no unwanted burdens on member States. The Union and its members decide for themselves what values they share in common, and to what degree they wish to bind themselves to a common political model. All Union-wide monitoring requires is that whatever the Union, through its members, agrees upon as constituting its shared values must have universal application. Monitoring may provide an impetus to the articulation of shared standards.

EUMAP's candidate State reports draw attention to the importance of devoting attention not only to the adoption of standards, but to their practical implementation, and to the role of civil society monitors in both prompting greater articulation of standards and in demanding that Governments comply with those standards, up to and beyond accession.

Monitoring is also an important instrument in ensuring that principles are translated into practice. Candidate State Governments have all adopted special programmes to improve the situation for vulnerable minority groups, or to encourage their integration into society more generally. The EU has allocated significant amounts of funding towards the implementation of these programmes. However, there has been little systematic evaluation of their impact and efficacy,¹⁵ and insufficient involvement from minority representatives in their design, implementation and evaluation (see Section 2).

More regular and consistent monitoring is clearly necessary in member States as well, as demonstrated by the experience of Roma and Muslims (see Section 3). Yet existing

¹⁵ The European Commission acknowledges that it has devoted insufficient attention to evaluation and monitoring, which it defines as "the continuous process of examining the delivery of programme outputs to intended beneficiaries, which is carried out during the execution of a programme with the intention of immediately correcting any deviation from operational objectives." See *Official Journal of the European Commission*, C 57/12, 22 February 2001.

EU monitoring mechanisms provide for little between silence and sanctions.¹⁶ Regular evaluation – with participation from representatives of minority communities¹⁷ – is vital to ensure that the standards are themselves subject to regular review, and that public policies are operating in fact to protect minorities from disadvantage and exclusion (see Section 4).¹⁸

Organisation of this Overview and the reports

The remainder of this Overview will examine, first, candidate States' implementation of their minority protection or integration programmes, and second, five member States' laws, institutions, and practices relating to minority protection of Roma or Muslims.

The choice of topic in the candidate States follows from EUMAP's 2001 finding that these programmes have been insufficiently reviewed and evaluated. Because EUMAP is monitoring member States for the first time in 2002, it has adopted the same methodology employed in 2001 for the candidate States, providing for a broad survey of the scope of minority protection in each country as a whole. This will allow for some measure of comparability between the two series of reports, since the present member State reports and last year's candidate State reports all survey the general state of minority protection according to similar criteria within a relatively narrow timeframe.

EUMAP has chosen to monitor the situation of one vulnerable minority group in each of the five largest EU member States to test the strength of their legislative and institutional frameworks for minority protection in general; the situation of Roma was monitored in Germany and Spain because Roma face serious problems of marginalisation and discrimination in both those countries, as in candidate States; Muslims in France, Italy and the United Kingdom constitute a particularly important group for testing States' commitment to minority protection, because of their great

¹⁶ Art. 1(1) of the Treaty of Nice, Amending the Treaty on European Union, and treaties establishing the European Communities and certain related acts (2001/C 80/01), amends Article 7 of TEU as follows: "The Council [...] may determine that there is a clear risk of a serious breach by a Member State of principles mentioned in Article 6(1) and address appropriate recommendations to that State [...] The Council shall regularly verify that the grounds on which such a determination was made continue to apply."

¹⁷ The majority of EUMAP country monitors or monitoring teams included one or more representatives of the minority group whose situation is being monitored.

¹⁸ For more recommendations on the need to strengthen EU mechanisms for monitoring and evaluating the commitment and performance of EU member States with respect to human rights and common European values, see M. Ahtisaari, J. Frowein, M. Oreja, *Report on the Commitment of the Austrian Government to Common European Values*, 8 September 2000, para. 117. See also Comité des Sages, *Leading by Example: A Human Rights Agenda for the European Union for the Year 2000*, European University Institute, 1998, para. 19(e).

numbers, and because their perceived difference from the local majority and the relatively late arrival of their communities in western Europe have contributed to limited levels of assimilation and acceptance. A focus on Muslims also highlights the shortcomings with the Race Directive and with thinking about minorities more broadly, since discrimination against them tends to have a religious as well as an ethnic or racial aspect.

Monitoring such as that done by EUMAP could well address the situation of any discrete minority group, in any (or all) of the EU member States. No system of minority protection – whether at the State or Union level – is adequate if it protects only certain minorities, but not others, or only in certain places, but not universally; therefore monitoring the situation of a particular vulnerable group is a useful way of testing a system's effectiveness and commitment. One of the purposes of this limited project is to demonstrate that monitoring of minority protection on a broad scale is both feasible and necessary for the creation of a Union of common values. EUMAP supports the extension of monitoring to examine the situation of vulnerable minority groups throughout the EU.

2. CANDIDATE STATES: ASSESSING GOVERNMENT POLICIES FOR MINORITY PROTECTION AND INTEGRATION

The Commission noted in its Enlargement Strategy Paper 2001 that “in all countries with sizeable Roma communities national action plans are now in place to tackle discrimination, which remains widespread, and to improve living conditions that continue to be extremely difficult.”¹⁹ Several countries with smaller Roma communities – Lithuania, Poland, and Slovenia – have also adopted such programmes, largely on their own initiative. In Estonia and Latvia, the adoption of programmes to promote the integration of large Russian-speaking minorities or non-citizens have been encouraged and praised by the Commission.²⁰ The very fact that all candidate States have adopted these programmes constitutes not only a response to the requirements of accession, but

¹⁹ The full text of the Enlargement Strategy Paper is available at <http://europa.eu.int/comm/enlargement/report2001/index.htm>, (accessed 5 October 2002).

²⁰ See European Commission, *2001 Regular Report on Estonia's Progress Towards Accession*, Brussels, 2001, p. 24, available at http://europa.eu.int/comm/enlargement/report2001/ee_en.pdf, (accessed 9 October 2002).

also a mark of Governments' willingness to take positive action to demonstrate their compliance with the political criteria.

Volume I of EUMAP's 2002 minority protection reports examines the degree to which these special policies and programmes have been implemented in practice. Although the reports focus on one programme in particular in each country, the findings are intended to have wider relevance for the development of more effective minority protection policies in general. Indeed, most Governments have taken initiatives and expend resources on minority communities outside the context of these programmes, although such activity falls beyond the scope of this study.²¹

As these programmes are relatively new, implementation is still at an early stage. Still, even at this point it is possible to evaluate the content of the programmes, their structures and mechanisms for implementation, and the initial results that have been achieved. Moreover, it is precisely at this early stage that it would be most useful to develop more effective ways of ensuring that monitoring and evaluation – both by the Government and the civil society organisations that often partner with the Government – are incorporated into the plan for programme implementation.

Although the programmes vary considerably, several reflect an insufficiently comprehensive approach to minority protection. Common issues affecting implementation are: ineffective coordination, lack of funding, lack of public support, and insufficient commitment of political will.

2.1 Programme Content

Several Government programmes – notably those of Bulgaria, the Czech Republic, Hungary and Romania – reflect a comprehensive approach to minority protection, clearly stating an intent to address discrimination as well as to promote minority identity. In Estonia and Latvia, where the principal target is Russian-speaking populations, Government programmes do not purport to guarantee comprehensive minority protection; instead, they promote societal integration through acquisition of proficiency in the State language.

²¹ EUMAP reports do not evaluate Government policy towards minorities in its broadest sense, or over an unspecified period of time. Assessment is focused on the special programmes adopted by candidate State Governments in response to the accession process, and their record of implementation through August 2002. It does not attempt to either catalogue or assess all governmental funding that benefits minorities. Thus, for example, State social assistance benefits – to the extent they fall outside the realm of these programmes – also fall beyond the scope of EUMAP reports.

Direct EU influence is evident in the content of several programmes; expert input has been provided to support policy development or the drafting of legislation in Bulgaria, the Czech Republic, Romania, and Slovakia. However, condemnation of discrimination is still largely declarative. Legislative and policy initiatives to combat discrimination are still at an early stage; where they exist, they are still largely untested. Public officials as well as members of the legal profession have not received sufficient training on existing (or planned) anti-discrimination measures.²² With EU encouragement, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia and Slovakia are all engaged in reviewing their legislation with a view towards ensuring full compliance with the EU's Race Equality Directive. Romania has already adopted comprehensive anti-discrimination legislation and has taken steps towards establishing an institutional framework to guarantee implementation. Slovenia also has fairly comprehensive legislation in place.

Although the protection of Roma culture is a priority for many Roma civil society organisations, this dimension of minority policy is not fully elaborated in any of the Government programmes, though integration is often identified as an objective. In fact, the inclusion of "socialisation" elements in many programmes (Hungary, Lithuania, Poland, and Slovenia) suggests that Roma culture is still identified with poverty, deviance, and other negative characteristics, and is viewed as being at odds with majority society. For example, the Slovenian Employment Programme attributes the marginalisation and segregation of Roma to "different sets of living standards and moral values followed by the Roma..." The "Programme on the Integration of Roma into Lithuanian Society 2000–2004" attributes the persistent marginalisation of Roma to their "linguistic, cultural and ethnic features." The tendency to view Roma values as inherently inferior undermines the respect for cultural difference that is a foundation of multicultural society.

Both of the States with large Russian-speaking minorities prioritise linguistic integration instead of linguistic rights protection. The Estonian Integration Programme asserts that integration is a two-way process. However, its practical measures relate principally to the creation of a common linguistic sphere as a means of enhancing minority integration. Minority representatives have expressed concern that the exclusive emphasis on language does not take into account other barriers to integration in the legal and political spheres. The "Integration of Society in Latvia" Programme also declares support for minority integration and the need to protect minority rights, but does not address discrimination

²² For a general review of judicial training as well as non-technical legal training on a wide range of legal issues, see EU Accession Monitoring Program, *Monitoring the EU Accession Process: Judicial Capacity*, Open Society Institute, Budapest, 2002 (forthcoming), available at <<http://www.eumap.org>>.

and proposes few measures to promote minority identities. In fact, Latvian officials state that minority protection is not the aim of the Integration Programme.

The ability to develop comprehensive policies is impaired in many candidate States by the absence of comprehensive statistics or other reliable data on the situation of minority groups. The lack of information is often justified by reference to legislation guaranteeing privacy and the protection of personal data. Yet in some cases it is apparent that police departments and other governmental agencies keep at least informal statistics on minority groups and their members, in apparent violation of data protection laws.

However, in many cases, legislation does not prohibit the collection of sensitive personal data *ab initio*; rather, it simply requires that protective mechanisms should be incorporated.²³ Some EU member States, such as the UK, have demonstrated that such data can be collected to good effect, allowing the development of more targeted, effective public policies to improve minority protection, and without violating personal privacy. Appropriate mechanisms should be devised to allow for the collection of ethnic and racial statistics necessary for the conduct of effective monitoring; these mechanisms should be developed and employed in cooperation with minority representatives to allay fears that such data could be abused.

2.2 Programme Implementation – Problems of Coordination and Capacity

Implementation of minority protection and integration programmes has not been comprehensive. In most cases, the bodies charged with responsibility for coordinating implementation are themselves marginalised, working within the constraints imposed by a lack of funding, staff and political support.

Governmental minority protection programmes are policy documents, rather than legislative acts; as such, in most cases the bodies primarily responsible for fully elaborating them and overseeing their implementation are specialised departments within Government ministries. However, these bodies seldom are authorised to do more than compile reports using information voluntarily supplied by participating ministries, and lack the mandate to coordinate the activities of other Government institutions efficiently and effectively.

²³ See *Ethnic Monitoring and Data Protection – the European Context*, Central European University Press – INDOK, Budapest, 2001.

In Bulgaria, the National Council on Ethnic and Demographic Issues (hereafter, NCEDI) has been given responsibility for coordinating minority policy generally, and for managing the Government's programmes for Roma.²⁴ However, the NCEDI has no authority to require implementation from other Government offices. It disposes of little funding.²⁵ As a result, though on paper the Framework Programme in particular is widely considered to be one of the more comprehensive in the region, implementation has been almost completely stalled. In Romania, the Joint Committee for Monitoring and Implementation has suffered not only from a weak mandate, but also has met only irregularly and often with the participation of lower-level staff not authorised to make decisions on behalf of their respective ministries. The Inter-Ministerial Committee in Hungary can propose that the Government address cases where ministries have failed to meet their obligations under the Government programme for Roma, but can only register its disagreement or disapproval by referring reports to the Government if appropriate action is not taken.

Although steps should be taken to guarantee coordinating mechanisms the support and authority they need to act effectively, the experience in Estonia, where the Integration Programme's Steering Committee appears to enjoy good cooperation from participating ministries, demonstrates that such bodies can be effective without being granted more coercive powers; where the importance of programme objectives are generally recognised at the Government level, administration is more functional and coordination more successful.

Without proper coordination, moreover, even otherwise successful projects run the risk of effecting only temporary relief to long-standing problems. The Czech "2000 Concept of Governmental Policy Towards Members of the Roma Community Supporting Their Integration into Society" is informed by a strong human and minority rights perspective, and offers a solid conceptual framework. However, effective central coordination and support is lacking, and practical implementation has consisted largely of *ad hoc* projects carried out by different ministries at their discretion, often with uncertain or time-limited funding; though some of these projects have posted positive results, their relationship to each other and to the Concept itself is ill-defined. Without coordinated measures to address systemic discrimination and to effect changes at the legal and institutional level, the implementation of such projects as a means of addressing deeply-rooted problems will have little long-term impact; without greater commitment of political will to the Concept, structural changes are

²⁴ The Framework Programme for Equal Integration of Roma in Bulgarian Society, and the "Integration of Minorities" section of the Government's comprehensive program "People are the Wealth of Bulgaria."

²⁵ Particularly low levels of funding have also been recorded in Lithuania, Poland, Romania, and Slovenia.

unlikely to occur, and bodies of national and local public administration will not take implementation seriously.

In Slovakia, despite recent attempts to enhance the administrative capacity to implement the Government Strategy, coordination of ministries' activity remains a weak point, as there is no mechanism to require their active involvement. Funding from the State budget has been insufficient.

In Latvia, most of the activities implemented under the Integration Programme to date had been initiated before it was adopted. Although mechanisms for administering and funding its implementation have begun functioning only recently, already the lack of effective coordination between various State and non-State actors involved and the lack of a clear implementation strategy are causing problems.

Slovenia's programmes for Roma also lack adequate central oversight mechanisms to ensure consistent funding. Under the general "Programme of Measures," adopted in 1995, the governmental Office for Nationalities is responsible for overall coordination of the Programme. In fact, no ministry or Government body has set aside dedicated funds for Roma programmes, as is the practice for other recognised minority groups. Municipal offices have also suggested that the Office for Nationalities should have more control over funding decisions than individual ministries, which are not as well informed about the situation of Roma, and should be responsible for allocating those funds to the local authorities.

The adoption of special programmes for minorities also raises certain risks. Namely, they may be used as a pretext for the State to divest itself of responsibility to provide minorities with the protection, benefits and services that are due to all. There has been little effort to promote awareness within the Roma community that all governmental policies should enable them to realise their fundamental rights to education, housing and healthcare, *inter alia*. While specialised programmes may be essential to address the specific needs of a minority community, care should be taken that these do not lead to the perception that Roma are not included in general programmes to alleviate poverty or improve education standards.

At the same time, special advisors or bodies to promote minority identity and culture should not be asked to take on social assistance functions. For example, minority self-government representatives in Hungary are sometimes asked to handle questions related to social assistance, though this is properly a responsibility of the local government. Czech and Slovak "Roma Advisors" – intended to facilitate the formulation of local policies and projects to improve the situation for Roma – instead have been placed in the role of social workers, a job for which they have received no training and are thus not qualified.

Though positive measures may be justified to ensure equal access in practice, they must not come to be seen as a replacement for essential State functions. Advisory positions should be clearly defined as such; programmes should always include guidelines for implementing officials and “communications components,” which raise general public awareness of programme objectives and of the responsibilities of public officials.

2.3 Decentralisation: the Role of Local Government

In several countries, such as the Czech Republic, Hungary, Poland, Slovakia, and Slovenia the central bodies responsible for developing and implementing governmental minority protection policy lack the competence to influence local public administration effectively. Thus, efforts to enact reforms at the national level – particularly reforms which run counter to popular attitudes and perceptions resistant to giving minority groups “special treatment” may be undermined by local opposition and sometimes by contradictory local policies.

The Czech Republic, Poland, Romania and Slovakia have recognised the importance of integrating local public administrations in programme implementation by decentralising responsibilities and by appointing local and regional Roma experts or advisors. In some cases individuals occupying these offices have managed to raise the profile of governmental programmes, to facilitate better communications between Roma communities and local governmental structures, and to increase awareness of the needs of local Roma communities. However, most work with little institutional support, without clear definition of their competencies, and receive little or no specialised training for their positions. Moreover, following public administration reform in the Czech Republic, the central Government can no longer require the new regional bodies to employ Roma Advisors as it could under the former district system, and the future of this initiative is uncertain. In Slovakia, only a handful of Roma Advisors have been appointed thus far.

In Romania, for example, “Roma experts” were appointed in mayor’s offices throughout the country. Many of these experts were selected and appointed on the basis of affiliation with a single Roma political party, through a particularly opaque and politicised process. Others are merely civil servants who have had the title “Roma expert” added to their existing responsibilities, without receiving training or support. A representative from a County Bureau for Roma noted that, “these civil servants do not have any knowledge and motivation to work for solving Roma problems; it is just another responsibility for them.”²⁶ A large pool of qualified Roma candidates, many of whom have benefited from a successful tertiary-level affirmative action programme

²⁶ Interview with V. Gotu, Roma expert, County Office for Roma, Galați, 1 August 2002.

introduced by the Ministry of Education, as well as those with extensive experience in the NGO sector, could offer the expertise and initiative needed for these posts.

A decentralised approach to implementing both the 1995 “Programme of Measures for Helping Roma” and the Employment Programme in Slovenia has proven to be an effective means to address the varied and distinct problems of different Roma communities. However, there are several serious drawbacks to a system that devolves most of the programming decisions to local authorities. First, without counterbalancing coordination at the central level, there has been little opportunity to duplicate or build upon successful programmes; too, local officials have received little training or preparation for implementing projects for Roma. At the local level, there is little recognition of the role discrimination plays in compromising opportunities for Roma and many civil servants still express very negative attitudes, undermining constructive relations with Roma communities (and thus prospects for success) from the outset.

Though decentralisation can bring benefits in terms of encouraging local initiative and vesting responsibility in local decision-makers and communities, it should be balanced against the need for the expertise, capacity and authority of a Government-level body. Local officials assigned responsibilities to manage or oversee implementation of special projects to benefit Roma or other minorities should be provided with training to ensure that they are aware of programme goals and objectives; of higher-level political support for the programme; and of the culture and situation of the minority group(s) with whom they are being requested to work. Such training could be prepared and conducted in cooperation with local minority representatives.

2.4 Evaluation and Assessment

Candidate State Governments have evinced increasing support for the importance of regular assessment and evaluation of the minority protection programmes they have adopted.

Notably, while the Hungarian Government has not undertaken any formal evaluation of the present package of measures to improve the situation of Roma, the preparation of guidelines for the elaboration of a long-term strategy has involved substantial public discussion and comment. Moreover, the guidelines adopted indicate that some assumptions underlying the current policy have been challenged and the present programme may be modified following wider public debate and greater input from Roma representatives.

In several countries, lack of concrete progress on programme implementation has necessarily constrained monitoring activities. In Romania, the Government has

demonstrated an early commitment to monitoring its own performance in implementation of its “Strategy to Improve the Situation for Roma” with the publication of an internal evaluation report in April 2002.²⁷ However, the comprehensiveness of the report is limited by a lack of available information on implementation – the report itself was released late due to difficulties gathering data from the relevant ministries.

For governmental monitoring reports to provide a basis for public scrutiny and a tool to increase public awareness of programme objectives and achievements, they must be publicly available. The annual media and general monitoring reports prepared by the Estonian Government are comprehensive, professionally presented, and widely available. In Slovenia, though reportedly some Government implementation reports have been prepared, they have not been made available to the public or to local officials. As a result, their utility for the purpose of improving existing projects and developing new projects on the basis of prior experience is limited.

The Czech 2000 Concept incorporates a requirement for an annual review and Update. This provides a valuable possibility for regular revision and amendment to integrate experience gained during implementation; though the quality of Updates has suffered to some extent from poor or incomplete information received from participating ministries and insufficient capacity to collect and compile the information, the idea of incorporating monitoring as an integral part of Concept implementation is sound. In Slovakia, too, annual evaluation reports are largely descriptive; there are no mechanisms for evaluating the effectiveness of the activities that have been realised on an ongoing basis.

In Lithuania, there is no overview available of the status of tasks being implemented under the Roma Integration Programme; in fact, there is some confusion over the extent to which various initiatives to improve the situation for Roma are related to the Programme.

2.5 EU Funding to Support Implementation

EU support has played a key role not only in prompting the adoption of minority protection and integration programmes, but in supporting their implementation. In some cases, such as Bulgaria, Lithuania, and Romania, implementation has been largely dependent on international funding; governmental funding has been minimal. Estonia, Hungary, Latvia and Slovakia have also received significant EU and other international

²⁷ Ministry of Public Information, “Report on the Status of Implementation,” Bucharest, April 2002, p. 4.

funding, but have also committed significant Government co-funding to programme implementation.

In Bulgaria, the EU commended the adoption of the Framework Programme and has commented on implementation in its Regular Reports. However, EU funding for Roma-related projects has not consistently followed the strategies articulated in the Programme, and the observations in the Regular Reports have occasionally lacked the emphasis and specificity that would encourage better adherence to Programme goals. In Romania, however, the EU has backed up its praise for the Government Strategy's decentralised approach by allocating funding primarily to local initiatives and pilot projects fostering partnerships between local institutions and Roma groups. In the Czech Republic and Slovakia, though EU funding has supported implementation of many of the priority areas identified by the respective Governments, little funding has been allocated to address the serious issue of unemployment. EU funding should closely support the objectives that candidate State Governments have been at pains to elaborate.

Prior to the adoption of the Estonian Government's Integration Programme in 2000, the EU had contributed to funding Programme goals for several years. Like the Integration Programme itself, Phare funding has been focused primarily on Estonian language instruction. However, the 2001 Regular Report noted that proper attention and resources should be given to *all* elements of the integration programme, presumably alluding to the legal and political spheres, which have so far been accorded lower priority. As more than three-quarters of all Programme funding in 2000, including Phare funds, was allocated to measures related to language instruction, the EU's own funding priorities should emphasise measures to increase the rate of naturalisation' support for minority media, and other non-linguistic objectives.

In the Czech Republic and Slovakia, the share of Roma NGOs among implementing organisations in Phare projects appears to be particularly low, although the issue has been raised in a number of other countries as well, including by minority NGOs in Estonia. This may be due in part to extremely complicated application and reporting procedures. At the same time, often it is precisely the smaller or more local groups that have the greatest insight into the solutions most likely to improve the situation for Roma at the ground level.

The EU and other international donors should ensure that the selection process identifies proposals demonstrating authentic links to the intended beneficiaries and an understanding of their needs, and that local communities are involved in articulating their problems and addressing them. EU programmes should review their application and grants administration procedures with a view toward simplification and transparency; they should also accompany grants announcements with in-country training and assistants for potential applicants. Availability of this form of assistance is

likely to increase in importance as levels of EU funding available to Central European and Baltic States increase.

2.6 Minority Participation

Minority participation in the development, implementation, and evaluation of programmes that are designed to benefit them has been called for by numerous international organisations,²⁸ including the EU. Minority participation is important not only for its own sake, but for the sake of programme effectiveness. Programmes which integrate minority perspectives and sensitivity to minority needs and concerns are more likely to be accepted by minority communities; projects which involve minorities actively in their development, implementation, and evaluation are more likely to be accepted by majority society and to facilitate integration than alternative measures such as the distribution of charity or social assistance.

Perceptions that Roma deliberately abuse the social welfare system are prevalent throughout the accession region. Programmes placing Roma in leading, management, decision-making roles are important to counter the popular misconception that Roma “prefer to remain on welfare;” “don’t want anything better;” “aren’t interested in school;” or “prefer to live together,” which provide the justification for a whole range of discriminatory behaviours and policies.

In a number of countries initiatives to improve employment opportunities for Roma centre around public works projects. Public works projects constitute the primary source of government-sponsored employment for Roma in Slovenia. Despite the fact that such positions offer neither a steady income nor the opportunity to develop marketable skills, demand for such positions continues to outstrip availability. Public works programmes have been implemented in the Czech Republic and Slovakia as well, but their efficacy as a means of addressing long-term unemployment has been questioned. As most involve some form of manual labour, they tend to target men exclusively; there are especially few projects designed to increase women’s capacity to enter the workforce.

Few projects implemented under Integration Programmes in Estonia and Latvia target employment inequalities; initiatives in this area generally focus on the linguistic dimension. Improving workers’ language skills is intended to promote greater labour flexibility and mobility and increased employment opportunities. Adequate Latvian

²⁸ See e.g., Organization for Security and Co-operation in Europe, *The Situation of Roma and Sinti in the OSCE Area*, High Commissioner on National Minorities, 2001.

language proficiency is also a requirement for the assistance of the State Employment Service, as well as for some jobs in the private sector.

In Slovenia, projects where consultation with Roma has taken place appear more successful and durable than those elaborated by local authorities alone, who may be more focused on meeting the needs of the municipality than the needs of the Roma community. Poorly targeted projects offer few obvious benefits to the target group and fail to encourage a long-term shift away from dependence on social welfare or other forms of State support. An evaluation of one project implemented under the EU's Partnership Fund for Roma in Romania also found that there were significant differences in the way in which local officials and Roma partners understood the project goals. The Roma saw the project as a source of direct assistance to participants, while the municipal representatives prioritised the interests of the municipality, seeing training as secondary. Consequently, the Roma participants were dissatisfied with their role, and the official assessment also concluded that the level of Roma participation should have been greater.²⁹

In Hungary, little attention was given to minority input when the Government programme was first drafted. However, guidelines for the follow-up strategy place greater emphasis on the active participation of Roma, on encouraging independence, and increasing the future role of Roma-interest organisations in the process of European integration. In line with this shift in priorities, a new advisory body was formed in Summer 2002, directly under the Prime Minister's office; it will include a majority of Roma representatives from both the political and civil-society spheres.

The Estonian Integration Programme drew little input from minority organisations during drafting and there has been low participation during implementation (although there have been improvements. As a result, a clear divide between minority and majority perceptions of the goals and priorities of the integration process persists, and must be addressed in order to achieve mutually satisfactory results. Evaluations – though regular, comprehensive and publicly available – reportedly give little consideration as to how the Programme's shortcomings as perceived by the Russian-speaking community could better be addressed.

In Latvia, although the Integration Programme is based on a Framework Document that was debated widely and revised accordingly, including by minority consultants, direct minority participation as authors was low. Minority participation in implementation has also been low, although there have been recent efforts to involve minority NGOs and civil society to a greater extent.

²⁹ MEDE Evaluation Fiche, "The Establishment of the Ecological Guardians Corps in rural area of upper Timiș, Caraș-Severin county" (PFRO 322), Cluj Napoca, 2002.

Developing political and civil society movements within Roma and other minority communities promise to develop into an increasingly powerful lobby for minority interests; these can help to ensure that Government commitments to the Roma – both as minorities and as members of the broader society – are met. As one Bulgarian Roma leader has stated, “we have one document, the Framework Programme, which showed that we can unite for a common cause.” It remains for Roma and other minority representatives to unite around efforts to press for more effective implementation of the minority protection programmes that have been articulated.

2.7 Minority Representation

Often, when Government have sought input from minority communities, they have done so through an official representative. This approach raises a number of difficulties. First, the designation or election of a single representative (or representative body) belies the diversity of minority populations. Second, it perpetuates dependency. Representative bodies are reliant on the Government for political and budgetary support, and are thus less likely to maintain a critical stance. Finally, making access open to only certain representatives, to the exclusion of others, engenders competition and mutual distrust within minority communities.

In some candidate States, mechanisms are in place to ensure minority representation at the Parliamentary or local levels. These measures constitute an important means of ensuring minority participation, but in several countries, Government policy has tended to distort or even co-opt this process, with negative implications for programme effectiveness.

In Hungary, a system of minority self-governments is established through the Minorities Act at both the national and local levels. This system has given rise to internal tensions among Roma groups, due to the fact that the Government has tended to rely upon the National Roma Self-Government as the sole “official” representative of the Roma nationally. The Government has negotiated principally with the National Roma Self-Government when preparing decisions affecting the Roma populations, although other organisations offer different perspectives and opinions. Relying exclusively on one organisation, which is itself dependent on the Government for funding and support, raises the risk that that organisation may be easily controlled. At the same time, an organisation which fails to make substantive or critical recommendations for fear of losing governmental support may quickly lose its legitimacy within the minority community. The Minorities Act should be reviewed to allow for amendments to encourage more diverse representation on national advisory bodies.

In Romania, the Roma Social Democrat Party (RSDP) holds the single parliamentary seat for Roma under provisions granting minorities representation where they fail to meet minimum electoral thresholds. However, in large part due to the Government's exclusive consultation with the RSDP, the organisation has come to be accepted as the sole representative for Roma at all levels, to the point where administrative hiring procedures are ignored in favour of simply accepting RSDP nominees for local civil service posts. According to some Romani activists, the Government's reliance on a single political organisation to represent the entire spectrum of Roma political and civil society organisations has had the effect of fragmenting the Roma NGO Community.

In Latvia, the lack of transparency in the selection process for nomination of NGO representatives (including minority NGOs) to the Council which supervises the work of the Society Integration Fund has been criticised by minority representatives.

Governments should work with minority communities to elaborate more sophisticated mechanisms for minority participation in public life, which would provide for the involvement of as broad a range of groups representing minority interests as possible and feasible. Where single official negotiating partner institutions are maintained for the purposes of facilitating communications between the Government and the minority community, alternative mechanisms for encouraging these institutions to engage in broad-based dialogue with other minority organisations should be devised.

Again, both Governments and minority communities stand to gain from enhanced minority participation in the refinement of policies, identification of best practices, and modification or elimination of under-performing projects.

2.8 Public Support

Policies perceived to have been adopted largely to satisfy EU requirements, regardless of whether they were adopted with good will and honest intentions, do not necessarily reflect a sea-change in public opinion: indeed, EU exhortations to improve the situation for minorities often have drawn resentment from majority populations and politicians as unwarranted and unwelcome external interference.

Broad public support is generally considered necessary for the implementation of any large-scale political programme, but the rapid pace of the accession process has meant that building public support for governmental policy often has been given short shrift in the wake of the broader accession imperative. Measures adopted to comply with economic requirements can be more easily justified by political leaders in terms of the economic benefits that Union membership is widely expected to produce. However, the case for the benefits and advantages to society as a whole of improving the situation for minorities has not been so persuasively made.

Indeed, resistance to the implementation of positive measures to improve the situation for Roma or to promote integration has constituted one of the principal obstacles to effective implementation. For example, in Slovenia, one local official reported that politicians deliberately do not prioritise Roma programmes because the local non-Roma inhabitants would react negatively;³⁰ similar observations have been noted in Bulgaria, the Czech Republic, Hungary, Lithuania, Poland, Romania and Slovakia. Allocating substantial sums of money to programmes to improve the situation of minority groups – particularly during periods of economic austerity, or when the minority group in question is held in low esteem – without corresponding efforts to build tolerance and understanding among the population as a whole will inevitably meet with resistance, placing such efforts at serious risk of failure.

Resistance to the adoption and implementation of minority protection programmes has emerged not only among the public, but among public officials as well. For example, Bulgarian officials have questioned why Roma have been singled out for support through a special programme, when other minority groups are also disadvantaged,³¹ and the Ministry of Education recently cautioned against too-rapid integration of Roma and non-Roma schools, on the grounds that it could provoke a backlash against the minority population and even “lead to further exclusion of Roma living in segregated neighbourhoods.”³²

Public awareness of Government programmes for Roma is low in each of the candidate countries analysed. Few programmes incorporate provisions for promoting increased awareness, either among the target population or society as a whole; those that do have been insufficiently implemented. For example, the Czech 2000 Concept highlights the importance of public discussion, yet the necessary funds and human resources to launch a concerted public campaign to promote the Concept and related activities seem to be lacking. The Office responsible for coordination of Concept implementation has no public relations staff and efforts to publicise the Concept have not been systematic.³³

Under the Estonian Integration Programme, quite extensive promotional efforts have been carried out, and regular monitoring of public opinion expressed through the media is also an important component of the Programme. These measures have been only partially successful in forging a common vision of integration, however; minority

³⁰ Interview with S. Ličen Tesari, Semič, 30 March 2002.

³¹ OSI Roundtable Meeting, Sofia, May 2002.

³² Ministry of Education and Science, “Organization and government of the activities of the schools of general education, professional and special schools,” Sofia, 2002, p.156.

³³ OSI Roundtable Meeting, Prague, June 2002.

and majority society continue to hold quite different views as to the goals of integration and what its priorities should be.

Without sufficient public information, unscrupulous officials can misrepresent expenditures on minority programmes for political purposes. In Hungary, it has been observed that some public officials have emphasised expenditures for the benefit of Roma without underlining that these measures were undertaken to ensure equal access to opportunity in Hungarian society.³⁴ This approach can foster resentment, and may lead to a weakening of confidence and initiative among Roma communities.

Initiatives to improve minority participation in media organisations are particularly important for shaping more positive public perceptions of minority communities. In Hungary, non-governmental initiatives to promote Roma participation in and access to the media have proven successful. The Roma Press Centre produces news articles and other reportage for distribution to the mainstream media. It has also offered training to young Roma in collaboration with the Center for Independent Journalism, which has also supported the establishment of a similar agency in Bucharest.

Across the region, the lack of authentic political will to develop and carry out effective minority policies can be traced back to the lack of broader public sympathy and support for the common political values and principles underlying enlargement – and thus, perhaps, to insufficient efforts on the part of the EU successfully to underline the importance of these values and principles. EU structures and candidate State Governments must articulate and communicate more convincing arguments that minority protection is a fundamental component of the EU's common values.

3. MONITORING MINORITY PROTECTION IN EU MEMBER STATES – THE SITUATION OF MUSLIMS AND ROMA

More than ever, the European model rests on universal values: freedom, democracy, respect for human rights and fundamental freedoms, and the rule of law. For the most part, these ideals have essentially been achieved. Nonetheless, there is still some fighting to be done, even in our old democracies, to realise them to the full.³⁵

³⁴ OSI Roundtable Meeting, Budapest, June 2002.

³⁵ Louis Michel, Preface to the European Parliament's Annual Report on Human Rights 2001, p. 7, available at <http://ue.eu.int/pesc/human_rights/en/HR2001EN/pdf>, (accessed 18 September 2002).

Volume II of EUMAP's 2002 reports focuses on the situation of a vulnerable minority group in each of the five largest EU member States.³⁶ These reports reveal some of the same problems evident in candidate States; Roma in Germany and Spain face prejudice, exclusion and discrimination in the same areas, including employment, education, housing, access to public goods and services, and the criminal justice system, as well as barriers to the full enjoyment of minority rights. Moreover, in contrast to candidate States, Germany has not adopted a special Government programme to address those issues.³⁷

EUMAP member State reports also reveal a number of new and different issues. The emergence of large Muslim communities in France, Italy and the United Kingdom with different traditions and values – as well as the desire fully to participate in public life – poses challenges to the underlying assumptions of the European system for minority protection, which tends to view minority communities in terms of race and ethnic background, rather than religion.

3.1 Public Attitudes

Although there is great diversity within the population of Sinti and Roma in Germany and Roma/gitanos³⁸ in Spain, they are viewed as a single group by the majority society. Similarly, though “the Muslim community” is in fact composed of different national, ethnic and linguistic communities, Muslims are nonetheless often viewed as a monolithic group.³⁹

In fact, disparate Muslim communities do share certain values and interests, and increasingly identify themselves as a group for the purpose of protesting discriminatory treatment and advocating for certain minority rights. This is also true for Romani communities. The fact that they do so should not undermine official efforts to encourage greater understanding of and appreciation for their internal diversity.

³⁶ EUMAP only examined the five largest EU member States, so this Overview refers primarily to minority protection in these five; obviously, the Program supports the extension of monitoring to cover all fifteen member States, to allow the conclusions drawn here to be expanded upon and refined further.

³⁷ Spain's “Roma Development Programme” was adopted in the 1980s, and, according to Roma representatives, is outdated and in need of revision.

³⁸ The terminology as recommended by the Romani Union of Spain: “Roma” as a general term, “Romani” for the singular feminine genitive form, meaning “of the Roma” or “characteristic of the Roma community” and “Roma/gitanos” or “Roma” when referring to the Spanish Roma.

³⁹ See European Monitoring Centre on Racism and Xenophobia (hereafter, “EUMC”), *Summary Report on Islamophobia in the EU after 11 September 2001*, Vienna, 2002, pp. 23–24.

Both Roma and Muslims are often perceived as foreigners in the countries in which they live⁴⁰ – even when they have resided there as citizens for generations, or even centuries, as is the case with Roma in Germany and Spain. As a result, minority policy is sometimes conflated with policies to fight xenophobia or provide social assistance to immigrants or foreigners. In Germany, for example, issues related to discrimination or violence against minorities⁴¹ are referred to the “Commissions for Foreigners’ Affairs;” there is no specialised body competent to deal with discrimination and violence against minority citizens or the promotion of minority identity at the Federal level.⁴²

Though the majority of Muslims living in France are French citizens, segments of the public continue to consider Maghrebi Muslims – unlike immigrants from other countries such as Italy, Spain and Portugal – to be immigrants even after four generations in France. Perhaps due to the fact that Muslims are highly visible, Italians tend to overwhelmingly associate immigration with Islam, even though Muslims do not in fact constitute the majority of immigrants.⁴³ In the UK, there has been growing official acknowledgement of prejudice and discrimination against Muslim communities since the publication of a 1997 report of the Commission on British Muslims and Islamophobia.⁴⁴ However, Muslim community groups argue that the Government has been slow to translate the official acknowledgement of discrimination faced by Muslim communities into policy initiatives and legislative measures, claiming that the Government is “hot on rhetoric but slow on delivery.”⁴⁵

Both Roma and Muslims face prejudice from majority societies. The common perception of Romani communities in both Germany and Spain is negative and widely shared. A 1992 poll indicated that 64 percent of Germans had an unfavourable opinion of Roma, a higher percentage than for any other racial, ethnic or religious

⁴⁰ The EUMC has noted that “uncertainty about our identity, our belonging and our traditions has led to an increased fear of ‘foreign’ influences and to a corresponding resistance to anything that appears ‘foreign’ and different.” Statement by Bob Purkiss, chair of the EUMC, and Beate Winkler, Director, on the occasion of the international day against racial discrimination, 21 March 2002, EUMC Newsletter Issue 11 March 2002, available at <<http://eumc.eu.int>>.

⁴¹ Reference here is made to “visible” minorities, for example Sinti and Roma.

⁴² In Italy as well, the situation of Roma and Sinti – the majority of whom (about 70 percent) are historically resident in Italy – has been dealt with by the Commission for Integration of Foreigners.

⁴³ Christians are the largest group, numbering about 800,000 (48 percent of the immigrant community).

⁴⁴ Commission on British Muslims and Islamophobia, *Islamophobia – a Challenge for Us All*, London: The Runnymede Trust, 1997.

⁴⁵ Interview with organisation G, London, 6 June 2002.

group,⁴⁶ and a 2001 survey revealed a pattern of continuing prejudice.⁴⁷ In Spain, Roma/gitanos are seen as resistant to integration, and relations with the rest of the Spanish population are marked by segregation in all areas of life – a “coexistence without togetherness.”

A recent report of the European Monitoring Centre Against Racism and Xenophobia (EUMC) noted that media representations of Islam are frequently “based on stereotypical simplifications,” and portrayed as a religion and ideology “completely extraneous and alternative to the enlightened secularity of the West.”⁴⁸ Muslim leaders in France, Italy and the UK all assert that mainstream media tend to rely upon the same sources for information (allegedly, these are often radical or extremist sources that are not considered representative *within* Muslim communities), failing to represent a broad range of views and contributing to public stereotyping of Muslims as a threat to the values and culture of the societies in which they live.⁴⁹ According to one French Muslim organisation: “The media has used each incident ... to feed Islamophobia and demonstrate that Islam is incompatible with the Republic.”⁵⁰ Such media practices may contribute to growing Islamophobia and may have the unintended and unfortunate result of strengthening Muslim identity around a shared sense of vulnerability and exclusion from the majority society.

Public officials have a special responsibility to provide leadership in condemning discriminatory attitudes and acts and to counter prejudice. Yet while many have lived up to this responsibility, others have themselves made statements that fuel intolerance and undermine core European values. EU human rights monitoring bodies should assume a “watchdog” role, monitoring official discourse and media reports with an eye towards encouraging responsible discourse by public officials, condemning racist statements unequivocally, and expressing official disapproval when appropriate.

⁴⁶ 17 percent had an unfavourable opinion of Muslims; of Indians, 14 percent; of guest workers, 12 percent; of dark-skinned persons, 8 percent, and of Jews, 7 percent. Cited in G. Margalit, “Anti-Gypsyism in the Political Culture of the Federal Republic of Germany: A Parallel with Anti-Semitism?” See <<http://sicsa.huji.ac.il/9gilad.htm>>, (accessed 9 April 2002).

⁴⁷ This study was a part of a project, financed by the European Commission, to assess the situation of Sinti and Roma in select EU Member States (Germany, Italy and Spain) and to advise respective governments on policy. Interim report is on file with EU Accession Monitoring Program.

⁴⁸ European Monitoring Centre on Racism and Xenophobia, *Racism and Cultural Diversity in the Mass Media. An Overview for Research and Examples of Good Practice in the EU Member States, 1995-2000*, Vienna, February 2002, pp. 252, 262.

⁴⁹ See, e.g., E. Poole, “Framing Islam: An Analysis of Newspaper Coverage of Islam in the British Press,” in K. Hafez, ed., *Islam and the West in the Mass Media*, New Jersey: Hampton Press, 2000, p. 162.

⁵⁰ Interview with the director of *Institut Formation Avenir*, 17 May 2002.

At present, however, negative attitudes and perceptions towards Muslims and Roma continue to colour behaviour towards them and form the context within which legislation is implemented and institutions operate.

3.2 Protection Against Discrimination

Not all EU member States have brought their legislation into compliance with EU standards in the area of non-discrimination, as set forth in the Race Equality and Employment Directives. Moreover, assessing the situation of Muslims living in Europe demonstrates that even these standards are not sufficiently comprehensive; discrimination on grounds of religious affiliation is covered only in the Employment Directive.

Neither Germany nor Spain has adopted comprehensive anti-discrimination legislation.⁵¹ In both countries, efforts are underway to bring domestic legislation into compliance with the Race Directive, but little progress has been made. Even in those States that have already adopted comprehensive anti-discrimination legislation, there are still important gaps. For example, French anti-discrimination legislation recognises and sanctions discrimination on religious grounds, but does not offer a clear definition of indirect discrimination; according to one expert, doing so “would imply referring to [special] categories of the population (which is prohibited by the French Constitution).”⁵²

The situation of Muslims reveals that the EU system itself is not comprehensive. The UK’s legislative and institutional framework for guaranteeing protection against racial and ethnic discrimination largely complies with the Race Directive, yet there are indications it does not provide adequate protection to its Muslim citizens. Though some religious communities have won protection against discrimination by emphasising the extent to which they also constitute ethnic groups (i.e. Bangladeshis and Pakistanis), this option is not open to Muslims originating from countries in which Muslims do not constitute a majority. Outside of Northern Ireland, the governmental bodies for the promotion of equal treatment operate within the existing legislative framework addressing racial and ethnic inequality; they do not contemplate Muslims or other non-ethnic religious groups.

⁵¹ For a detailed comparison of Spanish and German law and the minimum standards set by Council Directive 2000/43/EC, see “Anti-discrimination Legislation in EU Member States,” chapters on Germany and Spain, European Centre for Monitoring Racism and Xenophobia, Vienna, 2002, available at <<http://www.eumc.eu.int/publications/Article13/index.htm>>, (accessed 10 October 2002).

⁵² See D. Borillo, *Les instruments juridiques français et européens dans la mise en place du principe d'égalité et de non-discrimination*, (French and European legal tools in the implementation of the principle of equality and non-discrimination), note 3, p. 126.

Moreover, legislation is only a first, if necessary, step. Even in States which have relatively comprehensive anti-discrimination legislation, such as Italy and France, public awareness of the possibility of legal recourse is low and few cases have been advanced through the courts; awareness seems to be particularly low among immigrants and other vulnerable communities.⁵³ Public authorities in these countries have made some efforts to encourage more effective implementation of anti-discrimination legislation. For example, French courts have sought to facilitate discrimination cases by allowing the use of evidence gathered through “testing.”⁵⁴ In Italy and Spain, a simplified procedure for filing complaints of discrimination is available.

In the UK, anti-discrimination legislation is complemented by an obligation on public bodies actively to encourage greater equality of opportunity between different ethnic and racial groups through policy development. To ensure non-discriminatory access to public services for Muslims, this obligation should be extended to cover religious belief.⁵⁵ As the UK Government itself has acknowledged, “modern local authorities are those in touch with all the people they serve, with an open decision-making structure and service delivery based on the needs of users rather than providers.”⁵⁶

Pan-European forums should be organised to encourage the development of a common baseline understanding and interpretation of the shape that national anti-discrimination legislation should take, in theory and in practice, to the extent permitted by differing legal and political traditions. Article 13 of the Treaty on the European Union provides for protection against discrimination on grounds of religion and belief as well as race and ethnic origin.⁵⁷ This paves the way for future initiatives to broaden the Race Equality Directive or to elaborate new directives covering other areas such as religion and language. The EU could also enhance its anti-discrimination framework by encouraging member States to sign Protocol 12 to the ECHR, which

⁵³ See I. Schincaglia, *Lo straniero quale vittima del reato (The Foreigner as a Victim of Crime)*, research report funded by CPII, DAS, Office of the President of the Council of Ministers, 1999.

⁵⁴ Court of Cassation, n. W 01-85.560 F-D. The technique of “testing,” was pioneered by SOS Racisme to demonstrate the unjustified refusal of nightclubs and other public places to allow entry to persons of foreign or immigrant origin. SOS Racisme has argued that testing could be a useful tool for fighting against discrimination in other areas, such as employment and work. See <http://www.le114.com/actualites/fiche.php?Id_Actualite=68>, (accessed 26 September 2002).

⁵⁵ This is already the case under the Northern Ireland Act 1998 (NIA), which requires public authorities to give due regard to the need to promote equality of opportunity “between persons of different religious belief.” NIA, s. 75(1).

⁵⁶ Local Government Association, *Faith and Community*, LGA Publications, London, 2002, p. 3.

⁵⁷ Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) contains a free-standing prohibition of discrimination.

contains a free-standing prohibition of discrimination, including on grounds of religious affiliation, and by acceding to the ECHR itself.⁵⁸

Moreover, member States, through the EU, should formally embrace and act upon the principle that prohibition against discrimination must be accompanied by positive measures. State officials should be required to seek out ways of ensuring that public services are available on equal terms to all, with special consideration for vulnerable minority groups; opportunities for information-sharing among member States on positive practice in this area should be created. Until such time as States are in a position to adopt comprehensive legislation, they should issue guidelines or codes of practice to give practical assistance to public officials to prevent discrimination in the provision of State services.

3.2.1 Lack of data

The extent of discrimination against minority groups in many EU member States is obscured by the unavailability of comprehensive statistics or other reliable data. As in candidate States, lack of data is often justified by concerns for privacy and protection of personal data. At the same time, the absence of sufficient information presents a clear obstacle to the formulation of effective non-discrimination policy.

For example, there are no nation-wide, reliable statistics about the situation of Roma in either Spain or Germany, or about Muslims in France or Italy – a gap which specialised human rights bodies have encouraged the authorities to fill.⁵⁹ For example, CERD has highlighted that the lack of official socio-economic data on the Spanish Roma/gitano population may impair the effectiveness of policies to improve their situation.⁶⁰ The Race Directive also recommends the use of statistical evidence to establish instances of discrimination.

The Spanish and German Governments maintain that legal norms on gathering ethnically sensitive data make systematic data collection impossible. In fact, Spanish

⁵⁸ This recommendation has been supported by a wide range of human rights NGOs, including Amnesty International and Human Rights Watch, in a joint submission to the Convention on the Future of Europe.

⁵⁹ The UN Committee on the Elimination of Racial Discrimination (CERD), the UN Committee on Economic, Social and Cultural Rights (ECOSOC), the Advisory Committee on Implementation of the FCNM and the European Commission against Racism and Intolerance (ECRI) have all made recommendations regarding the importance of collecting statistics as a tool for establishing and combating discrimination.

⁶⁰ CERD, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Spain*, CERD/C/304/Add.8, 28 March 1996.

legislation does not prevent the collection of sensitive data, provided that respondents are properly informed and that legal provisions on the processing of data are respected.⁶¹ The German Federal Constitutional Court stated that such data could be collected if the secrecy of the data could be assured.⁶² The Government has argued elsewhere that collecting ethnic data on the situation of Sinti and Roma is impractical in any case, as it “could only be achieved with disproportionate investments of time and effort.”⁶³

Moreover, in some cases such data is already collected on a selective basis. For example, according to the Spanish Data Protection Agency as of 2000 there were 85 public and 60 legally registered private databases collecting and processing information related to the race/ethnicity of subjects,⁶⁴ and the laws on elaboration of statistics for community purposes contain few or no limitations on collecting racial or ethnic data.⁶⁵ This data is used to design policies for the benefit of recognised “peoples of Spain.” Thus the lack of statistical data on Roma/gitanos appears to be due to lack of political will rather than legal obstacles, and constitutes a serious impediment to the development of targeted public policies to address the serious issues of discrimination and exclusion they face.

Ironically, some States have used the lack of reliable ethnic data as grounds for dismissing critiques of their record on providing adequate protection to minority groups against discrimination and violence. For example, Germany has rejected allegations that Romani children are disproportionately represented “special schools” by stating that there is “no reliable statistical evidence to suggest that this group has a lower rate of participation in education... [though] some Länder have reported that in *isolated cases* children of Sinti and Roma have a particularly high level of representation

⁶¹ See, e.g., *Ethnic Monitoring and Data Protection – the European Context*, Central European University Press – INDOK, Budapest, 2001, pp. 200–227.

⁶² However, it found that existing statistics legislation did not provide a sufficient guarantee. No steps have been taken since 1983 to amend the legislation to guarantee secrecy. See 1983 decision by the German Federal Constitutional Court, BVerfGE 65, 1ff.

⁶³ Comments of the Government of the Federal Republic of Germany to the Opinion of the Advisory Committee on the Report on Implementation of the FCNM in the Federal Republic of Germany, p. 9. See <<http://www.humanrights.coe.int/Minorities/Eng/FrameworkConvention/AdvisoryCommittee/Comments.htm>>, (accessed 10 October 2002).

⁶⁴ “Distribution of files containing sensitive data, registered in the General Register for Data Protection,” *Catalogue of Files 2000*, CD-ROM issued by the Data Protection Agency.

⁶⁵ *Ethnic Monitoring and Data Protection – the European Context*, Central European University Press – INDOK, pp. 212–213.

in general remedial schools” [emphasis added].⁶⁶ Italy objected to ECRI findings that the number of racist acts in Italy was higher than the number of criminal proceedings before courts, on the grounds that this conclusion was “not enough supported by factual elements, or statistical data,”⁶⁷ though such data are not officially available.

In the UK, comprehensive ethnic statistics have proven an invaluable tool for the development of differentiated policies to improve the quality of public services offered to racial and ethnic minority groups. These statistics have revealed that in the areas of education, healthcare, social protection, housing, public service provision, employment, and criminal justice the Pakistani and Bangladeshi communities (which are overwhelmingly Muslim) experience particularly high levels of disadvantage, deprivation and discrimination even in comparison to other minority ethnic communities. On this basis, and on the basis of reports of discrimination from Muslim representatives, additional research and the compilation of statistical data on religious communities in the UK as well as in other member States seems justified. As decisions about how to categorise people reflect political decisions about which patterns are likely to be important, and which groups deserve protection, launching such research initiatives would send a strong signal that member States are committed to the protection of Muslim communities along with racial and ethnic minority communities.

Statistical information provide a solid basis for assessing the situation of minority groups, and for the development of effective public policies to address the disadvantages they may face, *before* they lead to alienation, disaffection and even conflict. The EU should devote resources toward researching, in close collaboration with minority representatives, acceptable methodologies for conducting research while ensuring respect for privacy and protection of personal data; it should also encourage member States to utilise these methodologies to compile more comprehensive research on the situation of vulnerable minority populations than is currently available.

3.2.2 Discrimination against Roma

Despite the almost complete lack of reliable data, EUMAP reports contain abundant anecdotal evidence that Romani communities in Germany and Spain face serious disadvantages in many areas; on the basis of this evidence, more comprehensive analytical and statistical research is warranted.

⁶⁶ Comments of the Government of the Federal Republic of Germany to the Opinion of the Advisory Committee on the Report on Implementation of the FCNM in the Federal Republic of Germany, p. 13.

⁶⁷ European Commission against Racism and Intolerance, Second report on Italy, adopted on 22 June 2000 and made public on 23 April 2002, p. 30.

Like their counterparts in Central and Eastern Europe, Romani communities face crippling disadvantages in gaining equal access to **education**. These disadvantages stem in part from poor living conditions and poverty, but severe marginalisation and discrimination also play a role. In Germany, a disproportionate number of Sinti and Roma children are placed in “special schools” for mentally retarded or developmentally disabled children, regardless of their intellectual capacity; graduates of such schools have little prospect of attaining further education or gainful employment. Though levels of enrolment among Spanish Romani children have improved since 1980, high drop-out rates and absenteeism continue to pose serious problems, and few Roma/gitanos complete higher education. Spanish public schools are increasingly “ghettoised,” and difficulties in accessing kindergartens and certain schools have been reported.

Both the German and Spanish Governments have acknowledged that inequalities in education need to be addressed. The Spanish Government has developed “compensatory” educational programmes to provide extra assistance for Roma/gitano children. However, some Roma leaders are concerned that these initiatives may reinforce – and at the very least do little to address – educational segregation. Moreover, a lack of central coordination has led to uneven implementation from one Autonomous Community to another.

The German Government has advanced “promoting schools” as a means of equalising opportunities for Sinti and Roma children. In the opinion of Sinti and Roma leaders, many of these “promotional opportunities” are imposed on Sinti and Roma children arbitrarily, and some school authorities acknowledge that “promoting schools” are merely “a new name for an old problem.”⁶⁸ A number of German states provide support for NGO initiatives to overcome disadvantages faced by Sinti and Roma children in access to education. However, there has been no systematic evaluation of their effectiveness or assessment of “good practices” with a view towards sharing and exchanging these experiences, and no comprehensive policy to ensure that adequate and sustained financial support is committed to successful initiatives.

There are significant barriers to legal **employment** for Roma and Sinti. In addition to the disadvantage of generally low levels of education and training, they appear to face strong prejudices in hiring and at the workplace. Many Romani families are engaged in a combination of formal and informal employment, in jobs considered undesirable by the rest of the population, such as street-vending, solid waste collection, or seasonal work. Although there has been no systematic research on the subject, German and Spanish Romani leaders and human rights organisations concur that discrimination against Roma in the labour market is a daily reality. Employment offices in Spain report that many companies openly refuse to employ Romani applicants. According to

⁶⁸ OSI Roundtable Meeting, Hamburg, April 2002.

one representative of a special employment programme for Roma, “in five cases out of ten the employers tell me directly that they do not want Roma.”⁶⁹ In neither Germany nor Spain are complaints of discrimination brought to court and there is little case-law in this area in either country.

Governmental response to employment issues affecting the Spanish Romani community have been framed in terms of clichés and generalisations about lack of skills and different cultural attitudes towards work among Roma/gitano communities; little consideration has been given to the role played by racial discrimination, and as a result few strategic policy responses to the reality of discrimination have been developed. One encouraging development is “Acceder,” an EU-supported programme, which for the first time includes the Romani community as a special target group for the operative programmes of the European Social Fund.

Public authorities in some German states have made attempts to reduce high levels of unemployment among Sinti and Roma through various job-creation projects; however, the effectiveness of these projects has been limited. As in the area of education, there has not been any large-scale evaluation or assessment of successful job-creation projects with a view towards exchanging experiences to identify positive practices. Doing so could support the development of more systematic policy measures to alleviate the disadvantages faced by Sinti and Roma on the labour market.

The majority of Roma live in sub-standard **housing**, often in segregated shantytowns (in Spain) or settlements (in Germany) on the outskirts of urban centres, with minimal infrastructure, and often in conditions that pose serious **health** risks. Discrimination in access to public and private housing as well as other **goods and services** has been reported from both Germany and Spain. Advertisements for apartments to let that stipulate “no foreigners,” “no Arabs,” “no gitanos” or “no people from the East,” are common in central Madrid and other big cities in Spain, and recent polls indicate persistent support for segregation: many non-Roma assert that that “[Roma] should live separately,” “should not be allocated housing in our districts,” or “should be expelled from the country.”⁷⁰ In one 1994 survey, about 68 percent of Germans stated that they did not wish to have Sinti and Roma as neighbours.⁷¹

⁶⁹ Interview with a Romani woman who works in an employment office, anonymity requested, December 2001.

⁷⁰ T. C. Buezas, as cited by A. Piquero, “Received Worse than People from Maghreb,” *G. El Comercio*, 10 April 2000.

⁷¹ Cited in D. Strauss, “Anti-Gypsyism in German Society and Literature” in S. Tebbutt, ed., *Sinti and Roma: Gypsies in German-Speaking Society and Literature*, Berghahn Books, Oxford, 1998, p. 89.

The German Government has both acknowledged the need and confirmed the intention to improve the living conditions of Sinti and Roma and to promote their integration into society, and some *Länder* have initiated successful re-housing projects.⁷² German Roma and Sinti representatives emphasise that most successful projects involve them directly in the decision-making process, and call for the integration of *ad hoc* projects into a broader and more comprehensive governmental housing policy to address widespread segregation.

In Spain, there were attempts in the 1980s and 1990s to eradicate segregated shantytowns by moving Roma/gitanos into “transitional” housing, consisting of basic (and sometimes sub-standard) buildings, often on the periphery of urban centres, as an interim step to full integration in mixed neighbourhoods. In the short term, though the policy did little to address patterns of marginalisation and segregation, the transfer of thousands of families from shanties to flats with water, electricity and sanitary facilities constituted an undeniable improvement.

However, the transfer was not conceived of or implemented as part of a long-term policy, and there is no central body to coordinate its implementation. Though this has granted local authorities great flexibility and discretion to design policies responsive to local conditions, and some have designed successful integration policies, it has also meant that there has been little or no coordinated exchange of positive and negative experiences among communities, and little evaluation or assessment. Solutions which were initially improvised to deal with crisis situations threaten to become permanent: as of August 2002, thousands of Roma are living in transitional housing, without any indication of when the transition period will end.

Like German Sinti and Roma, Spanish Romani leaders claim that the failure significantly to improve the housing situation is a direct result of State authorities’ failure to secure their active participation in programme development and implementation. Moreover, there has been a tendency to displace responsibility for addressing housing problems to NGOs, which – particularly in the absence of a comprehensive State policy – lack the necessary authority and expertise to deal with problems of this scale systematically or effectively.

There are no national statistics or studies on the **health** situation of Romani communities in either Germany or Spain. However, data gathered at the regional or local level in Spain and abundant anecdotal evidence from both countries suggest that Roma suffer from lower life expectancy, a higher incidence of disease and illness, and

⁷² See, P. Widmann, *An den Rändern der Städte. Sinti und Jenische in der deutschen Kommunalpolitik (On the Margins of Cities. Sinti and Jenishes in German Social Policy)*, Metropol, Berlin, 2001.

greater difficulty in accessing health services than the majority.⁷³ Roma in both Germany and Spain allege that healthcare personnel are often insensitive to their distinct cultural traditions and attitudes, which is a contributing factor to their under-utilisation of primary and preventive healthcare services and over-reliance on emergency services; in Germany, there is a legacy of mistrust for healthcare institutions dating back to the Nazi-era medical experimentation on Sinti and Roma.

The direct consequence of the almost complete lack of information in this area is that no specific Government programmes or policies exist in either country to address the serious health issues that Romani communities clearly confront. As a first step, there should be systematic attempts to confront widespread long-standing suspicion and mistrust toward healthcare providers among Roma communities. Health mediator projects implemented in a number of Central and East European countries, including Romania, might provide an example to be emulated. In Spain, State support for Romani health programmes focuses on AIDS, substance abuse or mental disorders – a selection that Romani leaders have criticised as inopportune and prejudiced.

The most troubling manifestation of discriminatory attitudes, of course, is **racially motivated violence**, which has been on the rise in both Germany and Spain. The effects of such violence are exacerbated by persistent and widespread allegations of discrimination in the **criminal justice system**, including ill-treatment and harassment by law enforcement officers. Despite the seriousness of these allegations, which have been made by several international monitoring organisations with regard to both countries, German legislation does not stipulate either enhanced sentencing for crimes committed with racial motivation, or specific sentencing enhancements for racially motivated crimes perpetrated by law enforcement officers. Moreover, the award of legal aid is based on the likelihood of a successful outcome. Though the Spanish Penal Code prohibits incitement to racially motivated discrimination, hatred, or violence, and stipulates sentencing enhancement for offences committed with a racial motivation, these provisions have been applied extremely rarely.

3.2.3 Discrimination against Muslims

As noted above, it is often difficult to substantiate the extent of discrimination against Muslims, as little data has been collected using religion as an indicator. However, the experience of Muslims in the UK may prove useful: many British Muslims arrived as immigrant workers several generations ago. It is only after several decades and the compilation of extensive ethnic and racial statistics indicating higher levels of

⁷³ See, e.g., J. F. Gamella, *The Roma Population in Andalusia*, Junta de Andalusia, Sevilla, 1996, p. 171.

disadvantage among predominantly Muslim Bangladeshi and Pakistani communities that awareness of religious discrimination and the need for targeted policies to address it has become increasingly apparent. Collecting differentiated data about the situation of Muslim communities in the UK as well as in other EU countries would allow policy-makers in those countries actively to develop effective two-way integration policies before problems emerge.

Patterns of segregation of Muslim children in **education** have been noted in some towns and cities in the UK, and are considered to have been one of the key contributing factors to serious rioting in Bradford, Burnley, and Oldham in the Summer of 2001.⁷⁴ The European Commission against Racism and Intolerance (ECRI) has raised concerns regarding the separation of foreign children or children of immigrant background in specialised education courses and certain districts and schools in France as well.⁷⁵

There are still comparatively few immigrant children in the Italian education system, but patterns of lower than average attendance and achievement, and higher drop-out rates are already emerging, which the Government is seeking to address through the employment of “cultural and linguistic mediators” to assist and support teachers working with large numbers of foreign students.⁷⁶ The “linguistic mediator” is usually an adult of the same nationality as foreign students, who has the task of helping them adjust to school and easing relations between the school and the family. “Cultural mediators” assist teachers of publicly funded literacy and integration classes for foreign adults.⁷⁷

However, no differentiated data are available to indicate the situation of Muslim children in particular in either France or Italy. In light of ethnic statistics in the UK, indicating that pupils from the Pakistani and Bangladeshi communities perform less well than other pupils at all stages of compulsory education, the collection of such data might be advisable in order to fashion effective education policy.

⁷⁴ Report of the Ministerial Group on Public Order and Community Cohesion, *Building Cohesive Communities*, London: Home Office, 2001; Report of the Independent Review Team chaired by Ted Cantele *Community Cohesion*, London: Home Office, 2001

⁷⁵ See European Commission against Racism and Intolerance, Second report on France, adopted on 10 December 1999 and made public on 27 June 2000, paras. 21–22; 44. The French Government acknowledged that “the phenomenon of disproportionate representation of disadvantaged categories of the population does exist,” though it objected to ECRI’s use of the term “separation.”

⁷⁶ *Programmatic Document regarding state policy towards immigration and foreigners in the territory of the state*, on the basis of Art. 3 of Law 1998/40: 2001–2003, p. 50.

⁷⁷ These classes are offered at specially established *Centri Territoriali Permanenti* (Permanent Territorial Centres) for the education and training of adult immigrants. The Centres are established and receive state funding on the basis of O.M. 455/97.

British and French Muslims also report unfair treatment as a result of educational policies and practices that are insufficiently sensitive to their background and culture.⁷⁸ In France, for example, it is considered an important function of public educational institutions to impart Republic values, including *laïcité* (secularism). This has led to tensions when Muslim students have asserted their right to wear veils, revealing the difficulties inherent in balancing the requirements of *laïcité* and other Republic values – which largely accord with the values of the majority – against the cultural of Muslims; similar difficulties arise whenever the cultural assumptions of a minority group differ from those of the majority.

UK Home Office research shows that compared to other faith communities Muslims report the highest levels of unfair treatment in the area of **employment**.⁷⁹ Moreover, ethnic statistics show that lower rates of economic activity and employment and higher rates of unemployment are recorded among Pakistani and Bangladeshi Muslims than other ethnic minority groups.⁸⁰ Although no detailed statistics regarding discrimination against particular ethnic or religious groups is available in France, French temporary employment agencies report receiving specific requests from companies not to send Muslim workers, and in fact French Muslims report discrimination in hiring and at the workplace more frequently than in any other area, though few legal complaints are filed. There is no data to show that Muslims are particularly disadvantaged compared to other immigrants in Italy, most of whom work either in unskilled positions, seasonal occupations or illegal jobs, often with insufficient access to social protection.

The Employment Directive requires member States specifically and explicitly to prohibit direct and indirect religious discrimination in employment. It will thus require employers to monitor their employment decisions on the basis of religious affiliation in order to ensure that a policy, practice, provision or criterion does not have the unintended effect of disadvantaging Muslims or employees of any other faith. The Directive also requires measures to ensure effective implementation through dissemination of information, social dialogue, and dialogue with non-governmental organisations;⁸¹ legislation will need to be complemented by practical guidelines to inform job-seekers, employers, and the broader public of their rights and responsibilities.

⁷⁸ P. Weller, A. Feldman, K. Purdam, *Religious Discrimination in England and Wales: Home Office Research Study 220*, Home Office, London, 2001, pp. 23–36.

⁷⁹ P. Weller, A. Feldman, K. Purdam, *Religious Discrimination in England and Wales: Home Office Research Study 220*, Home Office, London, 2001, pp. 37–50.

⁸⁰ Performance and Innovation Unit, *Improving labour market achievements for ethnic minorities in British Society*, Cabinet Office, London, 2001, p. 40.

⁸¹ EU Framework Employment Directive, Arts. 12–14.

Immigrants in general appear to experience widespread discrimination in access to both public and private **housing** as well as other goods and services. Statistics collected on the basis of ethnicity in the UK reveal that particular disadvantage is experienced by the Muslim Pakistani and Bangladeshi communities. Though there has been little research on the situation of Muslims in particular, a number of studies in France have revealed that racial or ethnic discrimination is common in the process of screening and selecting applicants for subsidised public housing in particular,⁸² as well as in the private housing market. In both France and Italy, there have been reports of public housing officials routinely allocating public housing on the basis of discriminatory evaluations of applicants presumed to be of foreign origin.⁸³ In Italy, this practice has been successfully challenged in court in at least one case, but awareness of legal provisions remains low among immigrant communities, and statistics from recent research demonstrate that the availability of public housing available to immigrants is very low compared to Italian and EU citizens.⁸⁴ Moreover, the housing which is made available is often of inferior quality.⁸⁵

The failure of public service providers to take their needs into account in service delivery is a common and key concern expressed by many Muslim community groups in the UK. The lack of information and statistics about the experience of Muslims presents a significant obstacle to developing policies and ensuring service delivery appropriate to British, French and Italian Muslim communities.

Little research is available on the specific treatment of Muslim patients in the French public **healthcare** system, including in public hospitals, though anecdotal evidence suggests that Muslims commonly experience lack of comprehension and appreciation for distinct cultural and religious practices and requirements when accessing health services. Documented inequalities in **health** outcomes between different minority groups suggest that health service providers fail to reach Muslim communities or to meet their needs;⁸⁶ three-quarters of Muslim organisations in a Home Office study

⁸² Note published by GELD on social housing, *Note 3*, 10 May 2001, "Les discriminations raciales et ethniques dans l'accès au logement social" (Racial and ethnic discriminations in the access to social housing") under the direction of Patrick Simon (hereafter GELD, *Note 3*). See <<http://www.sos-racisme.org/presse/notegeld.htm>>, (accessed 25 September 2002).

⁸³ Trib. Milano, 20 March 2002, Dr.ssa Paola Gandolfi, in the case *El Houssein, El Mouden, Zerai v. the Comune di Milano*, unpublished. On file with EUMAP.

⁸⁴ See Rete d'urgenza contro il razzismo, *Annual Report 2000*, pp. 16–21, at <<http://www.unimondo.org/reteurg/ra00it.zip>>, (accessed 18 September 2002).

⁸⁵ See Rete d'urgenza contro il razzismo, *Annual Report 2000*, pp. 8–36, at <<http://www.unimondo.org/reteurg/ra00it.zip>>, (accessed 18 September 2002).

⁸⁶ Social Exclusion Unit, *Minority Ethnic Issues in Social Exclusion and Neighbourhood Renewal*, London: Cabinet Office, 2000, para. 2.39, which cites the example of sexual health services that do not meet the needs of minority communities.

reported unfair treatment from social services staff and from practices in social services departments.⁸⁷

Given the tendency among member State populations to associate Muslims with “foreign” elements in their societies and to view Islam as monolithic (see above), the events of 11 September 2001 provoked an increased association of Islam with terrorism and fundamentalism. There was a surge in harassment and **violence** directed at Muslims and those perceived to be Muslim after 11 September 2001 in many EU countries, including Italy and the UK.⁸⁸ While the number of racist acts in France actually decreased overall in 2001,⁸⁹ many of those that did take place were linked with 11 September.

According to British and French Muslim leaders there is a growing perception in Muslim communities that they are being stopped, questioned, and searched not on the basis of evidence and reasonable suspicion but on the basis of “looking Muslim.” Studies of the **criminal justice system** in the UK also show differences in sentencing and imprisonment between black and white people.⁹⁰ There are also indications of inequalities in the justice system in France. For example, though systematic data has not been collected and it is impossible to isolate a religious motivation, there appears to be a pattern of discrimination in sentencing, with individuals whose ethnic origin (or supposed ethnic origin) is not French receiving longer sentences for similar crimes.⁹¹ Law enforcement agencies should look to foster good relations with Muslim communities, as a way of decreasing mistrust and suspicion; doing so would also have the positive side-effect of providing police with assistance in fighting crime and gathering intelligence.

⁸⁷ P. Weller, A. Feldman, K. Purdam, *Religious Discrimination in England and Wales: Home Office Research Study 220*, Home Office, London, 2001, p. 72.

⁸⁸ C. Allen, J.S. Nielson, *Summary Report on Islamophobia in the EU after September 11 2001*, Vienna: European Centre on Racism and Xenophobia, May 2002, pp. 23, 28–29; Islamic Human Rights Commission, *UK Today: The Anti-Muslim Backlash in the Wake of 11th September 2001*, Islamic Human Rights Commission, London, 2001.

⁸⁹ Sixty-seven racist acts were recorded in 2001, compared to 146 in 2000. CNCDH Report 2001, published in March 2002.

⁹⁰ The Runnymede Trust Commission the Future of Multi-Ethnic Britain, *The Future of Multi-ethnic Britain – The Parekh Report*, Profile Books, London, 2000, p. 130.

⁹¹ Discussion with Hanifa Chérifi, “Les musulmans victimes de discriminations. Une inégalité entre les religions” (Muslim victims of discrimination. Inequality between religions.) J-M. Blier, S. de Royer, *Discriminations raciales, pour en finir*, 2001, Paris, éditions Jacob-Duvernet, p. 62.

In response to post-September 11 violence, the UK has adopted legislation making religious motivation for some violent offences a separate offence,⁹² and racial or religious motivation as an aggravating factor in sentencing for all offences.⁹³ In France and Italy, reports indicate that Arab, Muslim and immigrant communities appear to be subject to violence, it is difficult to isolate a religious motivation.⁹⁴ In France, however, racist violence clearly often has a religious dimension: places of worship (including both mosques and synagogues) are often the target of attacks, stone-throwing, and partial or total destruction. Training should be provided to law enforcement officials on policing issues arising from “religious” hate crimes, and monitoring of implementation and enforcement should be initiated in all member States.

3.3 Minority Rights

3.3.1 Recognition

Many member States have adopted restrictive definitions of “minority,” creating a hierarchy of protection among different groups. In Italy, for example, a full range of minority rights is guaranteed to traditional national minority groups, such as the French, German and Slovenian minorities. Both Muslims and Roma – arguably two of the most vulnerable groups in the country – are excluded.⁹⁵ Roma/gitanos are not recognised as a *pueblo* (a constituent people of Spain), and therefore are treated less favourably than other minority groups in various spheres of economic, political and social life. In Germany, Sinti/Roma are a recognised minority group, along with Danes, Frisians, and Sorbs, but Muslims are not. In the UK, the Government has adopted an inclusive definition of national minority,⁹⁶ which however excludes Muslims and members of other faith communities from access to minority rights. The

⁹² Crime and Disorder Act 1998, s. 28–32 as amended by the Anti-terrorism, Crime and Security Act 2001, s. 39.

⁹³ Powers of Criminal Courts (Sentencing) Act 2000, s. 153 as amended by the Anti-Terrorism, Crime and Security Act 2001, s. 39.

⁹⁴ See recent ECRI recommendation against attacks against Muslims in Europe after September 11 at http://www.coe.int/T/E/Communication_and_Research/Press/Themes_files/Combating_racism/e_ECRI_Rec5.asp#TopOfPage, (accessed 18 September 2002).

⁹⁵ However, the almost complete lack of data in Italy makes it difficult to distinguish between disadvantages experienced by Muslims and disadvantages experienced by immigrants in general. See Section 3.2.1.

⁹⁶ See Advisory Committee on the Framework Convention for the Protection of National Minorities, *Opinion on the United Kingdom*, Strasbourg, 2001, para. 14.

concept of minority is not seen as relevant in France; the existence of minorities is seen as a threat to the Republican model, which aims to guarantee equal treatment for all. Though French Muslim representatives have not challenged this model, a consensus is emerging among them that they, as a group, are treated differently from other religious minorities.⁹⁷

As a body which explicitly advances respect for and protection of minorities *vis-à-vis* third countries, and has set this as a requirement for new members, the demands of internal consistency require the EU to devote attention to working out a common definition of minority within the EU context and encouraging all member States to frame minority protection legislation and policies accordingly. This definition should be subject to regular review and evaluation, to account for and accommodate the emergence of new minority groups.

3.3.2 Citizenship issues

The majority of Muslims living in the UK are citizens, many of them second or third generation. By contrast, large numbers of Muslims living in France have become citizens only in the past decade or are non-citizens, and the majority of Muslims living in Italy have not obtained citizenship. Both “new minorities” and non-citizens have been excluded from minority rights regimes.

Non-citizens are particularly vulnerable in a number of important ways: they are prone to accept illegal work, without regulation or protection; they are often segregated in cheap, poor-quality housing districts and neighbourhoods; they face discrimination and violence; and with uncertain legal status and low awareness of their rights under the law, many fear rather than trust law enforcement authorities and other public officials. The rights and obligations of non-citizens generally fall under different legal regimes (i.e. outside of traditional regimes for minority protection), an in-depth examination of which falls beyond the scope of these reports.⁹⁸ However, it is generally acknowledged that basic human rights and protections must be accorded to all, regardless of citizenship status. Some States, such as Italy, have responded to the presence of large numbers of non-citizens by adopting special legislation to underline

⁹⁷ OSI Roundtable Meeting, Paris, July 2002.

⁹⁸ Though EUMAP reports have focused on the rights of Roma citizens in Germany and Spain, it should be noted that there are also large numbers of Roma refugees and asylum-seekers in these and other EU member States.

that protection against discrimination and violence is included among these basic rights and protections.⁹⁹

There is increasing recognition that Muslim immigrants (including “temporary workers,” asylum-seekers, and migrant workers) are in Europe to stay, and moreover that Europe’s economies are increasingly reliant upon immigrant labour. Their different cultural and religious backgrounds, languages and values are already transforming the appearance and character of many EU member States, such as Italy and Spain, which were relatively homogeneous until quite recently.

Most member States have acknowledged that citizenship is a key step in the integration process, and have taken steps to facilitate naturalisation for immigrant workers and their families. Large numbers of French Muslims have obtained citizenship in the past decade, and a similar surge in the number of Muslim citizens can be expected in Italy. As more and more Muslims become citizens, the demand for traditional minority rights related to education, language, media, and particularly political participation is likely to grow.

The transformation of EU member States into multi-cultural and multi-faith societies raises new challenges to the existing legal regime for minority protection. Integration must be a two-way process, requiring not only the adaptation of new groups to European cultural and social environments, but also a guarantee of equal treatment and protection against discrimination as well as of respect for their distinct identities. Increasing sophistication in integration policy would benefit other marginalised groups, such as Sinti and Roma, whose culture, language and history has been undervalued and left on the side for centuries.¹⁰⁰

Although it is clearly within a State’s competence to determine which groups will receive recognition and when, the EU should encourage member States to adopt more expansive and inclusive definitions of “minority,” thus extending minority rights to non-traditional groups. It should also work to articulate a minimum standard of equal treatment to those groups which do not fit within the definitions adopted. Member

⁹⁹ *Decreto legislativo 25 luglio 1998, n. 286 Testo unico delle disposizioni concernenti la disciplina dell’immigrazione e norme sulla condizione dello straniero* (Law on Immigration and the Legal Status of Foreigners), Chapter IV (hereafter, “Law 286/1998”). However, Law 286/1998 was amended on 11 July 2002, introducing a number of significant and controversial changes, including a provision requiring all immigrants who apply for a residence permit to be finger-printed (which has now been extended to citizens as well); reducing the validity of residency permits from three to two-year periods, tightening regulations on family reunification so as to exclude children over 18 years of age, and loss of one’s job resulting in a loss of one’s residency permit.

¹⁰⁰ For example, the legacy of past legislation (no longer in force) banning Roma/gitano customs, dress and language is that the Caló language has almost been lost.

States should also take steps to facilitate access to citizenship for non-citizen populations.

3.3.3 Minority rights issues for Roma

Romani communities in Germany and Spain have received very limited State support for the purpose of protecting and promoting their distinct cultural and linguistic identities; in some areas, State practice has actually discouraged the development of minority rights for Roma. Particularly when contrasted with generous treatment of certain other minority groups, less favourable treatment of Roma itself constitutes a form of discrimination.

For example, though the languages of numerous other minority groups are recognised and may be used extensively in the public sphere, Caló, the language of the Spanish Roma, is not legally recognised anywhere in Spain, nor is it recognised by the State as a protected language under the European Charter for Regional or Minority Languages (CRML).¹⁰¹ Though very few Roma/gitanos speak Caló as a mother tongue, it plays an extraordinarily important role as a unifying ethnic symbol; in the political context, recognition of language is essential for recognition of minority identity, which is key to recognition of the political rights of a group.¹⁰² Thus, the survival of Caló is of great importance to the Romani community, and Roma leaders have repeatedly requested Government assistance for promoting its study and use.¹⁰³ Especially in light of historical persecution of Romani communities for the use of Caló, *inter alia*,¹⁰⁴ it would seem appropriate for the State to acknowledge past injustice by supporting these requests.

As of August 2002, Hesse remains the only German state that has accepted all 35 points required for implementing Part III of the CRML, despite the fact that the Romani language “is spoken in most of the *Länder* of the Federal Republic of

¹⁰¹ Council of Europe, *List of Declarations Made with Respect to Treaty no. 148, European Charter for Regional or Minority Languages*, Complete chronology on 18 May 2002. Spain recognised as regional or minority languages the official languages recognised as such in the Autonomy Statutes of the Basque Country, Catalonia, Balearic Islands, Galicia, Valencia and Navarra; other languages, which are protected by the Statutes of Autonomy in the territories where they are traditionally spoken, are also considered regional or minority languages.

¹⁰² I. Álvarez Dorronsoro, “Interview with Teresa San Román: Change and Continuity of the Romani identity,” *Revista Hika* 111, <http://www.hika.net/revista/zenb111/Ha_a_Teresa.html>, (accessed 20 August 2002).

¹⁰³ “Manifiesto for the Constitution of Platform for the Statute of the Roma Nation – Romipen,” Toledo, 12 February 2000, para. 14, see <<http://www.cenfor.com/romipen/manifiesto.htm>>, (accessed 20 August 2002).

¹⁰⁴ See A. G. Alfaro, *The Great Gypsy Roundup*, Editorial Presencia Gitana, 1995.

Germany.”¹⁰⁵ With regard to the right to use Romanes with public officials, the Government has asserted that since Sinti and Roma “grow up as bilingual speakers of Romany and German and, as a rule, have a command of both languages, no actual requirement for using Romany in relations with administrative authorities has been observed.”¹⁰⁶ Sinti and Roma leaders have expressed concern about the lack of protection afforded in practice to Romanes.¹⁰⁷

In both Germany and Spain, the dominant approach to teaching Roma is compensatory or “promotional” education classes (see Section 3.1.2);¹⁰⁸ within this framework, Roma identity and culture is often perceived by teachers as a problem to be overcome rather than an advantage to be cultivated. Though Spanish teachers’ associations and Roma NGOs have repeatedly requested the inclusion of specialised courses on the history and culture of Spanish ethnic groups and intercultural communication and teaching into university curricula for teachers, psychologists, magistrates, and social workers, these recommendations have not been taken up. Some information of this nature has been published and distributed in a number of German states, but Sinti and Roma leaders maintain that school curricula do not as yet provide adequate information about their history and culture, or about their victimisation during the Holocaust.

Competence for most educational and cultural issues rests with individual German states. With the exception of Hamburg, no German state presently provides for instruction in Romanes within the public school system, on the grounds that such instruction is “not wanted by German Sinti parents.”¹⁰⁹ The Government has also asserted that the majority of Sinti and Roma¹¹⁰ oppose the development of a written

¹⁰⁵ Report submitted by the German Government to the Advisory Committee on Implementation of the Framework Convention on National Minorities, 1999, pp. 10–11 (hereafter, “German State FCNM Report”). Several other states have accepted Part II of the CRML.

¹⁰⁶ German State FCNM Report, p. 79.

¹⁰⁷ “Sorge um Sprache: Sinti und Roma fordern Schutz des ‘Romanes’” (“Concerns about the Language: Sinti and Roma Promote Protection of Romanes”), *Wiesbadener Tagblatt*, 28 July 2001.

¹⁰⁸ J. D. Santiago, intervention published in Working Documents 43, “Debate on Romani People,” p. 69.

¹⁰⁹ German State FCNM Report, p. 112.

¹¹⁰ The German FCNM Report acknowledges that some Roma organisations take a different view, and “argue in favour of the inclusion of Romany in school education and wish to support measures, like those taken in European neighbouring countries, for the development of a written form of this language,” but indicates that the Government chooses to respect the will of the majority of Sinti, who reportedly insist on “cultivat(ing) their language exclusively within the family and family clans.” German State FCNM Report, p. 96.

form of Romanes, and object to outsiders learning and providing instruction in it.¹¹¹ However, this assertion is not based on a broad assessment of the opinions of Sinti and Roma communities throughout Germany, but on the views expressed by the organisation recognised by the Government as the official representative of the Sinti and Roma community.¹¹²

In both Germany and Spain, Roma are poorly represented both in public administration and in governmental bodies to protect or promote minority rights. In both countries, diverse Romani communities are represented officially by one or more organisations which receive most of their funding from the Government. Though this approach provides Governments with a ready interlocutor and reliable partner in implementing various projects, it does not tend to promote the development of independent Romani views and critiques, and has fuelled conflict rather than cooperation among different Romani organisations.¹¹³ In Spain, it has meant that the State's principal national policy to improve the situation for Roma has taken on the character of a social assistance programme rather than a strategic plan to protect and promote the rights and identity of the Roma minority.

Governments should develop more inclusive mechanisms to ensure that Sinti and Roma are afforded equivalent opportunities with other recognised minority groups, including the right to cultivate and study their language. They should also develop more sophisticated mechanisms for ensuring them the opportunity to participate fully in public life, including through active participation in the development of policies and programmes to benefit them, and in leading implementation and evaluation of those policies and programmes.

3.3.4 Minority rights issues for Muslims

By definition, Muslims are largely excluded from consideration under existing minority protection regimes in France, Italy and the UK (see Section 3.3.1). Majority

¹¹¹ German State FCNM Report, p. 86.

¹¹² The OSCE High Commissioner on National Minorities has noted, with regard to State-funded NGOs (in Spain), that NGO representatives “cannot be expected to dispense fully disinterested advice” when this is likely to affect their own funding. OSCE High Commissioner on National Minorities *Report on the Situation of Roma and Sinti in the OSCE Area*, 2001, p. 145.

¹¹³ At the same time, the lack of unity among Romani organisations is often seen as a primary cause for the limited success of State efforts to improve their situation. See, e.g. “The State and the Gypsies,” interim report on the policy research project of the European Migration Centre, Berlin, November 2001; on file with EUMAP.

institutions, even when they are formally neutral or secular, often implicitly (and sometimes explicitly) favour the culture and religion of the majority. For example, Christmas and Easter are recognised as public holidays; religious symbols and rituals are often used during official State ceremonies; and school curricula are informed by Christian traditions and history (even in schools with few, if any, Christians).¹¹⁴ Still, all three Governments formally embrace the value of multiculturalism and diversity, and have made efforts to address the religious and cultural needs of Muslim communities within the context of existing legal and institutional frameworks.

There are significant differences in the relationship of all three States with different faiths. The Church of England is the Established Church in England¹¹⁵ and a Concordat regulates relations between the State and the majority religion (Roman-Catholicism) in Italy.¹¹⁶ Only religions represented by an officially-recognised church institution are legally entitled to certain benefits (such as tax exemptions on religious buildings) in France¹¹⁷ and Italy, producing inequalities in treatment among different forms of worship;¹¹⁸ in neither country have Muslims succeeded in concluding an agreement with the State, and thus their exercise of religious rights is limited in practice.

To address these inequalities, State authorities have encouraged Muslims in France and Italy to designate a single representative to facilitate the negotiation of a State agreement. However, the process has proven difficult. In Italy, for example, it seems likely that the designation of one organisation as “representative” might result in the alienation of others, and the State has concluded that it is too early for an agreement. In France, several Muslim associations have participated in a consultation process that has produced a draft agreement on a methodology for electing a representative body,

¹¹⁴ In both Italy and the UK, public schools must provide religious education for all registered pupils, including in daily collective Christian worship, although parents can choose to withdraw their children.

¹¹⁵ The Church of Scotland is the national church of Scotland; there is no established church in Wales or Northern Ireland.

¹¹⁶ The concordat was ratified by Law 121/ 25 of March 1985, Ratification and execution of the Accord, with additional protocol, signed in Rome, 18 February 1984, with modifications to the Lutheran Concordat of 11 February 1929 between the Republic of Italy and the Holy See.

¹¹⁷ Lutheran and Reform Protestantism, Judaism and Catholicism are all legally recognised forms of worship under the Combes Law of 1905.

¹¹⁸ In Italy, for example, groups that have not signed a State agreement cannot allocate a quote of the personal income tax to their community, deduct donations to the community from taxes, delegate teachers to public schools to provide religious instruction, legitimately abstain from work on religious holidays, *inter alia*.

but other groups did not participate, and some association leaders feel that they have been excluded.

Until such agreements are negotiated, Muslims living in France and Italy will not enjoy legally-guaranteed access to important religious rights. Though some local authorities have taken steps to accommodate the needs of Muslim communities, they do so on a discretionary basis, and sometimes run up against resistance from their electorate; in both France and Italy, local communities have often opposed the construction of Islamic places of worship.

In important ways, existing frameworks for dealing with minority religious communities are not well-suited to the realities and demands of large and diverse Muslim populations. This is not surprising, as they were originally developed under much different conditions than presently pertain, in response to the needs of indigenous religious communities. Some Muslims (and non-Muslims) have criticised the State's approach as "post-colonial," intended to control Muslim communities rather than facilitate their participation. States should re-examine frameworks for regulating religious community life to determine the extent to which they serve the needs and interests of religious minority groups; where appropriate, these frameworks should be amended to make them more responsive to present-day realities.

The diversity of the Muslim communities in France, Italy, and the UK means that they have no single "minority language." Therefore, requests for minority language use and education in a minority language are not relevant for the Muslim community as a whole, though they may be relevant for particular linguistic groups. Though Muslim communities in France and the UK in particular recognise the need to learn the majority language, they also place importance on learning Arabic and on the degree to which schools promote awareness of Islam and the contribution of Muslims on an equal footing with other faiths. British Muslims have emphasised the importance of providing public school teachers with basic knowledge of Islam to allow them to operate more effectively in a multi-faith environment. Recognising the Islamic dimension of Muslim students' identity and working with Muslim community bodies may be important in developing innovative policies that work to improve standards in schools.

At present, most Arabic-language teaching and religious education in Islam takes place either at home or in the mosque sector, after school hours. With limited time and resources at their disposal, mosques are often able to impart only basic knowledge of Arabic and Islam. The younger generations of Muslims therefore lack opportunities to engage fully with their religion and to acquire adequate knowledge of the history and traditions of Islam. Without adequate education and knowledge, young Muslims are ill-equipped to engage in debate and dialogue with organisations that offer differing and perhaps more radical interpretations of Islam.

Providing Arabic classes in the context of modern language classes in State schools would create an opportunity to develop the interests and skills of Muslim pupils and parents and a chance to integrate learning about Arabic-speaking communities and cultures into the curriculum. Where there is demand, schools should consider offering Arabic as a modern language option alongside modern European languages.

As noted above, public awareness of the traditions and history of Islam is extremely low and intolerance towards Muslims is a problem, which is exacerbated by reliance on oversimplified and stereotyped images of Islam in the mainstream media. Muslim response to media stereotyping appears to be limited; media regulatory bodies could usefully provide targeted public information about complaints mechanisms to Muslim communities. Governments and media bodies should also consider supporting projects to encourage more active participation of Muslims within media organisations; where some such projects have already posted notable successes, there should be a concerted effort to identify and promote examples of positive practice.

4. THE IMPORTANCE OF MONITORING AND EVALUATION

*Although only a few may originate a policy, we are all able to judge it.*¹¹⁹

4.1 Monitoring by International Organisations

It is well established as a principle in international law that certain fundamental human rights and freedoms are not derogable, and monitoring mechanisms have been established to ensure that signatories to international human rights treaties and conventions comply with those principles in practice. In the past decade the EU, too, has made respect for human rights a touchstone for its policies; the EU has included human rights clauses in its trade association agreements with other States and, of course, it has required candidate States to demonstrate respect for human and minority rights as a condition for membership.

At the same time, many EU member States have not been receptive to criticism or monitoring from international bodies, and some have fallen behind in reporting to international bodies on their own human rights records. Within its own sphere, the EU has not yet devoted sufficient attention to articulating clearly its human rights

¹¹⁹ Pericles of Athens, about 430 BC, cited in K.R. Popper, *The Open Society and its Enemies*, Volume I, London: Routledge, 1945, p. 7.

requirements, and has not set in place robust mechanisms for internal monitoring of member States' compliance with human rights norms.¹²⁰ Existing monitoring mechanisms are excessively dependent on member State cooperation, and should be supported and strengthened.¹²¹

Some member States have reacted defensively to the human rights critiques offered by international monitoring bodies. For example, Greece reacted to the 2000 report of the European Commission for Monitoring Racism and Intolerance (ECRI) by stating that:

Generalisations and conclusions abound in the text but in most cases no facts are adduced to support them. In other instances such conclusions are clearly based on isolated incidents, which are improperly (and unfairly) treated as the norm and not as the exception, indeed the aberration, that they actually are.¹²²

The German government asserted that ECRI's conclusions regarding problems of racism were "much too sweeping and do not reflect the actual situation in Germany,"¹²³ and judged its critique that measures to promote integration had been insufficient as "inadmissible."¹²⁴ The French government expressed dissatisfaction with ECRI's apparent questioning of "the French Republican model...which stem[s] from a legal tradition dating back two hundred years," and ruled out "any 'reconsideration' of the egalitarian approach, on which our Republic is founded."¹²⁵

The Danish Centre for Human Rights has noted that criticisms by international bodies regarding growing racism and xenophobia in Denmark "were rejected out of hand almost in unison by politicians and the press," and that:

¹²⁰ For a comprehensive discussion of the lack of mechanisms for monitoring human rights performance within the EU, see P. Alston and J.H.H. Weiler, "An 'Ever Closer Union' in Need of a Human Rights Policy: The European Union and Human Rights," in Alston (eds.), *The EU and Human Rights*, Oxford University Press, 1999.

¹²¹ The EU's European Monitoring Centre on Racism and Xenophobia was established in 1997 to monitor public and media attitudes towards racial and ethnic minorities in EU member States. It has produced useful reports on a wide range of topics. However, the organisations upon which the EUMC relies for information are often funded by member State Governments; member States must also approve the EUMC's annual reports prior to publication. These factors clearly undermine the EUMC's independence and capacity to publish criticisms.

¹²² Observations provided by the authorities of Greece concerning ECRI's Report on Greece, 2001, p. 24.

¹²³ Observations provided by the German authorities concerning ECRI's Second Report on Germany, 2000, p. 27.

¹²⁴ ECRI Country by Country Approach: Second Report on Germany, 2000, p. 27.

¹²⁵ Observations provided by the French authorities concerning ECRI's Report on France, 2000, p. 24.

A great majority of politicians and the press never reflected on the message, but chose instead to shoot at the messengers – a group of foreign observers. Rather than discussing the contents, the criticism was rejected as being unscientific and sloppy. Thereby, they avoided having to relate critically to the question of whether the image drawn of Denmark's attitude to refugees and immigrants in the report reflects the reality of Danish society.¹²⁶

EU candidate States have proven equally sensitive to external critique. Following the release of the EU's 2001 Regular Reports, former Hungarian Prime Minister Viktor Orbán stated that Hungary “must grit its teeth and suffer [as] other assess its performance in reports if it wants to join the EU. We do not write country reports and therefore it is not entirely clear to us why others have an insurmountable yearning to make reports on us.”¹²⁷ The EU should make it clear to aspiring members that assessment of basic human and minority rights will continue after accession; the best way to convey the seriousness of this message is to initiate genuine and thorough assessment of all member States.

International monitoring bodies – including the EU – should certainly strive to offer balanced and well-informed critiques, in which Governments could assist by collecting and providing comprehensive information on their efforts to comply with human rights obligations. However, defensive reactions to critique belie a lack of commitment to monitoring as a tool for self-improvement; they bespeak an unwillingness to acknowledge that compliance with human rights norms is not something that States achieve definitively, but something for which they must strive continuously. The fifteen current member States now vested with the authority to determine the future size and form of the European Union have a special responsibility to set an example by the way in which they accept and make constructive use of critique.

4.2 Governmental Monitoring

Appreciation for the role and importance of monitoring is also revealed by the extent to which Governments prove themselves willing to scrutinise their own performance. Monitoring provides information crucial to the provision of public goods and services in an effective manner. To the extent that it provides public officials with information about ways in which services are not reaching certain groups, monitoring may also be viewed as an important tool for conflict prevention.

With respect to minority protection in particular, monitoring is the best way for service providers to ensure that their policies do not indirectly discriminate and that they are

¹²⁶ The Danish Centre for Human Rights, “Human Rights in Denmark, Status 2001, p. 10.

¹²⁷ Radio Free Europe/Radio Liberty Newline, vol. 5, no. 217, part II, 15 November 2001.

providing an equal service to all. Without monitoring, it would be difficult to identify indirect, often unintended, ways in which policies disadvantage communities or to see whether policies aimed at reducing inequality are succeeding. To monitor effectively, Governments must identify the different communities that legislation is intended to protect, institutions serve, and public services reach.

Government can play a crucial role in supporting local and regional governmental structures that have fallen short in their efforts to reach minority communities, including through practical guidelines for improvement. The Beacon Council Scheme for monitoring service delivery in the UK may be a model that could be taken up in other member States as well as by EU structures. The scheme identifies centres of excellence in local government in different areas of service delivery; councils awarded Beacon status are given grants to support the dissemination of good practice to other local governments. This technique could be used to identify the extent to which different religious, linguistic, ethnic or other communities are benefiting from State policies in practice.

4.3 Civil Society

Naturally, however, the willingness and ability of Governments to critique themselves inevitably will be limited in important ways; it is to be expected that Governments will seek optimal evaluations of their own performance. Important critical input can be gained by soliciting the opinions of those to whom protections and benefits are supposed to be provided, taking steps to ensure that critical opinions are welcomed, and ensuring that negative consequences do not flow from having offered them.

Yet where civil society efforts to provide constructive critique are limited by lack of capacity, lack of funding, or an intolerant environment, governmental performance will tend to become more insular and less responsive to social needs. Thus, it is in society's interest not only to have a Government that welcomes critique, but one that supports the development of civil society organisations' capability to articulate and offer constructive analysis. This is perhaps particularly true for policy affecting minority groups, which are sometimes at a disadvantage in accessing opportunities for education and training.

Monitoring of governmental human and minority rights policies by civil society organisations also carries other benefits. First, it has the potential to increase awareness of governmental objectives and initiatives among a broader audience. This is important, as lack of public support is often a critical impediment to the success of many of the minority protection programmes that have been adopted (see Section 2). More broadly, however, monitoring encourages an active and engaged attitude on the

part of civil society – a “culture of critique,” which encourages members of society, including minorities, to become more involved in shaping and taking responsibility for the legislation, institutions and policies that are meant to benefit them. And the individual’s full enjoyment of the right to formulate and advance critiques – particularly of Government policy – is the hallmark of an open society.

5. RECOMMENDATIONS

Recommendations directed to individual States are included in the country reports. Here, only generally applicable recommendations and recommendations to the EU are noted.

To candidate and member States

- Where such policies do not exist, consider the development and adoption of a special Government programme (or programmes) to address the situation of vulnerable minority populations.
- Undertake regular review of the content of existing minority protection or integration programmes, in cooperation with minority representatives, to ensure that they are comprehensive in their approach, and reflect the developing needs and interests of minority communities as fully as possible.
- Base programme reviews on comprehensive research on the situation of minorities. Where such information is lacking, develop appropriate mechanisms for compiling data, consistent with the legitimate requirements for the protection of personal data.
- Review legislation to ensure full compliance with the Race Equality and Employment Directives.
- To the fullest extent possible, provide in law for the creation of a positive duty for public authorities to eliminate unlawful discrimination on any grounds in relation to their function and to promote equality of opportunity and good relations between persons of different ethnicities, cultures, languages, and religious beliefs.
- Take steps to communicate the goals and objectives of minority protection or integration programmes to the broader public, emphasising the link to common EU values.

- Ensure that political support for minority protection programmes is clearly expressed by vesting central coordinating bodies with sufficient authority and human and financial resources to coordinate implementation effectively.
- Provide specialised training on programme objectives to local and regional public officials overseeing implementation of Government policy towards minorities; such training should emphasise public officials' positive duty to guarantee equal access to quality services.
- Re-examine frameworks for regulating religious communities to determine the extent to which they serve the needs and interests of religious minority groups; where appropriate, amend these frameworks to make them more responsive to present-day realities.
- Take steps to facilitate access to citizenship for non-citizen populations; promote understanding of integration as a two-way process.
- Develop and give preference to projects that involve minority representatives in an active, decision-making capacity rather than as the passive recipients of Government assistance.
- Support efforts to facilitate good relations between law enforcement agencies and minority communities, as a way of decreasing mutual mistrust and suspicion.
- Extend support for capacity-building activities to encourage the formulation of well-grounded, well-formulated, and constructive critiques of Government policy. Maintain an open attitude toward critique offered by inter-governmental bodies as well as by independent, non-governmental monitors, as an impulse toward improving governmental effectiveness and efficiency.

To the European Union

- Emphasise that respect for and protection of minorities is a core value common to the Union and a continuing obligation of EU membership, including through the adoption of explicit legal provisions to this effect at the level of European institutions.
- Stress that a comprehensive approach to minority protection – incorporating both prevention of discrimination and advancement of minority rights – is an essential aspect of the continuing obligations of EU membership.
- Ensure full compliance by all member States with the Race Equality and Employment Directives; consider broadening the Race Equality Directive to account for discrimination against religious minorities and support the elaboration of new Directives as necessary to ensure that basic human rights are

ensured to groups which, for various reasons, have not been accorded recognition.

- Encourage dialogue among member States toward developing a common baseline understanding of terms such as “minority,” “minority protection” and “integration,” encouraging definitions which are as expansive and inclusive as possible; articulate minimum standards to guarantee equal treatment for groups that do not fit within the definitions adopted.
- Assist States in developing effective public policies based on a comprehensive approach to minority protection; create a positive duty to eliminate all forms of discrimination in the provision of services and to promote equality of opportunity and good relations among persons of different race, ethnicity and religious belief.
- Strengthen and support EU-level mechanisms for identifying and sharing good practice in the implementation of minority protection policies.
- Devote resources toward developing acceptable methodologies for the collection of data based on ethnic and religious affiliation, while ensuring respect for privacy and protection of personal data; encourage member States to utilise these methodologies to compile comprehensive research on the situation of vulnerable minority populations.
- Strengthen existing monitoring mechanisms, such as the European Centre for Monitoring Racism and Xenophobia (EUMC) and the emerging “Network of Human Rights Experts,” and develop new mechanisms to ensure that attention is maintained on efforts to ensure respect for the full range of human rights.
- Provide support for capacity-building in minority organisations, so that they will be able to play an active role in monitoring the effectiveness of policies designed to benefit them.
- Counter anti-minority sentiment by openly and vigorously condemning racist expressions by member State politicians and by developing mechanisms to encourage responsible public discourse, including by supporting programmes to improve levels of minority participation in media organisations.
- Review procedures for NGOs to apply for and administer Phare and other funding programmes, with a view toward maximising simplicity and transparency; provide in-country training and assistance to potential applicants.
- Improve the quantity and quality of information available to the public on the allocation and use of EU funding to support minority protection programmes.

Monitoring Minority Protection
in the EU
The Situation of Muslims in the UK

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1. EXECUTIVE SUMMARY

The United Kingdom has almost two million Muslims, forming one of the most diverse, multi-ethnic Muslim communities in the world. Most communities are the result of economic migration in the 1960s and 1970s. More recently Muslims have arrived as refugees seeking asylum. Half of the Muslim population lives in London; others settled mainly in the industrial Midlands, the northern mill towns and the west coast of Scotland. The daughters and sons of these immigrants form a new generation, who identify themselves increasingly with their faith and who are finding new ways of being British and being Muslim.

Relations with Muslim communities are at a critical crossroads. During 2001 the lives of Britain's Muslims came under unprecedented scrutiny and examination. First, following the disturbances in the northern mill towns over the Spring and Summer and then, of course, after 11 September. Much of this scrutiny has focused on the extent to which Muslims have integrated into British society. It has led to assertions that Muslims are isolationist and failing to integrate; that they are living parallel lives to those in the wider community. This report seeks to rebalance this debate by focusing on the need for integration to be a two-way process.

There is evidence of severe discrimination and disadvantage experienced by Muslim communities, which operate as obstacles to those wanting to integrate. Tackling this disadvantage and discrimination is essential for integration, as is the cultivation among Muslims of a sense that they belong to the broader society. This requires respect for their identity as Muslims, and enhanced opportunities for their participation in all spheres of public life and in all aspects of the policymaking process. The UK has official bodies and structures that have the potential to address the concerns of Muslims; it is vital that such bodies encourage, facilitate and take steps to support their participation. The institutions of the European Union must also take steps to ensure inclusion of Muslims in policy-making processes at that level. Measures to improve the situation of British Muslims will bring benefits to society as a whole.

Protection from discrimination

The assertion of Muslim identities challenges the pre-existing legal and institutional framework that views minority communities in terms of racial and ethnic background. The primacy of racial and ethnic community formations has meant that, until recently, religion has been largely missing from the discourse on minority protection. Statistics are not collected on the basis of religion but on the basis of ethnic identities. The absence of reliable data on minority faith communities poses serious challenges to establishing the extent of discrimination against Muslims. Ethnic data provides statistics for Pakistanis and Bangladeshis, revealing severe levels of disadvantage among

those communities. However, these two communities constitute only half the British Muslim population, and the experience of the other half, including Muslims from the Middle East, Africa, Southeast Asia, Europe and the Caribbean, remains largely invisible. There is a need to build up a solid baseline of information about Muslim communities. It is essential that where statistics are collected on the basis of race and ethnic origin, information should also be collected on the basis of religious affiliation.

In a Home Office study of religious discrimination two thirds of Muslim organisations reported unfair treatment resulting from school policies and practices and in institutions of higher education. Three quarters reported unfair treatment from social service staff and from practices in social service departments. Compared with other faith groups Muslims reported the highest level of unfair treatment in employment.

Ethnic data reveal severe deprivation among Pakistani and Bangladeshi Muslim communities in all aspects of life: education, employment, housing, healthcare, and access to justice. In education, only 29 percent of Pakistani and Bangladeshi pupils gained five or more GCSE grades A*-C – the lowest of any ethnic group and far lower than the national average of 49 percent. Data on ethnic minority participation show that Pakistani and Bangladeshis are consistently the most disadvantaged groups, with lower rates of economic activity and employment and higher rates of unemployment than other ethnic minority groups. Four-fifths of Pakistani and Bangladeshi households have incomes at or below the national average compared with two-fifths for other ethnic minority households. The figures in housing also show that one-third of Pakistani and Bangladeshi households live in unfit properties in the private sector compared to 13 percent of black Caribbean and six percent of white and Indian households. Discrimination, deprivation and social exclusion form significant barriers to integration and participation in public life. Without action taken to address this deprivation and discrimination, an entire generation of Muslims could be locked into a cycle of poverty and alienation from society.

There is growing official acknowledgment that Muslims often experience discrimination, prejudice and stereotypes that focus on their identity as Muslims. Limited legal protection for some Muslims is available through race legislation, and the Human Rights Act offers further protection. The Government plans to introduce legislation prohibiting religious discrimination in employment, but not in other areas. It is essential that anti-discrimination laws and policies provide the same level of protection against religious discrimination as they do against racial discrimination. To be meaningful, changes in the law must be accompanied by education about legal rights and support for those seeking justice before the courts.

Legal prohibitions on discrimination against Muslims must be supported by polices that tackle disadvantage, discrimination and exclusion. Public service providers must provide appropriate services to Muslim communities through such measures as

diversity monitoring; the use of Beacon Council schemes to facilitate the spread of good practice; and the development of guidance and performance standards and indicators that assist local authorities and other public bodies in delivering services to faith communities.

Protection from violence

Deprivation is compounded by feelings of fear and insecurity. One indirect effect of the disadvantage and discrimination experienced by Muslims is that they live in areas with the highest levels of crime and lack the means to protect themselves against crime. The British National Party (BNP) has honed its racism into a specifically anti-Muslim message, exploiting socio-economic conditions of deprivation to scapegoat Muslims. Following 11 September Muslims and those perceived to be Muslim have faced unprecedented levels of attacks and violence. The law has been changed to protect Muslims against “religiously aggravated” offences, and there are also signs that the political will to confront religiously motivated violence is present. However, implementation of anti-terrorism legislation has created a growing perception in Muslim communities that they are being stopped, questioned and searched not on the basis of evidence but on the basis of “looking Muslim.” The British Crime Survey should monitor the Muslim community’s experience of crime and policing.

Minority rights

The UK is a party to the Framework Convention on National Minorities, and proclaims an integration policy based on valuing and promoting cultural diversity. As Muslims navigate integration into British society, so they challenge the wider society to change and adapt to ensure that society is inclusive of their distinct cultures and values. Muslims generally enjoy the right to practice their religion. However, certain obstacles arise from the many social practices that are structured around basic Christian assumptions, which accommodate the needs of Christians but not of other minority faith communities.

For young Muslims the education system is the earliest and most significant point of contact with the wider community. The messages that the education system provides in respecting and accommodating their needs will be a significant influence on their attitude to integration and participation in society. The vast majority of Muslims continue to be educated in non-Muslim State schools. Successful integration requires such schools to change to meet the legitimate expectations of Muslims. Schools should, as far as possible, accommodate the religious needs of pupils. There is also potential to find ways in which faith identities can be harnessed to improve educational standards among Muslim pupils. For example, Arabic, which many Muslim pupils learn outside school, could be offered as a foreign language option alongside modern European languages. For many Muslims, the need to integrate education about Islam into the

general schooling process is the most urgent task for the Government in relation to young Muslims, as many after-school mosque classes have not delivered. At present, young people complete their education knowing that they are Muslim but with little understanding of Islam. This creates a gap which groups with differing interpretations of Islam can fill. Without adequate education, young Muslims are ill-equipped to engage in debate and dialogue with such groups.

There are no formal restrictions on Muslims accessing the media. A diverse Muslim print media and the enormous number of Muslim websites reflect the decentralisation of power and authority within Britain's diverse Muslim communities. Muslim concerns focus on prejudiced and negative portrayals of Muslims and Islam in the media and its failure to reflect the cultural diversity of Muslim communities. Muslims as consumers of media products have an important responsibility in influencing this coverage. Media regulatory bodies can support and facilitate the participation of Muslims in media complaints mechanisms. Diverse Muslim voices in the media will emerge through long term, sustained engagement between Muslim communities and media organisations and increased Muslim participation in media production.

Institutions for minority protection

Existing bodies and structures for minority protection see minorities in terms of ethnic communities, and so often ignore the needs of Muslim communities. Out of 64 Commissioners working in the various equality bodies only three are Muslim. Muslim women face discrimination and stereotypes combining their gender and faith identities. The Equal Opportunities Commission could work with Muslim women's groups to challenge these stereotypes.

A strong civil society is vital to liberal democracy. It enables communities to develop solutions that meet their needs and to speak for themselves. Civil society organisations provide an essential medium for full and effective participation in the democratic process. A diverse group of Muslim organisations operates under the umbrella of civil society, and there is an opportunity to harness their energy and talents to tackle problems of social exclusion, discrimination and deprivation. The involvement of Muslim civil society in policy-making is critical to ensuring their participation and inclusion in governance and the development of appropriate and effective policies. Muslim communities are in the formative stages of developing a vibrant civil society, and require support through capacity building activities, training, and other forms of assistance, at the local, national and European levels.

2. BACKGROUND

Britain has a long history of contact with the Muslim world. Contact was frequent during the Middle Ages, an age of expansion of the Islamic Empires and the European crusades. Interaction grew as a consequence of British colonial expansion into territories with Muslim populations and rulers. A Muslim presence can be traced back 300 years, to the sailors from the Indian subcontinent, some of whom were Muslims employed by the British East India Company. More Muslims arrived following the opening of the Suez Canal in 1869 and the subsequent recruitment of sailors from Yemen into the merchant navy. Significant Muslim communities developed in port cities such as London, Cardiff, Liverpool, Hull and South Shields, the oldest of which is the Yemeni community.¹

By the beginning of the 20th century, Liverpool and Woking had also become significant centres for Muslim community activity. Liverpool was the centre for an ethnically mixed Muslim community, which included West African sailors and Indian aristocrats and was led by Henry William Quilliam, a British citizen who converted to Islam in 1887 while travelling in Morocco. In 1889 Woking became the site for the first purpose-built mosque. In 1928 a trust was created to build Britain's most famous mosque, the Central London Mosque. A royal donation by King George VI provided a site at Regent's Park. The King opened the Islamic Cultural Centre on the site in 1944, but the present mosque was not completed until 1977.²

The 33 years between the opening of the Islamic Cultural Centre and the Central London Mosque saw dramatic changes in the size and settlement patterns of Muslim communities,³ as Britain gained one of the most multiracial and ethnically diverse Muslim communities in the world. Around half the British Muslim community are Pakistani and Bangladeshi. These communities developed in four phases: "first the pioneers, then what is known as 'chain migration' of generally unskilled male workers, followed by migration of wives and children and finally the emergence of a British-born generation."⁴

In the late 1960s and early 1970s, East African Asians began arriving under pressure from the "Africanisation" policies in Kenya and Tanzania, and in the case of Uganda,

¹ F. Halliday, *Arabs in Exile, Yemeni Migrants in Urban Britain*, London: I.B. Tauris, 1992.

² J. S. Nielsen, *Towards a European Islam*, Basingstoke: MacMillan Press, 1999, pp. 5–6.

³ C. Peach, 'The Muslim Population of Great Britain', *Ethnic and Racial Studies*, vol. 13 no. 3, 1990.

⁴ P. Lewis, *Islamic Britain – Religion, Politics and Identity among British Muslims*, London: I. B. Tauris, 1994, p. 17.

as a result of forced expulsion.⁵ The East African Asians were highly skilled urban middle class professionals and entrepreneurs; they tended to settle in London and the Midlands. Their experience of living in urban centres combined with their business and professional background ensured faster integration into economic and social structures. It is estimated that 20,000 of the group of 150,000 East African Asians were Muslims, with family roots in Pakistan or the Indian state of Gujarat.⁶

In addition to the South Asian Muslim communities, there are also significant Arab, Kurdish, Nigerian, Turkish and Turkish-Cypriot communities. Most recently, Muslims have arrived as refugees from Iran, Iraq, Afghanistan, Somalia and the Balkans.⁷ There are also an estimated 5,000–10,000 Muslim converts, about half from the Afro-Caribbean communities.⁸ Exact figures are difficult to obtain, but recent estimates indicate a British Muslim population of 1.4–1.8 million or three percent of the total population.⁹

The economic impetus for the initial phase of migration is reflected in Muslim settlement patterns. Initial settlement was predominantly in London, the inner city wards in the industrial Midlands, the mill towns of the Northwest and the West coast of Scotland. Muslim communities today continue to be concentrated in these regions. This concentration means that in some towns and cities 15 percent of the population are Muslim. Half of the Muslim population live in London; one in eight Londoners are Muslim, and in some boroughs Muslims constitute 30 percent of the population.¹⁰

In a very short space of time, these post-war Muslim communities have settled into the United Kingdom and laid the foundations for community development. The initial focus, following the phase of family reunions, was on the establishment of mosques, welfare centres, *madrassahs* (religious schools) and *halal* food shops. At the same time,

⁵ R. Hansen, *Citizenship and Immigration in Post-war Britain*, Oxford: Oxford University Press, 2000, pp. 153–178.

⁶ The Report of the Runnymede Trust Commission on British Muslims and Islamophobia, *Islamophobia – A Challenge for Us All*, London: The Runnymede Trust, 1997, p. 14.

⁷ D. Matz, R. Hill, T. Heath, *Asylum Statistics – United Kingdom 2000*, London: Home Office, 2001.

⁸ J. S. Nielson, *Muslims in Western Europe*, Edinburgh: Edinburgh University Press, 1991, p. 43. But see also *Financial Times*, 23 January 2002, which quotes Professor M. Anwar as estimating the British Muslim population to be 1.8 million, including 10,000 Afro-Caribbean or white converts.

⁹ The Report of the Runnymede Trust Commission on British Muslims and Islamophobia, *Islamophobia – A Challenge for Us All*, London: The Runnymede Trust, 1997, p. 14 estimates a population of 1.2–1.4; the most recent estimate is 1.8 million. See Appendix A, “A map of Muslim Britain,” reprinted from *The Guardian*, 17 June 2002.

¹⁰ See Appendix A.

Islamic movements, often with roots in South Asia, began to establish branches. A third development has been the creation of “national” organisations that seek to represent the British Muslim community.¹¹

There is a growing focus today on the younger generation of Muslims – the second and third generation citizens of immigrant families.¹² Born and educated in the United Kingdom, this generation of Muslims is “asserting their growing self confidence in all areas of life – education, the professions, arts and culture.”¹³ The “Rushdie Affair” was a seminal moment.¹⁴ The media attention surrounding the issue generated a significant growth in general public awareness of the existence of Muslim communities, and the emergence of a generation of young British Muslims who wished to assert their distinct identity. A recent opinion poll found that British Muslims considered their religion to be a significant element of their identity.¹⁵

Three trends can be identified within this younger generation. First, a small but significant minority have become radicalised in their interpretation of Islam. Second, a far larger number have retained their Muslim identity and faith but have not seen this as an obstacle to contributing and integrating positively into mainstream British society. This latter group “accept the hybrid nature of living in a pluralistic environment and try to make sense of this without losing sight of their Islamic principles. Here, there is a belief that Islam can actually flourish in new forms through an enriching mutual, two-way engagement with the West, both at the level of values and cultural exchange.”¹⁶ The third group are a large and significant number that are

¹¹ J.S. Nielsen, *Towards a European Islam*, Basingstoke: MacMillan Press, 1999, pp. 15–16.

¹² See Section 3.3.

¹³ Z. Kazmi and Y. Al-Khoei, *The Aftermath of 11 September and Muslim Communities in the West*, unpublished, 2002.

¹⁴ The “Rushdie Affair” concerned events surrounding the publication, in 1988, of Salman Rushdie’s novel, *The Satanic Verses*. The novel caused offence to Muslims across the world who felt it was an abusive and disrespectful portrayal of Islam and the Prophet Muhammad. The issue came to public prominence following the issuing of an opinion, by the late Ayatollah Khomeini, that the book was blasphemous and the subsequent threat to the life of the author and his publishers. In the UK there were protests and demonstrations by Muslims against the publication of the book, and in Bradford and Bolton copies of the book were burnt. Attempts were made to prosecute the book under the English law of blasphemy. These failed because the English common law offence of blasphemy only extended to protect the Anglican faith.

¹⁵ The ICM Research poll of British Muslims asked how they saw themselves first and foremost. 58 percent responded “British Muslim,” 30 percent “Muslim,” six percent “other” and six percent “British.” See *The Guardian*, 17 June 2002.

¹⁶ Z. Kazmi and Y. Al-Khoei, *The Aftermath of 11 September and Muslim Communities in the West*, unpublished, 2002.

born into Muslim communities but do not identify themselves as Muslims in any significant way.

An opinion poll of British Muslims found that the majority felt they were integrated or needed further integration into mainstream British culture, while a minority thought that they had integrated too much.¹⁷ At the same time, the assertion of a distinct Muslim identity causes unease among the majority population and is seen as a dangerous challenge to a secular society. 69 percent of British Muslims believed that non-Muslim Britons did not see Islam as part of British culture.¹⁸

The assertion of Muslim identity also presents a challenge to the pre-existing legal and institutional framework that views minority communities in terms of race and ethnic background.¹⁹ The large-scale immigration of Muslim communities from the 1950s onwards was a part of a wider process of post-war migration. During the early period of migration, State policy operated under a *laissez-faire* assumption of assimilation. It was thought that the Black and Asian immigrants would adapt quickly to the cultural, life style, and attitudinal norms of the host community. However, social tensions soon began to emerge, particularly in relation to housing. Successive Governments failed to meet post-war demands for housing, and “the arrival of large numbers of immigrants, particularly in the inner city areas with the most acute housing problems, inevitably exacerbated already serious shortages and supplied ready made scapegoats on whom already extant problems could be blamed.”²⁰

The initial policy response linked control of immigration to good race relations. The need for successful integration was used to justify restrictions on immigration from the new Commonwealth. Legislative support for integration included the enactment of Race Relations Acts in 1965, 1968, 1976, and 2000. The creation of the Commission for Racial Equality in 1976 was an acknowledgement that the problems faced by minority ethnic communities were of overt and structural racism. This was strengthened by the Race Relations Amendment Act 2000, which creates a duty on public authorities to eliminate racial discrimination and to promote equal opportunities and good relations between persons belonging to different racial groups.

¹⁷ A. Travis, “The Need to Belong But with a Strong Faith,” *The Guardian*, 17 June 2002. Those interviewed were asked: “Do you think the British Muslim community in Britain needs to do more to integrate into the mainstream British culture, has it got it about right or has it integrated too much?” The responses were: needs to do more to integrate, 41 percent; level of integration was about right, 33 percent; integrated too much, 17 percent; don’t know, nine percent.

¹⁸ A. Travis, “The need to belong but with a strong faith,” *The Guardian*, 17 June 2002.

¹⁹ Interview with organisation B, Glasgow, 26 April 2001.

²⁰ D. Mason, *Race and Ethnicity in Modern Britain*, Oxford: Oxford University Press, 2000, p. 26.

The Government has attempted to shift away from the language of immigration “control” and to start a debate on “managed” migration and the benefits that migrants bring to Britain.²¹ Public opinion polls indicate support for the immigration of workers with skills and for quotas for unskilled workers.²² Today anti-immigration sentiment focuses on asylum applicants, and the language of control and deterrence still dominates the political discourse on asylum. Government policies have made it more difficult for asylum applicants to get within United Kingdom territory, to the point where it is now virtually impossible to enter the United Kingdom lawfully to claim asylum.²³ Asylum statistics are not collected on the basis of religion. However, a significant proportion of those claiming asylum in the United Kingdom are Muslim; in 2001 over half of the asylum applicants came from predominantly Muslim countries.²⁴ The treatment of asylum applicants is therefore of particular concern to Muslim communities and organisations. Their concerns include the destitution and poverty experienced by some asylum applicants:

Asylum seekers have barely enough food of a quantity to maintain an adequate diet, and often experience poor health and hunger. They cannot buy enough clothes or shoes to keep warm or buy school uniforms. Many struggle to afford bus fares to attend important appointments, to stay in touch with friends and relatives, to send their children to school. Often it is the most vulnerable who suffer from lack of additional support: parents worry for the health and well-being of their children.²⁵

There are also needs that are specific for Muslim asylum applicants that should to be taken into consideration in developing policies for their treatment. Government and refugee support organisations should ensure their policies and practices are appropriate for Muslim asylum applicants.

²¹ *Secure Borders, Safe Haven: Integration with Diversity*, Cm 5387, London: Home Office, 2002.

²² ICM Poll of May 2001 cited in, S. Spencer, “Recent Changes and Future Prospects in UK Migration Policy,” paper presented at the Landerburger Discourse in Migration, 14–15 February 2002.

²³ S. Shutter, A. Niaz, *Asylum: Changing Policy and Practice in the UK, EU and Selected Countries*, London: Justice, 2002, pp. 25–28.

²⁴ 71,365 asylum applications were made in 2001 including applications from the following countries where the applicants are likely to be Muslim: Afghanistan 9,000; Iraq 6,705; Somalia 6,465; Turkey 3,700, Iran 3,415; FRY 3,190; Pakistan 2,860; Algeria 1,145; Middle East other 1,065; Albania 1,065; Bangladesh 500. Taken from: T. Heath and R. Hill, *Asylum Statistics UK 2001*, London: Home Office, 2002, at p. 21.

²⁵ J. Penrose, *Poverty and Asylum in the UK*, London: Refugee Council and Oxfam, 2002, p. 4.

Public opinion

Two large-scale public opinion polls carried out in 2002 on the state of race relations provide a mixed picture.²⁶ On the one hand, 59 percent of people thought that Britain had good race relations between different types of people, such as those from different ethnic backgrounds.²⁷ Only nine percent equated being British with being white.²⁸ 78 percent thought that it was important to respect the rights of minority groups and 59 percent said that more should be done to learn about the systems and cultures of different ethnic groups.²⁹ 53 percent said their circle of friends included people from different ethnic backgrounds, and there were generally positive attitudes towards relationships between people of different ethnic backgrounds.³⁰

On the other hand, more people thought that racial prejudice had increased over the past ten years, rather than decreased.³¹ A majority considered Britain to be a racist society.³² Furthermore, 45 percent of the population said they knew someone who was prejudiced against people from a different ethnic group to their own. 60 percent of Black and Asian respondents said they had experienced verbal racial abuse and 20 percent had experienced physical racial abuse. 44 percent thought that immigration had damaged British society over the past 50 years.

There has been only limited research focused on public attitudes towards Islam and Muslim communities. In July 2001 ICM Research conducted a public opinion poll examining attitudes towards Islam as part of a BBC season of programmes about Muslims. According to this poll, people were generally comfortable with the idea of a

²⁶ The two polls were: *A Voice for Britain – A research Study Conducted for the CRE by MORI*, London: Commission for Racial Equality, 2002 (hereafter, “*A Voice for Britain, 2002*”); and a poll for the BBC News conducted by ICM Research.

²⁷ *A Voice for Britain, 2002*, p. 6.

²⁸ *A Voice for Britain, 2002*, p. 5. In the ICM Research poll for the BBC the figure was 20 percent.

²⁹ *A Voice for Britain, 2002*, p. 6.

³⁰ BBC poll: when asked “How would you describe your feelings if your child were to marry someone of a different race?” 46 percent said they would not mind, and a further 23 percent said they would be supportive, while only ten percent expressed firm opposition.

³¹ *A Voice for Britain, 2002*, p. 7: 47 percent thought there was generally more racial prejudice in Britain today than there was ten years ago. This compares with 29 percent who thought there was less and 21 percent who thought that it was about the same. Among ethnic minorities 34 percent said there was more racial prejudice now than ten years go; 31 percent thought there was less and 22 percent thought it was about the same.

³² BBC poll by ICM Research: when asked, “Do you think Britain is a racist society?” 51 percent said “yes” and 40 percent said “no.”

member of their own family converting to Islam.³³ However, concern was expressed about the treatment of women within Muslim societies,³⁴ and more than 20 percent thought that Muslim beliefs condoned terrorism.³⁵

There is growing official acknowledgement that the United Kingdom is a multi-faith as well as a multi-ethnic society. This is seen in the contrast between the celebration of the Queen's Silver Jubilee in 1977 and Her Golden Jubilee in 2002. In 1977 there were no visits to any mosques, and no references in Her speech to Parliament to Britain's changing demography. By contrast, Her Summer 2002 tour included a visit to a mosque and in Her Golden Jubilee speech to Parliament she paid tribute to "the consolidation of our rich multicultural and multi-faith society." Similarly, the Prince of Wales generated much controversy in 1994 when he indicated that he wished to be crowned as "Defender of Faith" in place of the traditional "Defender of the Faith."³⁶ Many, including the leaders in the Muslim communities, welcome this as recognition of the multi-faith nature of British society. Others argue that as head of the Church of England the Monarch should only be "Defender of the Faith." No final decision has yet been made on this issue.

Categorisation of multicultural communities

Patterns of disadvantage revealed by data are in part a product of prior decisions about how to categorise people. These decisions in turn reflect political judgements about which patterns are likely to be important and which groups deserve protection. The primacy given to racial and ethnic community formations has meant that, until recently, religion has largely been missing from the discourse on minority protection. There are differences in the treatment of different religious groups. Jewish and Sikh communities are recognised as ethnic groups and so receive the full protection of the Race Relations Act. However, the Act does not provide the same protection to Muslims. For Muslim

³³ *ICM Research / "Islamophobia" poll – July 2001* see:

<<http://www.icmresearch.co.uk/reviews/2001/islamophobia-poll-july-2001.htm>>, (accessed 25 September 2002). When asked, "Which of the following would best describe your reaction if a member of your family converted to Islam?" 40 percent said they would be supportive; 30 percent said they would be unconcerned; 22 percent said they would be opposed.

³⁴ *ICM Research / "Islamophobia" poll – July 2001*. When asked: "Do you think that women in Muslim societies have a higher status than women in Western society, a lower status, or do you think there is no difference one way or the other?" the response was: higher status six percent; no difference 24 percent and lower status 59 percent.

³⁵ *ICM Research / "Islamophobia" poll – July 2001*. When asked: "Do you think Muslim beliefs condone or condemn terrorism, or do you think they have no influence one way or the other?" the response was: 22 percent condone, 38 percent no influence and 11 percent condemn.

³⁶ A. Roy, "Palace Denies Rift over Prince's Role in Church," *Daily Telegraph*, 27 May 1996.

groups “the effect of Race Relations Act 1976 has been to make race the most powerful and all pervasive keyhole through which to perceive society. The implication of this on the Muslim community – ironically the most multi-racial and biggest within the ethnic community – has been disastrous.”³⁷ Professor Tariq Modood pointed out the limitations of viewing social exclusion purely through the lens of race, by showing that disaggregating groups in different ways leads to new perspectives on advantage and disadvantage. He found that “by most socio-economic measures there is a major divide between Sunni Muslims, on the one hand, and Asians, on the other, and that this divide is as great as between Asians and Whites, or between Asians and Blacks.”³⁸

There are no statistics on the level of disadvantage experienced by Britain’s Muslim communities. Statistics collected on the basis of ethnic origin show high levels of disadvantage among the overwhelmingly Muslim Pakistani and Bangladeshi communities. However, the utility of ethnic data more generally is limited. The census category “Black African,” for example, “covers such a wide range in terms of culture, socio-economic situations and migration experience that it is almost entirely unhelpful.”³⁹ Similarly, “the term ‘Indian’ fails to distinguish between the large Punjabi and Gujarati communities, and does not take account of certain smaller communities with roots in India which are culturally, religiously, and socio-economically different from the larger group.”⁴⁰ Muslims from the Balkans, Ghana, India, Iran, Iraq, Malaysia, Nigeria, Turkey, Somalia, South Africa, Sudan, Yemen, the North African countries or the Balkans remain invisible, hidden behind figures for white, black or other. There is no empirical data to say if these Muslim communities suffer the same level of disadvantages experienced by the Pakistani and Bangladeshi communities. However, Muslim organisations report plenty of anecdotal evidence to suggest that Muslims other than Pakistanis and Bangladeshis also suffer severe disadvantage.

The prison service is one of the few areas where statistics are collected on the basis of religion. If the prison service had collected data on the basis of ethnicity only, this would have hidden the size of the Muslim prison population. “South Asians” only constituted three percent of the male and one percent of the female prison population.⁴¹ Muslims account for seven percent of male and three percent of female

³⁷ *Second Review of the Race Relations Act 1976 – A Response*, Wembley: An-Nisa Society, 1992, p. 4.

³⁸ T. Modood, *Not Easy Being British*, Stoke on Trent: Trentham Books, 1992, p. 33.

³⁹ The Runnymede Trust Commission on the Future of Multi-Ethnic Britain, *The Future of Multi-ethnic Britain – The Parekh Report*, London: Profile Books, 2000, p. 144 (hereafter, Runnymede Trust, “*The Parekh Report*”).

⁴⁰ Runnymede Trust, *The Parekh Report*, p. 145.

⁴¹ *Prison Statistics England and Wales 2000*, Cm. 5250, London: Home Office, 2001, p. 108.

inmates.⁴² The statistics show that Muslims form a majority with a recorded religion among the “south Asian category” (86 percent) the largest faith community in the “Chinese and other ethnicity” group (47 percent) and the second largest group among “Black” prisoners (19 percent).⁴³

The 2001 census for the first time will provide data on the basis of religion, although, in England and Wales, religious affiliation was an optional question.⁴⁴ Muslim organisations and community leaders campaigned for and welcomed the inclusion of a question on religion in the census.⁴⁵ The Office of National Statistics (ONS) is considering producing a multi-source topic report on religion. This will pull together information from the 2001 census and other sources to provide a comprehensive and authoritative overview of key topics.⁴⁶ Before policy options targeted to support Muslim communities can be developed, there is a need to build up solid baseline information about Muslim communities. It is therefore essential that where statistics and data are collected on the basis of race and ethnic origin information should also be collected on the basis of religious affiliation. The proposed ONS report on religion would be a welcome contribution to this.

Attitudes of public officials

There has been growing official acknowledgement of prejudice and discrimination against Muslim communities dating from the publication of the 1997 report of the Commission on British Muslims and Islamophobia.⁴⁷ The report was launched in the House of Commons by the then Home Secretary, Jack Straw. Pressure for tackling religious discrimination has since been maintained in Parliament. In 1999 MP John Austin introduced a Private Member’s Bill in the House of Commons to prohibit religious discrimination in employment and the provision of goods, services and facilities.⁴⁸ He reintroduced the bill to the House of Commons in 2002. In 1999, the

⁴² F. Guessous, N. Hooper, U. Moorthy, *Religion in Prisons 1999 and 2000*, London: Home Office, 2001, p. 6.

⁴³ *Prison Statistics England and Wales 2000*, p. 115.

⁴⁴ In England and Wales, the census form asked the optional question: “What is your religion?” In Scotland and Northern Ireland, there were two non-optional questions: “What religion, religious denomination or body do you belong to?” and “What religion, religious denomination or body were you brought up in?”

⁴⁵ Commission on British Muslims and Islamophobia, *Islamophobia – a Challenge for Us All*, London: The Runnymede Trust, 1997, p. 32.

⁴⁶ *Religion: Scoping Report*, London: Office of National Statistics, 2002.

⁴⁷ Commission on British Muslims and Islamophobia, *Islamophobia – a Challenge for Us All*, London: The Runnymede Trust, 1997.

⁴⁸ House of Commons, Deb, 3 March 1998, col. 859.

House of Lords discussed the issue of religious discrimination in a debate initiated by Lord Ahmed,⁴⁹ who went on in 2001 to introduce a Race Relations (Religious Discrimination) Bill.⁵⁰ In February 2001 the Government published two reports on issues of religious discrimination.⁵¹ Muslim community groups argue that the Government has been slow to translate the official acknowledgement of discrimination faced by Muslim communities into policy initiatives and legislative measures, claiming that the Government is “hot on rhetoric but slow on delivery.”⁵²

When the events of September 11 provoked widespread violence against British Muslim communities,⁵³ including attacks on individuals, properties and mosques, politicians were quick to respond. Prime Minister Blair made it clear that “blaming Islam is as ludicrous as blaming Christianity for loyalist attacks on Catholics or nationalist attacks on Protestants in Northern Ireland.”⁵⁴ At a meeting with Muslim leaders on 21 September Home Secretary, David Blunkett promised a national helpline for Muslim victims of hate crimes.⁵⁵ Home Office Minister John Denham said the Government was “making it abundantly clear that nothing in the events of 11 September provides any justification for racists in this country to attack, or discriminate against or abuse Muslims...we must tackle the cancer of Islamophobia.”⁵⁶ The Prime Minister held meetings with members of the British Muslim communities on 27 September, and afterwards condemned attacks on innocent British Muslims as “despicable,” acknowledging that there was a minority “who are only too happy to use recent events as a convenient cover for racism” which has “no proper place in this country.” The leader of the opposition Conservative party, Mr. Duncan-Smith, met with members of the Muslim community on 1 October 2001. Following the meeting,

⁴⁹ House of Lords, Deb. 28 October 1999, col. 454–478.

⁵⁰ House of Lords, Deb. 7 June 2000, col. 1189–1209.

⁵¹ P. Weller, A. Feldman, K. Purdam, *Religious Discrimination in England and Wales – Home Office Research Study 220*, London: Home Office, 2001; also B. Hepple, T. Choudhury, *Religious Discrimination: Practical Implications for Policy Makers and Legislators – Home Office Research Study 221*, London: Home Office, 2001.

⁵² Interview with organisation G, London, 6 June 2002.

⁵³ EUMC, *Summary Report on Islamophobia in the EU after September 11 2001*, Vienna, May 2002, pp. 28–29; Islamic Human Rights Commission, *UK Today: The Anti-Muslim Backlash in the Wake of 11th September 2001*, London: Islamic Human Rights Commission, 2001.

⁵⁴ “No 10 Moves to Stamp out Anti-Muslim Backlash,” *The Guardian*, 19 September 2001, see: <<http://www.guardian.co.uk/Print?0,3858,4260121,00.html>>, (accessed 23 May 2002).

⁵⁵ The Government subsequently committed funding for the “Muslimline” project.

⁵⁶ Speech by Minister John Denham at a conference “Exploring Islamophobia” organised by the Forum Against Islamophobia and Racism, London, 29 September 2001.

he too paid tribute to the Muslim contribution to British life. Church leaders also spoke out in support of Britain's Muslim communities.⁵⁷

The most critical comment from a senior politician came from the former Prime Minister, Baroness Thatcher. Though prominent British Muslim organisations condemned the 11 September attacks, Baroness Thatcher commented that: "The people who brought down those towers were Muslims and Muslims must stand up and say that it is not the way of Islam. They must say that it is disgraceful. I have not heard enough condemnation from Muslim priests."⁵⁸ However, the leadership of the Conservative party did not endorse her comments, and opposition home affairs spokesman Oliver Letwin said that senior Muslims he met were "pretty categorical in their condemnation of terrorism."⁵⁹

Summer 2001 riots

The far right British National Party (BNP) have honed their racist rhetoric into an anti-Muslim message. Their "Boycott Asian Businesses" campaign leaflet tells its readers not to boycott businesses owned by Chinese or Hindus, "only Muslims as it's their community we need to pressure." Other BNP leaflets and publications constantly refer to alleged Muslim thuggery, seeing racial tensions as "mainly Muslim-on-white."⁶⁰ They have a campaign "to keep Britain free of Islam."⁶¹ In the run up to the 2001 general election, the BNP focused their campaign on attacking Islam and the British Muslim community. At the 2001 general election for the Oldham West and Royton seat, the BNP received 6,552 votes, or 16.4 percent, the third biggest share of the vote. In the constituencies of Oldham East and Saddleworth and in Burnley the BNP gained 11.2 percent of the vote. By the May 2002 local elections the BNP doubled its vote in Burnley and gained three local council seats. Nationally, the BNP only stood candidates in 66 council wards out of a total of 6,000 contested seats, so there was no national vote for the BNP. However, in the seats it contested the BNP polled an average of 12 percent.⁶²

⁵⁷ "Bishops Plea for Tolerance towards Muslims," *The Times*, 15 September 2001.

⁵⁸ R. Allison, "Muslim Leaders Condemn Thatcher Attack," *The Guardian*, 4 October 2001. See <<http://www.guardian.co.uk/Print/0,3858,4270107.html>>, (accessed 25 May 2002).

⁵⁹ See <http://news.bbc.co.uk/1/hi/english/uk_politics/newsid_1578000/1578377.stm>, (accessed 25 May 2002).

⁶⁰ N. M. Ahmed, F. Bodi, R. Kazim, M. Shadjareh, *The Oldham Riots: Discrimination, Deprivation and Communal Tension in the United Kingdom*, London: Islamic Human Rights Commission, 2001, p. 13, (hereafter, "Ahmed et al., *The Oldham Riots*")

⁶¹ See <<http://www.bnp.org.uk/campaigns.html>>, (accessed 16 July 2002).

⁶² A. Travis, "The Devil is in the Detail," *The Guardian*, 9 May 2002.

The BNP's general election campaigns triggered riots involving young Muslims in the towns of Oldham, Burnley and Bradford. The riots in Oldham "occurred as the culmination of five weeks of racial abuse orchestrated by right-wing white extremists against the town's ethnic minority community. Verbal as well as physical abuse, including vandalism, by white youths reached levels of virtual impunity as the local British National Party (BNP) mounted its campaign for the general elections."⁶³ Commenting on the riots the BNP leader, Nick Griffin, said that the riots were "not an Asian or Black problem, but a Muslim one."⁶⁴

Although the BNP campaign was the immediate trigger for the riots, they were exploiting deeper underlying tensions. Commenting on the situation in Oldham the Islamic Human Rights Commission found that "socio-economic conditions of mutual deprivation experienced by communities of all ethnic backgrounds in Oldham – but from which the Asian Muslim community suffer on a greater scale – combined with its disintegrative effects on the increasingly frustrated youth, has engineered an environment which is unstable and vulnerable to provocation."⁶⁵ The Commission identified the alienation of Muslim youth from social and political processes as a consequence of deprivation and discrimination as a crucial underlying cause. Furthermore, "the [Muslim] youth feel that they have been ignored and alienated by those who claim to be representing their interests within the community, and those who are supposed to be addressing their interests from outside."⁶⁶ Finally, feelings of alienation are fuelled by a sense that Muslim communities are faced with a rise in specifically Islamophobic sentiments that manifest themselves, not merely through the BNP, but in all aspects of public life.⁶⁷

Official reports on the riots also identified deprivation, segregation and Islamophobia as among the deeper underlying causes, and raised concerns about the social exclusion of Muslim communities in those towns:⁶⁸

⁶³ Ahmed et al., *The Oldham Riots*, p. 10.

⁶⁴ Interview on *Newsnight*, BBC 2, 26 June 2001. See also *The Oldham "Riots!" – Shattering the Myths*, London: BRAIN 2001.

⁶⁵ Ahmed et al., *The Oldham Riots*, p. 5.

⁶⁶ Ahmed et al., *The Oldham Riots*, p. 2.

⁶⁷ Ahmed et al., *The Oldham Riots*, p. 13.

⁶⁸ Report of the Ministerial Group on Public Order and Community Cohesion, *Building Cohesive Communities*, London: Home Office, 2001; Report of the Independent Review Team chaired by Ted Cantele *Community Cohesion*, London: Home Office, 2001 (hereafter, "Cantele Report"); Bradford Race Review Team chaired by Sir Herman Ousely, *Community Pride not Prejudice: Making Diversity Work in Bradford*, Bradford: Bradford Vision, 2001; Oldham Independent Review, *One Oldham One Future*, 2001.

Islamophobia was identified as a problem in the areas we visited and for some young people was part of their daily experience. They felt that they were being socially excluded because of their faith and that this was not being recognised or dealt with. It is not simply a coincidence that the Pakistani community were at the centre of the disturbances.⁶⁹

At the launch of these official reports, Home Secretary David Blunkett referred to the need for oaths of allegiance and the English language test for immigrants. Outside of the political context in which they were delivered, these proposals may not have been controversial. However, in the context of responding to reports on riots involving predominantly second generation, English-speaking Muslims, linking the riots to immigration caused considerable offence to many in the British Muslim communities.⁷⁰

One report on the riots warned that the “way forward is not to criminalise Asian youths protecting their communities but to launch a thorough independent investigation into the events leading up to the unrest.”⁷¹ In fact, many of those involved have been charged with serious riot offence and been given long custodial sentences. The “Fair Justice for All” campaign was launched in Bradford in July 2002, as an expression of shock at the length of sentences given to Muslims involved in the riots. The supporters of the campaign warned that “terms of up to five years were damaging community relations, especially when many of those convicted had no criminal record and had voluntarily given themselves up in response to police appeals.”⁷² In fact, some sentences were reduced on appeal.

Minister for Europe, Peter Hain, caused further offence to Muslim communities in making comments criticising segments of the Muslim community for being isolationist. One Muslim commentator asked: “why are we being singled out again ... and what effect would this have on the public’s view of Muslims?”⁷³

Media

Muslim concerns focus on prejudice and negative portrayals of Muslims and Islam in the media, particularly the press.⁷⁴ A study of news press coverage of Islam between 1994–1996 revealed an underlying discourse by which Islam was presented as a threat

⁶⁹ Cante Report, p. 40.

⁷⁰ V. Dodd, “Blunkett’s Blame Game,” *The Guardian*, 11 December 2001.

⁷¹ *The Oldham “Riots!” – Shattering the Myths*, London: BRAIN, 2001, p. 5.

⁷² M. Wainwright, “Bradford Rioter’s Jail Sentence Cut to 18 Months,” *The Guardian*, 13 July 2002.

⁷³ I. Bunglawala, “Its Getting Harder to be a British Muslim,” *The Observer*, 19 May 2002.

⁷⁴ Commission on British Muslims and Islamophobia, *Islamophobia – a Challenge for Us All*, London: The Runnymede Trust, 1997, pp. 20–30.

to British society and its values, and Muslims were seen as deviant, irrational, different, and unable to fit in with British society.⁷⁵ In analysing media coverage a distinction can be drawn between unfounded hostility towards Islam and Muslims and legitimate criticism that excludes phobias and prejudice but includes disagreement or disapproval of Muslim beliefs, laws and practices. Muslims feel that media agencies fail to reflect a representative range of views from Muslim communities when reporting on issues affecting these communities as well as failing to reflect their cultural diversity.⁷⁶

By seeking to disassociate Islam and Muslims from terrorism immediately after 11 September, the Government's leadership set the agenda for the media. Many of the national and regional newspapers used their "leader" columns to defend Islam and British Muslims. The largest-selling tabloid, *The Sun*, wrote: "if the terrorists were Islamic fanatics then the world must not make the mistake of condemning all Muslims."⁷⁷ In subsequent articles it urged people to reach out to Muslims as friends and to "imagine the power you have to affect (Muslim fears) by simply saying hello in the street."⁷⁸ In the comments pages, which provide the context for understanding daily news items, attempts were made to provide balanced views of Islam and Muslims.⁷⁹

At the same time, "a disproportionate coverage was given to extremist Muslim groups and British Muslims who declared their willingness to join an Islamic war against the West, while less sensationalist Muslim voices were mainly overlooked."⁸⁰ Of the hundreds of mosques in Britain press attention focused on the one that was run by a known radical: "The situation is akin to taking the views of the racist BNP and saying its views are representative of ordinary Britons."⁸¹ As the war against Afghanistan began, media coverage focused on Muslim opposition to the war and on the very small number of Muslims claiming a willingness to fight in Afghanistan against the British

⁷⁵ E. Poole, "Framing Islam: An Analysis of Newspaper Coverage of Islam in the British Press," in K. Hafez, ed., *Islam and the West in the Mass Media*, New Jersey: Hampton Press, 2000, p. 162.

⁷⁶ Interview organisation G, London, 6 June 2002.

⁷⁷ "Islam Is Not Evil Religion," *The Sun*, editorial, 13 September 2001.

⁷⁸ "Reach out to Muslims as Friends," *The Sun*, 17 September 2001.

⁷⁹ Y. Islam, "Don't Blame the Muslims," *The Mirror*, 14 September 2001; A. Gimson, "We Must Not Fail Our Test of Tolerance," *The Evening Standard*, 19 September 2001; J. Casey, "No Offence But Muslims Love Jesus as Much as Christians Do," *The Telegraph*, 19 December 2001; Z. Badawi, "September 11 Will Bring Us All Closer Together," *The Daily Telegraph*, 22 December 2001.

⁸⁰ EUMC, *Summary Report on Islamophobia in the EU after 11 September*, Vienna, 2002, p. 28.

⁸¹ I. Bunglawala, "Intolerance Masking as 'Conscientious Secular Liberalism,'" London: Muslim Council of Britain, 20 November 2001.

and American Governments.⁸² Muslims were presented as a fifth column, a threat to Britain from within, and the loyalty of British Muslims was called into question. The *Sunday Times* columnist, Melanie Philips, wrote that “thousands of alienated young British Muslims, most of them born and bred here but who regard themselves as an army within, are waiting for the opportunity to help to destroy the society that sustains them.”⁸³ Opponents to the war came from a diverse range of religious, ethnic and political backgrounds, but only in the case of British Muslims did such opposition lead to a questioning of their loyalty. There were also calls for British citizens captured fighting against the British forces in Afghanistan to be expelled, even though the punishment against British citizens for treason is imprisonment, not expulsion.⁸⁴

3. MINORITY PROTECTION: LAW AND PRACTICE

The United Kingdom is a party to most international instruments requiring respect for and protection of minorities.⁸⁵ The major exceptions remain the optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and Protocol 12 to the European Convention on Human Rights (ECHR). The ratification of an international treaty does not lead automatically to its incorporation into domestic law, although the Human Rights Act 1998 (HRA) gives effect in domestic law to some of the rights in the ECHR. The Government review of the position on international human rights instruments is due to be completed by Spring 2003.⁸⁶

The constitutional structure adds to the complexity of the framework for minority protection. England, Wales, Scotland and Northern Ireland each have their own legal regimes, and devolved administrations can develop their own equal opportunities

⁸² R. Littlejohn, “Let’s Crackdown on the Guerrillas in Our Midst,” *The Sun*, 30 October 2001.

⁸³ M. Phillips, “Britain Is in Denial about the Angry Muslims Within,” *The Sunday Times*, 4 November 2001.

⁸⁴ “Stay out or Else,” *Daily Star*, 30 October 2001; “Traitor Muslims Must Not Be Let Back into Britain,” *The Sun*, 26 October 2001.

⁸⁵ European Convention on Human Rights and Fundamental Freedoms, ratified 8 March 1951; International Convention on the Elimination of All Forms of Racial Discrimination, ratified 7 March 1969; International Covenant on Civil and Political Rights, ratified 20 May 1976; International Covenant on Economic, Social and Cultural Rights, ratified 20 May 1976; ILO Convention 111 on Discrimination, ratified 8 June 1999; Framework Convention for National Minorities, ratified 15 January 1998; European Charter for Regional and Minority Languages, ratified 27 March 2001.

⁸⁶ House of Lords, 7 March 2002, WA 33.

policies, although all are bound by the devolution legislation to refrain from acting in any way that is incompatible with the ECHR. Religion and religious discrimination also have a different meaning and resonance. In Northern Ireland and Scotland religious discrimination is usually understood to refer to sectarian tensions between the Protestant and Roman Catholic communities. This affects the attitude towards issues raised by the Muslim community. For example, in Scotland faith-based schools are seen, by some, as part of the problem in terms of the sectarian divide: “people think that the solution is to treat everybody the same: it’s not to have different services, not to have different schooling, or to meet the needs of Muslims.”⁸⁷

3.1 Protection from Discrimination

The present anti-discrimination legislation has developed over time in a piecemeal fashion. New legislation has been introduced to tackle particular forms of discrimination. There are at present four main pieces of anti-discrimination legislation in Britain⁸⁸ and five in Northern Ireland.⁸⁹ But this is merely a starting point. In fact, there are no less than 30 relevant Acts, 38 statutory instruments, 11 codes of practice and 12 EC directives and recommendations directly relevant to discrimination.⁹⁰

In addition to the prohibition of discrimination some legislation also creates duties to promote equality. Under the Northern Ireland Act 1998 (NIA) there is a requirement on public authorities, in carrying out their duties in relation to Northern Ireland, to have due regard to the need to promote equality of opportunity “between persons of different religious belief.”⁹¹ Furthermore, a public authority “shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.”⁹² The duty goes beyond avoiding discrimination. Public bodies are required to

⁸⁷ Interview with organisation C, Glasgow, 13 May 2002.

⁸⁸ The Equal Pay Act 1971, Sex Discrimination Act 1975, Race Relations Act 1976, Disability Discrimination Act 1995.

⁸⁹ The Equal Pay Act (Northern Ireland) 1970, Sex Discrimination (Northern Ireland) Order 1976 SI No 1042 (NI 15), Race Relations (Northern Ireland) Order 1997 SI No 369 (NI 6), the Disability Discrimination Act 1995, Fair Employment and Treatment (Northern Ireland) Order 1998 SI No 3162 (NI 21) (hereafter FETO).

⁹⁰ B. Hepple, M. Coussey, T. Choudhury, *Equality: A New Framework, Report of the Independent Review of the Enforcement of UK Anti-Discrimination Legislation*, Oxford: Hart Publishing, 2000, pp. 126–129.

⁹¹ NIA, s. 75(1).

⁹² NIA, s. 75(2).

actively seek ways to encourage greater equality of opportunity through their policy development. The Race Relations Amendment Act 2000 (RRAA) follows the approach in the NIA and imposes a general duty on public authorities to have due regard to the need to promote equality of opportunity and good relations between different racial groups. The Government is committed to creating a duty to promote equality of opportunity in relation to both sex and disability discrimination.⁹³ The Government should make a commitment to creating, when legislative time allows, a positive duty for public authorities to eliminate unlawful religious discrimination in relation to their function and to promote equality of opportunity and good relations between persons of different religious belief.

In individual cases of discrimination tribunals and courts can award damages. The damages are normally concerned to make good, so far as possible, the pecuniary and non-pecuniary loss suffered by the victim by putting him or her in as good a position as if no wrong had occurred. Damages are also awarded for injury to feelings.⁹⁴ In Great Britain there are three Commissions enforcing the different pieces of legislation.⁹⁵ In Northern Ireland there is a single Equality Commission. The Commissions have different powers. The Commission for Racial Equality (CRE), for example, can carry out formal investigations and general investigations and can issue non-discrimination notices in respect of discriminatory practices. The RRAA 2000 enables the CRE to enforce the duties on public authorities to eliminate unlawful racial discrimination and to promote equality of opportunity between persons of different racial groups.

The powers of the devolved administrations of Scotland, Wales, and Northern Ireland to address issues of discrimination and equality vary in important respects.

Scotland

Under the Scotland Act the Scottish Parliament cannot legislate on designated “reserved matters,” including anti-discrimination legislation. However, there is an exception allowing “the encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements” and for:

⁹³ Cabinet Office, *Equality Statement*, 30 November 1999.

⁹⁴ For recommendations to reform the tribunal system in discrimination cases see: B. Hepple, M. Coussey, T. Choudhury, *Equality: A New Framework, Report of the Independent Review of the Enforcement of UK Anti-Discrimination Legislation*, Oxford: Hart Publishing, 2000, pp. 86–112.

⁹⁵ These are, for sex discrimination and equal pay the Equal Opportunities Commission, for race discrimination the Commission for Racial Equality and for disability discrimination the Disability Rights Commission.

Imposing duties on:

- a) any office-holder in the Scottish Administration, or any Scottish public authority with mixed functions or no reserved functions, to make arrangements with a view to securing that the functions of the office-holder or authority are carried out with due regard to the need to meet the equal opportunity requirements, or
- b) any cross-border public authority to make arrangements with a view to securing that its Scottish functions are carried out with due regard to the need to meet the equal opportunity requirements.

Significantly, for British Muslim communities the Scotland Act defines equal opportunities as “the prevention, elimination or regulation of discrimination between persons” on grounds that include religious beliefs.⁹⁶

Wales

Under the Government of Wales Act 1998 the National Assembly for Wales may exercise the powers of making delegated legislation where these are transferred to it by ministerial order. The Assembly is required to ensure that its business and functions are conducted with due regard to the principle of equality of opportunity for all people.⁹⁷ Unlike in Scotland, there is no definition of equal opportunities in the Government of Wales Act. Although the legislation refers to equality of opportunity for “all people” it should be noted that subordinate legislation and statutory instruments cannot change or contravene primary legislation (the responsibility of the British Parliament), but are largely concerned with implementation.

Northern Ireland

In Northern Ireland the Assembly may legislate of its own accord in relation to anti-discrimination legislation and, with the permission of the United Kingdom Secretary of State, in relation to the Equality Commission and the duty on public authorities under the NIA. Under its devolved powers the Northern Ireland Executive has launched consultation on the creation of a single equality bill that it plans to introduce in 2002.⁹⁸ The aim of the bill is to “harmonise anti-discrimination laws as far as is practicable and to consider the extension of protection to other categories...to implement new European

⁹⁶ Scotland Act 1998, Schedule 5, Part II, L2.

⁹⁷ Government of Wales Act 1998, ss. 48 and 120.

⁹⁸ *Promoting Equality of Opportunity – A Single Equality Bill for Northern Ireland*, Belfast: Northern Ireland Office of the First Minister and Deputy First Minister, 2001.

Directives on equality and to consider important developments in Great Britain, as well as in the Republic.”⁹⁹

Protection from religious discrimination

Northern Ireland is the only region to have anti-discrimination laws that prohibits discrimination on the grounds of religious belief. It is illegal for public bodies¹⁰⁰ as well as for employers and providers of goods, services and facilities to discriminate on such grounds.¹⁰¹ Public authorities are required not merely to refrain from discriminating but, in carrying out their functions, must also “have due regard to the need to promote equality of opportunity between persons of different religious belief” and “have regard to the desirability for promoting good relations between persons of different religious belief, political opinion or racial group.”¹⁰²

This legislation is plainly influenced by the particular sectarian issues within Northern Ireland and is focused on the Protestant and Roman Catholic communities. This is clear, for example, from the definition of “affirmative action” as “action designed to secure fair participation in employment by members of the Protestant, or members of the Roman Catholic community, in Northern Ireland.”¹⁰³

Although there is no express reference to religious discrimination in the RRA, several ways have been found to extend protection under the Act to some religious groups. Some religious communities, such as the Sikh¹⁰⁴ and Jewish communities,¹⁰⁵ have won protection against direct and indirect discrimination by emphasising the extent to which they also constitute ethnic groups. In the case of *Mandla v Dowell Lee* the House of Lords accepted that ethnic origin is a wider concept than race and identified seven characteristics relevant to identifying an ethnic group.¹⁰⁶ The two essential characteristics are:

- A long shared history, of which the group is conscious as distinguishing it from other groups; and the memory of which it keeps alive; and

⁹⁹ *Promoting Equality of Opportunity – A Single Equality Bill for Northern Ireland*, Belfast: Northern Ireland Office of the First Minister and Deputy First Minister, 2001, p. 3.

¹⁰⁰ NIA, s. 76.

¹⁰¹ FETO.

¹⁰² NIA, s. 75.

¹⁰³ FETO, Art. 4.

¹⁰⁴ *Mandla v Dowell Lee* [1983] 2 AC 548.

¹⁰⁵ *Seide v Gillette Industries Ltd* [1980] IRLR 427.

¹⁰⁶ *Mandla v Dowell Lee* [1983] 2 AC 548.

- A cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observance.

Five other characteristics were identified as relevant but not essential:

- Either a common geographical origin, or descent from small number of common ancestors;
- A common literature, peculiar to that group;
- A common language, not necessarily peculiar to the group;
- A common religion, different from that of neighbouring groups or from the general community surrounding it;
- Being a minority or being an oppressed or a dominant group within a larger community.

Under these criteria Roma have been found to constitute a racial group by virtue of their shared history, geographical origins, distinct customs, language derived from Romanes and a common culture.¹⁰⁷ On the other hand, Muslims,¹⁰⁸ Rastafarians¹⁰⁹ and Jehovah's Witnesses¹¹⁰ have been held not to constitute racial or ethnic groups. The development of the law in this way has created a hierarchy of protection. Muslim communities feel particularly aggrieved that they are not offered the same level of protection that is given to other minority religious communities that are able to bring themselves within the definition of an ethnic group. The development of the case-law in this way has resulted in "inconsistency, inequity and a hierarchy of protection and provisions afforded to different ethnic minorities."¹¹¹

Members of some Muslim communities have pursued the strategy of obtaining protection under the RRA through the concept of indirect discrimination. For example, actions taken by an employer causing detriment to Muslims as a class, such as refusal to allow time off work for religious holidays, might be held to constitute indirect racial discrimination against those from an ethnic or national origin that is

¹⁰⁷ *Commission for Racial Equality v Dutton* [1989] IRLR 8.

¹⁰⁸ *Tariq v Young*, Case 247738/88, EOR Discrimination Case Law Digest No. 2.

¹⁰⁹ *Crown Suppliers (Property Services Agency) v Dawkins* [1993] ICR 517.

¹¹⁰ *Lovell-Badge v Norwich City College of Further and Higher Education*, Case no: 1502237/97, (Spring 1999) 39 EOR Discrimination Case Law Digest, 4.

¹¹¹ Forum Against Islamophobia and Racism, *Towards Equality and Diversity – Implementing the Employment and Race Directives: Response from the Forum Against Islamophobia and Racism*, London: FAIR, 2002, p. 13, (hereafter, "Forum Against Islamophobia and Racism, *Towards Equality and Diversity*").

predominantly Muslim, such as Pakistani and Bangladeshi Muslims.¹¹² However, a European, Afro-Caribbean or Chinese Muslim cannot use this strategy, as they come from ethnic communities where Muslims are a minority.¹¹³

There are drawbacks to this reliance on indirect racial discrimination. First, unlike direct discrimination, indirect discrimination may be justified on certain grounds. Second, even if there is a finding of indirect race discrimination, the RRA does not, at present, allow for an award of compensation if there is no proven intent to discriminate.

Tackling institutional discrimination

The Report on the death of black teenager Stephen Lawrence was a major impetus for changes in race equality laws.¹¹⁴ It recognised the existence of “institutional racism” in the Police Services and in other institutions countrywide.¹¹⁵ It defined “institutional racism” as:

The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amounted to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantages minority ethnic people. It persists because of the failure of the organisation openly and adequately to recognise and address the existence and causes by policy, example and leadership. Without recognition and action to eliminate such racism it can prevail as part of the ethos or culture of the organisation. It is a corrosive disease.¹¹⁶

Muslims argue that where there is institutional racism there is institutional anti-Muslim discrimination which manifests itself in:

[S]topping and searching Muslim youths because they look like “fundamentalists;” when a social worker assesses a Muslim couple for adoption and judges them to be unsuitable as “fundamentalists” because they pray five times a day;

¹¹² *J H Walker Ltd v Hussain* [1996] IRLR 11 EAT. Other cases where the indirect discrimination provisions have been used include: *CRE v. Precision Manufacturing Services Ltd.*, 10 October 1991, Case No 4106/91, (Summer 1992) 12 EOR Case Law Digest, 8; *Yassin v. Northwest Homecare* (Spring 1994) 19 EOR Case Law Digest 2.

¹¹³ See M. Franks, “Crossing the Borders of Whiteness? White Muslim Women Who Wear the Hijab in Britain Today,” *Ethnic and Racial Studies*, vol. 23(5), 2000, pp. 917–929.

¹¹⁴ *Stephen Lawrence Inquiry*, Report of an Inquiry by Sir William MacPherson of Cluny, Cm. 4262-I, London: HMSO, 1999, (hereafter, “*Stephen Lawrence Inquiry*”)

¹¹⁵ *Stephen Lawrence Inquiry*, para. 6.39.

¹¹⁶ *Stephen Lawrence Inquiry*, para. 6.34.

when Muslim children in care get placed in non-Muslim homes because the authorities insist on placing a child in a racially matching family regardless of the child's religious heritage, when agencies only advertise in the "ethnic" press for job vacancies thereby excluding potential Muslim applicants for jobs, when the only system for obtaining promotion is by hobnobbing with colleagues in the pub which would exclude, for example, alcohol unfriendly Muslims for promotion."¹¹⁷

One consequence of the Report is the RRAA 2000, which requires that public bodies eliminate unlawful racial discrimination, promote equality of opportunity and promote good race relations between people of different racial groups. However, the new legislation works within the framework of existing race legislation, and in doing so reproduces its defects. Namely, the protection and provisions of the Act, too, are extended to ethnic-religious minority communities but not to non-ethnic religious communities, a fact which has come in for criticism from Muslim organisations: "There are no moral or legal justifications for giving more comprehensive protection against discrimination to some religious minorities, (e.g. Sikh and Jews), whilst denying them to others (e.g. Muslims) who are clearly at risk of discrimination on the grounds of their religion."¹¹⁸

The Human Rights Act 1998

The Human Rights Act (HRA), which seeks to "bring home" the rights set out in the European Convention of Human Rights and Fundamental Freedoms (ECHR), is a significant development in protection against religious discrimination. The HRA makes it unlawful for public authorities to act in a way that is incompatible with Convention rights.¹¹⁹ Section 13 of the HRA makes special provision for freedom of religion. It requires that any court or tribunal determining any question arising under the HRA which might affect the exercise, by a religious organisation (itself or its members collectively), of the right to freedom of thought, conscience and religion guaranteed by Article 9 of the ECHR must have "particular regard to the importance of that right." The Home Secretary explained at the Committee stage of the Bill, that the purpose of this clause was to reassure religious organisations "against the Bill being used to intrude upon genuine religious beliefs or practices based on their beliefs."¹²⁰

However, Article 9 does not provide for equal treatment; the principle of non-discrimination is dealt with only in Article 14 of the ECHR, which provides that the

¹¹⁷ K. Khan, "Where's the Muslim in MacPherson's Black and White Britain?" *Q-News*, March 1999, p. 26.

¹¹⁸ Forum Against Islamophobia and Racism, *Towards Equality and Diversity*, p. 13.

¹¹⁹ HRA, s. 6.

¹²⁰ House of Commons, Deb. 20 May 1998, cols. 1023-24

exercise of the rights and freedoms must be secured without discrimination on any grounds including religion. This is not a free-standing right to protection against discrimination; it is ancillary to other Convention rights. No claim of religious discrimination can be made except in conjunction with one of the specified Convention rights. In order to remedy this deficiency, the Council of Europe adopted Protocol 12, which would provide a freestanding prohibition on discrimination. However the Government has so far refused to sign the Protocol.¹²¹ In their view the Protocol is “too general and open ended” and “it does not make clear whether ‘rights set forth in law’ includes international law as well as national law.”¹²² They are concerned that “the European Court of Human Rights might hold that a right set out in an international agreement, but not incorporated into United Kingdom law is covered by Protocol 12.”¹²³ They also note “new rights are not necessarily cost free (especially when they are economic, social and cultural rights) and may affect the rights of others, as many rights have to be balanced against each other.”¹²⁴ The heads of the CRE, EOC and DRC, among others, believe that these arguments are misconceived and have urged the Government to sign and ratify Protocol 12.¹²⁵

In the absence of protection against religious discrimination in existing anti-discrimination law, other than in Northern Ireland, the HRA provides an important added measure of protection. However, the HRA only applies directly to public bodies; it does not directly cover private bodies. Moreover, it only applies to discrimination in relation to Convention rights. Thus, important areas where discrimination may be experienced, such as allocation of housing or access to goods or services, remain outside the reach of the HRA. Furthermore, only in Northern Ireland is there a Human Rights Commission with powers to assist those claiming violation of their rights and with responsibility for ensuring compliance with Convention rights.¹²⁶ Outside Northern Ireland there is no organisational support for a Muslim claiming a violation of Convention rights. Thus, even with regard to violation of Convention rights by a public authority, the remedies available remain uncertain. The United Kingdom should sign Protocol 12 to the ECHR; this will ensure comprehensive protection from religious discrimination in all areas that are not currently covered by the HRA.

¹²¹ House of Lord, 9 November 2000, WA 174, see also House of Lords, 11 October 2000, WA 37; House of Lords, 23 October 2000, WA 14 and House of Lords, 25 October 2000, WA 45.

¹²² House of Lords, 11 October 2000, WA 37.

¹²³ House of Lords, 23 October 2000, WA 14.

¹²⁴ House of Lords, 25 October 2000, WA 45.

¹²⁵ *The Times*, 3 November 2000.

¹²⁶ There are proposals for the creation of a Human Rights Commission for Scotland.

Pressures for change to existing legislation and policy

The United Nations Human Rights Committee in its concluding observations on the UK's fifth periodic report has said that the UK should take steps "to ensure that all persons are protected from discrimination on account of their religious belief."¹²⁷ The most immediate pressure for amendments to existing legislation and policy for tackling discrimination on the grounds of religion or belief comes from the European Union. The Government is currently in the process of consultation for the implementation of the Employment Directive,¹²⁸ which covers discrimination on the grounds of religion or belief; new legislation must be in place by December 2003. However, even after the Employment Directive is implemented, Muslims will not be protected from direct discrimination in areas outside employment, such as the provision of goods, services and facilities. The Government has said that it has no plans at present to extend the legislation to cover these areas because of the need to maintain a clear focus on preparing and implementing legislation needed for the Employment Directive.¹²⁹ The Government should state its commitment in principle to legislation prohibiting religious discrimination in all areas covered by the existing anti-discrimination laws. This can be introduced once it has implemented the Employment Directive. In the meantime, the Government should publish non-statutory codes of practice that provide practical advice and assistance to prevent direct and indirect religious discrimination in education, housing and the provision of goods, services, and facilities.

The anti-discrimination framework has also been criticised for focusing on a negative prohibition on discrimination rather than a positive duty to promote equality. Critics have called for the development of a new generation of equality legislation, which would incorporate promotion of equality of opportunity for all groups into the Government's performance management framework.¹³⁰ The new legislation would create a positive duty on public authorities to promote equality and eliminate unlawful discrimination. This duty would apply to their procurement, grant and subsidy, licensing, and franchising functions. It would require employers to take responsibility for achieving equality through developing equal employment and pay equity plans.

¹²⁷ *Concluding Observations of the Human Rights Committee: United Kingdom of Great Britain and Northern Ireland*, CCPR/CO/72/United Kingdom, para. 14.

¹²⁸ *Towards Equality and Diversity: Implementing the Employment and Race Directives*, London: Department of Trade and Industry, 2002.

¹²⁹ House of Lords, 17 June 2002, WA 53.

¹³⁰ B. Hepple, M. Coussey, T. Choudhury, *Equality: A New Framework, Report of the Independent Review of the Enforcement of UK Anti-Discrimination Legislation*, Oxford: Hart Publishing, 2000, para. 1.46–1.52.

Professor Sandra Fredman has made the argument for this proactive approach persuasively:¹³¹

At the root of the positive duty is a recognition that societal discrimination extends well beyond individual acts of prejudice. Equality can only be meaningfully advanced if practices and structures are altered proactively by those in a position to bring about real change, regardless of fault or original responsibility. Positive duties are therefore proactive rather than reactive, aiming to introduce equality measures rather than to respond to complaints by individuals ... in order to trigger the duty, there is no need to prove individual prejudice, or to link disparate impact to an unjustifiable practice or condition. Instead, it is sufficient to show a pattern of under-representation or other evidence of structural discrimination. Correspondingly, the duty bearer is identified as the body in the best position to perform this duty. Even though not responsible for creating the problem in the first place, such duty bearers become responsible for participating in its eradication. A key aspect of positive duties, therefore, is that they harness the energies of employers and public bodies. Nor is the duty limited to providing compensation for an individual victim. Instead, positive action is required to achieve change, whether by encouragement, accommodation, or structural change.

Up until 1999 the Government's policy approach to modernisation and tackling social exclusion did not address issues of disadvantage faced by minority ethnic communities. The assumption was that measures in these areas would benefit all communities. As the Parekh report notes:¹³²

There was initially no reference to race and diversity issues in the government's strategy to combat social exclusion; no explicit focus on them in the raft of new educational measures and initiatives, and no reference in early documents about cultural policy ... there was no requirement in the first round of Public Service Agreements (PSAs) to consider race equality objectives, or to take into account cultural diversity. Likewise there was no reference in the 1998 White Paper on local government or in the founding documentation about the best-value regime for such government.

However, since 1999 measures have been taken which indicate an increased importance attached to tackling racial discrimination but have not explicitly addressed the issues of Islamophobia, or religious discrimination. The Cantle Report highlighted the need to include this as a consideration within programmes for dealing with social deprivation and disaffection.¹³³ There has been valuable Government research on tackling social exclusion of minority ethnic communities. Evidence in the areas of

¹³¹ S. Fredman, "Equality: A New Generation?" *Industrial Law Journal*, Vol. 30, No. 2, 2000, pp. 145–168, at p. 164.

¹³² Runnymede Trust, *The Parekh Report*, p. 251.

¹³³ Cantle report, p. 40.

education, healthcare, social protection, housing, public service provision, employment and criminal justice indicate that Pakistani and Bangladeshi Muslim communities experience particularly high levels of disadvantage, deprivation and discrimination even in comparison to other minority ethnic communities. Such experiences created the alienation and disengagement, particularly among the younger generation, that were a key underlying cause in the civil disturbances in Summer 2001. Research is urgently needed to investigate the levels of social exclusion of Muslims so that effective policy responses can be developed to tackle this problem. The Social Exclusion Unit should undertake this task.¹³⁴

3.1.1 Education

There are no education statistics available on the basis of religious affiliation. However, statistics collected on the basis of ethnic origin reveal that pupils from the Pakistani and Bangladeshi communities perform less well than other pupils at all stages of compulsory education. Both communities are over-represented among pupils with the poorest qualifications.¹³⁵ In 2000 only 29 percent of Pakistani and Bangladeshi pupils gained five or more GCSE grades A*-C.¹³⁶ This is the lowest of any ethnic group and far below the national average of 49 percent.¹³⁷ At the same time, they are well represented proportionately in terms of entry to university, particularly in London and Scotland.¹³⁸

In some towns and cities Muslim pupils attend effectively segregated schools. This segregation is not a consequence of Muslim pupils attending Muslim schools: it is estimated that at most only five percent of Muslim pupils attend a Muslim school.¹³⁹ The remaining 95 percent of Muslim pupils attending their local State school can find themselves in schools that are segregated in practice. The reports on the 2001 Summer riots cited segregation in schools as a key concern, attributing it to the “segregated nature of catchment areas, feeder schools, family designations, admission policies and

¹³⁴ Forum Against Islamophobia and Racism, *Towards Equality and Diversity*, p. 28.

¹³⁵ Performance and Innovation Unit, *Improving Labour Market Achievements for Ethnic Minorities in British Society*, London: Cabinet Office, 2001, p. 5, (hereafter, “Performance and Innovation Unit, *Improvement Labour Market Achievements*”).

¹³⁶ General Certificate of Secondary Education (GCSE) examinations are usually taken by schools children at the age of 16.

¹³⁷ *Youth Cohort Study: The Activities and Experiences of 16 Year Olds: England and Wales 2000*, London: Department for Education and Skills, 2001.

¹³⁸ Runnymede Trust, *The Parekh Report*, p. 146.

¹³⁹ Interview with organisation G, London, 6 June 2002.

parental choice.”¹⁴⁰ The Cattle Report made several recommendations to alleviate the effects of segregation:

- The creation of inter-school twinning between schools representing the principle cultures. This could involve three or four schools.
- The development of joint sports, arts and cultural programmes between these schools.
- Teacher exchanges and joint working between schools.
- Joint curriculum activities and learning programmes, with perhaps part of the week spent in another school.
- Joint parental activities – e.g. cultural events and skills programmes.
- Planned intake across the partnered schools, so that joint intake may eventually lead to a more mixed intake for each school.
- Technological links between schools, including video conference and Internet work.¹⁴¹

In response to this the Government has announced a series of measures including:¹⁴²

- Selecting two or three local education authorities to focus specifically on area-wide strategies to address segregation as Diversity Pathfinders.
- Ensuring that when decisions are made on proposals for a new school (including faith schools) the potential for inclusiveness is a factor that will be taken into account.
- Providing funding for partnerships between two or more schools for partnerships dedicated to cross-cultural issues.

Two-thirds of Muslim organisations reported unfair treatment resulting from school policies and practices and in institutions of higher education.¹⁴³ Discrimination in education is prohibited in the RRA, providing a limited form of protection for some

¹⁴⁰ Cattle Report, p. 34.

¹⁴¹ Cattle Report, p. 35.

¹⁴² A Report of the Ministerial Group on Public Order and Community Cohesion, *Building Cohesive Communities*, London: Home Office, 2001, p. 24.

¹⁴³ P. Weller, A. Feldman, K. Purdam, *Religious Discrimination in England and Wales: Home Office Research Study 220*, London: Home Office, 2001, pp. 23–36.

British Muslim communities through the concept of indirect race discrimination.¹⁴⁴ Again, the RRA does not provide a basis for challenging such policies and practices unless the complainant is from a distinct racial or ethnic group. For example, a school regulation requiring female students to wear skirts as part of the school uniform may discriminate against Muslims, as this runs counter to religious practice. However, under the RRA the regulation could only be challenged as indirect race discrimination if the complainant belongs to a distinct ethnic group where Muslims are predominant (i.e. Pakistani or Bangladeshi); if the pupil is a Chinese or white Muslim, it is not possible to bring a complaint under the RRA.

The HRA 1998 may provide for a remedy in such situations.¹⁴⁵ As noted above, the Act makes it unlawful for a public authority – including schools and local education authorities¹⁴⁶ – to act in a way that is incompatible with the Convention rights.¹⁴⁷ The Act has already resulted in a local authority having to review its procedure for allocating places in secondary schools.¹⁴⁸ The education authority in the London Borough of Newham sent out pamphlets to parents of prospective pupils setting out its policy on the allocation of places in secondary schools. The preference of parents for single sex schools was one criterion for selection. The applicant, K., had put down single sex schools for his first, second and third preference. The authority offered Z. (K's child) a place in a co-educational (mixed sex) school. In his appeal to the High Court the applicant argued that under the HRA the education authority was required by Article 2 of the First Protocol to the Convention to respect the right of parents to education and teaching in conformity with their religious convictions. The Court accepted that in order to secure this right there were some positive duties on the State authorities. In particular, the education authority had to ascertain a parent's religious conviction and take this on board in formulating its admissions policy. In practical terms, this meant that the application form for places in secondary schools should have included space in which parents could give reasons for their preferred option. As the

¹⁴⁴ In Northern Ireland religious discrimination is prohibited in relation to post 16 further and higher education institutions but not primary and secondary education. Furthermore, the prohibition of religious discrimination in employment contains an exception to allow discrimination in the employment of schoolteachers. This allows faith-based schools to recruit teachers from within their faith community; FETO, Art. 71.

¹⁴⁵ A. Bradley, "The Convention Right to Education and the Human Rights Act 1998," *European Human Rights Law Review*, N. 4, (1999), pp. 395–410, at p. 407.

¹⁴⁶ Arguably, private schools may also be counted as "public authorities" when they are discharging duties under the Education Acts, thus forming part of the State's system for providing education.

¹⁴⁷ Human Rights Act 1998, s. 6.

¹⁴⁸ *R. v. Newham London Borough Council and Another ex parte. K*, Times Law Report, 28 February 2002.

education authority in this case had not done so, its decision was quashed and remitted for reconsideration.

In Scotland, schools are required, in their annual statement on improvement objectives, to include an account of the ways in which they will, in providing school education, encourage equal opportunities.¹⁴⁹ The creation of this obligation was the first time the Scottish Parliament exercised its powers to legislate on equal opportunities. It is yet to be seen what impact this will have in combating religious discrimination and delivery of educational services to Scottish Muslim communities.

3.1.2 Employment

Legislation in Northern Ireland prohibits discrimination on the grounds of religious belief, but otherwise only limited protection against religious discrimination is available to Muslims through the medium of the RRA. Adoption of legislation prohibiting discrimination in employment in light of the EU Employment Directive should be in place by December 2003. The legislation will specifically and explicitly prohibit direct and indirect religious discrimination in employment and so remove the need for Muslims to rely on indirect racial discrimination. Indirect religious discrimination will occur where an apparently neutral provision criterion, or practice disadvantages a substantially higher proportion of the members of a faith group. Employers should take reasonable steps to accommodate the needs of religious groups. Employers must monitor their employment decisions on the basis of religious affiliation. This is the only way for employers to ensure that a policy, practice, provision or criterion does not have the unintended effect of disadvantaging Muslims or employees of any other faith.

There are of course difficulties in monitoring on the basis of faith identities. For example, what groups should be monitored? How do you monitor people who do not identify themselves through their faith identities? How does one monitor where individuals do not wish to identify any religious affiliation? In Northern Ireland this is overcome by looking at the school or residential area from which a person comes from. What methods could be used in Britain? The government should fund research into developing practical and effective guidance to assist monitoring faith identities.

The Employment Directive requires measures that ensure effective implementation of the legislation adopted through dissemination of information, social dialogue, and dialogue with non-governmental organisations.¹⁵⁰ Both individuals and employers need

¹⁴⁹ Standards in Scotland's Schools Act 2000, s. 5(2)(b). 'Equal Opportunities' as defined in Schedule 5 of the Scotland Act 1998 means the prevention, elimination or regulation of discrimination between persons on grounds which include religious belief.

¹⁵⁰ Arts. 12-14.

to have access to practical information, advice and support. Support for the legislation on religious discrimination should include providing a code of practice for employers and an education campaign to inform communities, employers and employees of their rights and responsibilities under the new legislation.

Home Office research shows that compared to other faith communities Muslims report the highest levels of unfair treatment in the area of employment.¹⁵¹ Labour market statistics are not collected on the basis of religion. However, data on ethnic minority participation in the labour market show that Pakistani and Bangladeshi Muslims are consistently the most disadvantaged group, with lower rates of economic activity and employment and higher rates of unemployment than other ethnic minority groups.¹⁵² In relation to differences in earning levels, Bangladeshi men were the most disadvantaged group. Just over a quarter of white households have incomes at or below the national average in comparison with four-fifths of Pakistani and Bangladeshi households and two-fifths of other ethnic minority households.¹⁵³

A Cabinet Office report found that there were clear differences in employment rates within the Asian community when figures were disaggregated on the basis of religion. For example, Hindus were the most likely – and Muslims (men and women) the least likely – to be engaged in paid employment. The report found that “even after controlling for a range of factors ... Indian Muslims remain almost twice as likely to be unemployed as Hindus. Pakistani Muslims were more than three times as likely to be unemployed.” But the report also found that the “relationship between religious groups and employment levels are not simple. Despite overall high Muslim unemployment rates, Indian Muslims have a higher employment rate than Sikh men ... it should not automatically be assumed that a ‘religious effect’ necessarily exists. Religion may simply be a proxy for other factors determining employment.”¹⁵⁴ This data demonstrates differences in the outcomes experienced by different religious groups, but provides no basis for a demonstration of causality. Still, the disaggregation of data on the basis of religion indicates recognition that religious communities may be particularly disadvantaged, marking a step forward in the process of development and delivery of policy solutions.

¹⁵¹ P. Weller, A. Feldman, K. Purdam, *Religious Discrimination in England and Wales: Home Office Research Study 220*, London: Home Office, 2001, pp. 37–50.

¹⁵² Performance and Innovation Unit, *Improvement Labour Market Achievements*, p. 40.

¹⁵³ Performance and Innovation Unit, *Improvement Labour Market Achievements*, pp. 44–45.

¹⁵⁴ Performance and Innovation Unit, *Improvement Labour Market Achievements*, p. 82.

3.1.3 Housing and Other Goods and Services

In Northern Ireland the prohibition on religious discrimination extends to the provision of goods, services, and facilities. Outside Northern Ireland there is no explicit provision prohibiting direct discrimination against Muslims in these areas. The RRA covers housing and the provision of goods, services, and facilities and so provides limited protection from indirect discrimination for some Muslim communities. The Scottish Housing Act 2001 places an obligation on ministers and local authorities, as well as registered social landlords, to exercise their functions in relation to housing in a manner that encourages equal opportunities.¹⁵⁵

Housing

Statistics are not collected on the basis of religion. Statistics collected on the basis of ethnicity reveal particular disadvantage experienced by the Muslim Pakistani and Bangladeshi communities in relation to housing:

- Around one-third of Pakistani and Bangladeshi households live in unfit properties in the private sector, compared to around 13 percent of Black Caribbean and six percent of White and Indian households.
- Over a quarter of Bangladeshi and 20 percent of Pakistani households are overcrowded compared with eight percent of Indian, seven percent of Black Caribbean and two percent of White households.
- 64 percent of Pakistani and Bangladeshi households live in areas where the housing was mainly built before 1919, compared with 39 percent of Indian, seven percent of Black Caribbean and two percent of White households.
- Around thirty percent of Pakistani and Bangladeshi households live in “poor neighbourhoods” compared to 18 percent of Black Caribbean, 12 percent of Indian and six percent of White households.
- More than half of Pakistani and Bangladeshi households are in the ten percent most-deprived wards in England.¹⁵⁶

¹⁵⁵ Housing (Scotland) Act 2001, s. 106. ‘Equal Opportunities’ as defined in Schedule 5 of the Scotland Act 1998 means the prevention, elimination or regulation of discrimination between persons on grounds that include religious belief.

¹⁵⁶ Cited in Performance and Innovation Unit, *Improving Labour Market Achievements*, p. 10. The 2001 English Housing Condition Survey is due to be published at the end of 2002.

Delivery of services

Public services play an essential role in supporting individuals, families and communities. Accessible public services are vital to ensuring participation and inclusion of all members of the community. The Government acknowledges the importance of consultation with faith groups in the development of local public services; in their view “modern local authorities are those in touch with all the people they serve, with an open decision making structure and service delivery based on the needs of users rather than providers.”¹⁵⁷ Despite this, the failure of public service providers to take their needs into account in service delivery is a common and key concern expressed by many Muslim community groups.

There must be recognition that women and men, people with disabilities, and people from different age, ethnic, and faith groups have different needs and use services in different ways. The needs of minority communities are taken into account only in terms of race and ethnic origin. The lack of information and statistics about the experience of Muslims is identified by many in the Muslim community as the “biggest obstacle” to developing policies and ensuring service delivery appropriate to Muslim communities. Ethnic monitoring is an important and valuable tool in preventing racial discrimination in service provision. It is only through monitoring that service providers ensure that their policies do not indirectly discriminate and that they are providing an equal service to all. Without monitoring it would be difficult to identify indirect, often unintended, ways in which policies disadvantage communities or to see whether policies aimed at reducing inequality are succeeding.

However, ethnic monitoring will not register ways in which policies disadvantage people because of their religion. Through ethnic monitoring alone the needs of Muslims become invisible and service providers are unable to say whether Muslims are accessing public services. For example, “if Muslims weren’t taking part in a cancer screening programme, you wouldn’t know because the local health authority’s information would only show the number of Asian and black people that took part.”¹⁵⁸

In some situations, a person’s religion can be more important than their ethnicity in ensuring that appropriate services are provided. Ethnic monitoring may pick up the fact that Pakistani and Bangladeshi patients at an out-patient department of an NHS trust are missing appointments on certain days, for example on *Eid* or Friday afternoons. A policy response to prevent appointments being made on these days for Pakistani and Bangladeshi patients would still be failing Indian, Somali, Turkish, Cypriot, Malaysian, Chinese, Indonesian, Nigerian and Bosnian Muslims. Ethnic

¹⁵⁷ Local Government Association, *Faith and Community*, London: LGA Publications, 2002, p. 3.

¹⁵⁸ Interview with organisation A, London, April 2001.

monitoring alone means that a tool for ensuring sensitive services can make a service insensitive. For example:

A Pakistani Muslim woman with severe depression approaches a social service department. Concerned social workers allocate her an “Asian” Home Help thinking this would cater for her “Asian” needs. No consideration is given to her religious requirements; hence the “Asian” Home Help sent is a Hindu and a vegetarian. This mismatch of religion results in distress for both women: the Hindu woman finds the smell of meat cooking offensive, hence, she is unable to perform her duties particularly in the kitchen. Soon, the Muslim woman is convinced that having the Home Help is more of a burden than a relief. Finally, she is convinced that she would be better off not having the worker ... the ill Muslim, unable to articulate her problem to the local authorities ... ends up deprived of a service she desperately needs. And by ignoring the religious sensibilities, the Social Services – however well intentioned – aggravated the problem instead of alleviating it.¹⁵⁹

Monitoring is needed to ensure that services are effectively and efficiently delivered; it prevents wasteful and inappropriate allocation of limited resources. Monitoring of religion needs to be done within a wider framework of “diversity monitoring” and an awareness that “monitoring is good for everyone so that a more sensitive and accurate picture is built up of diverse communities, e.g. faith communities, women, elderly, etc. ... diversity monitoring will enable service providers to fine-tune their services for everyone.”¹⁶⁰ In order to offer the best services possible, public service providers should engage in diversity monitoring that includes monitoring on the basis of religion.

There are many individual examples of local councils developing ways to ensure that they are able to deliver services to diverse faith communities. The Beacon Council Scheme provides one avenue through which practical policies for meeting the needs of Muslim and other faith communities could be developed and good practice shared. The scheme, launched in 1999, identifies centres of excellence in local government from which other councils can learn. Ministers select themes in service areas that have a direct impact on the quality of life of local communities. Councils awarded Beacon status are given grants to support the dissemination of good practice across local government. Delivering services to diverse religious communities should be identified as a theme for the fifth round of the Beacon Council Scheme.

Performance targets are also an important driver of improvement in public service delivery. They allow authorities, their auditors and service users to judge how well a

¹⁵⁹ *Second Review of the Race Relations Act 1976 – A Response*, Wembley: An-Nisa Society, 1992, p. 8.

¹⁶⁰ Quote from Muslim Women’s group, the An-Nisa Society, cited in Commission on British Muslims and Islamophobia, *Addressing the Challenge of Islamophobia, Progress Report 1999–2001*, London: Commission on British Muslims and Islamophobia, 2001, p. 20.

service is performed and what needs to be done to bring performance up to the levels that are being achieved elsewhere. The Government is able to issue guidance to best value authorities on setting performance targets.¹⁶¹ The Audit Commission is another body that is able to set performance indicators.¹⁶² The Government and Audit Commission should develop guidance, performance standards, and performance indicators that assist local authorities and other public bodies in delivering services to Muslim and other faith communities.

3.1.4 Healthcare and Other Forms of Social Protection

In Northern Ireland the prohibition of discrimination by public bodies on the grounds of religious belief would guard against discrimination in social protection. Outside Northern Ireland, however, there is no legislation to protect the Muslim community from discrimination in these areas. The RRAA imposes upon public authorities the duty to eliminate discrimination and promote equality of opportunity between persons of different racial or ethnic groups. Although these provisions mean that the needs of ethnic-religious communities must be taken into consideration, there are some indications that the needs of Muslim communities may in fact be overlooked. In Scotland the Commission for the Regulation of Care has a duty to exercise its functions in a manner which encourages equal opportunities.¹⁶³

At the same time, inequalities in health outcomes between different minority groups suggest that health service providers fail to reach minority communities or to meet their needs.¹⁶⁴ Although there are no statistics collected on the basis of religion, ethnic data show that Pakistanis and Bangladeshis are one and half times more likely to suffer from ill health compared to white people. Infant mortality is a staggering 100 percent higher for Pakistani mothers compared to white mothers.¹⁶⁵ They are also more likely

¹⁶¹ Local Government Act 1998, s. 5.

¹⁶² Audit Commission Act 1998, ss. 44–46.

¹⁶³ Regulation of Care (Scotland) Act 2001, s. 1(2)(b). ‘Equal Opportunities’ as defined in Schedule 5 of the Scotland Act 1998 means the prevention, elimination or regulation of discrimination between persons on grounds which include religious belief.

¹⁶⁴ Social Exclusion Unit, *Minority Ethnic Issues in Social Exclusion and Neighbourhood Renewal*, London: Cabinet Office, 2000, para. 2.39, which cites the example of sexual health services that do not meet the needs of minority communities.

¹⁶⁵ Social Exclusion Unit, *Minority Ethnic Issues in Social Exclusion and Neighbourhood Renewal*, London: Cabinet Office, 2000, para. 2.37.

to suffer from coronary heart disease than any other group. 20 percent of Muslims report a long-standing illness, compared with 16 percent for Hindus and Sikhs.¹⁶⁶

Complaints by Muslims regarding unfair treatment in National Health Service hospitals focus on treatment by staff. Three quarters of Muslim organisations in a Home Office study reported unfair treatment from social services staff and from practices in social services departments.¹⁶⁷ The Islamophobia Commission report recommended the development of guidelines on good practice in healthcare relating to religious and cultural needs, which would include “the employment and use of non-Christian Chaplains; religious observance; diet and food, respect for cultural and religious norms and injunctions relating to modesty, for example to do with mixed sex wards and the examination of female patients by male doctors; consultation and contact with faith communities; advocacy and befriending services; general pastoral care in multi-faith settings.”¹⁶⁸ The Commission’s *Progress Report* found that the Department for Health “had been active in funding initiatives and raising awareness to promote good practice in healthcare related to religious and cultural needs.”¹⁶⁹ But the Commission was only aware of one Imam employed on a full-time basis in the National Health Service.¹⁷⁰

3.1.5 Access to Justice

Experience of crime and policing

One indirect effect of the disadvantage and discrimination experienced by Pakistani and Bangladeshi Muslim communities is that they live in areas with the highest levels of crime and lack the financial means to protect themselves against crime. Studies of the experience of crime and policing focus on racial and ethnic rather than religious identities. For example, the British Crime survey reveals that the Pakistanis and Bangladeshis were more likely than any other group to be victims of household crime

¹⁶⁶ See Appendix A, “A Map of Muslim Britain,” *The Guardian*, 17 June 2002.

¹⁶⁷ P. Weller, A. Feldman, K. Purdam, *Religious Discrimination in England and Wales: Home Office Research Study 220*, London: Home Office, 2001, p. 72.

¹⁶⁸ Commission on British Muslims and Islamophobia, *Islamophobia – a Challenge for Us All*, London: The Runnymede Trust, 1997, pp. 36–37.

¹⁶⁹ Commission on British Muslims and Islamophobia, *Addressing the Challenge of Islamophobia, Progress Report 1999–2001*, London: Commission on British Muslims and Islamophobia, 2001.

¹⁷⁰ Commission on British Muslims and Islamophobia, *Addressing the Challenge of Islamophobia, Progress Report 1999–2001*, London: Commission on British Muslims and Islamophobia, 2001.

and racially motivated crime. Not surprisingly, they also reported the highest levels of anxiety about crimes such as burglary and robbery.¹⁷¹

Good relations between the police and local communities are essential for gathering intelligence and tackling crime. The British Crime survey indicates that there is a significant level of distrust between the police and Pakistanis and Bangladeshis. Compared to all other groups they expressed the lowest levels of satisfaction with the service they received after contacting the police and the lowest levels of confidence in the policing of their areas. Cultural sensitivity is an essential element of good community policing. Issues that can cause tensions include traffic congestion at large mosques at Friday and *Eid* prayers, cross-gender behavioural norms, behaviour on entering Muslim homes and mosques, and opening hours for *halal* restaurants during Ramadan. The Association of Muslim Police Officers and representatives of the Muslim community should work together to produce guidelines to assist sensitive community policing.

Muslim community groups report that anxiety about crime and policing has increased significantly following 11 September. First, there was a massive increase in violence directed at Muslims and those perceived to be Muslim.¹⁷² Second, implementation of parts of anti-terrorism legislation has created a growing perception in Muslim communities that they are being stopped, questioned, and searched not on the basis of evidence and reasonable suspicion but on the basis of “looking Muslim,” and there is concern about the negative impact this could have on community relations: “The Muslim community is as concerned about terrorism as the rest of the British community but the way the police are acting is alienating the very people that can help them.”¹⁷³ In August 2002 the Home Secretary wrote to Muslim leaders expressing regret that a number of individuals questioned by the security services had complained of harassment and intimidation. He acknowledged the need to ensure that “nothing is done to undermine good community relations” and asked the police to “consult community leaders whenever they are able to do so”¹⁷⁴ The British Crime Survey should monitor the Muslim communities’ experiences of crime and policing.

¹⁷¹ A. Clancy, M. Hough, R. Aust, C. Kershaw, *Ethnic Minority Experience of Crime and Policing: Findings from the 2000 British Crime Survey*, Home Office Research Findings 146, London: Home Office, 2000, pp. 2–5.

¹⁷² EUMC, *Summary Report on Islamophobia in the EU after September 11 2001*, Vienna, May 2002, pp. 28–29; Islamic Human Rights Commission, *UK Today: The Anti-Muslim Backlash in the Wake of 11th September 2001*, London: Islamic Human Rights Commission, 2001.

¹⁷³ Interviews with organisation E, London, 19 April 2002, and organisation G, London, 6 June 2002.

¹⁷⁴ A. Versi, “Muslims Complain of ‘Harassment’ by Security Services,” *The Muslim News*, 24 August 2002; also K. Ahmed, M. Bright, S. Ward, “Blunkett ‘Sorry’ for MI5 Harassment,” *The Observer*, 25 August 2002.

Advice and assistance in criminal and civil cases

In England and Wales public funding for advice and assistance in judicial proceedings is the responsibility of the Legal Services Commission (LSC)¹⁷⁵ The LSC runs two schemes: the Community Legal Service (CLS) which covers civil cases, and the Criminal Defence Fund (CDF) which covers criminal cases.

In respect of civil cases funding is available for a range of legal services which range from “legal help” and “help at court,” through to “support funding” and “legal representation.” The extent of public funding for legal action depends on the type and circumstances of the case. The availability of support is also dependent upon income and access to disposable capital.

There is no funding through the CLS of discrimination cases before an Employment Tribunal; funding is only available for appeals to the Employment Appeal Tribunal. Applicants in discrimination cases are therefore reliant upon other sources of public funding; these can be local law centres, the Free Representation Unit and, in cases of racial discrimination, the Commission for Racial Equality.

In Northern Ireland the Equality Commission is able to provide advice and assistance in cases of religious discrimination. The Government has not announced what, if any, support will be given outside Northern Ireland to assist in cases of religious discrimination. In the medium term, there are two options for providing support in religious discrimination cases. The first option places primary responsibility on the faith communities themselves by allowing local Muslim community organisations that possess the necessary expertise and understanding to deliver legal advice and assistance in a way that meets the needs of the Muslim communities. However,

setting up such bodies in areas that are heavily populated by certain religious groups would deny access to protection on such grounds to those living in isolation or in smaller religious communities. It would not be cost effective to set up such bodies in every town. There is also the risk of marginalising certain minority groups within a faith community by allocating the responsibility and resources to an organisation that may represent the majority group within that faith community.¹⁷⁶

The second option is to place primary responsibility for enforcement of religious discrimination legislation with the CRE. This would be a logical extension of its present activities, particularly given the blurred lines between discrimination on the grounds of race and religion. However, there is a danger that claims of religious

¹⁷⁵ In Scotland, the Scottish Legal Aid Board administers legal aid for civil cases and the Public Defence Solicitor’s office administers criminal legal aid; in Northern Ireland, the Legal Aid department of the Law Society of Northern Ireland administers legal aid.

¹⁷⁶ Forum Against Islamophobia and Racism, *Towards Equality and Diversity*, p. 24.

discrimination will be marginalised within an organisation with an established tradition and experience in tackling racial discrimination. One recommendation is that “a specialist unit, with its own Commissioners and budget, be set up within the CRE dedicated solely to dealing with religious discrimination.”¹⁷⁷

There is no clear agreement among Muslim community groups as to which of the options are most appropriate. In the long term, advice and assistance for religious discrimination cases could be the responsibility of a new Single Equality Commission that covers all the strands of discrimination under the EU Employment Directive.¹⁷⁸ Effective implementation of the Employment Directive will require publicly funded support for advice, assistance and representation in religious discrimination cases.

In respect of criminal cases the CDF provides three levels of service: advice and assistance, advocacy assistance and representation. Access to advice and assistance and advocacy assistance are dependent on a person’s income and capital. When the police question a person about an offence – whether or not they have been arrested – they have a right to free advice and assistance from a contracted solicitor. Access to representation is not based on income but on the “interests of justice.” Examples of where access to representation would be in the interests of justice include where, if the defendant is found guilty, he or she is likely to go to prison or be dismissed from employment, or where there are substantial questions of law to be argued, or where defendants are unable to follow the proceedings or explain their case because they do not speak English well enough.¹⁷⁹

The Stephen Lawrence Inquiry Report confirmed the existence of institutional racism within the Police Service.¹⁸⁰ Institutional discrimination combined with “severe levels of police racism” and the actions of a senior police officer were seen as creating the disillusionment and distrust that existed in the Muslim communities of Oldham prior to the riots in the Summer of 2001.¹⁸¹ In Oldham, the *Guardian* argued:

[A] local chief superintendent, Eric Hewitt, is regarded with deep suspicion by a chunk of the community he is meant to serve and protect. Their first complaint is that the police simply do not come to their aid when they are in trouble. Every street corner has a story to tell of a call for help which went

¹⁷⁷ Forum Against Islamophobia and Racism, *Towards Equality and Diversity*, p. 25.

¹⁷⁸ See Section 4.

¹⁷⁹ *A Practical Guide to Criminal Defence Services*, London: Legal Services Commission, 2002.

¹⁸⁰ *Stephen Lawrence Inquiry*, Report of an Inquiry by Sir. William MacPherson of Cluny, Cm. 4262-I, London: HMSO, 1999.

¹⁸¹ Ahmed et al., *The Oldham Riots*, p. 6.

unaided, a racist attack that went unhalted. Many have turned to communal vigilantism to protect themselves.¹⁸²

Since 1995 the Crown Prosecution Service for England and Wales (CPS) has been found guilty in several cases of racial discrimination in the treatment of its own employees.¹⁸³ This led to a report into institutional racism within the CPS which found, *inter alia*, that there was “unwarranted complacency over the possibility of race discrimination in the prosecution process.”¹⁸⁴ A recent report found that the CPS, in relation to racially aggravated crimes, regularly charged non-white defendants with more serious offences than was warranted by their crime.¹⁸⁵

Studies also show differences in sentencing and imprisonment between black and white people, for example, black people are six times more likely to be in prison than white people and are more likely to receive higher sentences than white people.¹⁸⁶

There is particular concern about discrimination in the sentencing and charging of Muslims involved in the Summer 2001 riots. In Bradford, 46 persons have been convicted and given substantial custodial sentences of an average of four and a half years.¹⁸⁷ Many of those sentenced had no criminal record and had voluntarily given themselves up in response to police appeals. For example, 17-year-old Imran Ghafoor was given an initial sentence of four years; this was only reduced on appeal to 18 months as a consequence of his age.¹⁸⁸ These sentences are much more severe than those given in Belfast “where a first offence of riot gets you a fine, a second a heavier fine or a suspended sentence.”¹⁸⁹ The “Fair Justice for All” campaign has emerged as a grassroots response to the severe sentences; campaigners argue that sentences of five years were damaging community relations.¹⁹⁰

¹⁸² “When Frustration Erupts,” *The Guardian*, 28 May 2001.

¹⁸³ S. Denman, *Race Discrimination in the Crown Prosecution Service*, London: Crown Prosecution Service, 2001, p. 1.

¹⁸⁴ S. Denman, *Race Discrimination in the Crown Prosecution Service*, London: Crown Prosecution Service, 2001, p. 14.

¹⁸⁵ C. Dyer, “CPS Found to Be Lenient in Cases of Race Crime,” *The Guardian*, 10 May 2002.

¹⁸⁶ Runnymede Trust, *The Parekh Report*, p. 130.

¹⁸⁷ F. Bodi, “Muslims Got Cante. What They Needed Was Scarman,” *The Guardian*, 1 July 2002.

¹⁸⁸ M. Wainwright, “Bradford Rioter’s Jail Sentence Cut To 18 months,” *The Guardian*, 13 July 2002.

¹⁸⁹ F. Bodi, “Muslims Got Cante. What They Needed Was Scarman,” *The Guardian*, 1 July 2002.

¹⁹⁰ M. Wainwright, “Bradford Rioter’s Jail Sentence Cut To 18 months,” *The Guardian*, 13 July 2002.

The treatment of prisoners once they are in jail is also a concern. In March 2000, a racist skinhead, Robert Stewart, whilst in Feltham Young Offenders institution, murdered Zahid Mubarak after the two were put in the same cell together. The murder led to a formal investigation of the Prison Service by the CRE, which is due to report at the end of 2002.¹⁹¹

In 2001, Muslims accounted for seven percent of the prison population.¹⁹² The needs of Muslim prisoners are the specific concern of the National Council for the Welfare of Muslim Prisoners and the Iqra Trust. The Commission on British Muslims has also drawn attention to the needs of Muslim prisoners.¹⁹³ One of the central issues they raise is the privileged status given to the Anglican Church within the prisons Chaplaincy service under the Prisons Act 1952. There have been some positive developments. In 1999, Maqsood Ahmed was appointed as the first Muslim advisor to the prison service.¹⁹⁴ There are also Muslim Imams working in the prison service. The Commission on British Muslims remains concerned “about the capacity of the Prison Service to address the issue of religious diversity. One of the reasons for this scepticism is that progress is dependent on the discretion of individual chaplains, governors and prison officers. Whilst there is a lot of good will among staff from all community backgrounds this does not deal with the main problem of structural inequality.”¹⁹⁵

3.2 Protection from Religiously and Racially Motivated Violence

As a consequence of the rise in violence directed at Muslims and those perceived to be Muslims after 11 September, a provision was included in the 2001 Anti-Terrorism, Crime and Security Act ensuring that, in England and Wales, religious motivation for some violent offences will constitute a racially or religiously aggravated form of that offence (i.e. a separate offence).¹⁹⁶ The maximum sentence for such offences is seven

¹⁹¹ A. Travis, “CRE Loses Prison Race Inquiry Tapes,” *The Guardian*, 15 June 2002.

¹⁹² *Prison Statistics England and Wales 2000*, Cm. 5250, London: Home Office, 2001, p. 107.

¹⁹³ *Addressing the Challenge of Islamophobia: Progress Report 1999–2001*, London: Commission on British Muslims and Islamophobia, 2001, p. 15.

¹⁹⁴ *Prison Service Appoints First Muslim Advisor*, Prison Service Press Release, see: <<http://www.hmprisonservice.gov.uk/news/newstext.asp?54>>, (accessed 21 September 1999).

¹⁹⁵ *Addressing the Challenge of Islamophobia: Progress Report 1999–2001*, London: Commission on British Muslims and Islamophobia, 2001, p. 16.

¹⁹⁶ Crime and Disorder Act 1998, s. 28-32, as amended by the Anti-terrorism, Crime and Security Act 2001, s. 39.

years.¹⁹⁷ Furthermore, the Act defined racial or religious motivation as an aggravating factor in sentencing for all offences; if such a motivation is determined, there must be an announcement to that effect in open court.¹⁹⁸ Similar changes were made to the equivalent legislation in Northern Ireland,¹⁹⁹ but not to the legislation in Scotland.²⁰⁰

The Government also planned to introduce legislation prohibiting incitement to religious hatred. However, politicians, commentators and human rights NGOs expressed concern about the implications of this measure for free speech.²⁰¹ Muslim groups were split over the introduction of such an offence.²⁰² Some welcomed the protection the legislation provided, while others thought that it would be used to “gag Muslims.”²⁰³ There was also concern that they had not been adequately consulted and that religious incitement sections had been tagged on to the more substantive anti-terrorism legislation.²⁰⁴ This part of the Bill was dropped after it met with opposition in the House of Lords.

In January 2002, Lord Avebury introduced a Religious Offences Bill in the House of Lords.²⁰⁵ In June 2002, the House of Lords Select Committee on Religious Offences began examining the Bill. The Committee has made a call for evidence from interested parties, including Muslim groups, and Muslim organisations plan to respond.²⁰⁶ The Bill seeks to abolish several of the existing religious offences, most notably the offence of blasphemy, and to create a new offence of incitement to religious hatred.

¹⁹⁷ Public Order Act 1986, s. 27(3), as amended by the Anti-terrorism, Crime and Security Act 2001, s. 40.

¹⁹⁸ Powers of Criminal Courts (Sentencing) Act 2000, s. 153, as amended by the Anti-Terrorism, Crime and Security Act 2001, s. 39.

¹⁹⁹ Anti-Terrorism, Crime and Security Act 2001, ss. 38 and 41.

²⁰⁰ Anti-Terrorism, Crime and Security Act 2001, s. 128.

²⁰¹ Home Affairs Select Committee, *First Report: The Anti-Terrorism, Crime and Security Bill 2001*, HC 351, 2001, para. 56-61, the Committee reports the concerns of Human Rights groups and Muslim organisations that submitted evidence to the Committee, see: <<http://www.publications.parliament.uk/pa/cm200102/cmselect/cmhaff/351/35108.htm>>, (accessed 16 June 2002).

²⁰² V. Combe, “Muslim Leaders Split over Bill,” *The Telegraph*, 18 October 2001.

²⁰³ V. Combe, “Muslim Leaders Split over Bill,” *The Telegraph*, 18 October 2001

²⁰⁴ Z. Kazimi, Y. Al-Khoei, *The Aftermath of 11 September and Muslim Communities in the West*, unpublished, 2002.

²⁰⁵ House of Lords, Deb. 30 January 2002, col. 314-340.

²⁰⁶ Interview with organisation G, London, 6 June 2002.

In Scotland MSP Donald Gorrie proposed a Bill on protection from sectarianism and religious hatred.²⁰⁷ The Bill does not propose to create any new offences but to define religious or sectarian motivation as an aggravating feature to existing offences. The Bill also aims to “compel organisations to draw up their own code of conduct to combat sectarian or religious hatred.”²⁰⁸ As a consequence of the Bill the Scottish Executive has established a working group to consider the need for legal reform in this area.

As the religiously aggravated offences have only just been introduced it is not possible to assess their effectiveness. However, the experience of black and minority ethnic communities in the use of racially aggravated offences creates concern for Muslims. A report into the CPS handling of crimes with a race element found that they regularly downgraded charges of racially aggravated crimes to remove the race element. The report also finds that “police over charged non-white defendants – charging them with more serious offences than warranted – more often than whites.”²⁰⁹

Still, several Muslim community organisations believe that the Act may contribute towards reducing and deterring anti-Muslim violence, though emphasising that effective enforcement will require careful monitoring of implementation of the legislation by law enforcement agencies.²¹⁰ In particular, it will be important to ensure that there is appropriate training of law enforcement officials on policing issues arising from “religious” hate crimes. To be effective, the training of officers needs to be “placed as a professional development opportunity within the mainstream of professional development. It must become part of someone’s basic competences. If it features as part of the basic competences that are required to be an effective copper on the street then it will bite as an issue, and if it doesn’t then it won’t.”²¹¹ Muslim organisations have also emphasised the importance of political will in ensuring the success of the legislation: “If the political will is there, then it will be used to the benefit of those communities it was originally intended to protect. But if the political will is not there then this will filter down to the police officer at the ground level.”²¹²

²⁰⁷ D. Gorrie, *Protection from Sectarianism and Religious Hatred – A Proposed Bill* (Consultation Document), Edinburgh, 2001.

²⁰⁸ D. Gorrie, *Protection from Sectarianism and Religious Hatred – A Proposed Bill* (Consultation Document), Edinburgh, 2001.

²⁰⁹ C. Dyer, “CPS Found to Be Lenient in Cases of Race Crime,” *The Guardian*, 10 May 2002.

²¹⁰ Submission to the Home Affairs Select Committee considering the statement of the Home Secretary to the House of Commons on Monday 15 October 2001, *The Muslim Response*, coordinated and prepared by FAIR, London, 2001, p. 4.

²¹¹ Interview with organisation D, Edinburgh, May 2002.

²¹² Interview with organisation A, London, April 2002.

There are some encouraging indications that the political will to confront religiously motivated violence is present. The large-scale violence which was unleashed after 11 September has diminished, a fact which the EUMC credits to “sensitive policing and co-operation in crime prevention between police forces and local Muslim communities.”²¹³

3.3 Minority Rights

The United Kingdom is a party to the Framework Convention on National Minorities (FCNM)²¹⁴ and the European Charter for Regional or Minority Languages (CRML).²¹⁵ The term “national minority” is not defined within domestic law. In its report under the FCNM the Government adopted the definition of a “racial group” used in the RRA, as interpreted by the courts. The Advisory Committee welcomed the inclusive approach of the United Kingdom in its interpretation of the term national minority,²¹⁶ but pointed out that this definition raised issues of inequalities between groups. In particular, while including Sikhs and Jews, it excludes Muslims and other religious groups.²¹⁷ The Committee recommended considering the inclusion of persons belonging to these groups in the application of the Framework Convention.²¹⁸ The Government emphasises that the courts are responsible for determining what constitutes a racial group.²¹⁹ The effect of this approach is that consideration of the situation of Muslims as a group is excluded. Future FCNM reports should cover the situation of British Muslim communities along with those of other minority faith communities.

²¹³ EUMC, *Summary Report on Islamophobia in the EU after 11 September*, Vienna, 2002, p. 28.

²¹⁴ Signed 1 February 1995, ratified 15 January 1998, came into force 1 May 1998, first report submitted 26 July 1999, and first Advisory Committee Opinion adopted 30 November 2001.

²¹⁵ Signed 2 March 2000, ratified 27 March 2001, came into force 1 July 2001, first report due 1 July 2002.

²¹⁶ Advisory Committee on the Framework Convention for the Protection of National Minorities, *Opinion on the United Kingdom*, Strasbourg, 2001, para. 14 (hereafter “*Advisory Committee Opinion on the UK, 2001*”).

²¹⁷ *Advisory Committee Opinion on the UK, 2001*, para. 15.

²¹⁸ *Advisory Committee Opinion on the UK, 2001*, para. 17.

²¹⁹ Framework Convention for the Protection of National Minorities, *Comments of the Government of the United Kingdom on the Report on the Implementation of the Framework Convention for the Protection of National Minorities in the United Kingdom, 2002*, p. 4 (hereafter, “*Government Comments on the FCNM Report, 2002*”). See: <<http://www.humanrights.coe.int/Minorities/Eng/FrameworkConvention/AdvisoryCommittee/Opinions/UK.Comments.htm>>, (accessed 25 September 2002).

The Government's integration policy "is based on the principle that cultural diversity should be valued and promoted."²²⁰ In respect of Article 5 of the FCNM, the Advisory Committee took the view that more could be done by the Government to demonstrate, recognise and value the cultural diversity of ethnic minority communities. In its opinion, "policies on ethnic minorities need to be focussed more on valuing diversity and culture if an all round strategy is to be productive and if new strategies are to be developed to avoid ethnic tensions and conflicts."²²¹ The HRA provides significant protection to individuals belonging to minorities of their rights under the ECHR. However, the ECHR provides limited minority group rights or positive obligations in relation to minority groups.²²² In the previous section the report identified ways in which disadvantage and discrimination can operate as obstacles to Muslims' integration. This section examines minority rights in the areas of education, language, participation in public life, media and religion, and suggests steps that can be taken to facilitate, include and encourage participation in these areas by Muslims.

3.3.1 Religion

Muslims in Britain generally enjoy the right to practice their religion. Section 13 of the HRA makes special provision for freedom of religion. It requires that any court or tribunal determining any question arising under the HRA which might affect the exercise by a religious organisation (itself or its members collectively) of the right to freedom of thought, conscience or religion must have "particular regard to the importance of that right."

British Muslims enjoy both legal and practical access to religious institutions. State permission is not necessary in setting up a place of worship but official registration confers tax benefits and ensures recognition of marriage ceremonies performed there. There are

²²⁰ *UK Report on the Council of Europe Framework Convention for the Protection of National Minorities*, ACFC/SR (99)13, London, 1999, para. 92 (hereafter, "State FCNM Report"). Available at: <<http://www.humanrights.coe.int/Minorities/Eng/FrameworkConvention/StateReports/1999/uk/uk.htm>>, (accessed 25 September 2002).

²²¹ *Advisory Committee Opinion on the UK*, 2001, para. 39.

²²² See M. Malik, "Minority Protection and Human Rights," in T. Campbell, K. D. Ewing, A. Tomkins, eds., *Sceptical Essays on Human Rights*, Oxford: Oxford University Press, 2001.

presently over 500 mosques registered as places of worship.²²³ Many of these provide a visible symbol of the presence of Muslim communities in urban neighbourhoods.²²⁴

Obstacles arise from the fact that many social practices in Britain are already structured around basic Christian assumptions and therefore already accommodate the needs of Christians but not those of Muslims or other minority faiths. For example, Christmas and Easter are recognised as public holidays, and shop workers have the right to object to working on Sunday.²²⁵ Social practices can operate to disadvantage and exclude Muslims; for example, in some professions social capital is accumulated and relationships and networks are developed in social gatherings after work in bars and pubs. This can often operate to exclude Muslims who feel uncomfortable in such an environment.

Some attempts have been made to adapt British law to accommodate the needs of Muslim and other faith communities.²²⁶ As far back as 1764, a case decided that a Muslim could swear an oath on the Qur'an in giving evidence in court.²²⁷ Statutory exemptions allow for the slaughter of animals in a manner required for the preparation of *halal* meat.²²⁸ During the 1970s the Union of Muslim Organisations campaigned unsuccessfully for the recognition and application of Muslim personal laws to Muslim communities.²²⁹

In the absence of official recognition for Muslim personal laws, informal *shari'ah* (Islamic law) courts emerged as a forum for the informal settlement of disputes between Muslims on the basis of Islamic legal principles and ethical precepts.²³⁰ The Islamic *Shari'ah* Council (ISC) emerged from attempts in 1978 by a group of London Imams to resolve issues of conflicts of laws.²³¹ Its principal functions include: resolving disputes between British Muslims, providing religious opinions in answer to questions

²²³ P. Weller, *Religions in the UK – Directory 2001–2003*.

²²⁴ See J. Eade, "Nationalism, Community and the Islamisation of Space in London," in B. Metcalf, ed., *Making Muslim Space*, University of California Press, 1996, pp. 217–233.

²²⁵ Employment Rights Act 1996, Part IV.

²²⁶ S. Poulter, *Ethnicity, Law and Human Rights: the English Experience*, Oxford: Oxford University Press, 1998.

²²⁷ *R v. Morgan* (1764) 1 Leach 54.

²²⁸ Slaughter of Poultry Act 1967, s. 1 and Slaughterhouses Act 1974, s. 36.

²²⁹ S. Poulter, *Ethnicity, Law and Human Rights: the English Experience*, Oxford: Oxford University Press, 1998, pp.195–236.

²³⁰ I. Yilmaz, "Law as Chameleon: The Question of Incorporation of Muslim Personal Law in the English Law," *Journal of Muslim Minority Affairs*, Vol.21, No. 2, 2001, pp. 297–308.

²³¹ Yilmaz, p. 304.

submitted by organisations or individuals, and resolving conflicts of law between the civil and *shari'ah* law, particularly in areas of family law.²³²

There are significant differences in the relationship of the State with different faiths: “each religious community, in its institutional form has a unique position in relation to the State.”²³³ The Church of England is the established church in England. The Sovereign, who must be in communion with the Church of England, is Supreme Governor. Her role includes the appointment, on the advice of ministers, of bishops and other senior positions in the church. In Scotland there is no official established church, but the Church of Scotland is the national church; its position is guaranteed by the Acts of Union. There is no established church in Wales or Northern Ireland. The Parekh report recommended the need for a “commission on the role of religion in the public life of a multi-faith society.”²³⁴ Such a commission would have to look at the Act of Settlement, the Prisons Act 1952, the Law of Blasphemy,²³⁵ and the Coronation oath. It would also examine customs related to civic religion, for example, daily prayers at Westminster and various religious ceremonies, including memorial events and ceremonies in local government.²³⁶

3.3.2 Language

English is the language of the State and administration in England, Northern Ireland and Scotland. In Wales, both English and Welsh are recognised as official languages.²³⁷ Irish and Ulster-Scots have been recognised for Part III and Part II respectively of the CRML. There are no official minority languages in Scotland, but the Scottish Executive has committed itself to support of the Gaelic language. Under the British Nationality Act 1981, knowledge of English, Welsh or Scottish Gaelic satisfies one of the conditions for naturalisation as a British citizen. In Northern Ireland the Belfast (Good Friday) Agreement makes express provision for the recognition and promotion of both Irish and Ulster-Scots.

²³² See: S. N. Shah-Kazemi, *Untying the Knot – Muslim Women, Divorce and the Shariah*, London: The Nuffield Foundation, 2001.

²³³ J. S. Nielson, *Towards a European Islam*, Basingstoke: Macmillan Press, 1999, p. 39.

²³⁴ Runnymede Trust, *The Parekh Report*, p. 243.

²³⁵ See also Advisory Committee *Opinion on the UK*, 2001, para. 117, where the Committee recommended that the blasphemy laws were discriminatory and should either be abolished or extended to other religions.

²³⁶ Runnymede Trust, *The Parekh Report*, pp. 242–243.

²³⁷ Welsh Language Act 1967 and 1993.

The diversity of the British Muslim communities means that they have no single “minority language.” There are generational differences in the ability of members of the British Muslim communities to speak English. The second and third generation children of Muslim migrants have English as a first language, while the language skills of first generation migrants vary greatly. Muslims recognise the importance of learning English towards ensuring educational success for the second and third generation: an opinion poll of British Muslims found that 65 percent approved of Government proposals for those applying for nationality to demonstrate a certain level of achievement in the English language.²³⁸ However, Muslim community organisations also place importance on opportunities for learning Arabic.²³⁹

There are no language restrictions on the use of names and surnames or in displaying road signs or public notices.²⁴⁰ The Government’s policy is “to deal with non-English speakers on the basis of courtesy and respect for their linguistic preference. Government departments often produce leaflets in minority ethnic languages. Persons from ethnic minorities may use their own language in their contacts with administrative authorities and public services ... national public services have access to translation services.”²⁴¹ However, the availability of such services remains a problem; for example, in healthcare there are still instances where children have to interpret sensitive medical matters for their parents.²⁴²

Through the medium of the HRA, the ECHR provides a further measure of legal protection of the right to use minority languages. Article 10 (freedom of expression) would provide a basis for challenging any attempt to restrict the use of a language by a person for their own private purposes. Article 6 (the right to a fair trial), provides that individuals charged with a criminal offence have a right to be informed promptly in a language which they understand of the charges against them, and to the free assistance of an interpreter if they cannot understand or speak the language used in court.

3.3.3 Education

Research by the Muslim Council of Britain found that Muslims identified access to quality education as the issue most important to them; it was more important than all

²³⁸ A. Travis, “The Need to Belong – But with a Strong Faith,” *The Guardian*, 17 June 2002.

²³⁹ Interviews with organisation A, London, 16 April 2002, and organisation H, London, 16 April 2002.

²⁴⁰ *UK Report on the FCNM*, para. 168.

²⁴¹ *UK Report on the FCNM*, paras. 157–158.

²⁴² *Advisory Committee Opinion on the UK*, 2001, para. 74.

other issues put together.²⁴³ For young Muslims the education system is their earliest and most significant point of contact with the wider community. The messages that the school system provides in respecting and accommodating their needs will be a vital influence on their attitude to integration and participation in society. The majority of Muslims continue to be educated in non-Muslim State schools and many Muslim community organisations express concern about the ability of these schools to meet the needs of Muslim pupils.²⁴⁴

Arabic as a modern language option

English is the main medium of instruction in schools in all parts of the United Kingdom except Wales, where the medium of instruction is English or Welsh. Over 500 primary and secondary schools in Wales use Welsh as their medium of instruction, and local education authorities are required to prepare Welsh language education schemes, setting out their plans for providing education through the medium of both languages.²⁴⁵ In Scotland, £2.8 million (€4.3 million) was provided for Gaelic-medium education in the year 2001/2002.²⁴⁶ In Northern Ireland, there is a duty on the administration to encourage and facilitate the development of Irish-medium education; there are seven primary schools and one secondary school that provides Irish-medium education.²⁴⁷ In the Government's view, a good command of English is essential to ensure pupils are able to fully participate in the opportunities schools have to offer.²⁴⁸

The main responsibility of maintaining the mother tongue remains with the minority communities, although local education authorities are able to support ethnic minority communities to set up supplementary schools, which provide education in the evening or on Saturdays, to maintain linguistic and cultural traditions.²⁴⁹ The diversity of the Muslim communities means that there is no single "community language" in which education should be delivered. Thus, access to primary, secondary and tertiary education in a single minority language is not a specific concern of Muslim communities, although it may be an issue for particular Muslim communities that are also minority linguistic communities such as the Bangladeshi or Turkish communities.

²⁴³ Interview with Mahmood Al-Rashid, Muslim Council of Britain, 17 April 2002.

²⁴⁴ Interviews with organisation G, London, 6 June 2002, and organisation H, London, 16 April 2002.

²⁴⁵ *UK Report on the FCNM*, para. 201.

²⁴⁶ *UK Report on the FCNM*, para. 198.

²⁴⁷ Education (Northern Ireland) Order 1998, SI 1759 (NI 13), Art. 89.

²⁴⁸ *UK Report on the FCNM*, para. 193.

²⁴⁹ *UK Report on the FCNM*, para. 197.

The more important issue for Muslim communities is access to classes for learning Arabic. Schools are required to offer pupils the option of studying an official EU language, but it is left to their discretion to offer other languages. Learning Arabic might be an option but the availability of such classes is dependent upon circumstances and resources. Many Muslim children will learn to read Arabic in order to read the Qur'an, irrespective of its availability as a curriculum option. Such classes take place in mosques but the quality of the language tuition is unregulated. The time spent in such after-school classes reduces the amount of time spent on school homework and may affect the educational attainment of Muslim pupils. Providing Arabic classes in the context of modern language classes in State schools creates an opportunity to develop the interests and skills of Muslim pupils and parents. It also offers a chance to integrate learning about Arabic-speaking communities and cultures into the curriculum. Arabic language classes would not represent an extra burden for pupils who already learn Arabic in after-school classes. Teaching the Arabic language in schools would in fact ensure a better balance in the overall educational burden placed on Muslim pupils and contribute towards improving achievement levels. Where there is demand, schools should consider offering Arabic as a modern language option alongside modern European languages.

Faith schools

Religious communities have a right to establish their own independent schools, although such schools must be registered with the Registrar of Independent Schools and must meet certain minimum standards. In England and Wales, there has traditionally been State funding for Church of England, Roman Catholic and Jewish faith schools. In Northern Ireland and Scotland, there has traditionally been State funding for Roman Catholic schools.²⁵⁰ Since 1997, the Labour Government has extended this funding to other minority faith schools, including Muslim schools. At the moment there is State funding of four Muslim schools.²⁵¹

Proposals to increase the role of faith schools in the State education sector have generated much debate.²⁵² The Commission for Racial Equality has expressed concern

²⁵⁰ In Scotland, denominational schools are mainly Catholic although there is funding for a Jewish primary school and several Episcopalian schools.

²⁵¹ *The Guardian*, 12 December 2001. For England and Wales, the figures for faith schools in the State sector are: 4,716 Church of England, 2,110 Roman Catholic, 27 Methodist, 32 Jewish, four Muslim, two Sikh, one Greek Orthodox, and one Seventh Day Adventist.

²⁵² *Schools – Achieving Success*, London: Department for Education and Skills, 2001, p. 37: A call for more faith schools in Scotland was also made by Member of Scottish Parliament Murdo Fraser, see "Tory Calls for More Religious Schools," *BBC News*, 17 May 2002, <http://news.bbc.co.uk/hi/english/uk/scotland/newsid_1993000/1993684.stm>, (accessed 10 July 2002).

that single faith schools could damage multi-culturalism,²⁵³ and the Cantle Report cautioned that funding of faith schools would increase social segregation between different minority communities. One response to this is a proposal by faith communities for “multi-faith” schools that would appreciate faith but would not be targeted at a particular faith.²⁵⁴ Muslims express frustration that the debate about segregation focuses on faith schools. They see no link whatsoever between Muslim schools and the Summer 2001 riots as those involved did not attend Muslim schools but racially segregated non-Muslim schools. They point out that at most five percent of Muslim pupils attend Muslim schools; the remaining 95 percent attend non-Muslim State schools. In their view, having faith schools does not create problems of segregation, but they acknowledge that the policies and practices of some faith schools may exacerbate such problems. Furthermore, focusing the criticism on Muslim faith schools draws attention away from *de facto* racial segregation in the State schools of some towns and cities where there are no State-funded Muslim schools. Such segregation is the consequence of housing, admissions policies and parental choice.²⁵⁵

For Muslims, the issue of State funding of faith schools is one of equality; if the State provides funding for faith schools then it should not discriminate between different faiths. Prime Minister Blair supported this view during a television interview: “It would be wrong to tell the Muslim Community that you are the one community that can’t have [faith] schools.”²⁵⁶ The Government remains committed to increasing the role of faith schools in the State sector but has said that new faith schools will have to “demonstrate how they will be inclusive and work in partnership with other schools.”²⁵⁷ The Government rejected a proposal in the Cantle Report that at least 25 percent of the intake in a faith school reflect the other cultures and ethnicities within the local area,²⁵⁸ but they want to “encourage all schools to ensure that their intake reflects the local community in all their diversity.”²⁵⁹

Sensitivity to Muslim history and culture

Education provides an important arena in which to counter negative stereotypes about Muslims which they feel are prevalent in the media and popular discourse. “Citizenship”

²⁵³ P. Wintour, “Religious Schools Must Integrate in the Community,” *The Guardian*, 14 November 2001.

²⁵⁴ N. Pyke, “Four Religions’ Plan for Multi-Faith Schools Aims to Establish a Trend,” *The Guardian*, 8 July 2002.

²⁵⁵ Interview with organisation G, London, 6 June 2002.

²⁵⁶ BBC Newsnight interview with Prime Minister Blair, broadcast 16 May 2002.

²⁵⁷ House of Lords, 20 December 2001, WA 85.

²⁵⁸ Cantle Report, p. 33.

²⁵⁹ House of Lords, 18 December 2001, Deb. c. 138.

became part of the non-statutory framework for Personal, Social and Health Education in English primary schools from September 2000 and part of the national curriculum in secondary schools in September 2002. Citizenship classes include education about “the diversity of national, regional, religious and ethnic identities in the United Kingdom and the need for mutual respect and understanding.”²⁶⁰ There are concerns that “such classes could be about erasing difference and universalising the experiences of the dominant racial and cultural group within society. Within this process there is a danger that the experience of Muslims and other minorities are marginalised and silenced.”²⁶¹ However, Muslim organisations see a potential in harnessing such classes to bring home to Muslims and other minority communities the legal rights that are in place for their protection. A positive endorsement by Ministers of the importance of schools including information and discussion about equality, anti-discrimination legislation and minority protection laws within the citizenship curriculum would be a welcome encouragement to teachers.

Muslims have emphasised the importance of integrating, into all aspects of the curriculum – history, science, mathematics, technology, art, literature, philosophy and politics – the contribution made by Muslims.²⁶² Education departments should conduct a review to ensure that this takes place.

Schools must provide religious education for all registered pupils, although parents can choose to withdraw their children.²⁶³ In England and Wales, schools other than voluntary aided schools and those of a religious character²⁶⁴ must teach religious education according to the locally agreed syllabus. Each agreed syllabus must reflect the fact that the religious traditions in Great Britain are in the main Christian, while taking account of the teachings and practices of the other principal religions represented in Great Britain.²⁶⁵ In Northern Ireland, the Department for Education outlines a core syllabus for religious education.²⁶⁶ The current core syllabus is exclusively Christian.

²⁶⁰ *Government Comments on the FCNM Report*, 2002, pp. 13–14.

²⁶¹ Interview with organisation H, London, 17 April 2002.

²⁶² Interviews with organisation F, London, 19 April, organisation G, London, 6 June 2002, and organisation H, London, 17 April 2002.

²⁶³ For England and Wales, Education Act 1996, s. 386; for Northern Ireland, see Education Reform (Northern Ireland) Order 1989 SI 2406 (NI 20) and Education and Libraries (Northern Ireland) Order 1986 (NI 3); for Scotland, see Education (Scotland) Act 1980 and Scottish Office Education Department Circular 6/91.

²⁶⁴ Religious education in foundation, voluntary controlled and voluntary aided schools is regulated under the School Standards and Framework Act 1998.

²⁶⁵ Education Act 1996, s. 375. Similar guidance is given in Scottish Office Education Department Circular 6/91.

²⁶⁶ Education Reform (Northern Ireland) Order 1989, SI 1989/2406 (NI 20).

Pupils in State schools are required to take part in daily collective worship, which shall be “wholly or mainly of a broadly Christian character.”²⁶⁷ Parents have the right to withdraw their children from attending collective acts of worship.²⁶⁸ Furthermore, schools can seek an exemption from the requirement for broadly Christian worship, for the school or for some pupils within the school where it is inappropriate because of the pupils’ faith background.²⁶⁹ The Cattle Report found that “despite previous advice to schools on this matter, a rather Euro-centric curriculum and pervasive Christian worship (even in schools with few, if any, Christians), is still evident.”²⁷⁰ It is possible for pupils to take an examination in religious studies that covers Islam.

The British Humanist Association (BHA) argues that “core and compulsory activities in schools should be acceptable to people of all beliefs and none, but that schools should make ‘accommodations’ to meet the legitimate wishes of religious parents.”²⁷¹ Traditional areas of concern, such as school uniforms, access to facilities for prayer rooms, time off for religious holidays, and the provision of *halal* meat in school are addressed in the BHA policy document.

Government is also addressing some of these concerns. For example, guidance on school uniforms provides that children with particular dress requirements based on religious or cultural grounds should not be penalised by schools and their dress should be accommodated within the school uniform policy.²⁷² In respect of school meals, there is no particular reference to the needs of Muslim children in school meals legislation; there is guidance for minimum nutritional standards in school lunches but these do not include reference to special dietary requirements. However, the “Healthy School Lunches” guidance to school caterers on implementing the national standards includes a section covering vegetarianism and special diets of pupils from religious and ethnic groups.²⁷³

However, in the experience of several Muslim organisations, provisions are uneven and dependent upon decisions at local level. It is important to have clearer and stronger

²⁶⁷ Education Act 1996, s. 386; School Standards and Framework Act 1998, s. 70; Scottish Office Education Department Circular 6/91.

²⁶⁸ Education Act 1996, s. 389; Scottish Office Department for Education Circular 6/91; Education and Libraries (Northern Ireland) Order 1986.

²⁶⁹ State FCNM Report, para. 142.

²⁷⁰ Cattle Report, p. 35.

²⁷¹ *A Fresh Way Forward: Consultation on Accommodating Religious and Other Beliefs within Schools*, London: British Humanist Association, May 2002.

²⁷² School Uniform Guidance DfES/0264/2002.

²⁷³ Communication with the Department for Education and Skills, School Inclusion Division, 14 June 2002.

guidance from education departments to ensure that the needs of Muslim pupils, as well as those of other faiths, are adequately met across the United Kingdom.²⁷⁴ The BHA recommends that all guidance be brought together, strengthened and reissued under one cover.²⁷⁵ The guidance should be given not only to schools but also to parents and community organisations so that they too are aware of what they can legitimately expect from their schools. The Office for Standards in Education (Ofsted)²⁷⁶ could use this guidance as a benchmark when reporting on the spiritual, moral, social and cultural development of pupils at a school.²⁷⁷ Information about accommodation of religious diversity could be included in school prospectuses. Schools that are successful in accommodating the needs of their diverse communities, including the needs of their Muslim pupils, could be given the status of “beacon” schools and play a role in spreading good practice. All guidance on accommodating the religious needs of pupils should be brought together, strengthened and reissued under one cover. School inspection bodies should include in their reports the ways in which a school accommodates the religious needs of pupils from different faith communities. School inspection bodies should use such guidance as a benchmark for evaluation in their reports.

For many Muslims the need to integrate education about Islam into the general schooling process and syllabi is seen as the most urgent task for the Government in relation to the education of young people.²⁷⁸ At the moment, the majority of Muslim children learn about Islam in after-school classes, usually delivered through the local mosque. The quality of education delivered through the mosque sector varies considerably. The method of teaching is often based on a system that does not complement the styles and teaching methods to which the children are exposed in their formal State education. The delivery of education about Islam solely through after-school classes in mosques also reduces the time that Muslim children can spend with family or on school homework and so may affect their overall educational performance.

Muslim children who complete their religious education in the mosque sector are able to recite prayers and read the Qur’an and have a very basic knowledge of Islam. However, they often lack knowledge about the history and traditions of Islam – knowledge that would provide them with the tools to fully engage with their religion. One consequence

²⁷⁴ Interviews with organisation A, London, 16 April 2002, organisation E, London, 19 April 2002, organisation G, London, 6 June 2002, and organisation H, London, 17 April 2002.

²⁷⁵ *A Fresh Way Forward: Consultation on Accommodating Religious and Other Beliefs within Schools*, London: British Humanist Association, May 2002, p. 6.

²⁷⁶ In Scotland this could be done by Her Majesty’s Inspectorate of Education, and in Northern Ireland by the Teaching and Education Inspectorate.

²⁷⁷ School Standards Act 1996, s. 10(5)(d).

²⁷⁸ Interviews with organisations E and F, London, 19 April 2002, organisation G, London, 6 June 2002, and organisation H, London, 17 April 2002.

of this is that young people are left knowing they are Muslims but with little understanding of Islam, creating a space into which organisations with differing interpretations of Islam can step. Without adequate education and knowledge of Islam young Muslims are ill-equipped to engage in debate and dialogue with such groups.

The integration of religious education for Muslim pupils into the schooling process would have several advantages. Young Muslims would be given the tools and knowledge with which to develop their understanding of Islam. It would provide an important avenue for participation by Muslim parents and community members in the education process. It would provide greater choice for Muslim parents who may not have access to or may not wish to have their children educated in Muslim schools, but who wish to ensure that their children have an education that meets their needs as Muslims nonetheless. It would allow for proper regulation and inspection to ensure that such education was delivered in a way that conformed to minimum educational and other standards. Integrating such education into the general schooling process would ensure a better balance in the overall educational burden placed on Muslim pupils and contribute towards improving achievement levels. The precise details of how education about Islam is integrated into the schooling process needs to be developed in more detail through consultation. Education departments should consider ways in which education about Islam can be integrated into the general schooling process. This must be done in partnership and consultation with Muslim communities.

Many Muslim pupils may benefit from policies aimed at improving the standards of education among all pupils and particularly among minority ethnic pupils. As statistics are not collected on the basis of religion it is not possible to evaluate the impact of such policies on Muslim pupils. Government actions on raising the standards of minority pupils are based around racial and ethnic groups. Action is focused on closing the attainment gap for Pakistani, Bangladeshi, African, and Afro-Caribbean pupils. The Ethnic Minority Achievement Grant (EMAG) allows schools to provide more teachers and teacher assistants and will cover particularly those schools with pupils whose first language is not English. In 2001-02 the Government provided local education authorities with £154 million (c. €245,629,889) for the grant scheme. Other work includes the launch of a project to pilot innovative approaches to raising the achievement of minority ethnic pupils through the combined use of Excellence in Cities and the EMAG.²⁷⁹

While there may be a complex set of reasons for the underachievement of pupils from Muslim communities, recognising the Islamic dimension of their identity and working

²⁷⁹ Communication with the Department for Education and Skills, School Inclusion Division, 14 June 2002.

with Muslim community bodies may be important in developing innovative policies that work to improve standards in schools. An example of such innovative work can be found in East London where schools work with the local mosque to combat truancy. The Imams attend parents' evenings and speak about the importance of education during the sermon at Friday prayers. Mosque representatives make home visits and work with families identified by schools as attending inconsistently. The mosque's radio station calls children to school. The effect of this initiative has been to raise attendance for some pupils from below 90 percent to 100 percent.²⁸⁰

The understanding of non-Muslim teachers towards the sensitivities of Muslim children and their parents has often been criticised. In the experience of Muslim communities "it is not uncommon to find that non-Muslim staff are unaware even of the most basic of these sensitivities, in diet and dress requirements, for example." Such awareness should be a basic competence for teachers to work in a multi-faith environment. Schools should avail themselves of appropriate religious awareness training, this should be provided for all teaching and non-teaching staff and for governing bodies. Government should make funding available for such training.

Muslim teachers

There are no statistics to show the number of Muslims in the teaching profession. Statistics collected on the basis of racial and ethnic origin show that seven percent of teachers are from minority ethnic backgrounds. By 2005 the Government aims to increase to nine percent the number of students from minority ethnic backgrounds entering initial teacher training.²⁸¹ Teacher training programmes should aim to increase the recruitment and training of teachers that are able to teach Arabic as a modern foreign language.

Tertiary education and research

Courses are available at universities for the study of Islam, particularly at the postgraduate level.²⁸² There are also several Muslim educational and research institutions. In Leicester, the Islamic Foundation, established since 1973, provides academic research into Islam in Europe and provides training in Islamic cultural awareness. In London, these include: the Institute of Ismaili Studies, founded in 1977, which runs a graduate programme in Islamic Studies and Humanities, and the Muslim College, which began functioning as an educational institution of graduate studies in

²⁸⁰ D. Taylor, "Being There," *The Guardian*, 6 August 2002.

²⁸¹ *Government Comments on the FCNM Report*, 2002, p. 26.

²⁸² There are institutes for Middle Eastern and Islamic Studies at the universities of Durham, Exeter, the School of Oriental and African Studies in London, Birmingham, Oxford, Cambridge, Edinburgh, Leeds, Manchester, and St. Andrews.

1987 and also offers a course for Imams to improve the ability of candidates to perform their duties as religious leaders.

3.3.4 Media

The media is subject to general laws placing restriction on freedom of expression such as offences of contempt of court, defamation, libel, obscenity, blasphemy and incitement of racial hatred. There are no specific restrictions on Muslims accessing the media.

Muslim concerns focus on the prejudiced and negative portrayal of Muslims and Islam in the media, particularly the press (see Section 2).²⁸³ Some argue that media agencies fail to represent the full range of views within Muslim communities or to reflect their full diversity. However, others acknowledge efforts made particularly by British television to avoid offence: “The media has changed beyond recognition and ... no campaign can retain credibility if it refuses to look at the progress that has been made. None of the other EU countries pay as much attention to the portrayal of Islam and Muslims.”²⁸⁴

The Council of Europe has previously recommended that Governments should “encourage debate in the media and advertising professions on the image which they convey of Islam and Muslim communities and their responsibility in this respect to avoid perpetuating prejudice and biased information.”²⁸⁵

The importance of protecting media freedom places legitimate restrictions on State influence of media representations of Muslims. Muslims, as consumers of media products, have an important responsibility in influencing this coverage. Editors of print and broadcast media respond to complaints from their customers. The massive increase in media coverage and scrutiny of British Muslim communities since 11 September would have been a challenge to any community. The lack of any large scale Muslim response to media coverage is noticeable. Reasons for this include a lack of knowledge and information about complaints mechanisms among Muslims and a lack of capacity by community organisations to respond effectively to all but the most serious or notorious cases. As an important step in enabling Muslims to engage with media coverage, media regulatory bodies such as the Press Complaints Commission, the Independent Television

²⁸³ Commission on British Muslims and Islamophobia, *Islamophobia – a Challenge for Us All*, London: The Runnymede Trust, 1997, pp. 20–30.

²⁸⁴ Y. Alibhia-Brown, “Muslims Are Wrong to Blame the British Media,” *The Independent*, 26 August 2002.

²⁸⁵ *ECRI General Policy Recommendation No.5: Combating Intolerance and Discrimination Against Muslims*, Strasbourg, 2000, p. 5.

Commission and the BBC should consider launching a campaign to raise awareness of their complaints mechanisms among Muslim communities.

While complaints to media bodies provide one avenue for influencing output, this remains a reactive strategy. Muslim communities should also seek to develop long-term, sustained engagement with media organisations. There are examples of individual good practice in all sectors of the media, from regular meetings between editors and community representatives to discuss the impact of local media coverage on local minority communities, to “exchanges” in which those working in the media spend some time living and working in minority communities. The Department for Culture, Media and Sport should consider funding research that would bring together and highlight models of good practice for long-term sustained engagement between media organisations and minority communities.

Diverse Muslim voices in the media will emerge through increased Muslim participation in media production. Although there are no statistics available for the exact number of Muslims working in media organisations, Muslims argue that they “are grossly underrepresented in the media.”²⁸⁶ A report by the broadcasting trade union BECTU claimed that institutional racism exists in British television. Figures from the ITC show that 3.4 percent of senior managers in the BBC are from ethnic minorities, in Channel Four the figure is 6.6 percent. Seven ITV franchise companies had no managers from ethnic minorities.²⁸⁷ Recruitment, retention and training policies for employment of ethnic minorities in the media should be monitored to ensure that representative numbers of Muslims are accessing them.

Radio/Television

There are five terrestrial channels in the United Kingdom, BBC 1, BBC 2, ITV, Channel 4, and Channel 5. BBC channels are governed by its Royal Charter, which partly comprises a Licence Agreement.²⁸⁸ Independent Broadcasting is governed by the Broadcasting Acts 1990 and 1996.

There have recently been a series of programmes on terrestrial television about Islam and Muslim communities. Over the Summer of 2001, the BBC ran a season of programmes on Islam.²⁸⁹ These include a programme following pilgrims on Hajj, a

²⁸⁶ A. Versi, “No Faith in the Media,” *The Guardian*, 17 June 2002.

²⁸⁷ J. Doward, B. Wazir, “British television accused of institutional racism,” *The Observer*, 25 August 2002.

²⁸⁸ Cmnd. 8233, see: <<http://www.bbc.co.uk/info/BBCcharter/agreement/index.shtml>>, (accessed 2 October 2002)

²⁸⁹ For details see: <<http://www.bbc.co.uk/religion/religions/islam/tvandradio/index.shtml>>, (accessed 25 September 2002).

history of Islam and a programme on Islamophobia.²⁹⁰ In 2002, Channel 4 ran a season of programmes on Muslims in Britain. Commenting on the Channel 4 season, one Muslim group argued that “attempts were made to allude to the diversity of British Muslims and to challenge some fixed views about Islam, but the series focused on extremism, segregation and corruption, the *hijab* and difference” and that the persistent focus on difference “promoted the idea that being Muslim and British is conflictual, that the two are hermetically sealed and are therefore incompatible identities.”²⁹¹

While particular programmes about Islam and Muslim communities are important, it is also important that Muslims participate in mainstream media productions and in programmes discussing issues of faith and ethics: “We are never on arts shows; perhaps they think we are too busy rote-reciting the Koran to go to theatres or art galleries. On Radio 4 editors still think all Muslims ... live in mental ghettos and have no views on the euro or Anita Brookner. Once in a small precious while we are asked to talk on sex, or a painting, and oh, the relief.”²⁹² The BBC maintains a diversity database; it is important that Muslims are included in such databases. The Independent Television Commission (ITC) is responsible for regulating non-BBC television services. The ITC’s Programme Code provides that: “In general, religious programmes on Channels 3, 4 and 5 should reflect the worship, thought and action of the mainstream religious traditions present in the United Kingdom, recognising that these are mainly, though not exclusively, Christian. Religious programmes provided for a particular region or locality should take account of the religious make up of the area served.”²⁹³ The BBC, ITV, and Channel 4 and 5 should undertake an audit of their programming to see the extent to which Muslims participate in programmes. The results of the audit should be published.

The Radio Authority is responsible for licensing radio stations. In selecting licensees it is required to have regard to the extent to which any proposed radio station would cater for the tastes and interests of those living in areas in which it will broadcast. Short-term licenses are granted for local community events, including religious

²⁹⁰ In November 2001 the BBC was given an award by the Islamic Society of Britain for helping to foster a better knowledge and understanding of Islam through its season of programmes.

²⁹¹ *Channel 4’s British and Muslim Season: A Case Study of Islamophobia in the Broadcast Media*, London: Forum Against Islamophobia and Racism, 2002, p. 5.

²⁹² Y. Alibhia-Brown, “Muslims Are Wrong to Blame the British Media,” *The Independent*, 26 August 2002.

²⁹³ ITC Programme Code Section 7.3. See: <http://www.itc.org.uk/itc_publications/codes_guidance/programme_code/section_7.asp>, (accessed 25 September 2002).

festivals. Several local community radio stations allow Muslim community radio broadcasting during the month of Ramadan. In Scotland, 'Radio Ramadan' broadcasts programmes during the month of Ramadan.

Media broadcasting and reporting guidelines

Even prior to 11 September there was growing media focus on Islam and Muslim communities in the United Kingdom and across the world. Reporting guidelines play an important role in ensuring reporting that does not reproduce stereotypes and prejudices. The BBC has a programme guide for its editors that deals with the coverage of religion and faith communities:

People and countries should not be defined by their religions unless it is strictly relevant. Particular religious groups or factions should not be portrayed as speaking for their faith as a whole. Thoughtless portrayal can be offensive, especially if it implies that a particular faith is hostile or alien to all outside it. For example, footage of chanting crowds of Islamic activists should not be used to illustrate the whole Muslim world. Words such as 'fundamentalist' and 'militant' should be used with great care. What may be a fair description of one group may not be true of all similar groups. Use of a term such as 'Islamic Fundamentalist' has to pass the test of whether we would talk about Christian or Hindu Fundamentalism.²⁹⁴

The Independent Television Commission (ITC) is responsible for regulating non-BBC television services. Under the ITC code religious programmes must not involve "any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination."²⁹⁵

The National Union of Journalists (NUJ) provides guidelines on race reporting, which give practical advice to reporters. The guidelines do not cover reporting of religious communities. The NUJ should consider developing guidelines for reporting about Muslim and other faith communities.

Muslim media

There is State support for broadcasting for select minorities. The television channel S4C broadcasts in the Welsh language. The BBC provides a radio service in Welsh called Radio Cymru. There is also Government support for the Gaelic Broadcasting Fund, which finances the production of Gaelic programmes. The Government gives financial support to the *Muslim News* for its annual Muslim News Awards. Except for this, there is no State support for any Muslim media outlets.

²⁹⁴ BBC Producers Guide, Chapter 9, para. 6, see: <<http://www.bbc.co.uk/info/editorial/prodgl/chapter9.shtml>>, (accessed 25 September 2002).

²⁹⁵ ITC Programme Code, s. 7.1.

There is nothing in law that hinders Muslims from the creation and use of printed media. There is a diverse Muslim print media, which includes several Muslim newspapers and magazines; prominent among these are: *Muslim News*, *Trends*, *Q News*, *Discourse*, *Insight* and *Dialogue*. *Muslim News* is published monthly and 21,000 copies are distributed *gratis* to mosques and other Muslim community organisations; copies are also sent to influential opinion-formers. *Muslim News* reporters have succeeded in gaining access to politicians, including the Prime Minister, for interviews. Moreover, a number of Muslim commentators publish regularly in the national press.

Journalists from *Muslim News* claim to have experienced Islamophobia and discrimination in the course of their work. For example, they have been treated as part of the foreign press for the purpose of access to some Government briefings.²⁹⁶ *Muslim News* claims that its journalist was prevented by police officers from interviewing those taking part in the pro-Israeli demonstrations in London. The police officer escorted the *Muslim News* journalist to the pro-Palestinian demonstration and asked two officers there to ensure that he did not leave the enclosed area.²⁹⁷

There are also an enormous number of Muslim websites on the Internet offering news, discussion groups, opinions and religious interpretation. The growth of such sites reflects the decentralisation of power and authority within Britain's diverse Muslim communities.

3.3.5 Participation in Public Life

"There are 1.8 million Muslims in Britain, but if you look at the country's most powerful people – in business, politics, academia, the media, the arts and sport – you wouldn't know it."²⁹⁸ Although Muslim participation in public life is growing, Muslim figures in public life remain the exception rather than the rule. There are two Muslim Members of Parliament, five peers in the House of Lords and one Member of the European Parliament.²⁹⁹ There are no Muslim members of the Scottish Parliament, the

²⁹⁶ Interview with Ahmed Versi the editor of *Muslim News*, London, 15 May 2002.

²⁹⁷ A. Versi, "Police Islamophobic Attitude at the Pro-Israeli Rally Condemned," *Muslim News*, 21 May 2002. See: <<http://www.muslimnews.co.uk/paper/index.php?article=651>>, (accessed 25 September 2002).

²⁹⁸ "The Winners," *The Guardian*, 17 June 2002.

²⁹⁹ These are: MP Khalid Mahmood, MP Mohammed Sarwar, Lord Ahmed, Baroness Uddin, Lord Patel, Lord Ali, Lord Bhatia and MEP Bashir Khanbhai.

National Assembly for Wales or the Northern Ireland Assembly. Following the May 2000 local elections, there were 219 Muslim councillors in local government.³⁰⁰

As statistics are not collected on the basis of religion, it is not possible to say the extent to which Muslims are represented in public appointments. The Government monitors public appointments on the basis of ethnicity. It is committed to equal opportunities in public appointments, including a pro-rata representation of members of ethnic minority groups.³⁰¹ In 2001, members of ethnic minority communities held 4.8 percent of public appointments.³⁰² Statistics should be collected on the basis of religious affiliation to see if Muslims are represented in public appointments.

Citizenship

A child born in the United Kingdom will be a British citizen if one of his or her parents is a British citizen or is settled in the UK. If neither of the child's parents is a British citizen and neither is settled in the UK, the child will not be a British citizen when he or she is born. However, if the child lives in the UK for the first ten years of his or her life, and is not absent for more than 90 days in any one of those years, he or she will be entitled to registration as a British citizen. There is no time limit for applying. If the child is a: British Dependent Territories citizen, British Overseas citizen, British subject under the 1981 Act, British protected person, or British National (Overseas), he or she will be entitled to registration as a British citizen if he or she lives legally in the UK for five years. He or she must not be absent during those five years for more than 450 days and must not be absent during the last 12 months of those five years for more than 90 days. There is no time limit for applying. Access to citizenship is not restricted on the basis of religion.

The majority of Muslims living in the UK are British citizens. The British Nationality Act 1948 gave citizens of Commonwealth countries the right to freely enter, work and settle with their families in the UK as permanent residents. It was under these provisions that the initial large-scale post-war immigration of Muslim communities into Britain took place. Beginning in the 1960s, immigration legislation restricted this right of entry. However, for those who did gain entry, and their children, the British Nationality Act 1981 confirmed their right to obtain citizenship. At present, an application for naturalisation as a British citizen is possible for those who have been resident in the UK for a period of five years.

³⁰⁰ A. Versi, *Muslim Councillors in the UK – May 2000*, London: Muslim News, 2001. As of August 2002, statistics were not available for the number of Muslim councillors elected following the May 2002 local elections.

³⁰¹ *Public Bodies – Opening Up Public Appointments 2002–2005*, London: Cabinet Office, 2002, p. 3.

³⁰² *Public Bodies 2001*, London: Cabinet Office, 2002, p. 173.

The experience of the group of “East African Asians” (which included a significant Muslim community), who were British passport holders resident abroad, has been very different. The Immigration Act 1968 stripped them of their right of entry and abode. They had British Overseas Citizenship but no right of abode either in the UK or elsewhere. In July 2002 the Government announced plans to return to British Overseas Citizens the right to obtain British citizenship and the right to live in the UK. In making the announcement, Home Office Minister Hughes acknowledged that they were “righting a historical wrong.”³⁰³

Employment in public services

Statistics are not collected on the basis of religion, so it is not possible to ascertain the level of Muslim employment in public service positions. Ethnic monitoring of employment in the public sector shows that minority ethnic communities are underrepresented in a wide range of public sector services.³⁰⁴ As part of its response to the Stephen Lawrence Inquiry Report, the Home Office sought to increase ethnic minority representation in public services. The action to achieve this included the setting of recruitment, retention and progression targets for the Home Office and for employment in the other service areas, including the police, fire, and probation services, with the aim of ensuring that local public services are truly representative of Black and Asian communities.³⁰⁵ To be “truly representative of Black and Asian communities,” the diversity strategy needs to reflect faith community distributions within minority communities. In April 2001, six percent of civil service staff were from ethnic minority backgrounds; however, they remain more highly represented in junior grades than in senior ones.³⁰⁶

As part of the agenda for the modernisation of the civil service, targets have been set to double the number of ethnic minorities in senior positions so that by 2004 3.2 percent of senior civil servants will be from ethnic minority backgrounds. In April 2001, 2.4 percent of senior civil service staff were from ethnic minority backgrounds. Ethnic minorities constituted 3.3 percent of Army recruits in 2000. In April 2001, ethnic minority representation across the army stood at 1.7 percent of the total strength of the Armed Forces.³⁰⁷ In 2000, 52 appointments to the judiciary – 6.9 percent of the total appointed that year – were lawyers with ethnic minority backgrounds.³⁰⁸ Statistics

³⁰³ *British Overseas Citizens to Get Right to Live in UK*, Home Office Press-release 188/2002, London: Home Office, 2002; See also House of Commons, 4 July 2002, WA 526.

³⁰⁴ *Advisory Committee Opinion on the UK*, 2001, para. 96.

³⁰⁵ *Race Equality – The Home Secretary’s Employment Targets*, London: Home Office, 1999.

³⁰⁶ *Civil Service Statistics 2001*, London: Cabinet Office, 2002, p. 12.

³⁰⁷ *Government Comments on the FCNM Report*, 2002, p. 18.

³⁰⁸ *Government Comments on the FCNM Report*, 2002, p. 19.

should be collected on the basis of religious affiliation to see if Muslims are represented in public service employment.

4. INSTITUTIONS FOR MINORITY PROTECTION

4.1 Official Bodies

Official bodies and institutional structures are in place which have the potential to address concerns of Muslim communities.

In Northern Ireland, the Equality Commission (ECNI) provides advice and assistance in relation to all areas of discrimination, including discrimination on the grounds of religious belief. Outside Northern Ireland, there is at present no Government body for the promotion of equal treatment of Muslims or other non-ethnic religious groups. The Government bodies in place at the moment that address issues of discrimination are: the Commission for Racial Equality (CRE), the Equal Opportunities Commission (EOC) and the Disability Rights Commission (DRC). Only three of 64 Commissioners in the four different equality bodies are Muslim. The Government has announced that it will look at the feasibility of a Single Equality Commission that would cover all strands of discrimination that are within the EU Employment Directive, including religion.³⁰⁹

In the absence of an official body able to address issues of religious discrimination directly, the CRE has been most involved in this area. The powers and duties of the CRE are set out in the Race Relations Act 1976. The Commission has three main powers: it can advise and assist claimants; it can issue Codes of Practice, and it can conduct formal investigations or general investigations and issue a non-discrimination notice in respect of discriminatory practices. Following the Race Relations Amendment Act 2000, the Commission can also seek to enforce specific duties on public authorities intended to create equality of opportunity for persons of different racial groups. The Commission also provides funding for organisations that support its objectives of promoting racial equality.

The remit of the CRE is limited to issues of racial discrimination and the promotion of good race relations. This places a legal limit on the ability of the CRE to address the

³⁰⁹ Speech by Barbara Roche, Cabinet Office Minister, at seminar held by Institute of Public Policy Research, London, 15 May 2002.
See: <http://www.cabinet-office.gov.uk/2002/news/020515_equalrev.htm>, (accessed 25 September 2002).

concerns of Muslims. It cannot, for example, assist in a case of religious discrimination unless there is also an element of indirect racial discrimination. Within these limitations, the CRE has been able to provide some level of support. The duty to promote good race relations also creates a space in which the CRE can be much more creative in terms of religious communities and other communities at a local level. However, Muslim community organisations have expressed concerns about the ability of an organisation that has been focused on race to address issues of religious discrimination. In their experience, religious identity has often been marginalised within the discourse of race relations and has been regarded as divisive: “For many working for racial equality, race is paramount and there is no place within it for religious needs.”³¹⁰

The Equal Opportunities Commission, the main body that works on gender equality issues, has a statutory duty to work towards the elimination of sex discrimination, to promote equality of opportunity between men and women and in relation to persons undergoing gender reassignment, and to keep the relevant legislation under review. The EOC has committed itself to producing equality schemes in relation to religion.³¹¹ Muslim women can face discrimination and prejudice on the grounds of religious identity, race and gender. They face stereotypes not only about women, but about Muslim women – what one Muslim women’s group called the “Afghan Women’s Syndrome.” There is no campaign for building a positive self-image for Muslim women, and this is not an issue that has been addressed by the EOC. The Equal Opportunities Commission should extend its role of challenging stereotypes and prejudice about women to problems faced by Muslim women in particular; it should consider creating a forum for networking and dialogue with Muslim women’s organisation and consider launching a campaign, in partnership with Muslim women’s groups, that challenge the stereotypes and prejudice faced by Muslim women.

Responsibility for addressing the issues raised by minority faith communities is spread across Government. All Government departments have equality and diversity units. Responsibility for the implementation of Article 13 of the Employment Directive, which includes religious discrimination in employment, lies with the Department for Trade and Industry. Within the Home Office there is a religious issues section. The Inner Cities Religious Council (ICRC) was set up in 1992 to ensure that religious groups have a say on urban regeneration policy.³¹² It is chaired by a Government minister and includes leaders of the five largest faith communities: Christians, Hindus,

³¹⁰ Interview with organisation E, London, 19 April 2002.

³¹¹ *Equal Opportunities Commission’s Equality Scheme*, Equal Opportunities Commission, Manchester 2002, see: <<http://www.eoc.org.uk/cseng/abouteoc/equalityscheme.asp>>, (accessed 25 September 2002).

³¹² See <<http://www.urban.dtlr.gov.uk/community/faith/forum/index.htm>>, (accessed 25 September 2002).

Jews, Muslims and Sikhs. The Council's secretariat is based in the Urban Policy Unit of the Department of the Environment, Transport and the Regions. The Minister chairs three ICRC meetings a year to discuss issues, policies and programmes, while Members speak on behalf of their communities. Other Ministers, officials and speakers attend as appropriate.

There are Equality Units in the Scottish Executive, the National Assembly for Wales, and the Office of the First Minister and Deputy First Minister in the Northern Ireland Executive. There is no equal opportunities committee in the Northern Ireland Assembly, but the Committee of the Centre oversees the work of the Office of the First Minister and Deputy First Minister which contains the Equality Unit.

In the Scottish Parliament, a Standing Committee on Equal Opportunities has been created, with the aim to "consider and report on matters relating to equal opportunities and the observance of equal opportunities within the Parliament."³¹³ Under the rules of the Scottish Parliament, a statement regarding their impact on equality must accompany all legislative proposals from the executive. The Scottish Executive, after consultation,³¹⁴ published an equality strategy and created an Equality Unit within the executive to take forward its work in this area.³¹⁵

There are also Equality Units in local government. There is no consistency in the extent to which these examine the needs of faith-based communities. Examples of good practice include the appointment by the London Borough of Camden of an inter-faith liaison officer whose work includes building up trust and good working relationships with faith communities to incorporate this sector into the mainstream of civic activity.³¹⁶

Local education authorities (LEAs) are required to maintain Standing Advisory Councils on Religious Education (SACRE), with responsibility for collective worship and for religious education in community schools. The LEA determines the membership of these bodies. There are separate panels for the Church of England, other faith groups and other Christian churches. Muslim groups complain that some faiths are given a better standing within such Councils than others.

³¹³ Standing Order Rule 6.9.

³¹⁴ *Towards an Equality Strategy*, Edinburgh: Scottish Executive, 2000.

³¹⁵ *Equality Strategy: Working together for Equality*, Edinburgh: Scottish Executive, 2000.

³¹⁶ Local Government Association, *Faith and Community*, London: LGA Publications, 2002, p. 11.

4.2 Civil Society

A strong civil society is vital to liberal democracy. Civil society organisations enable communities to develop solutions that meet their needs and circumstances, to speak for themselves and to articulate their own needs, rather than relying on others to speak for them. These organisations provide an essential medium for full and effective participation in the democratic process.

There are a diverse group of organisations operating under the umbrella of civil society within British Muslim communities. They range from large national bodies to small local community groups: from organisations that campaign and lobby on issues affecting Muslim communities nationally to voluntary organisations that provide services for Muslim communities within their neighbourhood and for the wider local community; others are involved in the advancement of the faith and promoting understanding of Islam.

The involvement of Muslim civil society in policy-making is critical to ensuring their participation and inclusion in governance and the development of appropriate and effective policies. Involvement of Muslim communities can be institutionalised or non-institutionalised. Institutionalised involvement “implies a structural, longer term co-operation between the local government and Muslim communities and comparatively direct access to the decision making process,” while non-institutionalised involvement “generally has less weight in the decision making process. It often implies limited, if not short term, commitment and occurs sporadically (one-off events) rather than structurally (regularly scheduled).”³¹⁷ Institutionalised involvement can be in an “advisory” or a “decision-making” capacity. Non-institutionalised involvement can be by *ad hoc* and contractual means. These different types of involvement can exist in parallel.

While the structures for participation and involvement are important to the inclusion of Muslim communities in policy-making, the quality of involvement is also a crucial element. Factors affecting the quality of involvement include openness of dialogue, the attitudes of the parties involved, and the degree to which their expectations are being met.³¹⁸ In addition to this, two further key factors influence the quality of involvement. First, the organisational strengths of community organisations are a crucial factor in the involvement of Muslim communities. As Muslim organisations become “more professional and confident with their work, they also become more effective partners for local authorities. This makes them better able to provide good sound advice and

³¹⁷ EUMC, *Situation of Five Islamic Communities in Five European Cities*, Vienna, 2001, pp. 32–33, (hereafter “EUMC, Situation of Five Islamic Communities, 2001”).

³¹⁸ EUMC, *Situation of Five Islamic Communities*, 2001, p. 34.

may subsequently lead to more direct involvement in decision making fora.”³¹⁹ A second factor is the perception that stakeholders have about their involvement in the process of policy advice and decision-making. Muslim communities need to know and see that their efforts are taken seriously and that they are regarded as equal partners in the process. The involvement of the Muslim community is also affected by the perceptions of policy-makers of the value of Muslim community contributions to the policy-making process.

The development of the Muslim voluntary sector

The Muslim communities are only in the early stages of developing a vibrant civil society. Several factors can be identified to account for this. The Muslim communities have been organising in a significant way for less than 40 years. Most Muslims migrated from countries where Muslims formed the majority community, and their needs were accommodated automatically. They did not have experience of organising, as a minority, to gain access to social resources or to provide for community needs.

The initial immigrants were young immigrant workers with low educational levels and few professional skills: “It wasn’t apparent to them that they needed social welfare support; that they would be dependent on the local authority for those services.”³²⁰ The community’s focus was on providing mosques, *halal* butchers and Islamic schools: “What they didn’t realise is that there was no point in sending a child to an Islamic school if that child goes to a bed and breakfast to live or if the couple has marital difficulties or there’s domestic violence or there’s child abuse or there is something else happening in that family which is not going to give that child the secure background needed to prosper. It just seemed imbalanced to say that the mosque and education were going to make us all healthy – spiritually, mentally, physically – it wasn’t.”³²¹

The Muslim voluntary sector is young. It has much emotional and social capital, in terms of people’s energy and commitment, but it has not yet built up a substantial asset base. For example, few organisations have their own premises. The lack of a secure asset base makes it difficult to plan and adapt to changing circumstances.

Muslim voluntary sector bodies face difficulties in accessing funding. Minority communities have been seen predominantly in terms of their racial and ethnic identities, and as a consequence funding has focused on organisations that identified themselves in terms of their ethnic identity. To gain funding some Muslim organisations were forced to hide or disguise their identity behind an ethnic label. Others that “came out” as Muslim organisations were still perceived in terms of ethnic

³¹⁹ EUMC, *Situation of Five Islamic Communities*, 2001, p. 35.

³²⁰ Interview with organisation A, London, 16 April 2002.

³²¹ Interview with organisation A, London, 16 April 2002.

identities. A Muslim community group had its application for funding of a nursery rejected because it was thought that it would be serving a subset of the Asian community, and that funding for such a small group could not be justified. However, this evaluation ignored the fact that the Muslim community in that area was much larger than the Asian community, including those from Kurdish, Bosnian, Somalian, Arab and Malaysian communities.³²²

Further difficulties for the Muslim voluntary sector in accessing funding arise from uncertainty about the extent to which funding bodies can fund Muslim organisations. Funding bodies fail to see the distinction between organisations that provide services to a Muslim community and those that are involved in propagating their faith. Muslim voluntary sector bodies would like to see clearer recognition that Muslim organisations have a right to public funding.³²³

The prohibition on gambling within Islam means that Muslim community organisations are also excluded from one of the largest providers of funding for the voluntary sector, the National Lottery Board's Community Fund (NLBCF). In the words of one organisation: "Through choices that you make as a Muslim body you cut yourself off from that funding stream and that is one of the largest funding streams that you have."³²⁴ The Government acknowledges that certain faith groups are unable to apply for funding from the NLBCF and argue that funding applications by such organisations to other public bodies should be "treated more sympathetically."³²⁵

The requirements of inclusiveness can also be used to deny Muslim community groups funding, as such groups are often perceived as exclusive and as obstacles to integration. There is some evidence suggesting that many Muslims do not access the services of mainstream voluntary sector providers.³²⁶ There are many reasons for the reluctance to access these services, including feelings that such services will not be sensitive or appropriate to their needs. In such situations the Muslim voluntary sector – while not replacing the mainstream voluntary sector body – may be the most effective means of reaching those that would otherwise remain excluded and isolated. For example, a Muslim women's group found that its users would not have accessed their services if it had identified itself as a general women's group or an Asian women's group. By identifying itself as a Muslim group, the organisation was able to reach and provide services to women who would otherwise have remained excluded. For some women, the group provided skills, knowledge, and experience that allowed further participation

³²² Interview with organisation A, London, 16 April 2002.

³²³ Interview with organisation B, Glasgow, 13 May 2002.

³²⁴ Interview with organisation B, Glasgow, 13 May 2002.

³²⁵ Local Government Association, *Faith and Community*, London: LGA Publications, 2002, p. 18.

³²⁶ Interview with organisation A, London, 16 March 2002.

and involvement in other non-Muslim bodies.³²⁷ The Cattle Report recommended against separate funding for distinct communities, except “for those circumstances where the need for funding is genuinely only evident in one section of the community and can only be provided separately.”³²⁸ There must be care to ensure that this does not prevent targeted intervention based on real need. Community organisations would like to see an acknowledgement that Muslim organisations could serve the needs of the community as a whole, but also an acceptance of Muslim organisations that would serve principally the needs of Muslims.³²⁹

Even when funding is available, Muslim community organisations may not be in a position to tap into funding streams. There are organisational, resources and capacity issues that operate as barriers to accessing funding. When bidding for a funding package, an organisation must show that it has the organisational infrastructure to manage that funding. Micro- and small sized organisations – which account for the majority of the Muslim voluntary sector – generally lack the range of skills and resource capacity to meet the expectations and requirements of funders. These include the lack of book-keeping and financial management skills and the ability to draft business and strategic plans. Without the capacity to tap into long-term funding streams the Muslim voluntary sector focuses on funding for short-term, often single-year, project funding. This reduces efficiency within the organisation as resources are diverted in the course of the year to securing future funding rather than delivering services. Thus bodies can be stuck in a vicious circle in which they do not have “the capacity in skills and resources to access the skills and resources necessary to develop the required skills and resources.”³³⁰

The first task is therefore one of capacity building within these civil society organisations. This should focus on strengthening the ability of community organisations and groups to build their structures, systems, people and skills so that they are better able to define and achieve their objectives, manage projects and engage in consultation and planning. Much work is already being done on capacity building within the voluntary sector generally. It has been recognised that black and minority ethnic voluntary sector organisations were not accessing the opportunities available to the mainstream voluntary sector. Research is needed to see whether Muslim voluntary sector bodies are accessing the resources provided for voluntary sector bodies and for the black and minority ethnic voluntary sector in particular.

³²⁷ Interview with organisation K, Edinburgh, 14 May 2002.

³²⁸ Cattle Report, p. 50.

³²⁹ Interview with organisation B, Glasgow, 13 May 2002.

³³⁰ W. Sullivan, “Communities Within Community – Ethnic Minority Networks and Civil Society in Scotland,” *Renewal* vol. 10, No. 2, 2002, p. 30.

The ability of Muslim voluntary sector bodies to contribute to social inclusion and building of cohesive communities is hindered by their isolation from the black and minority ethnic voluntary sector and wider civil society structures. Connections to such networks are vital for the development of the voluntary sector bodies, as they provide information, resources, solidarity, influence and knowledge. The mainstream and the BME voluntary sector bodies need to accept the identity and validity of Muslim voluntary sector bodies and include them within their networks.

Government's view of the role of faith-based civil society bodies

A recent official report on the relationship between faith-based organisations and Government recognised that minority faith communities “have particular difficulty engaging with existing consultation processes and accessing funds, yet they are likely to be in particular need of help: they are often concentrated in areas of severe deprivation, they coincide with minority ethnic communities and they may lack the skills required to engage with wider structures.”³³¹ The report sets out reasons for Government engagement with faith communities, and it recognises the importance of faith-based groups in the delivery of public services: “faith groups may be the best means of reaching those in need within their faith community and sometimes those in the wider community also.”³³²

The Government views engagement with faith communities and civil society within the context of its reform of local government and the need for local authorities to “reconnect” with local communities. The Government also sees a role for faith communities in regeneration and renewal programmes. For example, guidance for the Single Regeneration Budget (SRB) programme made it clear that faith communities were valid partners and eligible for SRB funding.³³³ Similarly, the guidance for developing local partnerships to deliver under the *New Deal for Communities* (NDC) programme makes it clear that funding is open to faith communities.³³⁴ The policies are in place for Muslim civil society organisations to participate in regeneration and renewal projects, but as the Government acknowledges, “there is a low level of involvement of faiths other than the main Christian Churches ... the principle that faith communities are valuable partners in regeneration is widely promoted, but the practice in translating this into substantial outcomes is ‘work in progress.’”³³⁵

³³¹ Local Government Association, *Faith and Community*, 2002, p. 4.

³³² Local Government Association, *Faith and Community*, 2002, p. 7.

³³³ Local Government Association, *Faith and Community*, 2002, p. 13.

³³⁴ Local Government Association, *Faith and Community*, 2002, p. 13.

³³⁵ Local Government Association, *Faith and Community*, 2002, p. 13.

In the Government's view, there is no clear consensus on the need for public funding of capacity building within faith communities. They recognise that "support for the strengthening of structures within a faith community could have major benefits in terms of community participation, the coordination of community services, civic renewal, and the improvement of public services," but at the same time they see dangers in "involving central and/or local government in sectional politics within faith communities or an unacceptable alignment of with a particular faith group over others."³³⁶ Muslims argue that such dangers are inherent in official funding for any community group, including ethnic community groups, and do not provide a sufficient reason to oppose funding of faith groups in particular.

A strong Muslim voluntary sector will be a crucial partner for Government in effectively tackling social exclusion faced by many in Britain's Muslim communities. Lack of infrastructure support and obstacles to accessing funding mean that most operate in a reactive atmosphere, working to tight budgets and heavily reliant on short-term funding. Most lack the capacity to work more strategically, coordinate their approaches and tackle policy issues. The Government's concerns over support for capacity building in the faith based voluntary sector should not prevent involvement in capacity building. The potential benefits to all aspects of policy development are tremendous.

The Government and other funding bodies should undertake an audit of the extent and impact of funding of Muslim voluntary sector and publish the results.

The Government and other funding bodies should provide funding and support for capacity and infrastructure building for Muslim voluntary sector organisations. The aim of such funding should be:

- to help Muslim voluntary sector organisations develop their capacity to gain further funding;
- to help Muslim organisations engage in effective advocacy on mainstream social policy decisions which affect them, particularly those involving substantial allocation of resources, for example on combating social exclusion;
- to arrange professional support for senior staff in Muslim organisations, including mentoring, financial management and organisational development.

Muslim civil society experience of engagement with Government

The ability of Muslim civil society organisations to participate in the policy-making process is hindered by a lack of knowledge or experience, within these organisations, of

³³⁶ Local Government Association, *Faith and Community*, 2002, p. 18.

the policy process and how it can be used effectively to create change. “[E]ven if the Government was tomorrow to consult, at a high level, on a number of policy issues, there is a real lack of expertise and institutional framework within the Muslim community.”³³⁷ Personal contacts and networks are an important element for effective participation in policy processes. As a relatively new sector, Muslim civil society bodies do not have contacts and experience that other bodies have. They are on a steep learning curve in understanding how to influence the policy-making process.

Muslim community groups acknowledge that there has been an increase in consultation with Muslim civil society at all levels. However, the experience of this consultation is mixed. In the experience of one group, there were “limited positive experiences with certain officials.”³³⁸ At the same time they feared that the Government was seeking to impose a leadership on the Muslim community by consulting only with those organisations that were acceptable to them: “The key difficulty in terms of engagement with civil society is that they only listen to certain voices ... there is no feeling that you have to include people ... there is very much a need to go and seek out groups who are specialising in certain areas and consult them. And if they ... tell you things you don’t like you should still listen and take it on board.”³³⁹

There was also a feeling that consultation has been superficial: “We are only consulted once everything has been done. And on that level there is no point. They need our cooperation to implement this, not to actually develop it.”³⁴⁰ “So far, most of the consultation ... appears to be at a minimum level. A lot of it is to do with public relations, with symbolism, rather than real effects on the ground.” Consultation has been criticised for being *ad hoc* and reactive, rather than long-term and strategic:

When there is a crisis there is a meeting, it is not organised in a fashion which is regular, and it very much depends on the person who is occupying that seat. The people chosen can be quite arbitrary, [and] the discussions tend to be quite emotional rather than strategic. There is no strategic vision, you don’t really have people who are sitting down and writing proper reports for ministers and policy makers to take too seriously. It means there is nothing in these meetings that the Government doesn’t already know – but they just do it anyway – so that everyone can say ‘oh, the Muslims have been consulted.’³⁴¹

³³⁷ Interview organisation F, London, 19 April 2002.

³³⁸ Interview organisation E, London, 19 April 2002.

³³⁹ Interview organisation E, London, 19 April 2002.

³⁴⁰ Interview organisation E, London, 19 April 2002.

³⁴¹ Interview organisation F, London, 19 April 2002.

Some Muslim organisations have acknowledged that there are ways in which Muslim communities could themselves act to improve the consultation process, such as through providing more coordinated input and response.

The Government should encourage, promote and support the active involvement of Muslim communities in institutionalised procedures of policy-making and also include them in more informal channels of dialogue.

Engagement of civil society at the European level

The European Union and the Council of Europe have done much valuable work on tackling racism, xenophobia and anti-Semitism. The EU definition of racism and xenophobia includes identification of people for adverse treatment on grounds that include "religion or belief."³⁴² Both the EUMC and ECRI have published reports on Islamophobia and Europe's Muslim communities.³⁴³ All aspects of the European Union and the Council of Europe's work on racism and xenophobia should include within its scope Islamophobia and anti-Muslim prejudice.

The expansion of EU policy-making into areas of discrimination, asylum, immigration and policing will have significant impact on British Muslim communities. Therefore, it is vital that they participate in the policy development process in these areas. The obstacle is again a lack of capacity, experience and knowledge. Muslim communities are only beginning to engage in policy-making at the national level; they have not even looked at the European level. There are no links with or knowledge of policy processes in the EU.

The European Union and the Council of Europe should launch a campaign explaining their policy-making processes to Muslim and other minority communities.

The European Union should fund and facilitate networking by Muslim community organisations across Europe that will help them build strategic alliances and identify common issues of concern.

³⁴² Proposal for a Council Framework Decision on Combating Racism and Xenophobia, COM/2001/0664.

³⁴³ See EUMC, *Situation of Five Islamic Communities, 2001*; EUMC, *Summary Report on Islamophobia in the EU after 11 September*, Vienna, 2002; ECRI *General Policy Recommendation No 5: Combating Intolerance and Discrimination Against Muslims*, Strasbourg, 2000.

5. RECOMMENDATIONS

Discrimination: changes in the legal framework

- The Government should make a commitment to creating, when legislative time allows, a positive duty for public authorities to eliminate unlawful religious discrimination in relation to their function and to promote equality of opportunity and good relations between persons of different religious belief.
- The United Kingdom should sign Protocol 12 to the ECHR; this will ensure comprehensive protection from religious discrimination in all areas that are not currently covered by the HRA.
- The Government should state its commitment in principle to legislation prohibiting religious discrimination in all areas covered by the existing anti-discrimination laws. This could be introduced once it has implemented the EU Employment Directive. In the meantime, the Government should publish non-statutory codes of practice that provide practical advice and assistance to prevent direct and indirect religious discrimination in education, housing and the provision of goods, services, and facilities.

Discrimination: changes in policies

- Before policy options targeted to assist Muslim communities can be developed, there is a need to build up solid baseline information about Muslim communities. It is therefore essential that where statistics and data are collected on the basis of race and ethnic origin, information should also be collected on the basis of religious affiliation.
- Research is urgently needed to investigate the levels of social exclusion of Muslims so that effective policy responses can be developed to tackle this problem.
- Government and refugee support organisations should ensure their policies and practices are appropriate for Muslim asylum applicants.
- Employers must monitor their employment decisions on the basis of religious affiliation to ensure that a policy, practice, provision or criteria does not have the unintended effect of disadvantaging Muslims or employees of any other faith.
- The government should fund research into developing practical and effective guidance to assist monitoring faith identities.

- Support for the legislation on religious discrimination should include providing a code of practice for employers and an education campaign to inform communities, employers and employees of their rights and responsibilities under the new legislation.
- There should be diversity monitoring by public service providers that includes monitoring on the basis of religion.
- Delivering services to diverse religious communities should be identified as a theme for the fifth round of the Beacon Council Scheme.
- The Government and Audit Commission should develop guidance, performance standards and performance indicators that assist local authorities and other public bodies in delivering service to Muslim and other faith communities.
- The Association of Muslim Police Officers and representatives of the Muslim community should work together to produce guidelines to support sensitive policing of Muslim communities.
- The British Crime Survey should monitor the Muslim communities' experience of crime and policing.
- Effective implementation of the Employment Directive will require publicly funded support for advice, assistance and representation in religious discrimination cases.

Minority Rights

- Reports under the FCNM should cover the situation of British Muslim communities along with those of other minority faith communities.

Education

- Where there is demand, schools should consider offering Arabic as a modern language option alongside modern European languages.
- A positive endorsement by Ministers of the importance of schools including information and discussion about equality, anti-discrimination legislation and minority protection laws within the citizenship curriculum would constitute a welcome encouragement to teachers.
- Education departments should conduct a review to ensure integration into all aspects of the curriculum of the contribution made by Muslims.

- All guidance on accommodating the religious needs of pupils should be brought together, strengthened and reissued under one cover. School inspection bodies should include in their reports the extent to which a school accommodates the religious needs of pupils from different faith communities. School inspection bodies should use the reissued guidance as a benchmark for evaluation in their reports.
- Education departments should consider ways in which education about Islam can be integrated into the general schooling process. This must be done in partnership and consultation with the Muslim communities.
- Schools should avail themselves of appropriate religious awareness training, this should be provided for all teaching and non-teaching staff and for governing bodies. Government should make funding available for such training.
- Teacher training programmes should aim at the recruitment and training of teachers that are able to teach Arabic as a modern foreign language.

Media

- As an important step in enabling Muslims to engage with media coverage, media regulatory bodies such as the Press Complaints Commission, the Independent Television Commission and the BBC should consider launching a campaign to raise awareness of their complaints mechanisms among Muslim communities.
- The Department for Culture, Media and Sport should consider funding research that would bring together and highlight models of good practice for long-term sustained engagement between media organisations and minority communities.
- Recruitment, retention and training policies for employment of ethnic minorities in the media should be monitored to ensure that representative numbers of Muslims are accessing them.
- The BBC, ITV, Channel 4 and Channel 5 should undertake and publish an audit of their programming to see the extent to which Muslims participate in programmes. The results of the audit should be published
- The NUJ should consider developing guidelines for reporting about Muslim communities.

Participation in Public Life

- Statistics should be collected on the basis of religious affiliation to see if Muslims are represented in public appointments and public service employment.

Institutions

- The Equal Opportunities Commission should extend its role of challenging stereotypes and prejudice about women to problems faced by Muslim women in particular; it should consider creating a forum for networking and dialogue with Muslim women's organisations and consider launching a campaign, in partnership with Muslim women's groups, to challenge the stereotypes and prejudice faced by Muslim women.
- Mainstream and Black and minority ethnic voluntary sector bodies should accept the identity and validity of Muslim voluntary sector bodies and include them within their networks.
- The Government and other funding bodies should undertake an audit of the extent and impact of funding of the Muslim voluntary sector and publish the results.
- The Government and other funding bodies should provide funding and support for capacity and infrastructure building for Muslim voluntary sector organisations. The aim of such funding should be:
 - to help Muslim voluntary sector organisations develop their capacity to gain further funding;
 - to help Muslim organisations engage in effective advocacy on mainstream social policy decisions which affect them, particularly those involving substantial allocation of resources, for example on combating social exclusion;
 - to arrange professional support for senior staff in Muslim organisations, including mentoring, financial management and organisational development.
- The Government should encourage, promote and support the active involvement of Muslim communities in institutionalised procedures of policymaking and also include them in more informal channels of dialogue.

- All aspects of the European Union and the Council of Europe's work on racism and xenophobia should include within its scope Islamophobia and anti-Muslim prejudice.
- The European Union should fund and facilitate networking by Muslim community organisations across Europe that will help them build strategic alliances and to identify common issues of concern.
- The European Union must ensure that it consults Muslim communities across Europe, in developing policies that have a particular impact on Muslim communities, including policies on discrimination, asylum, immigration and policy.
- The European Union and the Council of Europe should launch a campaign to explain their policy-making processes to Muslim and other minority communities.

1 Wales Cardiff

6Areas: Mainly Cardiff, with largest community in Tiger Bay
 Schools: 1
 Mosques: 11
 Political representation: 1 councillor (Rhondda)

2 Birmingham

Background: Pakistan and Kashmir. The world's biggest expatriate Kashmiri population is in Birmingham.
 Areas: Mainly Pakistani: Sparkbrook, Highgate.
 Mixed: Small Heath, Aston, Bordesley Green
 Schools: 11. St Saviours School in Saltley boasts the highest percentage of Muslim pupils of any Church School in the country
 Mosques: 108
 Political representation: The People's Justice Party (justice for Kashmir) has 4 councillors: Ali Khan, Khalid Mahmood, Mohammed Nazam. There are 9 other Muslim councillors
 MP: Khalid Mahmood, Labour, Birmingham Perry Barr (England's first Muslim MP)

3 Northern Ireland

Background: Pakistan, Bangladesh, Arab
 Areas: Belfast (Pakistani, Bangladeshi, Arab); Craigavon, (Pakistani, Arab); North Down (Bangladeshi); the Ards peninsula (Bangladeshi)
 Schools: none
 Mosques: 20
 Main mosque: Belfast Wellington Park
 Political representation: none

4 Scotland Glasgow Edinburgh

Background: Arab, Pakistan, Turkey, Africa, Malaysia and India
 Areas: 33,000 Muslims in the Glasgow area, half of Scotland's Islamic population.
 Edinburgh has 15,000 Muslims living in the city of which 10,000 are Pakistani.
 Schools: 1
 Mosques: 20
 Main mosque: Central Mosque of Glasgow
 Political representation: 4 Muslim councillors in Glasgow. Bashir Mann, Hanzala Malik, Mohammed Shoib, Shaoukat Butt MBE
 MP: Mohammed Sarwar, Labour, Glasgow Govan, was the UK's first Muslim MP

5 Oldham

Background: Predominantly Pakistan and Bangladeshi
 Areas: Glodwick, Werneth and Westwood
 Schools: Five Bangla schools. 20% of schoolchildren in Oldham are from an ethnic minority background. Predicted to rise to 30% by 2011.
 Mosques: 16
 Politicians: Mayor Riaz Ahmed is a Muslim;
 7 councillors

6 Bradford

Background: Predominately from Pakistan Kashmir and Bangladesh
 Where: Manningham, Bradford Moor, Little Horton
 Schools: 2 listed in Muslim directory
 Mosques: 54 in Bradford area (includes Skipton, Keighley, North Yorkshire). Approximately 100,000 Muslims attend weekly prayers in Bradford
 Political representation: 12 councillors

7 Leeds

Background: Mainly from Pakistan, India, and Bangladesh. The Arab community is about 1,000 plus many small communities from Bosnia, Kosova and other countries of origin.
 Areas: Chapel Allerton, City & Holbeck, Harehills, Headingley
 Schools: 1 listed in Muslim directory
 Mosques: 21
 Political representation: 1 councillor

8 Leicester

Background: Pakistan, Bengal, Somalia
 Areas: Highfields, Spinney Hill
 Schools: 8
 Mosques: 19
 Political representation: 4 councillors
 London

9 London

Background: The most diverse Muslim community in Britain. Almost 250,000 Muslim Londoners are of Pakistani or Bangladeshi origin, and a further 150,000 of Turkish. Other communities hail from Saudi Arabia and the Gulf states, north Africa, Cyprus, Somalia and Nigeria.
 Areas: Pockets all over the capital. High concentration in east London. 123,000 people of Bangladeshi descent in Tower Hamlets, accounting for 60% of the population in Spitalfields ward and over 30% of four other wards. Projections suggest the 2001 census show non-white majorities in Newham and Brent
 Schools: 20
 Mosques: 165 (estimated)

