



**Submission to the United Nations
Committee on the Elimination of Racial Discrimination**

**Alternative (Scotland) report on the
United Kingdom's
twenty-first to twenty-third periodic reports**

July 2016

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Introduction

The Coalition of Racial Equality and Rights (CRER) welcomes the publication of the twenty-first to twenty-third periodic reports from the United Kingdom, and the opportunity to submit this Scottish alternative (shadow) report to the Committee for the Elimination of Racial Discrimination.

CRER is an independent NGO working to eliminate racial discrimination and promote racial justice across Scotland. Through capacity building, research and campaigning activities which respond to the needs of communities, our work takes a strategic approach to tackling deep rooted issues of racial inequality. CRER has experience of anti-racist work covering areas such as community engagement and empowerment, research and resource development, practical training and equality mainstreaming support for public and voluntary sector organisations.

The research included in our alternative report has been gathered from national data, studies completed by CRER and other NGOs operating in Scotland, as well as through conversations with communities, activists and key stakeholders.

This submission forms part of a wider UK shadow report coordinated by Runnymede and partners. CRER fully endorses the content of the UK NGOs shadow report and in this submission we will examine only the areas of devolved policy that applies to Scotland and minority ethnic groups living across Scotland.

Application of CERD in Scotland

Following a referendum on Scottish devolution in 1997, where 74% of the Scottish electorate voted in favour of a Scottish Parliament, the Scotland Act 1998 created a Scottish government with full responsibility for functions and powers of government within Scotland as far as they extend to devolved matters. These included issues such as health, education, local government, housing, justice and policing. Additional powers were allocated to the Scottish Government in 2012 and again in 2016, with many people now agreeing that it is the most powerful devolved parliament in the world.

However, CRER remains concerned that there is insufficient distinction between UK and devolved administrations, both in the reports of the State party, and in the consideration given to devolved issues by CERD. In particular we were disappointed that within CERD's 2011 concluding observations to the UK there was only one mention of Scotland anywhere in the report, and no recommendations for any change to be required of the devolved administration in Scotland. Whilst we understand that as the signatory to the Convention on the Elimination of All Forms of Racial Discrimination all recommendations should be made to the UK state, we do feel that there are areas in which distinctions should be made between the relevant governing bodies. (Mentions of Northern Ireland within the concluding observations and recommendations to the UK state were made so it should be easy to adopt a similar position for Scotland). We therefore recommend that the CERD Committee fully evaluate the devolved administrations of Scotland and Wales and consider the powers they have to eliminate racial discrimination within their territories.

Certainly there are policy areas within the exclusive remit of the Scottish Government which may be enhanced to better protect minority ethnic groups and further eliminate racial discrimination within Scotland. For example, whilst CRER acknowledges the complexities of analysing policies and their effects on ethnic minorities it was disappointing to note that there was no mention of health or mental health in Scotland as part of the UK state report, despite health being a fully devolved matter for the Scottish Parliament / Government.

We would recommend that all areas of devolved policy for all administrations be properly included in future UK state reports as failure to do so can hide the gaps in legislation and practise and has to potential to undermine the quality of information offered to the Committee.

Recommendation

CRER would encourage CERD's Concluding Observations to the UK state include specific actions aimed at devolved administrations where applicable to ensure that the rights of all ethnic minorities are promoted UK wide.

Articles 2 & 3

The Scottish Government published its Race Equality Statement for 2008-2011ⁱ in December 2008; this has now finally been refreshed (in spring 2016) with the Race Equality Framework for Scotland 2016-2030ⁱⁱ. The five year gap between the statement and the framework is troublesome, as it is indicative of a time in which the Scottish Government and its stakeholders did not have a strategic plan in place to address race inequality.

The Race Equality Framework for Scotland 2016-2030 was developed in collaboration with race equality organisations, including CRER, and has incorporated engagement and feedback from minority ethnic individuals, community representatives, stakeholders, and practitioners. The Framework highlights issues surrounding community cohesion, community safety and justice, participation and representation in public life, education, employment, income, health, housing, and family life. The Committee may wish to inquire about the gap between the statement and the Framework. At the time of submission specific action plans for implementation of the Framework's goals have still to be published and there has yet to be any specific resource allocation to support the goals of the Framework.

As the UK State Report notes, the Equality Act 2010ⁱⁱⁱ includes a new public sector equality duty. In Scotland, these are supported by the Scottish Specific Equality Duties^{iv}. The specific equality duties for Scotland came into force in May 2012 and require public authorities to, for example, report on mainstreaming the equality duty, publish equality outcomes and report progress, assess and review policies and practices, gather and use employee information, and publish equal pay statements. In practice, we find that these duties are not well enforced and that, while public authorities may publish information, it is often not detailed and many organisations often neglect to publish all the required information, with little, if any, action then taken to "use" the information gathered to actually combat inequality.^v With the application of the equality duty sporadic and current means of enforcement ineffective, the Committee may wish to inquire about the monitoring practices surround the Scottish Specific Equality Duties, as well as the effectiveness of the duties and current enforcement of the duties, particularly in reference to race equality.

In terms of refugees and asylum seekers, whilst many legal matters affecting this group are reserved to the UK Government, the Scottish Government does have devolved power over some areas. Concerns have been raised surrounding access of quality housing, the provision of culturally and linguistically-sensitive healthcare, access to local English language classes, and information on the education system and employment.^{vi} The Committee may wish to inquire about the quality and availability of services accessible to refugees / asylum seekers in Scotland.

Recommendation

While the publication of a new Race Equality Framework is welcome, the Scottish Government should ensure this strategy includes tangible aims and outcomes, and remains resourced and prioritised throughout its life. Furthermore, insofar as its devolved powers allow, the Scottish Government should hold public authorities to account in relation to the Scottish Specific Equality Duties, and enforce adherence to the duties. Monitoring practices should be robust across the nation.

In 2011 CERD recommended that the Committee recommended that: “the State party develop and adopt a detailed action plan, with targets and monitoring procedures, in consultation with minority and ethnic groups, for tackling race inequality as an integral part of the Equality Strategy, or separately provide an action plan for an effective race equality strategy.”

While the Scottish Government at present does not have a comprehensive strategy to specifically address racial segregation and improve community cohesion, the Race Equality Framework for Scotland 2016-2030 is expected to present an approach to this issue. The Committee may wish to inquire about the proposed approach, the level of detail included and its anticipated effect in local communities in Scotland.

Recommendation

The Scottish Government should ensure targets and monitoring procedures are built into the Race Equality Framework, and prioritise meaningful action to promote community cohesion between people from different ethnic groups, including established minority ethnic communities and newer migrants and refugees.

Article 4

While UK law prohibits the incitement to racial hatred both online and offline, current events have sparked a rise in racial and religious hatred, harassment, and attacks. Addressing online hate speech in particular has proved challenging. Far-right groups such as the Scottish Defence League have been active in spreading hate speech through social media^{vii}, organising demonstrations against immigration and refugees, and attempting to incite hatred. While some planned marches have been banned by councils, protests and hate speech continues.^{viii}

Scottish Jews expressed concern with rising anti-Semitism, with organisations reporting that there were as many anti-Semitic incidents in one month of 2015 as in the whole of 2013. This has led to anxiety and alienation, with some individuals considering leaving the country.^{ix} Anti-Semitic attacks doubled in 2014 and rose ten-fold in Glasgow, making Jews the most likely religious group to be targeted.^x The Paris terrorist attacks in November 2015 prompted a wave of anti-Muslim racism^{xi}, with dozens of reports of racist harassment and attacks, and a Scottish Government minister one of those targeted.^{xii} A majority of Muslim students reported being bullied in school for their race and religion.^{xiii} Reports also indicate that non-Muslim minority groups are also experiencing similar abuse.^{xiv} The Scottish Government met with community representative and condemned the hatred, although these communities continue to face harassment and violence. The Committee may wish to inquire about actions to address religiously-motivated hatred, especially those sparked by current events.

In October 2015, Scottish Ministers announced the establishment of an Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion.^{xv} The main purpose of the group was to provide evidenced findings and recommendations which the Scottish Government could take forward in partnership with communities to help eliminate hate crime. The Group was tasked to present initial findings in spring 2016.

Recommendation

The Scottish Government should work with NGOs and community groups to establish a comprehensive strategy to address racist and religious hate speech and hate crime. This strategy should include approaches to tackling online hate speech and addressing the threat of far-right organisations. The Committee may also wish to enquire about the progress of the Independent Advisory Group on Hate Crime as this information was not available at time of printing.

Article 5

In the last round of CERD reporting the UK Government received recommendations to improve the attainment of minority ethnic children, most notably Gypsy and Traveller children and children of African-Caribbean origin. Additionally the UK state was advised to narrow the employment gap for ethnic minorities and publish a detailed plan on how it will narrow this gap in all areas and at all levels of employment.

Due to the complex relationships between employment, housing and education, whilst some progress has been made in some areas, CRER would recommend that a more targeted and aligned approach is taken to overcome the disadvantages that ethnic minorities suffer in one, two or indeed all three of these areas. As mentioned the Committee may wish to consider this when evaluating the Scottish Government's Race Equality Framework. Specific recommendations on each of these policy areas are detailed below.

Education

The 2011 UK Census recorded 4% of the Scottish population as being from a (non-white) minority ethnic origin. In terms of educational attainment, the average tariff score achieved was higher for all non-white school leavers than for white Scottish pupils. There were a reported 1,274 racist incidents in Scottish schools between 2011 and 2012 – 730 in primary schools, and 544 in secondary schools.^{xvi}

Further to this research conducted by the Scottish Government^{xvii} also found that institutional racism has an impact of minority ethnic pupils' sense of inclusion or exclusion. A minority of teachers and senior managers spoke of a multi-agency partnership approach to tackling racism and racial bullying in schools by developing links with the community police and voluntary sector.

Overall, teachers did not report frequent or systematic racial incidents or bullying. There was not an unanimous approach about how to approach the issues, or whether racial bullying was different than other forms of bullying. Many thought racist incidents in school were on the decline or even rare.

However, racism, both direct and indirect, was a daily feature for many of the minority ethnic pupils interviewed, who recounted racist incidents, name-calling, harassment, and bullying both within and outwith the school. Some believed their school did not do enough to support them and prevent bullying. Among the staff of schools, some teachers believed some of their colleagues had issues in terms of equality, and race equality in particular, and were worried about racist and ignorant views of fellow teachers.

The Coalition for Racial Equality and Rights surveyed local authority education departments for policies relating to racist incident reporting. It was found that whilst some local authorities had excellent policies there was large variation across local authorities in terms of prevention, action, monitoring, assessment, evaluation, staff training, and enforcement.^{xviii}

Similarly mixed results in terms of local authority policy were found in the Equality and Human Rights Commission (EHRC) Scotland's 2015 research into prejudice based bullying in schools. The qualitative element of the research also found significant concerns about racism in schools, including concern on the part of the researchers that in some cases racist views had been expressed during the focus groups examining prejudice based bullying. Just over half of teachers surveyed for this study reported being aware of bullying within their school based on race or ethnicity. Although it should be noted this study also found

over 80% of pupils surveyed said they would be willing to report bullying on the grounds of race or ethnicity.^{xix}

Further and Higher Education

A Joseph Rowntree Foundation study found that minority ethnic groups were overrepresented in the further education sector, which is disparate with their relatively lower participation in higher education and their overall higher rates of attainment at school-leaving age.^{xx}

This research also found that white Scottish students accounted for 82.5% of the total student composition in FE/HE, with (all) white ethnic students comprising 93.0%, and non-white minority ethnic students comprising 5.8% of the total. There is also considerable gender variation between ethnic groups. The majority of students were female in ten of the 14 ethnic categories. Chinese, white British, white other, and mixed ethnicities showed the highest female bias, whereas Caribbean, Indian, and Bangladeshi showed a strong male bias.^{xxi}

Research published by CRER in 2013 found that in total, 5.6% of higher education students are from a minority ethnic background, which is lower than that of those in further education. The dropout rate was highest for the black and 'other' ethnic groups, with Asian and mixed ethnic groups having the lowest dropout rates.^{xxii}

Recommendation

These findings suggest there are still underlying issues with institutional racism across the education system within Scotland. Scottish Government should ensure that there is a national policy on racist incident reporting to ensure that there is consistent policies on prevention, action, monitoring, assessment, evaluation, staff training and enforcement to effectively challenge institutional racism and support minority ethnic children in Scotland's educational establishments.

Employment

Despite the better (on average) educational attainment (at school), and their subsequent higher participation rate in higher or further education, non-white groups aged 25-49 have a significantly lower employment rate (55.2%) than their white counterparts (72%), and a higher unemployment rate (7.9% compared to 5.5%). Despite common mythology, the self-employment rate for white and non-white groups aged 16/24 and 25/49 are not significantly different (1.6% and 1.3% for 16/24, and 8.9% vs 9.6% for 24/49 year olds).^{xxiii}

Application rates to most public sector organisations seem on par with the demographic expectations, but the compounded disparity between white and non-white applicants who are shortlisted and then appointed leads to a situation where 7.1% of all white applicants for public sector posts go on to be appointed, but where only 4.4% of non-white applicants get appointed. This figure is at its starkest in larger public sector organisations – where non-white minority ethnic applicants only have a 1.1% chance of being subsequently appointed, compared to 8.1% for their white counterparts. Even within local authorities, white applicants are almost three times more likely to be successful in securing a post than non-white applicants – 6.1% compared to 2.1%.

In the summer of 2015 the Scottish Parliament's Equal Opportunities Committee began its inquiry *Removing Barriers: race, ethnicity and employment*.^{xxiv} Over a six month period the Committee received 63 written submissions from individuals, organisations, employers and leading practitioners and held a series of oral evidence sessions. Their report, published in January 2016, highlighted some of the key barriers that face ethnic minorities in the workplace and the steps that could be taken to reduce them:

“Despite forty years of legislation, training initiatives and equality policies, the world of work is not representative of Scotland’s communities and people. If Scotland is to harness its talent and avoid placing an ethnic penalty on its young people, diversity in the workplace should be valued and seen as a positive goal. Existing employment and recruitment practices must be improved otherwise we cannot confront any underlying racism and discrimination. People from ethnic minorities are all too often clustered into lower-grade jobs and denied access to the training opportunities that may help them progress into promoted posts. The Scottish Government should show leadership in tackling the deep-seated issues which our inquiry has uncovered, and commit to long-term concentrated action. Initiatives such as unconscious bias training are not the solution and can serve to mask underlying negative attitudes towards people from an ethnic minority background. There are considerable gaps in data collection which must be addressed with great urgency if the requirements of the Public Sector Equality Duty in relation to occupational segregation are to be met in 2017.”

Recommendation

Despite the gains made by some minority ethnic groups in education, this is not translated into gains in employment. The Scottish Government should consider all evidence from the Equal Opportunities Committee to implement a national strategy to address the barriers facing many minority ethnic people in accessing equal employment.

Housing

Based on the 2011 Scottish Government data we can see that the non-white minority population in Scotland are more likely to live in a household with dependent children or as students. Non-white minority ethnic communities have disadvantaged housing circumstances compared to the white ethnic population. According to the 2014 Scottish Household Survey, non-white minority ethnic communities are over-represented in private renting, but under-represented in home ownership and social housing.^{xxv}

According to the Joseph Rowntree Foundation, non-white minority ethnic households are likely to be in socially rented housing at a rate of only two-thirds the rate of white households, and are much more likely to be in private rented housing, with a rate four-and-a-half times greater than that of white households (25% vs 5.6%). While students account for a portion of this, the issue of access to social housing is of significant concern. Private renting could be an indicator of potential deprivation and vulnerability, as housing problems are more likely in this tenure and many private tenancies are short-term and do not offer long-term security. Additionally, private rent is typically twice the level of social rent, and may not be fully covered by local housing allowances. Among Gypsy/Travellers in particular, there are higher rents and electricity charges on sites compared to costs in social housing, contributing to a significantly disadvantaged socio-economic status.^{xxvi}

Third sector campaigners in Scotland have argued that greater transparency is needed surrounding the distribution and quality of social housing, and that policies should be developed and implemented to change the low proportion of minority ethnic households in social housing.^{xxvii}

Fear of racial harassment among minority ethnic communities hinders the integration of these communities, and impacts on the quality of life experienced within the home and neighbourhood. Fear and experience of racial harassment have a great impact on the housing decisions among asylum-seekers and refugees and other minority ethnic communities. In some cases, harassment drives individuals and families to other (often poorer quality) accommodation. Racist incidents in social housing remain under-reported due to unfamiliarity with the local authority and housing association's policies and procedures dealing with racial harassment.^{xxviii}

Recommendation

The Scottish Government must address the specific needs of ethnic minorities alongside their more general commitments to improve the quality, quantity and accessibility of housing in Scotland. Long term plans must be detailed in the Scottish Government's Race Equality Framework to ensure that discrimination does not continue.

Health

In 2012 the Scottish Government published "The Scottish Health Survey: Topic Report on Equality Groups" which examined annual Scottish Health Survey (SHS) data between 2008 and 2011. Those who reported their ethnic group as Pakistani were least likely to rate their health as good or very good (66%) although due to small sample sizes this was not significantly different from the national average of 76%. However, although it is not statistically significant, this does corroborate with other research which found that Pakistanis in Britain are less likely to report good health than people from other ethnic groups.

Chinese respondents were the most likely to rate their health as good or very good (91%) and this was significantly different from the national average.

White British respondents had the lowest levels of wellbeing of all ethnic groups (mean WEMWBS score of 49.8). This was significantly lower than that the scores of white other (51.2), African, Caribbean or Black (53.7) and other Asian other (53.5) ethnic groups.

People from 'other' ethnic groups (25%), Pakistani (23%) and African, Caribbean or Black groups (18%) had the highest proportion of respondents with high GHQ12 scores but none of these was significantly different from the Scottish average (15%). People from Chinese and Asian other ethnic groups had the lowest proportion of high GHQ12 scores (both 10%), again not dissimilar from the national average.^{xxix}

Mental health

In 2013 the University of Edinburgh reported that minority ethnic populations in Scotland received varying levels of support for their mental health. Their findings reported that South Asian and Chinese people in particular were often much later in entering mental health support services than other ethnicities. In most minority groups in the study those that went to hospital were significantly more likely to be treated under the Mental Health Act.

Authors noted that difficulties in diagnosing and treating mental illness among minority groups at an early stage goes some way to explaining their findings. In general a lack of awareness of support services

available and reluctance to seek medical help due to social stigma within minority groups also contributed.^{xxx}

Recommendation

As mentioned health is a key area in which more consistent and detailed data would be beneficial in terms of identifying the care needs of minority ethnic groups. There must be a more targeted approach to delivering services in a way which has an awareness of cultural sensitivities without projecting prejudice, most notably in mental health services.

Racist violence and hate crime

In 2013-2014, there were 4,807 racist incidents recorded by the police in Scotland, and 5,520 crimes recorded. The most common crimes recorded as a result were racially aggravated conduct (48%) and breach of the peace (28%). The majority of incidents occurred on the street, in a dwelling, or in a shop. Where the ethnicity was known, those with a Pakistani ethnic background were the most likely to be the victim or complainer of a racist incident recorded by the police per rate of the population, with 224 incidents per 10,000 of the population, followed by African, Caribbean, or Other Black background with 190 and Indian 104 per 10,000 of the population. The average across Scotland is 11 per 10,000 of the population. 90.4% of perpetrators were white British, with 95.3 from any white background. Where the result was known, 94.7% of incidents resulted in at least one crime being recorded, and 81.3% of perpetrators were referred to the Procurator Fiscal. This appears to be an increase, but comparison is cautioned due to issues with data collection ^{xxxi}

However, data within this report is presented with “victim” and “complainer” within the same category, which clouds the data and does not make clear which ethnic groups are most often the victims of racist incidents, as the ethnicity recorded could either be the ethnicity of the victim or the complainer/bystander. Of the hate crimes reported to the Procurator Fiscal, racist hate crime is the most common with 3,785 charges in 2014-2015, and 569 religiously-motivated hate crimes reported. There has been a decrease of 9% in charges related to racially aggravated crimes, and a decrease in charges of racially aggravated harassment and behaviour coupled with an increase in charges related to other offences with racial aggravation. In order to prove a charge of racially aggravated harassment and behaviour, two sources of evidence are required, whereas evidence from a single source is enough to prove racial aggravation when attached to another substantive charge. ^{xxxii} In Scotland, the Lord Advocate has told police that an incident must be investigated as a hate crime if it is perceived by the victim or another person to be aggravated by prejudice.

Police Scotland launched a campaign in 2015 to encourage reporting of hate crime and promote use of 3rd party reporting centres. However, only 1.2% of racist incidents were reported in 2013-2014 through a third party reporting centre, with direct reporting from the victim/complainer or police the most popular methods.

We also know that racist hate crime is under-reported in Scotland, with victims choosing not to report due to a lack of trust in the police and justice system, confusion surrounding the process, and feeling desensitised to harassment. Minority ethnic individuals wanted to see simpler reporting methods, clarity and transparency in the process, and to be kept aware of the progress of their case. There has also been concern raised about online hate speech and hate crime, and methods of reporting and recording these. As

previously mentioned, the Scottish Government has convened an independent hate crime advisory group^{xxxiii}, with membership from academics and practitioners, and its final report is awaited.

The Committee may wish to inquire about the recording of racist incidents, the process of bringing charges against perpetrators, and the ease and transparency of reporting procedures for victims, particularly considering the little Scottish-specific information that is included in the UK State Report.

Recommendation

The Scottish Government should reconsider its approach to recording and reporting data on the victims and perpetrators of racially or religiously motivated hate crimes. Consideration should also be given to the ease and transparency of the reporting procedure to ensure victims feel comfortable and confident in reporting. Police Scotland should be encouraged to work alongside communities to address hate crime.

Police complaints

Eleven individuals have died in police custody since Police Scotland was formed in 2013, including the high-profile case of Sheku Bayoh, a Scottish man originally from Sierra Leone, who was restrained and died in police custody in 2015. One of the principal police officers involved with this case has a history of violence and racism.^{xxxiv} There were significant delays from the officers involved in providing essential information to the Police Investigations and Review Commissioner, which has created difficulty in determining the cause of death. Campaigners have called for a thorough independent investigation into his death.

There is also significant concern about the under-representation of minority ethnic people in Police Scotland, with just 1% of police officers from a minority ethnic background, compared to a population which is 4% minority ethnic. Further issues regarding the recruitment, promotion, and retention of minority ethnic police officers has also been raised.

Minority ethnic communities are also concerned about the organisational culture of Police Scotland, and the presence of institutional racism. Groups have called for an external, independent review of institutional racism within Police Scotland, with minority ethnic community involvement. However, this perception stands in stark contrast to a statement made by the head of resource management for Police Scotland during a parliamentary inquiry who said, “We do not believe there is any significant institutional racism within Police Scotland – in fact, I would be astounded if there was any at all...”^{xxxv}

The Committee may wish to inquire about the Sheku Bayoh case, the perception of racism within Police Scotland, and the lack of ethnic diversity within the police.

Recommendation

The Scottish Government should consider commissioning an independent review of institutional racism in Police Scotland. Furthermore, the Scottish Government should report on the complaints of racial discrimination made to the Police Investigations and Review Commissioner, as well as the outcome of these reports.

Political participation

In the 2015 General Election, only one non-white minority ethnic MP was elected, accounting for 1.7% of Scottish MPs. In total, ten minority ethnic candidates stood for election, or 3.3% of the total.^{xxxvi} In the 2011 Scottish Parliamentary Election, 16 minority ethnic candidates stood, accounting for 3.9%, although all but one party stood less than 4% (the percentage of minority ethnic individuals in Scotland). Only two were elected, or 1.6% of the total number of MSPs, as the candidates standing were often not placed in so-called winnable seats, or were placed low on regional lists.^{xxxvii}

In the 2012 Scottish Local Elections, only 1.4% of elected councillors were from a minority ethnic background, and only seven of the 32 local councils have at least one minority ethnic councillor. The number of female minority ethnic councillors increased from zero in the last election to four, or 0.3% of all councillors.^{xxxviii} There has never been a female minority ethnic MSP.

None of the Scottish political parties monitors the ethnicity of their membership, making it difficult to determine if there is discrimination in the selection process for candidates. One party claimed that the information was, “deemed unimportant to the functioning of the party.”

There has been a concerning lack of diversity in the candidate pool for 2016 Scottish Parliamentary Election, with several parties not standing any minority ethnic candidates. The Equality Act 2010 allows for the reservation of places for those of different racial groups on their short lists for candidates, but no party did so for the 2016 election. The Women 50:50 campaign has called for equal representation for women in elected bodies, and this call has been (rightly) generally well received, but the same enthusiasm has not been generated for ethnic minority representation.

Recommendation

Scottish political parties should take legal positive action to increase the representation of minority ethnic communities in elected offices. Consideration should also be given to setting ethnicity targets and quotas for candidates in Scottish Parliament and local elections.

Criminal Justice

The controversial practice of non-statutory stop and search for adults and children has been banned by the Scottish Government, to be replaced with a new statutory code of practice.^{xxxix}

The most recent prison statistics show that the proportion of people from minority ethnic groups in prison is higher than the overall population. In 2011-2012, minority ethnic individual constituted 3.9% of the prison population, against 3.2% of the general population. The most recent survey of prisoners revealed that 31% of minority ethnic prisoners experience racial discrimination from other prisoners, and 22% are bullied, with 68% of these due to their race and 62% due to their nationality.^{xl}

Studies regarding access to justice for minority ethnic individuals are outdated, but a 2011 survey of the Public Defence Solicitors’ office shows that 9% of respondents were from a minority ethnic background, compared to 4% of the population. Data from a 2004 survey stated that 36% of minority ethnic respondents experienced civil law problems, which was significantly higher than the average.^{xli} Where

ethnicity was known, 5% of community service orders made in 2011 related to minority ethnic offenders, which is slightly higher than 4% of the population.^{xlii}

While not particular to race, the Scottish Government's decision to cut the legal aid budget by £10 million is likely to limit access to the justice system for those with a low income, which will disproportionately affect those from a minority ethnic background.^{xliii}

Information comparing prosecution rates for white and minority ethnic individuals was not available. The Committee may wish to inquire further about this lack of data.

Human trafficking

An area of concern in the last review was human trafficking in Scotland and lack of legislation or a comprehensive strategy to address the issue. The Human Trafficking and Exploitation (Scotland) Act 2015^{xliiv} which created a single human trafficking offence, guarantees support and protection for victims, and requires Scottish Ministers to develop an anti-human trafficking strategy, which has not yet been published.

Recommendation

The Scottish Government should ensure more robust data collection and monitoring of the criminal justice system, particularly in reference to the access to justice, prosecution rates, and representation in the prison population.

The CERD Committee may also wish to ask when the Scottish Government's Human Trafficking strategy will be published, and how the new legislation will result in a rise in human trafficking convictions in Scotland.

Article 6

As with the last report, there continues to be confusion and concern about the separation of duties between the Scottish Human Rights Commission (SHRC) and the Equality and Human Rights Commission (EHRC) in Scotland. While human rights issues relating to devolved areas (e.g. criminal justice, health, housing, education) are within the remit of the SHRC, it does not have the power to support individuals in claims or legal proceedings. This limits the ability of minority ethnic individuals in Scotland to exercise and advocate their human rights. There is also a marked lack of NGOs dedicated solely to human rights in Scotland, with organisations such as Amnesty International limited in its remit and focused on wider issues.^{xlv} The SHRC does not fund organisations, and a lack of financial support has caused some human rights NGOs to dissolve. This may lead to complacency surrounding human rights in Scotland. The Committee may wish to inquire about the relationship between the SHRC and the EHRC, and the lack of human rights focussed NGOs in Scotland.

Recommendation

Consideration should be given to the remits of the Equality and Human Rights Commission in Scotland and the Scottish Human Rights Commission, particularly in terms of consideration of the powers of each, especially in relation to devolved areas and the support of individuals in claims or legal proceedings.

Conclusion

CRER would like to acknowledge the areas of legislation in which the Scottish Government has shown a clear commitment to improve equality and reduce racial discrimination. The Race Equality Framework is a clear example that the Scottish Government looks to implement a long term strategy to overcome racial discrimination. However there are areas in which CERD must address Scottish policy making as per our recommendations as stated above.

We fully support the wider UK NGOs submission as coordinated by the Runnymede Trust, but we would also welcome further dialogue with the Committee in understanding the complexities of devolution and the unique responsibilities of the Scottish Government.

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