

Joint Submission by the

Coalition for Racial Equality and Rights

and:

**Migrants' Rights Scotland
Black Leadership Network**

to the Council of Europe Advisory Committee on the

**Framework Convention for the
Protection of National Minorities**

with regard to the

UK Government's Third Report
as submitted in March 2010

For further information, please contact



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Foreword

We welcome the opportunity to provide some commentary on the UK report and we hope our submission will be of value to the Advisory Committee.

This brief report is a compilation of the views from a number of Scottish and Scotland-based NGOs working in the field of racial equality and human rights. As a compilation, the views contained in this report do not necessarily reflect the position of each and every individual organisation, but the report should be seen as an overview of some of the concerns of black / minority ethnic communities in Scotland.

As the Advisory Committee will be aware, the black / minority ethnic population in Scotland is distinctive within the UK in its size, composition, migration and settlement patterns. Data from the 2001 Census indicates that the black / minority ethnic population is about 2 per cent, but this is likely to be a large underestimate of the position in 2011. The communities are concentrated in the four main cities (Glasgow, Edinburgh, Dundee and Aberdeen) but are also dispersed across Scotland, including remote parts of the Highlands and Islands.

Our involvement in issues relating to gypsy/traveller communities and matters relating to Gaelic and Scots languages is limited, and we have made no comment on these issues at this time. We urge the Advisory Committee to have separate dialogue with organisations better placed to speak on these issues.

Additionally, we have kept most of our commentary in this report to those areas that are devolved to Scotland. Although we have said little about wider UK issues, and have not addressed every policy area devolved to Scotland, this should not be taken to imply that we do not have concerns about racism in these other arenas.

Due to pressure on time and financial resources, it has not been possible to involve the range of organisations that we would have wanted to in this process. Indeed, although the UK submission states that it sent out copies of its draft report to a wide range of non-governmental organisations, of the dozen or so NGOs we have spoken to, only one had received the draft from the UK Government. Moreover, prior to the announcement of the Committee's visit to the UK, there has been no communication to us from the Scottish Government and Scottish-based NHRIs on FCNM. Far more needs to be done by all these institutions in terms of including NGOs in this process, and we look forward to working with the Scottish Government, the GB EHRC and the SHRC on delivering the 'Opinion' and 'Resolution' as well as participating in monitoring the implementation of the FCNM.

General Issues

As stated above, this will be a brief written submission. However, we look forward to meeting the Advisory Committee members in person and having a face-to-face dialogue where we hope we can explore some of the issues at greater depth.

We note that the UK submission is a coordinated report from the UK Government, and we understand the reasoning for this – that compliance with international human rights treaties is a reserved matter for the UK Government. However, given that many of the issues raised in the report are the responsibility of the Scottish Government and/or the Scottish Parliament, we do not feel that the FCNM has been treated as seriously as it should have been, especially as it relates to devolution.¹ For example, there are issues covered in the UK report that apply to England or England & Wales only, but this is not always made clear in the report (for instance, paragraphs 4 and 10 in the introduction do not apply to Scotland). Additionally, there is great inconsistency in reporting on developments in each of the devolved administrations. For example, the report on employment merits eight clauses and three pages for England, but just two clauses and less than half a page for Scotland, and there is no specific reference to Scotland under the ‘tackling hate crime’ heading, nor any specific Scottish reference to tackling extremism. Similarly, whilst detailed data is given for educational attainment in England and also for Wales, no such data is provided for Scotland.

A much more robust system of reporting, especially as it relates to devolved administrations needs to be identified before the next UK report is submitted. Unless the UK Government provides robust and accurate information, the Advisory Committee may form opinions that fail to take account of devolved issues or make recommendations that apply to just one part of the UK.

The introductory paragraphs relating to Scotland refer mainly to the National Race Equality Statement that was published in December 2008. This stated that it outlined the Scottish Government’s priorities for race equality over 2008-2011. As we are approaching the end of this period, the Advisory Committee will want to ask for an update on the commitments given in the Statement. Indeed, one commitment was that there would be a report on progress by November 2010, although none of the people we have spoken to is aware of any such update. Other specific issues (as contained in the Statement) that the Committee may wish an update on include:

- Plans (if any) for the post 2011 period;
- How the work of the strategic partners will be monitored? (The Statement states that ‘our strategic partners in the voluntary sector have particular responsibilities to deliver on many of the themes of this Statement through the funding agreements we have negotiated with them.’);

¹ Schedule 5 of The Scotland Act 1998 states what matters are reserved to the Westminster Parliament thereby permitting devolved powers to the Scottish Parliament and Scottish Executive to be, theoretically, anything else.

- Developments on the One Scotland Campaign since November 2009, and an idea of future plans for this campaign;
- The development of a leadership / business network for minority ethnic women, and on the establishment of a national network of minority ethnic women;
- The initiative to set targets to boost black / minority ethnic employment. We are aware that the plans to undertake a booster sample for the labour force survey have been dropped, but it will be useful to know what alternative plans exist to get better data on ethnicity and employment in Scotland;
- The specific commitment to establish a national panel to assist the Government's thinking on dealing with race issues.

Generally, we are concerned about the attention given by the public sector in Scotland on compliance with equality and human rights law. A forthcoming report by 4 NGOs on the implementation of Section 6 of the Human Rights Act 1998 confirms a trend, evidenced in 2006, that there is “... *an absence of action plans to implement human rights in Scotland which makes the process of monitoring, evaluation and accountability very difficult.*” This report will be published on 28th February 2011 and we will refer to it in more detail when we meet the Committee.

Article 4:

The Equality Act 2010 has brought together all the many separate pieces of equality law that have been developed in the UK over the past forty years, and although some aspects of the new law are to be welcomed, black / minority ethnic communities continue to express concerns that the focus on racial equality (as provided by the Race Relation Act 1976 and in particular by the Race Relations (Amendment) Act 2000 has been lost. We note that the Scottish Government shares these concerns, but we are not fully aware of the actions they have taken to enact the commitment they gave in their Race Equality Statement that ‘over the next three years we will work to ensure that race equality is properly placed within this broader framework (of single equality) without losing focus or diminishing our effectiveness in bringing about change and improvement.’²

Indeed, the recent Scottish Government proposals to replace the Public Sector Race Equality Duty (and the gender and disability duties) by the new generic specific duties are of great concern, in that they will now allow for public bodies to set outcomes for only some characteristics (so, for example, a public body need not set race equality outcomes), there will be no requirement to publish equality impact assessments, and there will no longer be a requirement to implement ethnic monitoring for job applicants.

The information on Employment in Scotland (p26 of the UK submission) does not provide the Advisory Committee with any useful information. No actual data is provided, unlike the section for England. This is surprising, as some data is available in the National Race Equality Statement (for example, ‘in 2005 adults from minority ethnic groups have a markedly lower employment rate (58%) than those from white ethnic groups (78%); a difference of 17 percentage points.’).

² Scottish Government Race Equality Statement, 2008

Whilst some of the gap could be down to ‘supply side’ issues (and call for more capacity building and training for minority ethnic communities), a greater explanation could be on the ‘demand side’ – i.e. racial discrimination by employers. 26% of people interviewed in a Central Scotland REC needs analysis on specific needs and aspirations of people living in Falkirk felt they couldn’t find jobs due to discrimination by employers.

Additionally, the recent UK Government ‘sting’ operation targeting hundreds of employers across Britain (including in Glasgow) uncovered widespread racial discrimination against workers with African and Asian names. ‘Researchers sent nearly 3,000 job applications under false identities in an attempt to discover if employers were discriminating against jobseekers with foreign names. Every false applicant had British education and work histories. They found that an applicant who appeared to be white would send nine applications before receiving a positive response of either an invitation to an interview or an encouraging telephone call. Minority candidates with the same qualifications and experience had to send 16 applications before receiving a similar response’.³

The Statement refers to a strategic group on ethnic minorities and the labour market, and goes on to state that ‘many of the recommended actions identified by the strategic groups have already been either implemented or over taken by other developments. Others have been included (in the statement) for priority action. The UK report refers to the Scottish Government funded project within Glasgow Works which aims to ‘formulate and implement a strategy for engaging and progressing more ethnic minorities in the labour market.’ Further, it states that ‘the project is due for completion in March 2010 and the lessons learned from this work will inform policy changes as necessary.’ An update on progress on recommendations from the strategic group and an outline of the lessons learned from Glasgow Works needs to be requested.

Similarly, little specific data is given on ethnicity and health issues for Scotland. There is no mention of health in the National Race Equality Statement. The final report of the (now disbanded) National Resource Centre for Ethnic Minority Health⁴ concluded that progress has been continuously limited at local level by the absence of the building blocks that are needed at a national level. It recommended that ‘commitment is needed at the most senior level to make sure that these building blocks are now delivered – particularly around the training and ethnic monitoring agendas’. The building blocks were identified as Conceptualisation of equality and race equality, Leadership, Performance management, Data/information/research, Training and Partnership working and engagement with BME communities, and the Advisory Committee may wish to seek an update on progress on all these issues.

On broader issues, looking at poverty, all minority ethnic groups in Scotland appear to be disadvantaged on one or more indicators of poverty. In, ‘Analysis of income-based (ten-year pooled Households Below Average Income) datasets, for example, revealed that Pakistanis/Bangladeshis and black households in Scotland had higher rates of

³ <http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep607.pdf>

⁴ Available at http://www.healthscotland.com/uploads/documents/11260-NRCEMH_FinalReport.pdf

poverty than other ethnic groups'.⁵ More specifically, "Language barriers, lack of recognition of overseas qualifications, prejudice, discrimination and legal status made it difficult for East Europeans and Chinese (in Fife and the Highlands) to access appropriate employment or training and development. In particular, the legal status of some Chinese women (asylum seekers/recently granted refugee status) impacted on their ability to access employment and other state support, making them dependent on other members of their community. Inter-ethnic differences and resentments could arise, based on possible misperceptions. Participants considered language provision in Highland to be insufficient and inflexible. While lack of affordable childcare was an issue for all single parent mothers with school-age children, it was most acute for Chinese women with little English and lacking family or social support structures locally."⁶

Article 5:

Mention is made of the £9 million of funding provided to organisations for tackling racist attitudes and improving the lives of minority ethnic and faith communities in Scotland. However, no detail is given as to the criteria used to determine how this funding was distributed, nor of how the Government intends to evaluate the outcomes of the activities undertaken.

Much of the funding allocated for community groups defines communities as people living within an identifiable geographic area. As ethnic minority communities tend to be spread out geographically and are united by common interests in Scotland, they are often given reduced amounts of money or refused funding altogether as they do not have a large enough concentration in any one area. Even in cases where there is a greater concentration in one area, only allowing people in that area to access the service when there is no other alternative service available would be unfair. Ethnic minority voluntary organisations have been ineligible from applying for important funding as they offer a city-wide service and are not "local". Additionally, ethnic minority community-led organisations do not have the capacity to compete with large mainstream voluntary organisations for funding and remain under resourced. The most important instance of this occurring is the Fairer Scotland Fund (FSF), Scottish Government funds which were distributed to local Community Planning Partnerships (CPPs) to regenerate disadvantaged communities, tackle poverty by helping vulnerable people and groups and overcome barriers to employment. The Fund distributed £145m per year between 2008/09 and 2010/11. The review of the FSF conducted in 2009 stated "There are few examples of engagement with people from equalities groups in the development of FSF plans andthere has been no thematic approach to equalities⁷." (A notable exception being Glasgow where CRER is funded via FSF funds!)

⁵ From "Poverty and ethnicity in Scotland: review of the literature and datasets"
(<http://www.jrf.org.uk/publications/review-poverty-and-ethnicity-scotland>)

⁶ From the "Community Consultation on poverty and ethnicity in Scotland"
(<http://www.jrf.org.uk/publications/community-consultation-poverty-and-ethnicity-scotland>)

⁷ Paragraph 8.13 – "Research to assess the development and implementation of the Fairer Scotland Fund and to provide a detailed picture of the continued support needs of Community Planning

It is important to note that this situation has arisen despite the fact that there is a specific duty on those responsible for delivery of community planning, e.g. local authorities, health boards “*to discharge those functions in a manner which encourages equal opportunities and, in particular, the observance of the equal opportunity requirements.*” (Local Government in Scotland Act 2003)

Whilst the Scottish Government’s dedicated equality budget has been protected for 2011/12, black / minority ethnic communities continue to be extremely concerned about the on-going funding cuts – for example, a number of minority ethnic community organisations have lost all their funding in recent years. Specific examples are the Scottish Asian Action Committee, the Ethnic Minorities Enterprise Centre and the San Jai Chinese project in Glasgow. Others are facing severe cuts. For example, the Scottish Refugee Council is to face a 62% reduction in funds for its One Stop Service which is currently funded by the UK Government.

The implications of the announced massive reduction in funding for the Equality and Human Rights Commission also needs to be investigated in respect of how it will impact on its equality work and delivery of its human rights obligations in Scotland.

Article 6:

The Scottish Government’s ‘One Scotland Campaign’ is referred to as the main tool being used to promote community cohesion and integration in Scotland. As mentioned above, although the campaign has been running since 2002, it is unclear what (if any) the future plans for the campaign are. Moreover, Rock against Racism events were held in 2009; however, we are not aware of any events in 2010 or in 2011; the dedicated website www.rockagainstracism.info does not hold any information about purportedly ongoing activities.

We are aware of some of the evaluations that have been carried out on the campaign, although it is unclear if the assertion by Sutton that ‘there is currently no definitive evidence of what works in prejudice and discrimination reduction’ has been addressed.⁸

The latest data on the monitoring of racist crime in Scotland given in the report relates to the period 2006/7. However, more recent figures, revealed in a FOI request to Scotland’s eight police forces, have shown that incidents of racism recorded in 2009/10 have increased by 20.4% from those recorded in 2008/9. This increase is considerably higher than the 13% increase recorded over the previous five years.⁹ Similarly, in a FOI request by the ‘Courier’ newspaper found that in Fife a total of

Partnerships in tackling poverty and deprivation under an outcome based framework.” **Andrew Fyfe, Katy MacMillan, Tara McGregor and Steven Reid ODS Consulting** November 2009.

(Web only publication) <http://www.scotland.gov.uk/Publications/2009/11/05142307/0>

⁸ ‘Getting the message across: using media to reduce racial prejudice and discrimination’ Sutton et al DCLG, 2007

⁹ <http://news.stv.tv/scotland/227562-racism-on-the-increase-in-scotland/> (11 Feb 2011).

196 charges of racially aggravated conduct were recorded between 1 Jan 2009 and 12 Nov 2009.¹⁰

This data will probably not reflect three recent murders of minority ethnic people in Scotland, where race has been cited by at least one party as a motive – Kunal Mohanty, murdered in Glasgow in an unprovoked racist knife attack, Nachhatar Singh Bola, kicked to death in Renfrew (the racial aggravation charge was dropped by the Crown during the court proceedings) and Simon San, whose family believe the attack to be racially motivated).

Furthermore, in the Report on the Scottish Parliament's Equal Opportunities Committee's Inquiry on Migration and Trafficking in Scotland (published 14 Dec 2010)¹¹, the Committee highlighted the persistence of very negative public perceptions of migrants in Scotland as an overarching issue. These include several negative myths about migrants that have come to be widely accepted as facts even though they are not based on evidence, as well as a general lack of knowledge about the diversity of ethnic minority groups and migrant populations living in Scotland. The Committee thus recommends that "the Scottish Government should outline its intentions with regard to a programme of public advertising as a means of improving education on migration", and states that despite the current financial constraints, "is a serious issue which needs to be addressed if there is to be improved understanding and integration" (para. 134). We are not aware of any substantial progress in this regard.

In relation to the commentary on the Police Complaints Commissioner for Scotland, the Advisory Committee may also be interested in the recent criticism the Commissioner has made of Lothian and Borders Police, who 'failed to help a takeaway boss and staff under siege from a racist gang for 90 minutes. Jing Guo made 10 emergency calls as 20 men armed with baseball bats, snooker cues and golf clubs threw bottles, hurled racist abuse and yelled they "wanted blood". He was repeatedly told "someone was on their way" but nobody came to help him, his wife and two workers locked in the shop. In the final call, he said he was told: "I am aware of your situation. Don't call again."¹²

Article 12:

Again, no data is given on education attainment in Scotland, (but is given for Wales and England) and this despite some data again being given in the national Race Equality Statement. Whilst most ethnic minority groups are doing at least as well as their white counterparts in secondary education, the position as people move to further and higher education is unclear. There is evidence of under-representation in higher education, and the problem is compounded by subject segregation (e.g.

¹⁰ <http://www.thecourier.co.uk/News/Fife/article/10578/courier-investigation-uncovers-troubling-rates-of-racism-in-fife.html> (8 Feb 2011).

¹¹ <http://www.scottish.parliament.uk/s3/committees/equal/reports-10/eor10-05-00.htm> (14 Dec 2010).

¹² <http://www.dailyrecord.co.uk/news/scottish-news/2011/02/14/why-did-police-ignore-my-ten-999-calls-86908-22922516/>

available data shows that the majority of black / minority ethnic students are enrolled in just three subject areas).

Article 15:

In order to create a truly cohesive and integrated society, people from all communities need to play an equal role in the decision-making structures that govern all aspects of our lives. Whilst the UK report refers to a number of programmes aimed at boosting the numbers of black / minority ethnic people participating in public affairs, many of these are not applicable or operational in Scotland.

Conversely, it could be argued that the democratic deficit in Scotland is greater than that in England. For example, “Inclusive Democracy”, a report recently published by CEMVO Scotland¹³, highlights the underrepresentation of ethnic minority groups in Scotland in all democratic bodies: currently, “Scotland has no ethnic minority MEPs, one MP, no MSPs, and 10 councillors, all of which are below the EM population level.” The report goes on stating in its findings that “the under-representation of ethnic minority people in the democratic bodies act as a barrier to participation, both by giving a visual indication that ethnic minority people do not ‘belong’ in the body; and by making it difficult for ethnic minority people who are elected and subsequently stand out. In addition there is a feeling that ethnic minority representatives are held to different and more exacting standards than other representatives.”

Conclusion

We hope that the above brief comments will be of assistance to the Advisory Committee. We would be happy to provide any additional information that the Committee may require and we look forward to meeting with you on 8th March 2011.

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(with assistance from
Hyo-Eun Shin, Pat Elsmie, Umbreen Khalid,
Carole Ewart and Priscilla Maramba)

¹³ <http://www.cemvoscotland.org.uk/cemvosfiles/publications/idp.pdf>.