

Violence against Minority Women in the United Kingdom

A Report to the Committee on the Elimination of Racial Discrimination

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1. Preliminary Observations

The submission of information on violence against women to the Committee on the Elimination of Racial Discrimination forms part of the World Organisation Against Torture's (OMCT) programme on violence against women. One of the aims of this programme is to integrate a gender perspective into the work of the five "mainstream" United Nations human rights treaty-monitoring bodies and, to this end, this report will focus on women from ethnic minorities in the United Kingdom and their particular vulnerability to violence.

The need to integrate the human rights of women into the work of the human rights treaty bodies was stressed at the 1993 Vienna World Conference on Human Rights¹ and reiterated in the Beijing Platform for Action adopted in 1995 by the Fourth World Conference on Women.² The Beijing Platform for Action states that women belonging to minority groups and women in situations of armed conflict are especially vulnerable to violence and highlights the fact that women from racial or ethnic minorities often face multiple forms of discrimination.³

At its 56th Session in March 2000, the Committee on the Elimination of Racial Discrimination adopted General Recommendation 25 concerning the gender-related dimensions of racial discrimination.⁴ The General Recommendation draws attention to the fact that women and men are not always affected equally or in the same way by racial discrimination and notes that "certain forms of racial discrimination may be directed towards women specifically because of their gender." The General Recommendation and the Reporting Guidelines issued by the Committee on the Elimination of Racial Discrimination call upon States to provide specific information and disaggregated statistical data concerning the gender-related dimensions of racial discrimination.

The Final Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance notes that victims of racism, racial discrimination and xenophobia "can suffer multiple or aggravated forms of discrimination based on other related grounds such as sex..." and that "...racism, racial discrimination, xenophobia and related intolerance reveal themselves in a differentiated manner for women and girls, and can be among the factors leading to a deterioration

in their living conditions, poverty, violence, multiple forms of discrimination, and the limitation or denial of their human rights.” The World Conference recognized “the need to integrate a gender perspective into relevant policies, strategies and programmes of action against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination” as well as the need to “develop a more systematic and consistent approach to evaluating and monitoring racial discrimination against women.”⁵

1.1 Applicable International, Regional, and National Law

The United Kingdom ratified the Convention on the Elimination of All Forms of Racial Discrimination on March 7, 1969. However, the United Kingdom has not recognized the competence of the Committee on the Elimination of Racial Discrimination to hear individual complaints under Article 14 of the Convention. In addition, the United Kingdom has ratified the following international human rights treaties: the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). The United Kingdom has not ratified the first Optional Protocol to the ICCPR but has ratified the second Optional Protocol to that treaty. Furthermore, the United Kingdom has not ratified the Optional Protocol to CEDAW and has signed but not ratified the two Optional Protocols to the CRC. Finally, the United Kingdom has signed but not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the UN Convention against Transnational Organized Crime.

The treaty establishing the European Communities, to which the United Kingdom is a party, provides in Article 13 that the European Council may, in coordination with the Commission and the Parliament, take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. As a result, Council Directive 2000/43/EC addresses the implementation in Member States of the principles of equal treatment between persons irrespective of racial or ethnic origin and specifically recognizes the need to “promote equality between

men and women, especially since women are often the victims of multiple discrimination.”⁶ Additionally, the United Kingdom is party to the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, which entered into force on September 3, 1953.

At the national level, the United Kingdom has developed legislation to combat discrimination based on race and sex, such as the Race Relations Act 1976 (amended in 2000), the Race Relations (Northern Ireland) Order 1997, the Fair Employment Act 1976 (amended in 1989), the Fair Employment and Treatment (Northern Ireland) Order 1998, the Sex Discrimination Act 1975 and the Sex Discrimination (Northern Ireland) Order 1976. The Race Relations Act 1976 covers discrimination in a broad variety of fields and it established the Commission for Racial Equality (CRE).⁷ The CRE is under a duty to work towards the elimination of racial discrimination, promote equal opportunity and good relations between people from different races and monitor the working of the Race Relations Act, proposing amendments when necessary.⁸

The government of the United Kingdom, in 1997, appointed two Ministers for Women, who are supported by a Women’s Unit, which functions to promote women’s rights.⁹

1.2 Race, gender and violence

OMCT notes that in its Concluding Observations, the Committee on the Elimination of Discrimination Against Women expressed concern at discrimination against ethnic minority women in the United Kingdom and urged the United Kingdom to take measures to address both direct and indirect discrimination against this marginalized group.¹⁰ OMCT regrets that the United Kingdom does not address the gender-related dimensions of racial discrimination nor does it discuss the connection between racial discrimination, torture and other forms of ill treatment in its combined sixteenth and seventeenth report to the Committee on the Elimination of Racial Discrimination (UN Doc. CERD/C/430/Add.3).

For this reason, and as part of the goal of gender integration described in the introduction to this report, OMCT’s women’s programme has chosen to focus on the linkage between violence against women in the United

Kingdom and racial discrimination. The report begins with a general overview of the situation in relation to violence and racial discrimination in the United Kingdom and then specifically addresses violence against minority women. The report concludes with a series of recommendations for future action.

2. General Observations on Racial Discrimination in the United Kingdom

Although the law in the United Kingdom is extensive in prohibiting racial discrimination, discrimination on the basis of race and ethnic origin persists. In the 2001 census, the categories of ethnic groups included: White (British, Irish, or any other White background), Mixed (White and Black Caribbean, White and Black African, White and Asian, or Any other Mixed Background), Asian and Asian British (Indian, Pakistani, Bangladeshi, and Any other Asian Background), Black or Black British (Caribbean, African, or Any other Black Background), and Chinese or other ethnic group. According to the census, 7.9% of people identified themselves as belonging to categories other than White and of that percentage, 50.2% were from South Asia, 24.8% categorized themselves as Black or Black British, and 5.3% identified themselves as Chinese.¹¹ The census did not distinguish between asylum and non-asylum seekers and OMCT notes that persons applying for asylum in the United Kingdom also face particular obstacles because of their minority status.

The existence of several different minority ethnic groups in the UK prevent broad generalizations concerning discrimination experienced by minorities,¹² but nevertheless, each minority group appears to suffer from certain disadvantages. For example, in employment, in 2001, 5% of White men were unemployed while minority men were unemployed at higher rates: Black African (13%), Black Caribbean (9%), Indian (7%), Pakistani (16%), and Bangladeshi (20%).¹³ Employment of minority women varies greatly between ethnic groups with Black African and Black Caribbean women displaying high levels of employment, while Pakistani and Bangladeshi women are less active in the labour market.¹⁴ Additionally, evidence suggests that Black, Bangladeshi and Pakistani students display declining levels of school achievement as their education progresses,

despite entering school with the same capacities as their fellow students.¹⁵ People from minority groups also generally live in more deprived areas of the United Kingdom, in particular more than 50% of Pakistani and Bangladeshi households reside in the bottom 10% of deprived areas and over 33% of Black Caribbean households live in these areas. Ethnic minorities are also more likely to be homeless, with 49% of homeless people in London being people from ethnic minorities between June and September 2000.¹⁶

Health is another serious area of concern regarding discrimination against ethnic minorities. Strong links between poverty and poor health mean that people from ethnic minorities have greater obstacles accessing health services and receiving treatment.¹⁷

With regard to policing, Black people are eight times more likely to be stopped and searched than White people and Black people are four times more likely than White people to be arrested for a notifiable offense.¹⁸ Along these lines, an opinion poll showed that a third of people thought police officers discriminated on racial grounds and 18% of Black and 15% of Asian persons claimed that they had experienced racism in their dealings with the police or the criminal justice system.¹⁹ Furthermore, people from ethnic minorities are more concerned about being victims of crime than White people. Specifically, Black and Asian people reported being twice as worried about being physically attacked and three times as worried about being insulted or harassed.²⁰

Discrimination also exists against asylum seekers, often justified by politicians, such as the Home Secretary, who has characterized asylum seekers as “flooding” the United Kingdom.²¹ Although immigration laws purport to apply the anti-discrimination principle, it is permissible for immigration officials to discriminate on the basis of nationality or ethnic or national origin when it is authorized by a Minister. Although discrimination on the basis of nationality is necessary in immigration law to differentiate between nationals and non-nationals of the concerned State, the allowance of discrimination on the basis of ethnic and national origin as well presents an overly broad provision which has been characterized as racial discrimination.²² One example of how this provision can be used inappropriately is demonstrated in a Ministerial authorization which allowed discrimination in immigration decisions with regard to certain enumerated

ethnic and national groups, which included Tamils, Kurds, Greeks, Roma, Somalis, Albanians, Afghans, and ethnic Chinese presenting a Japanese or Malaysian passport.²³ This authorization was challenged as legitimizing racial discrimination and days before the case was to be heard in court, the authorization was revoked by the Home Office.²⁴

Between April 2001 and March 2002, reports of racially motivated crimes rose by 20%, with 3,728 cases of racially aggravated crimes being submitted by the police to the Criminal Prosecution Service. Of those cases, 72% were prosecuted and of the cases that were prosecuted, 80% led to a conviction.²⁵ One report indicates that children who belong to ethnic minorities are more likely to be the victims of violence and bullying than white children and that most perpetrators of racially motivated violence are children and young people.²⁶ Additionally, there have been several reports of racially motivated attacks against asylum seekers.²⁷

3. Violence Against Minority Women in the Family

3.1 Domestic Violence

Although some research has found that women from ethnic minorities are not more likely to be victims of domestic violence, there are potential differences in how women from ethnic minorities respond to such violence – e.g., whether they seek help from the police, community, etc., and how they are treated by persons offering services and protection for domestic violence victims. For example, one study revealed that half of Asian, African Caribbean and Arab women involved in the study waited up to five years before seeking help for domestic violence.²⁸

With respect to Asian women in particular, domestic violence is severely under-reported.²⁹ Additionally, it has been reported that Asian women are more likely to suffer abuse by multiple family members in the home, not just their husbands. One specialist shelter for minority women has indicated that about half of the clients referred to them were fleeing family abuse, as opposed to those fleeing from abuse inflicted by partners or husbands.³⁰ It is important to recognize that some of the most violent behavior towards women on the part of family members is committed by other women, in particular by mothers-in-law.³¹

Another report indicates that many Asian women commit, or attempt to commit, suicide rather than seek help when they are victims of domestic violence. Indeed, studies have indicated that young women from Bangladesh, Pakistan, India and East Africa, both those born in the UK and outside the UK, commit suicide at higher rates than the general population.³² Some of the reasons given by survivors for attempting suicide or committing self harm include: sexual and physical abuse, domestic violence, immigration issues, forced marriages, and racism.³³

Minority women may face discrimination or other obstacles in accessing support services when they are victims of domestic violence. First, stereotypes of minority communities serve to normalize the violence (e.g., the notion that Irish violence in the family stems from alcohol abuse) or disbelieve the victim (e.g., the notion that violence does not exist in the supportive networks of South Asian or Jewish communities), among other deleterious effects.³⁴

Additionally, some service providers, exhibit direct racial discrimination when handling cases of domestic violence. This discrimination sometimes manifests itself through a focus on other criminal infractions instead of ensuring protection for the victim. For example, immigrant women report that sometimes their uncertain immigration status seems more important to the police than protection from violence.³⁵ Similarly, according to one account, the police responded to an African-Caribbean woman who requested intervention from the police to protect her from domestic violence by checking the criminal record of the perpetrator.³⁶

The opposite phenomenon is also problematic, where service providers and government officials refuse to denounce violence against women in certain communities for fear of appearing racist.³⁷ One service provider has said “The fear of racism, the fear of seeming racist, actually makes ... [services] respond in favor of abuse rather than looking at the women’s situation and is she safe to go back.”³⁸ This non-intervention is sometimes characterized as “respect” for culture, but it has the effect of silencing this crime even more than is already the case.

Women from minority communities may also be hesitant to contact the police out of anticipation of racist attitudes.³⁹ For example, given that, as mentioned above, Black people are more likely to be stopped and arrested by the police than White people, Black women may not see the police as

offering a place of safety. In a related manner, women from communities that have traditionally been discriminated against may be reluctant to report domestic violence to the police for fear of reinforcing negative attitudes towards their community.⁴⁰

Lack of English-speaking ability is another difficulty for some ethnic minority women, including immigrant women, in escaping violent home environments. They are unable to read information about services available to them, such as shelters and hotlines. Interpreters are also rarely present at police stations and hospitals to assist women in making complaints and receiving medical help.⁴¹ Furthermore, sometimes a husband or other family member acts as interpreter but, in fact, misrepresents the situation by, for example, asserting that the injuries that the woman has sustained were the result of an accident.⁴² Thus, where an interpreter is needed, it is important to ensure that victim is comfortable telling her story to that person and that that person has no conflict of interest. The interpreter needs to be a professional, preferably, a woman, and ideally the interpreter should not be a family member.

Immigrant women victims of domestic violence face particular obstacles in accessing services. First, as mentioned above, for women who do not speak English adequately, language will be a serious concern. Also, women with insecure immigration status often have no recourse to public funds. Unfortunately, because of a lack of resources, many shelters must ask the women who board there for rent and immigrant women are often turned away because they have no way to pay the necessary fees.⁴³

Women who arrive in the United Kingdom to join their husbands are subject to a one year probationary period (soon to be raised to two years). If they leave their husband during this year, they will be deported. OMCT is pleased to note that the government has recently instituted a “domestic violence concession,” which provides that victims of domestic violence may apply for indefinite leave to remain, provided they can prove that they are a legitimate victim. Current permissible forms of proof include a criminal conviction against the husband, police caution or an injunction, or any two of the following: a police report, a letter from a general practitioner doctor, hospital doctor or social worker, an undertaking given to the Court by the abuser, or a report from a shelter caseworker. However, with the anticipated lengthening of the probationary period to two years, many

immigrant women, who are unaware of the “domestic violence concession,” are in danger of remaining in violent relationships for fear of being deported.⁴⁴

Domestic violence accounts for 25% of all violent crime in the United Kingdom⁴⁵ and incidents of domestic violence have constituted the largest increase in violent crime since 1981.⁴⁶ Statistics indicate that about 1 in 4 women will experience domestic violence in their lifetime, while 1 in 10 women will be the victim of domestic violence each year.⁴⁷ About half of all murders of women in the United Kingdom are committed by the partners of the victims (present or ex spouses, co-habitants or lovers).⁴⁸ Domestic violence is a vastly underreported crime because of the very sensitive nature of the violation. There are many shelters for domestic violence victims in the United Kingdom, but still, there are not enough to accommodate the number of victims.⁴⁹

Although the United Kingdom has initiated broad policies to combat domestic violence, it appears that there exists no specific comprehensive legislation addressing this crime.⁵⁰ In 1994, an Interdepartmental Working Party on Domestic Violence was established to coordinate a national and local response to this problem, in particular by improving victim’s services, encouraging coordination at the local level, and initiating public awareness campaigns. This Working Party was replaced in 1999 by the Interdepartmental Group on Violence Against Women and Domestic Violence. Besides these groups, the government has also commissioned studies on the prevalence of domestic violence as well as best practices for its elimination. Some police departments have set up Domestic Violence Units to specifically handle complaints of domestic violence. Furthermore, the Family Law Act 1996 provides a remedy to those who have suffered or are suffering domestic violence to apply for a “non-molestation order” (personal protection order). The Protection from Harassment Act 1997 provides both a civil and criminal remedy in applying for a restraining order. With respect to family proceedings, civil protection is limited. Besides these civil remedies, it appears that under criminal law, domestic violence in the majority of cases is treated under general ‘common’ assault provisions.

The Home Office produced a consultation paper in June 2003, which invites discussion on a wide variety of topics concerning domestic vio-

lence, including: education and awareness raising, access to information for victims, protection for victims of and witnesses to domestic violence, operation of the homicide law in relation to domestic violence, and safe accommodation and support systems available to victims. OMCT sincerely hopes that the government will give serious consideration to the results of this consultation with a view to creating comprehensive legislation to address domestic violence.

3.2 Marital Rape

Considering that minority women are subject to widespread violence in the family, marital rape is another potential form of violence. Although this crime, like violence against women generally, is seriously underreported, studies indicate that husbands and partners are the most common perpetrators of rape in the United Kingdom.⁵¹ Under the laws of the United Kingdom, marital rape is a crime.⁵²

3.3 Forced Marriages

The problem of forced marriages has also been identified as a serious concern in the United Kingdom, with as many as 200 cases being reported to the Foreign & Commonwealth Office each year and many incidences of this crime remaining unreported.⁵³ One report gives an estimate of 1000 forced marriages a year, with the observation that even with this higher estimate, many incidents are never reported.⁵⁴

Such marriages often involve abduction of a young girl as well as marrying her without her consent. In most circumstances, forced marriages involve girls from South Asia who are sent to their country of origin, supposedly for vacation or to visit relatives, and then taken to her family's home where she is informed that she is to be married. Often the girl is not allowed to leave the home or to have contact with non-family members. Additionally, if the girl has spent the majority of her life in the United Kingdom, she faces difficulties in communicating in the local language in order to protect her rights.⁵⁵ Forced marriages also occur without either of the "spouses" crossing international borders, or with the husband arriving in the United Kingdom to be married.⁵⁶ Women who are forced into marriage are often abused by their husbands and other family members.

The restrictions on the girl's freedom of movement and her potential lack of knowledge of the local language make it very difficult for her to give instructions about where she is or to contact local consular offices or local organizations that may be able to help her. Also, because of the familial nature of this crime, some girls are hesitant to offer evidence incriminating their family members, a situation that perpetuates the culture of silence surrounding several types of family violence.⁵⁷

Reports indicate that women who seek protection from forced marriages have faced a lack of action by the authorities. Police allegedly fail to take action to prevent or investigate forced marriages because of ignorance regarding the issue, gender discrimination, or the perception that the issue is a private family matter.⁵⁸ Additionally, friends and boyfriends of girls who have been sent away to be forcibly married face difficulties in obtaining assistance from the authorities.⁵⁹ The government established a Working Group on Forced Marriage in 2000⁶⁰ and there appears to have been some efforts on the part of the government to raise awareness among police officers of the problem of forced marriages.⁶¹ However, it has been observed that the government dialogue on forced marriages has mainly concerned community leaders, who are most often male and conservative, that the government has shown hesitancy in taking action and publicly denouncing the problem for fear of creating racial tensions, and that there has been an overall lack of progress on this issue.⁶²

3.4 Crimes Committed in the name of Honour

Asian women are also potential victims of crimes committed in the name of honour when they act in a way that is inconsistent with cultural norms regarding women's sexuality. One report indicates that within the last 5 years, there have been at least 20 cases of killings in the name of honour in the United Kingdom.⁶³ Crimes committed in the name of honour are committed when a woman allegedly steps out of her prescribed social role, particularly with regard to her sexuality. The concept of family honour is central among some minority communities in the United Kingdom and the consequences of this concept can be grave for the women of these communities, rising to the level of murder in some instances. One illustrative case happened when a British-born Pakistani girl was forcibly married at age 16 to an older man, and then at age 19 became pregnant by her

childhood sweetheart. When she refused to get an abortion and insisted on a divorce from her older husband, she was invited to a family dinner where she was strangled by her brother while her mother held her down.⁶⁴ This is only one of many cases where minority ethnic women have been killed in the name of honour in the United Kingdom. It is difficult for police to act on these cases as this violence is rarely reported. Also, as with forced marriages, there is allegedly some hesitation on the part of the government in addressing this because of their fear of appearing culturally insensitive.⁶⁵

It is important to note that the concept of honour is also linked to the high rate of suicide amongst South Asian women in the United Kingdom. In an effort to preserve family honour, some women will kill themselves, rather than disgrace the family by leaving a violent marital relationship.

4. Violence Against Minority Women in the Community

4.1 Rape

Minority women may also experience the violence of rape differently than women from dominant communities. Indeed, a survey of women asylum seekers concerning how safe they feel in the United Kingdom revealed that almost half of the women were unaware that there were free services available to rape victims.⁶⁶ Therefore, efforts should be made to specifically reach out to marginalized women in order to ensure that they are receiving adequate support services and police response when they have been raped.

A government report on violence against women notes that reported incidents of rape have increased by 165% over the last decade while the conviction rate has decreased from 24% to 9%.⁶⁷ In the past year, reports of rape have increased by 27%.⁶⁸ The British Crime Survey indicates that reports of sexual violence constitute 5% of police recorded violence generally (with 9,008 rapes being reported in the previous year). The same survey revealed that about a quarter of all women feel “very worried” about being raped.⁶⁹ Other sources indicate that the number of women victims of rape could be as high as 1 in every 4 women and that over 90%

of these victims never report the crime.⁷⁰ Sexual Assault Referral Centres reportedly offer the best support for rape victims, but there are only 7 such centres throughout the country. At local police stations, support for rape victims is not consistently positive, with inexperienced or insensitive officers often handling cases.⁷¹

In the United Kingdom, a rape is committed when a man has sexual intercourse with someone who does not consent to such intercourse. This definition includes both females and males as potential victims and it includes sex between spouses without consent.⁷²

4.2 *Trafficking*

It is also necessary to address the specific needs of trafficking victims when discussing violence against minority women. One report has recorded the number of trafficking victims in the UK over the past five years known to the police as 271, all of whom were foreigners. However, the report also indicates that the true number of trafficking victims in the United Kingdom is much higher, recognizing the use of the United Kingdom as a transit country and the high proportion of foreign women working in the sex industry in the United Kingdom. Taking into account of variety of factors, the report estimates that the number of trafficking victims in the United Kingdom each year is as high as 1420.⁷³ Women victims of trafficking reportedly come from South East Asia (Thailand, Philippines, Malaysia, Hong Kong, and Singapore), Central/Eastern Europe (Lithuania, Hungary, Ukraine, and Belarus), Africa (Nigeria, Ghana, Kenya, and Uganda) and Brazil.⁷⁴

Typically, victims are lured to the UK from foreign countries relying on false promises of a job or other forms of security and when they arrive, their passports and other papers are confiscated and they are forced to work as prostitutes to pay off the cost of the voyage. Throughout this process, victims are subjected to severe forms of physical and psychological violence.

Trafficking victims are unlikely to come forward to the police because of an intense fear of the authorities instilled in them by the traffickers. Also, their lack of identification papers and subjection to mental coercion leaves

them virtually imprisoned by the traffickers. Furthermore, the police are unlikely to detect trafficking victims because most police forces tolerate “off street prostitution,” which is where most trafficking victims end up.⁷⁵ Thus, most police discovery of trafficking victims is accidental rather than as a result of an investigation.⁷⁶

It is reported that most trafficking victims are treated as illegal immigrants, rather than as victims of a crime. They are often sent back to their country within 24 hours of being discovered, where they are at risk of being abducted by the same traffickers and brought back to the UK. With no effective witness protection programme in place, it is difficult for trafficking victims to ever feel safe in cooperating with the police.⁷⁷ Additionally, little is done to prosecute traffickers as such prosecutions require testimony from the victim and few victims are granted residency permits to remain in the UK for the purpose of giving evidence.⁷⁸

The government has not yet enacted any specific legislation criminalizing trafficking in persons and prosecutions instead rely on a variety of laws within the Sexual Offences Act 1956 and abduction offences. Commentators note that these laws do not take into account the particularities of the crime of trafficking and urgently require modernization.⁷⁹ In particular, it is difficult to prove the crime of trafficking because it must be shown that the accused facilitated the entry of an illegal immigrant “for gain,” and oftentimes the proof of gain, namely the assets, is in another country.⁸⁰ It has also been noted that the punishments for human trafficking are too low and not in proportion with the severity of the crime: for example, a person trafficking cocaine would be punished to between eight and fifteen years in prison while a trafficker in humans has a maximum sentence of 7 years in prison.⁸¹ In light of these problems with the current legislative framework, OMCT welcomes the current draft bill being considered by the government to update and amend the Sexual Offences Act, in order to specifically recognize and punish trafficking as a crime.

However, OMCT is concerned at a pilot scheme launched by the Home Office on March 10, 2003 which proclaims that it will help trafficking victims by providing them with sanctuary, but only if they have been working as a prostitute and only if they have been exploited on UK soil. Thus, victims trafficked for reasons other than prostitution and victims of

trafficking who are discovered upon entry to the UK, or who are in transit to another country, are not eligible for sanctuary.⁸² For those who are temporarily eligible for sanctuary, they have four weeks to decide whether to cooperate with the police and then, if they agree to give evidence, they are allowed to remain for another 6-12 weeks while the evidence they have given is “assessed.” However, it is not clear whether victims who have agreed to cooperate will be granted a temporary residency permit after these initial 16 weeks. One NGO notes that this is contrary to period of reflection which is recommended as a minimum standard in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.⁸³

5. Women Asylum Seekers

In the United Kingdom, there is a “dispersal” policy with regard to asylum seekers, which means that they are sent to various regions of the country with provision of support for food and other necessities through a voucher system. This system is coordinated by the National Asylum Support Service (NASS). When a person applies for asylum, they are first provided with emergency accommodation, and then, if their claim is accepted by the NASS, they are “dispersed” to the various regions of the United Kingdom. One report indicates that women asylum seekers who have been dispersed are often placed in accommodation where men and women are mixed. Women from cultures that traditionally separate men and women are made very uncomfortable by these arrangements. This is particularly problematic for pregnant women, who, in some cultures, are not supposed to be seen by men who are not family members. This mixed-sex environment has created a situation where many women do not feel safe in their accommodation.⁸⁴ Many women (84%) interviewed for the abovementioned report also report that they do not go out at night for fear of being attacked or harassed and 28% of the women had experienced physical or verbal abuse directed against themselves or their family members.⁸⁵ For example, on March 15, 2003, a newspaper reported that a woman asylum seeker and her five children had their home attacked at 11:00 pm as stones were thrown through the windows of the house. They had experienced a similar attack in September 2002.⁸⁶

6. Violence Against Minority Women Perpetrated by the State

Women prisoners are an increasing proportion of the prison population in the United Kingdom, with the number of women prisoners having risen 155% between 1993 and 2000 (as compared to a 42% increase in the number of male prisoners). It has been noted that “women’s offending is often linked to social exclusion and women committing crimes are usually those experiencing economic and social deprivation.”⁸⁷ In this context, it is interesting to note that women from ethnic minorities represent a disproportionate percentage of the women’s prison population.⁸⁸ The Committee on the Elimination of Discrimination Against Women noted in 1999 its concern about the proportion of minority women in prison and the potential links between the crimes they have committed and their situation of poverty.

Additionally, it is reported that many women prisoners are survivors of domestic violence and child abuse and that few services are offered to assist women in handling histories of abuse.⁸⁹ Women prisoners are also infected with HIV/AIDS at rates 13 times higher than the general population.⁹⁰

Drug testing in women’s prisons has been characterized as degrading treatment by one report which describes that women must urinate in front of a prison officer.⁹¹ There have also been hundreds of complaints filed for sexual harassment, which are being investigated. One prison officer was suspended in 1998 after having been accused of rape and three cases of harassment of the detainees. Another officer was fired for having bribed a prisoner with food and cigarettes to make her take off her clothes while he watched and masturbated.⁹²

Additionally, according to a report resulting from an inspection of detention centers in the United Kingdom, in one detention center, Haslar, only 10% of the detainees felt safe and the inspection team could not conclude that the detention center provided a safe environment. The inspection team at this detention center also could not conclude that detainees were treated with respect.⁹³

7. Conclusions and Recommendations

Although the United Kingdom has much legislation attempting to address both racial discrimination and gender discrimination, these forms of discrimination persist and are particularly manifest when violence against minority women is examined. The policies and action plans of the government are important steps in eliminating discrimination against minorities and discrimination against women, but more firm efforts must be taken to ensure that violence against minority women is investigated, prosecuted and punished, in accordance with international human rights standards.

OMCT is concerned by the marginalized position of many people from ethnic minorities in the United Kingdom. The reasons behind this marginalization must be investigated and strategies to improve the situation of minority people in both their public and private lives should be initiated. Such measures should include efforts to diversify the police force and raise awareness about institutional discrimination. These initiatives should further endeavor to decrease unemployment among ethnic minorities and improve their living conditions. Also, particular attention should be paid to ensuring that children from ethnic minorities are able to achieve their full potential in school.

With respect to asylum seekers, OMCT is troubled by the severe discrimination and xenophobia experienced by this group and recommends that the government undertake sincere efforts to raise awareness among the public in order to eliminate these discriminatory views. OMCT is particularly worried about reports of violence against asylum seekers and reiterates the government's obligation to protect asylum seekers on their territory from such violence.

The lack of specific comprehensive domestic violence legislation in the United Kingdom is a subject of concern to OMCT. Such legislation is necessary to ensure that the crime of domestic violence is investigated, prosecuted and punished with due diligence.

OMCT is also gravely concerned about the low rates of reporting domestic violence among minority ethnic women and specifically the high rate of suicide among Asian women. Such trends necessitate outreach efforts to minority women victims of domestic violence in order to ensure that these women know that such violence is criminal in the United Kingdom,

that they should report such violence, and that they will receive culturally sensitive support services.

OMCT is also particularly worried about immigrant women victims of domestic violence as they face additional obstacles in escaping abusive relationships. With regard to English speaking ability, the government should ensure that all information on services for domestic violence victims is available in multiple languages, particularly those languages that most immigrant women speak. Efforts should also be made to assist immigrant women in learning English at low cost.

Additionally, immigrant women face serious difficulties in accessing shelter when they have left an abusive home since they often have little or no recourse to public funds because of their uncertain immigration status. OMCT urgently recommends that the government of the United Kingdom consider making public funds available to immigrant women victims of domestic violence in order that they may find safe shelter.

Furthermore, while OMCT welcomes the “domestic violence concession” to the probationary period that many immigrant women are subjected to, it is recommended that information concerning the concession and how to exercise it be targeted at immigrant women, especially taking into account the plans to lengthen the probationary period to two years.

OMCT is concerned about reports that police sometimes treat immigrant women as criminals, focusing on their uncertain or illegal immigration status, rather than the fact that they are victims of violence. Therefore, OMCT urges the government to institute trainings for police officers on specific forms of violence against women, how immigration status can worsen this violence and culturally sensitive approaches to protecting immigrant women from such violence.

Indications that forced marriages are occurring in the United Kingdom and that UK citizens are being sent abroad for such purposes are very concerning to OMCT and the government is strongly urged to address this problem with vigilance. Such efforts to ensure that women and girls are not forcibly married should include cooperation with the country where the girl is sent and effective responses for concerned family and friends when a girl has disappeared and they are fearful that she will be forced to marry.

OMCT is also deeply troubled by reports of killings in the name of honour. The government must take definitive steps to combat cultural practices, such as killings in the name of honour, that constitute violence against women and not shrink from such efforts behind the guise of cultural relativism.

The increase in reported rapes over the past year highlights the need for more attention to this form of violence against women. OMCT encourages the government to build upon best practices, for example by establishing more Sexual Assault Referral Centres and creating a 24 hour hotline for rape victims. Additionally, it is important that women asylum seekers are aware of services available for rape victims, and that these services, such as counseling, may be necessary for victims even where the rape did not occur within UK borders.

OMCT notes that there is no comprehensive trafficking legislation in the United Kingdom. While OMCT welcomes current efforts to reform the Sexual Offences Act, it insists on the need for comprehensive provisions on trafficking. One important step in combating trafficking would be the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the UN Convention against Transnational Organized Crime. OMCT would also urge the government to consider using the Recommended Principles and Guidelines on Human Rights and Human Trafficking (UN Doc. E/2002/68/Add.1) as adopted by the Economic and Social Council in July 2002 as the basis for the development of a comprehensive legislative and policy response to the issue.

The government should develop appropriate services to support and assist trafficked women and girls and additional support should be provided to non-governmental organisations working with women and girls who have been trafficked. Further, police forces must adopt a proactive approach to trafficking, actively investigating suspicious prostitution operations, and not only relying on happenstance information to discover such crimes.

The United Kingdom dispersal policy with regard to asylum seekers often means that women and men have to share accommodation, a situation that is very uncomfortable for women of some cultures and results in many women not feeling safe. OMCT recommends that the government adopt a more culturally sensitive approach to women asylum seekers and make

more efforts to ensure not only that they are actually safe, but that an atmosphere of safety is created and felt by the asylum seekers. Furthermore, information regarding services for victims of violence should be provided to women asylum seekers as oftentimes they have fled situations of conflict and have experienced violence.

OMCT is equally concerned about reports of violence against women in prison and the fact that minority ethnic women represent a disproportionate part of the women's prison population. OMCT notes that the presence of minority ethnic women in prison is potentially linked to their marginalized status in society and encourages the government to investigate such links. Further, OMCT insists on the absolute necessity of investigating all allegations of violence against women prisoners and holding the responsible persons accountable.

Finally, OMCT would insist upon the need for the Government to fully implement the Convention on the Elimination of All Forms of Discrimination Against Women, the Beijing Rules and Platform for Action and the Declaration on the Elimination of Violence Against Women as these instruments provide detailed protection for women against violence in the family, in the community and at the hands of State officials.

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Committee on the Elimination of Racial Discrimination

SIXTY-THIRD SESSION – 4-22 AUGUST 2003

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

CONCLUDING OBSERVATIONS OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION: UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

1. The Committee considered the sixteenth and seventeenth periodic reports of the United Kingdom of Great Britain and Northern Ireland (CERD/C/430/Add.3), which were due on 6 April 2000 and 2002 respectively, submitted as one document, at its 1588th and 1589th meetings (CERD/C/SR.1588 and 1589), held on 6 and 7 August 2003. At its 1607th meeting, (CERD/C/SR.1607), held on 20 August 2003, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the detailed report submitted by the State party and expresses its appreciation for the constructive responses of the delegation to the questions asked during the consideration of the report. Furthermore, the Committee welcomes the fact that non-governmental organizations were consulted in the preparation of the report.
3. While the Committee notes with appreciation that the State party addressed most of the concerns and recommendations raised in the Committee's previous concluding observations (CERD/C/304/

Add.102), it observes that the report does not fully conform to the Committee's reporting guidelines.

B. Positive aspects

4. The Committee welcomes the Race Relations Amendment Act of 2000, which strengthens the 1976 Race Relations Act by outlawing discrimination in all public authority functions, including the police, as well as the Race Relations Act (Amendment) Regulations of 2003, which widen the definition of indirect discrimination and shift the burden of proof from the victim to the alleged offender.
5. The Committee commends the State party's efforts to address more stringently the issue of incitement to racial hatred, including the introduction of a mechanism whereby the Metropolitan Police will provide a central advice point for all forces in England and Wales in relation to possible offences of incitement to racial hatred, as well as the increase in the maximum penalty for incitement to racial hatred from two to seven years' imprisonment under the Anti-Terrorism, Crime and Security Act 2001.
6. The Committee welcomes the Police Reform Act, which includes provisions to create a new and more effective police complaints system in England and Wales; the establishment of the Police Ombudsman for Northern Ireland; and the consultations in Scotland on enhancing the independence of the Police Complaints System.
7. The Committee welcomes the establishment of a Community Cohesion Unit within the Home Office, tasked with carrying forward the Government's programme to encourage the building and strengthening of cohesive communities.
8. The Committee welcomes the establishment of the National Asylum Support Service in 2000 as an important step in providing support to eligible asylum-seekers and ensuring that they can access necessary services.
9. The Committee commends the State party's efforts to prepare a National Plan of Action against Racism, in consultation with non-

governmental organizations, in pursuance of the recommendations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

10. The Committee takes note with satisfaction that St. Helena, the British Virgin Islands and the Cayman Islands will include a specific prohibition of racial and other discrimination as well as the necessary enforcement machinery in their Constitutions.

C. Concerns and recommendations

11. The Committee takes note of the State party's position regarding the non-inclusion of the full substance of the Convention within the State party's domestic legal order and that there is no obligation for States parties to make the Convention itself part of their domestic legal order. It is concerned that the State party's courts will not give legal effect to the provisions of the Convention unless the Convention is expressly incorporated into its domestic law or the State party adopts necessary provisions in its legislation.

The Committee recommends that the State party review its legislation in order to give full effect to the provisions of the Convention in its domestic legal order.

12. The Committee also reiterates its concern over the fact that the State party continues to uphold its restrictive interpretation of the provisions of article 4 of the Convention. It recalls that such interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention and draws the State party's attention to the Committee's general recommendation XV according to which the provisions of article 4 are of a mandatory character

In the light of the State party's recognition that the right to freedom of expression and opinion are not absolute rights, and in the light of statements by some public officials and media reports that may adversely influence racial harmony, the Committee recommends that the State party reconsider its interpretation of article 4.

13. The Committee is concerned about the increasing racial prejudice against ethnic minorities, asylum-seekers and immigrants reflected in the media and the reported lack of effectiveness of the Press Complaints Commission in dealing with this issue.

The Committee recommends that the State party consider further how the Press Complaints Commission can be made more effective and can be further empowered to consider complaints received from the Commission for Racial Equality as well as other groups or organizations working in the field of race relations.

The Committee further recommends that the State party include in its next report more detailed information on the number of complaints of racial offences received as well as the outcome of such cases brought before the courts.

14. The Committee remains concerned at reports of attacks on asylum-seekers. In this regard, the Committee notes with concern that antagonism towards asylum-seekers has helped to sustain support for extremist political opinions.

The Committee recommends that the State party adopt further measures and intensify its efforts to counter racial tensions generated through asylum issues, inter alia by developing public education programmes and promoting positive images of ethnic minorities, asylum-seekers and immigrants, as well as measures making the asylum procedures more equitable, efficient and unbiased.

15. While noting the rapid implementation in domestic law of the European Race Directive, the Committee is concerned that, unlike the Race Relations Act, the amending regulation does not cover discrimination on grounds of colour or nationality. The Committee is therefore concerned that the emerging situation may lead to inconsistencies in discrimination laws and differential levels of protection according to the categorization of discrimination (i.e. race, ethnic origin, colour, nationality, etc.), and create difficulties for the general public as well as law enforcement agencies.

The Committee recommends that the State party extend the amending regulations to cover discrimination on the grounds of colour and

nationality. In this context, the Committee also recommends that the State party consider introducing a single comprehensive law, consolidating primary and secondary legislations, to provide for the same protection from all forms of racial discrimination, enshrined in article 1 of the Convention.

16. The Committee is concerned about the application of section 19 D of the Race Relations Amendment Act of 2000, which makes it lawful for immigration officers to "discriminate" on the basis of nationality or ethnic origin provided that it is authorized by a minister. This would be incompatible with the very principle of non-discrimination.

The Committee recommends that the State party consider re-formulating or repealing section 19 D of the Race Relations Amendment Act in order to ensure full compliance with the Convention.

17. The Committee is deeply concerned about provisions of the Anti-Terrorism Crime and Security Act which provide for the indefinite detention without charge or trial, pending deportation, of non-nationals of the United Kingdom who are suspected of terrorism-related activities.

While acknowledging the State party's national security concerns, the Committee recommends that the State party seek to balance those concerns with the protection of human rights and its international legal obligations. In this regard, the Committee draws the State party's attention to its statement of 8 March 2002 in which it underlines the obligation of States to "ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin".

18. While the Committee welcomes the initiatives taken for further reforms within the police force, including enhanced representation of ethnic minorities, it recalls its previous concerns about the disproportionately high incidence of deaths in custody of members of ethnic or racial minority groups.

The Committee invites the State party to submit in its next periodic report detailed information on the new police complaints system; the new Police Complaints Commission (IPCC) which will be fully

operational from April 2004; the number of complaints involving racial discrimination referred to IPCC, including deaths in custody; and the outcome of these complaints as well as the disciplinary measures taken in each case. It also encourages the State party to adopt measures conducive to integrating the different ethnic and racial representation within the police force.

19. The Committee is concerned that a disproportionately high number of "stops and searches" are carried out by the police against members of ethnic or racial minorities.

The Committee encourages the State party to implement effectively its decision to ensure that all "stops and searches" are recorded and to give a copy of the record form to the person concerned. The Committee invites the State party to address this issue in more detail in its next periodic report.

20. The Committee notes that the State party recognizes the "intersectionality" of racial and religious discrimination, as illustrated by the prohibition of discrimination on ethnic grounds against such communities as Jews and Sikhs, and recommends that religious discrimination against other immigrant religious minorities be likewise prohibited.

21. The Committee is concerned about reported cases of "Islamophobia" following the 11 September attacks. Furthermore, while the Committee takes note that the State party's criminal legislation includes offences where religious motives are an aggravating factor, it regrets that incitement to racially motivated religious hatred is not outlawed.

The Committee recommends that the State party give early consideration to the extension of the crime of incitement to racial hatred to cover offences motivated by religious hatred against immigrant communities.

22. While reiterating its satisfaction in connection with the enactment of the Human Rights Act of 1998, the Committee notes that no central body has been established to implement the Act. The Committee considers that the absence of such a body may undermine the effectiveness of the Act.

The Committee refers to the earlier commitment of the State party to consider establishing a Human Rights Commission in order to enforce the Act and the possibility of granting such a commission comprehensive competence to review complaints of human rights violations, and recommends an early decision in this regard.

23. The Committee expresses concern about the discrimination faced by Roma/Gypsies/Travellers that is reflected, inter alia, in their higher child mortality rate, exclusion from schools, shorter life expectancy, poor housing conditions, lack of available camping sites, high unemployment rate and limited access to health services.

The Committee draws the attention of the State party to its general recommendation XXVII on discrimination against Roma and recommends that the State party develop further appropriate modalities of communication and dialogue between Roma/Gypsy/Traveller communities and central authorities. It also recommends that the State party adopt national strategies and programmes with a view to improving the situation of the Roma/Gypsies/Travellers against discrimination by State bodies, persons or organizations.

24. The Committee reiterates its concern that besides the Roma/Gypsy/Traveller populations, certain other minority groups or individuals belonging to them experience discrimination in the areas of employment, education, housing and health.

The Committee urges the State party to continue taking affirmative measures in accordance with article 2, paragraph 2, of the Convention to ensure equal opportunities for full enjoyment of their economic, social and cultural rights. Moreover, the Committee encourages the State party to submit in its next periodic report more detailed information on achievements under the State party's programmes aimed at narrowing the employment gap and improving housing conditions among different ethnic groups.

25. The Committee recalls its general recommendation XXIX, in which the Committee condemns descent-based discrimination, such as discrimination on the basis of caste and analogous systems of inherited status, as a violation of the Convention, and recommends that a prohibition against such discrimination be included in domestic legislation.

The Committee would welcome information on this issue in the next periodic report.

26. The Committee regrets that no information on the implementation of the Convention in the British Indian Ocean Territory was provided in the State party's report.

The Committee looks forward to receiving in its next periodic report information on the measures taken by the State party to ensure the adequate development and protection of the Ilois for the purpose of guaranteeing their full and equal enjoyment of human rights and fundamental freedoms in accordance with article 2, paragraph 2, of the Convention.

27. The Committee encourages the State party to continue to consult with organizations of civil society working in the area of combating racial discrimination and during the preparation of the next periodic report.
28. The Committee notes that the State party is currently reviewing the possibility of making the optional declaration provided for in article 14 of the Convention and invites the State party to give high priority to such a review and to give favourable consideration to making this declaration.
29. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, and that it include in its next periodic report updated information on the action plan that it is in the process of drafting in order to implement the Durban Declaration and Programme of Action at national level.
30. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.
31. The Committee recommends that the State party submit a combined eighteenth and nineteenth periodic report, due on 6 April 2006, and that the report address all points raised in the present concluding observations.