



The Odysseus Trust

CERD

Call for Evidence

18 December 2015

1. The Odysseus Trust¹ is a non-profit company limited by guarantee which seeks to promote good governance and the effective protection of human rights. The Trust is directed by Lord Lester of Herne Hill QC, who is assisted by his senior researcher Caroline Baker and Parliamentary Legal Officers, Clare Duffy and Zoe McCallum.
2. This document responds to the Call for Evidence for the joint NGO report to the Committee on the Elimination of Racial Discrimination (“the Committee”).

Q1. Do you think the current equalities legislation protects black and minority ethnic people adequately against racial discrimination?

3. The Equality Act 2010 (“The Act”) provides an excellent framework. It harmonises the concepts of discrimination, harassment and victimisation and protects the characteristics of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation. The Act applies to employment, housing, education and the provision of services. It requires public bodies to combat discrimination and promote equality. It permits positive action. It forbids treatment with a discriminatory effect even if it is done without hostile intent.²
4. However, it does not adequately protect victims of caste discrimination, and its powerful tools to tackle unlawful discrimination are not being used effectively to tackle systemic patterns of racial and other discrimination.

¹ For more information on the work of the Trust, please visit www.odysseustrust.org

² Regrettably the Equality Act 2010 does not apply in Northern Ireland and the right to equality remains defined and protected differently across the Irish Sea.

Caste discrimination

5. Black, Asian and Jewish members of ethnic minorities are protected from indirect and direct discrimination based on their race, under section 4 of the Equality Act 2010. The legal definition of “race” contained in section 9 includes colour, nationality, and ethnic or national origin.
6. Caste is missing from the list of protected characteristics and does not form part of the definition of “race” or “racial grounds” in the Act.
7. The Anti-Caste Discrimination Alliance campaigned to include caste as a protected characteristic in the Act. In response Parliament passed section 9(5) which empowered a Minister to amend the Act to add caste.
8. The Coalition Government failed to implement section 9(5) arguing that the problem should be tackled through education rather than law.³ After three years of government inaction, Parliament passed an amendment placing Ministers under a legal duty to implement the change.⁴ That duty is not being performed.
9. On 29 July 2013, the Government announced that it would consult in early 2014 on how best to prohibit caste discrimination. They published a timetable setting out the consultation process starting in February or March 2014 and concluding with the introduction of a final draft order in Parliament during summer 2015.⁵
10. This promised timetable was not put into effect. A feasibility study was completed in 2014, but never published. The Equality and Human Rights Commission (EHRC) concluded that urgent action was needed,⁶ but the Government continues to refuse and the law remains uncertain.
11. The Government cites the *Tirkey v Chandhok* tribunal judgment⁷ handed down on 17 September 2015 as the reason for their inaction.
12. The *Tirkey* judgment ruled that a Hindu couple of Indian origin had to pay £183,773 to a low-caste Christian former domestic worker who had been underpaid and maltreated over a period of five years. The tribunal found instances of alleged discrimination which raised “caste considerations” that could fall within the scope of “ethnic or national origins” in Section 9(1)(c) of the

³ Department for Culture, Media and Sport, Ministerial Written Statement, Caste, 1 March 2013.

⁴ Section 97 of the Enterprise and Regulatory Reform Act 2013.

⁵ *Caste Discrimination Legislation Timetable*, Gov.uk, 29 July 2013.

⁶ EHRC Research Report 91 (Spring 2014), *Caste in Britain: Socio-legal Review*; and EHRC Research Report 92 (Spring 2014), *Caste in Britain: Experts’ Seminar and Stakeholders’ Workshop*.

⁷⁷ *Tirkey v Chandhok and anor* (ET/3400174/2013), 17 September 2015.

Act. However, the case was decided on the ground of indirect religious discrimination and caste was not taken any further.⁸

13. The Government claims that the case changed the law on caste discrimination and suggests there is an existing legal remedy for claims of caste-associated discrimination under the “ethnic origins” protected characteristic. Therefore, the Government believes that “[a]ny continuing requirement for a consultation of this sort needs to be re-considered accordingly.”⁹
14. The Government’s assertion that the law now provides for a legal remedy for caste discrimination is misleading and incorrect. Employment tribunal cases do not create authoritative precedents - they only decide the case on the merits for the individual claimant. There is no guarantee that another individual suffering caste discrimination will achieve the same outcome in a future case. Moreover, *Tirkey* was not determined on grounds of race discrimination (with the “ethnic origins” component incorporating caste), but on grounds of indirect religious discrimination. It cannot be said to have created a precedent by which caste discrimination is protected in UK law.
15. It would be inordinately costly and create years of delay to seek an authoritative ruling by the Supreme Court of the UK. That is why it is important for the Government to perform the duty required by Parliament and the rule of law. Currently equality legislation fails to protect victims of discrimination on the basis of caste or absence of caste, and to meet the obligations imposed by the Convention on the Elimination of All Forms of Racial Discrimination (“the Convention”) and International Covenant on Civil and Political Rights.

Weak enforcement

16. The EHRC is the strategic enforcement agency tackling patterns of discrimination and has strong powers to do so. But strategic enforcement of the equality provisions in combatting systemic racial and other discrimination has been given low priority.
17. It would be preferable to replace the EHRC with a single Equality Commission working in tandem with a Human Rights Commission, each with a defined mandate. Alternatively, the EHRC should make the necessary changes in staffing and funding to give high priority to strategic law enforcement tackling racial and other discrimination.

⁸ The tribunal did draw on facts relating to the claimant’s Adivasi caste to find she was the victim of harassment on the ground of her race.

⁹ Question for Written Answer, HL2681 (15 October).

Q2. How satisfied are you that the Government's Integration Strategy is delivering racial equality effectively?

18. The previous Government introduced an Integration Strategy for England, which aimed to create "the conditions for everyone to play a full part in national and local life" and to "challenge and outflank extremism."¹⁰ The current Government has not published guidance outlining their current strategy; however they are continuing a programme of "extensive community engagement to help to understand the concerns faced by Muslim communities."¹¹
19. Many strands of this strategy and the individual programmes funded are laudable. Overall, however, the integration strategy has been ineffective in delivering racial equality and integrating communities. The "Prevent" strategy in particular has fostered hostility and resentment in black and ethnic minority communities. This is considered under Q5.

Q.3 In your view, how effective is the Government tackling the fight against incitement to racial hatred and hate crime against Black and minority communities?

a. Do you feel the legislation to tackle hate crime is adequate?

20. Yes, the Crime and Disorder Act 1998 and the Public Order Act 1986 are sufficient to tackle hate crime adequately without infringing unduly on free expression.
21. The Crime and Disorder Act 1998 provides that if the defendant demonstrates or was motivated by hostility on the grounds of race or religion in relation to several commonly occurring offences,¹² then the offence becomes an "aggravated offence" and attracts a higher maximum custodial penalty. Either the prosecution must prove an objective outward demonstration of hostility (under section 28(1)(a)), or a subjective hostile motivation on the part of the defendant towards members of a racial or religious group (under section 28(1)(b)). "Hostility" is not defined by the 1998 Act and has no standard legal definition, but racially abusive

¹⁰ *Creating the conditions for integration*, Communities and Local Government, February 2012, page 2

¹¹ Oral Question Communities: Young Muslims, HL Deb 25 June 2015, vol. 762, cols. 1696-1698

¹² Including offences under the Offences Against the Person Act 1861, Criminal Damage Act 1971, Public Order Act 1986, Harassment Act 1997 and common assault.

insults, gestures or insignia such as a swastika will ordinarily satisfy the test.¹³ “Racial group” and “religious group” are both defined.

22. The Public Order Act 1986 prohibits stirring up hatred on grounds of race, religion or sexual orientation. The statute encompasses six offences covering a broad range of conduct involving the use of “threatening, abusive or insulting” words, behaviour or material.¹⁴ The prosecution must show the defendant intended to stir up racial hatred or, in the case of race hate speech, that, having regard to all the circumstances, racial hatred was likely to be stirred up thereby. There is no need to identify an individual victim who has been threatened, abused or insulted, or to show that hatred has in fact been stirred up.
23. The legislation provides an adequate framework to tackle hate crime.¹⁵ Prosecutions are more frequent for the racially and religiously aggravated offences under the Crime and Disorder Act 1998, than the stirring up offences under the Public Order Act 1986. Between 2009 and 2012 a total of 113 offences were charged under the stirring up provisions reached first hearing in the magistrates’ courts. In the same period, 75,903 aggravated offence charges under the Crime and Disorder Act 1998 reached a first hearing.¹⁶
24. When an offence is classified as a hate crime, the judge may impose a heavier sentence under the Criminal Justice Act 2003.
25. The Convention guarantees against the dissemination of racist speech (Article 4), but also protects the right to freedom of opinion and expression (Article 5). Legislation tackling religious hate speech has to respect free speech, including offensive speech. There is a right (but not a duty) to offend. In the words of the Strasbourg Court, the right to freedom of expression applies not only to information and ideas that:

are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the

¹³ Simon Brown LJ in *DPP v Pal* [2000] Criminal Law Review 756 at [16]; Law Commission *Hate Crime: The Case for Extending the Existing Offences*, May 2014, p.16.

¹⁴ This is a question of fact. Words are given their ordinary meaning and whether they meet the test is decided on the impact such words, behaviour or material would be likely to have on a reasonable person. Law Commission *Hate Crime: The Case for Extending the Existing Offences*, May 2014, p.27,

¹⁵ The provisions in relation to racial hatred are adequate and not currently under review. The Law Commission’s report *Hate Crime: The Case for Extending the Existing Offences* published in May 2014 has investigated whether the provisions should be extended to crimes motivated by hostility on grounds of disability, sexual orientation or gender identity.

¹⁶ Law Commission, *Hate Crime: The Case for Extending the Existing Offences*, May 2014, p.98.

State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no 'democratic society'.¹⁷

26. Hate speech legislation in the UK gives adequate space to freedom of speech. The Public Order Act 1986 strikes the right balance between the right to offend and the prohibition on religious hate speech deliberately intended to stir up violence and likely to have that effect. The Racial and Religious Hatred Act 2006 made religious hate speech a crime. The original proposals swept too broadly and interfered with free speech. They covered insults as well as threats. If passed, they would have restricted criticism of ideas. However, the Act as passed also includes a clause that guarantees expressions of "antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents."¹⁸

b. Do you feel that victims of racist violence are adequately protected?

27. In 2013/2014 there were 44,480 hate crimes recorded by the police, an increase of 5% compared with 2012/2013. Of those 84% were race hate crimes and 5% were religion hate crimes. The police referred just over a third of those cases (14,702) to the CPS. There were 11,915 convictions.¹⁹

28. The police are overstretched. Past and future budget cuts have an adverse effect on their ability to protect victims of racist violence. In October 2010, the Government announced a 20% real terms cut in the central government funding grant up to 2014/15. Police forces funding from other sources has fallen by 8%, equivalent to about 14% in inflation-adjusted terms. Police officer numbers decreased by over 16,500 between March 2010 and September 2014: a reduction of around 11%. Police Community Support Officers numbers decreased by just over 4,000 over the same period: a reduction of nearly 25%.²⁰ The Chancellor of the Exchequer promised to protect police spending in the autumn 2015 spending review in light of security concerns following the Paris attacks. Nevertheless, Government grants to 43 territorial police forces in England and Wales were cut by £200million for 2016/2017. That represents a 2.7% reduction from 2015/2016 -

¹⁷ *Handyside v United Kingdom* (1976) 1 EHRR 737, §49. That statement of principle about the right to offend echoed Justice Holmes's reference in the American Supreme Court to "freedom for the thought that we hate" (Dissenting opinion in *United States v Schwimmer*, 279 US 644 (1929)).

¹⁸ The Racial and Religious Hatred Act 2006, schedule 1.

¹⁹ Crown Prosecution Service, *Hate Crime and Crimes Against Older People Report 2013-2014*, October 2014

²⁰ www.parliament.uk/business/publications/research/key-issues-parliament-2015/justice/police-reform/ (page 3)

equivalent to 4.1% once inflation is taken into account.²¹ The police anticipate significant future cuts to their budgets and capacity.²² Police cuts are worrying as there is a greater need for the prevention of hate crime and protection of victims.

29. Jihadi terrorism has resulted in an increase of Islamophobic attacks on British Muslims, especially in the wake of the Paris attacks on 13 November 2015. Reported hate crime spiked by more than 300% following the Paris attacks with most victims being Muslim girls and women aged between 14 and 45 years old wearing traditional Islamic dress. The figures are likely to be a significant underestimate of the total as many victims do not report the crimes to the police or community groups.²³ The hostility to Muslims extends to other ethnic minorities whose identity is mistaken. One extreme case was the young Sikh dentist in South Wales who was victim of an attempted beheading committed in revenge “for Lee Rigby.”²⁴

30. Anti-Semitism is also on the march again. The Community Security Trust’s 2014 Annual Review found that anti-Semitic incidents and offences had more than doubled to 1,168 over twelve months. It was the highest annual total ever recorded by the Trust. They found London experienced the biggest increase in offences compared to the UK, where incidents rose by 137% to 583 and a large proportion of the crimes were linked to the conflict in Israel and Gaza during July and August 2014.²⁵ The first six months of 2015 saw 473 anti-Semitic incidents - a 53% increase on the 309 incidents in the first six months of 2014. There were also 50% more violent anti-Semitic assaults.²⁶

²¹ www.telegraph.co.uk/news/politics/georgeosborne/12057290/George-Osborne-accused-of-shameful-U-turn-after-police-grants-slashed.html; Home Office, *Police Grant (England and Wales) Provisional Police Grant Report (England and Wales) 2016/17*, 17 December 2015

²² www.theguardian.com/uk-news/2015/dec/08/theresa-may-police-years-budget-cuts-come

²³ www.independent.co.uk/news/uk/home-news/paris-attacks-british-muslims-face-300-spike-in-racial-attacks-in-week-following-terror-a6744376.html

²⁴ www.theguardian.com/uk-news/2015/jun/25/zack-davies-racist-guilty-attempted-murder-dentist

²⁵ Community Security Trust, *Annual Review 2014*, p.15

²⁶ Community Security Trust, *Anti-Semitic Incidents: January-June 2015*, p. 2

Q.4 In your view, how effective is the Government in tackling racism in the following areas:

31. The Government has been ineffective in all of these areas.

a. Policing

32. Black people are six times more likely than white people to be stopped and searched by the police.²⁷ Only 5.5% of the police force in England and Wales come from an ethnic minority.²⁸

b. Criminal Justice System

33. The EHRC has found that five times more black people are imprisoned in England and Wales.²⁹ The Youth Justice Board's research³⁰ found that 40% of prisoners aged under 18 were from black, Asian, mixed race or other "ethnicity" backgrounds. An independent investigation into the over-representation of young Muslim and black prisoners in Britain's justice system,³¹ found that less than 1% of offences by Muslims were terrorist offences, yet the community was viewed with suspicion by the authorities. The report said that black offenders "are stereotyped as drug dealers, and Muslim prisoners as terrorists."

c. Education

34. Data published by the university admissions service UCAS shows that black, Asian and other ethnic minority students face a persistent gap in winning university undergraduate offers in England compared with white applicants.³²

d. Employment

35. In 2015 EHRC research³³ found that people from almost every ethnic minority group suffered higher rates of unemployment and received lower pay than their white colleagues. Unemployment rates were significantly higher for ethnic

²⁷ Equality and Human Rights Commission, *Stop and Think: A critical review of the use of stop and search powers in England and Wales*, March 2010, p. 3.

²⁸ www.gov.uk/government/publications/police-workforce-england-and-wales-31-march-2015/police-workforce-england-and-wales-31-march-2015

²⁹ Equality and Human Rights Commission, *The First Triennial Review, How Fair is Britain? Equality, Human Rights and Good Relations in 2010*, Executive Summary, p. 10.

³⁰ See link to spreadsheet in this article: <http://www.theguardian.com/society/2015/jun/24/rise-proportion-black-ethnic-minority-young-prisoners-stop-and-search>

³¹ www.youngreview.org/sites/default/files/clinks_young-review_report_dec2014.pdf

³² www.theguardian.com/education/2015/sep/18/ethnic-minority-students-less-likely-to-win-university-places

³³ www.equalityhumanrights.com/sites/default/files/uploads/IBF/Final-reports/EHRC_IBF_MainReport_acc.pdf (page 4)

minorities; Pakistani/Bangladeshi women were less than half as likely to be employed compared with average female employment rates; and Muslims experienced the highest unemployment rates, lowest employment rates and lowest (and decreasing) hourly pay rates over the period.

36. The charity Business in the Community has called on the Government to apply the same focus to race as it has done with gender, and commission a review into race equality in the workplace with a focus on progression at senior management levels, similar to the Davies Review into women on boards. The charity's survey with the pollsters YouGov found that nearly 60% of black employees reported that their career development has failed to meet expectations, compared with about 30% of white people and that 30% of Black, Asian or ethnic minority workers have witnessed or experienced racial harassment on the workplace in the past year.³⁴

e. Housing

37. A 2008 report by the Race Equality Foundation³⁵ found that people from black, minority ethnic and refugee backgrounds have difficulty in having access to services, and are less likely than others to be aware of housing options available to them. This particularly affects black, minority ethnic and refugee women experiencing domestic violence, who may face barriers to services based on their gender, ethnicity and social status. A lack of specialist safe refuge spaces and the absence of clear guidelines for involving specialist agencies in policy, service development and evaluation mean that there is often low recognition of domestic violence within housing policy.

f. Health

38. People from black and minority ethnic groups living in the UK are:³⁶

- more likely to be diagnosed with mental health problems
- more likely to be diagnosed and admitted to hospital
- more likely to experience a poor outcome from treatment
- more likely to disengage from mainstream mental health services, leading to social exclusion and a deterioration in their mental health.

³⁴www.ft.com/cms/s/0/241bf704-86fc-11e5-9f8c-a8d619fa707c.html#axzz3uU8j3ONs

³⁵www.better-housing.org.uk/briefings/black-minority-ethnic-and-refugee-women-domestic-violence-and-access-housing

³⁶www.mentalhealth.org.uk/help-information/mental-health-a-z/b/bme-communities/

g. Political representation

39. There are currently 27 minority ethnic MPs in the House of Commons; 4.2% of the total. The 2011 Census showed 12.9% of the UK population reporting a non-white background.

Q5. What is your view on the implications of counter-terrorism measures on race equality in Britain?

40. The Government's counter-terrorism measures fall into four "P"s:

- Pursue involves coercive powers to investigate and disrupt terrorist attacks, including asset freezing, covert surveillance, and TPIMs.
- Prevent is designed to stop people becoming terrorists or supporting violent extremism, including measures to challenge and undermine extremist narratives.
- Protect is a programme to strengthen protection against terrorist attack, including rolling out e-Borders programme and a Pre-Departure Checks Scheme.
- Prepare aims to mitigate the impact of a terrorist attack.

The Pursue, Prevent and Protect programmes have a disproportionate adverse impact upon black and ethnic minority communities. This submission focuses on the Prevent strategy.

41. The Government aims to suppress "extremist" activity, and the Prime Minister and Home Secretary define extremism as "vocal or active opposition to fundamental British values." When pupils in faith schools are taught in ways that offend the secular agenda, Ministers intervene and insist that "British values" be pursued to combat extremism. But they do not explain how that is to be done while respecting religious freedom or what they mean by "British values." Their proposals are problematic and are likely to infringe freedom of expression.

42. Free speech and academic freedom are not sufficiently valued in the Government's strategy. In 2014, the Government included a provision in a Counter-Terrorism Bill that placed universities, local authorities, prison officers, schools and hospitals under a duty to have regard "to the need to prevent people from being drawn into terrorism." The Home Office envisaged that duty as involving banning "extremist" views from campus, even if they were non-violent and even though the criminal law already protects against incitement to hatred as well as violence. The links between non-violent (as opposed to violent) extremism and terrorism are neither direct nor obvious. The Government was

forced to drop some of those plans in the face of opposition.³⁷ But Parliament was unable to exempt higher education institutions from the duty altogether,³⁸ or to change the broad definition of “extremism,” which captures anything that constitutes “vocal or active opposition to fundamental British values.” The duty is currently contained in Regulation 26(1) of the Counter-Terrorism and Security Act 2015 (Risk of Being Drawn into Terrorism) (Amendment and Guidance) Regulations 2015.

43. The notion of “fundamental British values” implies that there are values uniquely cherished in this country as part of being “British.” But the UK has no written constitution or other code defining “British values.” The Human Rights Act embodies values – but they are universal, not especially “British,” shared by the rest of democratic Europe and beyond. Any attempt to define extremism as involving opposition to vague British values runs the risk that those who strongly disagree with the government and its actions will be treated as “un-British” and subversive.
44. Extremism flourishes in all communities – but fear of “the other” may lead public officials to concentrate unduly on extremism in communities with which they do not identify. The Independent Reviewer of Terrorism Legislation, David Anderson QC, has rightly cautioned that:

Any fair-minded person will see that if violent Islamist extremism is a fair target, so too must be violent neo-Nazi extremism. But active opposition to freedom of expression... is easier to condone, or not to notice, when it comes from one’s own community. Thus, Muslims who engage in non-violent protest against insulting depictions of the prophet meet the... definition of extremism... Yet few would think of categorising as extremists those who urge the prosecution of Muslims for insulting the war dead by burning poppies on Armistice Day (indeed 82% of Britons approved of such prosecutions in 2011).³⁹

³⁷ The Counter-Terrorism and Security Act 2015 (Risk of Being Drawn into Terrorism) (Guidance) Regulations were approved by the House of Lords on 17 September 2015.

³⁸ HL Deb 4 February 2015, vol. 759, c. 667; HL Deb 9 February 2015, vol. 759, cc. 1024–1034.

³⁹ David Anderson QC, *The Terrorism Acts in 2014: Report of the Independent Reviewer on the Operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006*, September 2015, pp. 58–59, §9.16. Anderson is citing *Redmond-Bate v DPP* [1999] EWHC Admin 732, per Lord Justice Sedley. Italics have been removed from the original source.

45. There are already reports of such targeting. One postgraduate student at Staffordshire University was accused of being a potential terrorist – because a university official had spotted him reading a textbook in the college library entitled *Terrorism Studies*. Mohammed Umar Farooq was enrolled in the terrorism, crime and global security Master’s programme. He was reportedly questioned about attitudes to homosexuality, Islamic State and al Qaeda.⁴⁰ The university subsequently apologised to Farooq and admitted that the incident had exposed the difficulties in implementing the Government’s Prevent policy.
46. Legal practitioners have reported that many other higher education institutions have panicked in response to the Prevent guidelines – and cancelled public speaking events and debates to be on the safe side. Unwittingly, they have instead opened themselves up to legal action on the basis of section 43(2) of the Education (No 2) Act 1986, which prohibits universities from denying the use of their premises to any individual or group on the grounds of their beliefs, views or policy objectives.
47. The Prevent strategy has had an impact in schools, as well as universities. In one case a 14-year-old Muslim student at north London’s Central Foundation School made a comment about “eco-terrorists” (a term learnt from a school debating society) during a French class discussion on the rainforest. He was pulled out of class and interrogated by two adults, who reportedly questioned him about whether he is “affiliated” with Isis. The boy has since dropped French. His parents are taking legal action.⁴¹
48. The Home Secretary, Theresa May, seeks a new law granting her the power to ban extremist organisations even if they are non-violent – like Hizb ut-Tahrir, an international pan-Islamic organisation that seeks an Islamic state by non-violent means. Banning orders would be reinforced by extremism disruption orders and closure orders, and there would be attempts to restrict extremist views on social media. Legislation against “extremism” could encourage disaffection among young British Muslims and political witch hunts. For what is opposition to “British values,” other than a display of “un-British values”? Bad ideas are ultimately defeated by argument, not censorship. Free speech is a basic “British” value. The Government’s aim of preventing extremism should respect it.

⁴⁰ Randeep Ramesh and Josh Halliday, ‘Student accused of being a terrorist for reading book on terrorism’, *Guardian*, 28 September 2015.

⁴¹www.theguardian.com/education/2015/sep/22/school-questioned-muslim-pupil-about-isis-after-discussion-on-eco-activism

49. In a lecture to the Muslim Council of Britain in November 2015 the Independent Reviewer of Terrorism Legislation, David Anderson QC said: "I am sure that many good things are done under PREVENT. But I receive more complaints about PREVENT than I do about all the coercive powers under PURSUE. I think the PREVENT programme should be subject to independent review - not by an English QC but by a body of people who between them have understanding of the relevant issues: internet, prisons, education, affected communities."⁴² We support this sensible proposal and hope the Committee will do so.

Q.6 What is your view on the impact of austerity measures and their implementation over the last three years on Black and minority ethnic communities?

50. The measures have had a disproportionate adverse impact on black and minority ethnic communities.

51. The EHRC has been the victim of austerity measures. Its budget was radically cut from £48.1million in 2011 and £42.9million in 2012 to £18.7million in 2014 and £19.3million in 2015.⁴³ Its helpline was taken away, even though it was a vital link with potential victims. It was stripped of its duty to promote a society with equal opportunity for all and had its workforce halved.

52. The Runnymede Trust, the racial equality think-tank, published an economic analysis⁴⁴ of the Government's first budget shows most of its changes will hit black and ethnic minority communities harder than the white working class. The report estimates that four million black and minority ethnic people could be worse off and that British Bangladeshi and Pakistani households would be particularly affected.

53. Omar Khan, Director of the Runnymede Trust said: "Black and minority ethnic people are more likely to be disadvantaged by the budget. While ethnic minorities form around 11% of households and 14% of the UK population, we expect them to be over 15% of households and around 25% of individuals worst affected by the budget - because of their younger age, higher child poverty, lower wages, fewer pensioners and greater part-time working."

⁴²<https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2015/11/TERRORISM-AND-EXTREMISM-MCB-keynote.pdf>

⁴³ Figures taken from the EHRC's annual reports.

⁴⁴www.runnymedetrust.org/uploads/The%202015%20Budget%20Effect%20on%20BME%20RunnymedeTrust%2027thJuly2015.pdf

54. The Runnymede Trust called on the Government to undertake an Equality Impact Assessment to measure the effect the budget will have on racial equality. We support this proposal.

Q.7 In your view, what is the impact of the government's current immigration and asylum policies on racial equality in Britain.

55. The impact is negative because the Government fails to promote the value of immigration and asylum, and to counter negative stereotypes. During the Calais crisis earlier this year the Prime Minister referred to migrants wanting to come to Britain as a "swarm"⁴⁵ and in October 2015 the Home Secretary Theresa May, gave a speech with a strong anti-immigration focus in which she promised a tougher asylum system and blamed incoming migrants for putting pressure on public services.⁴⁶ She said that mass migration made it impossible to build a cohesive society. The Government's rhetoric is irresponsible and does nothing to counter the negative portrayal in some parts of the media of immigrants as scroungers and a threat to the well-being of the UK and its inhabitants.

56. Measures in the Immigration Bill 2015 add to the hostile environment for racial equality. If enacted, the Bill will have a disproportionate impact on those from black and ethnic minority backgrounds and will foster a culture of everyday racism.

57. Clause 15 would require landlords to carry out checks on potential tenants, including asking to see their passport or visa, to discover their immigration status. Those who refused would face fines and custodial sentences. In practice it is likely that those from black and ethnic minority backgrounds would be subject to the checks and be less attractive prospective tenants for landlords. Shadow Home Secretary Andy Burnham MP has warned that it could cause problems for "anyone with a foreign-sounding name" and could become the modern equivalent of the "no dogs, no blacks, no Irish" signs and, by being more insidious, such casual discrimination will be far harder to challenge".⁴⁷ The Joint Council for the Welfare of Immigrants said its own research suggested the Right to Rent policy "encourages discrimination" and racial profiling.⁴⁸

⁴⁵ www.bbc.co.uk/news/uk-politics-33716501

⁴⁶ www.ft.com/cms/s/0/ca81ff84-6bfa-11e5-aca9-d87542bf8673.html#axzz3nmo7bs1Q

⁴⁷ www.independent.co.uk/voices/comment/theresa-may-cut-an-isolated-figure-pandering-to-the-ukip-vote-but-her-speech-summed-up-tory-a6689091.html

⁴⁸ www.jcwi.org.uk/sites/default/files/documets/No%20Passport%20Equals%20No%20Home%20Right%20to%20Rent%20Independent%20Evaluation_0.pdf

58. Similarly, the language requirements in the Bill would threaten racial equality in Britain. Clause 47 contains language requirements for public sector workers so that a public authority must ensure that each person who works for the public authority in a customer-facing role speaks fluent English “there is no language barrier to British Citizens accessing public services by delivering the manifesto commitment to make sure those public sector workers who have customer facing roles can speak fluent English.”
59. No definition of “English fluency” is provided, nor any indication of how the standard of English would be assessed in the supporting code of practice. Although the Government states that the application of the English fluency test would not be discriminatory,⁴⁹ the Race Equality Foundation have voiced concerns that such a test would lead to hostility to those members of black and ethnic minority communities whose English is a second or additional language and/or whose dialect is not perceived to be “fluent” in the workplace.⁵⁰
60. The Bill also contains plans to extend “deport now, appeal later” powers to expel those whose asylum claim on the grounds of human rights fails. The Government’s policies would further reduce immigrants and asylum seekers’ access to housing, education, employment and other services.

Q.8 In your view, what are the three most pressing issues facing Black and minority ethnic communities in Britain today?

61. The three most pressing issues are:
- a) the prevalence of direct and indirect race discrimination in employment, housing, education and the provision of services (including policing);
 - b) the growth of anti-Semitism and Islamophobia; and
 - c) the Government’s failure to give effective public leadership to promote race equality and combat negative racial stereotypes.
62. The Government’s asylum and immigration policies and austerity measures have had a disproportionate adverse impact on black and minority ethnic communities. The Government should highlight the benefits of immigration and counter negative stereotypes by ending its anti-immigration rhetoric and removing divisive measures from the pending Immigration Bill 2015.

⁴⁹ Home Office, *Immigration Bill 2015/2016 Factsheet – English Speaking in the Public Sector (clauses 47-54)*, December 2015

⁵⁰ Race Equality Foundation, *Briefing, Overviewing the Immigration Bill 2015 and clause 38, English language requirements for public sector workers* (September 2015).