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# policy & grace

**ISSUE 2:  
THE SINGLE EQUALITY BILL  
AND RACE EQUALITY**

Race on The Agenda | Published September 2009



### **Policy & Race Journal**

Policy & Race is an interdisciplinary journal for policy makers, scholars, practitioners and activists with an interest in race equality, equality and policy making. The journal is published by Race on the Agenda and aims to spark a debate on issues affecting Black, Asian and minority ethnic communities nationally and internationally.

Each issue focuses on a specific area that is current for policy making and practice and aims to inform, influence and challenge those working within the field of equality. The editors prefer articles written in engaging and accessible prose which avoid academic jargon and offer insights in how to foster justice in daily life.



**Race on the Agenda** (ROTA) is one of Britain's leading social policy think-tanks focusing on issues that affect Black, Asian and minority ethnic (BAME) communities. Originally set up in 1984, ROTA aims to increase the capacity of BAME organisations and strengthen the voice of BAME communities through increased civic engagement and participation in society.

**ROTA's** definition of 'race' encompasses all the protected characteristics under equality legislation including:

- colour
- nationality
- ethnic or national origin.

Consequently, ROTA uses the term BAME to refer to all groups who are discriminated against on the aforementioned grounds. This definition includes but is not exclusive to people of African, Asian, Caribbean, European and Eastern European, Irish, Greek, Turkish, Jewish, Roma and South East Asian decent as well as refugees and asylum seekers.

Race On The Agenda (ROTA)  
 Waterloo Business Centre  
 117 Waterloo Road, London SE1 8UL  
**020 7902 11 77**  
**www.rota.org.uk**  
**rota@rota.org.uk**

Registered Charity (1064975),  
 Company limited by guarantee (3425664)

Editor-in-Chief

**Dr. Theo Gavrielides**

*(Chief Executive at ROTA)*

theo@rota.org.uk

Associate Editor

**Pavan Dhaliwal**

*(Head of Policy at ROTA)*

pavan@rota.org.uk

Assistant Editor

**Barbara Nea**

*(Senior Policy Officer at ROTA)*

barbara@rota.org.uk

Design & production

**ebb&flow**

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For alternative formats  
 of this publication please  
 contact ROTA by calling  
**020 7902 1177** or  
 emailing [rota@rota.org.uk](mailto:rota@rota.org.uk)

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## Editor's note

Dr. Theo Gavrielides, *Chief Executive at ROTA*

In June 2007, the government published a 'Framework for Fairness' and therein outlined its vision for a new era of equality in Britain. Without doubt, the Single Equality Bill is the most important piece of anti-discrimination legislation of the last few decades, and probably the biggest attempt to enhance protection against inequality for the years to come.

It is indeed encouraging that any government would make such a long-term commitment by introducing legislation of such magnitude. There has been criticism of Whitehall's piecemeal and tokenistic approach to human rights and equality. Although there might be some element of truth in these criticisms, this Bill demonstrates clearly the willingness to take some considerable political risks in the hope of putting it right for equalities.

We have welcomed the Bill and provided our support as a critical friend by giving constructive feedback to government, responding to consultations, sitting on their senior stakeholder group, giving written and oral evidence to the House of Commons and by working closely with the Equality and Human Rights Commission (EHRC).

ROTA has been leading the national debate on race equality and the Single Equality Bill and this publication takes a step closer in helping us address two of our main concerns about the Bill.

The first concern relates to public awareness about the Bill; this is evidently very low. This is particularly true for Black, Asian and minority ethnic (BAME) communities. This conclusion is based on data we have collected through:

- our two consultation events 12/02/09 (100 delegates) and 7/07/09 (60 delegates);
- outreach and contact with our extensive membership and database; and
- qualitative survey with BAME organisations.

The second concern relates to the misunderstanding and misinformation that is currently surrounding the Bill. Using the same data, we have also concluded that BAME communities and organisations are sceptical about the Bill. Their key sources of information are tabloids, the internet or word of mouth. This information tends to be inaccurate and divisive. For instance, a considerable section of the BAME community feels that the Bill is part of "a wave of mainstreaming of equalities" whereby race equality is being watered down. The timing of the Bill is also important as it is being introduced within a challenging policy context. For example, BAME communities see the merging of the Commission for Racial Equality into the EHRC, the Single Group Funding recommendation and the move from grants to commissioning as a coordinated attempt to dilute the race equality agenda.

The aforementioned two problems cause lack of democratic engagement with the Bill. And this is not just any Bill. **I deeply believe that its success is very much dependant on the introduction of a new regulatory framework that is based on the concept of democracy, political engagement, activism and citizenship.** Without awareness and proper information, the Bill will stay on lawyers' desks and will fail to deliver the vision of a culture of respect for everyone's rights. It really feels like Human Rights Act all over again. Where was the training, education and public awareness when the Act was introduced? And why did government believe that the law and the courts alone will achieve the 1997 promised 'human rights culture'?

I am convinced that the undermining of the significance of public engagement with the Bill will cause regulatory failure. It is naïve to believe that the law alone can bring about change directly in social sub-systems. This is particularly true for the social sub-systems of Britain's BAME communities due to their limited openness to external normative interventions.

Our evidence shows that BAME organisations that have been set up to represent BAME communities and empower them to fully and democratically engage in society feel that they have not been adequately involved in the preparation and consultation phases of the Bill. Consultations continue to target organisations that have the capacity and adequate knowledge and time to participate. Despite the existence of available structures within the BAME third sector, these are yet to be maximised by government.

BAME communities do not always trust or read publications from government and EHRC. To gain trust, publications need to ensure that BAME communities feel included and valued. For instance, the May 2009 EHRC publication 'Equality Bill: Parliamentary Briefing' has no reference at all to race, BAME or the third sector. Appearances are important and so are reassurances that the Bill is introduced to strengthen protection for BAME groups. This is an obvious but yet important message that needs to be conveyed.

One of our key principles is that we can achieve more by working together. Therefore, ROTA has formed a national coalition of BAME and other equality organisations that are ready to work with government and Parliament to make the Bill more accessible to BAME communities. Through the coalition, our networks, research programme and partners, we will provide government with evidence based recommendations to ensure that the Bill is as successful as possible and that race equality is strengthened.

The papers included in this publication take the first step in this debate. **Amanda Ariss** (Chief Executive of the Equality and Diversity Forum) provides a critical account of the Bill by outlining what race equality gains from its clauses. She puts this account in the context of her own experience as the Chief Executive of a forum that brings together equality organisations representing all groups. **Barbara Nea** (Coordinator of HEAR and Senior Policy Officer at ROTA) complements this picture by explaining some of the challenges that the Bill presents equality organisations with.

**Paul Dunn** (Chief Executive) and **Brenda Weston** (Equality Development Officer) of Equality South West, present their views on one of the most radical clauses of the Bill: the Socio-economic duty. **Jacqui Grant** (Regional Manager for London, EHRC) makes the links between the Bill, the role of the EHRC and what race equality has to gain from them. Subsequently, **Narmada Thiranagama** (Policy Officer at TUC) talks about the Bill's impact on employment and discrimination at the workplace particularly concerning BAME individuals. **Anthony Salla** (Coordinator of MiNet) then shares his concerns about the Bill and the shift that it aims to bring in the way BAME organisations deliver race equality. The publication then concludes with an article from me pointing out the changes that we would like to see in the Bill and a critical account from **Rob Berkeley** (Director of the Runnymede Trust).

*The overall message of all contributions is that although many equality organisations support the Bill – and this includes BAME organisations – there is anxiety about it. I stand by what I said at the beginning of my editorial and attribute this unease to lack of engagement, absence of any feeling of ownership and misinformation. This is coupled with the fact that there are still some amendments to be made to the Bill. The debate needs to continue and be intensified. While doing so we need to remain mindful of attempts to scrap the Bill and ensure that in the tight timetable that we have, the right concerns are prioritised and clear, evidence based messages are sent to decision makers.*

## What does the Single Equality Bill add to race equality in Britain?

Amanda Ariss, *Chief Executive of the Equality and Diversity Forum*

The government's Equality Bill was long awaited. But as the Bill takes a long summer holiday before its expected return to the House of Commons in November, now is a good time to ask whether the Bill was worth the wait and what it means for race equality.

Like ROTA, the Equality and Diversity Forum welcomes the Bill. It should bring real benefits by making equality law easier to implement and by strengthening some areas. But we also think the Bill could be improved and are concerned about some areas – including the government's proposals for new specific duties to underpin the public sector equality duty - where there is a danger that the new provisions will be weaker than those they will replace.

So what does the Equality Bill do? It will replace all existing equality legislation including the 1976 Race Relations Act and the 2000 Race Relations Amendment Act. It's a long Bill but the main clauses will:

- Broadly replicate existing legislation, including the bans on direct and indirect discrimination, harassment and victimisation in employment, service delivery, housing and education;
- Harmonise key definitions so, for example, the test for indirect discrimination will be the same across race, gender, age, sexual orientation and so on;
- Strengthen some existing parts of the law: for example, on positive action and procurement;

- Complete the 'levelling up' of equality law so all people are protected in broadly the same way from all types of discrimination: the missing piece that the Equality Bill adds to the jigsaw is a ban on age discrimination in service delivery;
- Bring together the existing public sector equality duties into one integrated duty that combines and replaces the race, disability and gender duties and adds age, religion or belief and sexual orientation;
- Introduce a new duty on public bodies to do more to tackle socio-economic inequality;
- Gives tribunals a new power to make recommendations to tackle systemic problems; and
- Creates a new 'dual discrimination' provision that allows individuals to challenge discrimination they experience on a combination of grounds.

Historically, race legislation has been stronger than other equality law, so much of the legislation passed in the last few years has been designed to bring the rest up to the gold standard of race legislation. So what difference could this Bill make to reducing race inequalities in Britain?

Making race legislation (and all other equality law) clearer and easier to follow should increase the chance of the law being followed. Even organisations that want to get it right can be overwhelmed by the enormous complexity of current equality law and the Bill does a good job of trying to simplify things.

There are some important changes that should help the fight against race inequalities. The new positive action rules are simpler and stronger, so organisations can do more to tackle the impact of race discrimination in workplaces and in service delivery. These new rules include the so-called 'tie break', which caused much media debate, some of the ill-informed 'White men in jobs ban' variety. What the tie break actually does is allow an employer who has two equally well qualified candidates for a job or promotion to take account of under-representation in their workforce when deciding between the candidates. So a company that employed few ethnic minority staff could choose an ethnic minority candidate rather than a White one provided that both were equally well qualified to do the job. This could be a useful new tool for jobs like being a police officer where there are likely to be plenty of equally well qualified candidates, but is less likely to be used for more specialist roles where the chance of getting two equally well qualified candidates is smaller. Positive action rules will apply to political parties' selection processes but BAME-only shortlists will not be allowed.

Other important new provisions include:

- The dual discrimination clause, which allows people to bring a case on two combined grounds, such as race and religion or belief, rather than having to take two cases separately. This might sound like an administrative change but is potentially critical to some people's chances of getting a fair deal. Imagine a woman of Pakistani heritage who is passed over for promotion and believes this is the result of discrimination.

At the moment, she can take two separate cases on the grounds of sex and race discrimination but both would fail if her employer can show that Pakistani men got promoted (so it's not race discrimination) and White women got promoted (so it's not sex discrimination). Under the new rules, she can argue that she faced discrimination on the combined grounds of her race and sex and would be likely to succeed unless her employer could show that other Pakistani women got promoted;

- Making it absolutely crystal clear that public bodies must give due regard to equality when exercising their procurement function, and backing this up with specific duties on procurement; and
- Giving employment tribunals a new power to make recommendations designed to tackle systemic discrimination they uncover when hearing an individual case. So if an employer has good equality policies and trains managers in implementing them but one manager fails to follow them in an individual case, the individual might win their case but a tribunal recommendation would be unlikely. However, if an employer has policies that actively perpetuate race inequality, the individual might win and a tribunal could make a recommendation that these policies be changed.

Alongside these important new powers there are some frustrating missed opportunities. For example, immigration policy and practice will remain largely exempt from race equality law.



There are also concerns about the specific duties that the government is proposing to support the new public sector equality duty. For example, there is no plan to require public bodies to gather and use evidence about different forms of inequality in their areas. And equality schemes will be replaced by a requirement to set a limited number of equality objectives. Many of us think equality schemes are weak documents – the race equality scheme requirement is to set out arrangements for doing things, which is a poor substitute for a requirement actually to do them. But the government's new proposal for objectives looks narrow and unlikely to guarantee that public bodies apply the equality duty to all their activities. Surely, a requirement to have and implement an equality action plan would be more effective.

There's a lot of concern around that the Equality Bill will weaken the law on race. We don't think that's true: the provisions are either the same or stronger than the race equality laws we have now. The risk is different and it's one that applies to disability, gender, age, religion or belief and sexual orientation in just the same way. The risk is that in a world where equality law is consistent across all its grounds, organisations will treat all equality issues as applying to all groups in the same way and the distinctive form of particular aspects of inequality will be ignored.

This is a real risk: it's all too easy for organisations to take a 'let's be nice to everyone' approach rather than grapple with the more complex realities of discrimination and inequality. Some issues – such as harassment and hate crime – do affect everyone facing discrimination. But this isn't always true.

Disproportionate exclusions from schools are a major issue for BAME communities, especially for boys and young men, but the big concerns for disabled people around education are different. Good quality, affordable childcare and access to flexible working are vital to equality for women and research shows that ethnic minority women give even more importance to flexible working than other women. Flexible working is also hugely important to disabled people and older workers. But these issues aren't critical to greater equality for ethnic minority men or gay men.

But the risk of a homogenised approach to equality is there for everyone concerned with equality, not just for race campaigners. We all have a strong interest in making sure that the gains of strong, consistent equality law and an integrated approach to equality don't come at the price of losing focus on what inequality is really about for the people experiencing it. Equally, we all benefit from recognising that people's lived experience of discrimination doesn't reflect the categories used in discrimination law.

While we're all working on the Equality Bill, it's easy to forget that the law on its own can't achieve much change. Unless people know and can assert their rights, law has limited impact. If organisations don't know what's required of them or don't make an effort to comply, law's not an effective force for change. And unless the law is effectively and consistently enforced, it loses credibility. Last but not least, many of the causes of continuing race inequalities cannot be solved by the law alone: effective policies and practices are just as important.

## Preparing and supporting the equality voluntary and community sector to use the Single Equality Bill

Barbara Nea, *Coordinator of HEAR and Policy Officer at ROTA*

“Nothing About Us Without Us!” – the motto adopted at the founding of Disabled People’s International in 1981, which captures the idea that equality is not possible without self-determination.

The publication of the Single Equality Bill earlier this year was considered by many of its supporters to be a landmark to end inequality. It was hoped that by both addressing many of the causes and consequences of discrimination and inequality the resultant Act will accelerate the processes to modernise Britain’s systems, institutions and prevailing social attitudes.

HEAR agrees it provides an excellent opportunity, but remains mindful that this important legislative development alone will not produce an evident and lasting change, particularly to the lives of our societies most marginalised. There is a need for wider action beyond this legislation, in particular by equality organisations in the voluntary and community sector (VCS).

### The impact of the Bill on equality VCS organisations

Civil rights and equality movements around the world have largely been instigated by the formation of organisations set up to challenge discrimination and inequality, support those affected by it, and change the structures and practices in society that perpetuate inequality. These include equality organisations led by and for Black, Asian and minority ethnic (BAME) people, Deaf and disabled people, lesbian, gay, bisexual people, older people, people of particular religion or belief, refugees and migrants, transgender people and women and young people.

In London today, there are thousands of such organisations within the VCS. They play a unique and vital role in addressing inequality by speaking up for the most marginalised people in society; providing much needed and often life saving services to meet needs that mainstream services are either unaware of, do not understand and are failing to meet; campaigning for long term changes that will reduce inequality and secure human rights for all people; and engaging otherwise isolated people and communities in wider public and social life. There is a need for continued and enhanced support for them by government if it is to meet the ambitious aims of the Single Equality Bill.

### Lessons from the past

It is also important to consider the potential impact these legislative developments could have on civil rights and equality movements and organisations in debates shaping the development of the Single Equality Bill.

There are instances in the past where positive legislative developments, in particular equality areas, have undermined the important and complementary role of such movements and organisations. For example, since 1997, a whole raft of legislation has been introduced in response to the political demands of LGBT populations. The Civil Partnerships Act (2004) has been the most publicised but the law has also taken steps to equalise the age of consent for gay men (2000); to enable adoption and fostering by same sex couples (2002); to introduce anti-discriminatory legislation in employment (2003); to legalise the right for transgendered people to alter their birth certificates (2004); and to protect from discrimination in the provision of goods and

services (2006). While these developments are positive, there are concerns that the LGBT sector has suffered and is being increasingly challenged by assumptions that LGBT issues have now been effectively addressed. There has also been capacity issues within the sector about how to fully make use of this legislation (HEAR, 2008). Similarly, the Gender Equality Duty, which came into force in April 2007 requiring public authorities to promote gender equality and eliminate sex discrimination, has had an unforeseen and detrimental impact on many women's organisations. This was demonstrated by a recent study of Rape Crises centres in 2008 which found that 43% were challenged by statutory funders about their women-only status (WRC et al, 2008). Many fear that this could lead to the 'phasing out' of women-only and women-led organisations without any real alternative being provided by the statutory sector and resulting in a loss of vital services for vulnerable women.

There is a need to learn lessons from the experiences of the LGBT and women's sectors in order to support all equality sectors adapt and engage with this changing legislative environment.

### Concerns about pan-equalities approaches

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The combination of legislation covering all equalities strands into one single Act is already leading to increased 'pan-equalities' approaches, where the inequality issues experienced by all the protected groups are considered at one time. There are well-founded fears that issues may get lost through such approaches, and that resultant activity may not be adequately directed at addressing the specific types of inequality faced by different individuals and groups of people. Where such approaches are taken and where there is a lack of understanding of substantive equality, they are likely to perpetuate, rather than eradicate inequality.

In order to ensure this does not happen, there is a need to learn from the pan-equalities approaches being pioneered by specialist VCS organisations and networks such as HEAR. HEAR has been bringing diverse equality organisations together for five years to work effectively to address inequality and issues of shared concern in London. Key to HEAR's successful pan-equalities approach has been our acknowledgment of and respect for the distinct and specific nature of the inequality faced by different individuals and groups of people. We strongly believe that positive action measures, which pay attention to such specificities, and which are informed by the lived experiences of those who face inequality, are the only way that such inequality will effectively be addressed. We realise that issues may get lost through pan-equalities approaches, and that is why we support and promote specialist equalities organisations. We also believe that if such specialisms are retained, there can be great strength in pan-equalities approaches, which bring diverse groups together to share information, resources and values and tackle inequality.

## Conclusion

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Civil rights and equalities organisations face threats at present in relation to their key role in social reform and their independence. They are often misunderstood, under-valued and under-resourced. They are operating in an increasingly hostile environment that has been emerging, particularly since the Commission on Integration and Cohesion recommended against funding 'single groups'; with the growth of commissioning, which favours large, mainstream organisations; and in the recession. In many equality sectors, organisations are closing or shutting down services at worrying rates.

The Bill potentially offers huge benefits to this country's diverse communities in tackling remaining inequality across many areas. However, government's commitment to it must be matched by the necessary commitment to equality organisations if the Act is to truly benefit those who face the most severe inequality and discrimination. Not only is there a need for such organisations to be resourced to inform the development of and make use of the new legislation, but also to fulfil those unique and vital roles in addressing inequality that legislation alone will not cover.

## Socio-economic status as a ground for discrimination and the Single Equality Bill

Paul Dunn, *Chief Executive and Brenda Weston, Equality Development Officer at Equality South West*

“What if discrimination on the grounds of social class were illegal? Would this help to reduce poverty? Would it signal a revolution in access to services, income distribution, and more generally in government priorities? So many outcomes are highly associated with social class, including health, employment and the length of life itself”. So said the Radical Statistics group in its qualified welcome to the socio-economic clause, added to the Equality Bill at almost the last minute.

Chief Executive of Equality South West, Paul Dunn says “It is interesting for me to be asked to write something about class, or social class, or socio-economic status. I have been very aware of my class since I was a young child, being brought up in a coal mining area, by parents from mining families. In fact my mother was a nurse and my father a miner. I worked down the pit for a number of years in my youth.

We were brought up as republicans: opposed to the monarchy, the aristocracy, the establishment, the Tory party and the churches. My approach to these questions throughout my life has been guided by understanding the impact that poverty and social class have on people and their life chances. That has not changed over the years”.

It is not surprising then, that the draft Equality South West Business Plan for 2009-2012, in August 2008, recognised low income as a fundamental inequality:-

“Along with a person’s economic status, it is evident that age, disability, gender, race, religion or belief, sexual orientation or transgender status can have a big impact on the way that their life develops...”

At the Bill’s second reading, Harriet Harman introduced the socio-economic clause, with the welcome statement that “An important aim of public policy is to reduce the gaps that still exist between rich and poor-to narrow the gap between the top and bottom of our society”.

### At long last this corrosive gap is recognised as harmful to social cohesion!

In common with many others working to promote equality at a strategic level and at the ‘coal face’, we believe there are issues about how socio-economic inequality is defined, how the data are collected and how this phenomenon will be measured and monitored. We also have concerns around the ‘light touch’ approach, and the geographical focus discussed in the examples of strategic actions that public bodies could take. There is a risk that the duty will focus on the more obvious and easier targets, and not help the most excluded groups such as Gypsies and Travellers, asylum seekers and homeless people.

Alongside the duty, a recent Public Service Agreement aims to ensure that the ‘most socially excluded adults (defined as care leavers; offenders on probation, adults using secondary mental health services, and adults with moderate to severe learning disabilities) are offered the chance to get back on a path to a more successful life, by increasing the proportion of at-risk individuals in settled accommodation; and employment, education or training’.

***We must hope and work to ensure that, in implementing these two initiatives, public bodies will find ways to knit them together so some groups of the most excluded do not fall through the gap.***

It has been well argued over recent months that the new duty must apply, not just to local strategic bodies, but also to government ministries such as the Treasury, in setting taxation policy, and the Department for Business, Innovation and Skills. This would ensure it has a far-reaching and major impact.

While it is evident that a relationship exists between socio-economic disadvantage and prejudice and discrimination based around the seven 'protected' grounds, this relationship is not straightforward. From the most reliable equality and diversity statistics (relating to disability, gender and race) we see that discrimination is significantly linked to socio-economic disadvantage. It isn't difficult to see connections between (for example) racist or homophobic bullying at school, the target's inability to develop to their full educational potential, and a lifetime of low paid and insecure employment. But the connection is not inevitable. BME, lesbian or gay children from more privileged backgrounds can have a more protected social and learning environment, purchased on their behalf, so that these elements of their identity do not determine their life destinations.

This was evidenced in recent research findings from the Department of Work and Pensions, which, in the case of disability, found that overall:

"Severely impaired people with a degree and living in a prosperous area have a good chance of employment. But if they had left school early and live in an area with few job opportunities, their job prospects are much worse even than those of non-disabled people with the same adverse characteristics".

With all this said, at Equality South West we are under no illusion that a serious assault on socio-economic disadvantage would automatically end the deeply damaging manifestations of ignorance, prejudice, harassment and hatred that are inflicted on people on a daily basis, just because of who they are. It is crucial that the extent and nature of such behaviour continues to be researched, exposed and tackled by every means and with every resource at our disposal.

So while welcoming this clause we must not let the fight against socio-economic disadvantage eclipse the very real, harsh and distinct existence of discrimination in all its forms, or diminish our determination to stamp it out.

## The Single Equality Bill, the Equality and Human Rights Commission and Race Equality: A way forward

Jacqui Grant, *Regional Manager London at the Equality and Human Rights Commission*

The central tenet of the Equality and Human Rights Commission (EHRC) is to build a better society, free of prejudice, with fairer life chances for all. This translates into ensuring that every single person, no matter what their origins or circumstances, gets treated with decency, dignity and respect. Obviously, this is an immense challenge - that's easier to announce than deliver – but the EHRC is ready to shape and respond to that challenge with the support of its partners through the enactment of the Single Equality Bill.

Forty years of equality legislation has ensured that tens of thousands of people have had redress as a result of discrimination and harassment, which has played a significant part in changing the way companies and public services work – in many cases with beneficial effects on their businesses. However, despite this, discrimination and inequalities persist. Individuals are still being underpaid, mistreated at work and overlooked by public services based on gender, race, disability, age, sexual orientation, religion and belief and transgender status. Half of those registered disabled remain out of work, Bangladeshi women are six times more likely to be unemployed than White women, a young Black man is more likely to end up in jail than in university and a child's postcode at birth is a reasonable predictor for their lot in life as an adult. To a large extent our choices and chances in life are still determined by our origins.

Under the current equality legislation people can complain if they are mistreated. However, current requirements to actively root out and address systemic discrimination only applies to race, sex, gender reassignment and disability, and even then, it's in a piecemeal fashion – only chipping away at the edifice of discrimination challenges. If the Equality Bill is passed as currently drafted, it will consolidate the requirement on public sector organisations to tackle entrenched discrimination and harassment, advance equality and promote good relations to include the grounds of sexual orientation, religion or belief and age. Over the coming years this will, for example, change the way public bodies go about designing and developing their services and employment practices with a view to securing equality for all.

The new Equality Bill is heralded as a 'heroic exercise in simplification'. It brings existing law – currently contained in 35 acts, 52 statutory instruments, 13 codes of practice and numerous European directives – into one place. It updates the legislation to reflect how case law has clarified and strengthened people's rights – and it uses accessible terminology. However the Bill offers more than consolidation – it will also extend protection from discrimination (e.g. on grounds of age in services; on grounds of gender reassignment in schools) and makes welcome strides in providing greater flexibility – for example, enabling employers and service providers to take positive action to promote equality.

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Provisions made under the bill have the potential to enable significant positive impacts in relation to race equality. For example, the provision on positive action will give employers the option - when interviewing two candidates of equal merit, - to take into account whether either candidate is from a group currently under-represented in their workforce. Using the police force as an example, what this means is that where there are two equally qualified candidates, the fact that officers of Pakistani origin are under-represented in the work force can tip the balance in favour of selecting the candidate who is of Pakistani origin. A primary school head teacher choosing between two equally capable male and female applicants for a teaching post will be able to select the male candidate on the basis that male teachers are under-represented in the school.

The proposed 'dual discrimination' clause is designed to enable people who experience direct discrimination relating to two equality strands to bring claims more easily - it has the potential to bring positive results to BAME individuals. At the moment is it only possible to bring complaints on each of the grounds individually; for example, where a Muslim woman experiences discrimination because she wears a hijab, she may bring her case on the basis of (a) her sex and/or (b) her religion or belief, identifying a comparator in each case. This makes claims complicated to run and defend. The dual discrimination provision will mean she can bring her claim on the basis that she was treated less favourably because she was a Muslim woman.

Vera Baird, Solicitor General and Equality Bill lead minister further amplifies this point – 'people's identities are multi-faceted and complex,..... this clause would provide protection for people who at present would have to guess on what basis they have been discriminated against'. It would also enable us to discern patterns of discrimination more comprehensively, highlighting issues we may otherwise have missed in this intersectionality. It would also have a beneficial knock on effect in that public authorities will have to tackle direct discrimination on combined grounds. However, in EHRC's view that dual discrimination provisions do not go far enough as they do not apply to indirect discrimination or harassment. This will mean that complex cases concerning a sequence of events – e.g some direct and indirect discrimination, plus harassment – will be complicated to plead or defend.

***With regard to recognising the need for representation, the Bill requires public authorities to report on the percentage of BAME individuals that they employ in their various departments. It also permits registered political parties to make arrangements to address under representation in the selection of candidates.***



Opportunities for the public sector to promote race equality through procurement are also addressed under the Bill by creating greater transparency and improving equality performance in commissioning of private sector and voluntary sector organisations. Further, the EHRC has launched inquiries into the construction industry which highlights a distinct lack of BAME groups across the industry as a whole. The EHRC will also work closely with key construction industry stakeholders to encourage ethnic minority participation in the industry.

There are areas where the Equality Bill should be strengthened:— for example, a purpose clause would help courts and individuals understand the correct approach to the rest of the Bill; for example, how the positive action provisions or exceptions should be interpreted. It would help to ensure that the original purpose of the legislation cannot be undermined by later judgments: as evidenced in the Malcolm case where the judicial interpretation of the Disability Discrimination Act was at odds with the law's original purpose.

The Commission also feels the Bill could make an even bigger difference if the provision for the national default retirement age were amended so that how long a person worked was a personal choice, especially as in 20 years from now, half the population will be over 50 years old. We would also like to see the Bill strengthened for example, by giving protection to children and young people against age discrimination in goods and services and protection from harassment on grounds of pregnancy, maternity, religion or belief, gender identity and sexual orientation in schools.

The Commission is considering how the proposed provision will work in practice, such as how will an appropriate comparator be determined in the case of multiple discrimination? With regard to positive action, the EHRC is in the process of preparing guidance on how positive action decisions should be made to comply with European requirements. The EHRC will need to consider differing organisational priorities and cultures when putting together guidance on how positive action decisions will be made.

The EHRC will encourage organisations to deliver on the Equality Bill and will provide both statutory and non-statutory guidance that spells out in clear and straightforward terms, what organisations can do. Our aim is to guide and encourage, but we will not hesitate to take action against those organisations who are in breach of their statutory obligations under the new Act.

Overall then, the Equality Bill offers an opportunity to realign the equalities framework to meet 21st century challenges and to provide a fresh perspective and approach to public, private and voluntary sector interests, including - in terms of delivering on public services as they relate to equality.

The Bill is currently going through the Parliamentary scrutiny process and is expected to be passed by next Spring, with most of the provisions coming into force in Autumn 2010.

## The Single Equality Bill and employment – what it means for race equality

Narmada Thiranagama, *Policy Officer (Women's Equality), TUC*

The TUC has long been campaigning for the introduction of a single equality Act. TUC Congress passed a motion in 2002 calling for such an Act to bring together all our existing discrimination laws that had developed over many decades, to ensure consistent and comprehensive protection across all the grounds and to encourage better enforcement and compliance with the law.

The Equality Bill making its way through parliament brings together existing discrimination laws into a single Act and harmonises protection upwards in many instances, including the introduction of a single public sector equality duty covering all the protected characteristics. However, the TUC believes that bolder steps are needed and is still working to ensure that there are stronger measures on equal pay, equality duties in relation to procurement and a robust single public sector duty.

Strengthening the protection afforded by equality legislation to some of the most vulnerable groups of workers in the UK is not an abstract exercise. It has the potential to change lives in the workplace and help create a more equal society. For example, TUC research and seminars have underlined the severity of the discrimination and continuing barriers Black women experience within the labour market and beyond. EOC research in 2007 found that Black women were disproportionately more likely to be asked about

marriage and children at interview and found it more difficult to find jobs despite high levels of qualifications. The TUC's research confirmed that Black women were still more likely to be unemployed or economically inactive than any other group in the labour market, suffer cultural stereotyping – resulting in having to take jobs at lower skills level than they are qualified for, disproportionately likely to be working in temporary jobs and concentrated in low paid and low status jobs. Race discrimination confronts Black women in a stark and direct fashion, from the interview process through to pay, progression and vulnerability to disciplinary actions and dismissal.

It is clear that there are still managers who faced with a Black woman will stereotype them into the type of work that they think they should be doing or that they think them capable of doing. The true cost of this discriminatory treatment is not just paid by these women but also their families and communities. The TUC's campaign on women's low pay and poverty highlighted the effect on Black communities in Britain, with children from BME families facing a disproportionate risk of poverty. Compared to the 27% of children in White families who live in poverty, 50% of children in Asian families live in poverty; 51% of Black British children live in poverty and Child Poverty Action Group found that Pakistani and Bangladeshi children's risk of poverty was 63%.

Addressing this situation is a crucial test for the new Equality Act. This is why the TUC has emphasised the importance of enforcement in all its discussions and submissions on the proposed Act. The need to improve enforcement of equality rights has been underlined by the limited effectiveness of the current approach which has been characterised by individual enforcement and remedies. The TUC has strongly argued for giving tribunals broader powers to make recommendations that an employer amend their policies and practices (which the Bill does contain, although there is no clear enforcement mechanism if such recommendations are then ignored by the employer); permitting representative actions by trade unions and other similar bodies; and giving tribunals the power to order reinstatement in discrimination cases. All of these would enable trade unions to make equality legislation more effective and render them more meaningful in the lives of ordinary working people.

The TUC has also campaigned for trade union equality representatives in the workplace to be given statutory rights to time off to train and to perform their duties in the Bill. The TUC has trained more than 300 equality representatives since September 2008. Initial evaluations show that many of the representatives were already reporting actions and successes just one month later. There is great potential for equality reps to assist with raising awareness of equality and developing policies and practices in partnership with employers that ensure fairer workplaces. Above all, trained equality reps in the workplace can help prevent situations where a worker has to resort to taking a legal case to tribunal in order to get redress.

***The TUC's campaigning work on the new Equality Act has been shaped by the voices and experiences of trade union members. In 2008, the TUC organised a one-day seminar for Black women trade union activists. The seminar set out to discuss issues that Black women face in the labour market, plan a strategy for organising Black women in the workplace and ensure that their priorities were taken forward by trade unions. Another critical aspect of the seminar was tackling the issue of the multiple discrimination experienced by Black women. Currently, Black women encountering discrimination in the workplace have to make single ground claims on race and gender, with two separate individuals as 'comparators'. A worker who has experienced racism and sexism would have to find both a White woman and a Black man in that workplace with similar circumstances to the claimant.***

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The TUC has therefore welcomed the recognition of the existence of multiple discrimination within the Equality Bill. However, the TUC has expressed disappointment to the government on the restrictive nature of the new clause it has introduced, since it only extends to claims of direct discrimination and limits the number of grounds on which combined claims could be brought to two. Many instances of multiple discrimination involve indirect discrimination or harassment. For example, in an American case, Black women claimed that the seniority system in their redundancy scheme discriminated against them as they had been recently recruited. They could not argue for discrimination on grounds of sex alone as White women had been employed for many years, nor could they argue discrimination on grounds of race alone as Black men had been recruited by the company for many years. In the report produced following the seminar, the TUC committed itself to lobbying the government to ensure that the Equality Bill addressed this issue effectively.

The discussions and priorities outlined by women who took part in the seminar affirmed the importance of strong effective equality legislation. However, it was clear from their own experiences and the strategies they put together that making legislation effective and real for disadvantaged groups required organising and action within workplaces and the community. Participants at this seminar highlighted the lack of a meaningful implementation of the Race Equality Duty in many workplaces. At the heart of an effective response to discrimination and use of equality legislation to drive change, statutory rights for equality reps were seen as essential. Along with institutional change by employers and a collective approach from trade unions, participants also saw individual agency by Black women as fundamental to any real change. Trade unions were seen as key vehicles for change - but crucially - not without increased activism by Black women members. Encouraging more Black women to be activists, particularly the younger generation who were yet to join the workforce was a priority for participants. They concluded that creating change was a collective effort, which needed to get 'everybody on board'. Within its work on gender and race equality and its efforts to help shape a strong Equality Act, the TUC is guided by the voices, experiences and leadership of the people who have the most to gain – and lose.

## Scepticism about the Single Equality Bill

Anthony Salla, *Coordinator of MiNet*

The underlying concepts of the Single Equality Bill (SEB hereafter) are well founded; the bringing together of 116 existing pieces of legislation, amalgamating existing laws on age, disability, gender, race and religion or belief and sexual orientation into one overarching Bill. Similarly, many of the proposed benefits of the SEB have been well documented; not least the simplification of law giving the premise that cases of discrimination can be brought before court with greater ease or the opportunity to allow cases of multiple discrimination on no more than two grounds to be heard.

However, what remains less transparent and can only really be hypothetically answered at this stage, is the impact the SEB may or may not have on race equality. The concerns appearing ubiquitously throughout the Black, Asian and Minority Ethnic (BAME) third sector vacillate around there being a rolling back of the gains hitherto made in race legalisation with its rich abundance of case law and how issues of race will become diluted with a new and broader scope of interests. Arguably, one area tantamount in importance is the question about what progress may have been made within race legislation without the potential inception of a Single Equality Act.

*As Britain aspires to be a free, fair, and just society the persistent areas of disadvantage experienced by BAME people prevail and are well recorded. Within criminal justice, education, employment, housing and health the inequalities are only too clear. There has been a conspicuous abundance of data which elucidates the disproportionately in race discrimination cases within social and economic spheres. Yet tackling the disadvantage experienced due to race has been a slow and hard struggle. With this in mind and contemplating the limited guarantees agencies carrying out public services may not entirely or even partially understand surrounding the continued race component of the SEB, how inimical would this be in detracting from or delaying the movement to achieving race equality.*

Furthermore, this places the spotlight on any guidance that will be the buttress of information statutory sector employees will refer to when dealing with any likely case of discrimination presented. I write with a small amount of experience working in the public sector and understand how guidance plays a central role in the day to day running of operations, which generally results in employees having diminished opportunities to use their intuition or discretion. Prudence must therefore be used to ensure that race is a fundamental component within any guidance that is offered to public sector agencies surrounding the SEB.

Moreover, when considering the SEB there remain a number of disconcerting issues of uncertainty where further clarity is required, for instance, within enforcement and monitoring. Not only have questions been raised about who will scrutinise the data which is retrieved from monitoring, but who will ensure that the ethnic monitoring apparatus is accurate and comprehensive. When considering workforce representation many London boroughs still fail to recognise key ethnic groups. Evidently, this will only result in a failure to provide specific targeted support for these groups who are under-represented whilst inconsistent monitoring applications across agencies will inhibit comparability and transparency. This will also limit any true picture we can create to assist in reducing the ethnic pay gap a key instrument needed to deliver race equality. Similarly the accountability of organisations commissioned to carry out public services needs to be secured as BAME groups have long suffered a disservice by mainstream providers and this cycle should be effectively stopped from manifesting itself through procurement.

Certainly all agencies should have a statutory duty to work towards eliminating unlawful racial discrimination and to promote race equality and good relations. London's racial equality councils (REC's) have been a stalwart in achieving this in London since the 1980's. More recently however London has seen the demise of a number of REC's whilst others have had to reluctantly acquiesce towards delivering their services as part of a mainstreaming agenda to survive. The difficulty of this struggle has been further exacerbated due to sudden change in funding regimes leaving REC's with little time to adapt their working practices. If this funding pattern is replicated by other funding bodies then we run the risk of losing the aid of REC's and similar bodies who have fought tenaciously to ensure race equality for London's BAME communities. A fundamental role needs to be adopted therefore by key funding bodies, such as the Equality and Human Rights Commission and Local Authorities, who need to be appreciative of the demands of carrying out equalities work and the adaption required within small organisations for this to be achieved.

If the hope is for a culture of equality, dignity and respect to be fostered throughout all providers of public services (whether public, private or voluntary), then presently we are a long way off, and in the short term race equality will perhaps be placed on the sidelines. Nevertheless, it is true that when we look back through history, it has been the most disadvantaged individuals who have demanded certain rights to protect their basic dignity and worth, and BAME people are among the many groups aware of the protection that rights can serve – when fairly and universally applied. Therefore, it would be the central worth of the SEB to affirm the value of each individual, and most importantly the infringement of anybody's rights under the Bill both to appear perplexing and disturbing. Therefore, if government uses the voluntary sector appropriately to ensure the Bill is solid in its development and implementation, race equality work will only be built upon.

Moreover, it should be the hope that having an effective and realistic equality scheme and a workable action plan, this will suffice to help public agencies to mainstream and understand the concepts of the SEB, easing integration within organisations to deliver realistic and achievable outcomes. This in turn will help to give trust and confidence to the people who use its services. Any misunderstanding be indicative of the power to profoundly affect people's lives and progress race equality.

## Winning the race: Getting it right for race equality

Dr. Theo Gavrielides, *Chief Executive of Race on the Agenda*

**R**ace on the Agenda (ROTA) warmly welcomed the Single Equality Bill, and hopes that it can provide the legislative tools to tackle persistent inequalities such as those faced by Britain's Black, Asian and minority ethnic (BAME) communities. ROTA also hopes that through the Bill a culture of respect for equality and dignity is created and mainstreamed in providers of public services (whether public, private or voluntary) and in society.

In February 2007, the government published the findings of its Equalities Review providing data on persistent inequalities faced by many groups and individuals in Britain. It has been estimated that if we continue at the current rate of reducing inequalities:

- The gender pay gap will not be closed until 2085.
- The gap between the employment rates of White and Black, Asian and Minority Ethnic (BAME) communities will not be closed until 2105.
- The employment rates of people over 50 will not be equal with those of working age who are under 50 in this lifetime.

In addition, we will probably never see an end to inequality:

- in the employment rates of disabled people; and
- the number and level of qualifications obtained by young people from BAME communities compared with those from White communities.

In a bid to improve performance on this issue, the government promised to simplify and modernise discrimination law by introducing a Single Equality Act within this term. While striving to produce one of the most elaborate pieces of legislation, the Government Equalities Office and the Office of the Solicitor General seem to have been distracted from what set off the debate for a Single Equality Bill in the first place. The way I understood the argument - and was certainly convinced by it - was that a new, more streamlined, clear and powerful piece of legislation was needed to address persistent inequalities and disadvantage.

**As part of ROTA's work on the Bill, we have formed a national coalition of BAME and other third sector organisations that are generally supportive of our views. The 36 Winning the Race Coalition members can be found at <http://www.rota.org.uk/pages/WTRC.aspx>**



## Strengthening race equality

### Recognising the need for representation:

On more than one occasion, the Single Equality Bill recognises the needs to address discrimination through representation. Firstly, it notes the need for the workforce of statutory agencies to be representative and requires such agencies to report on the percentage of BAME individuals that they employ in their various departments. Secondly, it acknowledges the need for greater representation of BAME MPs in the House of Commons; it states that it will pursue non-legislative means to achieving this. While it is not clear how this will be achieved, it has the potential to increase awareness of BAME issues at statutory sector level; which in turn could influence who the BAME Third Sector will be able to lobby to represent their views at government level. ROTA will monitor the impact of these requirements on representation of BAME concerns at policy level.

### Impact on the Private Sector:

The Single Equality Bill enables the public sector to use their spending power to deliver greater transparency and improve equality performance in the private sector. While there is already some legislation that allows for the promotion of race equality through procurement, this bill aims to strengthen that by using greater transparency. The Bill states that policymakers will be looking at both legislative and non-legislative means of maximising these proposals and ROTA will follow, and encourage other BAME Third Sector organisations, to be aware of how this is played out. As we enter a commissioning environment it is crucial that those commissioned to carry out work deliver on equality. The positive duty

included in the Race Relations (Amendment) Act could now be extended to private and Third Sector organisations either through legislation or non-statutory guidance.

Furthermore, the bill highlights that there are stark inequalities in specific industries such as 'in the construction industry, 2.5% of the workers are from BAME groups, whereas the average workforce as a whole is 8%. In order to address this, the Equality and Human Rights Commission will 'launch a series of enquiries into the inequality in the constructions sectors (and financial and professional sectors) from 2008. ROTA will monitor the findings of these enquiries to assess whether they lead to any duties being placed on private sector industries. For those BAME Third Sector organisations supporting people in employment such findings could be significant.

### Addressing the impact of services:

The Single Equality Bill clearly states in practice "the duty will require public bodies to consider how their policies, programmes and services affect different disadvantaged groups in the community". This is significant for the BAME Third Sector given the disproportionate negative impact that some policies, programmes and services have on the BAME groups that they serve. Under this new duty there will need to be a consideration on the potential detrimental impact that some services may have on BAME communities as well as to assess whether they meet the needs of BAME communities.

**Multiple Discrimination:**

The Single Equality Bill will “allow discrimination claims to be brought on combined multiple grounds”. The fact that this Bill recognises that discrimination cannot be thought of in silos and therefore can impact people on various grounds simultaneously, such as a woman who is Black, is significant. For those BAME Third Sector organisations that provide services to address multiple discrimination (such as domestic violence services for BAME women) recognising such complexities is important and strengthens the case for specialist knowledge and experience in these areas. The Bill admits that they are yet unaware of what legislation could address such discrimination. Therefore, it is important that those working with multiple discrimination and have the knowledge and expertise should inform any legislation that may be developed on the back of this.

**Areas for improvement****Scope of the Bill:**

ROTA was disappointed with the limited scope of the Bill and of the Public Sector Equality Duty (Clause 143) in particular. The duty applies to the listed ‘core public authorities’ and to an ambiguous list of ‘hybrid public authorities’. The former has some obvious omissions such as the Police. The latter is defined as those authorities exercising ‘public functions’ as this is developed under the Human Rights Act 1998.

After five leading cases, a proposed Private Members Bill, pressure from the Parliamentary Joint Committee on Human Rights (JCHR) and several promises by government that the legislative confusion and misinterpretation of

Section 6(1) of the Human Rights Act will be addressed, the Bill presents a unique opportunity that should not be missed.

In 2004, the JCHR concluded that the test being applied by the courts was “highly problematic” as in many cases it resulted in an organisation “standing in the shoes of the State”, but without the State’s legal responsibilities under the Human Rights Act. That had led to a “serious gap” in the protection that the Act was intended to offer.

Cases such as the latest *YL v Birmingham* (2007) suggest that if the Bill inherits the confusion caused by Section 6(1) of the 1998 Act, some of the most vulnerable sections of British society will remain unprotected. This is not in line with the Equalities Review.

The *YL* case involved an 84-year old lady with Alzheimer’s who remained unprotected due to the limited definition of “public functions” under the 1998 Act. 300,000 older people in care were affected by this case. The numbers of BAME elders receiving social care services that are contracted out by local authorities are rather significant particularly when compared to the White British population. In addition, BAME elders have additional needs which if ignored might run the risk of having their dignity and respect breached (e.g. cultural, language, dietary, health and lack of family support and friends networks). This also applies to children in care and children and young people in academies. Again the numbers of Black boys and girls in these services are proportionately higher than the White British population.

ROTA proposed an amendment to include the JCHR definition of “public functions” (29th Report 2008). We understand that the Equality Bill is a Public Bill and that there is intention to consult about how to use procurement as an equality tool. This is welcomed. The amendment in the Health and Social Care Bill was also welcomed. However, the gap created through the Human Rights Act is still not addressed.

We do not believe that consistency can be achieved through guidance or secondary legislation. We are not proposing to list hybrid public authorities, but to provide a clear definition of public functions which is in line with the recommendation of the JCHR.

We strongly agree with the Chair of the JCHR, Andrew Dismore, who said to the House: “Guidance alone cannot solve the problem; in reality it has proved utterly useless ... Guidance can never be a substitute for the direct application of the Act to service providers” (18 Dec 2007: Column 739).

### **Purpose clause:**

We believe that the Bill would benefit from a purpose clause that will allow courts to easily identify the overriding objective of the statute. The applicability of several provisions of the Act will be seen through test cases, and we are concerned that without purposive interpretation that is based on a clear overriding objective of the statute, the letter of the law might be narrowly applied. There are numerous examples of UK legislation that can be provided as examples. We therefore proposed an amendment to include a purpose clause in the Bill.

### **Enforcement:**

Several provisions of the Bill are reliant on secondary legislation and non-statutory guidance. The Equality and Human Rights Commission (EHRC) is mentioned as one of the bodies tasked with enforcement responsibilities. This is welcomed. From our RRA experience, in order to move away from the process focused approach to race equality and equality, and ensure consistency of application, bodies such as the regulators, inspectorates and auditors need also to be clearly identified by the Act.

This should include the Audit Commission, the Healthcare Commission, the Commission on Social Care Inspection and Ofsted. We proposed an amendment to include the regulators and inspectorates.

Moreover, the (Regulatory) Impact Assessment breaks down the estimated costs and benefits of the Bill according to the type of measure and the sector. We believe that the third sector has been overlooked in the assessment. This refers to: (a) the costs the third sector will have to meet to support and deal with cases under the new Act (b) the costs the third sector will have to meet to enable its employees to use the new Act (c) the benefits and savings the third sector offers to the public and private sectors. All our coalition members are third sector organisations that are keen to be involved in the mainstreaming of the Act. The third sector, however, is reliant on grants and cannot generate income through profit making activities. This has been missed by the Impact Assessment. We recommended that a comprehensive impact assessment is carried out that includes the costs and benefits of the Bill for the third sector.

**Positive Action:**

ROTA is pleased to see provisions which aim to align EU legislation with domestic law. The proposed provisions are modest and could be strengthened. Ten years on from the Stephen Lawrence Inquiry, and ROTA has evidence to suggest that the recruitment, retention and promotion of BAME staff particularly within certain sectors is neither proportionate nor within the letter and spirit of equality legislation.

**Multiple discrimination:**

We support the inclusion of provisions to address multiple discrimination. Looking at case law pre 2004 it was possible for someone to bring a case on multiple discrimination grounds. After *Bahl v Law Society* (2004), cases that could only be brought as multiple discrimination claims were turned down.

For example, in 2003 an Indian woman was able to bring a case against her employer who was discriminating against her due to her gender and race (*Mackie v G & N*). The discrimination referred to her being an Indian woman and would not have been successful if it was brought on a single ground. In fact, the court compared what would have happened if the same case was brought by an Indian man and concluded that the employer's discriminatory action referred to Indian women only.

We would argue that limiting the combination to two characteristics is not the best way forward. However, we understand that there are concerns that case law will increase. We agree with the Equality and Diversity Forum that we should not expect an increase of more than 5% of the number of cases brought. We would argue that the limitation to two grounds only should be revisited within two years of this provision being introduced to consider whether the number of grounds should be extended.

**Concluding remarks**

It is important that any amendments of existing protections are considered as part of a democratic dialogue and within the spirit of the Bill. That is to tackle persistent inequalities, protect the vulnerable, "harmonise discrimination law, and strengthen the law to support progress on equality".

ROTA and the Winning the Race Coalition of BAME and third sector organisations, we acknowledge that factors that do not relate to our missions, such as profit, will have to be considered. We acknowledge that issues of practicality might need to be addressed. However, we strongly believe that any Act of Parliament that prioritises factors such as profit over a person's equality and dignity will lack the foundations of its very existence.

## . . . now, the science

Rob Berkeley, *Director of the Runnymede Trust*

There is probably some saying that can be applied to the way in which public institutions manage so often to miss the point on race equality; along the lines of 'everything that can go wrong, will', or 'be careful what you wish for'. Suffice to say that while the efforts of those who framed the Race Relations (Amendment) Act (RR(A)A 2000) were gargantuan, the resulting achievements have so far been less impressive. Rather than a saying, perhaps a scientific law applies: Newton's first law of inertia. GCSE Physicists will recall that the Law of Inertia states that:

***Every body continues in its state of rest, or of uniform motion in a straight line, unless it is compelled to change that state by forces impressed upon it.***

When applied to the case of race equality in our public services, we have not yet 'impressed' sufficient force to change the direction of many of our public institutions, or indeed the way in which race equality is viewed as an additional extra to be superseded by other issues at the first opportunity.

The Equality Bill that is currently before the Houses of Parliament offers an opportunity to add the necessary force to move our public services to respond better to the needs of Black and minority ethnic people. In its favour, the Bill recognizes that equality is indivisible and therefore puts gender, religion/belief, race, sexual orientation, age and disability on a more equal footing before the law. This has to be good news for Black people. Black and minority ethnic people are also women, gay, blind, elderly, and/or Muslims and need protection from discrimination on these grounds too. The Bill offers some welcome clarity in terms of requirements for equality guarantees that public institutions can demand from their suppliers. After some effective lobbying, the Bill now also recognizes that people can be discriminated against for a combination of protected identities.

Unfortunately I am less convinced by the Bill's ability to deliver the necessary levels of enforcement to make the changes in our public services that will lead to greater race equality. Much too much of the legislation is left to guidance and the discretion of the government minister. The Bill makes no specific mention of the inspectorates and regulators and their duties in relation to promoting equality. The proposed legislation does not specify what equality impact assessments or equality schemes ought to

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deliver, and at this stage, even which institutions will be required to produce them remains in doubt. There is little or no mention of the role of the third sector in working with public institutions to deliver change. The EHRC is asked to play a central role but even with its significant funding, it is doubtful that it will ever be able to provide the scrutiny that will be required across thirty thousand public authorities. Without meaningful equality schemes and impact assessments, organisations and individuals concerned with race equality will find it increasingly difficult to continue to challenge and/or support public institutions in achieving fairer outcomes for us all.

Runnymede has been working with the 'Winning the Race Coalition', led by ROTA, to ensure that race equality issues remain at the forefront of legislators minds as the Bill makes its way onto the statute books. The coalition could benefit from wider support to ensure that our political representatives hear the message loud and clear. The Government Equalities Office is currently consulting on the shape of public sector duties for equality and needs to hear our voices. The requirement for scrutiny of our schools, hospitals, police services to ensure race equality has not diminished. We need to be able to hold our public officials to account and equality legislation should give us the tools to do so. Unless we can work together to apply the necessary force now, the law of inertia states that very little will change.

For those who prefer their maxims a little less scientific, though no less true, the African-American statesman and abolitionist, Frederick Douglass gets to the heart of the issue;

Power concedes nothing without demand. It never did and it never will

Getting equality legislation right will mean that we will have the tools with which to make those demands. Without them, we may find that our public bodies continue in their 'state of rest'.

Rob Berkeley calls for action now to ensure that the Equality Bill provides the tools we will need to achieve race equality.

## ROTA Staff

*Chief Executive:* **Dr. Theo Gavrielides**  
*Head of Policy:* **Pavan Dhaliwal**  
*Head of Networks and Campaigns:* **TBC**

*MiNet Network Coordinator:* **Anthony Salla**

*Senior Policy Officer:* **Carlene Firmin**  
*Senior Policy Officer:* **Barbara Nea**  
*Policy Officer:* **Ewan Kennedy**

*Executive Secretary:* **Anwara Ali**  
*Finance Manager:* **Besa Hasaj**  
*IT Manager:* **Namchai (Jack) Khooharungkitcharoen**  
*Office Administrator:* **Saifur Valli**

## ROTA Volunteers & Interns

*Research Volunteer:* **Kathryn Baer**  
*Policy Volunteer:* **Nathan Lewis**  
*Policy Volunteer:* **Adam Cooper**  
*Events and Communications Intern:* **Gabriella Sardi**  
*Volunteer:* **Muna Mohamed**  
*Volunteer:* **Sara Halimah**

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***ROTA and the coalition members will be working over the duration of all the stages of the Bill to engage with key stakeholders involved in ensuring that the needs of BAME communities and the BAME third sector are met. The Winning the Race Coalition is working to ensure that effective civic participation is achieved in all processes of engagement with those who will be affected by the legislation.***

To join the coalition and for further information please contact *Dr Theo Gavrielides* [theo@rota.org.uk](mailto:theo@rota.org.uk) or *Pavan Dhaliwal* [pavan@rota.org.uk](mailto:pavan@rota.org.uk)

## **WINNING THE RACE COALITION**

Race on the Agenda (ROTA) formed a national coalition of Third Sector bodies to highlight some areas of concern in relation to the Single Equality Bill. The bulk of the work on the Bill has now been completed and the consultation phase is finished, therefore, our recommendations aim to inform the final stages of the Bill including its wording.

Our focus is primarily on race equality and the discrimination faced by Black, Asian and minority ethnic (BAME) groups. However, the coalition's creation aims to make the argument for cross-equality and human rights issues where appropriate. Our recommendations are underpinned by the following principles:

- The new Act should strengthen existing equality legislation and provide consistent, clear and enforceable standards that are user friendly and accessible;
- Acknowledge persistent inequalities, and enable victims to have easily accessible remedies through fair, inexpensive and expeditious procedures; and
- Acknowledge that to achieve equality and eliminate discrimination there needs to be a holistic approach that takes into consideration the different roles of public, private and third sector organisations, and the support needed by those working in these three different environments.



## Ordering Information

*Race on the Agenda*  
Waterloo Business Centre, Unit 217,  
117 Waterloo Road, London SE1 8UL  
020 7902 1177

## Advertising and Contribution Enquiries

Please contact Theo Gavrielides on [theo@rota.org.uk](mailto:theo@rota.org.uk)

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### Aims and scope

*Policy & Race* is a multidisciplinary journal that publishes theoretical contributions and empirical studies on issues affecting Black, Asian and minority ethnic (BAME) communities. We welcome articles from authors trained in all disciplines applying various methodologies to the study of crime and the justice system.

### Manuscript Submission and Notes for Contributors

*Policy & Race* is published twice a year. All submissions will be subject to the normal process of peer review. The Editor-in-Chief will consider only original manuscripts not published previously or currently under consideration. All submissions should be made to [theo@rota.org.uk](mailto:theo@rota.org.uk) at any given time during the year.

The review process normally takes less than 8 weeks. Your manuscript should be double-spaced, between 4,000 and 6,000 words (including tables, references, and appendices), and conform to APA format.

The title of the paper, the author's name and affiliation should appear at the beginning of the paper. All pages of the manuscript must be numbered. Each manuscript requires an abstract of no more than 150 words as well as a brief biographical statement describing each author's current affiliation. All manuscripts must include full

correspondence details (street address, telephone, email address) of the corresponding author.

References should be indicated in the text with the author's name and year of publication in parenthesis. If there are more than two authors, all should be given on the first occasion, and then the first author "et al" should be used subsequently. All references should be given in alphabetical order on a separate sheet with titles of books and journals given in full. The APA guidelines should be followed for references to a fault.

## Examples:

- Articles from Journals: Author, A. A., Author, B. B., & Author, C. C. (Year). Title of article. Title of Periodical, volume number (issue number), pages.
- Books: Author, A. A. (Year of publication). Title of work: Capital letter also for subtitle. Location: Publisher.
- Electronic sources: Author, A. A., & Author, B. B. (Date of publication). Title of article. Title of Online Periodical, volume number (issue number if available). Retrieved from <http://www.someaddress.com/full/url/>
- Other print sources: Bergmann, P. G. (1993). Relativity. In *The new encyclopedia britannica* (Vol. 26, pp. 501-508). Chicago: Encyclopedia Britannica.
- Other non print sources: (E. Robbins, personal communication, January 4, 2001).
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