

NOTE VERBALE 042

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to forward the attached questionnaire.

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the Permanent Mission of Office of the High Commissioner the assurances of its highest consideration.

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**QUESTIONNAIRE TO MEMBER STATES
prepared by the
Office of the United Nations High Commissioner
for Human Rights, pursuant to decision PC.1/10
of
the Preparatory Committee of the Durban
Review
Conference at its first session (A/62/375)**

Explanatory note on the questionnaire

1. In accordance with decision PC.1/10 adopted on 31 August 2007 by the Preparatory Committee of the Durban Review Conference at its first session, the Office of the United Nations High Commissioner for Human Rights drafted the attached questionnaire, the purpose of which is to facilitate the Durban Review Process.
2. The present questionnaire has been designed to obtain information from Governments and consists of six core questions drafted on the basis of the objectives of the Durban Review Conference, as contained in Preparatory Committee decision PC.1/13.
3. The annex to the questionnaire has been designed to allow Governments to describe policies, programmes and projects which have been undertaken to implement the Durban Declaration and Programme of Action including, for example, constitutional, legislative, administrative, affirmative action measures, development of national action plans, creation of governmental bodies and/or awareness-raising activities.

Core questions

Question 1: Can you assess the implementation of the Durban Declaration and Programme of Action in your country?

Question 2: Can you assess contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance as well as initiatives in this regard with a view to eliminating them in your country?

Question 3: Please identify concrete measures and initiatives for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related intolerance in order to foster the effective implementation of the Durban Declaration and Programme of Action.

Question 4: How would your Government assess the effectiveness of the existing Durban follow-up mechanism and other relevant United Nations mechanisms dealing with the issue of racism, racial discrimination, xenophobia and related intolerance in order to enhance them?

Question 5: What are the steps taken by your Government to ratify and/or implement the International Convention on the Elimination of All Forms of Racial Discrimination and give proper consideration of the recommendations of the Committee on the Elimination of Racial Discrimination?

Question 6: Please identify and share good practices achieved in the fight against racism, racial discrimination, xenophobia and related intolerance in your country.

Annex

Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at the national level

1. What measures have been taken to prohibit racial discrimination in all its forms and to guarantee the right of everyone without distinction, to equal enjoyment of human rights, notably of the rights listed below:
 - (a) Equal treatment before tribunals and all other organs administering justice;
 - (b) Equal rights to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
 - (c) Equal rights to participate in the political process;
 - (d) Equal rights to freedom of religion and belief;
 - (e) Equal rights to remuneration for work of equal value;
 - (f) Equal rights to adequate housing;
 - (g) Equal rights to highest attainable standard of physical and mental health.
Equal rights to quality public health, medical care, social security and social services;
 - (h) Equal rights to all levels of quality education and training;
 - (i) Equal participation to cultural life; and
 - (j) Equal rights of access to places or services?

Legislative, judicial, regulatory, administrative and other measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance

2. Has your Government adopted and implemented or strengthened any national legislation and/or administrative measures that expressly and specifically counter racism and prohibit racial discrimination, xenophobia and related intolerance, whether direct or indirect, in all spheres of public life, in accordance with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, ensuring that their reservations are not contrary to the object and purpose of the Convention and/or amended national legislation and administrative provisions that may give rise to such forms of discrimination?

The UK has a comprehensive body of legislation outlawing racial discrimination and providing protection under the criminal law from racist crime and incitement to racial hatred. This legislation includes statutory duties on public authorities to tackle racial discrimination and promote equality of opportunity and good race relations.

The Race Relations Act 1976 outlaws discrimination (direct, indirect and victimisation) in employment and training, the provision of goods facilities and services, education, housing and certain other activities. Individuals can bring proceedings and claim damages under this Act

The Race Relations (Amendment) Act 2000 strengthened the 1976 Act. The 2000 Act outlaws discrimination in all public authority functions not already covered by the 1976 Act with few exceptions, such as immigration and nationality decisions. It also places a

general duty on the main public authorities to promote race equality. This requires them to take action to prevent acts of race discrimination before they occur. Those public authorities, in performing their public functions, have to: “have due regard to the need to eliminate unlawful racial discrimination, and to promote equality of opportunity and good relations between persons of different racial groups”. This general duty covers thousands of public bodies.

In addition, the Government decided that key public authorities – including central and local government bodies, health service bodies and many more – should be subject to a number of specific duties. The specific duties require bodies to publish a Race Equality Scheme describing their public functions that are relevant to the duty. Bodies also have to set out their arrangements for assessing and consulting on the policies they are proposing for adoption; for monitoring for any adverse impact of their policies on the promotion of race equality; for publishing the results of their assessments, consultations and monitoring; for ensuring public access to information and to services; and for training staff in issues relevant to the duty.

The Employment Equality (Religion or Belief) Regulations 2003, prohibited discrimination and harassment on grounds of religion or belief (including no religion or belief) in employment and vocational training.

The Equality Act 2006 established a Commission for Equality & Human Rights, a new body with statutory powers to enforce legislation protecting people from discrimination on grounds of race, gender, disability, sexual orientation, religion or belief, or age. The Commission started work on 1 October 2007.

The Equality Act 2006 also extended the laws against religious discrimination by prohibiting discrimination on grounds of religion or belief in the provision of goods, facilities, services and premises, and public functions.

The new legislation largely mirrors the Race Relations Act, though there are a variety of exceptions from the prohibitions for some religious bodies and for faith schools. This variance with the RRA recognises the way that many such organisations operate, legitimately prioritising members of their own communities. The Government is currently undertaking a Discrimination Law Review, which is reviewing of the whole of Britain’s discrimination law with a view to producing a more streamlined legal framework.

Racially and religiously aggravated offences

The Crime and Disorder Act 1998 introduced specific offences of racially aggravated violence, harassment and criminal damage. The new offences correspond to the existing main offences which deal with violence against the person, criminal damage and offences of harassment. They include a test that there was either racial motivation or any aggravating evidence of racial hostility in connection with the offence, and provide the courts with higher maximum penalties to reflect the racial aspect to the crime. In addition, the Anti-terrorism, Crime and Security Act 2001 introduced similar offences for religiously aggravated crime.

Incitement to racial and religious hatred

The Public Order Act 1986 makes it an offence to use or publish insulting or abusive words (or behaviour) with an intention to stir up racial hatred or, in the circumstances, racial hatred is likely to be stirred up. Racial hatred here means hatred against a group of people defined by reference to colour, race, nationality or ethnic or national origin.

These incitement offences are designed to deal with people who seek to stir up hatred against racial groups. They are commonly used for example against those who publish leaflets and newsletters, which deliberately seek to advocate violence against racial groups or individuals from racial groups. In 2001, the maximum penalty for incitement to racial hatred was raised to seven years' imprisonment and the law was extended to prohibit incitement to racial hatred against groups abroad.

The Racial and Religious Hatred Act 2006 (which came into force on 1 October 2007) prohibits threatening words or behaviour which are intended to stir up hatred against any groups of person defined by religious belief or lack of religious belief.

Human Rights Act 1998

Under the Human Rights Act 1998, the UK has incorporated the European Convention on Human Rights into domestic law. Under Article 9 of the ECHR guarantees the right to freedom of thought, conscience and religion; this right includes freedom to change religion or belief and freedom, either alone or in community with others in public or in private to manifest ones religion or belief in worship, teaching, practice or observance.

Equal participation in political, economic, social and cultural decision-making

3. Please indicate measures taken to ensure that your Government's political and legal systems reflect the multicultural diversity within your society and improve democratic institutions so that they are fully participatory.

The Government is keen to encourage wider participation in the UK's civic and political life. For example, February 2007, the Government established the independent Councillors Commission to look at the incentives and barriers to serving on local councils (ie elected local authorities), with the aim of increasing diversity. It published its recommendations in its report 'Representing the Future' in December 2007. The Government will publish a response in 2008, following consultation with stakeholders. As part of the immediate Government response to the Councillors Commission report the Government announced its intention to establish a Black and minority ethnic women councillor's taskforce to look at the recommendations of the Councillors Commission and to see how the numbers of Black and minority ethnic women councillors can be increased.

Establishment and reinforcement of independent specialized national institutions and mediation

4. Has your Government established, strengthened, reviewed and/or reinforced the effectiveness of independent national human rights institutions working on issues of racism, racial discrimination, xenophobia and related intolerance? Has your Government provided them with the competence and capacity for investigation, research, education and public awareness activities to combat these phenomena? Please specify their mandates.

There are two independent national human rights commissions in the United Kingdom: the Commission for Equality and Human Rights (EHRC) and the Northern Ireland

Human Rights Commission (NIHRC). A third, the Scottish Commission for Human Rights (SCHR), is in the course of being established. All are publicly funded, but are independent of government. The NIHRC is an independent statutory body set up in 1999. Its role is to promote awareness of the importance of human rights in Northern Ireland, to review existing law and practice, and to advise government on what steps need to be taken to protect human rights in Northern Ireland. It is able to conduct investigations assist individuals when they are bringing court proceedings and to bring court proceedings itself.

The EHRC was established on 1 October 2007. Its remit is to champion equality and human rights for all, working to eliminate discrimination, reduce inequality, protect human rights, and build good relations between communities, ensuring that everyone has a fair chance to participate in society. Its remit extends to England and Wales and Scotland. The EHRC brings together the work of Great Britain's three previous equality commissions (for racial equality, gender equality, and the rights of disabled people) and also takes on responsibility for new strands of discrimination law (age, sexual orientation and religion or belief), as well as human rights. It has powers to enforce equality legislation, and has a mandate to encourage compliance with the Human Rights Act.

Policies, practices and strategies

Action-oriented policies and action plans, including affirmative action to ensure non-discrimination

5. Has your Government established and/or implemented a national action plan to promote diversity, equality, equity, social justice, equality of opportunity and the participation of all? Please provide the High Commissioner for Human Rights with such action plan and other relevant materials on the measures undertaken in order to implement the provisions of the Durban Declaration and Programme of Action or any other action considered.
6. Has your Government established national programmes, including affirmative or positive measures, to promote equal access of individuals and groups of individuals who are or may be victims of racial discrimination to social services, employment, housing, education, health care, etc.?
7. Has your Government adopted or strengthened national programmes for eradicating poverty, underdevelopment, marginalization, social exclusion and economic disparities taking into account the needs of victims of racism, racial discrimination, xenophobia and related intolerance?
8. What steps have been taken to tackle multiple discrimination based on the grounds of race, colour, descent or national or ethnic origin as well as on other related grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status?
9. What measures have been taken to combat racial discrimination against women and girls and to ensure the incorporation of race and gender analysis in the implementation of all aspects of the Programme of Action and your national plan of action?

In January 2005, the government launched national strategy to increase race equality and community cohesion, called Improving Opportunity, Strengthening Society. Like the Durban programme of action, it focuses on key areas such as education, the labour market, health, housing and the criminal justice system, as well as tackling racism and extremism. The Government publishes annual progress report on 2006 and 2007, and will publish a further one later in 2008.

As stated above, public authorities are subject to a statutory duty to eliminate unlawful discrimination and promote equality of opportunity and to publish race equality schemes explaining how they will do this.

The UK's comprehensive discrimination laws now cover discrimination on grounds of race, religion or belief, sexual orientation, sex, disability and age. These laws are reinforced by statutory duties on public authorities to promote equality on grounds of race, gender and disability. The Government is currently reviewing all discrimination laws with a view to bringing them into a single streamlined legal framework.

The establishment to single equality commissions dealing with all grounds of discrimination is an important step forward in helping victims of multiple discrimination.

Data collection and disaggregation, research and study

10. Does your Government collect and analyse statistical data at the national level on the situation of victims of racism, racial discrimination, xenophobia and related intolerance broken down by economic and social indicators, in order to monitor the situation of marginalized groups, evaluate legislation and elaborate development policies?

Public authorities are subject to a statutory duty to have due regard for the need to eliminate unlawful racial discrimination and promote equality of opportunity and good race relations. Most public authorities are also required to produce a race equality scheme setting out how they will do this, including by the collection of comprehensive data on public service delivery, disaggregated by ethnic origin. This enables public bodies to address inequalities more effectively.

Education and awareness-raising

11. Please indicate ways your Government has taken to increase the level of awareness about the scourges of racism and promote the values of acceptance, tolerance and cultural diversity. In this connection, how effective are the measures, in the fields of teaching, anti-racism education, including programmes addressed to young people, culture, information, media campaigns and sports which have been undertaken to combat racism, racial discrimination, xenophobia and all manifestations of related intolerance?

12. Please indicate the measures taken to strengthen anti-racist and gender-sensitive human rights training for public officials, including personnel in the administration of justice, particularly law enforcement, judicial, correctional, prison and security officials, as well as among health-care, school, immigration and border officials.

The passage of the Human Rights Act 1998 was a significant event in the legal and constitutional history of the UK. It made rights in the European Convention on Human Rights directly enforceable in UK courts, and this required a major training programme for all those working in the legal system. Although the Act was approved by Parliament in 1998, it was not brought into force until October 2000, in order to allow time for legal professionals to be re-trained.

In a broader human rights programme, the Government has established a panel of senior officials to scrutinise the workings of the criminal justice system with regard to human rights, and a new website providing practical advice to officials working within the system. In addition, the Government has devised and delivered more effective training in human rights within Departments.

In association with stakeholders and experts in education and human rights, the Government is developing educational materials for 11-14 year olds on human rights protection within the UK. A range of materials is already available in UK schools about International Human Rights Conventions (such as the Convention on the Rights of the Child). The new materials should be ready for launch in June 2008.

Information, communication and the media, including new technologies

13. While taking all necessary measures to guarantee the right to freedom of opinion and expression, what steps have been taken to declare an offence punishable by law all acts of racial violence or incitement to such acts as well as the dissemination of ideas based upon racial superiority or hatred and, particularly through new information and communications technologies, including the Internet?

UK law prohibits threatening, abusive or insulting words or behaviour which is intended to stir up racial hatred or which in all the circumstances is likely to do so. In 2001, the maximum penalty for this offence was increased to 7 years' imprisonment.

Ratification of and effective implementation of relevant international and regional legal instruments on human rights and non-discrimination

14. If your country is not yet party to the International Convention on the Elimination of All Forms of Racial Discrimination and to any other international instrument listed in paragraphs 77 and 78 of the Durban Programme of Action, please indicate:

(a) What are the considerations which may have prevented its ratification or its accession to the instruments?

(b) What steps have been taken or are being planned with a view to ratification of or accession to the instruments?

The United Kingdom is a party to the International Convention on the Elimination of All Forms of Racial Discrimination.

15. If your country has not yet made the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, please indicate what are the considerations which may have prevented making the declaration.

The UK Government remains to be convinced of the practical value to the UK citizen of rights of individual petition to the United Nations. The UN committees that consider petitions are not courts, and they cannot award damages, or produce a legal ruling on the meaning of the law. One of our reasons for acceding to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women in 2004 was to enable us to consider on a more empirical basis the merits of the right of individual petition under the other UN treaties. A review of the United Kingdom's experience under the optional protocol is now under way.

Strengthen partnerships with civil society

16. What steps have been taken to strengthen cooperation and develop partnerships with non-governmental organizations and all other civil society actors to harness their experience and expertise combating racism, racial discrimination, xenophobia and related intolerance?

Public authorities in the UK routinely consult civil society when developing policies or legislation.

Provision of effective remedies, recourse, redress and other measures at the national level

17. What measures exist to investigate and prosecute unlawful acts of racism and racial discrimination and to combat impunity for crimes with a racist or xenophobic motivation?

18. What judicial and other remedies exist for persons against any acts of racial discrimination which violate their human rights and what evidence is there to consider that these remedies are effective and adequate?

19. Has your Government taken any measures to eliminate “racial profiling” understood as the practice of police and other law enforcement officers relying, to any degree, on race, colour, descent or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity?

The criminal law is rigorously enforced by the police and prosecution services. The human rights and discrimination laws allow individuals to bring cases in employment tribunals and in the courts.

Victims of racism, racial discrimination, xenophobia and related intolerance

People of African descent

20. What measures has your Government taken to facilitate the participation of people of African descent in all political, economic, social and cultural aspects of society and in the development of the society?

21. What measures has your Government taken to provide additional investments in the health-care system, education on public health, electricity, drinking water and environmental control, as well as other affirmative or positive action initiatives for people of African descent?

The Government of the UK pursues policies to promote the inclusion participation of all people in the UK, regardless of ethnic origin.

Indigenous peoples

Not applicable in the UK

22. What constitutional, administrative, legislative, judicial and other measures has your Government taken, to guarantee the full exercise of human rights and fundamental freedoms of indigenous peoples and/or amended national Constitution, laws, legal systems and policies to be in conformity with relevant international human rights instruments, norms and standards?

23. Has your Government taken any measure to ensure consultation with indigenous representatives in the process of decision-making concerning policies and measures that directly affect them?

Migrants

24. Has your Government reviewed and, where necessary, revised its immigration laws, policies and practices which may be inconsistent with international human rights instruments with a view to eliminating all discriminatory policies and practices against migrants?

All UK law is compliant with human rights instruments.

Refugee, asylum-seekers and displaced persons

25. What measures has your Government taken to comply with their obligations under international human rights, refugees and humanitarian law relating to refugee, asylum-seekers and displaced persons?

*The **Treaty of Amsterdam** (1997) committed Member States to a broad range of measures (under Article 63) designed to establish minimum standards for asylum procedures and policies across the Union by 1 May 2004.*

*The **Tampere European Council** (1999) reaffirmed these measures and agreed to work towards establishing a Common European Asylum System. In the short term this would be the implementation of the first phase minimum standards Directives and in the longer term “a common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union”.*

A series of Minimum Standards Directives that form the first phase of the CEAS on asylum were agreed. The UK opted-in to all of these first phase Directives.

***Dublin II and Eurodac Regulations** enable Member States to identify whether another Member State is responsible for determining an individual’s application, and to return them to that country. For example if person A applied for asylum in the UK but was found to have previously lodged an application for asylum in Germany we could return them to Germany as this would be the Member State responsible for their claim. The Eurodac Regulation came into force on 15th January 2003 while The Dublin II Regulation came into force on 1st September 2003. **Asylum Reception Conditions Directive** sets minimum standards for the reception for asylum seekers. It sets minimum levels for the provision of asylum support, health care and education for asylum seekers and their families. For example it requires that each Member State provide an asylum applicant with a proof of identification that they are asylum seekers no longer than three days after having lodged the claim. This Directive has been transposed and came into force in February 2005. **Temporary Protection (TP) Directive** establishes minimum standards in the event of mass influx and sets EU-wide arrangements for handling one-off influxes. Such a situation has not been triggered; however conflicts such as that witnessed in Bosnia are when the Commission may decide to invoke this Directive. This Directive was implemented in the UK in June 2005. **Qualification Directive** ensures that all Member States use the same criteria for determining who qualifies for refugee status and subsidiary protection so that discrepancies in this area cannot be exploited by those seeking to take advantage of different systems. Provisions of this Directive came into force on 10 October 2006 and have been transposed into domestic law. **Asylum Procedures Directive** sets out minimum standards on procedures for granting and*

withdrawing refugee status, providing a number of guarantees to applicants. This Directive came into force on 1 December 2007.

*The **Hague Programme**, adopted in November 2004, marks the second phase of the process of harmonising asylum policies and procedures in the EU and sets a deadline of 2010 for agreement on second phase instruments. The Hague Programme looks to establish a common asylum procedure and uniform status for those granted asylum or subsidiary protection, based on a thorough and complete evaluation of the legal instruments adopted in the first phase.*

***European Refugee Fund (ERF)** for period 2005-10. The purpose of this Fund is to assist the efforts made by Member States in receiving and bearing the consequences of receiving refugees and displaced persons.*

Other victims

26. What steps have been taken to guarantee the rights of persons belonging to minorities, including Roma/Gypsy/Sinti, to enjoy their own culture, to profess or practise their own religion, to use their own language and to participate effectively in the cultural, social, economic, and political life in order to protect them from any form of racism, racial discrimination, xenophobia and related intolerance they are or may be subjected to?

27. Have measures been taken to counter anti-Semitism, anti-Arabism and Islamophobia and the emergence of movements based on racism and discriminatory ideas concerning these communities?

28. Has your Government devised, enforced and strengthened measures to prevent, combat and eliminate all forms of trafficking in women and children, in particular girls? *The UK has comprehensive legislation to protect human rights, promote equality and combat discrimination, hate speech and hate crime, which are rigorously enforced.*
