

Hate Crimes Against Travellers

Eric Donnelly details the background to hate crimes against Travellers: a history of discrimination and marginalisation.

Hate crimes committed against Travellers in England are by no means a new phenomenon. When Romany Gypsies (Roma) first arrived in England during the early 16th century, Henry VIII made it punishable by death to remain in Britain as an 'Egyptian' unless entered into service. Elizabeth I extended this offence to include persons in their company in disguise and this law remained in force until the 1780s (Dawson, 1999). Regrettably, the ideology of the early legislation has traversed generations and remains prevalent today both within England and Europe. More recent examples of atrocities committed against Travellers include the extermination of an estimated 600,000 Roma in Hitler's death camps, as well as numerous instances of persecution against the Roma following the break-up of the Soviet Union.

An assessment of the exact number of hate crimes committed against Travellers within England is impossible to establish because their distrust of the criminal justice system causes them not to report many offences committed against them (Morris and Clements, 1999). Furthermore, the legal definition

women from health screening facilities. This may in part explain why Travellers have a higher infant mortality rate and a lower life expectancy than the settled population of the UK. Other examples of systematic discrimination include the bullying of Travellers' children whilst at school, refusal to allow Travellers into restaurants or public houses, and ill-treatment of Travellers whilst in police custody.

There are also examples of hate crimes committed against Travellers in England. The more serious of these include a shotgun attack on a Romani Travellers' encampment in Bramdean, near Winchester in June 2001. There were no injuries, however two vehicles were damaged by pellets from two separate cartridges. This was the second such attack against Travellers on Bramdean Common. Fifteen months previously, four shotgun cartridges were fired at two caravans as families slept inside. Investigating police felt that this may have been a racially motivated attack. The response of a local borough councillor, Mr. Bob Mudén, to this incident was threatening to the Travellers when he stated, "Beware the long hot summer nights and the

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under *The Race Relations Act 1976*, as amended by *The Race Relations (Amendment) Act 2000*, includes Gypsies and Irish Travellers as ethnic minorities. It does not however, include 'New Travellers'. As a consequence, unless the police dealing with an incident perceive that there is an ethnic connotation, notably that the offence has been directed at a recognized minority group, the offence will not be reported as such. Liaison with the National Race Hate Crime Unit confirmed that Travellers as a minority group would be too small in number to collate national statistics. Efforts to remedy these problems include the appointment of Travellers' representatives. These representatives are appointed to Independent Advisory Groups attached to various police authorities, and provide Travellers with advice and support.

Discrimination against Travellers often results in social exclusion and marginalisation (Neuwahl, 2000) and results in institutional racism. Evidence of this type of discrimination was confirmed by a report from the Equal Opportunities Committee of the Scottish Parliament, which detailed discrimination within the National Health Service, noting cases when general practitioners refused to register or treat Travellers, their children were excluded from immunization programmes, and

vigilantes". Although the *Crime and Disorder Act 1998* introduced the concept of racially aggravated assaults, its effectiveness is undermined by its under-use (Turns, 2000).

Government attempts to make public provision for Travellers was formalized in the *Caravan Sites Act 1968* which placed a duty on local authorities to provide static sites for Travellers. This duty was seen in itself to be discriminatory on the basis that London boroughs were under a separate duty to provide a minimum of fifteen pitches for Travellers, and once this figure had been attained, the borough could apply for designated powers to evict any surplus caravans. Sylvia Van Toen of the Travellers' Education Project noted: "Imagine a law which restricts the number of Bangladeshi families – to fifteen a borough" (Birtill, 1995). Regrettably, many local authorities failed to comply with their duties under this act, largely due to local hostility to planning applications for caravan sites. The shortfall in designated sites compelled an estimated 4,500 Travellers to camp on unauthorized sites.

The Government response to this dilemma was to remove the obligation on local authorities to provide sites by repeal of the *Caravan Sites Act* under s. 80 of the *Criminal Justice and Public Order Act 1994* (hereinafter CJPOA 1994). The CJPOA



Roma asylum seekers, Dover 1997

1994 Act further increased police and local authority powers to evict Travellers from these unauthorized camps (s.61), and made it a criminal offence for Travellers not to leave land when ordered by a police officer after damage had been caused or when there were six vehicles on the land. Additionally, under s.77 it became a criminal offence to camp without permission once a local authority had requested a person to leave, and under ss.61(4), 62, 77 & 78, sanctions included confiscation of caravans, possessions, fines and imprisonment. As such the effect of the CJPOA 1994 was essentially to criminalize Travellers, and reflects assimilationist assumptions about ethnic minorities in their relation to the law (Jones and Welhengama, 2000).

The *Race Relations (Amendment) Act 2000* outlawed racial discrimination by public authorities, whilst creating an exception for the Immigration Service. In April 2001, a ministerial authorization was issued entitled *Discrimination on the Ground of Ethnic or National Origin* which required British immigration officials to subject specified groups – including Roma – to a more rigorous examination than others when arriving at a UK border. A ‘pre-clearance’ procedure began on 18 July 2001 in the Czech Republic, and by 24 July 2001 it had led to the airlines refusing to board 100 people, most of whom were Czech Roma. Whilst being condemned by both the media and politicians, the procedure has been suspended and reintroduced several times in the period since.

These discriminatory measures remain in force despite ratification by the UK Government of a number of international treaties and conventions which promise to protect and promote the rights of minorities. The

Government’s actions detailed above, however, appear to illustrate non-compliance with certain of these international commitments.

Early judgements of The European Court of Human Rights offered little practical benefits for the protection of Roma rights. However, on 18th January 2001 six cases involving Gypsy applicants were before the court. One of the applications, *Varey v. UK*, was settled by the UK Government with costs and compensation, making it one of the first Western European Gypsy complaints to succeed. The issue in that case involved material irregularity in that the Secretary of State overruled an inspector’s advice that planning permission be granted.

Of perhaps equal importance was the decision in the lead case, *Chapman* (ECHR 27238/1995). An important factor was the determination of whether European norms in respect of Travellers’ rights had developed sufficiently to find against the UK. It was held that they had not, on the basis that the state should be accorded a wide margin of appreciation, however the decision was by a narrow majority of ten to seven. A large minority therefore were of the opinion that such norms had so evolved. Perhaps in the near future applications such as this may eventually succeed.

Whilst it is not argued that hate crimes in the UK are committed with the frequency or intensity of other European States (e.g., the Czech Republic, Bulgaria and Spain), it is argued here that a culture of systematic institutional discrimination does exist within the UK and that hate crimes against Travellers persist. The *Travellers Reform Bill*, published on 31st January 2002, seeks to address the poverty and discrimination faced by Travellers and Gypsies. If introduced it would enable local housing corporations to fund the provision of official sites, thus removing part of the conflict between the settled society and those leading a nomadic lifestyle. The eventual success of the bill however, is dependent upon compliance with, and the support of, the institutions of Government. Experience so far suggests that this is unlikely to materialize.

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