



**Submission to the Advisory
Committee
on the implementation of the
Framework Convention for the
Protection of National Minorities
on the UK 3rd Periodic Report**

February 2011

1. INTRODUCTION

- 1.1 NICEM is an independent non-governmental organisation monitoring racism and racial inequality in Northern Ireland. As an umbrella organisation we represent the interests of black and minority ethnic groups in Northern Ireland. Currently we have 29 affiliated black and minority ethnic groups as our full members, this composition is representative of the majority of black and ethnic minority communities¹ in Northern Ireland. Our vision is of a society where differences are recognised, respected and valued, a society free from all forms of racism and discrimination, where human rights are guaranteed. NICEM works in partnership, to bring about social change, by achieving equality of outcome and full participation in society.
- 1.2 NICEM welcomes the publication of the UK government's 3rd periodic report. We regret that the Northern Ireland devolved government did not supply any information in the 3rd Periodical Report, which does not comply with the requirements of the Framework Convention, and in particular is in breach of Article 25(2). This omission reflects the political stalemate of the two main parties (Democratic Unionist Party and Sinn Féin) in Northern Ireland, who are represented by the First Minister and the deputy First Minister; the latter have a determining role regarding certain key issues, such as the Single Equality Bill for Northern Ireland, the Irish Language Bill, the Cohesion, Sharing and Integration Programme which aims to deliver the new "Shared Future" Strategy and the Racial Equality Strategy for Northern Ireland 2005-2010, etc.²
- 1.3 We acknowledge that some progress has been made, however we also have serious concerns with regard to the United Kingdom's obligations under the Framework Convention in relation to the economic, social and cultural rights in Northern Ireland, particularly in respect of vulnerable groups within the black and minority ethnic (BME) communities, especially the Irish Travelling community and the small gypsy and Roma population, migrant workers (EU and non-EU), asylum seekers and refugees, as well as those undocumented person who are living in Northern Ireland. Racism, racial discrimination and social exclusion are a daily

¹ In this document "Black and Minority Ethnic Communities" or "Minority Ethnic Groups" or "Ethnic Minority" mean people from settled ethnic minorities (including Travellers, Roma and Gypsy) or settled religious minorities, migrants (EU and non-EU), asylum seekers and refugees or other immigration status. It has an inclusive meaning to unite all minority communities.

² It did contradict the Resolution CM/ResCMN(2008)7 on the UK 2nd Periodic Report (see 1a Positive developments, last para. of p.1)

experience in the lives of people from BME backgrounds in Northern Ireland. It also forms the basis of this submission.

2. Article 1

The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation

2.1 Mainstreaming Human Rights and Equality

- 2.1.1 In the post-conflict society of Northern Ireland, human rights should be mainstreamed into all institutions. Unfortunately our legislative assembly does not have a mechanism comparable to the Joint Committee of Human Rights in the Westminster Parliament. Such a body would provide a mechanism to scrutinise legislation and policy based on international human rights standards. The Northern Irish Assembly has no such mechanism to scrutinise the devolved administration on their obligations under applicable international human rights instruments. NICEM would like to see the UK Government introduce the same human rights based scrutiny mechanism across all the devolved administrations within the United Kingdom.

Suggested question:

- **Will the UK government introduce a mechanism comparable to that as established by the Westminster Parliament in the form of the Joint Committee on Human Rights to all the devolved administrations in the United Kingdom?**

2.2 A Bill of Rights for Northern Ireland

- 2.2.1 NICEM supports a strong and inclusive Bill of Rights for Northern Ireland; this Bill is essential for enshrining the principles of human rights as the cornerstone of peace building in Northern Ireland. A high profile Bill of Rights with rigorous enforcement mechanisms would give a voice to those most marginalised in Northern Ireland's post-conflict society. We welcome the opportunity that the creation of a Bill of Rights presents as a key step in acknowledging the conflict whilst moving beyond the traditional "two communities" approach in building a more inclusive and increasingly diverse society. It is about human rights protection for all.

- 2.2.2 NICEM has been campaigning for a meaningful and all encompassing Bill of Rights for Northern Ireland for more than 10 years along with other civil society organisations. NICEM endorses the advice proposed by the Northern Ireland Human Rights Commission to the Secretary of State on 10 December 2008. NICEM regards it as the best option that we can have in this moment of time, though we acknowledge that there are some areas in need of improvement.
- 2.2.3 Unfortunately, during their term the new Labour government tried to abandon the Bill of Rights for Northern Ireland by extending the debate on the UK Bill of Rights and Responsibilities into the consultation document. This debate is irrelevant to the Northern Ireland process as a Northern Ireland specific Bill is guaranteed under the Belfast Agreement. The Agreement is an international treaty which a majority of the people on the island of Ireland voted for. Constitutionally the Agreement has been enshrined into the Northern Ireland Act 1998.
- 2.2.4 The key part of the UK Bill of Rights' debate is the constitutional reform to restrain the power of the Prime Minister (through the "Prerogative Power" in the name of the monarch). This came about as the result of the Iraq war and the potential repeal of the Human Rights Act; this Act was the key achievement of the New Labour government on the advancement of human rights protection for the United Kingdom and Northern Ireland.
- 2.2.5 In December 2009 we issued a position paper following the publication of a consultation document from the Northern Ireland Office entitled "A Bill of Rights for Northern Ireland: Next steps". In this paper we highlighted the following key issues:
- The Northern Ireland Office (NIO)'s consultation is an insult to civil society and all those involved in the Bill of Rights' process over the last 10 years because it only endorses two actual enforceable rights, the right to vote and be elected and the right to identify as British, Irish or both;
 - In the spirit of the Belfast Agreement (1998), the Bill of Rights for Northern Ireland cannot be lost within a Bill of Rights and Responsibilities for the UK;
 - The NIO have failed in their consultation obligations as the consultation did not adhere to accepted guidelines regarding such processes;
 - The NIO consultation will damage the Human Rights of the most vulnerable people in Northern Ireland rather than enhance them;
 - NICEM believes that the Northern Ireland Office should revoke this document and issue one that adequately

reflects the advice presented to it by the Northern Ireland Human Rights Commission on 10 December 2008.

2.2.6 The majority of civil society and human rights organisations support the Northern Ireland Human Rights Commission's Advice. The coalition government is currently putting on hold all decisions on the Bill of Rights for Northern Ireland as they are keen to develop the UK Bill of Rights and Responsibilities. This is despite pressure from the likes of the British Irish Parliamentary Assembly who called on the UK government to fulfil its obligation to implement a Bill of Rights for Northern Ireland in December 2010.

2.2.7 NICEM echoes the Concluding Observations of the Committee on Economic, Social and Cultural Rights on the UK's 14th, 15th and 16th Periodic Reports that it is essential to enact a Bill of Rights for Northern Ireland which would include economic, social and cultural rights, without delay.³

Suggested question:

- **Will the UK government put forward a new consultation document on the Bill of Rights for Northern Ireland based on the advice from the Northern Ireland Human Rights Commission? If not, why not?**

2.3 Equality Principle

2.3.1 How to maximise the available resources for the full realisation of rights is the key undertaking of the State Party in the Covenant for the Economic, Social and Cultural Rights. The best way to deal with such allocation is to use the equality principle. In Northern Ireland we have a measure to mainstream equality into government policy and practice which imposes a legal duty on all public authorities. This principle requires public authorities to have due regard to promote equality of opportunity and good relations.⁴ This is a good model to implement Article 2(1) and (2) of the Covenant. Unfortunately public authorities do not fully use the equality impact assessment as required by the legislation to scrutinise their policy.

³ para. 10, Conclusion Observations of the Committee on Economic, Social and Cultural Rights on UK 14th, 15th and 16th Periodic Reports, E/C.12/GBR/CO/5 22, May 2009.

⁴ Section 75 of the Northern Ireland Act 1998

2.3.2 Part of the ongoing problem is that there is no enforcement mechanism under Section 75 (unlike the GB equivalent under public sector equality duties) and such authorities are not obliged to collect equality monitoring data on most of the vulnerable groups such as racial minorities, people with a disability, people of a minority sexual orientation, carers and those with dependants, etc. As a result, they do not adequately scrutinise most of the policies that have negative impacts on race due to linguistic, cultural, religious or other barriers in accessing public services based on the argument that there is no data available on BME communities. Therefore the equality impact assessment is rarely used, particularly in respect of race-related issues. This severely limits the realisation of the rights of the BME community in Northern Ireland. This practice also impacts on other vulnerable groups as outlined in the equality monitoring data.

Suggested question:

- **Will the UK government amend Section 75 to include strong enforcement mechanisms, compulsory equality monitoring and compulsory equality impact assessment on all policies?**

2.4 Rights of non-nationals

2.4.1 The Committee on the Elimination of all forms of Racial Discrimination (CERD) has developed the standards setting under General Recommendations No. 30: Discrimination against non-citizens⁵ in which CERD interpreted narrowly on the immigration exception under Article 1 (2) of the ICERD.

2.4.2 We recite the following key principles of the General Recommendation 30 to draw your attention:

1. Article 1, paragraph 1, of the Convention defines racial discrimination. Article 1, paragraph 2, provides for the possibility of differentiating between citizens and non-citizens. Article 1, paragraph 3 declares that, concerning nationality, citizenship or naturalization, the legal provisions of States parties must not discriminate against any particular nationality;
2. Article 1, paragraph 2, must be construed so as to avoid undermining the basic prohibition of discrimination; hence, it should not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in particular in the

⁵ CERD/C/64/Misc.11/rev.3 at 64th session on 23 February-12 March 2004

Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

3. Article 5 of the Convention incorporates the obligation of States parties to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights. Although some of these rights, such as the right to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons. States parties are under an obligation to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law;
4. Under the Convention, differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim. Differentiation within the scope of article 1, paragraph 4, of the Convention relating to special measures is not considered discriminatory; and
5. States parties are under an obligation to report fully upon legislation on non-citizens and its implementation. Furthermore, States parties should include in their periodic reports, in an appropriate form, socio-economic data on the non-citizen population within their jurisdiction, including data disaggregated by gender and national or ethnic origin.⁶

2.4.3 Based on the above principles CERD requested the State Party to adopt the following measures:

1. Review and revise legislation, as appropriate, in order to guarantee that such legislation is in full compliance with the Convention, in particular regarding the effective enjoyment of the rights mentioned in article 5, without discrimination;
2. Ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status, and that the implementation of legislation does not have a discriminatory effect on non-citizens;

⁶ Ibid.

3. Pay greater attention to the issue of multiple discrimination faced by non-citizens, in particular concerning the children and spouses of non-citizen workers, to refrain from applying different standards of treatment to female non-citizen spouses of citizens and male non-citizen spouses of citizens, to report on any such practices and to take all necessary steps to address them;
4. Ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin; and
5. Ensure that any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens are not subjected to racial or ethnic profiling or stereotyping.⁷

2.4.4 **Asylum Seekers and Refugees: Section 4 treatments**

1. Section 4 of the Asylum and Immigration Act 1999 (as amended by section 49 of the Immigration and Nationality Act 2006) allows the Secretary of State to provide support, in very limited circumstances, to refused asylum seekers. The purpose of section 4 is to provide temporary support to people who are destitute and who, through no fault of their own, are unable to leave the UK. This may be because there is no viable route of return to their home country, because they have submitted a fresh asylum application, or because they have a medical condition, including pregnancy, that prevents them from travelling.

2. We consider that the use of the Azure Payment Card⁸ and poor quality accommodation constitutes inhuman and degrading treatment and does not provide for an adequate standard of living, including adequate food, clothing, housing and the continuous improvement of living conditions. Furthermore, the deprivation of support for long periods of time due to delays in processing applications for already destitute applicants could be a breach of Article 7 of the ICCPR

⁷ Ibid.

⁸ For details on the comments, please refer to the following link from the British Refugee Council:

http://www.refugeecouncil.org.uk/Resources/Refugee%20Council/downloads/parliamentary_briefings/1011_Azure%20card%20briefing.pdf

on the grounds of inhuman and degrading treatment.

3. Because section 4 support is intended to 'convey the message of return', the support provided is inferior to that provided to those receiving section 95 support. The most significant difference between section 95 and section 4 support is that section 4 is cashless: support is provided to clients through the Azure Payment Card which is limited to a few supermarkets and/or stores. NICEM has consistently opposed the use of non-cash payment for asylum seekers throughout the asylum process because it is inflexible, it stigmatises the user, and it is not cost effective. Moreover the cashless system creates difficulties for travel as it limits access to services that provided by organizations who support asylum seekers and refugees.

Suggested question:

- **Will the UK government scrap the Section 4 procedure which violates international human rights standards?**

3. Article 2

The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

Article 3

1 Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.

2 Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

3.1 Census 2011

- 3.1.1 NICEM is disappointed that the Northern Ireland Statistics and Research Agency did not take into consideration our remark that the question on ethnic groups as posed in the 2001 census (White

Group of British, Irish, Irish Travellers and Others) no longer reflects the ethnic composition of Northern Ireland (since 2004 this composition has dramatically changed). In this context, we suggested that under the White Group, the 2011 census should include a sub-category for Polish people (who represent more than half of the ethnic minority population in Northern Ireland). In the main ethnic group there should also be a sub-category for black Portuguese people. We also suggested that under 'Others', there should be a sub-category for Filipino people. Unfortunately all these suggestions were rejected on the basis that other UK regions will apply the same criteria as in 2001. However, we have found that the Scottish government has introduced the Polish sub-category to reflect the local situation, but not the Northern Ireland government.

3.1.2 Accuracy of ethnic data is crucial for any government to plan service provisions. Without accurate data for those largest ethnic groups the people from ethnic minority backgrounds will suffer another 10 years before wrong doings are rectified. **The omission of those large ethnic groups in the 2011 Census question is clearly in breach of Article 3(1).**

3.1.3 Self-identification as a particular racial group is the fundamental human rights and the deliberate omission of the key ethnic group, namely Polish, black Portuguese and Filipino communities is violate Article 3(1), as well as other international instruments on human rights.

Suggested question:

Why did the Northern Ireland devolved government refuse to include Polish, black Portuguese and Filipino minority criteria in the 2011 Census? What is the ground for this refusal?

4. Article 4

1 The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.

2 The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the

majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

3 The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

4.1 Measures to eliminate racial discrimination (Article 4(1))

Due to the devolved government in Northern Ireland holding up progress of the Single Equality Bill for Northern Ireland (no movement since 2006), we lag behind as a region as the Single Equality Act 2010 has been enforced in England, Wales and Scotland on 1 April 2010. *The BME community in Northern Ireland has less legislative protection than in the rest of the United Kingdom against discrimination*

4.1.1 The direct rule administration introduced legislative measures to outlaw racial discrimination under the Race Relations (NI) Order 1997 (32 years after the first law was introduced in the United Kingdom, which was never extended to Northern Ireland). This was the result of successful campaigning from 1991 onwards both at the regional level (Northern Ireland) and the international level (in particular the intervention of the CERD in 1993) from ethnic minority community groups and other civil society actors, particularly the Committee on the Administration of Justice (CAJ). The Race Order mirrors the equivalent Race Relations Act 1976 in Great Britain, except for the planning law provision which is not applicable in Northern Ireland. This exception on planning law has serious impacts on the sites of the Irish Traveller Community: many individuals, as well as local councils, object to the building of traveller sites in Northern Ireland.

4.1.2 In 2000 the Government in Great Britain introduced the Race Relations (Amendment) Act 2000 in response to the Stephen Lawrence Inquiry Report⁹. One of the key elements of the Amendment Act was to put the entire criminal justice system under the race legislation as a result of the House of Lords¹⁰ decision in *Amin*. Under the *Amin* principle, for services that are solely the provision of government with no private equivalent, equality legislation shall not apply. Since we do not have the equivalent Amendment Act in Northern Ireland, we are bound by the *Amin* judgement. In practice this allows immigration officers, police officers, prison officers, probation officers, tax officers, planning officers and court staff to discriminate against

⁹ A Judicial Inquiry into the death of Stephen Lawrence, a black young man was stabbed to death by a group of white people at the bus station on in London

¹⁰ The highest court in United Kingdom and Northern Ireland

ethnic minorities without any legal redress. The Amin principle also applies to all existing equality legislation in Northern Ireland.

- 4.1.3 In 2003 the UK government introduced the Race Relations Act 1976 (Amendment) Regulations 2003 as part of its obligations under the Racial Equality Directive 2000 (Council Directive 2000/43/EC). The direct rule administrations introduced the equivalent Race Relations Order (Amendment) Regulations 2003 to N.I. under direct rule the Office of the First Minister and Deputy First Minister (OFMDFM) who followed the Whitehall example of transposing the EU Directives despite their concerns on “colour” and “nationality”, as well as the definition of “indirect discrimination”. This interpretation creates a two tiered system in which the criteria of “colour” and “nationality” refer to a lesser level of protection as other criteria, significantly in areas such as the shift of the burden of proof shift to the respondent, as well as new definitions of direct and indirect discrimination, harassment and victimisation, etc.
- 4.1.4 The key argument of this minimalistic approach by the UK government is that the European Community Act 1973 is used to transpose ‘Community obligations’ and ‘related matters’. The Directive does not mention ‘colour’. In addition to this, ‘nationality’ is excluded from the Directive, and therefore it will not be contained within the Race Regulations. It is surprising that the Office of the OFMDFM in Northern Ireland did not use the same approach to transpose the Framework Directive on Employment in 2006. The Framework Directive does not include ‘political opinion’ and ‘religious belief’ (it covers religion or belief), but the FETO (Amendment) Regulations included both terminology. NICEM believes this illustrates the hierarchy of rights in Northern Ireland and therefore is inherently discriminatory towards ethnic minorities.
- 4.1.5 On 26 May 2009 the Northern Ireland Assembly had a Motion Debate on “Race Relations”, based on a proposal from NICEM.¹¹ The Assembly also unanimously supported the following Motion: “That this Assembly calls on the First Minister and deputy First Minister to review the current Race Relations (Northern Ireland) Order 1997, in view of the fact that the current law does not offer the same levels of protection as in other parts of the United Kingdom and the Republic of Ireland, and also given the deficiencies in the Race Relations Order (Amendment) Regulations (Northern Ireland) 2003.”
- 4.1.6 The above evidence shows that the UK government is in breach of

¹¹ See NICEM “The Formal Review of the Race Relations (NI) Order 1997”, March 2009.

Suggested questions:

- **Will the devolved administration¹² set up a legislative timetable to rectify the current deficiencies of the current Race Relations (NI) Order 1997 so as to bring the legislation in Northern Ireland in line with that of the rest of the United Kingdom? If so, what would be the deadline for rectifying the deficiencies?**

4.2 Single Equality Bill for Northern Ireland

4.2.1 The Single Equality Bill for Northern Ireland was at the top of the agenda of the first Executive of the devolved administration and was under the first Programme for Government 2000-2003. The Initial Consultation paper on the Single Equality Bill for Northern Ireland was published by the OFMDFM in June 2001 and a Panel of Legal Expert was set up in June 2003. A Green Paper with options was produced for consultation in June 2004.

4.2.2 The OFMDFM published their document entitled “Single Equality Bill: Response to Consultation” in March 2005. Since then the Single Equality Bill has completely disappeared from the government’s agenda. As all major consultation processes are complete, we are awaiting the proposed finalised bill for consultation but nothing has happened so far. It appears to be outside the priorities of the current Executive in Northern Ireland. There is nothing mentioned on the Single Equality Bill in the Programme for Government 2008-2011.

Suggested question:

- **When will the current devolved administration put forward the legislative proposal on the Single Equality Bill for Northern Ireland in order to harmonise and improve the current complex and piece meal approach of the body of equality legislation based on a single ground approach?**

4.3 Racial Equality Strategy 2005-2010

4.3.1 In Northern Ireland the direct rule administration introduced the **Racial Equality strategy 2005-2010**, which is the key government policy to tackle racism in Northern Ireland. The

¹² The power to make equality legislation is transferred to the devolved administration in Northern Ireland.

Strategy required each department and their next step agencies to implement their Action Plan that cuts across the 6 aims of the Strategy. The Strategy was developed in partnership with the black and minority ethnic community; NICEM in particular had a lot of input to bring both the sector and the departments together through the “Working Together” programme (funded by the Office of the First Minister and Deputy First Minister). In our view the Strategy is robust but it lacks commitment from departments to implement the Action Plan, particularly available resources. This was heavily criticised by the Northern Ireland Assembly in the Motion Debate on the Racial Equality Strategy.¹³ The minutes of the debate give the Advisory Committee an idea of the level of racism, as well as sectarianism, in terms of Northern Ireland politics.

4.3.2 Despite the fact that the Assembly voted unanimously on 3 July 2007 in support of the Racial Equality Strategy 2005-2010, the Strategy has been frozen until very recently. The Northern Ireland Assembly had a Motion Debate on 4 June 2007 on the “Shared Future Framework”. Unfortunately the Assembly voted down the original motion to endorse the “Shared Future Framework” and instead passed the amendment Motion *“That this Assembly notes the strategic direction of and underpinning principles contained in the documents ‘A Shared Future’ (March 2005) and ‘A Shared Future: Triennial Action Plan’ (April 2006), and recognises that the Executive and the Assembly will wish to consider carefully the progress to date and bring forward detailed plans, consistent with the pledge of office, to promote the interests of the whole community towards the goal of a shared future and a prosperous, peaceful and settled society.”*¹⁴

4.3.3 The black and minority ethnic communities in Northern Ireland have paid a huge price following the defeat of the motion. “The Shared Future” framework document brought both community relations (relationship between Catholic and Protestant communities) and race relations (relationship between the two majorities and the minorities in Northern Ireland) onto one platform. As a result race relations are subsumed to the wider good relations. The defeat of the “Shared Future” framework

¹³ “Motion Debate: Racial Equality Strategy”, NI Assembly, Minutes of Proceedings, Tuesday 3 July 2007 (No.17/07), Hansard.
<http://www.niassembly.gov.uk/record/reports2007/070703.htm>

¹⁴ “Motion Debate: Shared Future Framework”, NI Assembly, Minutes of Proceedings, Monday, 4 June 2007 (No. 8/07), Hansard.
<http://www.niassembly.gov.uk/record/reports2007/070604.htm>

document means that the Racial Equality and the departmental Action Plans have been frozen.

- 4.3.4 During the Motion Debate on the “Racial Equality Strategy” the Deputy First Minister highlighted 5 Action areas to move forward: *“There are five key action areas that we can move on. We have asked officials, as a matter of urgency, to consider, in consultation with the Equality Commission, how we might introduce a system of minority ethnic monitoring. The two junior Ministers will also attend the next meeting of the Racial Equality Forum and report back to us in light of the criticism that has been made that the forum has become too big. NICEM will be asked to continue working with all Departments to deepen their understanding of the actions that are required to support racial equality. We will review progress on the strategy and the first action plan, and, in consultation with the Committee, we will bring forward a new three-year action plan for 2008-09 to coincide with the first year of spending after the Priorities and Budget exercise. The action plan needs to focus on a small number of important actions in key policy areas that will make a real impact on the lives of minority ethnic people.”* And the “three-year action plan for 2008-09 is now become the **“Cohesion, Sharing and Integration Programme (CSI Programme)”**¹⁵ which was going out for consultation in August 2010 (more than 3 years to draft such a document).
- 4.3.5 We have serious concerns on the proposed CSI Programme (for details refer to our submission to the CSI consultation at: http://www.nicem.org.uk/publications_view/item/nicem-submission-the-programme-for-cohesion-sharing-and-integration). There are more than 290 submissions to the Office of the First Minister and Deputy First Minister and officials have now prepared the analysis document to move forward. We do not expect anything to happen as the local Assembly Elections are being held in May this year.
- 4.3.6 The current Race Strategy expired in 2010 and the Racial Equality Panel (government appointed body to monitor the implementation of the Race Strategy with participation from BME communities, including NICEM) agreed to review the current one and develop a new one based on the current 6 robust aims taking into account the latest political, economical and social context.

¹⁵ Cohesion, Sharing and Integration Programme Consultation Document, OFMDFM, August 2010.

http://www.ofmdfmi.gov.uk/reformatted_final_print_version_csi_-_26.07.10.pdf

- 4.3.7 **This is another example of the hierarchy of rights in Northern Ireland and as such it is inherently discriminatory towards ethnic minorities. The freezing of the Racial Equality Strategy 2005-2010 and the halting of the implementation of the required departmental Action Plans will seriously diminish and limit the realisation of the rights of the black and minority ethnic communities in all areas of economic, social, political and cultural life in Northern Ireland under Article 4)2) the FCNM.**
- 4.3.8 On 18 February 2011 the First Minister and Deputy First Minister, replying to Ms. D. Purvis's written question¹⁶, stated that: "Work has commenced to develop a new Strategy to replace 'A Racial Equality Strategy for Northern Ireland 2005-2010'.....we would hope to publish a draft of the Strategy towards the end of 2011, with a view to the draft going to the Committee in March or April 2012 and to the Executive in April or May 2012 for final approval."¹⁷

Suggested questions:

- **Will the devolved government guarantee that the process of developing a new Racial Equality Strategy will be completed by March 2012?**
- **Will the devolved government include its commitment to have the new Strategy attached to a budget for full implementation?**
- **How does the administration ensure that the Action Plan has adequate resources for implementation and how will it ensure a long term impact on ethnic minority communities?**
- **What will be the process for monitoring and evaluation of the Race Strategy and the Departmental Action Plans? Will ethnic minority groups be involved in the process?**

4.4 Integration of asylum seekers and refugees

4.4.1 NICEM echoes the following statements from the Refugee Council on integration:

- "Integration starts from day one, when a person first makes a claim for asylum. Whether their claim takes weeks, months or years to receive a decision, this time is critical to their longer term integration in the UK.

¹⁶ OFMDFM's response to PQ AQW 4289/11 by Dawn Purvis MLA on 18 February 2011

¹⁷ Ibid.

- The initial reception of asylum seekers in the UK is critical for the success of their integration. Access to key support, such as learning English, decent housing and healthcare need to be available early.
- Integration cannot be separated from social and economic inclusion, a point partially captured by the new working definition of integration and community cohesion adopted by government. However, there needs to be an assumption that refugees are law abiding and supportive of values that are associated with being British. The focus should be on supporting refugees to take full advantage of their rights in the UK.
- Integration is best served through refugees receiving indefinite leave to remain in the UK as soon as possible. The current policy of granting a limited period of five years only serves to restrict opportunities in employment and training for refugees. It also continues the period of instability where refugees are unable to plan ahead with confidence.
- Integration is a two way and an evolving process over time. The key value is equality: ensuring that refugees have equal chances to live full, safe and productive lives in the UK.
- There needs to be a clear separation of asylum from wider migration, particularly in public information. The right to protection and the value of providing asylum must be publicly defended by Government and not undermined.
- The personal and community safety of refugees in the UK should be a paramount factor underpinning any integration strategy. This includes challenging negative press and public attitudes, establishing refugees within local area agreements and strengthening the educational work in schools around asylum.
- There should be greater recognition of and support for the role for Refugee Community Organisations (RCOs) in promoting integration. In particular, the importance of RCOs in providing a sense of belonging and personal confidence, acting as bridges to the mainstream.”¹⁸

4.4.2 **Suggesting the following changes to integration**

- “Refugees should be granted indefinite leave to remain (ILR) when they receive their status. ILR should be granted

¹⁸ Refugee Council policy statement: Moving on Together: Government’s Recommitment to Supporting Refugees. British Refugee Council, (commonly called the Refugee Council), March 2009, page 2

automatically to those with Humanitarian Protection and Discretionary Leave after five years if protection needs remain.

- There are key structural barriers restricting access to employment for refugees that need to be addressed. These include engaging employers on the documents refugees will have to demonstrate entitlement to work, supporting refugees to gain UK work experience and providing better accreditation of their skills and previous learning. Asylum seekers should be able to work after six months.
- Refugees should be automatically eligible for English for Speakers of Other Languages (ESOL) provision, regardless of their employment status, up to level 2.
- Local Authorities should ensure that refugees and their communities are recognised within service provision and decision-making.
- Financial exclusion needs to be addressed by Government to ensure that refugees are able to open bank accounts and have access to low interest credit beyond the current integration loan limits when granted leave to remain.”¹⁹

Suggested question:

- **Will the UK government remove the above barriers of integration for asylum seekers and refugees?**

4.5 Gender Equality Strategy in Northern Ireland

4.5.1 In Northern Ireland the Office of the First Minister and Deputy First Minister have developed a number of strategies targeting the protection of various vulnerable groups in our society, notably the Racial Equality Strategy 2005-2010 and the Gender Equality Strategy 2006-2016. These strategies lack correlation and often vulnerable groups are not adequately covered by such isolated policies.

4.5.2 The concluding observation of the UN Committee on the Elimination of the Discrimination Against Women,(CEDAW) following the most recent UK examination in 2008, asserts that the UK needs to intensify its efforts to eliminate discrimination against ethnic minority women who are underrepresented in all areas of the labour market and political and public life. Such women also

¹⁹ Refugee Council policy statement: Moving on Together: Government’s Recommitment to Supporting Refugees. British Refugee Council, (commonly called the Refugee Council), March 2009, page 3

continue to suffer discrimination in access to education and health care. The Committee also called upon the UK to keep under review and carefully monitor the impact of its laws and policies on women migrants, refugees and asylum seekers. The action plans attached to the Gender Equality Strategy are inadequate in all of these areas and they do not refer to the Racial Equality Strategy 2005-2010.

4.5.3 Ethnic minority women face double discrimination in access to employment, training and education. This is reflected in the low economic activities among ethnic minority women (the 2001 census established that 15.95% of women are economically inactive). The government has no policy or programme to improve the employability and address the language barriers faced by ethnic minority women in Northern Ireland.

4.5.4 The action plans also fail to acknowledge the specific vulnerability of Traveller women, particularly in relation to healthcare. As was stated in the concluding observations of CEDAW in 2008, Traveller women have the highest maternal mortality rate amongst all ethnic groups and the Committee has urged the State Party to introduce concrete measures to address this, including the allocation of adequate resources to increase access to healthcare.

4.5.5 **Female migrants from A8²⁰ countries do not have the same benefit rights as their male counterparts under the social security law in the UK in which only male partner can claim benefits and services for the entire family.** This means that many female migrants who support their families do not have access to support or are afraid to leave abusive relationships for fear of destitution or deportation, or are left ineligible when a partner leaves them. **This means that women are commonly denied equal access to rights. This discriminatory practice is in breach of Article 4 (1) of the FCNM and other international standards. NICEM urges the UK government to remove this discriminatory practice unconditionally.**

Suggested questions:

- **Will the UK government develop a policy to tackle multiple forms of discrimination, particularly gender and race based discrimination?**
- **Will the UK government develop a dedicated integrated framework to incorporate all strategies that tackle social exclusion in order to improve a joint up approach,**

²⁰ The A8 refers collectively to EU accession state countries Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

- particularly in terms of gender equality?
- Will the UK government develop a mechanism to monitor the specific impact of law and policy on people of multiple identities?
- Will the UK government remove the discriminatory practice against women under the current social security law?

4.6 Rights to work: Discrimination against migrants

4.6.1. In this submission the term ‘migrants’ means those people who are working in the UK, whether they are EU²¹, EEA²² or non-EU nationals²³. They should enjoy the same rights as UK nationals, as well as their family members (See above 2.4.2 the rights of non-nationals). Unfortunately there exists a hierarchy of rights between EU, EEA and non-EU migrants.

4.6.2 Under the UK immigration law, migrants from EU and EEA areas enjoy the same benefit rights as UK nationals, whereas migrants from the new A8 countries must be registered and work continuously in the UK for at least 12 months before they can enjoy the same rights as UK nationals. Migrants from A2²⁴ countries must get a full work permit and work under the same conditions as migrants from A8 countries before they can obtain the same entitlement as UK nationals.

4.6.3 Although migrants from outside the EU, EEA, A8 and A2 countries are not entitled to the same benefits, such as full welfare benefits (including housing) their family members must still pay the full fees imposed on overseas students in third level education (which amount to at least more than double of what UK nationals have to pay), except for health care and education. **This discriminatory law and practice is in breach of Article 4(1) & (2) of the FCNM; General Recommendation 30 of CERD regarding the immigration exception; Article 6 of ICESCR, Article 26 of ICCPR and other international standards.**

²¹ European Union. There are 17 full members: Spain, Portugal, France, Ireland, The UK, Belgium, The Netherlands, Luxembourg, Austria, Germany, Italy, Greece, Sweden, Finland and Denmark as well as the accession states Cyprus and Malta. These countries are all full members of The Free Movement of Workers Agreement.

²² Iceland, Norway and Liechtenstein plus all 17 full members of the EU are full members of the European Economic Area and The Free Movement of Workers agreement. The A8 and A2 countries are not yet full members of The Free Movement of Workers Agreement.

²³ Foreign nationals are coming from outside the EU and/or EEA areas.

²⁴ The A2 countries are Romania and Bulgaria the most recent accession states to the EU.

Suggested question:

- **Will the UK government remove all the discriminatory practices in the benefit system, which are not consistent with Article 4(1) of the FCNM?**

4.7 Poverty

4.7.1 In 2009, at the worst stage of the economic downturn, we conducted a comprehensive research on the impacts of the economic downturn on the Polish migrant community in Northern Ireland. We published the Report “Za Chlebem: The Impact of Economic Downturn on the Polish Community in Northern Ireland”²⁵ in October 2009. The findings are shocking and the life of migrants is bleak.

4.7.2 Our research has found there is a specific concentration of unemployment among our respondents amidst the economic downturn. Approximately 20% of our respondents are unemployed; this is almost 3 times higher than the Northern Ireland unemployment rate of 6.7% for the period of April to June 2009. This indicates that members of the Polish community are 3 times more likely than the Northern Ireland average to be unemployed. This figure can also apply to the rest of A8 and A2 countries.

4.7.3 Despite this level of unemployment we found the take-up of Jobseekers Allowance (the only benefits for those unemployed) is low (5% of respondents). Moreover, the respondents highlighted communication barriers, bureaucracy and difficulties with the Workers Registration Scheme (WRS) as obstacles to accessing benefits. We have found there is a substantial level of job insecurity for those workers who are still in employment with half of respondents stating they are afraid they will lose their jobs as a result of the economic downturn. Other comments include fewer working hours or being employed on temporary contracts as well as having general financial concerns.

4.7.4 **Taken together, these findings emphasise the vulnerability of our respondents in terms of poverty in their daily life.** Needless to say this vulnerability becomes worse as the recession continues, bearing in mind our study also highlighted that almost half of respondents have dependents living in Northern Ireland and half are married. Moreover most of them (the married families) have

²⁵ The full report can be downloaded via the following link:
http://www.nicem.org.uk/uploads/publications/Za_Chlebem_Report.pdf

obtained tax credit that is only available for those in lower family income bracket. Also around 10% of the respondents have more than one job. All these highlight how extreme poverty conditions will hit this vulnerable group as the economic downturn continues. **We should consider seriously the issues of poverty within the Polish community.**

4.7.5 There is a variety of circumstances in which migrant workers lose employment and are made particularly vulnerable by not having access to social security and other types of support. These include:

- losing employment before the requirement to be employed and registered for twelve months without interruption of more than thirty days is fulfilled under the Home Office's Workers Registration Scheme. Temporary and seasonal workers are particularly vulnerable to falling into this group;
- failure to satisfy the A8 and A2 registration requirements. This can vary from technical breaches, for example, failure to register a change of employment within thirty days of starting a new job through to more fundamental breaches, such as not registering in the first place;
- changes in personal circumstances for example, family breakdown, domestic violence or other circumstances. Women are often reliant on the worker registration status of male partners for access to support. A breakdown in a relationship has severe consequences for women and children, often during a period when welfare support is most needed;
- others who are not documented for example, many of the Roma forced out of their homes fall into this category.

4.7.6 Our research Report makes the following recommendations: "...create a crisis fund to assist those workers who have been made unemployed by the economic downturn but are unable to access public funds. These measures would reduce the risk of poverty for migrant workers, their families and in particular their children, who are vulnerable during the present economic downturn." ²⁶

Suggested questions:

- **What measure or measures has the UK government adopted to alleviate the hardship of poverty among migrant communities**

²⁶ http://www.nicem.org.uk/uploads/publications/Za_Chlebem_Report.pdf, p. 55

- **in Northern Ireland under Article 4 (2) & (3) of the FCNM?**
- **Will the UK government set up a safety net for these migrants who are ineligible to the benefit system in the United Kingdom?**

4.8 Employment

4.8.1 Agency Workers

1. Although the national minimum wage applies to all people who are working in the UK, it does not apply to agency workers whose employment contracts falls outside the jurisdiction of the UK following their employers using the services of third country agencies. As a result these migrant workers (including A8 and A2) are not paid the minimum wage and their conditions of employment are far below UK standards, such as set by equality and employment laws, as well as health and safety legislation.

2. In most cases these are low paid jobs and employers intend to hide these people from the public domain. Their working conditions are a modern form of slavery. Classic examples in Northern Ireland relate to those working in the mushroom farming business (refer to BBC documentation in 2004) and in the fishing industry. Regarding the Filipino seafarers who are working for the Northern Ireland's fishing industry, NICEM, the Irish Congress of Trade Union, UNISON and the International Transport Federation have been jointly campaigning against the slave-like working conditions imposed by those employment agencies in the Philippines by abusing the current transit visa system (for details of conditions of employment, see Appendix 1 and 2 on the BBC documentation on Filipino Seafarers and a recent case that NICEM has dealt with).

4.8.2 Minimum wages and exploitation

1. There are numerous researches demonstrating that migrant workers from A8 countries are paid below the national minimum wage. The Report "BME Floating Support Pilot Project 2007 Mapping Exercise"²⁷ shows that 10% of migrants living in the north-east region of Northern Ireland (the boundary of the Northern Health & Social Service Board, except Cookstown) are paid less than the minimum wage. In a recent government-sponsored research which "would suggest that between 3-14% of migrant workers could be receiving less than the national

²⁷ This is a joint Report of the Northern Ireland Housing Executive, the Northern Health and Social Service Board and NICEM to mapping the needs of migrant workers living in the Northern Health & Social Service Board in 2007.

minimum wage, the self-reported nature of the data and the derivation of national minimum wage from weekly etc. earnings means that they should be regarded as indicative of some, but not of any definitive level, of exploitation.”²⁸

2. The same report also highlights that there are two cases of clients seeking advice from the BME Floating Support Service: *“Two of our clients were forced to pay an exorbitant amount of rent (with one bedroom for two people) to the recruitment agency employing them. Thus, they were forced to live in accommodation with serious overcrowding as they had no control over the number of people the recruitment agency moved into the house or the amount of rent they had to pay.”*²⁹ Although the Mapping Exercise did not have a specific question on accommodation being tied with the work contract, it is a common practice for local employment agencies recruiting migrants from A8 and A2 countries. Having a low pay job and an exorbitant rent in the tied accommodation is a clear form of double exploitation.

3. It is unlawful in our employment law to have accommodation tied in the work contract but the enforcement is virtually impossible as local employment agencies exploit the vulnerability of migrant workers who do not want to complain as they need to send money back home.

4.8.3 **Employment (NI) Order 2003**

The Order requires a statutory grievance procedure before it can bring cases to the industrial tribunal (the labour court). Most of migrant workers neither know their statutory rights nor join trade unions. Moreover, most migrant workers cannot speak English or speak very little English. Their protected rights are more difficult to realise. In our experience, when migrant workers complain to their employer or its agent, the latter will not follow the statutory grievance procedure by not informing the complainants of their rights, or work colleagues are unwilling to be witnesses for the complaining migrant workers. As a result migrant workers have no protection due to their vulnerability and they might subsequently be sacked for different reasons, without redress.

Suggested questions:

²⁸ Institute for Conflict Research, “A Report on the Experiences of Migrant Workers in Northern Ireland, Department of Employment and Learning, December 2009, p.87.

²⁹ Mapping the needs of migrant workers living in the Northern Health & Social Service Board, *ibid.* p.24.

- **Will the UK government remove the “agency worker” exception and apply the same employment, equality, health and safety law, etc. to all agency workers?**
- **Will the UK government consider introducing a new law to impose registration requirement for all employers to employ migrant workers in order to ensure that employment, equality, health and safety law, etc. can be consistently enforced?**
- **What measures has the UK government introduced to improve the accessibility of migrant workers to the means to pursue their protected rights?**

4.9 Education

- 4.9.1 Children and young people of ethnic and religious minorities backgrounds routinely experience racial and religious bullying in our school system. School authorities take no action or deny any racial or religious elements when they receive complaints. Most of them are being victimised as a result of their complaint. Moreover there is no monitoring mechanism on school bullying.³⁰
- 4.9.2 Ethnic minority students are 3 times more likely to have no GCSE qualifications than the average, whereas the gap of the top slice between ethnic minority groups and the local average is narrowing (1% in GCSE and 6% in A level).³¹

Suggested questions:

- **What measure or measures have been introduced to tackle racial and religious bullying in the school system?**
- **What measure or measures have been introduced to target those ethnic minority young people who have low school performance?**

³⁰ The following reports have details relating to school bullying in Northern Ireland: Working Together: A Race Equality Youth Summit, NICEM & Runnymede Trust, 5 May 2006; Life Long Learning Research Centre, University of Ulster “The nature and extent of bullying in schools in the North of Ireland”, Department of Education, 2007; and NCB and ARK YLT “Attitudes to Difference: Young people’s attitudes to and experiences of contact with people from different minority ethnic and migrant communities in Northern Ireland”, OFMDFM, March 2010.

³¹ For statistical details please refer to: OFMDFM “Good Relations Indicators-2010 update” January 2011

5. Article 5

- 1 *The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.*
- 2 *Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.*³²

5.1 The enjoyment of language and cultural rights by ethnic minorities in Northern Ireland

- 5.1.1 Ethnic minorities in Northern Ireland do not enjoy the same rights as the local Catholic and Protestant communities. Little efforts have been made to allocate resources to ethnic minority groups to sustain their languages and cultures. Most of the ethnic minority communities use their own resources to set up language classes for their mother languages, when the Irish and Ulster Scots communities receive extensive funding to promote and sustain their respective cultural identities. NICEM believes this illustrates the hierarchy of rights in Northern Ireland and therefore is inherently discriminatory towards ethnic minorities. This is a discriminatory practice against non-nationals which is in breach of Article 5(1) and (2).

Suggested questions:

- **Will the UK government take specific measures to support and to promote the various languages and cultural identities of ethnic minorities in Northern Ireland?**

6. Article 6

³² Framework Convention for the Protection of National Minorities, Strasbourg, 1.II.1995

- 1 *The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.*
- 2 *The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.*³³

6.1 Racial Hate Crime

"Hate crime is often a process rather than an event, and it can escalate in frequency and seriousness. It can have devastating effects on the quality of life of its victims. There can be the added trauma of knowing that the perpetrator's motivation is based on an impersonal group hatred, relating to some feature that the victim shares with others. This factor is greatest where the hatred is directed against a visible feature such as skin colour, physical disability or relating to core personal values such as religion or being lesbian, gay, bisexual or transgender. A crime that might normally have a minor impact becomes, with the hate element, an intimate and hurtful attack that can undermine the victim's quality of life and self esteem."³⁴

6.1.1 The Police Service of Northern Ireland (PSNI) currently provides much more detailed statistical information relevant to race than any other element of the criminal justice system. The definition of 'racist incident' has changed since the 'Next Stephen Lawrence?' report – it now conforms with the Macpherson recommendation but also specifically names Irish Travellers in accordance with the NI Race Relations Order (1997).

6.1.2 In 'Hate Motivation Definitions', under the term 'racist', we find:

"A racist incident is defined as any incident which is perceived to be racist by the victim or any other person. A racial group can be defined as a group of persons defined by reference to race, colour, nationality or ethnic or national origins (this includes UK National origins i.e. Scottish, English, Welsh and Irish) and references to a

³³ Ibid

³⁴ para. 2.20, "Hate Crime in Northern Ireland: A thematic inspection of the management of hate crime by the criminal justice system in Northern Ireland, Criminal Justice Inspection Northern Ireland", Jan. 2007.

person's racial group refer to any racial group into which he/she falls. Racial group includes the Irish Traveller community.”³⁵

- 6.1.3 The PSNI's recording also allows us to disaggregate racist crimes from other hate crimes as well as a longitudinal analysis of patterns of recording and comparison with other hate crimes. (See, for example, Table 3.1: Incidents, Crimes and Detections with a Hate Motivation Summary 2008/09 and 2009/10)³⁶

Racist Incidents, Crimes and Detections with a Hate Motivation Summary 2008/09 and 2009/10)								
Total number of incidents		Total number of crimes		Total number of crimes detected		Detection rate (%)		
2008/09	2009/10	2008/09	2009/10	2008/09	2009/10	2008/09	2009/10	change in % pts
990	1,038	771	712 96	96	115	12.5	16.2	+3.7

- 6.1.4 Racial incidents and racial hate crime have increased in average by 10-15% over the last 10 years in Northern Ireland. It is not surprising therefore that Sir Hugh Orde, the then Chief Constable, when interviewed by the New Statesman in November 2005, stated that racist attacks against migrants were the major emerging threat in his work.
- 6.1.5 The recorded racial incidents and crime statistics from the PSNI are only the tip of the iceberg. ³⁷ There are a lot of unreported racist incidents and crimes, and a variety of reasons why BME people do not go to the police in these circumstances (for details see NICEM's Research Report "The Next Stephen Lawrence" http://www.nicem.org.uk/publications_view/item/the-next-stephen-lawrence). These include no confidence in police officers³⁸, poor experiences in the past with the police when reporting racial incidents and crimes, the perception that the

³⁵ www.psnipolice.uk/race_hate_crime.pdf

³⁶ PSNI annual Hate Crime Statistics can be download from the following link: www.psnipolice.uk

³⁷ Robbie McVeigh, "The Next Stephen Lawrence?: the experiences of victims in criminal justice system in Northern Ireland", NICEM, May 2006 (report can be download at http://www.nicem.org.uk/publications_view/item/the-next-stephen-lawrence; see also para. 22, Northern Ireland Affairs Committee "The Challenge of Diversity: Hate Crime in Northern Ireland" Ninth Report, 2004-5 session, HC-548 I, April 2005.

³⁸ Recommendation 9 of the Northern Ireland Affairs Committee, *ibid*, p.52

police could not help or that the matters would not be treated seriously. Other reasons include fear of revenge and negative perceptions of the police by some members of BME communities, in particular by Irish Travellers. The first Hate Crime Report by the Criminal Justice Inspectorate, published in January 2007, confirmed NICEM's concerns regarding under-reporting in this area and the reasons for this.³⁹

6.1.5 In the conclusions part of the 'Next Stephen Lawrence' Research Report Dr. Robbie McVeigh highlighted the following facts:

"The most striking thing about all of this primary data is the shocking incidence of racist violence across Northern Ireland. The data confirms that many minority ethnic people have experienced profound and repeated racist violence. While the statistics and media reporting have indicated that racist violence is 'growing', the NICEM statements make this visceral – it involves people being terrorised, people being spat on, people being burnt out of their homes and people being assaulted. The ongoing racist violence towards and harassment of minority ethnic children is particularly horrifying. In consequence many minority ethnic people are living in fear and some people are in fear of their lives. Many are being forced out of particular communities and some are being forced out of Northern Ireland completely"⁴⁰

6.16 The synergy between loyalism and racism is, however, deeply worrying; this is reflected in the concerns expressed by the former Chief Constable, Sir Hugh Orde (above comments in para. 6.1.4). This needs to be addressed much more proactively than it has been to date. It is astounding, for example, that reports by the Independent Monitoring Commission (IMC), which are intended to monitor violence by loyalist and republican groups, pointed it out from the Tenth Report (March 2006), Thirteen Report (January 2007), Fifteen Report (April 2007), Seventeen Report (November 2007), Twenty-Second Report (November 2009), Twenty-Third Report (May 2010), Twenty-Fifth Report (November 2010); these acknowledged an issue with the UDA and UVF 'targeting ethnic minorities', particularly migrants or foreign nationals, but this is in a context in which racist violence perpetrated by loyalists has become routine.⁴¹ It follows a mountain of evidence – including evidence gathered by the PSNI and the Northern Ireland Affairs Committee – indicating loyalist paramilitary involvement in racist

³⁹ para. 3.9, *ibid*, p.17

⁴⁰ para. 4.11, *ibid.*, p.53.

⁴¹ The IMC Report which monitors threat assessment and normalisation, as well as on paramilitary activities analysis), can be downloaded in the following link: <http://www.independentmonitoringcommission.org/index.cfm>

violence. Given that the IMC comments extensively on other aspects of loyalist and republican involvement in criminality, it is far from clear – and certainly unacceptable – that racist crime is almost totally ignored.

- 6.17 The Hate Crime Inquiry of the Northern Ireland Affairs Committee made the following statement in its conclusion:

“128. Our inquiry has shown that hate crime is a growing problem in Northern Ireland. We are convinced that the growth in these appalling crimes can be arrested if the Government, the PSNI, and other criminal justice agencies increase their efforts to eradicate it. However, if a real impact on this problem is to be made the pace of policy and strategy development on the part of the Government, and enforcement on the part of the PSNI, will need to speed up. Policies need to be ‘smart’: transparent, timely, and capable of having an immediate impact ‘on the ground’. Strategy is not a substitute for rigorous practical action. Enforcement needs to be carried out with rigour.”⁴²

- 6.1.8 The above conclusion was made in 2005, a year prior to our publication of the *Next Stephen Lawrence?* Report in May 2006 and the Criminal Justice Inspectorate’s First Hate Crime Report in January 2007. We have also witnessed, over the last 5 years, that there is little progress in terms of clearance rates of racial hate crime,⁴³ as well as other significant change in policy within the administration.⁴⁴ Due to the lack of monitoring data in the court system, our understanding is that few cases are brought to the criminal court for trial. It raises the fundamental issue of justice for the victim as well as the issue of the victim’s confidence in the criminal justice system.⁴⁵

Suggested questions:

- **What measures will the UK government take to restore the confidence of ethnic minority people in reporting hate crime to the police?**

⁴² para. 128, Northern Ireland Affairs Committee, *ibid.*, p.50

⁴³ Executive Summary, first paragraph, p.viii, “Hate Crime in Northern Ireland: A thematic inspection of the management of hate crime by the criminal justice system in Northern Ireland, Criminal Justice Inspection Northern Ireland”, Jan. 2007.

⁴⁴ Recommendations: Partnership; Strategy, Policy and Procedural Development and PSNI Specific Recommendations, p.xi-x, Criminal Justice Inspection Northern Ireland, *ibid.*

⁴⁵ Recommendations: Management Information, *ibid.*, p.x.

- **How many of the recommendations suggested by the Criminal Justice Inspectorate in its first Hate Crime Report have been implemented since 2007? What are the impacts and results?**
- **What measures have been put in place to deter loyalist paramilitaries to target migrants and/or foreigners in racist attacks?**
- **What measures have been put in place to decrease the number of racial hate crimes?**

6.2 Negative attitudes against foreigners and extreme right wing activities in Northern Ireland

6.2.1 Last year the Department of Employment and Learning (DEL) published their annual “Attitudes to Migrant Workers: Results from the Northern Ireland Omnibus Survey”. The following findings were found:

- 52% (51% in 09; 47% in 08; and 51% in 07)) of respondents feel that government should place more restrictions on migrant workers;
- 53% (55% in 09; 61% in 08; and 61% in 07) of respondents come into contact with migrant workers either daily or once or twice a week;
- 28% (26% in 09; 25% in 08; and 28% in 07) of respondents think that NI people are very prejudiced towards migrant workers. However, only 4% (no change as in 2009) of respondents consider themselves to be very prejudiced – although 29% (no change) describe themselves as “a little prejudiced”;
- 47% (48% in 09; 50% in 08; and 49% in 07) of respondents agree or strongly agree that migrant workers are generally good for the local economy;
- 48% (47% in 09; 44% in 09; and 45% in 07) of respondents feel that migrant workers take jobs away from people who were born in NI;
- 30% (29% in 09; 28% in 08; and 25% in 07) of respondents agree or strongly agree that migrant workers come to NI just to get social security benefits;
- 16% (15% in 09; 13% in 08; and 10% in 07) of respondents consider migrant workers are more law abiding than locals – although 38 % took a contrary view;
- 58% (60% in 09; 60% in 08; and 59% in 07) of respondents agree or strongly agree that migrant workers are more hard working than local workers;
- 70% (71% in 09; 71% in 08; and 63% in 07) of respondents feel that the number of migrant workers coming to NI puts a strain on services;
- 73% (74% in 09; 74% in 08; and 71% in 07) of respondents think that migrant workers mostly take up jobs local workers don’t want; and

- 83% (84% in 09; 83% in 08; and 85% in 07) of respondents agree that migrant workers are prepared to work for lower wages than local workers.⁴⁶

6.2.2 Negative attitudes against migrants have embedded extremism within Northern Ireland. Not only do they fuel loyalist paramilitary activities (see 6.1.6 above), they also bring extreme right wing groupings from the mainland – the British National Party. It is a proven fact that right wing nationalism and racism rise during an economic recession. Therefore, the UK and Northern Ireland are susceptible to the rise of parties and groups with sympathies towards the far right. The emergence of the far right in Northern Ireland is a worrying occurrence. Northern Irish youth, especially within loyalist areas are in danger of being the subject of a vicious, racist campaign against ethnic minorities.

6.2.3 Over the last number of years the right-wing British Nationalist Party has gained an increased amount of political support. This is worrying as a number of the party's policies have racist undertones. An example of the racist attitudes of some of the members of the BNP in the United Kingdom is evident in the report that one member faces charges for being in possession of grenades with the intention to use them against Muslims. Worryingly for Northern Ireland, the BNP has set up call centres in two locations in Belfast and is increasingly gaining supporters in the jurisdiction. Recently the BNP was accused of stirring up racial hatred by publishing leaflets which opposed the construction of a holding centre for illegal immigrants in Larne.⁴⁷ NICEM recognises that it is vital for such a centre to be built in order to provide accommodation for those people awaiting deportation from Northern Ireland. Furthermore, a number of business organisations have been established by influent BNP members in order to raise money for the racist activities of the party. Support for the BNP in Northern Ireland remains low. However, the government must take significant steps in education and training to combat such a rise in racist sentiment.

Suggested questions:

- **What measures has the UK government put in place to deter the BNP from recruiting young people targeting migrants and foreigners?**

⁴⁶ Attitudes to Migrant Workers: Results from the Northern Ireland Ominbus Survey, Department of Employment and Learning, November 2010, p.2-3 and 2009 Result, November 2009, p.3-5)

⁴⁷ Ciaran Barnes, BNP takes hate message to Larne with fake picture, Belfast Telegraph, 5 October 2010

- **What measures has UK government put in place to deter political parties from playing the race card during the Assembly Election in May 2011?**

For further information or inquiry of this submission, please contact the followings:

**Mr. Patrick Yu
Executive Director
Northern Ireland Council for Ethnic Minorities (NICEM)
Ascot House, 3/F
24-31 Shaftesbury Square
Belfast
BT2 7DB
UK
Tel: +44 (0) 28 9023 8645
Fax: +44 (0) 28 9031 9485
Email: patrick@nicem.org.uk**

Appendix 1

Filipino fishermen suffer abuse

By Andy Martin
Good Morning Ulster

A BBC investigation has found evidence of physical and racial abuse of Filipino nationals in Northern Ireland's fishing industry.

While the abuse is not widespread in the industry, evidence was found of horrendous working hours and pay and intimidation.

The local fleet relies on a steady stream of men from Manila due to the extreme shortage of available local labour.

The main complaint is the working hours. One crew told how they were forced to work seven days in a row, and up to 34 hours without sleep.

When not fishing they said they were given other jobs such as painting and collecting shell-fish from the shore. They said they could be paid as little as £20 for five days work.

One man broke down as he explained that this meant he was unable to send money back to his family in the Philippines.

The £20 is quickly used up in mobile phone credit, the only means by which he can keep in touch with his wife and children.

The skipper or boat owner is supposed to send a fee to an agent in Manila, who takes a cut and sends the rest on to their families.

But some fishermen were put on a share system, similar to the conditions of local fishermen, as soon as they arrived.

This system works by giving a fisherman a cut of whatever price the catch fetches.

If the boat cannot go out because of storms, there is no money, and their families get nothing.

Mark Palmer owns a number of boats and manages 23 others in Portavogie and Ardglass, indirectly employing 41 Filipinos.

He said that they are treated better than the local fishermen in Portavogie, given that they have a contract awarding a monthly fee, where fishermen in Northern Ireland are only entitled to a share of the price of the catch.

These contracts are still well below the minimum wage, amounting to pay of \$515 per month.

Mr Palmer said he also pays a bonus, depending on the size of the catch. This means they are getting paid about £1.20 an hour.

The BBC spoke to a Filipino last week who got just £100 for working the previous two weeks, but he was extremely happy with his lot.

“ I couldn't believe the violence and the rage the man was in. He was out of control ”

Man who overheard row between skipper and Filipino fisherman
According to the Department of Employment and Learning, all those working predominantly in UK waters are entitled to minimum wage regardless of their nationality.

So some Filipinos are getting four and a half times less than they should.

During this investigation we found evidence of more extreme maltreatment. One man described how he was kicked and a colleague punched and had his head hit off a wall.

The crew later left for the Philippines. An affidavit from another member of the crew said: "When he's drunk he used to punch or hit one of us.

"We also saw one of our co-workers who was strangled by him causing an injury on his neck."

'Made to be afraid'

Fr Donal Bennett is a priest in Omagh who worked in Manila as a missionary for forty years. He has helped some of those in distress.

"These men are made to be afraid. They do endure all of this mistreatment because of their family at home," said Fr Bennett.

"Most of them are married with children, whom they miss. They also have a huge debt at home to the gent in Manila in order to get here".

A flight to Manila costs £1,000, the price of a house on a Philippine island.

Those that do complain have no legal status. One couple, a local man and his Filipino wife, described what happened after an assembly member called the police with concerns about the treatment of one fisherman.

They were speaking to the man on the phone when he was approached by the skipper.

They described hearing the skipper swearing at the man and said the

man sounded "very, very scared".

"I was continuously listening," said the local man.

"I couldn't believe the violence and the rage the man was in. He was out of control and shouting 'I'm going to deport you tonight. You're going tonight before you talk to anybody'."

The local man said he made a complaint to the police. It was later learned the Filipino man was deported by immigration.

Story from BBC NEWS:

http://news.bbc.co.uk/go/pr/fr/-/1/hi/northern_ireland/7773255.stm

Published: 2008/12/09 12:15:52 GMT

© BBC MMIX

Appendix 2

Mr. Adeliga

Mr. Adeliga, a Filipino seafarer, was working for a local skipper in Kilkeel. He had been sick since 23 November 2010 and no arrangements had been made for him to see a GP until a colleague called NICEM's local contact in Kilkeel for help on 28 November. Our local contact got in touch with the Fishermen Mission in Kilkeel, who has authority to go on board the vessel. When the Mission's representatives got on the boat and witnessed how ill Mr Adeliga was, they arranged for him to see the on duty GP. After examination, the GP urged them to send him to the hospital and he was taken to Daisy Hill Hospital in Newry; early in the morning of 29 November 2010, he was transferred to the Regional Intensive Care Unit of the Royal Victoria Hospital. He contracted pneumonia with Type 1 respiratory failure and was in a coma from then on until he woke up on 9 December 2010. He was then discharged on 16 December 2010, a day when it snowed very heavily. The employer arranged for a taxi to bring Mr. Adeliga to a hotel in Kilkeel.

On Thursday evening of 16 December (at about 8pm) the Fishermen Mission's staff phoned the Executive Director of NICEM to inform him of the boat owner's decision to send back Mr Adeliga home to the Philippines immediately and give him two months salary (November and December). They arranged for a taxi to bring him to Belfast on Friday and to stay at the Premier Inn Titanic overnight with 6:30am in the morning. Mr. Adeliga was never consulted on the arrangements but was informed on Friday morning.

The whole issue is the breaking of the health and safety regulation and neglect by his skipper and boat owner. As per health and safety law, a vessel becomes inhabitable once the engine is switched off. The issue in this case is that Mr. Adeliga would not have contracted pneumonia with Type 1 respiratory failure but for the negligence of the skipper and boat owner. Pneumonia is a fatal disease and he is lucky that he survived the painful ordeal of being in a coma for a week. The owner of the boat also tried to exploit his vulnerability by sending him back home immediately, on the basis of a medical certificate stating that he was fit to travel, although serious questions should have been raised as to the contents and validity of the certificate. The dumping approach by the boat owner aims to eradicate their legal and moral responsibility.

Moreover the so-called two months salaries as compensation demonstrated the kind of exploitation of the industry. Mr Adeliga had already worked three quarters of the month of November when he got sick.