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Race equality in Scotland:
challenges and opportunities

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POLICY BRIEF

Race equality in Scotland: challenges and opportunities

Dr Nasar Meer

Abstract

This IPPI Policy Brief sets out why race equality matters in Scotland and highlights examples from which the rest of the UK could learn in the aspiration for race equality and a successful approach to citizenship. It identifies two ways through which Scotland can better improve public policy on race equality. The first is a more systematic approach to data collection on ethnic monitoring across the public sector. (Ethnic monitoring is currently common practice in some areas but entirely absent in others; a best practice approach would level this upwards). Secondly, how existing statutory commitments could be more consistently put into practice, especially in terms of the Equality Duty, by making fully operational use of existing instruments, rather than calling for new legislation.

1.   Race Equality Policies

Scotland has certainly come a long way since Martin MacEwen (1980) wondered whether 'race-relations' in Scotland were best characterised by simply 'ignorance or apathy'. This view looks out of place now, even though equality legislation was formally reserved to Westminster in the first Scotland Act (1998). The UK has broadly understood tackling discrimination as something active in *seeking to treat people equally* rather than resting on a benign ideal of *equal treatment*. In theory at least, this reaches beyond how different groups might assimilate into society, as we have group-specific instruments to outlaw discrimination based on gender, disability, age, sexual orientation and so forth, as well as monitoring the institutional under-representation of such groups (Meer 2010). Amongst this increasingly intersectional configuration, approaches to race equality have developed what Hepple (2011) calls an 'unsettled apparatus' that is also reflected in Schedule 5 of the Scotland Act 1998 (c46), which incorporates the functions of the third UK Race-Relations Act (1976). However, other developments can be traced to a distinctively Scottish, rather than UK, experience.

- Firstly, in terms of *categories*, successive Acts tackling religious bigotry and incitement to religious hatred have adopted tariffs and sanctions that make the treatment of religious discrimination akin to racial discrimination, more than is the case in England and Wales. While there is a lively debate over the form and scale of sectarianism in Scotland (Raab and Holligan 2012), recent Scottish Government initiatives, through legislation such as the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, are innovative as they make special mention of religious discrimination, and offer equivalent protection as on the grounds of race, colour, nationality, ethnicity, sexual orientation, gender identity and disability. Moreover, the Scottish Government recognises Gypsies/Traveller groups as an ethnic minority.

- Secondly, Scotland has retained a public political commitment to race equality and has explicitly sought to entrench this to be mainstreamed, while the UK Government has encouraged its dilution. During the UK-wide consultation to harmonise different equality bodies and different equality legislation, a repeated concern of minority ethnic groups was the risk of rolling back equality achievements. Even if there has been no immediate 'dilution' and settlements have been 'levelled up' across different grounds, as separate commissions were no longer able to agitate for equality on specific grounds, and when legislation became streamlined, a combination of austerity and trying to out-flank the right-wing (as represented by UKIP's electoral presence) has created a situation where there is now less resistance at the UK level were existing settlements to be undermined.

Indeed, Craig and O'Neil (2013) point to such a dilution in England where the budget of the harmonised Equality and Human Rights Commission (EHRC) was quietly reduced by the coalition Government to the equivalent of less than one of its pre-existing, constituent bodies (from a total of £70m in 2007 to £17m today). While this has affected Scotland, too, the Scottish Government has mitigated this somewhat by bolstering its commitment to equality. Thus, in May 2012, the Scottish Government placed specific duties on public authorities, also known as the Scottish Specific Duties, which require a listed authority to publish a mainstreaming report on its progress in integrating the three needs of the General Equality Duty (GED) to: (i) eliminate unlawful discrimination, harassment and victimisation; (ii) advance equality of opportunity, and (iii) foster good relations.

This is in sharp contrast to England where statutory equality impact assessments have been abandoned. This marks a clear departure from the prior understanding of race equality as a necessary administrative duty to that of a 'burden' to be lifted. This is the implication of the Home

Secretary Theresa May's review of the public sector equality duty which was part of the UK Government's 'red tape reduction challenge'.

However, in terms of *outcomes*, Scotland has some way to travel yet. In 2012-13, in Scotland, recorded racist incidents numbered 4,628, ethnic penalties continue to permeate life chances in education and employment, and it is not yet clear how successfully, from a race equality perspective, the new Public Sector Equality Duty that accompanied the Equality Act 2010,has been embedded in Scotland. So whilst Scotland has much that is distinctive, it is uncertain how the various initiatives and policies intended to promote race equality are being delivered or indeed what is the trajectory of Scottish equality policy *outcomes*. This issue is to be addressed by a new project (Meer, 2015); namely, how approaches to race equality in Scotland are developing in the context of a devolved national parliament of fifteen years' duration and the prospect of yet further political devolution or 'Home Rule'.

2.   Health and Wellbeing – a data collection issue

The discussion of equalities has a crucial bearing in thinking about health and wellbeing in Scotland. While there is some small scale research on illnesses that disproportionately present themselves in some ethnic minorities (e.g. coronary heart disease and non-insulin dependent diabetes), it remains patchy and overlooks some other major illness groups (e.g., cancer and stroke) that may be disproportionate to ethnic minority groups. In terms of health systems, the NHS like all public agencies in Scotland is required to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between people of different racial groups. To support this, the National Resource Centre for Ethnic Minority Health (NRCEMH) was established in 2002 to serve as a hub for research on ethnicity and health. Now incorporated into the new Equalities and Planning Directorate of NHS Health Scotland, it remains the case that relatively little is known about the health and wellbeing of Scottish ethnic minority groups. This largely reflects gaps in data collection. Ethnicity, for example, is not recorded on death certificates and under-recorded on health service records, and there is little systematic data on the effectiveness of health promotion strategies and statutory health and mental health services. These are clear gaps that need to be filled in Scotland. This is in striking contrast to England where there is a more complete ethnic health data prolife. The Scottish Ethnicity and Health Research Strategy Working Group has shown that only c.15% of hospital admission records and c.18% of cancer registration data currently have an ethnic code. Equally, there are few analyses by ethnicity of primary care data. As the Working Group notes, 'unless a means can be found to record ethnicity consistently – in primary care, and

on hospital databases and death certificates – our ability to assess the health of ethnic minorities in Scotland will remain extremely limited.'

3.   Migration and Citizenship

It is important not to overstate divergence between Scotland and England. Race Equality Schemes in Scotland have included similar objectives to the rest of the UK (e.g. to 'achieve race equality' in the delivery of public goods and services), but Scotland has also placed a premium on the need to 'increase refugee integration and address race discrimination in Scotland'. The explicitness of this second objective is a legacy of asylum dispersal in Scotland and is not mirrored in England where parallel government strategies are split respectively between the Home Office – which emphasises restricting migration (especially of low skilled workers and those seeking asylum) – and the Department for Communities and Local Government (DCLG), which prioritises minority 'integration'. Once again the politics of Scotland and England are different.

Because of a history of population decline there has been a clear recognition that a successful Scottish economy needs to attract and retain migrants. Since a significant degree of inward migration to Scotland is international (and not only inward from the rest of the UK), Scotland has been pushing for a distinctively Scottish approach precisely because it more immediately relies on migration – or is certainly more open about being so – than other parts of the UK. The Migration Observatory notes that the non-UK born population born in the EU (and excluding those born in Ireland) in Scotland increased by 222.5% between 2001 and 2011. It notes also that a large part of this increase comprises migrants from the EU Accession countries. Indeed, that "'56.8% of the total non-UK (and non-Irish) EU-born population of Scotland in 2011 was accounted for by residents born in countries that have joined the EU since 2001" (http://www.migrationobservatory.ox.ac.uk/briefings/scotland-census-profile). These conditions explain developments such as the Scottish Government's *Fresh Talent Initiative* (2006) and innovations in post-graduation residency rights for international students and other activities intended to help meet the Scottish Government's own target to match the EU population growth average over the period 2007-2017. Despite limited powers in migration policy, Scotland now gains as a net recipient of international migration (which has exceeded emigration every year since 2001). Add to this that Scotland's population is ageing quicker than in England, it is clear why the Scottish Government's Independence White Paper, *Scotland's Future*, explicitly set out its stall for a distinct approach on the grounds that 'the current UK immigration system has not supported Scotland's immigration policies'.

To its credit, the Scottish Government has been consistent in promoting a vision for an asylum policy that honours international covenants, especially the rights and welfare of children – not least because the Scottish Government has consistently complained about the detention of children of families seeking asylum on Scottish soil. The experience, especially in the Central Belt, of dispersal policies has cultivated some valuable local strategies to facilitate settlement and integration, and challenged fears and prejudices. These local responses have relied on active stakeholder, voluntary and community sector collaborations that have sometimes been articulated in the formulation and refinement of a Scottish level discourse and policy that is often informed by a skilled (and vocal) third sector facilitated by an effective Council on Ethnic Minority Voluntary Organisations (CEMVO).

However, the question of citizenship of course goes well beyond migration. In recent years there has been some interesting discussion on what an independent Scotland might do in this area. A fascinating summary of policy options is offered by Jo Shaw (2014) who shares the view that habitual residence will prevail as the criterion for achieving Scottish citizenship, while a version of the points-based system would apply for new applicants, but in a way that does not preclude dual citizenship. The challenge for a future Scottish administration would be not to replicate the existing UK approach in a way that incorporates its flaws and tendency for discriminatory enforcement.

The obvious point is that citizenship is not simply about naturalisation but relates to access to social and political fields in which – in our case – minorities are confident and audible enough to participate in Scotland. In addition to the technical questions of equality of opportunity, some of this has to do with a sense of '*ownership over Scotland'*. Here there is a longstanding trend of self-identification and claims-making on Scottish identities by ethnic minorities. The important aspect here is the subjective confidence and willingness amongst minorities to stake such a claim. Yet it is not clear how (if at all) the stronger claims that come with this will be met.

For example, recent research noted that Scottish political actors frequently point to a number of boundaries to ensure integration and pursue unity. Two examples include the question of multilingualism and multifaithism. Taking the issue of language first, when the question is raised of bringing minority other languages into the fold, which are more frequently spoken than Gaelic and appear to be taking on distinctive Scottish forms in terms of content and dialect, there is a consensus amongst respondents that Scottish Urdu and Scottish Punjabi could not warrant a status as one of Scotland's national languages. In this assessment, historical multilingualism is

seen as a feature of the national identity whereas migrant multilingualism is viewed as potentially divisive.

Take a more charged illustration. This concerns the prospects for religious pluralism, especially legislative recognition of a pluralised state-church(es) / faiths' relationship. There are some very good reasons to be cautious about seeking to mirror a contemporary religious settlement based on the past, and it must be stressed that in research *all* Scottish political actor respondents were positive (often *very* positive) about the reality of religious pluralism in Scotland (Meer, 2015). What is interesting in their responses was that each framed the question of formally recognising religious pluralism – as opposed to the fact of religious pluralism - within a register of sectarianism, thereby using the experiences of Catholics and Protestants in Scotland to potentially exclude newer groups like Sikhs, Hindus and Muslims in Scotland. Despite many positives then, there is a risk that newer groups are being asked to integrate into existing configurations that reproduce certain hierarchies within citizenship in Scotland, and policy makers should be alert to the risks that this could create.

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