

Women and Equalities Committee

Oral evidence: [Race Disparity Audit](#), HC 562

Wednesday 17 January 2018

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Members present: Mrs Maria Miller (Chair); Tonia Antoniazzi; Angela Crawley; Rosie Duffield; Kirstene Hair; Eddie Hughes; Jess Phillips, Mr Gavin Shuker.

Questions 44–91

Witnesses

I: Nicola Braganza, Barrister; David Green, Director, Civitas; Sado Jirde, Director, Black South West Network; Sunder Katwala, Director, British Future.

Examination of witnesses

Witnesses: Nicola Braganza, David Green, Sado Jirde and Sunder Katwala.

Q44 Chair: I would like to welcome our second panel of witnesses, who are here to talk about the Government's race disparity audit. We launched this inquiry in the autumn and took evidence before Christmas on the data issues that have been raised. Today's session is very much focusing on policy, what the next steps are, the next steps the Government should be taking to address the disparities that were revealed in the audit and who should be responsible for taking them forward. We are, as always, tweeting about this inquiry with a hashtag #raceaudit. On behalf of the whole Committee, can I thank our witnesses, who have taken the time to be with us today? Before we go into our set of questions, could I perhaps ask each of you to just say your name and the organisation that you represent?

Sado Jirde: I am Sado Jirde, Black South West Network.

David Green: I am David Green from Civitas.

Nicola Braganza: I am Nicola Braganza, a barrister at Garden Court Chambers.

Sunder Katwala: I am Sunder Katwala, the director of British Future, which is an independent, non-partisan think tank.

Q45 Jess Phillips: What is the most surprising or shocking statistic to come out of the audit?

Chair: I should have said, when I started out, the acoustics in this room are very bad. Could everybody lean forward and bear with us? Otherwise we sometimes strain to hear.

Sado Jirde: As a race equality organisation, and having worked in the field for the last 10 years, none really. It is pretty much the same. It is what we see and what we expect. Nothing really jumps out as surprising. It is pretty much what we see and what we know.

David Green: I am opposed to the whole exercise. If we want to be anti-racist—if you are interested in what I have to say further—

Jess Phillips: I am totally interested; I just cannot hear it. Lean forward a bit.

David Green: I would distinguish between civic anti-racism and sectarian anti-racism. Civic anti-racism is the name I would give to always seeking our common humanity, a sense of solidarity. To put it in its simplest way, if you want to help poor people, help poor people; do not help racial groups, because racial groups include some rich people and some poor people.



Jess Phillips: Okay, that is a basic Marxist view.

David Green: Sectarian anti-racism is the doctrine behind the race disparity audit, which assumes that all disparate outcomes are the consequence of white discrimination, when in fact none of them are. They are simply what you would expect if you compare racial groups, because racial groups contain all sorts of people who differ in all sorts of ways, and the outcomes will inevitably be different.

Q46 **Jess Phillips:** What you find shocking about it is nothing.

David Green: It is the wrong thing to be doing.

Q47 **Jess Phillips:** Being as it is done, let us focus on that.

David Green: If you want to help poor people, help poor people. If you want to help people not doing well in school, help people not doing well in school and so on.

Q48 **Jess Phillips:** You do not find anything in it shocking at all?

David Green: I find the whole exercise shocking, if you want to put it that way.

Nicola Braganza: There are a number of things. First of all, it is a starting point. It demands a lot of questions and further investigation. Reading it was particularly disheartening, because it is a report that came out in 2017. We are in 2018 now. We have had equality legislation going back some 50 years. We have clear provisions within our Equality Act. We have extensive jurisprudence as to direct discrimination and indirect discrimination. Over the years, there have been a number of initiatives. There are strategies and litigation. Yet, when you look at these statistics, to the extent you can draw anything from them, the measures are not producing the results.

Indirect discrimination is all about outcome. Direct discrimination is all about comparing difference in treatment. Indirect, in its broadest sense, is all about difference in outcome, so inequality of outcome. You are looking at group and individual disadvantage. Within indirect discrimination, you identify what the PCP is: the practice, criterion or provision.

For example, within the report, if you look at the Civil Service and what it says about lower ranks, there is more ethnic diversity in the lower ranks rather than when you go up the pyramid structure. That tells you there is a real likelihood that, in terms of promotion and progression, the systems that are in place are not working. Higher up that pyramid, it is not reflective of what the statistics are within the lower sections. I found that the most shocking.

Q49 **Jess Phillips:** On that particular point, does the audit help us understand the causes of the disparity or just lay out that it exists?



Nicola Braganza: It just lays out the data. It does not go through and give you any analysis beyond that. It does not even draw particular aspects together. For example, this is quite shocking about the report: that it is across the board. It is all public services. Within the report, if you look at positions of influence, power and authority—you can talk about role models—in the statistics that the report gives on the NHS, the more senior you get, the lower the proportion of BME workers. There are statistics, for example, about the judiciary, headteachers, our courts, the police service, the prison service. All those institutions show certain patterns.

The first point is that, in 2018, I imagine that a lot of the statistics do not come as a surprise to people, and yet here we are. Why do they not come as a surprise to us? As I say, why are the measures that are being taken not changing those statistics?

Sunder Katwala: We are looking at a first cut of some of the existing data with a bit of new data, so if you were a specialist in an issue you knew about the data. You can see it all together. The least surprising bits are the burning injustices, although they are clear, and there might be more action if black boys are three times as likely to be excluded by school. That is not a revelation, but we might act.

People will be quite surprised by quite a lot of this, because people know very little about this data. People will be surprised by the things that have changed. It is a much more complex pattern of opportunity and disadvantage. While experts know that British Indians have the highest average earnings out of all the groups, and the educational gaps have closed but the economic gaps have not, those things are quite surprising.

Asian trust in the police is very high, unlike black trust in the police. That is true of Pakistani and Bangladeshi groups. That is surprising, because the newspapers always say the opposite. The only really surprising bits are the things that you do not know and have not looked at before. There are quite big gaps in who has a driving licence, for example. There is some really surprising information there, unless they are fibbing in the surveys.

Q50 **Jess Phillips:** Who does not have a driving licence? I do not remember that bit.

Sunder Katwala: The ethnic gaps might be wider than you think, and some of that may be age. I do not know if it is age or not, but it is quite a big gap. We have talked a lot about ethnic gaps in education and criminal justice. We have never talked about them in transport, and because of geography and age there might be very big gaps in transport. That is not a lens we have tended to have. The healthy eating statistics are quite surprising, because it is not the sort of thing you would look for ethnic disparities on.



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It is quite important that a lot of people who are not specialists on this do not know the really big, broad-brushstroke things. People do not realise that the big age differences between the majority population and the minority will have very important public policy implications. "We knew all this already and want to get on to action" is not right at all, both in who knew it and in terms of what people did know. People tended to know some of it.

- Q51 **Jess Phillips:** On the point of action, those in the know who have been working on this probably knew most of it; that is pretty much what you are all saying, notwithstanding not thinking it was worthwhile doing it. Was it a good thing that the Government deliberately chose not to publish the explanations for disparities alongside the data? Would that have potentially been more of a call for action about what was going to be done?

Sunder Katwala: Yes and no. There is a very good case made that, in terms of the resource that is accessible to the public, you want it to be clean and you do not want the contentious explanations.

- Q52 **Jess Phillips:** You think it was good that they did not.

Sunder Katwala: That is telling you about the data. In terms of the actual website, a strong case is made. It is then very under-narrativised outside of the website about why the Government have done it, what they are going to do next and the point of doing this. There were some very good sentiments and messages from the Prime Minister, but not a big speech about what it is. There should be a very clear narrative about what the Government think of the state of the nation aspects, before the departments tell us about their bits, just not on the website. It is under-narrativised.

It is incredibly important to have done this. It is ground-breaking. It has the potential to make a much bigger difference than people think, if we work out what the use of it is for policy. We have not yet had that conversation. One of the challenges in working out what to do with it as policy is that this is a world first. If you are doing gender, you tend to think, "Let us look at the Scandinavian countries and how that has gone. Has it worked, or has it not worked?"

Britain was the pioneer on race 50 years ago, when it was controversial to pass anti-discrimination laws. It is not controversial now. I do not know if this should be controversial, but nobody should fear data. If you think we are doing very well, you should not fear data. It would be illegal to hold or collect this data in France.

Jess Phillips: My family live in France and they are not allowed to write down the data of their race.

Sunder Katwala: Obviously there are ethnic disparities in France. They have to second guess. It is incredibly useful to have a clear and



accessible picture, if we work out what policy was going to do about it, so it works out what is class, what is ethnicity, what is gender and so on.

Q53 **Jess Phillips:** David, you look burning.

David Green: This is your original question: should they have given explanations?

Jess Phillips: Essentially, yes, for disparities.

David Green: I would have liked to see them try to explain that all the differences were the result of white discrimination. This is only of interest if that is true; otherwise it is not a public policy issue.

Q54 **Jess Phillips:** What is your explanation for it?

David Green: My explanation is that racial groups are not relevant. They contain people of all sorts of different abilities, aptitudes and interests. If you compare any two racial groups anywhere in the world, you will find that there are differences between them in these outcomes.

Q55 **Jess Phillips:** Are some more stupid or more criminal, for example?

David Green: It is only important if it is a result of discrimination. If it is not a result of discrimination, it is not a public policy issue. The problem we have in this country is that a lot of people are not flourishing in all sorts of ways. That is where we should focus. I suppose this sounds very old-fashioned, but when I used to be in the Labour Party years ago, in the 1970s, in Newcastle, everybody just took that for granted. It was the party that sided with the working people.

Q56 **Jess Phillips:** Yes, things have changed.

David Green: They have changed, haven't they?

Q57 **Jess Phillips:** We let women be decision-makers and that sort of thing.

David Green: Now it is the politics of sectarian division and competing victimhood, and not one based on solidarity: the solidarity that comes from all of us feeling a responsibility for everyone in society and ensuring that everyone gets a fair chance to flourish.

Sado Jirde: It is a first step in terms of creating the information. On Monday, there was a roundtable in Bristol from the RDU. It said the next step would be to perhaps contextualise the data. That is quite useful, because without contextualisation it is quite hard to come up with what the policy interventions would be, so that is key.

In the work that we have done, mainly with public sector bodies, having the data is the easy part. Even Bristol has produced its own data. We produced data, but to contextualise it and go deeper gets really complex, and there are a lot of issues. I would completely disagree with David, because we have structural inequalities; they exist. The outcomes of



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those structural inequalities are what we are talking about in relation to race, so they definitely exist.

Perhaps the reason we have never been able to address this and we have been talking about it for 15 or 20 years is that we have never really been able to get to the bottom of the complex issues. They are fundamentally complex social issues that need to be addressed. If there is a real commitment to make a difference, that contextualisation, in a very honest way, would be the next step to develop policy interventions.

Nicola Braganza: In terms of what the law provides, I was describing that you begin with identifying what the practice, the process, the criterion, the provision is. Then you look to see if there is a group disadvantage, comparing groups, comparing the group with the protected characteristic. You then look at, if there is an individual disadvantage, whether you can justify that.

It is really important to highlight that there will not always be explanations. There will not always be causes. It is very important not to rely too much on not being able to identify the causes, in order to not move on and see how it is that we can reduce these barriers. Indirect discrimination is described as a type of discrimination that is all about hidden barriers. That is how you come to have this inequality of outcome.

A particular case recently in the Supreme Court was all about this point. It was all about a core skills assessment test that was applied within the Civil Service by the Home Office. Year in, year out, the statistics showed that, in respect of BME groups, in respect of those who were older than 35, they were faring far worse. They were not passing the test. This has been going on for a number of years. To date, there is no explanation as to why that is happening. The outcome of that is that white and younger employees were being promoted. They were passing this core skills assessment test, but BME and older were not. As I say, no one could find the reason.

The Supreme Court held that, in those circumstances, while sometimes there will be an identifiable reason—as to women with childcare issues, for example, or for religious reasons—that you cannot comply with the requirement that your employer sets, in some circumstances there is no reason. The Supreme Court went on to say that that is enough under Section 19 of the Equality Act. You then go to look as to whether it is justified. It is important to go beyond what these statistics say, and we have been going beyond it for the last however many decades, but it is not necessarily essential in order to make out an indirect discrimination claim.

Q58 **Jess Phillips:** David, would you say that, in this case, the Supreme Court case, people who were BME and over 35 were just not as good at work?



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David Green: It could be that, couldn't it? Yes, I do think that. I will tell you why and, if you want to listen, you will have to be patient because there is an answer. You are obviously putting it to me as if you think there is not an answer.

Jess Phillips: I am going to ask some questions.

David Green: You do not want me to answer that, then.

Q59 **Jess Phillips:** Do you think that, in this situation, in the Civil Service, the people who were BME and over 35 who applied for and were working within the Civil Service were just not as good at their job?

David Green: They were people who did not pass the test. These are people who are already in the Civil Service who want promotion. They need to do this core skills assessment. Why would you assume that you would have an equal ability between ethnic groups who have chosen to be in the Civil Service? Why would you assume that in the first place? Why would you assume it is because of discrimination?

Q60 **Jess Phillips:** Why would you assume that white people were better?

David Green: Let us take Asian people. About 30% to 35% of all doctors in the NHS are of Asian origin. If you take the proportion of people of Asian origin who are in professions of some kind—doctors, accountants, lawyers—it is much higher. It is about double the average for white Britons. If you look at the proportion of people of Asian origin who are self-employed, again, it is about double the proportion. Given that these are mutually exclusive categories, if a higher proportion of people of Asian origin are doctors, lawyers, professionals and self-employed, and if the ability to pass exams is more heavily concentrated in that group than in the ones who apply to join the Civil Service, it is perfectly possible that the people in the Civil Service from the Asian group may well be less able to pass exams than the ones who have become doctors, lawyers, accountants and so on.

Q61 **Jess Phillips:** But the white people who end up as civil servants, as well as the white people who become doctors, are equal.

David Green: It is not the result of discrimination. You must have fair rules and a fair test of ability; otherwise you will get what in game theory is called a negative sum outcome. You will get less capable people in the Civil Service.

Chair: I have to say, just for clarity, that this is not the first time have picked up that it is very unhelpful to look at BME as a classification, because it captures large groups of people who are not necessarily very similar. It hides a lot of disparity. David, it is not the first time we have picked up the point that you are making; we picked that up in the Muslims in employment inquiry. It is important to acknowledge that.

Q62 **Angela Crawley:** The whole point of this inquiry on the race disparity audit is because we recognise as a Committee that there are multiple



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layers of discrimination that exist in society. I can sympathise, of course, with the white male privileged stance that you perhaps cannot see the disparity, David. However, I am simply going to ask you a yes or no question. Do you agree that racial disparity exists—yes or no?

David Green: We have already established that it exists, haven't we?

Angela Crawley: Okay, thanks. That is all I need from you.

David Green: It is a question of whether it is because of discrimination. That is the issue.

Sunder Katwala: This is where I find David's position hard to understand. I think you are saying that, if it is discrimination, it is an important public policy issue; if it is not discrimination, it is not a public policy issue. You are then against the approach that might answer the question: can we work out whether or how far it is discrimination, how far it is the distribution of aptitudes or aspirations, and how far it is other things? When we look into that, it is almost certain that some of it is and some of it is not.

When the last Prime Minister said, "When we just change the name to an ethnic name and send it round, we only get half the job interviews", that is the sort of thing you think that we must look at. If it turns out that it is not that, if we close the gaps in education and do not close the gaps in employment and it turns out to be about people's career choices or about whether young women who are first generation graduates go away from home to university, we might need to bring about cultural change. These are still public policy issues to bring about the change.

David Green: If you had a list of names and you said, "He is called Mohammed Hussain; I am not even going to interview him", that would be discrimination, which would be against the law. Everybody agrees about that.

Chair: The reason we are holding this evidence session today is because there is a wide selection of views here. We deliberately want to elicit this sort of debate, so it is really useful. I want to move on slightly because of the time.

Q63 **Eddie Hughes:** Now that the plan has been published, what are the priority areas for action? Sunder, you mentioned action. Do you want to kick off?

Sunder Katwala: It was a very good message from the Prime Minister to say that what cannot be explained must be changed. Then you go to the departmental levels, to look for explanations and look for changes. The Lammy review seems to me a very good example of doing the explaining before you do the changing, because we find out something we perhaps did not know, which is that it is about the time at which people plead. That explains some of the disparity, and therefore it was not all discrimination, but there is a cultural factor there. You do some of it in



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the specialised areas. There is another job of explanation at the top level, which should stay with the Cabinet Office.

Q64 **Eddie Hughes:** Hang on. You can make up your own questions. Specifically, what pile of policy areas is the priority?

Sunder Katwala: The priority should be to have a lens at the state of the nation level that asks which ones are most worth public money and resources, either because they have the biggest or most shocking gaps, or because they are the areas in which we can make changes. We can all pick an area. I would pick the employment rates of ethnic minority women and the registration rates in voting as good areas. I would like to see the Cabinet Office hold the ring. There are 57 areas that might be very important and that we decide to put resources into at a central Government level. The top end of the health service—a very diverse health service full of Asian doctors—has no management that is diverse. There is the public sector employer. I would pick those areas.

Chair: Employment and health—brilliant.

Nicola Braganza: I come to it from a litigation point of view. My main focus is employment. I was referring to the test within the Civil Service, where there are clear patterns of there not being progression or promotion. One of the statistics sets out that the police force, after a decade, remains in the main a white police force. There are really striking examples within the report that call out for action to be taken. As I was saying before, in terms of role models higher up, in the judiciary and the courts, those are areas I would focus on.

Chair: Employment and role models—brilliant. David, what would your priorities be?

David Green: My priority would be to identify people not flourishing and help them, regardless of race. For instance, one of the things we happen to do, on Saturday mornings and after school, is run catch-up classes for children, about 500 children currently, who at the age of seven have fallen behind in English and maths at school. We give them a little test, and if they are not doing really well we try to help them. As it happens, by the way, about 90% of them are from ethnic minorities, but that is just a coincidence. We just set this up and whoever comes turns up. That is what I think we should do. We should identify people who are not doing very well and help them. That is the priority.

Sado Jirde: It is hard to choose just one area, because they are really interconnected. I would say education, where education connects to mental health and criminal justice. What is fundamentally important is addressing poverty and deprivation. For example, in Bristol, 60% of the BME population lives in the most socially deprived communities, and that leads to all the different things. Focusing on addressing poverty and deprivation in terms of employment and skills, and creating jobs, not just in the traditional way we create jobs, are key areas. Most important is education, because that is the beginning of all our challenges.



Q65 Eddie Hughes: In terms of timelines for those departments to submit plans, if we met in 12 months' time, would we expect action to have been taken by then? What is the idea? Are there some things that can be categorised as quick wins, so action can be taken relatively quickly?

Sunder Katwala: A good way to do it would be to look for quick wins, but think about how to institutionalise this across a decade. At five years and 10 years, we should have a big state of the nation look at it. In terms of when there are quick wins, it might depend on when spending reviews are happening and when big things are happening, but in the other years it might be quite good for the Government to say, "We are going to have a really deep dive into health, into employment", and change what it is each year.

Looking at the whole thing every 12 months and saying there are infinitesimal changes would not be it. Structuring a big five to 10-year look at which areas we are going to prioritise and why, which we will do when there is a defence review because that is a good time to look at the diversity of the army while we are looking at everything else, would be a really good way to do it.

Nicola Braganza: There are a number of things. First of all, recognition is really important. It struck me that, throughout the report, there is no reference to the actual word "inequality". It talks about imbalances and burning injustices, but not inequality. From a practitioner's point of view, I often see cases where money is thrown at the lawyers rather than recognising that there is a real problem that needs addressing. Recognition and training are important.

In terms of quick wins, that is very much dependent on taking an area, looking at the statistics you have and looking back historically at the years you have had those statistics, to recognise that it is not working. Even if you set targets, it is really important to set those timescales, because otherwise it is all allowed to drift on and we will be here again in five years' time with the same statistics. At least set those targets and have focused ways of dealing with those.

David Green: As quick wins, I would set up a Government investment bank, invest vastly in new manufacturing enterprises and create more job outlets for people so they can earn higher wages across the board. That would help everybody. There are still a lot of very bad schools. For example, I mentioned the schools we run. One of the children who came to us about three weeks ago was still holding his pencil like that. He had somehow got to the age of seven in his school and that had been allowed to happen. There is a lot going wrong in our schools. You could get quick results there, which would affect these disparate impacts, apart from whether they are to do with discrimination.

Sado Jirde: Long-term plans are very important, as are short-term plans for implementation of the reviews we already have. We have the Lammy review. We have the Ruby McGregor-Smith review. It is quite key to do



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that in the job market. That will translate, instead of going back to identify what the policy interventions are. Trying to make inclusive growth a reality is something we are looking at, at the regional and local levels. Those are the things around economic development to lift people out of poverty.

Nicola Braganza: There is something else, coming from a practitioner's point of view, that is very, very important to give serious consideration to. There is no public funding for bringing a complaint of discrimination. Discrimination is very complex; it is very difficult to prove, particularly indirect discrimination. It rests on the individual to bring that claim, which will be stressful. It can take a number of years and it will be costly.

There is a real difficulty in on the one hand saying that we are fighting these burning injustices and we are committed to rooting out inequality, combating discrimination and not tolerating it. On the other hand, when it comes to enabling claims to be brought, we are not providing the tools. There may be claims out there, and it is simply too costly and too stressful for the individuals to bring them. Indirect discrimination is all about group disadvantage. Again, you have the issue of an individual being affected, but also groups being affected. There is no public funding. There can be an element of strategic litigation, but the reality is that this is happening day to day in the workplace. Public funding is a really crucial area to give consideration to, to enable people to bring the claims and call organisations to account.

Q66 **Chair:** On that issue of strategic litigation, how do you think the EHRC is doing in terms of bringing strategic litigation when it comes to race disparity?

Nicola Braganza: There is a real difficulty. The best example that I can give is the case of Essop. There was no way of anticipating, when this case started five years ago, that it would end up in the Supreme Court. Before Essop, which was brought on behalf of 50 people, it was brought by one individual. He brought it through his union, Prospect. He did not pass the test. He was an ideal candidate. All his managers were very much in favour of his promotion and supported him. You could not fault him.

He put himself through the litigation process. He subjected himself to cross-examination about his own ability to do the job and to sit that test. Again, as I say, no one knows the reasons why there was this group disadvantage. He succeeded. As a result of that, Essop came and 50 further claimants brought this case, and it ended up in the Supreme Court. There is a primary difficulty in identifying when a case is going to take on importance.

Q67 **Chair:** The EHRC did not identify it as a case?

Nicola Braganza: At that point, it was taken on by Prospect. There are difficulties in identifying it. There could be much more strategic litigation,



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but strategic litigation itself does not answer the problem. It does not redress that imbalance.

Q68 Angela Crawley: I have two main questions. The first is to Sunder, because you made the point about a state of the nation report. I am conscious that continuity in Government, be it five years or even succeeding a five-year term, might be tricky. The point about a five or 10-year review is valid. If we had such a thing as a matrix where we used, for example, educational attainment as a key indicator of the outcome for education, would that give us a means to track it in an outcome-focused way?

My second question is to Nicola. You mentioned earlier that legislation has been in place for 50-plus years and there have been examples of litigation. With that in mind, if it is an issue of implementation or enforcement of that legislation, what measures would you recommend to the Committee?

Briefly, Sado, you mentioned inclusive growth. For the benefit of the Committee, it would be helpful if you could define what you interpret as inclusive growth.

Sunder Katwala: On the first question, to think across a 10-year period, which is necessary, we are going to need sustained political buy-in and consensus on some things. We are in a strong position to get that. We have a Conservative Government that have done the sort of thing that people might expect a Labour Government to have done in the past. You have a Labour Opposition and SNP parties that would think this is a good thing to do. We would like to see it emulated in Scotland by the Scottish Government at some point. There is a good chance of getting that. It is quite important to think about how much consensus you want and how much competition you want.

If we can get a consensus on the process of scrutiny, transparency and policy debate we are going to have, that will be sustained. The parties then come up with their manifestos. There might then be a change that priority one becomes priority three, and it switches from jobs to health and so on. You can have competition. Competition is very healthy here. We made progress on gender in politics and ethnicity in politics. It sped up a lot because of political competition. Parties should compete about how, and have different ideas about the role of the state.

Q69 Angela Crawley: Taking the party politics out of it, my point is about continuity of governance. It is not about political parties.

Sunder Katwala: They should agree on a process that does that. I think they should be able to agree on this educational indicator and so on. They might change their minds at some level, but we will have institutionalised our process, in the same way we institutionalised our anti-discrimination laws.



Sado Jirde: In terms of inclusive growth in a practical sense, from a civil society point of view, it is about understanding. Focusing on Bristol, for example, we have the fastest growing city region outside of London, but we also have significant levels of inequality. Part of it is about how you can begin to look at the economic system that is not working for everybody and make it work for people. The drivers for that are focusing on areas like social enterprise development, enterprise development and skills development in a meaningful way. It is also about looking at the context of the changes we are having, whether it is technology, how you prepare communities for that and how you create jobs for the next generation. It should be looked at very comprehensively and in an integrated way, but driven from a community level.

Q70 **Chair:** Can I pick up on one point that Sunder made about a state of the nation approach? Do you not think the EHRC already does that with its "Is Britain Fairer?" report?

Sunder Katwala: One of the dangers of the EHRC report is that, if you follow it very, very closely, you know about it; its public reach is very low and possibly shrinking. The political buy-in and the Prime Minister's speech gave this the reach. There is no doubt at all that, when we come down to what we should litigate and what data we should collect, you can do that for specialists and practitioners. This was about the public, and it has been designed in a way that is for the public. How much media coverage outside *The Guardian* would an EHRC annual report get? Almost none whatsoever.

Chair: It is not authoritative.

Sunder Katwala: It is a communication issue, as well as a technocratic issue of what we know. Obviously the EHRC data can then be in the audit.

Q71 **Angela Crawley:** I asked about the measures.

Nicola Braganza: There are a number of things. Firstly, public funding, merits or means-tested, is absolutely essential, because it is a very, very daunting process. If someone feels they have been discriminated against at work, it is very difficult to prove. There needs to be access to what your rights are and to representation. It is a very complex process. It is so fundamental a right not to be discriminated against that it needs to have that protection. It is all about access to the courts. It is in similar form to what was set out in the Unison judgment: without having the ability to bring the case, employers and organisations can go on saying, "These are just the statistics. We do not know the reason for it and so be it". Funding is very important. Access to advice, increasing funding in equality bodies and training are absolutely essential.

I have cross-examined HR staff a number of times. When you ask them about discrimination, they say that it is about treating everyone the same, but there is not really an understanding of how indirect discrimination works. It is a very difficult and complex concept to



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understand. Essop, the Supreme Court case, brings that out. You had, at every level, judges disagreeing with each other until it went to the Supreme Court. Training is absolutely crucial.

Tribunals used to be able to make recommendations for a wider organisation. Another case that I had very recently is a stark, shocking example of indirect discrimination where my client was forced to leave her job of very many years. She could not comply with the requirement that she work full time. At the end of the case, that is it. The employer goes back and can continue doing whatever it was doing before, because the recommendations are specific to the claimant.

We used to have a questionnaire procedure. It is really, really important. I go back to the point that it is so difficult to prove discrimination cases, so the questionnaire was another tool.

Finally, I would give serious consideration to an addition to what Section 19 provides at the moment. Section 19 sets out that you identify the group disadvantage and the particular disadvantage. An individual who is affected by any of these statistics can bring the claim. It rests on the shoulders of the individual to bring the claim to tribunal or to court. Yet you have this group disadvantage.

Chair: I really want to bring this back to the audit. I think we are getting away from the audit itself.

Nicola Braganza: In answer to your question, it is that you can litigate on the basis of group disadvantage.

Chair: Can we start to focus in on the audit, rather than getting into quite long contributions?

Q72 **Tonia Antoniazzi:** The Government are suggesting a decentralised approach to tackling the disparities in the audit, with each department taking forward its own actions. Is this approach appropriate, and will it be effective?

Sunder Katwala: It is missing something, which is that the Cabinet Office could be really useful. There will be the most progress in the departments that would have made progress if we had not done the audit, because in education, crime and justice they have thought about this a lot. The Cabinet Office really needs to drive that across Government. The Department for Environment will not have thought about it, so we do not know whether there is something very important there. Also, the political leadership at the centre is going to be very, very important. It is very important that the "explain" phase should explain the macro about the priorities we choose and where we are going, for the reasons David is using: that we should go for the things that are most important and that affect everybody in terms of race, class, gender and how they fit together. Then, when we get to the micro, you obviously need a very engaged thing from the department about the changes in policing or criminal justice that fit the explanation. It is at both levels.



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David Green: I have no objection to decentralisation. It seems only sensible that everybody should focus on improving policy in their own domain, including the devolved Governments.

Q73 **Tonia Antoniazzi:** What mechanisms should be set up in order to make sure this support succeeds? You touched on it.

David Green: I am the wrong person to ask, because I do not agree. If there is discrimination, do something about discrimination, but these disparate outcomes are not the result of discrimination. We should focus on our common humanity, ending the politics of identity and grievance, and focusing on social solidarity.

Nicola Braganza: I entirely disagree with what David just said because disparate outcomes—

Q74 **Chair:** What mechanisms could make sure that a decentralised approach to the audit succeeded?

Nicola Braganza: As I said before, the timescales for it are important. It is important that you do more than just collect the data and see what the patterns reveal. With that, call into account the organisations for what they are producing.

Sunder Katwala: There is something else we could do. They are remarkably cagey about what is going to happen, because they have not decided. That is because doing the policy changes is quite political and about policy. We should be much more transparent that we are structuring a process of rolling out more data and collecting data, which is still to be commented on. That is not saying, "We will promise to hit these targets by this date". There is more to be done in the centre. Place really matters, for two reasons. Place matters for the outcomes a lot. We cannot see that as much as we should.

Place also matters to other actors who will act. For example, in the West Midlands, the regional mayor, Andy Street, has set up a West Midlands Leadership Commission, which is asking the sort of question at his level that you are asking here: when will the leadership in the West Midlands look like the West Midlands? Birmingham University and the other universities have to go around and find out who has the data. The data is all over the place. If the Government are saying they will make the data accessible, they should think about the fact that Scottish data is one thing, but West Midlands and north-west London data will mean there are new actors who step up and do their bit. I would like to see more emphasis on place across the piece and across departments, as well as telling departments to fix their policy.

Q75 **Tonia Antoniazzi:** Who should be responsible for driving forward the response to the audit?



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Sunder Katwala: I would like to see the Prime Minister, the First Secretary of State and the Cabinet Office make it a central Government issue.

Q76 **Chair:** Sado, who do you think should be driving it forward?

Sado Jirde: I agree. You need the leadership from the top. That is key. In terms of your question around decentralisation, that is fine but, looking at it, it is quite multidimensional. I do not think you can have education separate from housing and criminal justice. You need to create another mechanism where all the departments speak to each other, to come up with a policy intervention.

Chair: The Cabinet Office sounds like the answer.

Sado Jirde: At the local level, we have strategic leadership in Bristol, which is cross-department, looking at race and working on that. If you look at scrutiny and accountability, the mechanism needed to do that was the public sector equality duty. That has not been effective. Perhaps it is about revisiting that and trying to make it effective.

Chair: We are going to come on to the public sector equality duty in a moment. I am very mindful of the clock. Unless anybody has anything to add on who should drive it forward, let me move on to Rosie.

Q77 **Rosie Duffield:** We have just touched on this, but how far does responsibility for tackling the inequalities identified in the audit sit with the Government? To what extent are civil society, employers and other individuals responsible?

Sado Jirde: There is a shared responsibility. If you look at the audit in terms of public sector bodies, that sits with Government. There are a number of things. We have had public sector cuts, which have had impacts on communities. You can see that reflected within the audit. Civil society organisations have, and have always had, a key role to play. The reality of where we are is that the impact of cuts has reduced the capacity of civil society organisations to engage. In order to develop effective policy interventions, they need to speak to public sector bodies, civil society organisations and private bodies to collectively work together.

Q78 **Rosie Duffield:** The Government should be working with those bodies.

Sado Jirde: Absolutely.

Sunder Katwala: The audit is deliberately quite narrow, and it is a good starting place. It is about equal citizenship being your treatment by the state in the things the state is heavily responsible for, rather than being about everything in society. It gets there. At this stage, it is Government and other public bodies, although you distribute that a lot across the health services and so on. You need to do that. The Prime Minister said that she wants this to become the central resource in the battle to defeat



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ethnic injustice. For that to be the case, it will have to broaden out to all the actors and spheres that affect justice and injustice.

Nicola Braganza: I completely agree that it is a shared responsibility. It has to come from society as a whole, within every sector. I entirely agree in terms of education and training. As I say, I see in litigation as a practitioner that there is not an awareness or understanding of how indirect discrimination works. It is really important to focus across the board. Yes, I agree with that.

Q79 Jess Phillips: You have already picked up on this a bit. Does the audit suggest that the public authorities are in breach of the public sector equality duty or other provisions of the Equality Act? What can be done to fix this?

Sado Jirde: It is a challenging question. In some cases, you could argue yes, in terms of the extreme negative outcomes. You could say that. We see that at the local level, whether it is in education or criminal justice. Who reinforces that is the question. Where is the capacity? Traditionally, it used to be that you had very strong race equality commissions or local organisations that would hold public sector bodies to account. We do not have that. At the local level, it is quite different. I genuinely do not think that public sector bodies can hold themselves to account. We see that at the local level. The information comes out; the data comes out, but implementation and moving on to addressing what we are seeing is quite challenging.

There needs to be an outside mechanism that holds that to account. Part of that has always been the civil society organisation. It is about how we build that back, in order to do that for the public sector equality duty. The Equality and Human Rights Commission had a very strong role, which has been reduced, in terms of working with civil society organisations. Perhaps there is a way around that, to bring that back and to hold public sector bodies to account.

Nicola Braganza: In terms of the public sector equality duty, while it provides some protection, it is about process to show that regard has been had. In fact, it does not necessarily achieve results because, if you can show that regard has been had, you have followed the correct processes.

Jess Phillips: What does that mean?

Nicola Braganza: Regard has been had to the elimination of discrimination or the promotion of equality, so that in that process, in that policy, consideration has been given to it. The point that I make is that it is not about the actual result at the end of it. It has a limited reach and application.

Chair: So no.



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David Green: You are constantly using language as a kind of pre-emptive strike, aren't you? You are calling every difference a disadvantage. It is not. It is just a difference.

Q80 **Jess Phillips:** David, I think every difference is an advantage. I just want that advantage to be realised.

David Green: That is not the point, is it?

Chair: That was very philosophical, Ms Phillips.

Jess Phillips: You are welcome. It does not happen often. It is usually swears.

Sunder Katwala: Explain or change means that you have to explain that you are not. There is a risk, when you are going down that, that you get very narrow compliance rather than a discussion about the drivers of disadvantage or the drivers of change.

Q81 **Chair:** Yes or no—does it suggest that public authorities are in breach?

Sunder Katwala: They have to show that they are not because they can explain the disparities. We do not know the reasons for the disparities.

Chair: So no?

Sunder Katwala: We do not know.

Nicola Braganza: Can I clarify that I am not saying, from the evidence, it does not show any breaches? It may well show breaches, but you need to have more investigation into what steps have been taken. In those circumstances, there may well be breaches.

Q82 **Chair:** Prima facie, the data itself does not?

Nicola Braganza: You need more than just the statistics to make out a breach of the public sector equality duty.

Q83 **Eddie Hughes:** I am going to combine my questions. Are there areas not covered by the audit that need urgent action? What data would it be useful to have on the website in future?

Nicola Braganza: Pay would be very helpful. There have been lots of statistics on the difference in pay of black and ethnic minorities, with, for example, research on those with degrees earning a quarter less than their white counterparts. Pay would certainly be an area I would consider.

Sunder Katwala: We have very little of the data that is going to be there—well under a third of it. This is not just explanation for explanation's sake. We now need explanations of the drivers, whether that is on the same website with things that go around it. We need to know about the cohorts, age effects, geography, generations and genders. That might crowd out this data, but we need to explain what is driving it and what you might change, in order to act on it.



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Chair: So drilling down into the data?

David Green: You are probably already aware of the work of Tony Sewell and others on why there is underachievement among boys from a West Indian background. He focuses on the absence of fathers and argues that, in the absence of fathers paying attention to their children's well-being, they very often seek alternative sources of comfort in gangs. You get an explanation there of why there is a higher crime rate and why there is a lower level of achievement in schools.

Q84 **Chair:** Which data could be collected to look at that in more detail?

David Green: You could start with a sample of all West Indian youths, and find out what their family background was and whether their fathers were taking responsibility for them.

Chair: Additional data on the family make-up.

David Green: Then, if they do not have good support in the home, there are things the schools could do. For example, one of my children happens to work in a primary school and they have a lot of children who come from disadvantaged backgrounds. They have a home-school liaison service whereby, if someone comes to school with three days' worth of food on their clothes, has not had any breakfast and so on, they give them some support. That is what I would do.

Q85 **Chair:** Sado, do you have anything that is absent here?

Sado Jirde: It is not about more data. I agree with Sunder in terms of the drivers and perhaps also looking at systemic inequality, what it means within this and having that context. Context is really key, as is bringing in inequality and systemic inequality.

Q86 **Chair:** Before we close, can I pick up on one particular point Nicola made about what she feels is missing in terms of pay? This is playing to David's point a little. We know from previous evidence we have had that there is a lack of clarity on BME data, particularly with Pakistani and Bangladeshi communities being lumped together. Nicola, if we asked for pay data to be included in this information and we had the category of Bangladeshi and Pakistani, do you also have a concern that we might end up with something that is unhelpful in terms of indicating pay levels for that group, given the huge disparity between those two ethnic groups?

Nicola Braganza: The starting point, within indirect discrimination particularly, is that there needs to be transparency. You need to have the data to begin with.

Q87 **Chair:** The data is so amortised that it is difficult to disaggregate. Do you not share David's concern that a rather unhelpful piece of information might end up being put into the public domain, which might be misinterpreted?

Nicola Braganza: It depends how it is collated and presented. The example I gave is the comparison that was made between black workers



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with a degree and their white counterparts with a degree, in that they were earning something like 23% less. There are certain statistics that would be helpful, and further action could be taken on those.

Sunder Katwala: There is an important difficult bit, which is the interaction of race and faith, which also becomes quite contentious. A third of people from different ethnic minority backgrounds are Muslim. We know, because of social attitudes, prejudice, perceptions of social distance et cetera, that that is quite important. When we do our name-blind approach, it might be that. The data is much patchier. Separately, you have a call from some Sikh groups but not other Sikh groups to have a Sikh category promoted from faith to ethnicity, because it would get more attention. If you did that, 40% of people who said their faith was Sikh would tick it and most people would not. Therefore, you would not have better data; you would have messier data.

It would be worth trying to find out what that is trying to do, in terms of what public services should be paying attention to and how to collect data that does that well. We have used Pakistani and Bangladeshi as a proxy for Muslim—that is two-thirds of the group. It is quite a bad proxy now and it gets increasingly worse. We have been quite lazy with ethnic data. We have thought about country of origin and ethnicity. We have not looked at ethnic data through the things that really matter these days in our society, such as whether you have a degree, where you live and so on. It is those things that will explain the drivers.

Q88 **Chair:** You would agree that there is a shortfall in this data, inasmuch as it is, as you say, messy and proxies are used. You are, in a way, finding some common ground with David.

Sunder Katwala: It is very clean. It is very cleanly presented.

David Green: I agree about that. The rule is to disaggregate as much as possible. As a very quick example, I mentioned these Saturday schools already. We ran one in Bradford until last year. All the children were Bangladeshi Hindus, which are a persecuted minority in Bangladesh. We have a waiting list system. A lot of Muslims from Bradford, since the majority are Muslims, wanted to come to the school and the Bangladeshi Hindus said, "We do not want any Muslims". We said that we could not do that, and that there had to be a waiting list. We ended up with 18 Muslims and two Hindus in the school. I am making the point that, if you are looking at what caused their life outcomes, it is partly to do with religion, partly to do with race, partly to do with poverty and partly to do with culture, and the statistics do not help you get at that. The same would be true if you come from the West Indies: do you come from a family that goes to an evangelical church where you do a lot of waving of arms, loud singing and so on, where you think you are constantly living in the sight of the Lord, as people would say.

Q89 **Chair:** Could you just clarify when you said about the class? Which organisation is running the classes?



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David Green: We did. We do not now. This was about two years ago.

Chair: Was it your organisation, Civitas?

David Green: My organisation, yes.

Q90 **Angela Crawley:** I am just curious, because a number of sweeping generalisations have been made by certain members of the panel. Is the assumption that, if you come from a white privileged background, you will not be without a father and therefore will not have disadvantage? Is that a narrow field in which to scope an audit? I think the point Sunder was making is, if you scope it over a wider matrix of background, religion and family, you might get a more accurate indicator. There are some generalisations being made that I do not quite understand.

Sunder Katwala: There is a very important opportunity with the race disparity audit to normalise the discussion of race, class, gender and education. It is quite interesting: the race disparity unit did quite a lot of user testing when it did this and produced a thing called "ethnicity facts and figures", because people felt uncomfortable with race. We feel uncomfortable about race partly because we do not want to be racist, and therefore not talking about race can help you out there, but normalising it is quite important. Otherwise you do not talk about racial disadvantage and whether it is discrimination, culture or other factors in a way that can be very healthy in a society.

Where I very strongly agree with David is that we want a politics of fairness, not competing grievances. If you realise that white working-class boys being left behind, black working-class boys being left behind and Asian girls getting on but facing other barriers are part of the same challenge, the race disparity unit can be part of the politics of fairness where you explain what you are doing. A lot of white people do not feel privileged because they are not privileged.

Q91 **Chair:** It is part of a politics of fairness as opposed to the only thing. Are there any final comments?

David Green: The person who made the most sweeping generalisation while accusing other people of doing it was Angela, who talked about white privilege twice. Not everyone who is white is privileged, are they? Some of the worst-performing groups are white working class.

Angela Crawley: I totally agree. The point of this inquiry is to look at racial disparity. The point of this entire Committee is the existence of inequality, which is multi-layered and not directed to any one racial group.

Chair: I am very conscious of the pressures on the time of members of the Committee. We have had a really robust exchange of views this morning, for which I thank the panellists, the contributors and members of the Committee. We have underlined that this is an area of differing views and we have aired those differing views today. That is the remit of



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the Committee: to surface views; then we go away, discuss them and come to some conclusions. Hopefully those conclusions can be helpful to the Government.

Can I thank all the panellists this morning for coming along? I know it is a huge amount out of your diary to come here and to prepare. Thank you on behalf of the Committee. We will draw this part of the meeting to a close.