

## Policy Focus: Equalities Bill

The Government published its long-awaited Equality Bill last year – the Bill was introduced in the House of Commons on Friday 24<sup>th</sup> April 2009 and published on Monday 27<sup>th</sup> April. Since that time it has gone through various stages of legislative scrutiny and amendment in both Houses and is soon set to become law. If passed, the Bill will come into force in stages, beginning in late 2010. Including explanatory notes, the Bill is over 500 pages long and contains 205 clauses and 28 schedules. This has made the Bill quite difficult for many to access, yet aside from the Bill, there is confusion about equalities and what the legislation means for Muslims and their communities. This briefing paper explains some of the issues.

### Why is equality important?

The Government recognises the importance of equality: for individuals as fairness is a basic human right; for society as inequality makes people and communities feel excluded and isolated; and for the economy as it is vital that everyone contributes and employers can draw on the widest pool of talent. Equality is not only for those who come from a particular ethnic background or have a disability for example: equality is for everyone. There can be no fair society if age, disability, gender, race, religion and belief, sexual orientation and transgender status are markers of disadvantage, and there can be no lasting or deep-rooted progress for disadvantaged groups unless fairness involves everyone in society.

### What do I need to know about the equalities legislation?

Among the many new measures laid out in the Bill, it proposed to:

1. *Introduce an Equality Duty on Public bodies* – this will mean that public bodies will have to address Islamophobia and other forms of institutionalised anti-Muslim discrimination head-on.
2. *Introduce a new Duty to reduce socio-economic inequality* – The new duty will apply to Government Ministers, departments and key public bodies such as local authorities and NHS bodies and will affect how public bodies make strategic decisions about spending and service delivery.
3. *Extend the use of positive action in the workplace and political life* – this will mean that employers can choose to make their workforce more diverse and political parties could do more to increase diversity on their electoral shortlists.

Under the Equality Act 2006 the Government created the Equality & Human Rights Commission (EHRC), which replaced the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission.

The EHRC thus has the responsibility to protect, enforce and promote equality across the seven 'protected strands': age, disability, gender, race, religion and belief, sexual orientation, and transgender discrimination. This means for example that:

- It is unlawful for you to be treated less favourably in your workplace or in vocational training because of your age.
- Your religion or belief (including no religion or belief), or those of somebody else, should not interfere with your right to be treated fairly at work, at school, in shops or while accessing public services.
- Whether you are gay, lesbian, bisexual or straight, this should not put you at any disadvantage.

## Why is equalities legislation important for Muslim communities?

The discrimination faced by Muslims and their communities over the past decade or so has had a major impact on today's legislation. In many ways, the recent extending of the equalities strands to include religion or belief has been a direct response to the shortcomings of previous equalities legislation, known as race relations legislation. Under the Race Relations Act 1976, a loophole existed that allowed religious groups from different ethnic backgrounds – including Muslims – to be discriminated against. For example, whilst it was illegal to refuse to serve someone in a shop because they were 'Pakistani', it was not illegal to do so because they were 'Muslim'. And it was this loophole in the legislation that allowed far-right groups to begin overt anti-Muslim and anti-Islamic political campaigns around the turn of the century.

Since 2001, various pieces of legislation have been introduced that seek to protect people of faith background (including Muslims) against discrimination. Nowadays, the religion or belief strand means that protection against discrimination on the basis of religion is fully equitable with all other forms of discrimination.

## Does this legislation present any challenges for Muslims?

It is fair to say that the new equalities legislation could present some Muslims – as well as people from other faith communities too – with challenges. This will be most prominent and contentious where the rights and equal treatment of those who may be seen to be 'sinful', because of a particular theological interpretation for instance, appears to contest, contend or be contrary to the beliefs and understandings of a religion or belief. Take for instance the recent debates about the right to offer adoption services to same-sex couples and gay and lesbian individuals. Catholic adoption agencies argued against providing these services as they believed it contravened their moral and ethical conscience. Gay and lesbian groups argued that any discrimination in the provision of services was the modern day equivalent of the 'No, blacks, no Irish, no dogs' signs from the 1960s. Similarly, Pope Benedict XVI has been recently reported as attacking Britain's new Equality Bill, stating that it imposes unjust limitations on the freedom of religion.

How then might people with certain beliefs and viewpoints uphold matters of moral and ethical conscience where equalities legislation might require them to contravene their beliefs? Essentially, if people agree that discrimination on the basis of religion or belief should be outlawed then so too must all other forms of discrimination be outlawed too. Discriminate against or deny the rights of one person or group and it becomes much easier for the rights of others to be denied or to be discriminated against also, including one's own.

There are however a handful of limited exceptions where it is lawful to discriminate on the basis of someone's religion or belief. Known as a Genuine Occupational Requirement (GOR), employers can lawfully discriminate where it might be justified that a person of a particular religion or of a certain gender performs a role, for example an imam or Catholic priest. This does not mean that a Muslim organisation can lawfully employ Muslims only; indeed it could be quite the opposite. Only where a genuine occupational requirement can be explained and justified can discrimination take place. For example, when recruiting an Imam or a teacher of religion, a mosque or Muslim school could legitimately ask for a Muslim applicant only. But if recruiting an accountant for a Muslim school the application process would have to be open. As well as religion or belief, similar exceptions apply to race and gender also.

For Muslims and others, recognising the value of equalities legislation is key. To do this, it is important to understand the clear distinction between upholding and respecting the rights of everyone to be treated fairly and not to be discriminated against, and the endorsement and agreement with activities, practices and beliefs that are contrary to your beliefs. Recognising that gay, lesbian and bisexual people need the same levels of protection against

discrimination as everyone else, for example, remains quite separate from whether some activities and practices may be deeply offensive to some. In the same way, recognising that Muslims need the same levels of protection as everyone else is again quite separate from requiring everyone to agree and believe in the tenets of Islam. The value of equalities is that everyone is treated fairly and that all forms of discrimination are afforded protection.

### The way forward

Given the looming general election, the Bill has a limited time to be granted Royal Assent. If the Bill is not passed by then, it will be down to the discretion of the next government to reintroduce it if they see fit. The Bill is therefore in quite a precarious position. Any weakening or dilution of the legislation could be detrimental for Muslims and for the advances that have been made in recent years to address the discrimination that affects the everyday experience of many different people across today's Britain.

The Equality and Human Rights Commission has been running a consultation on the guidance and codes of practice that will accompany the new legislation. This will remain open until April and you can make your views known by visiting their site:

<http://www.equalityhumanrights.com/legislative-framework/equality-bill/equality-bill-consultations/>

Moving towards greater equality has not always been easy, nor indeed will it be in the future. But Muslims and their organisations must be actively engaged in these processes if it is to be a success. They need to seek dialogue with others from across the different equality strands at the same time as begin open and honest debates about the inequalities and discrimination that exist within their own communities. Without recognising this and without making a robust case for fairness, which involves everyone in society, there will be no lasting or deep-rooted progress for disadvantaged groups – such as many Muslim communities today. There will be no end to unfair and unwanted discrimination.

### Quotes

*"Your country is well known for its firm commitment to equality of opportunity for all members of society. Yet...the effect of some of the legislation designed to achieve this goal has been to impose unjust limitations on the freedom of religious communities to act in accordance with their beliefs...In some respects it actually violates the natural law"*

Pope Benedict XVI (1 February 2010, The Catholic Herald)

*"I will defend Muslims and people of all faiths against hatred and discrimination. The victimisation of people because of their religious beliefs is just as wrong as victimising people because of their race, gender or sexuality"*

Peter Tatchell, gay rights campaigner (19 November 2009, Guardian Comment is Free)

*"Britain, like most of the Western world, faces some difficult issues arising from the very fact that we are a democracy that values freedom. The fact that people now want to be themselves and to express their identities - whether that is related to their gender, race, sexual-orientation, age, religion or belief, disability - is a wonderful thing. It is what freedom should mean. But there are difficult choices and frictions that come with freedom; and some of them raise hard questions about how we reconcile diversity with equality"*

Trevor Phillips, Chair of the EHRC (26 February 2008)