

1. What are the main elements that define your minority identity? How do they make the minority distinct from the rest of the population of the State?

For the purposes of this consultation, we are answering for English Romany Gypsy (Romanichal) people. In the UK the definition for minority is set out within the law under the “Mandla criteria¹” principle. In a previous legal case concerning Sikhs the Dutton case [Commission Racial Equality v Dutton 1989] found that Romany Gypsies were an ethnic group. There are seven aspects to the list and in order for an ethnic group to be recognised as an ethnic group, it is sufficient to have three out of the seven. The Mandla criteria were used to prove the case of a distinct ethnic group in all the cases of English Gypsy, Scottish and Irish Travellers. (Mandla v Dowell Lee [1983] 2AC, p.548).

In England Gypsies were recognised as an ethnic group in law in 1989,- the Gypsy and Traveller community in Scotland did not obtain ethnic recognition until 2008, through a work tribunal case (MacLennan², 2008),The O’Leary case also confirmed that Irish Travellers were recognised as an ethnic group (O’Leary³ 2000). This is interesting because perversely they had not been recognised in Ireland as a separate group, but they were recognised as an ethnic group on the mainland in England. It was not until 2017 that Ireland recognised Irish Travellers as a distinct ethnic group (Irish Times, 2017). It is important to have regard for equality policy as many families have found it difficult to access health care and education.

UK did sign up to the Framework of National Minorities. However, we would go further and state that English Gypsy people have developed apart quite different to Roma and are an indigenous ethnic group, if you compare with the Métis community of North America and Canada, where by Scots and or French people came in and inter married and developed into a distinct culture. The Métis are recognised as indigenous and if you look and compare both histories it is the exact same time line.

¹ *Mandla v Dowell Lee* [1983] 2AC p.548

1. a long shared history, of which the group is conscious as distinguishing it from other groups, and the memory of which it keeps alive;
2. a cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observance. In addition to those two essential characteristics the following characteristics are relevant:
3. either a common geographical origin, or descent from a small number of common ancestors;
4. a common language, not necessarily peculiar to the group;
5. a common literature peculiar to the group;
6. a common religion different from that of neighbouring groups or from the general community surrounding it;
7. being a minority or being an oppressed or a dominant group within a larger community being a minority or being an oppressed or a dominant group within a larger community

² *MacLennan v GTEIPS* / 132721/07 2008

³ *O’Leary v Allied Domecq* [2000] 29th August (unreported) Case No CL 950257-79 Central London County Court

2. How do you articulate your minority identity with the “national” identity in the country where you live? Do you consider that minority and majority identities are approached in complementary or competing ways in your national context?

To give an historical background around way of life and land use they have been competing post World War 2. As Gypsy society developed in the UK, the issue of land has become more and more important. The Enclosures of Commons Act 1876 reduced the common land, but this was only part of a long history of enclosure and these are too numerous to mention because between 1604 and 1914, some 5,200 enclosures took place by Parliamentary Acts. Additionally, the Highways Act (1959), followed by the Caravan Site Control and Development Act (1960) caused hardship to many families, as they returned to winter quarters to find them now gone. Farmers and landowners were frightened of reprisals as they had not got the requisite Caravan Sites Licence. The 1960's Caravan Sites Act was an act of good intention in that sites had to have facilities, but in actual practice it put many families on the road with no legal base.

There has always been a misconception that Gypsy families travelled all the year through. In reality, there was always a winter yard and for many the travelling period would not be until March to late October. This base from which to travel is not a new notion and farmers and others afraid to let families stay on land without the mandatory sites licence, (a requirement of the Caravan Sites Control and Development Act 1960), had no alternative but to turn families away. The Caravan Sites Act, (CSA, 1968) defined Gypsies as: *“persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen, or persons engaged in travelling circuses, travelling together as such”* (Caravan Sites Act 1968.) The words, “whatever their race or origin” has been somewhat of an anomaly.

Between the CSCDA, 1960 and CSA, 1968, three things happened: i) there was a movement from traditional stopping places that were now prohibited; ii) there was movement from sites without sites licences; and iii) there was an upsurge in confrontation between the settled communities and Gypsies (and Travellers). So started much conflict, however there are still bonds between old farming families and Gypsies and an identification with traditional marriage and family values.

It is notable that it was the record of evictions that helped to inform the Government of the need for sites as a duty and Norman Dodds MP, lobbied in 1951 for a survey of families to be undertaken in light of the number of evictions (Hansard, 1951, Dodds, 1966). Finally, a statutory duty to provide sites for Gypsies finally came through the Caravan Sites Act 1968 (CSA), so there was a respite, but people had great difficulty in obtaining the provision that was needed. In reality, only one-third of district and

borough councils provided accommodation under this Act and the Cripps report (1977⁴) identified that obtaining sites was extremely problematic. Indeed, only 38% of local and district authorities had identified and provided sites when the statutory duty under the CSA 1968 was repealed by the Criminal Justice and Public Order Act 1994. After lobbying by Gypsy and Traveller NGO's (non-governmental organisations), a circular followed (Department of the Environment Circular 1/94; Welsh Office 2/94) which put the onus on the Gypsy community to provide their own sites. However, this also did not produce positive outcomes because of the onerous criteria, consequently evictions increased (Cripps, 1977).

This was summed up very eloquently by Justice Sedley in the case of Atkinson⁵ After Atkinson, it became unlawful for local authorities to carry out an eviction without checking health and welfare first. If a local authority does evict someone without a welfare check, then this would be subject to Judicial Review.

3. Do you consider that minorities identities are reflected in the laws, constitutions and national symbols of your country? No they are not identified in national symbols, however there are historical markers, for example roads and land named after the people - for example Gypsy Lanes, Taylor Lane (named after a Gypsy family). There is now some positive legislation like the Gypsy and Traveller Accommodation Needs Assessments and the requirement that there should be a supply of land for 5 years for sites in local and borough plans. Recently we have consulted on the new National Planning Policy Framework, where the Government is looking to remove some parts of the Greenbelt land out of that policy and making a band called grey belt where certain development could be - Gypsy and Traveller sites have been particularly mentioned. There is a lot of historic law from the Egyptians Act to date which reflects Gypsy/Traveller influence on the landscape.

4. Do you consider that your country's legislative and/or other measures are appropriate to achieve the protection and/or promotion of minority identities? If so, what type of measures are adopted to achieve this goal?

There has been improvement through the years but a positive change would be to widen the definition of G[g] ypsy (my brackets) for the purpose of planning law to encompass ethnic Gypsy and Traveller people - gypsy for the purpose of planning law is spelt with a lower case g to denote G[g]ypsy Traveller way of life rather than ethnic Gypsy. We gave expert witness account to the Lisa Smith⁶ case.

⁴ Cripps J.(1977) Accommodation for Gypsies; A Report on the Working of the Caravan Sites Act 1968, London HMSO

⁵ (*R v Lincolnshire County Council ex p. Atkinson* (1995) 8 Admin LR 529 at p.p.533 – 534).

⁶ Re: *Smith v. Secretary of State for Levelling Up, Housing & Communities & Anor* [2022] EWCA Civ 1391

In 2022 the Lisa Smith decision was issued, this case was supported by the community groups Derbyshire Gypsy Liaison Group, London Gypsies and Travellers and Friends and Families for Travellers acting as interveners. The main issue being that the definition expressly excluded those who had permanently ceased travelling as a result of, disability or old age. An amendment to the previous definition⁷. disadvantaged Gypsies and Travellers and indirectly discriminated against elderly and disabled Gypsies and Travellers. It was also argued that women would be discriminated against, as it is often that women are the carers within Gypsy and Traveller communities. In the autumn of 2023, it was confirmed that the Secretary of State would not be appealing the case so in essence we are back to the definition as laid out in circular of 1/2006. UK has the Equalities Act 2010.

Education

We are having a curriculum review at the moment in relation to Education, there are more and more families home schooling, especially since the onset of compulsory PHSE Home schooling and other alternatives need supporting, as some education is better than none. It also gives us a chance to get Gypsy history into the curriculum as one of the oldest ethnic groups here in the UK. We would like to ensure that this is carefully done as a review of websites and information on the web shows that much of the information available is poor and unfortunately this is already getting into the class room.

In 2020 the Department of Education brought in PHSE compulsory education about relationships, this has been very damaging and seen as sex education through the back door as many age-inappropriate resources have ended up in schools. This has increased the removal of Gypsy children at secondary education stage, - attendance previously was around 20 %, we are not sure what the figure has dropped to as we are only just reviewing the data. 85 to 90% of children were going to primary school but that has also dropped, due to inappropriate age content of some lesson resources.

- 5. Do you consider that legislative and/or other measures that prevent the expression and/or enjoyment of their identity by persons belonging to minorities exist in your country?**

⁷ The 2006 definition was changed in 2015 by removing the words or permanently
“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily **or permanently**, but excluding members of an organised group of travelling show people or circus people travelling together as such.”

Historically yes. The Town and Country Planning law is problematic - the definition of who constitutes a G [g]ypsy was brought forward from the now defunct Caravan Sites Act (1968). This definition was informed by the decision in the Mills v Cooper case of 1967. This was a criminal case, in which Mr Cooper was accused of being a Gypsy hawking at the side of the road. There was a debate in the case that surely the law could not be established in a way to discriminate against someone because of their race but that the word "gypsy" in this sense, meant someone regardless of race or religion and it insinuated a "gypsy way of life." In subsequent cases, no one seems to remember that the judge in this case said, "**I hope no one uses these words as statute**" (Mills v Cooper 1967 (1967.p 467) and yet that is precisely what happened because the definition of a "gypsy" regardless of race or origin was then transcribed across to the 1968 Caravan Sites Act. Subsequent case law now requires that Gypsies be actively seeking work as a requisite to prove their "gypsy status". This has been further weakened by further interpretation of law e.g. Gibb case (1994). Gypsies were to be defined by trade in relation to moving about for work, not by social and cultural movement inherited by tradition and heritage, which is how the Gypsy community defines itself. i.e. specific culture

Specific laws that have impacted include

1530 The Egyptians Act. Gypsy people are the only ethnic group to be killed in England for being Romany Gypsy "Egyptians".

There are hundreds of small vagrancy and poor law Acts that have had an impact, for example if a person was not living or registered in that parish they could not claim any poor law support. This is even reflected in current Housing law through "local connection" clause.

Under section 77 of the Criminal Justice and Public Order Act 1994 (this Act repealed the Carvan Sites Act) a local authority can order any person living in a vehicle within its area to move off any land that either:

- forms part of a highway
- is unoccupied (even where the person is causing no nuisance or interference to neighbours etc)
- is occupied, but the occupier has not given permission to them to reside there

The Criminal Justice and Public Order Act 1994 (CJPO Act) sets out the main police powers to respond to unauthorised encampments.

[Part 4](#) of the Police, Crime, Sentencing and Courts Act (PCSC Act) significantly amended the CJPO Act and expanded the powers that police have in relation to unauthorised encampments.

The amended powers came into force for England and Wales on 28 June 2022.

Policing those residing on land without consent in or with a vehicle

[Section 60C-E](#) of the CJPO Act provides a criminal offence for “residing on land without consent in or with a vehicle”. For the offence to apply the trespasser must have at least one vehicle with them. The trespasser’s residence or conduct on the land must also have caused (or be likely to cause) significant damage, disruption, destruction, or distress.

The landowner, a representative, or the police can ask those who have met the criteria of this offence to leave the land. If the individual(s) trespassing fails to leave “as soon as reasonably practicable” after being requested to, the police can arrest them. The police can also seize and remove vehicles from those suspected of this offence.

Directing trespassers in unauthorised encampments to leave land

[Section 61](#) of the CJPO Act enables senior officers to direct those in an unauthorised encampment to leave land if they are in an encampment that consists of six or more vehicles; any member of the encampment has “caused damage, disruption or distress”; or their encampment is on (or partly on) a highway.

[Section 62A](#) of the CJPO Act also allows a senior officer to direct those in an unauthorised encampment consisting of at least one vehicle and caravan to leave land if the local authority can provide a suitable pitch for the caravans elsewhere within the area.

Failure to comply with a police direction to leave is an offence. It is also an offence to return to land within twelve months of being directed to leave by the police.

The police can also, under [section 62](#) and [62C](#) of the CJPO Act, seize vehicles from those that they have directed to leave if the individual(s) have failed to remove their vehicles or have attempted to re-enter the land as a trespasser within the prohibited 12 month time period.

Local authorities are the lead agency for responding to unauthorised encampments (with support from the police) and have their own set of powers for this.

A possession order under Part 55 of the Civil Procedure Rules can be obtained by both local authorities and private landowners who require the removal of trespassers from property including land. The claim must be issued in a County Court which has jurisdiction over the affected land/property.

Section 77 –allows the Council to require the encampment to leave, although it does have a legal obligation to make humanitarian enquiries and to take account of consideration of common humanity. All decisions by public bodies must be 'proportionate' and accord with the Human Rights Act.

Section 78 – if the encampment fails to comply with the request and direction of Section 77, the Council can apply to the Magistrates' Court under Section 78 for a Court Order requiring them to leave with their vehicles. If granted and the encampment still do not move, it authorises council officers to enter the land and remove the property (caravan/cars etc) to a safe place.

Borough-wide injunctions

The Court of Appeal has confirmed that Gypsies and Travellers are protected under the Equality Act 2010 as ethnic minority groups, and that applications for borough-wide injunctions to prevent setting up encampments should not be made unless local authorities have taken alternative steps first. The Court has given guidance about how local authorities should approach applications for borough-wide injunctions, providing sufficient transit sites or alternative accommodation arrangements in the area. Again, DGLG joined as intervener on the case. The welfare assessment is an important aspect as an eviction could be ruled as unlawful if not undertaken.

Other Recent relevant legislation includes

- Various money laundering laws inadvertently affected. The Gypsy and Traveller community being a cash society do not like or want to rely on the banking system, within which there is suspicion if large items are bought with cash. It is also traditional to pay for funerals with cash and not through an automated bank system.(BACS)
- Various Trading Standards legislation makes it difficult for families to travel for work purposes, again a law with good intention, but many travelling for work purposes find that they are not allowed to go from door to door, (looking for work). There is strict guidance about “cooling off periods⁸ This is where workers have to give potential customers time to reflect on the work and payment proposed. Many NGOs have helped families with the law, but we still get workers who do not know about the cooling off period.
- Scrap Metal Dealers Act 2013 which requires anyone trading in scrap to apply for a separate license in every local authority in which they operate, also cash payments are not allowed (payments can only be made by cheque or BACS).
- The Control of Horses Act 2015 is a UK law that addresses the issue of horses unlawfully present on land, also known as "fly-grazing" It allows

⁸ If you visit a customer and agree the work to be done on that visit, the customer is entitled to a 14 day cooling off period.

landowners to keep a horse for 96 hours after finding it on their land without permission. Holds horse owners liable for any damage the horse causes to the landowner's property. Some local authorities working in conjunction with the RSPCA have actually seized family horses and have disposed of them.

- **Horse passport:** Horses must have a passport issued by a recognized passport-issuing organization (PIO) by the time they are six months old or by November 30 of the year they were born, whichever is later. Foals that will be sold before the deadline must be microchipped and get a passport earlier. **Buying & Selling a horse:** It is illegal to sell an equine without handing over the passport at the time of sale so if no passport is available the seller must obtain one before the sale goes ahead. Once you have bought, or been given, an equine you have 30 days to register your ownership.
- **Chicken Registration** <https://www.gov.uk/guidance/register-as-a-keeper-of-less-than-50-poultry-or-other-captive-birds> October (2024) This affects some families who travel with no legal base, the chickens have to be registered to an address, where kept even if it's only one chicken.

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