

# **Social Exclusion and Gypsies and Travellers - with a focus on forced movement/experiences of Gypsies and Travellers living on 'unauthorised encampments'**

## **The Gypsy and Traveller Law Reform Coalition**

The Gypsy and Traveller Law Reform Coalition (GTLRC) is an alliance of Gypsies, Irish Travellers, New Travellers and other travelling groups who have come together to promote the Traveller Law Reform Bill and policies to increase and improve site provision. The GTLRC Was awarded the Liberty human rights award in 2004.

## **Introduction**

The House of Commons Select Committee of the Office of the Deputy Prime Minister, in a Report on Gypsy and Traveller Sites published in November 2004, estimated that over 3,500 Gypsies and Travellers, 20% of the Travelling community, have no legal place where they can stop their caravans. These caravans are therefore on unauthorised encampments and developments and their occupants are defined as homeless under the Housing Act 1996.

The GTLRC welcomes the study by the Social Exclusion unit into groups that move frequently including Gypsies and Travellers but believes that it is important to consider the implications of forced movement on this minority group. The shortage of sites and stopping places is leading to many Gypsy and Traveller families experiencing forced movement and homelessness, which accentuates the exclusion from which this minority group as a whole suffer from.

## **The Human Cost**

### **Health**

Gypsies and Travellers are one of the most excluded minorities in Britain. The fourteenth report of the Joint Parliamentary Human Rights Committee recently noted

" (96). Evidence to the UN Committee, as well as evidence presented to us, attests to the multiple discrimination faced by Gypsies and Travellers, and their exceptional level of social exclusion. Poor levels of health, even compared with other marginalised groups, high rates of infant mortality, and difficulties in accessing healthcare were cited in the evidence. Poor school attendance, low educational attainment and high levels of illiteracy were also referred to as particularly acute problems for Gypsy and Traveller children".

The National Association of Health Workers with Travellers in its evidence to the ODPM Select Committee inquiry declared

"Forced movement causes problems generally in reducing Gypsies and Travellers' access to healthcare-which contributes to late diagnosis, poor follow up and management of chronic illness and exclusion from health promotion, immunisation and screening programmes. Maintaining continuity

of care, getting referrals and keeping appointments can be impossible. Few health authorities consider Gypsies and Travellers when addressing health inequalities and sparse provision of adequately resourced outreach services and sometimes discrimination by service providers further reduces their access to healthcare".

Recent research in the UK confirms the concerns expressed in reports and by service providers regarding the health status of Gypsies and Travellers.

An important new study by Parry G, Van Cleemput P, Peters J, Moore J, Walters S, Thomas K, and Cooper C "The Health Status of Gypsies and Travellers In England": A report of Department of Health Inequalities in Health Research Initiative Project 121/7500. 2004. University of Sheffield demonstrates the need for continued concern in this area and suggests that such health problems are often at the most extreme amongst the highly nomadic sections of the Gypsy and Traveller community.

The report notes that Gypsy Travellers have significantly poorer health than samples of age and sex matched comparators, from different ethnic and also socially deprived groups on nearly all indicators. The scale of inequality between the study population and the UK general population was large with reported health problems being between twice and five times more prevalent. Correlations with age, education and smoking did not solely account for the poorer health status. There was some evidence of an inverse relationship between health needs and service use. Qualitative analysis showed the impact of environmental stress and cultural and health beliefs and attitudes on service use.

The report found accommodation was the overriding factor, mentioned by every respondent, in the context of health effects. These effects are seen to be far-reaching and not exclusively concerned with actual living conditions, although these are clearly seen as crucial. For most respondents the ability to choose their style of accommodation and to decide for themselves whether, or how, they continue to live a traditional travelling lifestyle is of fundamental importance and crucial to their sense of independence and autonomy. The lack of choice or the intolerable conditions, mentioned by the majority of respondents, are an indication to them of the negative way in which they are viewed by the non-Traveller society.

The report noted that in relation to Gypsy Travellers' experiences in accessing health care and the cultural appropriateness of services provided, there are widespread communication difficulties between health workers and Gypsy Travellers, with experiences of, and also defensive expectation of racism and prejudice.

The report makes a number of recommendations. If improvements are to be made in Gypsy Traveller health, clearer lines of responsibility and accountability are needed, as currently there is lack of central guidance, fragmentation of services, and a low priority given to Gypsy Traveller health. The general implication for policy and health provision is that methods are needed to improve access and services. However, planning for improvement of health service provision and access is likely to be ineffective until the central problem of the "invisibility" of Travellers is tackled.

However, including a category for Gypsies and Travellers on ethnic monitoring forms should be done in consultation with their communities, and requires careful staff training. Improving the cultural competence of health service staff is a priority but with little or no evidence to support the efficacy of cultural awareness training currently provided, any such development should be evaluated in terms of its effectiveness at changing negative attitudes that are at the root of much discrimination. Finally the report concluded that many of the determinants of health status are outside the remit of the Department of Health, inter-Departmental co-ordination with regard to Gypsy Traveller health seems advisable. The Traveller Health Strategy 2003-05 of the Republic of Ireland is an example of such an approach, developed in response to a key recommendation of the Report of the Task Force on the Travelling Community. A similar inter-departmental Task Force in England would command wide support.

### **Education**

The OFSTED (Office for Standards In Education) report "Provision and Support for Traveller Pupils" (ref HMI 455) published November 2003 stated:

"The vast majority of Traveller pupils linger on the periphery of the education system. The situation has persisted for too long and the alarm bells rung in earlier reports have yet to be heeded" (page 3).

On the core issues of access, attendance and attainment, the report estimates:

- Secondary enrolment rates of Traveller Education Services (TESs) visited average just over 60% at secondary (47% at Key Stage 4). The numbers not enrolled have "probably" increased from 10,000 in 1996 to 12,000 now (page 8).
- Average attendance rates are 75% (page 2). 73% at secondary (page 9).
- "Traveller pupils generally performed worse than . . . any other minority ethnic group" (page 12).

The report largely praised the work of TESs but says; "The apparently intractable problem of increasing enrolment and attendance at secondary level stretched to the limit the resources of each Traveller education service. It is increasingly being recognised that such issues demand co-operation and concerted efforts by various agencies across an authority" (page 10).

This educational exclusion is often most profound in its impact against highly nomadic Gypsies and Travellers. Gypsy/Traveller families having to leave a site they own or find a new stopping place will see the education of their children suffer serious negative results. This is evidenced by a range of official reports on the education of Travellers.

The report by Ofsted '*Raising the Attainment of Minority Ethnic Pupils*' 1999 declared that "Gypsy Traveller pupils are the group most at risk in the education system" (point 8 page 7).

. A report by the government inspection agency Ofsted '*The Education of Travelling Children*' in 1996 drew attention to the fear that nomadism excites amongst the settled population and noted "This has often restricted Travellers' access to education and other public services" (page 9, point 39). The report also concludes "The educational system is naturally designed to meet the needs of a static population. Attending many different schools for short periods can undermine educational progress and in some cases even the motivation to attend. For many Gypsy and New Travellers, the situation has been exacerbated by involuntary movement in consequence of evictions from unauthorised land""(page 16 point 58). Again the report declares. "A nomadic lifestyle inevitably creates practical difficulties for access to schools" (page 27 point 99).

A report by Ofsted '*Provision and Support for Traveller Pupils*' 2003 on page 10 point 16 declares "There are however marked differences between access rates of pupils from permanent sites and unauthorised encampments. In the shire authority school places were only found for 25% of Traveller pupils of primary age who were on unauthorised encampments". The report on page 5 also declares "Many authorities have clear statements about the inclusion of all pupils in education. However in too many authorities, the ways in which they deal with unauthorised encampments contradicts the principles set out in their public statements on inclusion, educational entitlement and race equality. Such contradictions undermine relationships and inhibit effectiveness of the Traveller Education Service and other agencies".

The problems for Gypsies and Travellers accessing education whilst being on the road are well documented. Admissions are a significant issue. Anecdotal evidence suggests that in a context of significant reliance on overall school performance via league tables, some schools are unwilling to register Gypsy/Traveller pupils who are perceived as low attainers. Problems around admissions are intensified by mobility (and itself exacerbated by lack of permanent sites) and shortages of school places in many areas.

In a recent report sponsored by the Department of Education and Skills '*Working towards inclusive education: Aspects of good practice for Gypsy Traveller pupils*' fears have been made about the willingness of schools to admit Gypsy/Traveller pupils. Due to the perceived detrimental effect that Gypsy/Traveller pupils might have on the popularity of the school and the school's performance in league tables, on attendance and academic performance (Bhopal et al, 2000, 35). Such fears are no doubt greater towards nomadic Gypsy/Travellers than more sedentary members of the minority. Again it is surprising that the first secretary of state did not remind himself of this government report.

It should also be noted that Local Education Authorities have a lack of school places. This has a disproportionately negative effect on more mobile young people. The DFES has been undermining the LEA role and making schools increasingly independent eg academies, which makes it more difficult for LEAs to implement a comprehensive and inclusive admissions policy.

### **Forced Evictions**

There is growing concern about the use of private bailiffs firms to forcibly move on Gypsies and Travellers. There have been worrying reports of bailiffs using excessive force and using racist and derogatory language against those being evicted. There is clear evidence that the demolition of sites including the lighting of fires and use of heavy machinery is being carried out whilst Gypsies and Travellers are still on site. Gypsies and Travellers are also no longer being given a clear date by which they have to vacate a site before an eviction, a factor, which ironically actually increases the chances of Travellers still being there on eviction day. Although local authorities are claiming that officers are present to monitor health and safety considerations there are serious concerns about evictions on this issue, which many believe have not been seriously addressed. Evidence also exists to show that evicted families are often traumatised by their experiences, especially the children who suffer from nightmares and bedwetting. Some evicted Gypsies and Travellers have in the immediate wake of an eviction found it difficult to secure proper medical attention but those that have are often prescribed heavy medication to deal with the post eviction trauma and anxiety. Families being evicted will often not take up a local authority's offer of accommodation when they have carried out their duties under the Homelessness Act as 'bricks and mortar' accommodation such as bed and breakfast is offered. Given the aversion that many Gypsies and Travellers have to such accommodation, such offers are often not taken up and families will take to the road to seek culturally appropriate accommodation.

### **Community Tensions**

In a report issued in June 2005 by the Council of Europe - Human Rights' Commissioner Alvaro Gil-Robles stated

"... to judge by the levels of invective that can regularly be read in the national press, Gypsies would appear to be the last ethnic minority in respect of which openly racist views can still be acceptably expressed. I was truly amazed by some of the headlines, articles and editorials that were shown to me. Such reporting would appear to be symptomatic of a widespread and seemingly growing distrust of Gypsies resulting in their discrimination in a broad range of areas".

Since the tabloid and political campaign on Gypsies and Travellers started there has been an increase in racist incidents towards them, according to the Commission for Racial Equality this includes an arson attack against a Gypsy camp in Lanarkshire and evidence of Traveller children staying away from school because of the stress and fear of the current atmosphere (Times 12/4/05). Since then there have been continuing reports of arson attacks and other serious incidents of harassment. Gypsies and Travellers living on unauthorised encampments are the most frequently targeted section of the Traveller community in such attacks.

The GTLRC firmly believes that the self regulating Press Complaints Commission is failing. A more independent PCC needs to be established, with a revised code of practice. The greatest cause of such tensions however is the shortage of Traveller sites and lack of political consensus on this issue, which has led to some political figures playing this issue out as a 'political football'. The creation of a Taskforce with Gypsy and Traveller representatives and other stakeholders could play a key role in monitoring the effectiveness of new policies but also forging a consensus on this

issue. This proposal was supported by the ODPM Select Committee in its report on Gypsies and Travellers.

### **The Financial Cost**

It has been estimated that eighteen million pounds is spent annually on enforcement against unauthorised encampments (Cements and Morris 'At What Cost! The Economics of Gypsy and Traveller Encampments' 2002). However, this costing may now be much greater. Enforced evictions against unauthorised sites owned by Travellers are costing approximately one hundred and fifty thousand pounds. An eviction against a large site in Essex (Dale Farm) has been estimated by the bailiff's firm Constant and Co to cost three million pounds, if the eviction takes place. The irony is that the monies spent on enforcement could often address the local accommodation needs for Gypsies and Travellers.

### **The Implications of Recent Government Policy Proposals and the Current Policy Debate**

The European Court of Human Rights stated in its judgement on the case of Connors V UK (page 41).

"An unknown proportion of Gypsies and other Travellers still actively travel whether throughout the year, seasonally or on special or family occasions. Those who travel throughout the year may have no fixed base at all. There is little formal provision to accommodate Travellers and their trailers while on the road. There are just 300 transit pitches provided on local authority sites. Recent Gypsy counts have shown roughly 10 times as many caravans on unauthorised encampments. Even taking into account the unknown number of private transit pitches, it is clear that 'nomadism' is currently mostly accommodated informally and often—from the viewpoint of both the settled community and Travellers—unsatisfactorily".

New powers in the Anti Social Behaviour Act 2003 give the police increased eviction powers where local authorities are able to provide alternative site pitches or stopping places. It is our belief that because of the limited grants for such provision that if new sites are provided they will be substandard in terms of facilities. Some families will not want to move to sites they are directed to because of their concerns about how they will be received by other travelling groups. Some families will merely take to the road if directed to move on. This could mean a process where families are constantly moved on from one borough to another, unable to return to the previous authority for three months because of the risk of the imposition of the large penalties, which are incorporated into the new powers. Such a scenario will inject a high degree of instability into the lives of many Gypsy and Traveller families. We are very fearful of the impact upon families in terms of their health and access to services, which for many such highly nomadic families is already an area of critical concern.

The Parliamentary Joint Human Rights Committee in its recent report stated

“(113) In our scrutiny of the Anti-Social Behaviour Bill during its passage through Parliament, we raised concerns that these provisions gave rise to a significant risk of

incompatibility with ECHR rights, in particular the right to respect for private life and the right to peaceful enjoyment of possessions. We reiterate that concern here. We also consider that, given the disproportionate impact of the measures on the Gypsy and Traveller community, there is a significant risk that they could be implemented in a way that is indirectly discriminatory in breach of CERD. These considerations should be central to implementation of these powers, the application of which should be monitored to ensure against discrimination”.

The report *Gypsy/Traveller Sites in England* by Pat Niner of the University of Birmingham has shown that there is a need for the provision of between 2000 and 2500 additional transit pitches by 2007. With two years to go before this target date and virtually no transit sites as yet created this target will clearly fail to be met. The GTLRC believes that the Anti Social Behaviour Act has clearly failed to provide the incentive needed to provide the greatly needed new transit sites. Also the refurbishment grant of eight million pounds, which is to be divided between the cost of refurbishing sites, creating new residential and transit sites is completely inadequate for the job that needs to be done. There is a need for more funding and details need to be provided to Registered Social Landlords as a matter of urgency on the proposed access to Housing Corporation money for Traveller sites. Furthermore, analysis and guidance is needed of transit sites, which have been successful to promote good practice.

#### **West Yorkshire Police and no-go areas for Travellers.**

Recently the West Yorkshire Police, in conjunction with Wakefield Metropolitan District Council, decided to use powers under the Anti-Social Behaviour Act 2003 Section 30 to make Orders effectively excluding Gypsies and Travellers from five areas of land (some of which have been used as encampments) in the Wakefield area. On behalf of a Traveller client the Community Law Partnership challenged the use of these Orders. They argued that Section 30 of the ASBA clearly cannot be used in these circumstances. They pointed out that Gypsies and Travellers who do not have authorised sites (for some 4,200 caravans according to the latest Office of the Deputy Prime Minister count) have no alternative but to stop on unauthorised encampments until such time as the Government and Local Authorities finally deal with the question of adequate site provision. In many areas, land has been bunded and defended so that Gypsies and Travellers are unable to find suitable stopping places. They further argued that it would be totally unreasonable for the Police to continue to use these Orders when there are insufficient stopping places.

Fortunately the Police have now withdrawn the Section 30 Orders having considered the matter further. Mr Christopher Johnson, the Team Leader of the Travellers Advice Team at the Community Law Partnership, stated: “This is a very important result since we know that a number of Local Authorities were looking at the possibility of using the Anti-Social Behaviour Act. It is offensive to Gypsies and Travellers to picture unauthorised encampments as being, in themselves, anti-social. Where are the thousands of Gypsies and Travellers who do not have authorised places to go especially when many Local Authorities and other large landowners are heavily defending all pieces of land around the country.”

## **The Enforcement Debate**

The political debate on Gypsies and Travellers has been increasingly veering towards enforcement rather than provision. Aside from the eviction powers contained in the Anti Social Behaviour Act the Government is proposing new temporary stop notices. However, the Parliamentary Joint Human Rights Committee has expressed serious concerns

“(105.) During the passage of the Bill through Parliament, we expressed the concern that temporary stop notices might lead to breach of Article 14 ECHR, read in conjunction with Article 1 of Protocol 1 ECHR. We were assured by the Government that "it is the Government's clear intention not to commence the temporary stop notice provisions until regulations are in place that will condition their use with regard to persons living in caravans, with the intention that they will have similar protection to those who live in dwelling houses" and that therefore the use of temporary stop notices would not discriminate. We concluded by expressing the provisional view that "the regulations, if appropriately drafted, would be capable of minimising the risk [of incompatibility]"

“(106) Subsequently, the Government has adopted a different approach. In November 2004, it was announced that in some circumstances local planning authorities would have power to issue a stop notice in respect of caravans. Regulations have now been made to this effect. Under the Regulations, a temporary stop notice may be issued in respect of a caravan which is a person's main residence where "the local planning authority consider that the risk of harm to a compelling public interest arising from the stationing of the caravan is so serious as to outweigh any benefit, to the occupier of the caravan, in the stationing of the caravan for the period for which the temporary stop notice has effect". We are concerned that the approach which the government adopted during Parliament's consideration of this Bill has now been altered in a way which may have significant human rights implications”.

The Conservative Party in its 7 Point Charter on Gypsies and Travellers proposed that trespass on public land should be criminalized. The GTLRC has major concerns regarding this proposal. In the Republic of Ireland this policy has falsely been attributed to ‘solving the unauthorised encampment problem’ and creating what the media describes as an ‘influx’ of Irish Travellers into the UK. Both of these perceptions are misleading and dangerous. The new powers in the Republic of Ireland have created even greater pressure on families who were already highly marginalized. The programme of site creation has created some new sites but not the numbers needed. The programme has seriously failed in the provision of transit sites. Rather than coming into the UK where Travellers are also at great disadvantage, Travellers in Ireland are ‘doubling up’ on authorised encampments creating a situation of overcrowding. The GTLRC believes that the introduction of such a policy in the UK would in fact lead to a rise in retrospective planning applications as Gypsies and Travellers would find life on the road impossible and would thus seek pieces of land they could buy to gain respite from a constant cycle of eviction.

## **More Sites and a Moratorium on Evictions**

More sites are the key to addressing the exclusion suffered by Gypsies and Travellers and easing community tensions and the inconvenience caused to the settled community by unauthorised encampments.

The GTLRC welcomes the new draft planning circular which states that local authorities will be under an obligation to identify land for Traveller sites. The Secretary of State has a number of powers of intervention where councils fail in this obligation and we hope that they will be employed. If carried out fairly and effectively the accommodation needs assessment for Gypsies and Travellers and setting of targets by Regional Housing Boards should create further impetus for site creation.

However, the GTLRC continues to believe that a statutory duty to provide and facilitate sites is needed to send a clear message to local authorities and the public that sites should be created. This position is supported by the Commission for Racial Equality, Local Government Association, Association of Chief Police Officers and National Farmers' Union. Support for such a duty was also expressed by the ODPM Select Committee, Joint Human Rights Committee and report by the Council of Europe Human Rights Commissioner Alvaro Gil-Robles.

At present the sites that are needed are not being provided but families are facing eviction either of land they own or from roadside stopping places.

The Draft Planning Circular states "(54) " The provisions of the European Convention on Human Rights should be considered as an integral part of local authorities 'decision making' .....Local planning authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned both Gypsies and Travellers and local residents, and whether it is necessary and proportionate in the circumstances".

The GTLRC believes that Travellers living on unauthorised sites (land they own) and which has failed in the planning process or are living on the roadside should not be forcibly evicted until land has been identified by the local authority for site development, RSLs have created sites or alternative temporary stopping places have been identified. Given the cost of forced eviction such a policy makes sense in financial terms as well as on the grounds of welfare.

### **Some Key Demands**

#### **Accommodation**

- **More sites – robust promotion and intervention by the Government on their new accommodation policies for Gypsies and Travellers – supplemented by a statutory duty on local authorities to provide and facilitate sites.**
- **A complete rethinking on delivery mechanisms for the creation of transit sites including improved funding and dissemination of good practice.**
- **A moratorium on evictions until new sites are available.**
- **A focused piece of research looking at the impact of forced eviction on children and families.**

### **Political and Cultural Inclusion and Equality**

- **A Taskforce to include Gypsies and Travellers and other stakeholders – to monitor the effectiveness of new policies, offer advice and forge consensus.**
- **The creation of cross party consensus on the issue of Gypsy and Traveller accommodation and inclusion**
- **A reformed Press Complaints Commission**
- **Improved ethnic monitoring of Gypsies, Travellers and Roma – including incorporation into the census as a distinct category**

### **Health**

- **With regards to health care clearer lines of responsibility and accountability are needed, as currently there is lack of central guidance, fragmentation of services, and a low priority given to Gypsy Traveller health. However, planning for improvement of health service provision and access is likely to be ineffective until the central problem of the "invisibility" of Travellers is tackled.**
- **Improving the cultural competence of health service staff is a priority**
- **Inter-Departmental co-ordination with regard to Gypsy Traveller health seems advisable. The Traveller Health Strategy 2003-05 of the Republic of Ireland is an example of such an approach, developed in response to a key recommendation of the Report of the Task Force on the Travelling Community. A similar inter-departmental Task Force in England would command wide support.**

### **Education**

- **The DFES should do more to support LEA admission protocols re hard to place young people and encourage schools to provide a more flexible 14 – 19 curriculum to improve recruitment to and retention at the secondary school phase.**
- **Where parents do opt for home education greater support and monitoring should be provided.**
- **Ensure that information sharing and assessment (ISA) proposals for ‘Every Child Matters’ work effectively for more mobile families.**
- **Increase parental involvement in the education process and in particular ensure parents are aware about their responsibilities re child protection issues.**