GOVERNMENT WHITE PAPER:

SECURE BORDERS, SAFE HAVEN — INTEGRATION WITH DIVERSITY IN MODERN BRITAIN

RESPONSE FROM THE

FORUM AGAINST ISLAMOPHOBIA & RACISM

March 2002

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FORUM AGAINST ISLAMOPHOBIA & RACISM

RESPONSE FROM THE FORUM AGAINST ISLAMOPHOBIA AND RACISM (FAIR) TO THE GOVERNMENT WHITE PAPER: 'SECURE BORDERS, SAFE HAVEN — INTEGRATION WITH DIVERSITY IN MODERN BRITAIN'

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Introduction

1.0 FAIR is a Muslim advocacy group, established in 2001, that is committed to tackling Islamophobia and racism and to promoting a tolerant multi-faith and multicultural society. Our projects include media monitoring, undertaking discrimination casework, research and lobbying, monitoring institutional discrimination and raising awareness of Islam as a religion and culture.

1.1 The scope of this commentary covers all the main policy areas in the White Paper. We would prefer that our remarks remain unpublished.

Chapter Two – Citizenship and Nationality

2.0 We accept the principle that a good command of English is an essential skill that everyone should have an opportunity to gain. However, we are very concerned that without proper consideration, this requirement may end up being a purposeful barrier to aspiring migrants rather than a useful aid to integration. As acquisition of English language skills is a universal good, it should not be linked explicitly to citizenship, for it is clear that those seeking settlement rather than citizenship would also benefit from improved English.

2.1 There is a broad consensus that there is enthusiasm for language lessons among asylum seekers and migrants but that the real problem is a lack of provision as long waiting queues at further education colleges and other institutions of adult education testify. This is really a question of adequate funding which should not be politicised by linking it with citizenship. To this end, we would support a commitment by government to guarantee the provision of minimum number of hours available as a service provision standard.

2.2 We object to the muddled thinking that links together the summer disturbances of 2001 with questions of loyalty and belonging, citizenship classes and English language lessons in a White Paper that is not addressed primarily to settled ethnic minority groups. It is manifestly true that there is no direct correlation between social exclusion and citizenship. As is clear, those involved in the disturbances were mostly if not all British-born citizens. English lessons are indeed an important aid to raising employability, but, as shown by the PIU report, *Ethnic Minorities and the Labour Market*, "language fluency is certainly not a factor in explaining unemployment in young ethnic minority males [or of women]" (Para. 4.23.2). In fact, there are other factors of social exclusion—in education, health, housing and schooling—that explain differential unemployment rates on ethnic and indeed religious lines. For instance, British Indian Muslims are twice as likely to be unemployed as British Indian Hindus. (*Ethnic Minorities and the Labour Market*, Para. 4.27.2). It has become clear after the disturbances of last summer that we must address the problems of social exclusion among second and third generation members of ethnic minorities as well, and that this imperative should

not be ignored as part of a coherent overall approach.

2.3 We recommend that there be wide consultation on English language provision that does not discriminate towards those who are illiterate, elderly, unwell or from non-Commonwealth countries but that at the same time meets employer needs in the skilled professions, like computer and medical services, and unskilled or semi-skilled sectors, like catering, hospitality and cleaning. We support the suggestion by the National Institute for Continuing Education (NAICE) that a range of different courses should be developed with the Learning and Skills Council and the Sector Skills Council to offer ESOL packages that cater for all needs from basic to advanced courses designed for a range of vocational sectors. The Home Office and DfES should take a lead on the development of these ESOL packages and ensure that, once in place, they are properly monitored by OFSTED/ALI Common Inspection Framework.

2.4 As with English, we think it is unworkable to require minority British languages like Scottish Gaelic and Welsh to be made a mandatory requirement for citizenship, and we seek a guarantee that if offered on a voluntary basis that local funding for minority British languages does not divert resources away from English language tuition.

2.5 We think it is absolutely essential that free ESOL classes based in Britain be extended not only to non-EEA spouses of British citizens but to all other non-EEA adult family dependents who are seeking citizenship.

2.6 We would like to see that the ethos of citizenship classes—both at school and outside—genuinely reflects modern Britain's pluralistic and multicultural democracy and does not instead put forward an exclusive view of British culture and values. Furthermore, there should be wide consultation as to the content of these classes. It is still not proven—despite the spate of reports commissioned last year—that inclusion only arises in the name of shared common values that, by default, are often defined exclusively by the majority. Rather, the key point is that minorities that form the economic underclass—white, Asian or black—have equal rights and opportunities. In places like Leicester and Birmingham—where there were no civil disturbances in 2001—residential areas and school intakes are quite highly segregated ethnically, but it appears that stronger political leadership, a proactive multiculturalism and better economic prospects have ensured better community cohesion. It is essential that unproven and erroneous conclusions are not drawn to shape policy and legislation on issues of race and immigration.

2.7 Whilst it is entirely appropriate that deprivation of citizenship procedures for cases of human rights violations, treason and terrorism are applied where the evidence is clear, we are concerned that this is not used disproportionately against refugees, immigrants or members of Britain's established ethnic minorities. Furthermore, the whole process must be subject to independent judicial review in order to establish a system that is free from political pressures and which has full appeal procedures. We are also concerned that no British citizen is sent to a country where they might face loss of life or liberty that would breach the UK's obligation with respect to the international law of *refoulement*.

Chapter Three – Working in the UK

3.0 In general, we welcome the long overdue recognition that migration for economic reasons is legitimate, and this should do much to take away the pressures on the

asylum system, which has been in danger of breaking down precisely because there has been no adequate legitimate gateway for economic migrants. However, we are concerned that the proposals relating to work do not go far enough in responding to the greater labour flexibility demanded in the global marketplace, while ensuring that there is no damaging 'brain drain' of talent from developing countries. The current proposals do not address many sector shortages in the economy at all but are content with recognising, or tinkering with, existing or incidental practises like the transferral of postgraduate student status or the Holidaymakers Scheme.

3.1 In particular, we welcome the measure that requires ministers of religion applying for positions in the UK to have an adequate command of English because this is now the first language of the majority of British Muslims, who now expect to be ministered to in English.

3.2 However, there are three important caveats that condition our acceptance of this restriction on foreign ministers of religion, which—it should be recognised—is rarely placed on British missionaries working abroad.

- Firstly, given the paucity of qualified instructors in Islamic studies at Britain's existing Islamic seminaries and the great demand for their services both here and abroad, due consideration should be given to waiving this requirement for those who are involved with educating imams in the UK. This will allow the Muslim theological schools in Britain the necessary time to develop a capacity to train imams here in Britain to the requisite scholarly standard that is recognised in the Muslim world. Not to take this exemption on board will in very direct ways retard or even stymie the development of British-based Muslim theological institutions of learning, which is a prerequisite for the training of a new generation of British-based imams.

- Secondly, we also think that all recent migrant communities who have yet to establish their own religious institutions in the UK, Muslim or non-Muslim, should similarly be exempt because this may well deprive them of pastoral services and guidance in what is often a difficult period.

- Thirdly, to develop capacity within Britain's theological seminaries to train ministers of religion to the standards and in the numbers required, the Government must assist in every way possible, including financially.

3.3 As required by the Race Relations (Amendment) Act 2000, the Home Office should monitor the numbers entering by religion and by nationality to see that no single faith is being discriminated against. The figures and their breakdown should be made public to Parliament annually.

3.4 A widespread concern has rightly been expressed that the High Skills Migrant Programme (HSMP), while very well in itself, does not address the pressing employment needs of existing migrant communities nor of incoming semi-skilled or unskilled migrants. It is presently proposed that unskilled labour be restricted to casual seasonal work for the duration of six months only and with no rights of family reunion. We share the concern of the TGWU that unskilled casual migrant labour is still subject to illegal working practises which should be subject to proper statutory regulation rather than voluntary guidelines. In particular, 'whistleblowers' among illegal casual labourers should be granted amnesty in order to encourage the exposure of sharp practises in this sector.

3.5 The Government's own figures from the Employers Skills Survey 2001 show that there are substantial shortages in unskilled sectors like catering, hospitality and cleaning. Thus there is a strong economic reason to fill jobs in these sectors as well as to consider filling places with highly skilled refugees who are very often not able to put their talents to good use in high skill sectors where there are shortfalls like computing, medicine and financial services. Two steps that could be taken to free up the labour market would be to formalise a system of recognised foreign qualifications through an extension of the current NARIC system, and secondly to introduce a standard skills audit of unemployed refugees and asylum seekers by local Learning and Skills Councils. A responsible loosening of the labour market is just as essential to encouraging economic growth as is ending restrictive trade tariffs.

Chapter Four – Asylum Policy

4.0 Broadly speaking we find that the current set of proposals, while they make many positive suggestions, do not go far enough in addressing asylum and refugee issues. We have to ask why the UK Government has found it necessary to propose a fourth major piece of asylum legislation in a decade. While crucially the White Paper goes some way to opening up labour gateways, the principle response has been to deter the rising number of asylum seekers and refugees who have been victims of fractious political unrest in the post Cold War period. Any legislative proposal that puts deterrence at its heart rather than justice and equity will not remedy problems arising from the asylum process.

4.1 As Oxfam and Amnesty International have suggested, four elements are crucial to creating a sound and fair system:

- Making sure that initial decisions are just and fair. It is unacceptable, when asylum can often be a life or death issue, that at present some 20% of appeals overturn the original decision to refuse protection. The White Paper appears to be more concerned with administrative efficiency than with ensuring the quality of decision making, when surely quality comes before quick turnover targets.

- Providing legal advice at induction, which the White Paper suggests is not necessary. On the contrary, we believe that asylum seekers must have access to lawyers so that they are properly advised concerning the proposed induction procedures, that is:
  - Answering preliminary questions about their case
  - Deciding whether or not they wish to seek asylum
  - Signing a declaration, whose legal status is currently unclear, that they understand that they are obliged to leave the UK should their asylum claim fails

  Many candidate sites for accommodation centres, and indeed dispersal clusters, are too distant from ethnic minority communities to develop essential support services in the requisite languages.

- Setting up an independent research body, as has been done in Canada, which produces objective information about political situations abroad.

- Creating an effective appeal system. At present, the system is overloaded, with over 45,000 applications in the past two years. Much of the delay

experienced in individual cases is attributable to Home Office tardiness in preparation allied with an official attitude that sees many appeals as delaying tactics. Additionally, the fast-track proposals for removals should not be implemented until an effective appeals process is in place.

4.2 While recognising the problems involved with greatly delayed cases, we share the concerns of Human Rights Watch that the White Paper does not address the UK's breach of international law[1] with regard to:

- The justification of detention of asylum seekers for administrative convenience (Para. 4.70)
- The approval of detaining 'failed' asylum seekers in removal centres (Para. 4.74)
- The rescinding of most of the automatic bail hearings procedure established under the Asylum Act (Para. 4.83) which must be retained and properly implemented.

4.3 The pilot scheme for accommodation centres should place a statutory limit on length of stay as there are dangers of institutionalisation, especially for children who are removed from school, and it is essential that they are not placed in remote centres as this inhibits integration.

4.4 However, the bulk of asylum seekers will be dispersed into local authority accommodation, and at present there is still a wide variation in the quality of service provided which it is hoped the new National Integration Forum will seek to improve under the new decentralised NASS system. Some of the pressing issues in dispersal and settlement are as follows:

- Ensuring accessibility by setting up local NASS centres or drop-in counters and avoiding remote or unsuitable locations (see Para. 4.1 above).
- Financing local authorities adequately in dispersal areas and co-operating closely with them so that they can develop adequate legal and interpreting services as well as ensuring the quality of housing stock for refugees with inspections by local Environment Officers.
- Ensuring that other local deprived communities are not neglected so as to avoid the emergence of a politics of resentment

4.5 The Application Registration Card is welcome provided that there are guarantees that it is not demanded by providers when it is not a prerequisite for services. Instead, there should be sufficient flexibility so that refugees or asylum seekers who have either lost or had their APC card stolen are not discriminated against. It should not become a *de facto* identity card.

4.6 We welcome the scrapping of the voucher system, and at the same time, we urge the Government to raise the level of Income Support by 30% to match the national standard, which is the designated official poverty line. There can be no moral

[1] 1951 Convention Relating to Status of Refugees, Art. 3(1-2); International Convention on Civil and Political Rights, Art. 9; and European Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 5.

justification for this differential treatment.

Chapter Five — People Trafficking, Illegal Entry and Illegal Working

5.0 In general, tougher measures to combat the inhuman trade in desperate peoples by opportunistic criminal organisations are necessary and welcome. However, it should be realised how deeply the culture of deterrence in immigration policy creates a vibrant black market. Therefore, again, we would like to reiterate the point made above (Paras 3.0-3.5) that steps to legitimise economic migration should be much bolder and more comprehensive. As concluded in much recent research, migration creates jobs and stimulates economic growth.

5.1 We urge that some consideration be given to an amnesty scheme, which has been successfully piloted in other EU states, for irregular migrants who are often the worst victims of criminal trafficking.

5.2 We also echo the recommendation by the TGWU that tougher regulation in place of current voluntary codes be implemented to protect casual migrant labour, which is a sector that is often open to serious labour malpractices.

Chapter Six — Border Controls

6.0 Recent research shows that any border control system suspected of discriminatory practice loses moral and ethical legitimacy,[2] which is key to gaining the consent essential to policing borders effectively. Therefore, rather than simply increasing methods of deterrence through the implementation of new technologies, a comprehensive set of proposals should be developed to end discriminatory profiling on the basis of religion, race, nationality, particular social group or political opinion.

6.1 Presently, persons with relevant authorisation, a category which includes immigration officers, are exempt from monitoring under the Race Relations (Amendment) Act 2000 (Sect. 19(D)). This exemption should be withdrawn in the case of immigration officials so that the Home Secretary can report any incidence of racial or religious profiling to Parliament. To retain this exemption would lead to the UK being in breach of EU Race Equality Directive 2000/43/EC that requires all member states to bring their legislation into conformity with anti-discrimination principles within three years. The Directive prohibits direct and indirect discrimination on the basis of race and ethnicity for EU citizens *and third country nationals* in the public and private sectors.

6.2 We strongly oppose the introduction of an 'authority to carry' scheme (Para. 6.12) for untrained airline personnel, which would effectively give private civilians the power to decide immigration cases. The adoption of this scheme might lead to the UK government preventing the exercise of the right to asylum and therefore make her in breach of the international law of *refoulement*.

6.3 The White Paper makes a positive mention of the use of Airport Liaison Officers that was set up in the Czech Republic last year. This is telling as it fails to mention that the scheme was criticised by the Czech Government for being racially discriminatory towards Russians and the Czech Roma in particular, and it

[2] Ryszard Cholewinski, *Borders and Discrimination in the European Union* (ILPA/MPG, 2000).

is now the subject of a legal action in the European Court of Human Rights. This cannot be a model for a sound border control policy for the reasons outlined above (Para. 6.0).

6.4 We strongly resist the perspective evident in official thinking that undocumented migrants have no rights, when, in fact, under British and international law they have several rights including protection against summary expulsion without basic judicial guarantees, from arbitrary detention, and from *refoulement*.

Chapter Seven — Marriage and Family Visits

7.0 We take deep exception to the Government's statement that: "We also believe there is a discussion to be had within those communities that continue the practise of arranged marriages as to whether more could be undertaken within the settled community here" (Para. 32, Executive Summary). The freedom to marry a foreign spouse should not be stigmatised; it is a case of basic human rights and respect for personal privacy and choice. This assertion flatly contradicts the Government's assertion that "common citizenship is not about cultural uniformity" (Para. 2.2).

7.1 The Home Office's own statistics show that the largest category of those obtaining permanent residence and citizenship are Family Migrants and Dependents, over half of whom are foreign spouses of UK citizens (38,000 out of 74,200 in 2000).

7.2 It is clear that after the abolition of the widely disliked and unfair primary purpose rule, which discriminated against both arranged and bogus marriages, the government is now concerned to find a way to stem the growth in this category which increased between 1995 and 2000 by 53.3%.

7.3 Thus, the government has again stigmatised arranged marriages because of immigration considerations, and is juxtaposing it with issues of forced and bogus marriages, which, it is clear, communities that practise arranged marriages are keen to stamp out.

7.4 We advocate that the Government return to the proposals outlined in the Home Office Working Group document, *A Choice by Right*, under Mike O'Brien, which advocated a strong distinction between arranged and forced marriages, and which should continue to inform all aspects of Government policy in this area.

7.5 The premise that transcontinental arranged marriages are undesirable corrupts the objectivity of the draconian policy suggestions made in Chapter 7 when less than 2% of marriages to non-EEA nationals (700 out of 38,000) are regarded as being suspicious by Immigration Registrars. We are also concerned that:

- The White Paper provides no evidence to support the view that extending the probationary period to remain on the basis of marriage to two years will expose bogus or forced marriages more effectively. According to groups working in this area, the one-year probationary period already has a detrimental impact on personal relationships. The suggestion to carry out an in-depth interview to ascertain the quality of a marriage after two years is unsound and potentially discriminatory. Furthermore the longer period means that in cases where the leave to remain is rescinded then it is more likely that children will be separated from one parent on the basis of suspicion.

- Ending the right to switch from one basis of leave to remain to the marriage category is again a proposal made on the assumption that most of these marriages are bogus. Furthermore, it is unnecessary and improper given that it poses no problem to current administration of immigration control. If implemented it is likely to cause new couples much hardship from separation and financial loss.

7.7 We advocate an approach to family visits that does not stigmatise particular communities, and again this should be made subject to monitoring by the Home Office to ensure that no particular community or group is being discriminated against on the basis of race, religion or nationality. It is vital that the government adopts a flexible attitude in allowing quick visas on compassionate grounds with regard to situations like family funerals. We welcome the suggestion of further consultation, as it is vital that a scheme is devised that does not stigmatise the innocent party or their families by draconian measures. In this regard, we view any attempt to revive the suggestion of the financial bond scheme as inappropriate given the overwhelming negative response it received last year when it was first mooted.