



HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Oral evidence: [Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill](#), HC91

Wednesday 19 May 2021

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Members present: Ms Harriet Harman (The Chair); Lord Brabazon of Tara; Joanna Cherry; Lord Dubs; Baroness Ludford; Baroness Massey of Darwen; Dean Russell; Lord Singh of Wimbledon.

Questions 16 – 30

Witnesses

[I](#): Philomena Mongan, Community Engagement Officer, London Gypsies and Travellers; Martin Gallagher, Gypsy, Roma and Traveller campaigner; Jake Bowers, Romany journalist and campaigner; Marc Willers QC, Barrister, Garden Court Chambers.

Examination of witnesses

Philomena Mongan, Martin Gallagher, Jake Bowers and Marc Willers.

Q16 Chair: Good afternoon, and welcome to this evidence session of the Joint Committee on Human Rights. Our committee comprises half Members of the House of Commons and half Members of the House of Lords and our concern and focus are on human rights. We also have a responsibility to scrutinise all legislation that is brought forward by the Government to look at questions of whether it affects human rights. In this afternoon's session we are looking at the Police, Crime, Sentencing and Courts Bill, which the Government have brought forward and is currently in the House of Commons, and we are looking specifically at those clauses that affect the Gypsy, Roma and Traveller communities and that are about unauthorised encampments.

The reason that we are looking at this as a human rights issue is that there are a number of human rights engaged by these clauses—these clauses that extend the powers of the police and criminalise unauthorised encampments. The Articles in the European Convention on Human Rights that are at issue, are Article 8, the right to respect for private and family life, Article 1, which is peaceful enjoyment of possessions—this is in relation to the Traveller community but also in relation to those who own property and land—and also the prohibition of discrimination.

We are very grateful to have two panels to give evidence to us today, two panels of witnesses, and I would like to welcome our first panel and thank you for giving evidence to us. I will introduce you to them before I ask Dean to introduce himself and ask the first question.

We have Jake Bowers, who is from the Roma community, a journalist, producer, media teacher and filmmaker. We have Martin Gallagher, who is a campaigner and writes for magazines and does a blog; we have Philomena Mongan, who is also an Irish Traveller and is community engagement officer with London Gypsies and Travellers; and we have Marc Willers QC, who is a barrister and who specialises in this area of law, having literally written a book on it as co-editor of *Gypsy and Traveller Law*. Thank you very much to the members of the committee here today and to those who are giving evidence to us. I will ask Dean to introduce himself and put the first question.

Q17 Dean Russell: I am the Member of Parliament for Watford and if I may I will start off with Jake and then perhaps come to Philomena if that is okay. Perhaps you could tell us what it is like to be a member of the Gypsy, Roma and Traveller community in the UK in 2021.

Jake Bowers: Sure. Absolutely. I am from the Romany Gypsy community, which has been in this country for about 500 years, but I am part of the wider European Romany community of about 12 million people, which is Europe's largest ethnic minority. As a journalist I travel a lot between different countries where our community lives and if I was to put us on a sliding scale between the worst offenders of Gypsy human rights and the best protectors of Gypsy human rights it would not

necessarily be towards the more positive end. There is no doubt that we are better treated than our cousins in places such as Romania and Slovakia, where our people are still often beaten up routinely by the police, brutalised and treated widely as vermin in the countries that they live in. But we still have some way to go before we are accepted in the way that we are in countries such as Sweden, which protects our language, and which has the protection of our culture enshrined in its law through things like the teaching of the Romany language in school and the right to broadcast in Romany.

We are towards maybe the more liberal end of that scale, but when you look at the way that our history has been, and we live it today, you see that we have been a people who have been excluded and shoved to the margins. A very famous writer who wrote about Gypsies once put that the Gypsy people live in the cracks between nations. In Britain we live in the cracks between communities. The caravan sites that we live on are generally built near dumps, under flyovers, in the environmentally marginal parts of town where most people would dump rubbish. If you look on most local council websites G for Gypsy comes in between F for fly tipping and H for household waste. We are still regarded as second-class citizens, treated as such and you see that right throughout government legislation. The most recent one that we live under on a daily basis is the Criminal Justice and Public Order Act 1994, which means that those members of our community who are nomadic and have nowhere to stop are still routinely chased from pillar to post. They are locked into a cycle of trespass and eviction, which means that some communities that I meet on a daily basis are evicted two or three times a day; they have their caravans firebombed; and they are treated with suspicion, which is driven and made worse by the media. Every attempt that we make as a community to change that situation is pushed back on by the right-wing media—by people who have never had the opportunity to be educated about us. There is very little about us in the school curriculum and the reason we are all here today is that that situation is about to get a lot worse.

On the flip side, from the inside out, we are a very robust community. We are a happy community. Both the Romany Gypsies and the Irish Travellers are extremely proud of the fact that we have survived everything that the world has thrown at us and we are determined to be here for another 500 years. What is upsetting from a human rights point of view is that we in 2021 are still having to defend our right to our stopping places, to a nomadic way of life. When you look at it, it is not necessarily about travelling; that is one of the biggest misconceptions. The reason people live in caravans, whether they be on sites or travelling around, is so that we can live as extended family groups. Our culture comes all the way from India, as does our language, the Indian language, and we are extremely proud that we have kept some of that alive. In 2021 we should be celebrating that. We should be cheering the fact that we have survived so long and not, as we are today, looking at the Police, Crime, Sentencing and Courts Bill, which will be driving a final nail into nomadic life in this country.

So we are proud of who we are. We are not going anywhere. We have had a hard time and we would like it to get better.

Dean Russell: Thank you for sharing. If I may, I will ask the same question to Philomena and then I will ask my next question to Martin and Marc, just to let you know I will come to you next. So Philomena, the same question to you: what is life like in 2021 from your perspective?

Philomena Mongan: Good afternoon, everyone, and thank you for having me on this panel today. I appreciate it very much. I am an Irish Traveller and I am the community engagement officer at London Gypsies and Travellers.

I have lived in London for over 35 years, travelled up and down the M25 with my kids at the side of the road. I have witnessed first-hand the discrimination of prejudice right in my face over my 35 years of living in Britain.

What can I say? I am a mum, I do the school run, I walk the dogs, I am the average mum for anyone who does not know me—but there are a majority of small-minded people who pick me out and make me feel different. My kids have also witnessed discrimination being thrown at them. I have been refused entry to clubs, pubs, restaurants, parks, cafés, followed around supermarkets, followed through streets. My kids have been turned away from sports clubs and swimming pools, made to feel ashamed, made to feel embarrassed, made to feel very low and they do not understand why, asking questions that I cannot answer for them. It is really a struggle to be a Traveller, a Gypsy, in London today. We hold our heads up high; we have no shame. We have nothing to be ashamed of, but something has to change. The discrimination and prejudice in the community experienced by myself and my family must change; it has to give way. People must see the bigger picture. We see enough of that on the television every morning when we turn it on—

Chair: I think Philomena's internet connection has frozen. Perhaps we should go to Marc for the next part of your question, Dean.

Q18 **Dean Russell:** Thank you. I will come to Martin afterwards, if I may. The Government and public authorities are under a positive obligation under Article 8 of the ECHR to facilitate the Gypsy way of life. From your experience, especially within the legal profession, do you think that public authorities are delivering on these obligations in practice?

Marc Willers: Thank you for inviting me to speak. From my perspective as a barrister representing Gypsies and Travellers now for over 30 years, I would conclusively say that public authorities are not meeting that positive obligation to facilitate the Gypsy way of life. It was first noted by the European Court of Human Rights back in about the year 2000 that the Article 8 rights are protected by the convention: the right to respect for one's home and family life, including a right to respect for one's traditional way of life. Because of the vulnerability of Gypsies and Travellers within our society and in European states that are affiliated with the Council of Europe, there is a positive obligation to facilitate that

way of life, an integral part of that being the fact that Gypsies and Travellers have traditionally lived in caravans. As Jake said, it is about living in caravans and not necessarily—this is a misconception—the need to travel.

There are, as we know, many Gypsies and Travellers who wish to continue living in accordance with their traditional way of life in caravans but have no lawful place to stop in those caravans. Those are the people who the Police, Crime, Sentencing and Courts Bill, if it is enacted, will hit the hardest: the people who need a site. They need a transit site or a permanent site from where they can get their kids to school and can access appropriate healthcare. The unfortunate thing is that for the last 50 or perhaps it is now nearer 60 years since the closure of the commons back in 1960, local authorities have been failing in their obligations under successive pieces of legislation and government planning policy to meet the accommodation needs of Gypsies and Travellers to provide sufficient permanent and transit sites.

In 1968, when it became clear that closure of the commons was causing real problems, a Bill was promoted by Lord Eric Avebury, who I am sure many of you on the panel will remember very fondly as a fantastic advocate for Gypsy and Traveller rights. That passed as the Caravan Sites Act and about 300 local authority sites were built in accordance with the duty to provide sites enacted thereby. The problem was that not enough local authorities built enough sites. By 1994 that duty was repealed in the Criminal Justice and Public Order Act and unfortunately the Government of the day concluded that the way forward would be to encourage private site provision, and I am afraid that was either very naive or disingenuous, because the reality is that that requires local authorities to grant planning permission to those who have the wherewithal to make the application, and unfortunately local authorities tend to bow to the pressure of local residents.

Without that statutory duty enforced as it should have been by central government, the local authorities failed to assess the needs of Gypsies and Travellers or to identify appropriate land where they might be accommodated and where they might apply for and obtain planning permission—so we have this never-ending cycle of those who have nowhere to station their caravans lawfully, who are being moved around from pillar to post, effectively on a road to nowhere and in situations where they cannot access appropriate healthcare or education. That is why we have, predominantly among those who have nowhere lawfully to stop, particularly high problems in terms of low life expectancy, high maternal mortality rates and low educational attainment.

So I am afraid that if you put all that together you have a very sad picture and one that leaves Gypsies and Travellers in this country in an even more vulnerable position than they would be because of the prejudice, which Jake described, that Gypsies and Travellers face on a day-to-day basis.

Dean Russell: Thank you. Perhaps I may come to you now, Martin. I am

conscious that I have many colleagues who want to come in, so perhaps you could keep the answer relatively brief so that they can get through all the questions.

Martin Gallagher: I am going to come from a Welsh context as well, where we have a statutory duty to provide transit sites and residential sites, but still we are at a level where there are zero transit sites in Wales and we are still drastically underproviding in regards to residential pitches. To expand on what Marc has said in regards to encampments turning up each year and facing a local campaign that is full of hate, including political opposition, that highlights the lack of political will to address the needs of GRT people who are in those areas.

When it comes to the point of this Bill, we are going to face an even more drastic situation where we are going to be looking at less protection for human rights, essentially. To touch on what Marc was saying before, the right to live, children's rights to be safe and have a home and practise their culture, are all going to be drastically threatened by this Bill.

Dean Russell: Thank you for sharing those testimonies. I will hand back to you now, Chair.

Chair: Thanks very much. You have raised the issue about Wales. Can I bring in Joanna at this point to raise the issue about Scotland, England and Wales?

Q19 **Joanna Cherry:** Thank you, Chair, and good afternoon everyone. I am the Member of Parliament for Edinburgh South West. Thank you very much for coming along this afternoon. It has been a fascinating evidence session so far. Martin mentioned Wales. Do any of the other panellists have any experience of the situation in Scotland and can you tell us how it compares with England and Wales?

Chair: Who would like to answer that?

Jake Bowers: I have some knowledge, rather than a lot of direct experience. From what I understand, in Scotland the Scottish Government have adopted the practise of negotiated stopping. I heard from a Scottish Traveller activist friend of mine just a couple of days ago that as an institution the Scottish Government seem to be much more humane in the way that they treat the Gypsy and Traveller community. There is obviously a different community. The Scottish Traveller community has a very fascinating and interesting heritage that comes out of the highlands as well as blending with the Romany identity, which makes it a fascinating community of its own. There are dark spots. There is a place called Bobbin Mill, which is up in Pitlochry, which was a Tinker rehousing experiment, which is not a very nice place to live. So it is by no means a clean bill of health but I think most people would probably say that the attitudes in Scotland are probably better than they are in England and probably Wales as well.

Joanna Cherry: Would anybody else like to comment?

Marc Willers: Only to say that in my recent dealings with a couple of universities in Scotland we have identified a desert in terms of legal advice for Scottish Gypsy Travellers. It may be doing the Scottish legal profession something of a disservice, because we have not perhaps been introduced to the right people, but, although there appears to be a very positive approach by the Scottish Government at the moment engaging with Scottish Gypsy Travellers—one person in particular I know, David Donaldson, but there are others with him—I do not think there is a very developed legal following for Scottish Gypsy Travellers to work with in circumstances where they need that advice and representation. It may be because we have not knocked on the right doors yet and you may have more information than I do about that, Joanna.

Q20 **Joanna Cherry:** Maybe we could have a useful discussion about that after this evidence session and pursue that independently of it. Martin and Philomena, do you have any experience of travelling in Scotland?

Martin Gallagher: I never travelled in Scotland. I travelled around England and around Reading and stuff like that. Again, talking about our mutual friend, Marc, David Donaldson, who is doing amazing work regarding what is going on up in Scotland. I last saw him talking on BBC Scotland regarding GRT history and culture. There was a festival at a university that I think he may have started, and it showed the mindset and the attitude towards GRT people that Scotland do have and that would be welcome everywhere else. I know Wales is following that lead with legislation and stuff like that and the new Race Equality Action Plan does have a lot of GRT-focused positive laws coming in. But with regard to Scotland, that is my only experience.

Joanna Cherry: Philomena, have you travelled in Scotland?

Philomena Mongan: I never had that chance, but I would love to.

Joanna Cherry: Okay. You would be very welcome.

Philomena Mongan: Thank you very much. Sorry about the internet, guys.

Q21 **Chair:** The proposed changes that are within the Police, Crime, Sentencing and Courts Bill that we are focusing on today relate to unauthorised encampments. Could you tell us why you believe some members of the Gypsy, Roma and Traveller community set up unauthorised encampments? Is the problem the number of spaces available on authorised sites or where the authorised sites are located, or something else? We know this was a commitment in the Conservative Party's manifesto on which they were elected in 2019, but what do you think is motivating the Government to propose these new powers to deal with unauthorised encampments? Who would like to start with that? I notice Jake is nodding, so perhaps we can start with you, Jake.

Jake Bowers: What is it motivated by? If I am absolutely honest, I think it is motivated by racial hatred. I think that the Conservative Party looks around a country that it does not necessarily like or recognise any more in terms of its diversity, but also realises that there are very few targets

left. There are very few targets left in society where you can stigmatise, where you can “other”, where you can blame without any recourse in public life or the media other than the Gypsy and Traveller community. So it has brought in this Bill on what is a relatively small problem. It is a big problem for the people who have to live it, in terms of being nomadic with nowhere to live, but it is actually a really small problem.

Probably about 10 years ago the Equality and Human Rights Commission estimated that to find sites for all the people that were living at the side of the road would be one square mile of Britain—and we are many thousands of square miles. That is what I think motivates it, and I think that is where it is coming from. It is coming from what George Monbiot the writer describes as “performative prejudice”: that is, a prejudice that can still be got away with and it is red meat for people in the Tory shires. It is red meat for the people on the Tory Back Benches and they will vote for it.

If I could for a moment talk about the way that people experience the legislation as it currently is, you will see whether it is needed. The way that people experience injustice, as Marc mentioned, as it currently is, is that they are routinely pushed from pillar to post. I spoke to a family the other day in Kent who had been evicted from a site in Eastbourne where they had been for a couple of days and they were put together in a convoy and escorted out of Sussex like something out of the “Dukes of Hazzard” until they got across the Kent border, where they found somewhere to stop where they have been relatively left alone for a couple of days. That power comes from Section 61 of the Criminal Justice and Public Order Act. There are more than enough powers to chase and harass people. There is all stick and no carrot; there is no legal duty to provide sites for people, so we are in a situation where maybe, for a couple of thousand families, that is how they live every day.

With that comes hostility. In the family that I spoke to, the man spoke very movingly about how his caravan had been attacked by a petrol bomb that nearly burned his newborn child to death. I asked him whether he took any pictures, if he had any evidence of this. He said he did not and said, “To be honest, Jake, this happens on such a regular basis we do not even remark on it any more.” For that to happen in our country is a damning indictment. To be living in a country that is now saying, “We need to crank up the police powers even more” is a damning indictment of where we are headed as a country. Because for them that life will be extinguished—and it is a beautiful life when you are not being harassed. There are 15 families that are all living together, cousins, brothers, sisters, aunties, uncles, granddad, granny, all living together. Their environmental impact is minimal compared to living in housing and they provide trades and services wherever they go. They are keeping a culture that is rich and is 1,000 years old and has come from India alive. What is being signalled by the police Bill is that that has no place in Britain.

I will make one final point. For me we are the canary in the coal mine of liberty and if our life and our culture get stamped out, everybody else's is just one step behind. It depresses me, the content of this Bill.

Chair: Thank you. Philomena would like to come in next. Will you deal with the issue of whether one of the problems is the number of spaces available on authorised sites or where the sites are located?

Philomena Mongan: Yes. What I would like to say on that matter is that it has been 20 years since any caravan site has been built in London. It has been 20 years since there has been a new site put up. There are no stopping places and there are no transit sites, so this is why you see the rise in families moving on to pieces of land to rest themselves, maybe overnight, to bring in clean water, for kids to have a rest, to do a bit of shopping or whatever. Even more than that, there are people on the move who just like to move for the summer. They always have a home to go back to, they may have a council house or they might have temporary accommodation somewhere else. Then there are people who have their home who do travel—that is what they do. They do not have a car or have a permanent home; they like to travel. Can you imagine if their caravan or car is seized? Where does that leave them? On the side of the road. It then comes back to a government problem or a council problem to try to sort this family out if they are homeless.

We have pushed for the last 15 or 20 years for sites to be built. The Government have the obligation to provide sites but we do not see the Government and the MPs putting more power on councils to use their obligation to sort out caravan sites and temporary stopping places and transit sites. It would solve a lot of the problems.

Martin Gallagher: I am going to go through very quickly. The problem is the number of sites available. Martin Hewitt said yesterday that the biggest issue here is not the legislation. That is sufficient; it is the availability of sites. It is the fact that there are no sites, no pitches or authorised encampments, and the planning process is criminally unfairly stacked against GRT people building their own accommodation. It is that political will again.

There are transit sites for people who have nowhere to go. They go to an area, they are met with a hate-fuelled campaign and then it is a victory when they go away for the year and then come back again next year and it all starts again and it is a vicious cycle, as Marc was talking about before.

There are myths as well, that we have the option to stay at the Caravan Club. We are discriminated against there as well. We are not allowed there. I do not think anybody is fighting for unauthorised encampments. We want places to stay that are safe, that are hygienic and that do not have a risk factor for our health. The Government acknowledge that poor air quality is the largest environmental risk to public health and are introducing new laws to fight this, yet all sites that are proposed are always near dual carriageways—and they are still there after 10 or 20

years. I grew up on one. I am 35 and I have chronic asthma because of it. The site I lived on was next to a sewerage system where human waste was pumped into the river next to us daily and it was disgusting. People are still there now, 20 minutes away from me. So it is about making sustainable sites that have the same respect as the likes of the Caravan Club, where they can reside somewhere that is clean, healthy, sustainable and safe.

Going back to question (b), to call a spade a spade, the Government are proposing to strip people of their rights to a nomadic life—not just that but also criminalising it. It is pushing people to bricks and mortar housing; it is essentially forced assimilation. It is taking away our nomadic right, it is taking away the rights of all our children to enjoy who we are and our culture. It is taking away those rights but also threatening us and making us fearful of that by criminalising it, and it is a dangerous precursor to what could happen later, as Jake said, down the line. We have already had the *Times* article calling for ethnic cleansing—that was this weekend—so it is a dangerous precursor.

Q22 **Chair:** Could you tell me what your estimate is of the numbers now of the community? Is it getting bigger or smaller or is it staying the same?

Martin Gallagher: It is going to be a skewed number always because of trust and the engagement with the public services. In Scotland the NHS posted out memos to not serve GRT people that pulled up in a car park—so they are not going to trust the system in regard to the census. They are not going to trust the system in regard to engaging with services.

Chair: Without asking you to give a forensic figure, perhaps you could just give us a sense: is this a diminishing community, a relatively stable or a growing community?

Martin Gallagher: I would say it is a growing community, based on the need for sites, both residential and transit. It is a growing community and, on the provision of sites in Wales for us to stay, our needs are not met for that group.

Chair: Yes. I think I am asking something different, which is not about the number of sites authorised or unauthorised but just the basic community altogether. Jake, do you want to have a go at answering that?

Jake Bowers: Yes. Undoubtedly we are a community that is growing. We still have large families. I am one of 17, so we still have large families and you also have to factor into this, into the wider concept of human rights and the protection of minorities, that in the last 15 or 20 years probably about 200,000 to 300,000 Roma from eastern European countries have migrated to Britain. Many of them have applied for settled status, so once this might have been a community that was about 300,000 people, it is probably more like 500,000 or 600,000 people. The big difference with Roma is of course that they are often coming from urban environments where, to be brutally frank, the communist regimes shot their horses and burned their wagons, so they are further down the line of being assimilated into housing. There are still conflicts, but you are

talking about a community that is undoubtedly growing through migration but also through large family size.

Chair: Thank you. Marc, could you answer my general question?

Marc Willers: You might like to add to the statistics that there are about 60,000 Romany Gypsies and Irish Travellers living in caravans, so there is a cohort of about 300,000 indigenous, if I can call them that, Romany Gypsies and Irish Travellers and new Travellers, and about 60,000 of those appear to be living in caravans and some of those, about 15% perhaps, are on unauthorised encampments and on unauthorised developments without planning permission and without any lawful stopping rights.

Answering the other questions, I think in fact in my first answer I probably addressed the reasons why unauthorised encampments are set up, because there are not enough sites. The motivation is in my mind very much an interest in pandering to the prejudice that Jake spoke about, but there is also another perhaps more subtle consideration and that is this: under the planning policy that we have now incorporated in planning policy for Traveller sites, issued in 2015, which replaced the Labour Government's 2006 planning policy, there is a definition of what it means to be a Gypsy or Traveller, which is invidious. It excludes all those who are too old or too ill to travel, no matter that they want to obtain permission to live in their caravan as they have done all their lives, perhaps up until they were disabled or too old to travel to work.

The assessment of who can therefore fit within that definition requires evidence of travelling, but the criminalisation of trespass provision in the Bill will restrict that ability and therefore force a lot of people to take up perhaps more sedentary work and to no longer travel. They are put in a position where they will not be able to fall within the definition, they will not get counted in accordance with the requirement to assess the needs of Gypsies and Travellers by carrying out what is called a Gypsy and Traveller accommodation assessment, and those needs will not be met by the identification of land that would accommodate them. So this is a situation where the legislation that is proposed will reduce the need to accommodate Gypsies and Travellers in accordance with their traditional lifestyle. There may be, it seems to me, a more subtle reason underlying these legislative provisions to drive Gypsies and Travellers off the road, where they can no longer fall within the planning policy definition, restricted as it now is to those who continue to travel for work. I am afraid that is again another problem and another reason why this legislation is going to impact on the most vulnerable members of our society.

One other thing to say is that I know that when you first introduced this issue you talked about Article 8, Article 14 and Article 1 Protocol 1, but I think it goes further than that in terms of the scope of the impacts on human rights that are thrown up by this proposed legislation. I think we should think about Article 3 as well—in other words, the right not to be subject to inhuman and degrading treatment. Because that is effectively

what this legislation if it is enacted will do. It will force Gypsies and Travellers into a position where they can no longer exercise their traditional way of life and where they will be subject to even greater speed in terms of eviction from places where they stop, when they have nowhere lawful to park their caravans.

Chair: Thank you very much. Baroness Massey, would you like to introduce yourself and put the next question?

Q23 **Baroness Massey of Darwen:** I am a Labour Peer in the House of Lords, and I want to start off with a question to Martin, because he mentioned being a child and the impact of the environment on his health. There are a lot of conventions on the rights of children, the main one being the UN Convention on the Rights of the Child, and Article 4 says that Governments must do all they can to make sure that every child can enjoy their rights by creating systems and passing laws that promote and protect children's rights—and those are the rights to education, health, the environment, being heard and so on. What do you think would be the impact of the new law on Gypsy and Traveller children?

Martin Gallagher: From my perspective, losing their home is going to cause homeless children. That is the immediate problem. That then causes stress and a demand on the local authority where they live. It takes away their education. I am a PhD student. I am fortunate to have a scholarship with Northumbria University. I know the stereotype is that we do not like education, but we love it. There are loads of us that want an education and this Bill threatens being able to access it. It threatens us being able to access standard healthcare.

Dan Allen from the British Association of Social Workers says that not just the UNCRC but also the Children Act 1989, the Children Act 2004, the Care Act and the Health and Social Care Act 2012 will all be violated by this Bill. It impedes a lot of children's rights in regard to that as well.

We have touched before on being able to practise your culture. Children should not see their families criminalised for being who we are. It is like Jake said before: 10, 20 families travelling around together. For me, being in a field in the summer was one of the best times of my life. We had stones thrown at us by locals. We did nothing to instigate that. We never retaliated. We face that prejudice and discrimination, but that develops—for me anyway, I now have regular communications and sessions with counsellors because of PTSD and trauma that I have been diagnosed with, because learning what racism and discrimination is at five years old and being discriminated against because you are different at five years old leaves a lasting impression and affects you as you grow older.

Nowadays children are on Facebook and social media seeing these newspaper articles about unauthorised encampments and seeing, "Kill them all. Burn their caravans. They all deserve to die. The Second Amendment will sort this out" and the older generation who are not as literate, they are not on social media talking and challenging this. It is the

younger generation who are, so they are going to develop these anxieties and then they are going to be worried about another Johnny Delaney, a little boy who was murdered in Cheshire just for being a Gypsy. It leads to those anxieties as well. These children who are going to face this Bill, if it comes in as it is, are going to face a lot more than what I have just said, because that is what we have now. So this Bill is a dangerous precedent for children's development.

Baroness Massey of Darwen: I would love to spend hours on this, but we cannot.

Martin Gallagher: Me too.

Baroness Massey of Darwen: If anybody has anything to add in writing I am sure that will be very welcome—unless somebody has anything to add right now, but I do have two other questions. That was a question I slipped in, but I think it is an important and fascinating one.

Philomena Mongan: I would like to say something about people judging people. My son is 17, he is in college, and my daughter turned 16 earlier in the year. But I remember when the kids were smaller and we would come back to a certain campsite every year, the teacher knew the kids quite well. My kids were only small, the older ones, and they had made friends in school. But when you would walk your kids home and the other parents would walk their kids, they would see you taking your kid into the campsite, and then when your child went back to school the next day that kid was not allowed to play with your kid. They had been singled out because the parent had told their child not to mix with the Gypsy child or the Traveller child. Your kid came home and asked questions about why they did not have any friends and could not understand why, and then it is like as the years get older my name and my family's name is on the Pontins list. You can imagine booking a holiday and then you are refused it, or looking for an opportunity to get—

Chair: Philomena, we are having problems with your connection again. Baroness Massey, would you like to proceed with the next part of your question. I do not know if everybody has the same problem, but I am finding it impossible to hear Philomena.

Q24 **Baroness Massey of Darwen:** I will go back to my original question and maybe we can get some input informally about children. Could you describe what would happen today in circumstances where an unauthorised encampment is established on private or public land and what protection there would be for Gypsy, Romany and Traveller people and their property? Who wants to tackle that one? Jake?

Jake Bowers: I think Marc, probably, in terms of legal process. I can perhaps talk about it on an emotional basis in terms of what happens.

Marc Willers: That might be more important than what I am going to say, but I will try to deal with it briefly. The powers under the Criminal Justice and Public Order Act under Section 61, Section 62A and Section 77 are adequate and sufficient. They have been described as "draconian" by a number of judges in the High Court, including Lord Justice Sedley.

They give the police and local authorities the powers to step in to require and direct when Gypsies and Travellers should leave a piece of land on which they are trespassing. That includes both private and public land: private land where the occupier has requested that the individual or the family or the group leave and that request has fallen on deaf ears and public land where they decide that it is inappropriate that the Gypsies or Travellers remain.

As far as private land is concerned, a private landowner, Farmer Giles, whoever it may be, also has the ability to obtain a possession order, and a swift one at that, under what is known as Part 55 proceedings in the county court, or to resort to self-help—literally getting in some private bailiffs to remove the Gypsies or Travellers and use reasonable force to do so.

Gypsies and Travellers camping on private land are going to have a very short period of time before somebody tells them to move on, and no defence to any legal proceedings that would force them to leave. As far as public land is concerned, public authorities do have a duty to take account of humanitarian considerations. There is existing public guidance for local authorities issued by the Secretary of State, currently for Housing, Communities and Local Government, that explains that welfare considerations need to be taken into account while lawful enquiries therefore need to be undertaken.

The police also have guidance from the Association of Chief Police Officers. Janette McCormick will tell us more about that, but it has been updated recently. So, before they take the decision to issue a direction and subsequently perhaps arrest for failure to comply with the direction public officials and law enforcement officers will no doubt take into account that guidance. Ultimately, if the decision is taken to direct Gypsies and Travellers to leave, they would find it very difficult to not comply and would ultimately end up before a magistrate and possibly have their vehicles seized. So most Gypsies and Travellers, in my experience anyway, comply with the requirement to leave. We know that the police, and again Janette McCormick will tell us more, are not asking for any increase in the strength of their powers. The vast majority of police forces say that the powers are sufficient. What is needed is more sites—temporary, transit and permanent.

Q25 **Baroness Massey of Darwen:** Perhaps I can pursue that question with you, Marc, and then if anybody wants to contribute they can come in. Some people have called for a greater use of so-called negotiated stopping, where an agreement is reached between the Gypsies and Travellers and the local authority. Why is this approach preferable to new legislation?

Marc Willers: It is humane. It is compassionate; it is proportionate; it is recognition of the fact that the reason unauthorised encampments will continue to exist is primarily the lack of adequate provision of transit and permanent sites. This was the very point made by Lord Justice Coulson in the case involving an application for a wider injunction by the London

Borough of Bromley. He made it clear in his judgment that tracing no-go zones by virtue of applications for wide injunctions, borough-wide injunctions, breached equality legislation and the European Convention on Human Rights and the enshrined right to roam, and that unauthorised encampments were bound to continue to occur up and down the country unless and until a sufficient number of transit and permanent sites were provided.

One does not have to necessarily have a transit site that is laid out with individual pitches. Gypsies and Travellers have travelled around this country, stopping on traditional stopping places, green lanes and the like, for centuries, and many of those have been stopped up. There is no reason why local authorities cannot think a little bit more imaginatively than a piece of tarmac with perhaps one water tap and nothing more to encourage Gypsies and Travellers to camp on that land, but instead agree to the possibility of families stopping on an unused piece of land, a piece of land that is going to be developed in the future, something of that nature, or set aside for some sort of development.

Thinking outside the box, being imaginative, being compassionate, agreeing with the families that they will get perhaps a Portaloo and their rubbish taken away, but they will leave after a certain period. This is what negotiated stopping is all about. It is what you do in a grown-up society. The litmus test of a democratic society is, according to Václav Havel and many who have quoted him since, how one treats the Roma population, Gypsies and Travellers, in a society. We should be doing more; we should be doing better. It is just not the way to go about treating people, and this piece of legislation is abhorrent in my professional opinion; we should be looking at things like negotiated stopping.

Baroness Massey of Darwen: Thank you. Is there anything else to add from anyone?

Jake Bowers: I think Marc is absolutely right. If you look at it in its historical context, our ancestors stopped all over the place, on commons and on green lanes. You see it on the landscape of Britain everywhere, the Romany roads that there are in every county—and that is land that has been stolen and taken away from us. The flip side of it is that if you just go towards enforcement and no provision, and this is coming back to your question about children, you find that you will get another generation of abused, bullied and upset people. I think it is an African saying that a child who does not feel the love of its village will burn it down to feel some warmth. If you brutalise children in the way that I have seen through existing police powers, you will get a disgruntled, upset generation. The thing to do is break that cycle and create provision along the lines of what Marc suggested.

Chair: Could we move to Lord Dubs now for the next question?

Q26 **Lord Dubs:** I am a Labour Member of the Lords. I have visited Roma villages in Romania: very shocking. I have also seen quite a lot of Roma

sites or Traveller sites in Northern Ireland and the Republic and in east London. I am going to put my questions together for the sake of time. The Bill would criminalise people for living on the land even when there are no other adequate sites for them to go to. If there are insufficient authorised sites for Travellers, Roma and Gypsies, does that not in effect criminalise homelessness?

Secondly, will the Bill provide effective incentives for local authorities to provide adequate sites? Could I just throw in a Northern Ireland question as part of that? I am a little bit out-of-date on this, but in Northern Ireland when I spoke to the Travellers, they said they were very keen on the provision for those who did not want to move all the time—they liked very much the site in Omagh where there was permanent housing especially designed for Travellers, and some of the Travellers said they liked that. So to what extent do you think Travellers are looking for local authorities to provide sites for Travellers on the move, as opposed to giving them more permanent accommodation statically? Who is going to start? Martin?

Martin Gallagher: I can, yes. Your first question is the incentives for councils. Local authorities UK-wide have already failed to meet the needs of GRT people regarding transit sites and residential sites, and I think this Bill could be used by some to scare people in regard to practising a nomadic way of life still. In Wales it is a human right and protected, so we do have that negotiated stopping-esque type of thing where there are guidelines that authorities can use regarding Portalooos and skips and stuff like that. For me, I think criminalising GRT people for practising a nomadic way of life is, like Marc says, abhorrent and not acceptable.

You talked about Northern Ireland in regard to residential sites. There are loads of people who would like them. The standard of sites is rising, essentially. I have been to the one in Winsford in Cheshire. It is a really nice site and they have done a good job in leading the way. It is still on an industrial site, it is not ideal, it is not by trees and fields where we would all like our houses to be, but residential sites that are sustainable, that are healthy, people would accept them if they were on the register and wanted to stay in that authority or that council. It would be welcome but, in any case, more places for people to stay would be welcome in any regard. This Bill aiming to strip away human rights for us is not acceptable and this is what it will do. I will pass on to Jake, who I think is nodding his head.

Jake Bowers: Philomena wants to come in as well, but I want to quickly say that, Lord Dubs, thank you for everything you have done for our community over the years. It has been much appreciated.

On the sites, most people when they look at GTR sites from the outside think they are dens of iniquity and thieves, but I was on one the other day and I wanted to tell you this story really quickly. It is the site of the Joyces in Oxford, and their daughter is about to go for bone marrow treatment—she will not mind me saying this—at the age of 26. Last week 120 members of her family who all live on the same site came together

and gave her the greatest outpouring of love that I have ever seen a family give to anybody. That is why people need sites—because if you can live together as an extended family network, all that support is there. So it is insane that this is coming from the Conservative Party, which supposedly supports family values. That is real family values; people looking after each other.

Of course, it criminalises homelessness, this Bill, and it is wrong. Sorry, I do not want to take over the Chair, but Philomena has her hand up.

Philomena Mongan: I would like to say we need both. I hope my internet is still not playing up. I am living here in Hackney and I am living in built-up bungalows. There are eight pitches but we have bungalows on them and the new site that we are fighting for, we are hoping to do the same thing again for families who want to stay on but still have the right to travel when they want to travel. It all comes down to not finding land. We have the go-ahead from Sadiq with the funding, but it still comes down to finding land and we do not get much help from the councils to find the pieces of land for us, so we are on a waiting list on that. We have the money. We have the go-ahead but we do not have the land—so back to land again.

Lord Dubs: Marc, did you want to add anything to that, please?

Marc Willers: Just a couple of things if I may, Lord Dubs. Yes, criminalising people for being homeless and not paying any regard to the rather elderly elephant in the room, that being a lack of sites, beggars belief, it really does.

Talking about Northern Ireland and what I think I know as group housing. When we were trying to relocate or find accommodation for those Gypsies and Travellers who were living on the site that was ultimately developed to host the Olympic Games, group housing came up. I do not know if Philomena is actually resident on one of those sites that was ultimately moved and where group housing was established. It is a concept that I certainly know exists in Northern Ireland. I think it may take on in England and possibly Wales, but obviously there are a lot of my clients—and I am sure Jake, Martin and Philomena will know of this in their communities—who would say, “I cannot live in bricks and mortar”.

It is about thinking imaginatively. There will be some people who will be happy to have a form of conventional housing where they can have their caravan so that they can travel away from the sites when they want to, perhaps for work or to attend fairs or other community events, but there will be others who say, “Not on my Nelly. I want to hear the raindrops hitting the roof of my caravan until the day I die”. That is something that a lot of my clients tell me. Although I do not want it, they do, and we are all different.

The point about settled sites is this: those sites give Gypsies and Travellers the opportunity to access healthcare, educate their children and then travel away in the summer months when the weather is fair to

do the work that they have traditionally done, safe in the knowledge that they will be able to get back to their winter sites and ensure that their children get a decent education. That is really what settled sites are all about.

Lord Dubs: Chair, I did have a little bit more. I am just wondering about time as far as you are concerned.

Chair: Yes, if we could just have a brief question with very brief answers, please.

Q27 **Lord Dubs:** Very briefly then. Under the Government's proposals, landowners would have a key role in establishing whether a new offence of criminal trespass had been committed. Should that be something done by the police rather than by a third party? Secondly, similar legislation concerning the criminalisation of unauthorised encampments, seemingly without breaching the human rights of Gypsy and Traveller communities, exists in Ireland. Why do you think this would be a human rights violation in the UK? A double question, very briefly, please. Marc, do you want to start on that one?

Marc Willers: Yes, very briefly thank you, Lord Dubs. I am not here to suggest amendments to Part 4, which I think should be removed from the Act, but one of the problems with it is that it gives owners and occupiers of land a say in the criminalisation of individuals. Effectively, if the request is made by an owner or an occupier and the request is refused, the police will be put in a position where they have probably nothing more than an obvious situation where they must arrest because a criminal offence will have been committed.

That is a power on the part of owners or occupiers who may themselves be influenced by their own prejudices. It is a real problem for this legislation. If it were to be adopted, it ought instead to give the decision-making as to whether or not significant damage, disruption or distress is caused—it goes on to say "is likely to be caused", which is another problem with it—to a law enforcement officer, a police officer, not a member of the public who may well be influenced by their own prejudices, which abound in our society against Gypsies and Travellers.

Martin Gallagher: It also strips away Article 6 of the Human Rights Act, which is the right to a fair trial. You have a member of the public who can determine whether you have committed a criminal offence, so for me it is a dangerous precedent as well.

Lord Dubs: Thank you. I am concerned about time. Jake and Philomena, any quick comments to make on that or are you happy with the answer so far?

Jake Bowers: Just a very quick point. I would question the premise of some of what you said—forgive me for being a bit cheeky—which is that I do not necessarily believe that police officers are independent third parties when it comes to our community. There is a lot of racism in the police force towards us. Also, there are lots of Gypsies and Travellers who

are landowners who never get to enjoy the rights of landowners. Within the planning system there is a presumption in favour of people using their land sustainably.

When you look at the percentage of planning applications from Gypsies and Travellers, 90% of them are turned down. We are not just nomads that prey on people's lands—I know that is not what you said—but we are also landowners. The biggest part of the way that you can resolve this problem is by taking that bias out of the planning system so that Gypsies and Travellers who do buy and own their own land are able to live on it, albeit in a different way.

Lord Dubs: I am happy with your cheek. Thank you, Jake.

Q28 **Joanna Cherry:** I have a couple of focused legal questions for Marc, following on from what he just said, and then I want to ask everyone on the panel generally, including Marc, whether they read and what they thought of Matthew Parris's article in the *Times* on Saturday, which was entitled, "It's time we stopped pandering to Travellers". It has caused quite a lot of controversy and I want to give the panel the opportunity to comment on it.

First of all, I want to pick up on what you were saying there, Marc, about the definitions in the unauthorised encampment clauses of the Bill—that encampments are likely to cause significant damage or disruption. It seems to me that there is perhaps a lack of clarity there, which might lead to these powers being used in an arbitrary fashion, and I guess what I want to ask is: do you agree with that and do you see the possibility of legal challenges if, contrary to what you would like to see, these provisions become law after the Bill is passed?

Marc Willers: Yes, I think that the legislation and the words used are very vague and offend the principle of certainty—that is, a requirement particularly for criminal offences that are put on the statute books. What is meant by "significant"? What is meant by "damage"? There is a definition section or at least provisions relating to the definition of "damage" but disruption—what constitutes significant disruption?

It is all very subjective because, again, we have just heard and discussed the fact that an owner or an occupier can make up their minds as to whether or not significant damage or disruption or distress has or is likely to be caused and then call the police and say, "Well, look, they have not responded to my request that they leave. I have formed this impression that there is significant damage or disruption or distress likely to be caused. Please arrest them and think about seizing their vehicles too and taking them away to the pound".

The idea that you can be criminalised because an owner or an occupier has a concern that the occupation of the land will cause some significant distress because they are likely—those trespassers—in the mind of the occupier, to undertake offensive conduct panders to the stereotypes that are played out in mainstream media on Channel 4 and Channel 5 on

those horrible programmes that we see and, again, underpin, I am afraid, that article written by Matthew Parris.

It does offend the principle of certainty in any number of ways, but I do think there will be challenges should the legislation be enacted in the way that it is currently drafted, indeed, even if there is some tinkering—if I can use that expression—with some of the language. I think that there will be a wholesale challenge to the legislation on the basis that it breaches Article 3, Article 8, Article 1 of Protocol 1 and Article 14, the right to enjoyment of those convention rights I have just identified. There may also be a challenge under Article 6 and Article 7 because of the lack of certainty in the statutes and the offence created by Section 60C.

Joanna Cherry: I will just look particularly at Protocol 1 and Article 1 of that. Of course, as we have touched on, the Bill gives officers powers to seize and remove property and seize vehicles from those they reasonably suspect of having committed an offence. Presumably, that means that people's primary residence, the caravan they live in, can be seized. What do you make of that from a legal perspective?

Marc Willers: It is potentially egregious. We are talking about people who are probably camping on land because they have nowhere else to go, in their homes, in their caravans, with their families, with their children. We have a situation where Article 8 is clearly engaged and, I would suggest, violated, other than in the most extreme circumstances and in circumstances where the individuals are committing the most heinous crimes or behaviour in an abhorrent way themselves.

The impact on the children, if they are with their families, is clear for all to see—and Martin has identified the kinds of impacts that he experienced—and will have a really lasting effect on them. We know that under the UN Convention of the Rights of the Child the best interests of the children should be a primary consideration.

There will be some bad apples among police officers, we know that, but the most reasonable police officer will be faced with a situation where the owner or occupier of land is saying, "They have committed an offence. Arrest them and take those caravans away". What is the officer meant to be doing at that particular time? Is he meant to be carrying out a proportionality analysis, undertaking welfare considerations? It puts the police in an invidious position.

From all angles, it seems to me that giving the police the power to seize what is someone's home amounts to a wholly disproportionate response to a situation that arises primarily because of a failure on the part of local authorities and central government to meet the accommodation needs of Gypsies and Travellers. I am going back to the elderly neglected elephant in the room: the lack of sites, which has persisted since the closure of commons back in 1960. If Lord Avebury is listening he would be turning in his grave looking at this proposed legislation. He really would.

Q29 **Joanna Cherry:** Moving to Matthew Parris's article in the *Times*, Marc,

you have clearly read it. I would like to start with you. Maybe you could give us a little summary of what it said and give us your views on it. Then we could move to Philomena, Martin and Jake, because I would like to hear everyone's views about it. Thanks.

Marc Willers: I am no authority on it but it did occupy some of my time on Saturday with tweets flying here, there and everywhere asking me for my opinion. It seemed to me it was the sort of article that one might have written, if one was so inclined, having woken up with a hangover and having walked past the local car park and seen a group of Travellers camped there and perhaps have a rather disrespectful view of Gypsies and Travellers. It was poorly written. It was badly researched. There was no attempt on the part of Mr Parris to engage with the Gypsies and Travellers and understand their perspective.

There was some faux concern for Gypsies and Travellers but, ultimately, what he was suggesting was that the time for the traditional way of life of Gypsies and Travellers is up, we should no longer pander to their wishes to continue living in accordance with their cultures and traditions and we should put the pressure on them to force them into housing. Forcible assimilation is really what that ask was all about and that is, in my view, abhorrent. It is an anathema.

I should say that, in fact, it is the kind of concept that underpins a lot of the legislation that has been brought in since 1994, and a lot of the policy that successive Governments have issued in regard to Gypsy and Traveller accommodation needs, so he is pandering to those who are particularly prejudiced against Gypsies and Travellers. It was an article that should never have been written and certainly should never have been published.

Joanna Cherry: Philomena, what do you think about it?

Philomena Mongan: I was highly disgusted about the whole article. I just thought: how dare he criminalise the whole community and try to ethnic cleanse us? He should walk in the Gypsy and Traveller community's shoes and see what life is like for us. We are good people. It is something you would not just throw out there on another community. I was highly offended and quite taken aback that a person in his position could throw something off the top of his tongue. I have no respect for what he is saying, and what he is saying against the community.

Joanna Cherry: Thank you. Martin, can you tell us what you thought about it?

Martin Gallagher: Yes, to touch on what Marc and Philomena said, it was just as bad as propaganda from World War 2, essentially criminalising and dehumanising us to—like Marc said—pander to the people who do not want us to have human rights.

I was made aware that Mr Parris is an LGBT guy as well, so for him to drive that rhetoric against a protected characteristic, when he has witnessed persecution to the gay community throughout his life—he was

born in the 1940s, I think; he has lived a long time—I thought was really, really, really disrespectful. I know everyone in this room would make sure that someone with a protected characteristic would have the right to live as who they are, who they want to be, and rightfully so because they have that right to. They should be protected. For him to call essentially for ethnic cleansing and forceful assimilation, when he has witnessed that himself, was a disappointment. You would have thought that he would have had some solidarity in regards to equality.

Joanna Cherry: Thank you. Jake, what did you make of it?

Jake Bowers: Yes. I do not want to repeat what everyone else has said. I agree with what they have said but the main thing that struck me—and this is where you can link it back to the police Bill—is what rank hypocrisy it is for him to speak like that. He is an openly proud, gay man and I would die to defend his right to be so in this country, but if you are to enjoy the fruits of equality legislation you cannot pick and choose who you are going to take it away from. If he is going to take it away from us, it needs to be taken away from everybody else.

This is what links it back and makes it the Murdoch clickbait version of the police Bill. I am very well aware that our Home Secretary, Priti Patel, who is bringing this in against us is from an Asian background. Now, she of all people should realise that racial prejudice encoded in law has very, very bad precedents. As somebody from an Asian background who is targeting this towards the Gypsy community—the Romany community, who in many ways were the first people of Asian descent in Britain—she should be expressing solidarity with us, not taking our rights away from us.

They are different sides of the same coin, which is that people who have enjoyed the benefits of equality should not now be drawing up the drawbridge against people who have yet to have that realised for them, so it is hypocrisy all the way as far as I can see.

Q30 **Chair:** Thank you. Can we end on that note? Thank you very much indeed for giving evidence to us on this panel. I think it is very important, indeed, that Parliament hears the voices and experience of those who are primarily going to be affected by this legislation. Perhaps you ought to invite Matthew Parris to join one of your communities and actually talk to you and hear about your lives and challenge him to reconsider.

Jake Bowers: Priti Patel is welcome around my car any time.

Chair: I will leave that to you to follow up on, but we are grateful for the opportunity to have heard from you and also from you, Marc, with the additional expertise that you have brought to our already very expert team that we have advising this committee. Thank you very much indeed for your evidence.

