

EXPERIENCES OF 'NEW SUSPECT COMMUNITIES' IN BRITAIN

Arun Kundnani, Institute of Race Relations

Arun Kundnani is the author of *The End of Tolerance: Racism in 21st century Britain* (Pluto Press, 2007) and the editor of the journal, *Race & Class*, published by the Institute of Race Relations, London.

A few years ago when the idea of ID cards first looked like it might become a reality, we realised that the debate was not looking at the issue of how ID cards would impact on minority communities in the UK - in particular migrants, Muslims and foreign nationals. We undertook work outlining what we thought would happen, namely in terms of the introduction of ID cards adding a new tier to the existing structure of institutional racism in public services, in employment, in policing.

Since that time, the detail of the scheme has become a lot clearer. There has been considerable work undertaken on this issue and certainly there are people, who have a much better understanding than I do of the technicalities and the legalities of ID cards.

The focus of this paper is to provide background detail on some of the discourse and agendas that converged in the idea of ID cards. Primarily the transformation in the way that people have talked about migration in the last ten years, which is the major driving force of ID cards, along with the counter-terrorism agenda and also very importantly, the idea of identity. The way in which New Labour often talks about ID cards is not just as a technical mechanism, but as a badge of British identity. This is a very important aspect which often gets left out of the discussion and I think obviously has particular relevance in Northern Ireland.

How people feel about their identity is also important. My father came to this country in the 1960s from India. Like quite a few other people in that situation, he chose not to become a British citizen even after he had lived in the UK for a number of years. He retained his Indian passport. The only thing that actually signalled that he was resident in the UK was a fading stamp on his passport that said "leave to remain". He decided to do that, because he felt Indian, he didn't feel British, but he wanted to be a resident of the UK. He did this even though that caused a massive amount of inconvenience for him, in particular, when he wanted to travel around Europe. However, in 2007, he did become a British citizen because of the raft of measures that have been introduced to actually make it very, very difficult to be a long-term resident in Europe if you are a non-EEA national. We now have a situation whereby someone is becoming a British citizen, even though, in their heart, they are not

British and they are swearing an oath of allegiance to the Queen, with their fingers crossed. A big part of the introduction of ID cards is wrapped up in this context.

What is happening is a transformation in the way that the British state thinks about migrants. This has been going on over the last ten years and is sometimes badged under the heading of "managed migration". Prior to this, the aim of immigration control in Britain was actually to maintain a zero level of immigration to the UK from outside the EU. This was a settlement that emerged out of the debate in the 60s and early 70s around immigration that was driven by Enoch Powell, namely the idea that 'we don't want any immigration into the UK' with the exception of free movement in the EU. When New Labour came to power in 1997, it quickly became apparent they were going to engage in a radical transformation of immigration policy. This would involve the idea that some forms of temporary migration into Britain, for specific economic needs would be encouraged, but, that migration would be policed by a huge expansion in the powers of the state, over migrant communities.

Immigration has always been an area of law with extraordinary powers and little accountability in the way that it operates. Immigration Officers have powers to enter your home to seize possessions, to arrest you, to detain you, to deport you, that have none of the kind of checks that police officers face if they wanted to do the same thing. You have this area of law which is more authoritarian than other aspects of law and that authoritarianism has substantially increased over the last ten years. Year in, year out, new immigration Acts are coming through Parliament. Built on top of this, often drawing on some of the legal 'innovations' that have been developed in the immigration sphere, you have anti-terrorist legislation often using the same kind of techniques. Together, a shadow criminal justice system is being created, specifically targeted at migrants, and through anti-terrorism legislation, predominantly targeted at Muslim communities in the UK. Although the anti-terrorism legislation can jump out of the niche it developed in and be applied to other communities.

Anti-terrorist legislation has transformed the way in which the state feels it has the ability to intervene in people's lives. Control Orders were introduced a few years ago as an alternative to detention without trial. The Control Order allows the Home Secretary to set a range of conditions on your daily life, if the Home Secretary, without any real accountability, decides that you are a terrorism suspect. These conditions can include not being able to leave your home at certain times of the day, not being able to use a mobile phone, not being able to use the Internet, permission before you have visitors to your home and permission before you

communicate with other people. Basically, your own home has been turned into a prison. We do not put people in spectacular prison camps like Guantanamo, but we turn people's own homes into a prison. People on Control Orders have never been put through due legal process to actually assess the claims of the state. There are clearly people who have been put on a Control Order because someone has made a phone call to the Police saying "this person is a terrorist". This seems to be the basis on which some people have been put under this incredibly repressive system. If you are under a Control Order, there are also circumstances when you can commit a criminal offence for something as simple as talking to your neighbour across the garden fence. This is the kind of system we are putting in place. There is a whole series of legislation that has been brought in, all of which has in it a kind of absurdity, as well as a very frightening level of repression.

The glorification of terrorism legislation actually makes it a criminal offence to say certain things that many people in the UK would believe in. For example, the belief in armed struggle against tyranny which can become a belief that is impossible to express. We have just had the defeat of the 42 days proposal and possibly the end of the proposal to have secret inquests. One of the other elements of the bill was the idea that you can add a terrorist related element to any existing criminal offence. So, if you are convicted of credit card fraud, the police then search your home, and they find that at some point, four years ago, on your computer, you accessed a website that is defined as a Jihadi website; they can add to this to an additional terrorist related offence to credit card fraud and double the sentence. This will only be used against Muslims. The way in which discourse operates in this area is that the legislation is presented to the public on the basis of a tacit understanding that these powers will only be used on Muslims and other 'suspect' communities. And we have all kinds of prejudices and assumptions which circulate to ensure that Muslims are perceived as requiring a different standard of justice. What you have, is a situation where the legislative process is wrapped up in a form of racism, and without that racism those human rights abuses would never be tolerated. It would be very hard to imagine in Britain, those kinds of measures being accepted, if they were applied to the general population. The reason I am going into these aspects of counter-terrorism policy, is because what we have had bred in Britain is a culture where the basic core of human rights has gradually been eroded in the name of anti-terrorism. This brings me to the specifics in terms of how ID cards will work with regard particularly to migrant communities.

If you remember the 2005 UK general election, a few days before the

actual vote, Jeremy Paxman interviewed Tony Blair. He repeated the tactic he had used several years earlier on Michael Howard of asking the same question over and over again. On this occasion he asked Tony Blair how many illegal immigrants are there in Britain. Tony Blair said, "Well, the point is we are doing ...". He asked the question about 10 or 15 times and Tony Blair came across as not really being able to answer the question. This was perceived by the Blair government as the one vulnerability they had in that election. ID cards were seen as away of dealing with the issue, namely the perception that there is an out of control element to migration, that the borders are too fluid and that the government does not know who is in the country. So, bring in ID cards, introduce a system where every time someone wants to access public services, every time the police interact with someone, every time any public authority has an interaction with someone, if there is an issue of migration involved, a biometric electronic system can be used to have a precise picture of who is in the country and who is not in the country. Now there will be considerable discussion about whether this will actually work in a practical way. Our concern is the institutionalising of discrimination in that process.

If someone goes into a GP's surgery to register, is everyone going to be asked to produce an ID card? Certainly, at the moment when the proposal is not to make them compulsory except for 'foreign nationals', that would not be practical. So, what you are empowering the system to do is for public services to decide whether someone might be a potential abuser of services and then challenging that person to produce their ID card to prove they are entitled. How is someone supposed to decide if someone might be a potential abuser? Will it be on the basis of colour, accent, or other prejudiced perceptions of 'foreignness'? This is going to entrench and increase existing measures that are in place to police immigration through the NHS and other public services.

Another area is employment. At the moment, there are a number of measures in place for employers to check whether someone is entitled to work in Britain. The introduction of ID cards is meant to make that process much more efficient. In practice, it increases the power of employers to exploit migrant workers. There is a mythology around this that employers are able to police immigration, through checks. What actually happens, in practice, is that employers can use the knowledge of an employee's immigration status in order to facilitate their exploitation. There are many cases where an employer knowingly takes on people who are not entitled to work, indeed seeks out those people, precisely because they can be paid a lower wage, because of their vulnerability. Then, at a later date, when the employer no longer wants those workers,

contacts the immigration authorities and says, 'I have just realised I have some illegal workers here'. Adding ID cards into this mix merely makes that problem of exploitation much harder for us to deal with.

Policing is another area. At present, there are no proposals to give police powers to actually demand production of ID cards. However, there is the danger of de facto compulsion whereby, again for certain communities who are perceived to be potential immigration offenders or potential security risks, persons will be asked to produce their ID cards voluntarily. Should they not be able to do so, this in itself will potentially be treated as suspicious and warrant further questioning. Again, we will find that ID cards are inserting themselves into a picture that is already very fraught in terms of disproportionality in relation to stop and search, particularly under Sections 44 and 60. Section 44 is stop and search under anti-terrorism legislation which is perceived as something that, again, targets specific communities and brings up the issue of profiling.

A further aspect that I would just like to flag up is this idea of identity and the way in which New Labour tied ID cards into a discourse on Britishness. When the idea of ID cards was first introduced, they were described as entitlement cards. Very quickly, an idea that ID cards could be an emblem of national identity took hold, and, particularly, look at the writings of David Goodhart (the editor of *Prospect* magazine and somebody who is very close to Home Office thinking on this), who has argued very forcefully that ID cards can be a way of giving citizenship a practical meaning, so you hold up your ID cards and say, "I am proud to be British". The interesting thing in relation to this is that the measure is actually being imposed on 'foreign nationals'. There is a paradox there including the issue of the symbolism on the card itself – whether it includes a British flag or another symbol of the UK. It is interesting, on this point, that when David Goodhart has been challenged on whether ID cards, as currently conceived, are discriminatory, his response is that the ID cards can only work if they are made compulsory for everyone in the UK. This is actually the logic of the idea of ID cards as an emblem of national identity. If you say to Goodhart or to ministers that ID cards are going to introduce a massive new layer of discrimination against minorities, their response is, yes, you are right, that is exactly why we need to make them compulsory for every British citizen, so everyone can be asked for their ID cards, not just minorities.

A further point is that one of New Labour's original arguments for ID cards was that, in order to preserve the legitimacy of public services in Britain, the public sector needs to import techniques and technologies from the commercial sector. There has been a corporate agenda that has

driven ID cards and its legislation; and some people are going to make a lot of money out of the scheme. The idea that we borrow technology that has been pioneered in the private sector and bring it into the public sector is quite an important factor. The financial crisis of the last few weeks has discredited this argument, so we now have an opportunity to actually bury ID cards, partly for that reason, partly because the cost of them is now going to be an extra burden on a tight budget and partly because people are now understanding all of the different implications for our daily lives that the scheme will bring.