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The nomadic scapegoat : the criminalisation and victimisation of gypsies.

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The Nomadic Scapegoat: The Criminalisation and Victimisation of Gypsies

PhD thesis by Eleanor Gordon, 1998

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Abstract

An ethnographic analysis of the nature, extent and processes of anti-Gypsy discrimination in contemporary Britain is used to test a number of hypotheses: that nomads are at odds with practices of social control and with capitalist spatiality; that there exists a sedentarist bias within the Criminal Justice System; that the criminalisation of minority groups is socially and politically functional. Qualitative research techniques are used to address escalating anti-Gypsy attacks from local, institutional and legislative sources. It is proposed that, in accordance with this escalation, a vicious circle has been established with each form of attack encouraging and legitimising the other. The argument is that the victimisation of Gypsies will remain “legitimate” for as long as Gypsies remain synonymous with crime. Current legislation endorses the stereotype of the criminal Gypsy by outlawing a nomadic way of life. This has genocidal implications for Gypsies and also threatens others within a State that is looking for reasons to restrict freedoms and rights. The so-called “Gypsy problem” is therefore deconstructed with the research focus placed upon problematising the law and the agencies of social control. This should avoid the paradox of attempting to decriminalise Gypsies by associating them more fully within the discourse of crime, and will broaden the research relevance. The analysis begins with a discussion of the poor condition of public sites and the decreasing likelihood of gaining planning permission for private sites. The concluding chapter disputes the pluralistic and democratic character of Britain and questions the reality of “freedom of movement” within the EU.

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Introduction

This thesis posits the hypothesis that Gypsies are the target of genocidal legislation and practices. This is largely ignored because of the widespread perception that Gypsies are not an ethnic minority but a criminal class. As Liégeois has said:

Up until recently, there has been little recognition of the Roma/Gypsy as a distinct ethnic, linguistic and cultural group and hence a lack of recognition that many of the problems they encounter result from the violation of their rights as a minority. (Liégeois, 1995: 5)

Therefore, it is hoped that this thesis will undermine the validity of the perception that Gypsies are criminogenic and make accountable those who had previously hidden behind the stereotype of the Gypsy criminal. The remit of this thesis will be discrimination against nomadic Gypsies in England and Wales since the advent of the Criminal Justice and Public Order Act 1994 (CJPOA). However, it will become clear that the research will be pertinent to other countries, eras, and social groups.

As Liégeois (1995) has described, Gypsies' cultural characteristics are generally redefined as "social problems". This serves to justify State attempts to find a "solution" (Mayal, 1995) and to disguise discrimination and attack as crime control. Gypsies' cultural characteristics are often considered to be an aide for criminal activities: their nomadism, Romany language, and close family relationships have been used as justification for regarding Gypsies with suspicion.

In the UK, although Gypsies are supposedly protected under the Race Relations Act 1976, in UK planning law the definition of Gypsies "means persons of nomadic habit of life, whatever their race or origin" (CJPOA Part V s.80). Because of this and because the UK law defines Gypsies as being nomadic, the drive towards the sedentarisation of Gypsies can only be described as genocidal in that the State is "[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part" (Genocide Convention 1948, Article 2: d) (see Appendix Six). It is particularly genocidal considering how integral nomadism is to the Gypsy way of life, if only of symbolic value. But, again, this genocidal activity is hidden because targeting nomadism is not

considered to be targeting an ethnic minority, but a social (or asocial) activity, although Gypsies are disproportionately affected.

Gypsies originate from India, which they left a thousand years ago. They entered the UK about five hundred years ago and were thought to have emanated from Egypt; hence the term “Gypsy”. Because of this, “Gypsy” is often perceived as a depreciative term, especially in the rest of Europe. Most Gypsies interviewed did not mind the term “Gypsy” but were concerned that the term is often used by non-Gypsies as a derogatory slur. Consequently, some Gypsies prefer to call themselves Travellers, Romani, or Roma. In this thesis, the term “Gypsy” is used because it is the term most widely known and because it is the term used in popular and official discourse (i.e. the subject of study). However, the author apologises if any offence is taken¹.

There are about one hundred different groups of Gypsies in the world, and four in the UK: Romanichals (English Gypsies); Kale (Welsh Gypsies); Nawkens (Scottish Travellers); Pavees (Irish Travellers). It is important to emphasise that Gypsies are not a homogenous group, as is often presumed or as is implicit in policy-decisions (for instance), just as the sedentary population is not (see Earle *et. al.*, 1994 and Lowe and Shaw, 1993, for example). That they are presented as such aids the process of sedentary domination through stereotyping and simplifying images. Being aware of this should lend this thesis added use-value, which is often lost in academic works that seek to impose meaning and generalise about a social group. As Hancock (1987) has said, academics have also suffered the same romantic naïveté that is found in popular discourse. Additionally, Odley (1991) has said that some manipulate Gypsies’ history and experiences in order to substantiate certain theories. Furthermore, some Gypsies who were interviewed (1995-7) were critical of a lot of academic research, which they found patronising, assuming and flawed.

¹ Throughout the thesis, when quoting another, the term and spelling will not be changed. Most newspapers (and other written documents, such as government texts) use the term Gypsy without giving it its proper noun status (small “g”) and often misspell Gypsy as “gipsy”.

In Europe there are between seven and eleven million Gypsies (Council of Europe, 1993). It is hard to accurately estimate the number of Gypsies because of census procedures and discriminatory practices, which may lead to Gypsies either being ignored or concealing their identity. Most Gypsies are no longer nomadic, especially on the continent, because of discriminatory and assimilatory legislation (see Liégeois and Gheorghe, 1995). Furthermore, according to the European Committee on Migration, the number of nomadic Gypsies is decreasing (Council of Europe, 1995). However, travelling is still an important symbol of Gypsy culture (*ibid.*).

It is impossible to say how many Gypsies there are who live in houses in England and Wales. According to Government figures for the January 1998 Gypsy Count (see Appendix Thirteen), there are 12930 caravan pitches in England and Wales. It can be generalised that a pitch constitutes one family. Of those pitches, 2538 are unauthorised (i.e. do not have planning permission), 6136 are owned by Local Authorities, and 4210 are privately owned. These are small figures compared to the amount of sensationalist attention the so-called “Gypsy problem” receives. But, these figures also show that over two-and-a-half thousand families have nowhere legal to stay. As yet, the effects of the CJPOA have not been as severe as was anticipated by most people. It was expected that sites would rapidly fall into disrepair and be closed. However, Local Authority sites have slightly increased in number. This can be explained by the fact that the full effects are not likely to be seen until all Local Authority applications for Central Government funding for new and existing sites, that were in the pipeline during the assent of the CJPOA, have been processed (see Clements, 1997a). Furthermore, the Government justification for the Act, to “help Gypsies to help themselves” (Circular 1/94 s.20), has also not been realised, as the figures for gaining planning permission for Gypsy sites shows (see Appendix Thirteen).

Since Gypsies were first recorded in Britain, they have been the target of hostile laws and public policies (Supple, 1993; Hawes and Perez (1995); Mayal, 1996). From being subject to the death penalty unless they leave the Country², to more

² Under Elizabeth I (see Tanner, 1997 for example).

recently being subject to criminal and civil sanctions unless they resided on a limited number of officially provided sites³, the attitude of the State towards Gypsies has always been one of hostility, suspicion and condemnation. As Puxon says:

The history of the Romani people is a story of relentless persecution. From the Middle Ages to the present day, they have been the target of racial discrimination and outright genocide. (Puxon, 1995)

It is a story of relentless persecution that is generally denied or hidden, which is why discrimination and genocide can continue unhindered.

In recent years, Gypsies have been killed in racist attacks all over Europe. Very few cases have been sufficiently prosecuted. In some cases the police were directly involved in violent attacks (Brealy, 1996; Statewatch, 1991-7; personal correspondence with the European Roma Rights Center, the Helsinki Citizen's Assembly, and the Office for Democratic Institutions and Human Rights, 1995-6). Furthermore, anti-Gypsy attacks are increasing, especially in Eastern Europe since 1989 (Council of Europe, 1993 [Doc 6733]; Statewatch 4:4, 1994; Barany, 1995; Minority Rights Group, 1998). Gypsies have been recognised as the most disadvantaged minority group in Europe by the Minority Rights Group (Emerson, 1996).

The European Roma Rights Center (ERRC) recently submitted to the Organisation for Security and Cooperation in Europe (OSCE) *Implementation Meeting on Human Dimension Issues* the situation facing Gypsies/Roma in the OSCE region:

The human rights situation for Roma in many countries is precarious. Roma remain at risk of racially motivated violence on the part of law enforcement authorities, racist skinheads and others. Judicial and

³ Under the Criminal Justice and Public Order Act 1994 (CJPOA), Part V: see Appendix Twelve. In brief, the CJPOA repealed the duty of Local Authorities to provide sites and the financial aid to support them. It also introduced stronger powers of eviction, harsher sentencing for "unauthorised camping" and (with the accompanying Circulars 1/94 and 18/94) an expansion of the criteria determining lawful behaviour for nomads and caravan-dwellers. NB: Circulars 1/94 and 18/94 correspond to Welsh Office Circulars 2/94 and 76/94 respectively.

investigative responses to reports of physical abuse are often inadequate; at times, courts and prosecutors compound and affirmatively abet discriminatory practices. Roma throughout Europe are threatened with publicly expressed government hostility, forced and summary eviction from flats and settlements, and discriminatory treatment by public and private landlords. Finally, inflammatory responses in Canada, England and Ireland which greeted the arrival this summer of Eastern European Roma confirmed that anti-Roma prejudice lurks not far below the surface in the West as in the East. (ERRC, 1997c)

The Minority Rights Group (MRG) have concurred that governmental and institutional discrimination, together with the widespread perception that Gypsies are criminogenic, encourages vigilante attack. MRG have also said that these factors also “underpin the reaction of the judiciary, the police and prosecutors when attacks occur.”(MRG, 1998: 1) This thesis hopes to show that Gypsies in the UK face legislative, institutional, structural, and informal discrimination and attack. This creates a vicious circle (or, more accurately, a vicious spiral) with each form of discrimination and attack, encouraging and legitimising the other. For example, because of recent changes in the law making trespass a criminal rather than a civil offence, the criminalisation of a way of life is often cause enough to justify further Gypsy victimisation and denial of rights.

Many Gypsy rights activists and authors have said that the current situation facing Gypsies throughout the world is becoming chronic (for example: Hancock, 1993; Smith, 1996; Mercer, 1996a):

Contrary to the popularly-assumed image of “gypsies” as a free and untroubled people, the Romani population everywhere in fact endures systematic, gross deprivation of their human, social and civil rights. The situation at the present time is approaching chronic proportions, and it has been predicted by specialists in eastern European studies that, unless it is recognized and addressed immediately, it is leading relentlessly towards a new Holocaust within the next decade, directed specifically at the Romani minority. (Hancock, 1993: 5)

Although the situation in the UK is better than in Eastern Europe, Smith (1996), Mercer (1995a; 1996a; 1996b) and other Gypsies who were interviewed for this research (1995-7), have said that the Gypsy community in the UK is being mentally and physically destroyed. The effects of outlawing nomadism under the

CJPOA, of vigilante attack, and of the lack of provision and poor condition of sites, are genocidal: Gypsies have died because of these circumstances (fieldwork) and the Gypsy community as a whole is facing potential destruction.

According to the Human Rights Watch Annual Report of 1997, the UK has one of the highest levels of racially motivated crimes in Western Europe. Furthermore, Gypsies are the most discriminated against of all ethnic minorities. For example, according to a nation-wide survey conducted by Gallup on behalf of the American Jewish Committee in 1993, Gypsies are the least favoured of chosen neighbours, with two thirds of Britons not wanting to live near Gypsies, compared to just under one third who would prefer not to have Arabs or Pakistanis as neighbours (Schmidt, 1993 and Fraser, 1997). According to the American Jewish Committee, this reflects previous surveys conducted throughout Europe.

It is ironic that while Gypsies face discrimination and abuse from all sections of the community across Europe, the increasing attention paid towards racist violence by policy-makers and academics has not incorporated Gypsies (Brearly, 1996). As the National Council of Voluntary Organisations (NCVO) has said:

Most race equality work, particularly in a rural context, does not per se include the discrimination, prejudice and racism faced by the Traveller communities. There is also a separation between most local authority equalities and Traveller liaison work. (NCVO, 1997: 1)

The potential use-value and pertinence of this thesis, then, is clearly evident.

This research is necessary because of the extent of the human rights abuses of Gypsies which remains largely unacknowledged. It is particularly important because of the violence and discrimination emanating from generally unchallenged stereotypes. Also, Gypsies and Gypsy/Traveller support group members have said that many problems come from the lack of knowledge about Gypsies (Interviews, 1995-7)⁴. Many Local Authority officials who were interviewed (1995-6) said that the most vociferous campaigners against proposed

⁴ See also Daly (1990), Mercer (1995a), Liégeois (1996) and Staines (1996b).

Gypsies sites later felt that their worst fears were unjustified. This supports research undertaken by the Joseph Rowntree Foundation (*Travellers' Times*, July 1997). Interviewees have also expressed opinions that this type of research is important for such reasons.

As Bollag (1994), Kenrick (1996), and Mayal (1996) have said, reference to anti-Gypsyism has increased in literature and the popular media over the past twenty years. Twenty years ago, only footnotes on Gypsies were to be found in books about the Holocaust (Hancock, 1987; Mayal, 1995; Interview with Kenrick, 1996). In the UK, the amount of literature on the subject of anti-Gypsy discrimination has particularly increased over the past four to five years, probably as a result of the CJPOA bringing attention to the circumstances of Gypsies. It could also be due to the increased media publicity of so-called "New Age Travellers". For this thesis, the most valuable authors writing on the subject of anti-Gypsy discrimination include: Acton; Gheorghe; Hancock; Hawes and Perez; Mayal; McVeigh; Kenrick; Liégeois; Powell. The most valuable literature found was articles or poems written by Gypsies, such as the many articles and papers presented by Pete Mercer, and the poems by Charlie Smith and Eli Frankham.

However, the literature is still limited, especially considering the extent of anti-Gypsyism. This is possibly due to the lack of awareness of anti-Gypsy discrimination or the widespread belief that it is not, in fact, discrimination, but justifiable crime control. This was compensated for by intensive ethnographic fieldwork, interviewing, and official documentary research. Grassroots publications and Gypsy/Traveller support and civil rights groups newsletters were also regularly consulted⁵. It was also partially compensated for by literature research into other subject areas. For instance, critical criminology texts were used, as were texts within the fields of discourse analysis, post-structuralism, critical theory, cultural theory, media studies, philosophy, politics, geography, and law. As might be expected, those theorists who have been of most value within this thesis bridge gaps between disciplines, but can generally said to be critical

⁵ Such as *SchNEWS*, *Squall*, and the newsletters of: Friends, Families and Travellers Support Group; Gypsy Council for Education, Culture, Welfare and Civil Rights; Labour Campaign for Travellers' Rights; Telephone Legal Advice Service for Travellers; This Land is Ours.

social theorists: Chomsky; Edelman; Christie; Bauman; Cohen; Foucault; Shields; Davis; Deleuze and Guattari – to name but a few of the most well-known. Much literature research was conceptually and thematically driven, rather than discipline related. Consequently, exploring the central concepts of space and movement, for instance, lead to an analysis of texts within scientific fields, especially cosmology and Information Technology. More fundamentally, research was conducted on other sociologically related social groups, such as Native American Indians, indigenous populations, asylum seekers, tourists, other groups of Travellers within the UK (“New Age Travellers” and Irish Travellers, for instance), groups which are often spoken about in terms of “spoiling” public spaces (such as graffiti artists and the homeless), and other groups targeted by the CJPOA (squatters, ravers, hunt saboteurs). As is discussed in the next chapter, an interdisciplinary approach is embraced for reasons other than a lack of texts dealing directly with anti-Gypsy discrimination. Aside from any policy implications or practical value that this thesis may have, the interdisciplinary approach (together with a multimethod approach) is of potential value within the field of social science.

It is considered that there is less of a need to discuss the history of Gypsy persecution and discrimination as it is adequately discussed elsewhere (Acton, 1974; Adams, Okely, Morgan and Smith, 1975; Mayal, 1985 and 1996; Liégeois, 1987; Kenrick and Bakewell, 1995; Hawes and Perez, 1996). As Mayal (1995) has said, much literature on the discrimination or persecution of Gypsies has focussed upon the dramatic and overt instances of discrimination. This tends to ignore covert discrimination such as contained within apparently liberal regimes. This thesis is different in that it analyses informal and formal discrimination, and does not presuppose that a seemingly more liberal regime is less governed by racist ideology or less genocidal in its effects. Furthermore it analyses whether discrimination at the legislative level is implemented at the local level, and how informal and formal discrimination relate and respond to each other.

This research is also different in that it does not only regard the end product of discrimination, but its process and interpretation by the parties involved. Also, it does not absolutely delineate between different forms of discrimination or attack

(such as vigilante and legislative attack), but sees them as part of the same process, as interdependent and relational.

There was felt to be a need for an analysis of the process and effects of anti-Gypsy discrimination from a critical criminological perspective. Furthermore, a thorough analysis of the political and social function of the image of the Gypsy criminal was felt wanting.

Like most critical criminology texts, this research is valuable because it places the focus of anti-Gypsy discrimination upon those who are discriminating against Gypsies, rather than the Gypsies themselves. The so-called “Gypsy problem” is therefore deconstructed with the research focus placed upon problematising the law and the agencies of social control. This should avoid the paradox of attempting to decriminalise Gypsies by associating them more fully within the discourse of crime, and will broaden the research relevance. The focus needs to be on those who label (Becker, 1963), especially because in this case it would be tantamount to blaming an ethnic minority for discrimination against it – i.e. looking for reasons for discrimination within the group discriminated. Mainstream criminology takes for granted the legal definition of crime or, rather, it depoliticises the law. This thesis hopes to demystify the synonymous relationship between law, order and “right”. The hypothesis is that the law functions to justify and support the domination of the ruling elite, often via the criminalisation of minority groups and creation of “moral panics”. Throughout the thesis, it will be shown that the creation of “moral panics” serves to legitimise increasing paramilitarisation of the police and State appropriation of public spaces, and decreasing civil liberties and welfare assistance. Therefore, this thesis hypothesises that the law is in increasing conflict with human rights. This thesis will also show how the law is property-based and how social order depends upon segmentalising people and channelling their movements. Consequently, nomads who commit crimes against property by deterritorialising land are likely to be targets of overt social control and punishment. In effect, then, crimes against property preside over discriminatory and even genocidal practices.

It is strange that very few academics who wish to explore the concept of social space, especially those who have concerned themselves with theories of race and residential segregation (see Smith, 1989), have looked at Gypsies as potentially being the most enlightening source. Analysing the social reaction to nomadic Gypsies, the social scientist is afforded an opportunity to shed light upon the massive demographic changes in the EU and globally, as well as the recent large scale movements of people. The current political state, internationally, is characterised by millions of displaced people, a reconstitution of the spatial and temporal nature of the economy (with regard to currency and employment) and knowledge (especially with the advent of the Internet). An analysis of a group who have, in the main, been nomadic for a millennium could address central sociological questions of the nature of space, place and movement in modern societies and clarify what for many appears to be a confusing and unstable period, thereby debunking many postmodernist dystopic claims of an end to history.

Also, in the wake of increased anti-Gypsy discrimination and violence, the research tests the efficacy of a number of key sociological concepts and theories: “moral panics” (Cohen, 1972); “suitable enemies” (Christie, 1984), “escape attempts” (Cohen and Taylor, 1992), “subterranean values” (Matza and Sykes, 1957), “labelling theory” (Becker, 1973). It also addresses the theories of sedentarism (McVeigh, 1997) and the function of genocide for the Nation-State (Acton, 1993b), within Romani Studies. Most importantly, in much the same way as Garfinkel’s (1967) experiments, Gypsies, being “other”, reveal a lot about the social norms and social order of the mainstream society. As Liégeois has said:

Analysis of policies and behaviour towards Gypsies and Travellers reveals the cultural values, the ideologies propagated and defended by those around them. The measures taken betray the leanings of their authors, and the sociology of Gypsy peoples is thus also that of the societies in which they are immersed. (Liégeois, 1987: 87)

As a transnational minority, Gypsies can shed light upon the current phenomenon of the destabilisation of Nation-States, as well as broaden discussions about the nature of race, ethnicity, citizenship and nationality. As the Council of Europe have said:

A special place among the minorities is reserved for gypsies. Living scattered all over Europe, not having a country to call their own, they are a true European minority, but one that does not fit in the definitions of national or linguistic minorities. (Council of Europe, 1993, Recommendation 1203 s.2) (See Appendix Two)

An analysis of Gypsy discrimination can say a lot about the pertinent concepts of “belonging” and “inclusion”/“exclusion”, because of the temporally and spatially indiscriminate nature of their persecution. The main theme of social exclusion and inclusion corresponds to one of the thematic concerns for 1997 of the ESRC. Another thematic concern is identity and groups, which, again, is prevalent in this thesis. Social exclusion and inclusion is also a thematic concern for the Labour Government (Social Exclusion Unit) and the European Commission (Fourth Framework Programmed for Research and Technological Development). The theme is, therefore, socially and politically pertinent.

The limitations of this thesis include the fact that I am not a Gypsy, and this is indicative of the anti-Gypsy discrimination whereby gorgios⁶ write about Gypsies, rather than Gypsies writing about themselves. But, this is not really a problem because the subject of this research is the gorgio society: an analysis of anti-Gypsy discrimination has as its subject those who discriminate not vice versa, otherwise the implication is that the reason and, perhaps, blame for anti-Gypsyism lies with the Gypsies. This is like blaming ethnic minorities for racism. Therefore, for a study of the gorgio society I am equipped with the relevant cultural and ideological knowledge⁷. Furthermore, because of the nature of anti-Gypsyism, some people are more inclined to listen to a non-Gypsy about anti-Gypsy discrimination (as was found during fieldwork). Additionally, this ethical question was resolved by a personal belief that human rights abuses should not be ignored by someone just because that someone is not directly affected. In this case, it is argued, to ignore the abuse is often complicity. Besides, as it will be shown, the human rights abuses of Gypsies undermine the human rights of others.

⁶ Romani word for “non-Gypsy”.

⁷ I do not agree with the old social science adage that “you do not need to be Caesar in order to understand Caesar; indeed it might even be a handicap” (Hobbs and May, 1993: xviii) or Barley’s (1990) remarks that someone has to be “a total foreigner” in order to be an “expert” on a particular

In order to comprehend this vast, complex and important issue, perhaps too many aspects were addressed. At the expense of clarity at times, the complex and sometimes contradictory nature of discrimination and the construction of knowledge are hopefully addressed. The amount and complicated nature of the planning legislation pertaining to Gypsy sites was considered to be potentially problematic until it was recognised that this confusion, and the almost impenetrable nature of the legislation, was data in itself.

I did not address the EU situation as much as I had initially intended. This was partially because of developments in current events and to avoid over-generalisation of the subject matter by giving space to specific examples or arguments. For the same reasons, sufficient space was not left to debate in detail the differences in areas with regard to anti-Gypsy discrimination. Furthermore, statistical evidence as to the prevalence of Gypsy criminality and targeting by the Criminal Justice System, would have been useful in so far as lending additional support to the thesis' argument and in potentially persuading policy-makers and others who favour such methods. However, such an endeavour was considered highly improbable, as Gypsies are not officially categorised in crime statistics, and sociologically undesirable. Covert research was also rejected for ethical reasons, although it would have provided additional information (see the following chapter).

A brief overview of the thesis will now be given, before a discussion of the methodology employed.

It is argued that the provision of sites underpins the security, safety and human rights of nomadic or caravan-dwelling Gypsies in the UK. Access to education, employment, health, welfare and social services, and other amenities, generally depends upon the existence and condition of sites. Therefore, this thesis will begin with an analysis of the deteriorating condition and number of Local Authority sites, and the correlative hostility that they incite.

group or culture.

As a result of the CJPOA, Local Authorities no longer have a statutory duty to provide sites. Consequently, Gypsies will have to rely on the planning system in order to gain secure and legal accommodation. Chapter Two will analyse the likelihood of Gypsies gaining planning permission for private sites in the light of tougher policies in an already discriminatory system. It is argued that not only is discrimination against Gypsy sites ignoring a viable alternative to the current economic and environmental problems, but it is blatantly racist in the contravention of many statutory obligations as expressed in domestic and international law.

The CJPOA effectively criminalised Gypsies. It has also sent the message to members of the public and officials that the Gypsies' way of life is illegitimate. In addition to the direct effects and connotations of legislation and public policy, the language used has also had a large effect on how Gypsies are perceived and, consequently, treated. Therefore, Chapter Three will analyse the professional discourse on the subject of accommodating Gypsies and the regular use of war and prison imagery and terminology. The following chapter will analyse, in depth, the vast amount of legislation that has so many internal contradictions and loopholes, that effectively prevents Gypsies from gaining planning permission.

In order to analyse the intense feelings of suspicion and fear that nomadic Gypsies arouse, it is considered to be necessary to question the spatial nature of capitalist societies. Chapter Five will analyse social space and social place with regard to Gypsies and other nomadic phenomena (such as tourists, asylum seekers, capital, and digital information) and other groups who are condemned for "spoiling" public spaces (such as graffiti artists, political protesters and homeless people). The hypothesis is that the colonisation of space is ultimately tied to struggles of control and resistance, and the organisation of public space can be seen as a reproduction of power relations where social inequalities are reinforced and naturalised.

It is also necessary to question whether anti-Gypsy hatred can be explained in ways other than with regard to their nomadism: i.e. whether their ethnicity or

It is also necessary to question whether anti-Gypsy hatred can be explained in ways other than with regard to their nomadism: i.e. whether their ethnicity or “otherness” is instrumental. Chapter Six will address this point and broaden the discussion of anti-Gypsyism in the UK to incorporate a study of the general criminalisation of Gypsies. The main hypothesis here is that the criminalisation of Gypsies serves as a justification to deny their human rights. In other words, the stereotype of the Gypsy criminal, the targeting practices of the Criminal Justice System, and the extent of crimes against Gypsies that remain unpunished, combine to constitute persecution of an ethnic minority redefined as crime control. This chapter will therefore discuss the targeting practices of the Criminal Justice System, and offer explanations for the widespread perception that the Gypsies are criminogenic. The social and political functions of criminalising minority groups will be discussed in this chapter, especially the hypothesis that it serves to scapegoat minority groups for social and economic problems *and* to blame them for their own persecution. This chapter will also address the hypothesis that there exists a sedentarist bias within the Criminal Justice System and that Gypsies represent a threat to the State and its legitimacy by presenting alternative possibilities in the social, economic, political, and ideological realms. In essence, the concluding chapter disputes the pluralistic and democratic character of Britain and questions the reality of “freedom of movement” within the EU. As Brealey has said:

The treatment of Roma/Gypsies has become a litmus test for a humane society. Their widespread suffering is now one of Europe’s most pressing - but most neglected - human rights issues. (Brealey, 1996: 1)

The pertinence of the thesis is clear with the advent of a supposedly borderless New Europe and the increase in xenophobia and racist attacks that it has induced. It is also pertinent with regard to the advent of the CJPOA which typifies the centrality of law and order issues within the UK at present. Furthermore, current domestic and international thinking on the rural environment⁸ also underlies the importance of research into nomadic dwellings and the hostility they arouse. In

⁸ Such as that contained within Agenda 21, signalling the urgent need for low-impact housing and resistance to the growth of social and economic conformity.

An analysis of the criminalisation of Gypsies will offer an explanation as to the nature of criminalisation, scapegoating, and targeting of minority groups in general, as well as positing a theory on the nature of the sedentarist, ethnocentric West. The study of the criminalisation and victimisation is socially, politically and philosophically enlightening, and poses valuable ecological questions. Furthermore, Gypsies function as a kind of control group for the study of criminalisation and victimisation because of the longevity and widespread nature of their persecution. For example, analyses of the discrimination or persecution of minorities that depend upon purely capitalist explanations, are undermined by the nature of anti-Gypsyism. Most importantly, bringing light to the increasing human rights abuses of Gypsies may help in reversing the acceleration:

Without a vigilant eye on our civil liberties, consent is just another empty nod of approval in the general direction of unchecked authority. (Hall, 1979: 17)

Methodology

This chapter will detail the research strategies employed in the qualitative analysis of anti-Gypsy discrimination. Reasons for adopting a multimethod approach will be given, after a discussion of the micro-macro dualism and the virtues of interdisciplinarity. Description of the fieldwork, ethical questions and the concept of objectivity will also be attended to.

This thesis is located within the critical criminological tradition, with a desire to problematise the law and the Criminal Justice System, and question the criminalisation of certain groups. Specifically, a structural-conflict perspective is synthesised with an ethnographic emphasis on members' meanings and a post-structuralist emphasis on the importance of the discursive. As Fisher and Todd (1986) and Smith (1988) have said, language often provides the critical link between micro interactional and macro-structural theories, as will be discussed further when reflecting upon discourse analysis. It is argued that this approach complements the theoretical and epistemological approach to the micro-macro dualism taken in this thesis. It is argued that neither the micro nor the macro approach is adequate on its own, as one of the main hypotheses of this thesis is that legislative, institutional, structural and local discrimination inform, encourage and legitimise each other. Therefore, an analysis of anti-Gypsy discrimination needs to be able to address these different areas.

The structural-conflict perspective enables a thorough critical analysis for the purpose of affecting change. It is therefore frequently used when engaging with issues concerning civil liberties, power relations and inequities. This is especially true of criminology whose remit is the law, crime and crime-control. However, it is argued that in order to analyse the extent of anti-Gypsy discrimination it is necessary to address the process of discrimination, which is not limited to the macro level: it cuts across the imagined boundaries between public and private, local and institutional, formal and informal. Gypsies suffer structural, institutional, and informal discrimination, and the iconography of the Gypsy is informed at every level of the social world. Analyses that place the blame for the criminalisation and victimisation of Gypsies firmly with the State and specifically with the agencies of social control objectify and dehumanise those agencies

and disempower individuals. The macro cannot be so easily divorced from the micro. For instance, institutions and structures cannot be separated from the individuals or the micro everyday moments that constitute them (see Douglas, 1987; Knorr-Cetina and Cicourel, 1981; Skeggs, 1994, and; Zimmerman, 1992). Discrimination against Gypsies in the planning system, for example, is legislative, structural and interpretative – and each affects the other.

The agency-structure debate is not new. The position adopted within this thesis is that neither can be understood apart from the other. Separating the micro from the macro abstracts the social world and ignores, for example, the many social roles and influence an individual can have within the Criminal Justice System, for instance. That is not to say, however, that institutions and structures do not have great power in legitimising and controlling certain activities and people, or that they are not perceived by individuals to be distinct entities and “social actors”, who *react* accordingly. As Fisher and Todd say, for example, power cannot be totally captured in micro moments:

The persistence of inequalities and a widespread resistance to change speaks to a pattern of power and control that extends from interacting individuals through the institutions of medicine, education, and law, and on to the structural and cultural arrangements of society. (Fisher and Todd, 1986: xiii)

So while events are accomplished at the local level, they are often determined by the ideological, political and historical framework.

Nonetheless, methodology had to be able to address the theoretical proposition that the micro-macro dualism is a bourgeois device enabling and legitimising the control and/or rejection of all that is “other”: man over woman; culture over nature; white over black; West over East; rich over poor; sedentary over nomadic. Dualistic structures of thought, therefore, ultimately sustain and naturalise the social order and power relations. They serve as justifications and rationalisations for behaviour:

Certain dualisms have been persistent in Western traditions; they have all been systematic to the logics and practices of domination of women, people of colour, nature, workers, animals – in short domination of all constituted as others, whose task is to mirror the self. (Landow, 1997: 1)

These dualisms operate as an effective form of social control. They are not just about punishing or excluding the “other”, but also about policing us, especially through the control of knowledge and the control of how knowledge is produced and digested¹.

As the epistemological position of this thesis accepts that the micro is indistinguishable and certainly inseparable from the macro, fieldwork needed to incorporate ways of perceiving the individual within his or her structural context, in an attempt not to see agency and structure, as Layder (1994) and Giddens (see below) put it, as independent entities. Hence, contextual fieldwork was undertaken², and a multimethod³ and interdisciplinary approach was adopted. It is argued that such an approach can better grapple at social life, as social life is not constituted of distinct parts requiring distinct methods and theories for elucidation. Duster (1981) suggests just such an approach in order to extinguish the micro-macro divide. Situating social phenomena within their ideological, political, geographical, cultural, and economic context means that analyses are, by necessity, interdisciplinary. But, the principle is that phenomena can be decontextualised and isolated from each other and studied as independent entities. Consequently, the construction and constraint of “legitimate knowledge”, via specialisation, is established.

Since the late 1970's there have been more sociological analyses which have attempted to integrate micro and macro methodological and theoretical approaches (see Fisher and Todd, 1986 and Knorr-Cetina and Cicourel, 1981 for methodological discussions). However, often such approaches retained the micro

¹ See Mihn-ha (1988; 1989; 1990) Burgess (1995), and Landow (1997) for critical discussion of the nature of dualistic ways of thinking.

² For instance, interviews in a person's place of work (if relevant to the research question), or on a Gypsy site.

³ Or Denzin's (1970) “triangulation” of methods, but without his belief in such an approach having the potential for ascertaining “truth”.

and macro as distinguishable and merely sought to find or create a bridge between the two, rather than debunk the whole logic of the divide (see Zimmerman, 1992). Bourdieu (1977), Elias (1978), Foucault (1980; 1991), Giddens (1976; 1977; 1984; 1997), and Layder (1994) are the most prominent of the few social theorists who are opposed to false dualisms (such as the micro-macro dualism) which structure thought and legitimise certain forms of knowledge over others. As Smith (1988) has argued, these dualisms consequently serve to reinforce and disguise the dominant ideology, irrespective of the subject matter at hand.

Crossing boundaries (and the threat this poses to the mainstream) is a theme that runs throughout this thesis. The hypothesis is that Gypsies are policed and controlled in order to secure the social order and power relations. Similarly, academia is part of a panoptic policing activity:

... a supervision with the view to repressing, mastering, and domesticating (cultivating) the “errant” impulses that threaten to disrupt the authority and hegemony of the privileged majority discourse (Spanos, 1984: 183, cited in Sibley, 1995: 133).

In academia, as in society in general, the “other” is generally accepted as long as the “other” is like “us”. Novice researchers, in particular, are expected to make allegiance to specific and pre-determined theories and methodologies, for example, in order for their work to be accepted as “legitimate knowledge” or even as a piece of research. This is deemed to be part of the process of being self-reflexive.

It is argued here, however, that to be reflexive is not simply to locate oneself within a theoretical, methodological, ideological and political tradition: it is also to reflect upon the apparent need to position oneself and to reflect upon the supposedly available and distinct traditions from which to be allied with. Labelling is a device that imposes meaning and order, so that imaginary conclusions can be drawn before the reading has been done. It is part of the bourgeois system of thinking that must place everything, especially ideas, in order to classify, control and prejudice. As Foucault said in the introduction of *The Archaeology of Knowledge*:

Do not ask who I am and do not ask me to remain the same: leave it to our bureaucrats and our police to see that our papers are in order. (Foucault, 1974)

There would be a disjuncture within the thesis if the subject matter and theory were critically attended to, but the methodology and methods were more or less prescribed by an institution.

The irony is that in order to deconstruct social norms and values and challenge the subordination of the “other” (as critical criminology is wont to doing), the norms, values and controls of academia must be adhered to.

Knowledge is thus policed in the very form it takes. The message is: “It is OK to talk about diversity and criticism, but it is not OK to be diverse”. The final piece of work must be formulaic in style, structure and presentation:

Dissertations must not violate stylistic norms because that might jeopardize our young scholar’s future. “Let them be radical in what they say but not in how they say it.” Such is the pragmatic, and characteristically self-fulfilling, argument that is made. The point here, as in most initiation rites, is to be hazed into submission, to break the spirit, and to justify the past practice of the initiators... Underneath the mask of career-minded concessions to normalcy is an often repressed epistemological positivism about the representation of ideas... the practice of ideational mimesis is largely unacknowledged and, as a result, persists unabated. (Bernstein 1992: 1-2)

However, innovative methodologies may detract from the seriousness of the subject matter and its perceived validity. What must be recognised, then, is that academia is the audience. Moreover, the impact the audience has upon research and knowledge must also be acknowledged (see Atkinson and Caffey, 1996). Consequently, it could be said that academic texts reveal more about academia than they do about the chosen subject matter, or that the subject is the researcher (see May, 1993).

Any challenge of the status quo must take place within certain confines, if it is to be accepted as “legitimate knowledge” and be publicly heard. Suppression of the “other” can only be criticised by normalising oneself and conspiring to that suppression – becoming part of the ways and means that the “other” is suppressed. It could be said that critical criminology is about the celebration of the “other” and the castigation of the State. This is done by being consumed by the State and then partaking in the consumption of the “other”: the rebellious act becoming little more than fetishistic.

Criminology’s attachment to social justice issues is a double-edged sword: it often takes academics (as part of the mainstream, as “us”) to make people listen to the “others” point of view, however this focus also further subordinates and victimises the “other”. To quote Bartolovich:

Anthropology (Fabian), History (de Certeau), English (Viswanathan), ‘Oriental’ Studies (Said) – even Geography (Blaut) - have all come under question as disciplines in recent years for the ways in which they have helped to ‘construct’ and maintain racism, (neo)colonialism, exploitation, and many other not so very admirable realities. (Bartolovich, 1995: 3)

Furthermore, as Bauman describes, mainstream scholarship or the mainstream of society in general is absolved of all preoccupation with and responsibility for the “other”, once scant attention is paid:

... scholarly interests delegated to specialist institutions are thereby eliminated from the core canon of the discipline; they are, so to speak, particularized and marginalized, deprived in practice, if not necessarily in theory, of more general significance; thus mainstream scholarship is absolved from further preoccupation with them. (Bauman, 1989: xi)

Ironically, focus has made the “other” invisible.

This dilemma is potentially overcome by the adoption of an interdisciplinary approach.

I have, therefore, tried to adopt an interdisciplinary approach in this thesis. I have also adopted such an approach because it is argued that social phenomena are not distinct, independent entities that should be decontextualised from their social and political situation. This is especially the case if the analysis is about “other”, deviant, or criminal phenomena. As Sibley says of geography, if social science

... is to represent difference authentically and to challenge exclusionary tendencies, practitioners need to transgress disciplinary and personal boundaries and to come much closer to the people whose problems provide the primary justification for the existence of the subject. (Sibley, 1995: 185)

Various sociological theories will be drawn upon in order to partially compensate for the relative lack of material on the subject of Gypsies, Travellers or nomads, and because the subject of anti-discrimination is multi-dimensional. These theories include theories of race, otherness, social space, and the rural. Other disciplines within the social sciences that have been found useful include geography, planning and criminal law, political science, philosophy, sociolinguistics, critical theory, cultural studies, media studies, and psychology. Metaphysics and astrophysics were also looked at in order to deconstruct the concepts of “place”, “space” and “movement” or “chaos”. Also, poetry and other works of creative literature, and grass-roots publications were used as a source of emotional expression of individuals involved in the process of discrimination, and for developing an analytic framework⁴. Davis (1974) advocates drawing upon fictional works for social science analyses for developing themes, or “sensitising concepts” (as Blumer (1954) has put it), or for thinking metaphorically as Noblit and Hare (1988) would call it. In this thesis, the overarching themes are: criminalisation, victimisation and regulation; movement/boundaries; exclusion/otherness; home/belonging; space/place.

I was guided by these themes throughout the research process, rather than by geographical area, time-scale, number of interviews, or fixed set of research questions, for example. Therefore, this research can be said to be fluid, as opposed to structured. Hopefully, this approach also meant that I did not impose myself on

the research as much as a rigid framework would have allowed. Rather, I was guided by events in the field.

Methodologically and theoretically, the “snowballing” technique was adhered to. In a sense, this complimented the nomadism aspect of the subject matter. This is because it involved a lot of travelling from site to site and area to area, on the advice of others, or in response to current events or independent research.

Rather than focussing upon a few case studies, I have tried to gain and present a general picture. In this sense, the thesis can be said to be thematic. Having said that, the general cannot really be distinguished from the particular, and in-depth research and fieldwork with a number of individuals and sites has provided me with details and helped me to avoid objectifying Gypsies or assuming their feelings, experiences and understandings.

As was alluded to earlier, the multimethod approach complements the interdisciplinary perspective adopted, as well as the theoretical, epistemological and ontological standpoint.

The methods employed in this thesis include grass-roots activism and advocacy, in addition to the more usual methods: interviews (semi-structured to “chats” or informal interviewing/“talk” [Cohen and Taylor, 1972]); (participant-) observation⁵; focus groups; textual and discourse analysis. Also, vox-pops were done in order to solicit local opinions about a Gypsy site, for instance. Additionally, combinations of methods have been employed. For instance, one interview with a probationer developed into an interview with the probationer and a Gypsy “client”. This then developed into what would more accurately be called a focus-group, whereby the two would converse as part of the probation order requirements, and I would take a back-seat. More usually, ethnographic fieldwork would involve observation, participant-observation and interviews, and the

⁴ Artefacts from the arts and popular culture were also looked at.

⁵ Every observer is a participant to a certain degree (see Punch, 1979), *and* no participant-observer is completely participating in the same way as the research subjects – hence the term “(participant-) observation”.

distinctions between them would be very much blurred. I was also, of course, attentive to current affairs and “talk” about Gypsies.

Discourse analysis will be evident throughout the thesis. It is concentrated, however, in Chapter Three, with analysis of official documents⁶ and court transcripts concentrated in Chapters Two and Four, and media analysis in Chapter Six. In addition, discourse analysis of the following forms of communication was conducted throughout: “talk” (Cohen and Taylor, 1972), personal correspondence and interviews; complaint letters to Local Authorities and local newspapers; fiction; Internet resources⁷; academic texts; historical records; Local Authority and support group files; grass-roots newsletters. Discourse analysis also includes deconstruction of the dominant ideology. With regard to anti-Gypsy discrimination, the law and human rights, this thesis, then, hopes to “defamiliarize the familiar” (Bauman, 1990b: 15) or scrutinise common-sense (Bauman, 1985).

Textual analysis⁸ takes on a new importance as the controls of the Cold War era are superseded by the Paper Curtain of electronic surveillance, general information gathering, and legislative proliferation. Increasing bureaucratisation means that texts are increasingly becoming more influential and a valuable record of contemporary life. Analysis of such texts is necessary if deconstruction of official discourse is to occur. Deconstruction is necessary to destabilise the ideology that justifies illegitimate authority, naturalises inequalities, mystifies power relations, and disguises institutionalised and widespread violence and abuse.

Accepting that texts have no single or fixed meaning, it would be wrong to make assumptions about the relationship between Gypsies and the State based on official documentary evidence, indeed any data. However, analysis of State produced official documents is important for a number of reasons. Aside from spatial and

⁶ Such as Hansard Records, White Papers, Acts and Bills of Parliament, Local Authority policies and reports, and transcribed court proceedings.

⁷ Web sites, e-mails, databases, and discussion groups.

⁸ I use the word “text” to refer to a finished, written product. The word “discourse” is used to refer not only to how a particular text is produced and interpreted, but also to a more general system of knowledge or thought, as to be found in the work of Foucault (see Fairclough, 1992).

temporal considerations⁹, documentary evidence of this kind can be read as an interactional event or action itself (from an ethnomethodological perspective – see Austin, 1962 and Eglin, 1979), a physical object (in that it is functional and has specific “design features” - Hartland, 1989), as invocative of external “events” and, crucially, as representative of the Author (in this case, the State¹⁰).

While texts stand on their own in so far as they are taken at face value and “used” as abstract, whether by policy makers or in “local” discourse, interpreters also bring in external knowledges to their understanding and evaluation of them. Therefore, observation of the places at which the official document is constructed, interpreted, and applied was also felt to be a necessary part of the fieldwork. Hence, observation in Local Government and on Gypsy sites and interviews with policy-makers and other involved individuals, was undertaken.

In general, while micro analyses address the “mundane”, the “account-ability”, the temporality and exclusivity¹¹ of texts, and the macro analyses address wider (often abstract) issues of social organisation (Hartland, 1989), very few analyses address official documents at the fundamental level: the point at which the production of these documents is legitimised by, legitimises and re-presents the State. As Smart (1984) explains, the law is more than that which is contained in statute or case law. The law is also “done” by the legally untrained (such as magistrates and probation officers), and functions via interpretation and implementation. Therefore, it is necessary to bring to the document external influences that might be disregarded by ethnomethodologists as speculative propaganda. In keeping with other methodological and theoretical beliefs in this thesis, a micro-macro discourse analysis will ignore neither the texts’ social, economic, or political context (at the point of production and consumption or impact/effect) nor the internal elements of the text. An analysis of State documents may suggest what the State ideals are or what image the State wishes to portray, and what the State is willing to let others

⁹ This can impede a researcher who relies upon personal contact needed for interviewing or observation.

¹⁰ I am using Foucault’s (1970) definition of the author to mean the “unifying principle” of a group of writings, rather than an individual writer. Although the anonymity of individual writers is of interest concerning the question of who holds ultimate responsibility for the text.

¹¹ In the sense that there is nothing outside of the text.

know. Official documents elicit invaluable data about the State in that such documents are often policy-related and at the very least have action-orientated intentions or agendas.

Because of the effects of official discourse and legislation, and the manner in which they are presented (as expert/"legitimate" knowledge *and* objective), it is argued, from the Foucauldian perspective, that texts exist as an object of enquiry in their own right rather than as simply an explanatory resource.

Producing texts is a large part of the role of the Government and other institutions and professions. As such, and in any case, texts are not secondary data:

... records and documents... are part of the reality being studied, rather than being regarded as a poor substitute for data that would ideally be obtained in other ways. (Hakim, 1993: 134)

This approach arguably elicits the interests of the relatively powerful or the oppressors, more effectively. As Foucault says:

It is not in Hegel or Auguste Comte that the bourgeoisie speaks openly. Side by side with these sacralized texts, a quite conscious, organized strategy is to be read in a mass of unknown documents that constitute the effective discourse of a particular form of political action (Foucault, 1973: 6, cited in Sheridan, 1980: 220).

Also, this focus, upon the law and the agencies of social control, should avoid the paradox of attempting to decriminalise Gypsies by associating them more fully within the discourse of crime (implying that Gypsies are to blame for anti-Gypsyism). Therefore, the law and the State will be problematised rather than Gypsies. The texts reveal more about the Author than the subject matter. Sheridan (1980) argues that it was Nietzsche who first introduced a radical reflection on language into philosophy. For Nietzsche, "it was not a question of knowing what, in themselves, good and evil were, but rather who was speaking and about whom when" (Sheridan, 1980: 77-8). The processes of criminalisation and scapegoating and hence the findings should have a much wider appeal/use-value. Analysis of

official documents, from this Foucauldian perspective, could, therefore, constitute “an unmasking of power for the use of those who suffer it” (Sheridan, 1980: 220).

Despite the increasing focus on linguistics in all of the social sciences, ironically there remains little critical attention paid towards the politico-structural or macro implications, namely the centrality of the official written word in modern Western societies. The study of legal language is particularly sparse and only a recent development, especially compared to the amount of attention paid to the language of the classroom and business and medical professions (Mead, 1985):

As lawyers know only too well, and as political scientists continue to ignore, public policy is made of language. Whether as text or talk, discourse is central in all stages of the policy process. (Agar, 1987: 113)

Such documents play a central part in the impact and control of Gypsies lives, including the right to be nomadic and be recognised, legally, as a Gypsy.

The very fact that such documentation is so dense in terms of the amount, style and content is quite telling¹². Rather than regarding the density as methodologically problematic, it is revealing of the problematised relationship between the Author and the subject/object, or the State and Gypsies. To put it simply, if a social science researcher has problems apprehending the amount and type of documentation, the effect upon Gypsies who bear the brunt of the decision-making processes, can easily be imagined. It is argued that it is not the role of the social scientist to reveal, simplify or demystify, but to analyse texts at the point from which they take effect: the texts work on the basis of their technically convoluted state and not at a deconstructed level. At this level of analysis, certain philosophical questions arise about concepts of justice and impartiality when they are seemingly qualified and tethered by access to certain knowledge bases and languages. At the fundamental level of language, then, the Criminal Justice System functions by processes of exclusion and inclusion, victimisation and privilege. The law occupies a paradoxical place, appearing to be

¹² Just as the ease of difficulty of “negotiating access” in the field is “data” in itself (see Hobbs and May, 1993).

abstract and impartial on the one hand and elitist and professional on the other. Both impulses are required for the law to be seen as legitimate and the legal professionals are also to be seen as legitimate by recourse to their specialist knowledge. While the law must appear to be *for* everyone, it must also appear to be *by* a select and qualified few. Therefore, access to the law appears to be guaranteed to all, but only from below (or passively) with an elite minority legitimately able to access it from above (or actively).

As was briefly mentioned earlier, contextual fieldwork was undertaken to complement the multimethod and interdisciplinary approach, in an attempt to extinguish the micro-macro divide. For this research, contextual fieldwork meant observing legislators in their work, for instance, and not just regarding the final piece of legislation. It also meant interviewing those involved in situ, or in the context of the subject of the interview. Therefore, the most usual locations were Gypsy sites and Local Authority offices. Contextual fieldwork meant that I was able to test the hypotheses that had been formed during discourse analysis, and generally compare policy with practice and discourse with doing.

An ethnographic approach to social science analysis is now practically taken for granted:

Contemporary ethnography or fieldwork is multimethod research. It usually includes observation, participation, archival analysis and interviewing, thus combining the assets and weaknesses of each method. (Reinharz, 1992: 460)

For the researcher it is a very valuable and emotionally-demanding method (see May, 1993 and Armstrong, 1993).

Ethnographic fieldwork began in the summer of the first year of the PhD and continued, informally, to the final edit. Full-time fieldwork constituted approximately eighteen months, although it is difficult to distinguish between one aspect of research and another (between analysis, data-collection, and theory, for example) and between research and non-research activities. The subject permeates

most thoughts, especially if it is a subject that is often in the news or popular iconography¹³.

Research was conducted in London and twelve counties¹⁴: East Sussex; Essex; Derbyshire; Gwynedd; Hampshire; Kent; Cambridgeshire; Shropshire; Staffordshire; Surrey; West Glamorgan; West Sussex. These specific counties were chosen for four reasons: convenience/finances; contrast; current events, and; “snowballing”/advice from interviewees or other research participants, or invitation.

Contrasting areas with regard to the number, size and type of sites (transit, Local Authority, private, unauthorised), the number, mobility and type of Travellers (Gypsies, Irish Travellers, “New Age Travellers”), the “reputation” of the area (the levels of Local Authority, police, and local hostility or “tolerance”), and the general character of the area (whether it was rural or urban, affluent or poor, and densely or sparsely populated, for instance) were chosen.

An area was also chosen if, for example, a site eviction or planning application was in the news. For instance, Wealden in East Sussex was chosen because of the media interest in a large site which was to develop into a legal test-case (*R v Wealden District Council ex parte Wales*, 1995)¹⁵. Media reportage also lead to observation of a Public Inquiry in Surrey and other research in the area. It also prompted (participant-)observation of an anti-fascist counter-demonstration against a National Front demonstration in Dover protesting about the Gypsy asylum seekers arriving from Slovakia and the Czech Republic.

“Snowballing” lent fluidity and a loose form to the research process. People I interviewed would tell me where a particularly good or bad example of Gypsy-gorgio relations would be found, or would suggest a particularly involved or knowledgeable person to speak with, or tell me of forthcoming events. For

¹³ Some of the fieldwork was prompted or guided by current events, for example a new site, or a protest.

¹⁴ A different amount of research was conducted in each area depending upon current events and ease of access.

¹⁵ Although this was a “New Age Traveller” site, the legal implications of the *Sedley Judgement* (see Chapter One) are relevant to Gypsies as well.

instance, after interviewing Pete Mercer and speaking with his family, I spoke with others on his site and was invited to attend a forthcoming meeting of International Association of Gypsies in Professional Organisations (IAGPO). I was later made Secretary of IAGPO. Therefore, my research developed from a fairly “typical” semi-structured, informal interview, to a group interview, to a “natural” focus group (where my presence and questions had set a general topic for discussion and the Gypsies debated amongst themselves), to observation, to (participant-)observation, to interviewing again. However, the transition between each method was not at all distinct or absolute. Additionally, this site visit coincided with a police raid which I observed. I was able to interview some of the police involved.

This element of chance is important in fieldwork, especially when events such as police raids or evictions cannot generally be predicted. The important element of chance, apart from the obvious, is that often the presence or the identity of the researcher is unknown. It was very interesting to compare the difference in police behaviour before and after they knew a non-Gypsy criminology researcher was on site. However, as Sarsby (1984) and O’Connell Davidson (1994) have said, this important element of chance is often overlooked. The element of chance also stresses the importance of having a fluid research framework. Chance was also involved when I was observing and informally interviewing Metropolitan Police Constables at their station, when a case involving Gypsies was opened.

Within the different counties that were visited, thirty-five sites in total were visited. Most of these sites were Local Authority owned, but some were privately owned and some were unauthorised. A large number of the Gypsies on each site were spoken with and informally interviewed. A few “New Age Travellers”, Irish Travellers, Gypsies in houses, and Gypsies (or Roma) abroad were also interviewed for comparative purposes. Access would be gained through a “gate-keeper”, often another Gypsy or a member of a local support group. I decided not to arrive completely unannounced in order to minimise the invasion of their privacy. This was considered to be especially important after realising the extent that their privacy is invaded by many officials, often also asking personal

questions. Having a “gate-keeper” also enabled trust between interviewer and interviewee.

In these areas relevant groups and individuals were contacted: Local Authorities; police authorities; private security firms; probation centres; courts; prisons; solicitors firms; local newspapers; local Gypsy or Traveller support groups and other civil liberties groups (such as Racial Equality Councils); “amenity organisations” (such as Residents Associations or Village Societies). In most cases, interviews were conducted with the relevant officials/employees/members, and observation of officials in their daily routines and of their “backstage performances” (Goffman, 1959) was conducted where possible. For example, after interviewing some police and Local Authority officers, I was invited to observe them for a few days in their working environment (which meant either in their offices or on Gypsy sites). Sometimes the observation was possible while doing other research. For instance, Local Authority officers’ “backstage performances” were observed while doing documentary research in Planning Departments. Additionally, during coffee and lunch breaks, police, Local Authority, and probation officers, and members of the judiciary were observed and more informally communicated with.

A lot of the observation fieldwork was done on Gypsy sites. This was particularly important in analysing the relationship between the police and Gypsies, and Local Authority officers and Gypsies. Observation was also particularly important because, as Whyte has said:

... I learned the answers to questions that I would not even have had the sense to ask if I had been getting my information solely on an interviewing basis. (Whyte, 1955: 304)

(Participant-)observation fieldwork was also conducted at Gypsy book releases, social events, and in meetings and conferences held by Gypsy and Traveller support groups, other civil liberties groups and charities, Local Authorities, academics, Gypsy and Traveller teachers and health workers, and the police (in tandem with academics or Local Authorities). Often these groups of people had

combined meetings and conferences which proved valuable in being able to see the interaction between often warring groups. Many of these meetings and conferences functioned as types of “natural” focus groups, as the subject of discussion was within the remit of my thesis, and I could choose to remain obscure and observe.

These meetings and conferences enabled me to speak with people I would not have otherwise been able to: such as Gypsies and members of the Criminal Justice System from abroad. They also meant that I was able to speak with a greater number of involved people from many areas than would be possible under other circumstances. Additionally, they also often provided opportunities for future (participant-)observation and interviews.

Most of the interviews were with employees in the Criminal Justice System and in Government, and Gypsies. Fifty Local Authorities were corresponded with, and officers from twelve Local Authorities were interviewed. These included Gypsy Liaison Officers, Environmental Health Officers, Planning Officers, Legal Officers and Solicitors, and Gypsy or Traveller Education Officers. Councillors, MPs and Lords were also interviewed. They were particularly chosen if they had paid particular interest to Gypsies’ accommodation requirements. So, for instance, Lord Ackner, who was instrumental in introducing the Caravan Sites Act 1968, was interviewed. Representatives of most ranks of the police were interviewed. Retired Police Constables were also interviewed. Probation officers and members of the judiciary were interviewed: solicitors; barristers; Judges; Inspectors; Clerks to the Court.

Additionally, other involved professionals would be interviewed in a particular area. These included teachers, health workers, journalists. Non-official gorgios were also informally interviewed: members of Gypsy and Traveller support groups; members of Residents’ Associations; vicars; local shop owners; landowners. Many of the latter were spoken to by chance, by bringing up the topic in general conversation.

In addition to these groups Gypsy and gorgio academics, “experts”, and those working in the field of civil liberties were interviewed. In particular these included Donald Kenrick (Gypsy scholar), Thomas Acton (Professor of Romani Studies, Greenwich University), Pete Mercer (President of the Gypsy Council for Education, Culture, Welfare and Civil Rights and British Representative on the International Romani Union presidium), Rodney Stableford (Secretary of the Staffordshire and Shropshire Gypsy Support Group), and Eric Shopland (Director of the Sussex Racial Equality Council), and Bob Dawson (formed the North Derbyshire Gypsy Liaison Group).

It was also felt worthwhile interviewing other groups affected by Part V of the CJPOA (squatters, road protesters, ravers, animal rights activists) and other groups similarly targeted for “spoiling” public spaces (most notably, the homeless and graffiti artists).

As has been mentioned, many Gypsies on sites that were visited were interviewed. Wardens on some of these sites were also interviewed. The sites varied in their condition and whether they were owned by the Local Authority (permanent or transit), were privately owned (permanent or temporary planning permission), or had no planning permission. A small number of homeless Gypsies and Gypsies in houses were also interviewed.

Many of those who were interviewed (both Gypsies and officials) were repeatedly interviewed at various stages of the planning and eviction processes. Also, observation of these stages was also conducted, in Local Authority offices, in court, and on sites.

On the premise that no interview is completely unstructured, most of the interviews can be described as semi-structured and informal. As far as was possible I avoided leading and loaded questions and limited my interruptions. I encouraged the interviewee to direct the interview by speaking about what he or she (or they) considered important, in response to very general questions about Gypsies, the law, site provision, and Gypsies’ relationship with other groups

(incorporating anti-Gypsy discrimination). It is difficult to decipher the exact number of interviews because they varied greatly in length and form. For instance, some were snatches of conversation or "chats", while others took place over a few days (in situ, for instance). Some interviews would involve more than one person, sometimes large groups, and some interviewees would be interviewed a number of times. However, in excess of 300 people were spoken with during the fieldwork.

Telephone interviews were also conducted. These were effective in gaining a more informal or unprepared response from officials, as Geary and O'Shea (1995) also found (also see Frey, 1989).

A lot of research was also done through written communication with many involved individuals, groups and organisations. Various EU bodies were communicated with, including: European Roma Rights Center; Open Media Research Institute; Office for Democratic Institutions and Human Rights (Contact Point for Roma and Sinti Issues); Council of Europe Committee on Migration, Refugees and Demography; European Parliament. Foreign and international Gypsy/Roma and civil liberties groups were also communicated with¹⁶. In the UK, many regional and national groups and bodies were communicated with, such as: civil liberties groups¹⁷; Gypsy and Traveller Support Groups¹⁸; Government Departments and civil servants; Criminal Justice System officials; Parish Councils, Residents Groups, and Rural Community Councils; academics, researchers, policy advisers, and journalists.

Many of those interviewed, and otherwise communicated with during the fieldwork, were more like research assistants than potential "sources of data" (see Fountain, 1993). In particular, Rob Dawson (North Derbyshire Gypsy Liaison

¹⁶ Including: Foundation INFOROMA; Helsinki Citizens' Assembly; Centre de Recherches Tsiganes.

¹⁷ Such as: Racial Equality Councils; Minority Rights Group; Justice/SchNEWS; Liberty; Charter 88; This Land is Ours; CHAR; Save the Children; Give and Take.

¹⁸ Including: International Association for Gypsies in Professional Organisations; Telephone Legal Advice Service for Travellers; Friends, Families and Travellers Support Group, Gypsy Council for Education, Culture, Welfare and Civil Rights, Advisory Council for the Education Of Romany and other Travellers; Labour Campaign for Travellers' Rights; Shropshire and Staffordshire Gypsy Support Group; Cardiff Gypsy Sites Action Group; Scottish Gypsy Traveller Association; Derbyshire Gypsy Liaison Group.

Group) interviewed a number of Gypsies in his area on my behalf, in the belief that this type of work was important. Numerous others helped in similar ways, such as Rodney Stableford and Pete Mercer who both invited me into their homes and helped in any way they could: for example, by introducing me to others, showing me sites, and giving me information, advice and their opinions.

During research, it is necessary for the researcher to remain attentive to the possibility that the subjects of the research are not exploited or objectified. This is particularly true for criminology where the subjects may have already been subject to similar forms of exploitation and objectification within the Criminal Justice System (see Jupp, 1993). The power of the researcher is not simple, however. It is relational and multidimensional and open to interpretation. For example, interviewees were powerful to the extent that they had the knowledge whilst I was comparatively ignorant and certainly inexperienced. They also had an agenda of their own and were able to direct the interview in a particular direction. Furthermore, most Gypsy and official interviewees were men (because of the structure and ideology of both Gypsy and gorgio societies). Being a young, female student, then, did not automatically place me in the position of power usually associated with researchers.

However, being a young, female student probably facilitated access in the field. As Smart (1984) notes, a woman researcher probably encourages the perception in others that she is less threatening. Presenting an informal image and being openly naïve¹⁹ but concerned about the subject matter is also likely to have aided access and rapport.

Because of the ease of access, and the eagerness by most of those contacted during the fieldwork to find a “solution”, covert research was not considered necessary. Besides, covert research in this area would have been very difficult, and the ethical issues were also considered to be relevant. Contrary to expectations all the Gypsies I met during the fieldwork were overwhelmingly hospitable and helpful. My

expectations were that they might be justifiably suspicious and reticent to answer questions, because of the abuse they have suffered at the hands of others²⁰.

Although overt methods were adopted, this did not mean I became complacent about my responsibilities. In other words, I did not let consent become a licence (Homan, 1992). It is necessary to be sensitive to how the thesis will be used by others. This is particularly so if the subject matter is of a sensitive nature and the potential repercussions may be severe, as is the case with the subject of anti-Gypsy discrimination. Therefore, anonymity was assured to those interviewed and otherwise communicated with. Particular locations are also concealed for the same reasons, unless they have already been widely publicised in the media.

It is believed that withdrawing from covert research did not affect the data too much because anti-Gypsy prejudice increasingly appears to be an acceptable form of racism. Many people believed that their actions or beliefs did not constitute discrimination, prejudice or harassment or they felt themselves to be justified. However, on one particular occasion a police raid took place when I was on a Gypsy site. I was told that it was less destructive than normal due to my presence (borne out by later fieldwork). This, I believe, revealed more about the process of anti-Gypsy discrimination and harassment as it suggested that the police were aware that they might be transgressing the legal boundaries of operations. In other words, data was not “lost” because my presence was known. In addition, it was not considered necessary to witness extreme forms of harassment and abuse to acknowledge their existence and begin to analyse them. Therefore, I was glad that my presence might have had an effect, especially as this is the main aim of the thesis.

As every piece of research is subjective, value-laden and political, recognising my impact in the field rather than trying to disguise or deny it is the best thing to do. As Becker has said in *Whose Side are We On?* (1967), value-free sociology is

¹⁹ For instance, some Gypsies that were interviewed said that I was unlike many previous researchers that they had encountered, in that I did not presume to know more about them than they did themselves.

²⁰ Such as Local Authority and police officers, journalists and academics.

impossible, but it is only when the interests of the powerless are supported that questions of bias arise. As Foucault says:

What would the relentless pursuit of knowledge be worth if it had only to secure the acquisition of information, and not, in some way, and as far as possible, the displacement of he who knows? (Foucault, 1984: 14)

This thesis supports Wodak's claims:

A critical *analysis* should not remain descriptive and neutral: the interests guiding such an analysis (see Habermas, 1971) are aimed at uncovering injustice, inequality, taking sides with the powerless and suppressed. (Wodak, 1989: xiv)

As every analysis is subjective, our allegiances and biases should be acknowledged²¹. I knew nothing of anti-Gypsy discrimination before I began researching. However, my political and social persuasions undoubtedly determined the result (see Feyerabend, 1970). Nonetheless, although I may have anticipated certain findings I was also hoping to be proved wrong in my expectation: i.e. I hoped that anti-Gypsy discrimination would not be as severe as I imagined. Furthermore, I did not have premeditated ideas about any of the individuals involved.

An aspect of research that is often ignored is the emotional experience of the researcher²². It is even ignored by those who claim to embrace reflexivity and who employ qualitative research techniques, with a few notable exceptions (for instance: Reinharz, 1992; Stanley and Wise, 1993; Marshall, 1994). Emotions are presumably ignored because they are mistakenly believed to be the antithesis of objectivity. This denial of the self, the author, is positivistic in its effects and presents a sanitised picture of the research process:

²¹ Self-reflexivity was aided through others' continually questioning my motives. However, it is argued that total self-reflexivity or accountability is impossible (see: Harding, 1991; Deem and Brehony, 1992).

²² However, discussions of feminist methodologies were useful in helping me locate my belief in the importance of the emotional aspect, as well as my desire for a multimethod, interdisciplinary and integrative (i.e. blurring the divide between researcher and researched) approach (see: Stanley and Wise, 1983; Maynard and Purvis, 1994; Burton, Kelly and Regan, 1994; Glucksmann), 1994.

... feelings should be allowed back into accounts of research as a sign of strength rather than weakness, and as a means to combat false versions of “objectivity”. (Hobbs and May, 1993: xiii)

Feelings can have an enormous impact on the research and so must be acknowledged. Ignoring this influence abstracts and mystifies the final analysis. Feelings of isolation, dislocation, boredom, anxiety, confusion, pointlessness, lifelessness, parasitism are likely to have directed the research as much as recognised influences, such as the researcher’s gender. The emotions resulting from prolonged engagement with a disturbing or traumatic subject-matter, such as human rights violations, can be particularly strong.

These feelings, in particular doubting the use-value of the research and research in general, were partly resolved by seeing immediate positive effects. Apart from the values of this research mentioned in the Introduction, the positive effects also occurred *during* the process of the research. Throughout the research process, many people I spoke to inside and outside the field, became more informed about the discrimination against Gypsies. Additionally, basic legal information was offered to Gypsies. On one occasion, this information prevented a legal eviction. This fits in with Oakley’s (1981) argument that researchers should redress the balance of researchers using their research subjects, by offering information and knowledge to the research subject. Similarly, Glesne and Peshkin (1992) recognise the exploitative aspect of fieldwork. Collaborative research, having research assistants rather than “passive subjects” (see Carter and Delamont, 1996), writing articles for grass-roots publications, and becoming a member of various Gypsy and Traveller support groups, also helped in redressing the balance, and hopefully giving something back. Hopefully, too, the end-product will be of some use (see Armstrong, 1993).

Chapter One

Public Sites:

Hostile Laws and Targeting Practices

This thesis maintains that the provision of sites underpins the security, safety and human rights of nomadic or caravan-dwelling Gypsies in the UK¹. Access to education, employment, health, welfare and social services, and other amenities, generally depends upon the existence and condition of sites. This chapter will analyse the state and impact of Local Authority sites, and the correlative hostility that the conditions of many sites seem to cause². The analysis will begin with a discussion of the Caravan Sites Act 1968 (CSA)³, which was repealed under the Criminal Justice and Public Order Act 1994 (CJPOA)⁴, thus ending the statutory obligation for Local Authorities to provide sites. The hypothesis is that while the CJPOA is genocidal⁵ in its implications for Gypsies, the effects of the CSA contrast with its benevolent image. It is argued that the CSA operated to control and punish Gypsies in as much the same way as proceeding or preceding legislation, by entrapping them in prison-like sites or by outlawing those unable or unwilling to be officially sited. Therefore, it will hopefully be shown that, at all times, nomads are prevented from leading a law-abiding existence, and are presented as being at odds with “law and order”. As solicitor Clements has said: Gypsies “have been singled out by the criminal justice system for centuries” (Clements, 1997a: 15) and “frequently do not have the possibility of complying with the law” (Clements, 1996: 13). Therefore, as Clements continues “it is the law itself which is in disrepute.” (*ibid.*)

The CSA has been presented by many academics, legal practitioners and Gypsies, as a change from the previous and consequent official legislation, that generally outlawed the Gypsies’ nomadic way of life. It was favoured because the CSA introduced a statutory obligation for Local Authorities to provide sites. Writing for a grass-roots social commentary magazine, *Festival Eye*, Rosenberger believed that the CSA “recognised people’s right to a nomadic existence” (Rosenberger, 1989: 34). Similar

¹ A large but inestimable and uncategorised percentage.

² While the following chapter will analyse private sites.

³ Introduced a statutory duty upon Local Authorities to provide sites for Gypsies, and introduced stronger powers of eviction for those Gypsies not legally sited. Financial aid for the provision of sites was introduced under the Local Government, Planning and Land Act 1980.

⁴ See Appendix 12. In brief, the CJPOA repealed the duty of Local Authorities to provide sites and the financial aid to support them. It also introduced stronger powers of eviction, harsher penalties, and more restrictive legislation determining lawful behaviour.

⁵ “Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part” (Genocide Convention 1948, Article 2[c] – see Appendix 6).

views were published in legal journals. For example, barrister Gary Blaker reported, in the *Journal of Planning and Environment Law*, that “the protection of gypsies reached a high point with the passing of the CSA 1968” (Blaker, 1995: 191). Many Gypsies also regarded it favourably, feeling that it “was a turning point for the better” (Mercer, 1994). Furthermore, academics who are critical of the State’s general treatment of Gypsies have described the CSA as “a comprehensive solution”, “a once-and-for-all, complete package to solve the problems” (Hawes and Perez, 1995: 28), even “a brief flowering of consensual liberalism” (Hawes and Perez, 1995: 5). The CSA is consequently treated by these academics as masking something quite different from the historical and archaeological relationship between the State and Gypsies. The significance of the Act is therefore decontextualised and abstracted as some idealistic utopian state that can feasibly be achieved.

However, it is possible to see the Act as part of the continuous impulse on the part of the legislative bodies, to make Gypsies conform to mainstream values and norms, thereby implicitly condemning their way of life. In essence, the duty of Local Authorities to provide sites for Gypsies did not imply support for their nomadic way of life. On the contrary, the stipulated conditions attached to site residency entrapped those on official sites and criminalised those unable or unwilling to live on official sites. In addition, the benevolent guise of the Act hid the reneging of responsibilities on the part of County Councils, Metropolitan Districts and London Boroughs to provide sufficient sites, of District Councils to adequately maintain them and of the Secretary of State to enforce the directions of the Act. Moreover, it will be shown that many Local Authorities purely embraced the Act as a means to secure stronger powers of sanction against Gypsies.

It is argued that the CSA was at best the provision of Gypsy sites on the condition of increased Local Authority control. At worst, the CSA represented a benevolent mask hiding continued persecution of nomadic Gypsies, arguably all the more ferocious for its unaccountability. However, many Gypsies and their advocates today argue for the re-introduction of the CSA, on the premise that it is enforced, and does not involve “compensatory” powers of harassment for the Authorities or restrictive conditions of

site residence. For instance, as Peter Mercer⁶ said to the First Romani Congress of the European Union:

We would like amongst other things to see the 1968 Caravan Sites Act retained [and] legislation strengthened to compel those local authorities who have not carried out their statutory commitments towards the Gypsy people... to do so. (Mercer, 1994).

But, accepting the criticism that the CSA was assimilationist and contributed to the loss of nomadism for Gypsies, Mercer has said that Gypsies also want “freedom of choice... and the right to have privacy, and not be forced onto sites like concentration camps.” (Mercer, 1996a)

The CSA was accepted in 1968 because, as Smith (1996) has said, it was the only alternative. In comparison with no public provision and little chance of self-sufficiency⁷ it is little wonder that any public provision is seen as preferable. It is also necessary to note that irrespective of the intention or “failure” of the CSA, the motivations of the main architects of the Act did not appear to be underhand. As O Tom Odley, General Secretary of the British Romani Union, wrote in response to the *intended repeal of the CSA*:

Though Eric Lubbock [now Lord Avebury] was probably sincere in his desires to foster the advance of human Rights toward the Rom and other Travellers, he could not be expected to foresee the false-hearted and biased implementation of the Act (Odley, 1992).

The CSA imposed a mandatory duty upon County Councils, Metropolitan Districts and London Boroughs “so far as may be necessary to provide adequate accommodation for gipsies residing in or resorting to the area” (CSA s.6). “Adequate accommodation” was never specified however, except in London where only fifteen plots per borough were required to be provided. The duty to provide Gypsy sites, created by this Act, was intended to redress the omission of the Caravan Sites and Control of Development Act

⁶ President of the Gypsy Council for Education, Welfare and Civil Rights (GCECWCR), Secretary of the East Anglian Gypsy Council, and Presidium member of the International Romani Union.

⁷ With it being a criminal offence to camp on unauthorised land and with the biased planning process to be qualified in the next chapter).

1960 s.23 and the Highways Act 1959 s.127, which had introduced increased powers of control of unauthorised caravan sites on common land and highways, but had not taken account of Gypsies' needs. It was the Secretary of State's responsibility to ensure that these duties were not reneged upon. However, after 25 years less than two-thirds of Local Authorities in England and Wales had fulfilled their legal duty to provide an agreed number of caravan sites (Hawes, 1995: 8). The Department of the Environment⁸ Gypsy caravan count of 1994 found that 32% of Gypsies were on unauthorised sites (DoE, 1994). This is still likely to be an underestimate, taking no account of Gypsies staying with friends or families or in housing until a Local Authority pitch is made available. Even the Secretary of State in 1977 had recognised that:

... the overall rate of site provision has been slow... not even keeping pace with the growth of the gipsy⁹ population... there is as yet accommodation for little more than a quarter of all the gipsy families: the majority - probably as many as 6,000 families - still have nowhere they can legally go and are usually within the law only when moving along the highway. So the unauthorised encampments, which the Act was designed to eradicate, are as numerous and wide spread as ever, not only causing serious worry and offence to the settled population but often offering barely tolerable living conditions for the gipsies themselves. (DoE, 1977)

These conclusions were supported by the research carried out by Sir John Cripps (1977) and were consequently implemented into the Local Government, Planning and Land Act 1980¹⁰ and the DOE Circular 57/78.

Where it appeared to the Secretary of State that adequate provision had been made in an area, or that it was impossible or unnecessary to make such a provision¹¹ he made a designation order under section twelve of the CSA. Designation meant that no more

⁸ Now the Department of the Environment, Transport and the Regions, as of May 1997, under the Labour Government. Hereafter, the Department of the Environment (DoE) will be referred to without referencing its new title, unless the discussion topic is concerned with events post-May 1997.

⁹ Note small cap and wrong spelling: a common error among Local Authorities and others. It seems strange that a Department dedicated to what they deem Gypsy issues cannot even spell the word correctly. Local and Central Government tend to spell Gypsy with a lower-case "G": "gypsy". Hereafter explicit attention will not be drawn towards these spelling errors, as they are in most official documents and news texts, for example.

¹⁰ Which introduced 100% capital grant for public site development from the Exchequer.

¹¹ Westminster, for example, is designated while it has made no provision for Gypsies.

Gypsy sites needed to be provided in the area, and the Local Authority were given increased powers of control to deal with “unauthorised camping”. Theoretically, designation should have meant that all Gypsies residing in an area had a pitch, with extra pitches for Gypsies who resorted to the area. However, as Dr Donald Kenrick (Honorary Vice President of GCECWCR and member of various World Romani Congress commissions and European working groups) states:

In practice it has meant providing the minimum number of pitches that the district can get away with, based on an inadequate census that misses perhaps 10 per cent of families on the roadside and 50 per cent of those on private sites, and then hounding out of the area any caravans that arrive in transit. (Kenrick, 1995: 41)

If it became evident to the Secretary of State that designation should not have been granted to an area, in other words if unsited families became known to officials (which they surely did, otherwise such powers of enforcement against unauthorised encampments would not have been needed to have been used), the Secretary of State could have de-designated an area. This power was never used. For example, Plymouth City Council retained its designated status after the relevant site was closed (O’Nions, 1995a: 7), and many other Local Authorities have not been de-designated despite there being many more Gypsies residing in the locality. It also became clear that designation has been granted before all Gypsies in an area had a place to stay (Romani Rights, 1995).

During the reign of the CSA, a Gypsy would be legally unable to reside in an area if either the area had been designated or there were vacant pitches on an official, council-provided site that the Gypsy had refused. As has been shown, designation was an unverifiable justification. Also, as the European Commission of Human Rights ruled on the Buckley case¹², the availability of Local Authority pitches in an area can still

¹² Buckley v UK App 20348/92 (Sept 96). This was a test case for Gypsies as it was the first Gypsy case to go to the European Court of Human Rights. Buckley was refused planning permission because of vacancies on a nearby Local Authority site (of poor condition). The European Court of Human Rights found that Article 8 of the ECHR (right to respect for her home) had not been violated, and that Article 14 taken together with Article 8 had also not been violated (i.e. whether UK planning policy is discriminatory against Gypsies), after the Commission made a landmark decision in favour of the applicant with respect to Article 8. The Court decided that although her right to respect for her home had been interfered with,

mean an Authority is violating Article 8¹³ of the European Convention of Human Rights¹⁴ if permission to reside in the area is denied. This stipulation was predicated upon the definition of home which “is not limited to those which are lawfully occupied or which have been lawfully established” (Buckley v UK, 1995, paragraph 63). Although this decision may precipitate many benefits for illegally sited Gypsies or those wishing to pitch their caravan on a site not owned by the Local Authority, the decision was not only late in coming but has been partly undermined by the European Court of Human Rights which found the UK not guilty of violating Buckley’s human rights.

In effect, many Gypsies have had to forfeit education, employment, living near family and friends, and their security and safety, because there were no pitches available (often the consequence of Local Authorities providing an insufficient number of pitches) or the pitches available were declined because of important reasons not recognised by the Authorities. For instance, the Local Authority site may be unhygienic and unsafe because few amenities are provided or properly maintained by the Local Authority, or because of its location¹⁵.

Designation gave Local Authorities increased powers of enforcement against unauthorised camping by Gypsies, under ss.10 and 11. As recognised by the Secretary of State again, some Local Authorities embraced the Act merely as a means to harass

it did not outweigh the interests of the general community. Judge Pettiti (who voted in favour of the applicant) said that the Court had effectively reversed the ranking of fundamental rights by prioritising the protection of the landscape over the protection of family life, and argued that UK law does discriminate against Gypsies [This he said even before CJPOA]. The Commission gave weight to the fact that the traditional lifestyle of Gypsies is intrinsic to their right to family life: “living in a caravan is an integral and deeply-felt part of her Gypsy lifestyle” (European Commission, 1995:10 paragraph 64). Luke Clements, the lawyer representing Ms Buckley, said: “Unfortunately, technical complications led the Court to rule that June Buckley’s human rights had not been infringed; but the case is to be appealed. Decisions on other, perhaps stronger, cases are also awaited.” (Clements and Campbell, 1997: 63) The Commission’s decision has left the door open for future applications, and because of the dissenting opinions in the Court, publicity of discrimination against Gypsies occurred: “the significance of that decision being not that Mrs Buckley failed but that she nearly won... There is some evidence that in consequence of the *Buckley* decision many authorities are (at least) pausing before embarking upon harsh enforcement action against Travellers.” (Clements, 1997b: 3). Both the Commission and the Court recognised the hardships faced by most Gypsies in Europe. And, Clements said that one reason why the Buckley case did not succeed was because the treatment of Gypsies in the UK is comparably better than that in other EU countries (Clements, 1997b).

¹³ The protection of private and home life.

¹⁴ See Appendices for all the relevant human rights obligations.

¹⁵ Near rubbish dumps, pylons, industrial grounds, or busy roads (which will be detailed later in this chapter).

Gypsies:

Designation is an issue which... has always attracted a disproportionate amount of attention; some local authorities indeed, appear to regard it as the main object of the Act... some authorities see designation powers simply as a weapon to evict gypsies. (DoE, 1978)

Kenrick gives the example of a West Sussex Local Authority, in the mid-1980s, who saw the Act not as “a programme of social aid”, but as an opportunity that caused them “to be on the verge of victory in its battle to sweep away unauthorised Gypsy caravan sites from the county’s roadsides” (Kenrick, 1995: 41-2).

As the Commission for Racial Equality (CRE) reported, designation only served “to allow local authorities to evict families from one area into another, thus transferring the difficulties rather than solving them.” (CRE, 1993: 2) The powers of eviction under designation (CSA ss. 10 and 11) were increased by the 1986 Public Order Act (s.39), and further powers of eviction were granted in the 1990 Environmental Protection Act and the 1991 Planning and Compensation Act. Viewing the culmination of this process of criminalising nomadic populations to be contained within the CJPOA, the London Irish Women’s Centre concluded that:

[The] effect of discriminatory legislation coupled with the failure of many local authorities to fulfil their statutory duties under the 1968 Caravan Sites Act has been to compel large numbers of Travellers to live outside the law. (London Irish Women’s Centre, 1995: 9)

The nature of the CSA can be vividly recognised when it is questioned whether the provision or protection of homes for any other social group would involve Central Government compensating Local Authorities with increased powers of policing, together with bursaries and opportunities to impose strict criteria. Indeed, accommodating Gypsies was often not incorporated into the general housing departments of Local Authorities; there are even examples of the duties belonging to health and sanitation departments (fieldwork and files of GCECWCR, 1996).

Designation also meant that large areas of England and Wales became “no-go” areas for Gypsies and other travellers (Hawes and Perez, 1995), or “Gypsy-free zones”, to use Kenrick’s (1995) terminology. As Dawson (1996b and personal correspondence, 1995-6) says, the CSA operated a kind of apartheid. Which other UK citizen and member of an ethnic minority would be turned away from an area by police because the Local Authority claimed ‘We already have our share’ (Dawson, 1996b)? As will be discussed in Chapter Three, the sanitised language, often favoured by legislators, disguises the severity of policies directed against nomadic Gypsies. “Designation” is, in effect, ethnic cleansing. As Hawes and Perez say:

Gypsies have argued endlessly that this makes them the only ethnic group subject to official and legal quotas as to where and how many live in particular locations. (Hawes and Perez, 1995: 131)

To restrict the number of Gypsies allowed in a particular area seems to imply that Gypsies are to be distrusted or feared; the connotation being entirely pejorative else “more would be better”. A restriction on the numbers of Gypsies able to live in the same area surely would not arise if the Government did believe that “[p]eople who wish to adopt a nomadic existence should be free to do so” (DoE, 1992). As Newnham (1995) recently offered as part of her evidence for a Public Inquiry, there would be outrage if it was said that there were too many Blacks in Bristol or too many Bangladeshi in Brighton. The huge size of holiday caravan homes emphasises the fact that it is the inhabitants rather than the form of accommodation that is disliked¹⁶. As Smith (1996) has said, although smaller sites are more expensive they make the police and public “feel more comfortable” and therefore they do not overreact.

In effect, despite the officially recognised large short-fall of site provision, an increasing area of the country was being prohibited from being legitimately used by Gypsies. Consequently, the Act was used by many Local Authorities, who saw designation as a carrot, to discriminate against and target the very people the Act was ostensibly designed to protect and help. As Mercer reported:

¹⁶ This is implied in the fact that many Gypsies and other Travellers are refused membership of caravan clubs (Interviews 1995) and refused entry onto holiday caravan sites (for example, see *The Big Issue*,

Even though the Government is on record as saying that Gypsies will be allowed to live a nomadic lifestyle, every effort seems to be directed against this. (Mercer, 1994)

Not only were Gypsies criminalised, in the sense that targeting practices and harassment had been officially condoned by the Act, but they were further discriminated against when the Act was declared to have “failed”¹⁷.

With the repeal of the CSA in the form of the CJPOA, the benevolent rhetoric of self-control and the ideology of an equal footing within the planning process, again masked the fact that the legislation effectively justified discrimination and informal punishment¹⁸. In a Department of the Environment News Release, during the time that the CJPOA was being drafted, Sir George Young stated:

The 1968 Act is too loosely defined. It has become an open-ended commitment to provide sites, which inevitably leads to a drain on tax payer’s money and undermines the gypsies’ responsibility to provide for themselves (DoE, 1992 [News Release]).

This is fairly typical of the attitudes towards Gypsies and site provision¹⁹, and is flawed and misleading on at least six counts:

- 1) Gypsies pay taxes too, especially if on Local Authority sites where Councils often collect taxes and rent²⁰. So they pay for the “privileges” of house-dwellers and council tenants, often disproportionately as they tend to use public facilities less, largely because of discrimination or harassment;

31.8.98-6.9.98 No.299: 5).

¹⁷ The Government’s argument for scrapping the CSA is similar to an argument for scrapping the Race Relations Act 1976 because people are still discriminated against, or the Education Act 1993 because some people are still illiterate.

¹⁸ The CJPOA will be discussed in detail at the end of this chapter.

¹⁹ For example, complaint letters to Local Authorities, with regard to Gypsy sites, are often signed in the following way: “as a hard-working, law-abiding taxpayer”, or; “A taxpayer with nowhere to hide” (fieldwork, 1995).

²⁰ The site rents are very high on occasion, sometimes exceeding nearby rents for council houses, (with less provision and less security of tenure) (Clements, 1997a).

- 2) Concern for the tax payer disappears when other Government policies are in question (the emotive “poor tax payer” technique is only employed when the argument to withdraw or deny provision of rights, welfare, or benefits, is weak);
- 3) The replacement CJPOA and its concomitant increased powers of eviction are much more costly options, as is the alternative of housing Gypsies²¹;
- 4) The cost to the tax payer is very little, particularly considering the fact that many Local Authorities reneged on their “commitment” (scarcely “open-ended”) to provide sufficient sites;
- 5) The Act *is* “loosely defined” to the detriment of Gypsies unable to secure themselves pitches. This is because of vague and ambiguous wording (such as “local”), no defined time-limit for construction of sites, and no enforcement of the Act by the Secretary of State, and so on;
- 6) Patronising concern for respect of Gypsies’ self-control cloaks draconian legislation for more centralised control and punishment, and denies the massive intervention of the Legal, Planning and Criminal Justice Systems which prevents Gypsies from having equal opportunities.

Frankham (1997) recently put the cost in proportion: while £3M on average was spent per annum on providing Gypsy sites since the introduction of the CSA, the Government’s drinks bill for the year 1994 was £15M. Furthermore, the Telephone Legal Advice Service for Travellers estimates the cost of evictions at over £7M per annum (Campbell, 1997). As the cost of eviction exceeds that of site provision, it is likely that a policy of eviction is politically useful: to dissuade others from becoming nomadic, to inculcate Gypsies with the ideology of the State, and to maintain the

²¹Circular 18/94 s.26 states: “the repeal of their duties to provide gypsy caravan sites and... the introduction of new discretionary powers to control unauthorised camping... are considered unlikely to have any net manpower or resource implications for local authorities.” But, as one Local Authority Planning Officer said: “Well of course it bloody well will do, but *no* implications for the Government”

“stranger” status of the Gypsy to others. As Gypsies are seen to escape Althusser’s (1971) “ideological state apparatuses” or the effects and internalisation of Foucault’s (1980; 1982; 1991) “gaze”, control must be gained in another, albeit more costly, way. Hence, the seeming disregard of the higher financial cost of eviction. As one interviewee on a Local Authority site said:

They put us in sites to make us conform, but we didn’t. That’s why they hate us. (Interview with a Gypsy, 1995)

The CSA was far from the oasis that many would wish to believe. The “draconian character”²² of the Act was recognised by many court decisions²³. Even the Government Circular of 1978 recognised that these provisions were “severely discriminatory against one group of people” (DoE, 1978).

The effect of the CSA was to criminalise and “justifiably” punish Gypsies, either in the form of the pseudo concentration camp²⁴ or in the form of penal sanctions against those not on official sites. For example, even the DoE commissioned report (Todd and Clark, 1991) recognised that Gypsies on sites seldom move once they have succeeded in the formidable task of finding a vacant pitch, primarily because of site conditions of stay which restrict travel unless the pitch is to be sacrificed (to be detailed later). The fact that the CSA appeared to allow Gypsies to enjoy a privileged status within the planning and accommodation procedures enabled the introduction of the CJPOA. Because the CSA was seen to have “failed” the CJPOA was legitimately able to strip Local Authorities of all their responsibilities whilst increasing their powers of persecution of nomadic Gypsies. The CSA was seen to have failed not because the authorities reneged on their duties, but because “helping” Gypsies (the ethos supposedly enshrined within the CSA) was obviously not the right thing to do. The failure of the CSA was determined upon the evidence of authorities not fulfilling their duties of providing and maintaining sites and yet, indirectly, the Gypsies were being

Interview, 1996).

²² R v Havering Justices ex parte Smith [1974] 3 All ER 484c.

²³ For example: R v Secretary of State for the Environment, ex parte Ward [1984] 1 WLR 834, R v Secretary of State, ex parte Lee 53 P & CR 311; West Glamorgan v Rafferty [1987] 1 WLR 457, and. R v Secretary of State and Hereford and Worcester County Council, ex parte Smith [1988] COD 3 30

²⁴ With many Gypsies still feeling trapped on sites after twenty years residence.

blamed for the lack of site provision (“when we try to help them it does not work”). In effect, then, the CSA was a “success” (if, as it might be argued, the latent function was to continue to outlaw the nomadic way of life of Gypsies), and the Gypsies were able to be punished more severely and more justifiably by the State precisely because of the punishment previously administered by the State under the benevolent guise of the CSA²⁵.

Ironically, because so few sites were provided, an Act would replace the CSA which would ensure that even fewer sites would be built and that existing ones would be allowed to fall into disrepair and not be replaced, as money would no longer be provided by Central Government. The House of Lords tried to grant a five year reprieve for the removal of the statutory duty to provide sites, but this was over-turned by the House of Commons²⁶. The consequent effect was that some Local Authorities over-turned recent decisions to build sites for fear of grant withdrawal after the site had been approved²⁷. For example, Hertfordshire decided to build one rather than the formerly intended three sites²⁸.

The perception or argument that Gypsies were favourably treated under the CSA was also supported by the Government. The DoE Consultation paper (1992) confirmed this opinion:

People who wish to adopt a nomadic existence should be free to do so [but this should not] entail a privileged position or entitlement to a greater degree of support from the tax payer than is made available to those who choose a more settled existence. (DoE, 1992)

The argument goes that as the law should be impartial the CSA should be repealed. As Judge Pettiti said during the hearing of the Buckley case at the European Court of

²⁵ Some Local Authority officers that were interviewed (1995-6) said that the powers of the CJPOA were used infrequently precisely because of the draconian image of the Act. Furthermore, the CJPOA united disparate groups who felt under attack, whereas the CSA arguably encouraged apathy in some quarters – certainly with Local Authorities, if the rate of provision is anything to go by.

²⁶ HL Debs 1994 Vol555 cols355-379, 1111-1149, 1527 and Vol556 cols1516-1564, HC Deb 1994 Vol248 cols355-379.

²⁷ Grants were, however, available for sites which had been approved prior to the CJPOA.

²⁸ Lord Avebury, HL Deb 1994 Vol554 col469.

Human Rights: “the only acceptable discrimination under Article 14²⁹ is positive discrimination which is meant to achieve equality of rights through equality of opportunities.” (European Roma Rights Centre, 1996c: 3) In other words, the CSA is not impartial; it simply goes some way towards giving equal assistance to groups of people with different requirements as to the rest of the population. So, the CSA was only partial and, therefore, unjust if a nomadic way of life is not seen as legitimate. Too often justice is confused with equality. An equal but unjust law legislates against anyone pursuing a nomadic way of life but only impinges upon a minority of people who live nomadically. Of course Gypsies have the right to live in a house, but if they have the right to respect for home and family life (Article 8 of the ECHR) then they have the right to live in a caravan and nomadically. This is a right rarely conceded as the number of temporary sites provided shows³⁰. Because sedentarism is considered to be “natural” (as dominant) and nomadism “cultural”, a house-dweller would never be expected to forfeit his or her right to live in a house and take up a nomadic, caravan-dwelling way of life. Even well before the advent of the CJPOA, Jeremy Sandford warned of the devastating effects of the legislation on Gypsies³¹:

The effect of this legislation on their way of life will, if it is not changed, be as disastrous as would be legislation in *our* lives which enacted that we must no more go to an English school, no longer work at our particular jobs and, above all, no longer live in any form of house, and keep moving most of the time. (Sandford, 1973: xv)

As one Gypsy has said: “For us to live in house, is for you to live in water.” (Interview with a Gypsy, 1995) Another said: “Ask why those in houses don’t want to live in caravans and get the answer” (Interview with a Gypsy, 1996). Many Gypsies have said they feel faint, ill and claustrophobic in houses and find them too quiet, isolated and entrapping. As the European Commission on Human Rights recently declared: “living in a caravan home is an integral and deeply-felt part of [a] Gypsy life-style.” (Buckley v UK, 1995, paragraph 64) Commissioner Bratza, examining the Buckley case,

²⁹ Of the European Convention of Human Rights.

³⁰ Also, as only houses are generally considered to be “homes” by government officials, when money is allocated to provide or service accommodation, since the CJPOA 1994 this does not include Gypsies’.

³¹ Referring to the CSA 1968, the Town and Country Planning Acts of 1947 and 1962, and the Highways Act 1959.

submitted that a house or a flat was not a viable option for a Gypsy (Clements, 1996).

In effect, then, positive discrimination under the CSA (as some argue it was) was, at best, equal treatment under the laws and protected rights of the land. Judge Pettiti, in his dissenting opinion, also explained further discrepancies between the surface ideology and the consequences of the Act:

Although the 1968 Caravan Sites Act was originally intended to promote acceptance of Gypsies in towns and villages, the use made of this legislation has had the opposite effect; the legislative framework contains either too many administrative obstacles or else the alternative proposals are inadequate. Since the rules are applicable to travellers, those rules are discriminatory. (Buckley v UK, 1995, paragraph 64)

This State administered yet informal punishment, in the form of Government legislation and “advice”³², reflected, encouraged and condoned underhand practices and crimes against Gypsies. They were carried out by the agencies of social control and other State apparatuses, such as education, health, welfare, and social services. They included: racial harassment; incitement to racial hatred; illegal evictions; not fulfilling responsibilities of care and provision. Crimes against Gypsies by non-officials were also encouraged, and included: racial harassment; incitement to racial hatred; organised and informal violence and vandalism of property; wrongfully informing the police. This behaviour will be discussed in detail later in the chapter.

During the reign of the CSA, for example, jealousy and a sense of legislative partiality or unfairness was considered motivation enough and a legitimate enough reason to express racial hatred towards Gypsies. Racial hatred towards Gypsies since 1992 when the CJPOA was in preparation, was legitimised because the CJPOA had turned Gypsies into criminals and thus deserving of punishment. Official attack on Gypsies encourages (and is encouraged by) local and informal attack, as well as renewed legislative and institutional discrimination and harassment.

So, local or informal racial hatred was condoned because of formal prejudice,

³² As contained within Circulars, for example.

enshrined in legislation and practices. At the same time, legislation, supposedly drafted for the benefit of Gypsies, was ignored by many Local Authorities and was not enforced by Central Government for almost thirty years because of the prejudice of public opinion. It would be hard to find another example of such blatant flouting of legal duties³³. It is ironic that a government can be democratic by responding to and reflecting public opinion, and so override certain democratic and fundamental human rights, such as those enshrined within EU and international treaties and declarations (see Appendices). In tandem, then, “local” prejudice reinforces, legitimises and “naturalises” central or official prejudice, and vice versa. The prejudicial stereotype of Gypsies as undeserving because of their deviance (from the norm), which is often conceptually linked to criminality, appears to be natural if few challenge this assumption. It is not possible to separate legislative, institutional, and local attitudes and activities: the ideological climate which reflects, condones and encourages individual prejudices and harassment, in turn and interdependently reflects, condones and encourages discriminatory legislation and practices of the social control agencies (where “welfare” and “social services” also become arms of the Criminal Justice System in practices which seek to control, vilify and punish). Even rights legally enshrined within governmental legislation can be overridden if the supposed beneficiaries are seen as criminal. This will be analysed in detail in Chapter Six.

Before analysing the effects of the CJPOA and the repeal of the CSA it is necessary to analyse in more detail the direct and indirect³⁴ effects of the CSA on Gypsies’ everyday lives, and why there was such reluctance by authorities to comply with the Act.

Especially in hindsight under the CJPOA, the CSA is generally regarded as positive and enabling for both Gypsy communities and Gypsy-gorgio relations. For instance, Franklin writes in *Poverty*:

The 1968 Act... has prompted a significant increase in the provision of sites. Enhanced availability of sites has, in turn, led to further improvements in Travellers’ way of life, by facilitating access to services, such as schooling for

³³ Lord Avebury said that the Government had never tried to make the CSA work (Interview, 1996).

³⁴ How sites affect others’ perception of Gypsies, for example.

Traveller children, registration with a GP (instead of having to rely on local Accident and Emergency Departments), and regular receipt of income support without the need for constant re-registration because of changing residence. (Franklin, 1995)

What is omitted from this and similar appraisals is the fact that such benefits of being on sites come with the sacrifice of the nomadic tradition. Implicit to the arguments, supposedly sympathetic to Gypsies, is the covert denigration of nomadism. Ironically, the concept of nomadism is not at the heart of Gypsy site policy: the assumption is that Gypsies may enjoy the rights of other citizens if they are able to be sited. The assumption is that there is something wrong with Gypsy lifestyle, no matter how benevolent the rhetoric. Because, if not, the rights³⁵ enjoyed by the rest of the population would not be dependent upon a sedentary status. In other words, if the CSA was successful in providing Gypsies with access to education, social and welfare services the debate should be on why services cannot be accessed by nomadic groups, rather than simply arguing for the reinstatement of the CSA. Otherwise, the crux of the question, of whether or not society recognises and appreciates nomadic populations, is overlooked. Besides, it is argued that the CSA was not concerned with providing suitable sites, and it ignored the other social needs of Gypsies. If a Gypsy family has school-aged children, the family cannot travel because dual- or multi-registration does not exist. If the family did travel they would be able to be prosecuted and would be morally condemned for “depriving their children of education” (Interview with a local opponent of a Gypsy site planning application, 1996). Gypsies have to be sedentary because services are sedentary, else they can be criminalised.

Citizenship status, in effect, is predicated upon sedentary status³⁶. Education, health, welfare, political participation, protection from discrimination and harassment, and legal status all depend to some extent upon a person’s sedentary status. More generally, the prerequisite of “rights” is the duty to sacrifice all difference in thought

³⁵ That is, if they are “rights” as such (to be discussed in Chapter Six).

³⁶ As Penrose and Jackson say with regard to prejudice against Muslims in the UK, citizenship is generally defined in terms of loyalty to shared values. Nomadism is therefore a threat to the mythical homogeneity, logic and superiority of British values, as is the existence of any “alternative”. As Dwyer (1993) shows, dominant ideologies and discourses appear natural, or even invisible, until they are challenged. This is the threat.

and action. The public and political rhetoric implies that Gypsies and other Travellers are *abusing* their freedom. This dominant argument is illogical in the sense that freedom cannot literally be abused: individuals either have the freedom to do something or they don't. The argument continues with its inherent illogicality in saying that: "We are legitimately able to curtail your freedom because you are exercising it". It is the usual assimilationist argument: "We will accept your difference as long as you are like us".

The fact that the CSA actually severely restricted their way of life, was even indirectly blamed onto the Gypsies by the Government. The consultation paper stated:

The 1968 Act was intended to provide a network of sites to enable gypsies to move around or settle but in practice many gypsies have settled on permanent sites and 90% of local authority pitches in England are used for residential as opposed to transit purposes. (DoE, 1992)

The Government clearly saw Gypsies as the problem rather than the failure of authorities to adhere to their duties. This was declared despite the fact that transit sites have been requested by and denied to Gypsies for decades. As Pizani Williams, Senior Probation Officer for Kent Probation Service, says:

Where sites were provided the emphasis was on permanent sites in the belief that Travellers would prefer to be settled and assimilated into the dominant culture... The need for transit sites for Travellers who continued to travel either continually or seasonally was largely ignored. (Williams, 1994: 22)

Sedentarisation of the Gypsy community can be seen to be the clear intention of the legislators and regulators when the following four factors are considered:

- 1) The intention of the CSA was to encourage Gypsies to eventually move into housing and full-time permanent jobs (Fraser, 1996)³⁷;

³⁷ One Local Authority Planning Officer said: "Getting Gypsies to settle was the hidden objective of the Caravan Sites Act: get Local Authorities to develop settled sites for Gypsies, bring them onto the sites, give them introduction to *normal* community life, *normal* education, *normal* work... and over time they will perhaps see the benefits of settled living... over time these Local Authority sites become little housing estates. They cease to be Gypsies and they become part of a *normal* community." (Interview, 1996)

- 2) Most sites have stringent restrictions placed on the residents with regard to the length of time they are allowed to leave the site;
- 3) The implementation of a network of sites enabling movement of individuals between sites, has never even been attempted. Sites were mainly long-term and, as such, did not serve the nomadic needs of Gypsies, despite claims to the contrary;
- 4) As Odley says, “it is hardly surprising that many Gypsies and other Travellers, in their need to flee from the harsh reality of persecution by police and local authority figures to the comparative security of the rarely available pitch on an authorised site, will be reluctant to vacate such a pitch, once it has been secured” (Odley, 1992).

Whether or not the “rationality” or intention of the CSA was intentionally flawed (in other words its “failure” being latently functional) or primarily flawed in its implementation rather than by design (as Hawes and Perez (1995) argue), the assessment of the number and necessary conditions of sites was greatly underestimated. In Cripps’ report commissioned by the Government in 1976, he estimated that there were 8-9000 Gypsy families (40000 people), rather than the previous official estimate of 3400 families (15000 people), and this figure was rising. Therefore, Cripps estimated that the number of sites needed exceeded the Government’s number of 200 by at least a further 300. However, Local Authorities did not even meet the greatly underestimated figure. This non-compliance by the Local Authorities was reprimanded on a number of occasions by the courts (Interview with Stableford, 1996). For example, eviction has been prevented in some cases, when a judicial review recognised that the relevant Authorities had not fulfilled their duties to local Gypsies to provide sites. However, as O’Nions points out, such outcomes were rare when provision could be “the most minimal accommodation” (O’Nions, 1995a: 7)³⁸. Court reprimands of Local Authorities also served to be ineffective since Central Government did not fulfil its own duty to ensure compliance.

³⁸ See also *West Glamorgan v Rafferty* [1987] 1 All ER 1005.

Local Opposition

Responding to local opposition and prejudice was one of the main reasons why many Local Authorities did not fully, if at all, fulfil their mandatory duties to provide sites. Local opposition³⁹ also explains why the Secretary of State did not enforce the Act⁴⁰, and why he called in certain planning applications. Such discretionary enforcement of the Act, in response to alleged local opposition, contravened DoE stipulations that local opposition does not warrant either legally tangible opposition to Gypsy sites or the intervention of the Secretary of State (Circular 28/77, appendix 30. See also Todd and Clarke, 1991 and CRE, 1993). However, as Merton (1957) and Box (1987) emphasise, these discriminatory practices do not necessarily signal a conspiratorial process whereby the dominant social order is consciously manipulated and maintained by those in power and “in the know”. There is a distinction between individual motives and institutional and structural effects. As Chapter Six will analyse, government officers, for instance, do not need to be prejudiced against Gypsies if the system is geared against them anyway. However, many MPs and Councillors promote anti-Gypsy policies on the assumption that it will be a vote-winner. As one Gypsy Support Group Secretary has said, government is power not policy based (Interview, 1995).

It is important to note that even presumed local opposition often serves as the impetus and, indeed, justification for official disregard or severity of treatment with regard to Gypsies. For example, Wilkinson (1978) has given examples of decisions against Gypsy site proposals being made upon assumptions, as a matter of course, that the majority of local residents were wholly opposed to such developments. This particular thesis concludes that not only were the majority of the locals wholly unaware that their “voices” were being used for decision-making purposes, but many of them were not at all opposed to Gypsy site developments in their area. Members of the general public, in effect, have been reduced to their spectator role (if they are lucky):

³⁹ Redefined as “public demand” to suggest democratic decision-making rather than explicit discrimination against a minority.

... we approach the long-sought ideal: formal democratic procedures that are devoid of meaning, as citizens not only do not intrude into the public arena but scarcely have an idea of the policies that will shape their lives. And, it is hoped, will not even know that they do not know. (Chomsky, 1994c: 164)

Furthermore, it is only those who have the necessary knowledge and skills to be able to register opinions that have any potential in doing so. The ruling elite monopolises language, communication, and knowledge. As Edelman (1977) says, the “national interest” is really the “ruling-class interest”:

Rather than curbing a regime, ‘public opinion’ as a symbol enlarges official discretion by immobilizing potential opposition. (Edelman, 1977: 55)

And, to quote Hall *et. al.*

Consensus is not the opposite – it is the complementary face of domination. (Hall *et. al.*, 1978: 216)

However, it is necessary to refute the hypothesis that locals, in general, are not vehemently opposed to such developments (Interview with Bagelot, 1996).

Numerous petitions and protests are orchestrated to oppose proposed or existing Gypsy sites, whether Local Authority or privately owned, or unofficial. Such protests are often effective in discouraging the Local Authority from giving planning permission. As a result such protests appear legitimate, as they seem to have been officially sanctioned. Furthermore, such protests encourage harassment of Gypsies and, on many occasions, vigilante attack. The following example of a leaflet protesting against a Gypsy site was recently distributed to a large number of local residents in the Bristol area:

GYPSIES WARNING - Do you want to lose 5-10 thousand pounds off the value of your property? ... Do you want your insurance premium substantially increased? ... Do you want even more pressure on your local Health and Education facilities? ... Your County Councillors are trying to unload this problem onto YOU! ... Please deliver your letter to any of the following

⁴⁰ The Secretary of State only issued seven directions and never enforced those directions by mandamus.

collection points... (GCECWCR files, 1996).

Similar posters were distributed to residents in West Norfolk. The Romani Rights Association said that it was “an attempt to arouse hatred and animosity [and it] achieved the aims”. The Romani Rights Association were concerned about the consequences: “we are frightened for ourselves and our children if such gross acts of neo-nazism are permitted in Great Britain” (*ibid.*).

Election material also lends itself to anti-Gypsy sloganising, signalling the massive support for such attitudes. One such example is a leaflet published by three Bedfordshire Councillors:

DO IT NOW BEFORE IT'S TOO LATE - Do you want a Gypsy site near here? ... By now almost everyone knows of the problems at the three Gypsy sites in North Bedfordshire [which have] devastated areas and have caused enormous trouble to residents... A Borough official said [one site] had become a centre for crime throughout Bedfordshire and Northamptonshire. Up to 100 policemen were tied up dealing with the problems it caused... Why have a new site? ... if the Council Officers get their way, what gives them the idea that the new sites will remain clean, tidy and easy to manage?... The Council Officers are determined to provide new sites as quickly as possible. They seem intent on steamrolling through a decision before any local opposition gets organised (GCECWCR files, 1996).

The concept “democracy” from this perspective contains the belief that individuals can only do what “we” do (for example, not exercise freedom of movement) and “we” should only do so much as others do (for example, not fulfil obligations with regard to designation). The concepts “dirt” and “crime” create similar strengths of feelings: they both imply something being misplaced or out of order and, as such, immediate action to restore order is necessary⁴¹. In essence, the implication is that the whole of society (all meaning, order and security) is under threat. It is therefore evident why Gypsies arouse such fear and hatred in others: within the public discourse Gypsies and crime and dirt are synonymous, and as “others” or “outsiders” sympathy is legitimately withheld. The theory that Gypsies are seen as illegitimate citizens is evident in the argument that Gypsies in the area would overload the sewage or water systems, roads,

⁴¹ Dirt and disease imagery will be analysed in detail in the following chapters.

schools, and so on: the implication being that services should not cater for Gypsies but be protected from them. The illogicality of the argument with regard to the planning process will be analysed in the following chapter.

Another example of a similar ilk is the following extract from the 1991 election material for a Leicestershire Councillor:

GYPSIES WARNING - Residents have had bitter experiences of gypsies over the last few years and for many this is the last straw. When residents of the [this] area bought their homes the land in question was identified as being allocated for housing light industry and parkland. It is totally unacceptable for a permanent camp for itinerants to be sited on this land... It is the legal responsibility of the County Council, also under Socialist control, to identify and provide permanent sites for itinerants, and when elected [I] will continue to campaign for the site to be placed ELSEWHERE. (GCECWCR files, 1996)

All such pieces of material are dramatic rather than informative in format, with very large and bold font, and excessive use of emotive terminology. As is shown in the above example, those not violently opposed to Gypsy sites are branded politically dangerous or ineffectual, unwise, or out of touch. Many Councillors have lost their seats because they have not “taken a firm stand” against Gypsy sites (Interviews with Councillor (1996), Gypsy Support Group Secretary (1995), and others. What is also frequently evident is the perceived threat to the precious and vulnerable homes of the sedentary population by the illegitimate and threatening “lifestyle” of “itinerant campers”. It is ironic that Gypsy sites are more “unacceptable” than housing and industrial works at a time when eco-friendly philosophies, such as those contained within Agenda 21⁴², are supposed to be informing planning legislation and practices, and also form part of many of the arguments against Gypsy sites.

⁴² Agenda 21 is the Programme of Action for Sustainable Development agreed at the UN Conference on Environment and Development (UNCED) – The Earth Summit - in Rio de Janeiro, 1992. Its philosophy is the interdependence of peace, development, and environmental and community protection. Five years later little progress has been made, as 19th UN General Assembly Special Session (UNGASS) to Review the Implementation of Agenda 21 (NY, July 1997) showed. Although the UK Government tends to just pay lip service to Agenda 21 to “play up its international profile” (Carey, 1995a: 17), some real effects have been seen in planning cases (*ibid.*). However, these are few and far between for Gypsies while Agenda 21 is not legally binding in the UK and while the planning system remains antithetical to Gypsy site developments, as Chapters Two and Four will detail. See Appendix 11 for details.

During a discussion on Gypsy sites in the House of Commons, Bowen Wells said:

Like keeping poultry - it is the same with gipsies - once a site on which gipsies may be entitled to camp is designated, it attracts all sorts of other nomadic vagabonds. And so they come - in large shiny caravans pulled by Land Rovers and Jaguars of recent vintage. (*Hansard*, 5.2.93)

“[A]nd Mercedes” added Cranley Onslow (*ibid.*); by its very mention implying that Gypsies have appropriated such vehicles by illegitimate means. Bowen Wells’ campaign leaflet read:

CONSERVATIVES AGAINST GYPSIES: Are you fed up with the filth and abuse brought by so-called gypsies to a once green and attractive area? (Information from the Labour Campaign for Travellers’ Rights (LCTR), 1993)

Another campaign poster for the Conservative Party read:

Gypsies: Filth! Crime! One day after the election, we promise to move them out! (*Fight Back*, no. 23, spring 1990:1, cited in Hancock, 1993: 10)

Such campaign messages are provocative, and often genocidal in their implications. In the past two decades there have even been reports of three public calls from British politicians for the sterilisation of Gypsies (Hancock, 1993).

Anti-Gypsy messages are often the subject of political campaign materials because of the extent of anti-Gypsy feeling amongst many of the campaigner’s constituents. Many anti-Gypsy meetings have been called by locals (Interviews with members of Gypsy Support Groups, 1995-6). On one particular occasion a meeting was called by System and Security (SAS), a private security firm employed by the local residents to patrol their area (*Bristol Observer*, 6.10.95; *SchNEWS*, 1.12.95). The literature, produced by SAS, accompanying this meeting included a petition to be filled in with suggested action to be taken by locals, and information:

Since the Gypsy Camp moved onto Sylvan Green the area of Sea Mills has suffered an upsurge of crime. There are confirmed reports of assault, intimidation, burglaries, muggings, theft from properties and sheds, the loss of

gates and of damage to / from motor vehicles. Also, an area of natural beauty has been turned into a filthy tip of scrap metal and human waste while the woods have been used as a mass toilet and dumping ground. It is basically no longer safe for children to play in any of these areas without serious risk of injury, disease or infection... WHAT ARE THE POLICE DOING ABOUT IT ALL: (answer) – NOTHING !!!! If you or any other resident were to pitch a tent with a satellite dish, let loose a bunch of chickens and drive your beaten up car over this same land, the Police would be all over you like a rash and you would be moved off within minutes or face arrest for possible breach of the peace... WHAT ARE OUR ESTEEMED BURGHERS AT THE CITY COUNCIL DOING: (answer) – ABSOLUTELY SOD ALL !!! Apart from making the lives of this itinerant trash as comfortable as possible by providing running water, toilets and a free rubbish removal service, these jumped-up mandarins on the council... are doing sweet fanny adams... led by a bunch of soppy, limp-wristed Liberals... Many are now elderly or single and therefore, deserve the right to enjoy their twilight years without... hindrance or intimidation from a rabble of marauding tinkers who see your homes and possessions as fair game and, as some sort of giant Supermarket take-away for their criminal shopping activities (GCECWCR files).

The leaflet ends encouraging residents “to badger, harass and generally make life unpleasant” for Local Authority and police officers⁴³. In response to this leaflet, Bristol City Council issued forms to all the local residents to record any disturbances by the Gypsies. The local police, however, warned SAS not to take matters into their own hands. When *SchNEWS* rang the police they were told that SAS’s activities were being investigated, and that the “upsurge in crime” was slight and “couldn’t necessarily be put down to the Travellers” (*SchNEWS*, 1.12.95).

There are many incidents of locals “badgering” members of the Local Authority, when it comes to opposing a Gypsy site. Councillors have had their constituents knocking on their door at all times of the day and night saying that they are meant to be their representative and so should be opposing it (Interview with Local Authority District Solicitor, 1995). CRE has received many allegations of unlawful pressure put upon Local Authorities when it comes to Gypsy site proposals. For example, one Headmaster wrote to the Local Authority stating:

⁴³ Similar leaflets that could be said to incite racial hatred have resulted in no action being taken by the Director of Public Prosecutions. This is indicative of the institutional lack of recognition of anti-Gypsy hatred.

I am horror struck at the idea... I am not sanguine about containing the adolescent output of ten gypsy caravans. (CRE, 1993: 3)

Many locals have expressed anger about a Local Authorities non-harassment policy (evidence from the files of GCECWCRC and Local Authority Planning Departments). Critics of Gypsy site developments have often accused the Local Authority of underhand and incompetent practices (during the Lydia Park Public Inquiry and in complaint letters to Local Authorities, for example – to be discussed shortly). Locals in one area lied to the Local Authority about Gypsies anti-social behaviour in the hope of getting them evicted (personal correspondence with Local Authority Planning Officer, 1995), and there are other incidents of locals wrongly informing the police (Interview with Local Councillor, 1995, and Interviews with Gypsies, 1995-6). Local Authorities generally respond to such pressures for fear of losing their seats in the next election, as well as responding to what they see as “public demand”, which is what they are employed to do. They do not usually consider that it is their role to adjust “tolerance levels” or simply not respond to racial discrimination. One Inspector puts it explicitly:

Policies directed towards gypsies must ultimately rest on public acceptance. (Inspector’s Decision Letter, Stovolds Hill, Dunsfold, 1979: paragraph 46:)

And, of course, this is in addition to any anti-Gypsy sentiments that Local Authority officers might feel, whereby ethnic cleansing can be disguised as democratic principles.

Any MP promising to get rid of Gypsies, not have any Gypsy sites, get rid of New Age Travellers will get votes and anyone saying the opposite won’t, on the whole. (Interview with Kenrick, 1996).

One Local Authority District Solicitor (Interview, 1995) believed that any councillors who vote in favour of a Gypsy site are only doing so out of the relief that the site is not near them. In effect, Local Authorities are letting citizens wishes dictate whether or not Gypsies will receive planning permission or Local Authority sites, or Local authorities can at least blame the public when faced with the charge of enacting genocidal policies.

Local Authorities and others publicise a lot of information about where Gypsy sites are, and give details of the residents. This has led to many vigilante attacks (correspondence with GCECWCRC and FFT, for example, and fieldwork 1995-7). Gypsies have also suffered from burglaries and vandalism, especially when they are revealed as being particularly vulnerable, such as single or elderly people (Interviews with Gypsies, 1996: also see end of Chapter Two). In the interests of democracy and accountable decision-making, moral responsibility in the knowledge of discrimination and vigilantism is lost. As Local Authorities are aware of the extent of the hostility, this only prompts them into assuring the locals that “justice will be done” and “public demand” will be met, appeasing them and knowingly opening the doors to anti-Gypsy violence.

Similarly, locals threaten others if seen to support Gypsies by letting them stay on their land or serve them in their shop, for example. Doctors have refused assistance because locals have threatened that they would not use the practice otherwise (Davies, 1995). In many of towns visited during the fieldwork, Gypsies were banned from public and social establishments. Gypsies are often refused custom or service in shops, laundrettes, pubs, restaurants, on transport, and in doctors’ surgeries⁴⁴. This discrimination is aside from the everyday verbal abuse and violence that they suffer. There have been occasions when Gypsies and other Travellers have been threatened with shotguns (Lodge, 1995d). In its files, GCECWCRC has examples of a number of examples of shooting into populated caravan sites. A number of interviewees (1995-6) alleged that there have been occasions when locals have been paid or encouraged by other locals and the police to violently harass Gypsies in an area, by urinating over caravans or by throwing stones through windows, for example.

⁴⁴ 1/10 doctors in East London admitted without embarrassment that they would not see Gypsies or Travellers. (Feder, 1996). However, recently there have been a number of research projects aimed at investigating the access to health services for Travellers, most notably the Dorset Health Project (funded by the Dorset Health Commission) (*FFT Newsletter*, March/ April, 1998). Furthermore, a national health project is currently being developed (*ibid.*).

More commonly, locals dump rubbish on or near sites⁴⁵. They have also dumped manure and silage near sites, posing a health risk to those on the site. Farmers have sprayed blood (used as crop fertiliser) and manure at caravans. On one occasion, a farmer sprayed chopped pig all over a caravan⁴⁶ (Interview with one of the occupants of the caravan, 1995). Other sites have been contaminated with pesticides and slurry (Lodge, 1995c). This is apart from those sites which are dangerous because they are near busy roads, canals, or pylons, on top of old rubbish tips, or in the vicinity of industrial and chemical works (see Supple, 1993 and Kenrick and Bakewell, 1995, for example):

I should've thought about half the sites are either next to a canal or a railway line, a pylon, a rubbish tip... or motorway... Otherwise, they tend to be in middle of nowhere ... I would say half the sites are not suitable [because of health and safety reasons] and a quarter are so isolated that people are not part of the community. (Interview with Kenrick, 1996)

As Cripps reported: "No non-Gypsy family would be expected to live in such places" (Cripps, 1977, paragraph 3.17)⁴⁷.

During this research, out of approximately two hundred Gypsy interviewees and correspondents, *all* said that they had been harassed by locals, police or other officials⁴⁸. Apart from the civil liberties aspect, this involves a negative impact on their health and wellbeing and implications in other areas⁴⁹. One Traveller spoke about the stress of being evicted from an unauthorised site, while pregnant: "all I want to do is

⁴⁵ As have Local Authorities, in order to encourage Gypsies to move. Alternatively, both they and locals have illegally blocked public access roads to Gypsy sites in some areas.

⁴⁶ One of the occupants was very ill at the time, and the caravan had just been cleaned two hours previously.

⁴⁷ In great contrast to the pedantic infatuation with aesthetics, very little attention is paid towards dangerous circumstances facing the resident Gypsies. One Local Authority admitted that there was a fire risk due to the close proximity of combustible mobile homes, but said that it "may be impractical to address this potentially dangerous situation (other than by ensuring there is adequate fire fighting facilities on site and communal fire drill training.)" With regard to "very audible" traffic noise on another site, the investigating officer said that it was "perhaps of no concern to site residents, previously encamped by [an A road] it is probably too late for practical measures to alleviate it." (personal correspondence with Local Authority Environmental Officer, 1995).

⁴⁸ Many saying that they believe all gorgios hate them and want them "destroyed" (Interviews, 1995-7).

⁴⁹ For example, if Gypsies are seen to be badly treated by the police, for instance, this can have a negative effect upon locals or government officials in the way they threat and/or perceive Gypsies. This can effect their safety as well as their education and employment prospects, for instance.

look after my family, provide for them and be settled, but I'm prevented at every step." (Conversation, 1995) Many Gypsies would like to "settle" but are prevented because of the continual harassment they face:

I would like to settle in this area in a permanent site and I would like to live the life I want to live, and that's in a caravan, the way I was brought up - having respect for the way other people live their lives and hoping they respect mine. (Bridget Gaffey in Southwark Traveller Women's Group, 1992: 37)

The stress and ill health that can be experienced has forced some Gypsies to give up their traditional way of life:

It's hard to get out of a Travelling way... You never get out of it. But me, I am prepared to get of Travelling ways, I wanna settle, I don't want to get into trouble... I want to be treated like a person... not an idiot. I don't want to be looked down on all the time. (Interview with a homeless Gypsy, 1995).

Contrary to popular opinion, Gypsies and other Travellers do not want to cause trouble to others and certainly want to live their lives legally.

Reporting on anti-Gypsism in Europe, the Human Rights Watch said:

Mob violence... reveals a type of lynch law that is often supported by the local government. The local authorities are, in some cases, active participants in the violence, but more frequently are involved in creating the climate of extrajudicial abuse of Roma, and are active participants in the obstruction of justice after the crimes have been committed. This jeopardises the safety of Roma in Romania and has set a dangerous precedent for the rule of law. (Human Rights Watch, 1994 - cited in Liégeois, 1995: 15)

Some Local Authorities, for instance, have set up "shop-a-traveller hotlines", for the public to use if they see any Gypsies or other Travellers in the area. Such schemes were set up last year (1997) by Coventry City Council and by Brighton and Hove Council.

As Cripps reported to the Government, local opposition to proposed Gypsy sites, "bordering on the frenetic", can not be overemphasised (Cripps, 1977, paragraph 3.19). More recently, another piece of Government research (Todd and Clarke, 1991)

found that much opposition is solely based upon generalised prejudice rather than sound planning objectives, for instance⁵⁰. In explaining the rationale behind this opposition, Cripps (1977) spoke of the perception of Gypsy criminality associated with a rise in crime once Gypsies entered an area, and the perception of disorder associated with different social values and behaviour. A rise in crime can be attributed to the stereotype that Gypsies are criminogenic and are therefore seen as a “suspect community” and consequently targeted by social control agencies. A rise in crime can also be attributed to sensational and one-sided news items, and to opportunists within the sedentary locality who might take advantage of the knowledge that crimes will be attributed to site residents. Alternative social norms and ways of behaviour are conceptually or ideologically threatening to the belief system that holds that monolithic social norms are necessary for the protection of individuals and social order, and are therefore portrayed as “natural” norms:

Offences against property constitute the most direct challenge [to the State], but actions that symbolize rejection of their beliefs about proper behaviour offend supporters of the established order even more than individual delinquency does. (Edelman, 1977: 127)

The fact that the Gypsy moral code is more stringent than the gorgio community in general, is irrelevant to the ideology that portrays itself as “natural” and, as such, the only way; there is no alternative. As Chomsky (1994c) has emphasised with regard to international affairs, “the other of order is always disorder”.

Not abiding by mainstream norms and values undermines the normalcy and impartiality of those norms and values. It also challenges the logic of the Western Hobbesian ideology of the sacrifice of *our* selfish will on the guarantee of the sacrifice of the selfish will of others. As Nietzsche (1967) makes clear, a long history of discipline and regulation is needed in order for the desired state to be achieved: of individuals being able to make promises about their future behaviour. In other words individuals must be “uniform, like among like, regular, and consequently calculable” (Nietzsche, 1967,

⁵⁰ Of course, some locals support Gypsies, or Gypsy site planning applications, in their area. Some have committed their whole lives to supporting Gypsies after coming across examples of the constant harassment and discrimination they face. For instance, Rodney Stableford, Kay Newnham, Thomas Acton,

Essay 2, section 2). In this sense, we are encouraged to feel that domination is a necessary evil of liberty (Hindess, 1996). Therefore, Gypsies, who are seen to escape, subvert or deviate from this, are the likely targets of abuse and attack, and as Powell has said:

Whichever way one wishes to characterise 'modernity' (uniformity, bureaucratic efficiency, instrumental rationality etc.) it is clear that Gypsies appear to have the potential to undermine it. Hence it is entirely logical that they should be the targets of an immoral panic as States have the primary role in moral entrepreneurship as indeed they do in what Bauman calls the "social production of indifference" (Powell, 1994).

Because society is seen to be predicated upon a system of social rules and norms, "rejection" of social rules or norms is presented as rejection of society. And so, the argument goes, there is no entitlement to anything that society offers:

I don't see why I have to pay taxes and support a community that rejects the society I'm a part of. (Interview with a local opponent to a Gypsy site, 1996);

If you don't obey the rules, you get out. And they don't like the rules, so they can get out. It's as simple as that. (*Southern Eye*, 21.12.95)

Society therefore is "legitimately" able to, in turn, reject its rejecters, or rather detach itself from those who are detached from it. It is at this stage of the argument that "rights" are "culturalised" or de-naturalised, made alienable⁵¹. Rights are therefore intrinsically linked to perceived social and citizenship status. Attachment to the ideologies or institutions of society, then, is a mark of an individual's attachment to the State as well as a mark of his or her socialisation and ability to be controlled: within institutions the dominant ideology is learnt and accepted as natural and individuals can be located and "informed". Attachment to the ideologies and institutions of society, therefore, signals the potential allegiance to the State and lack of threat:

If a person is dependent for his security on the voluntary and spontaneous support of his own community, self-identification as a member of this

and Donald Kenrick, are some of the most notable examples of such exceptional people.

⁵¹ Rather than inalienable, as is popularly presented and as generally serves as a legitimising function for governments.

community needs to be explicitly expressed and confirmed; and any behaviour which is deviant from the standard may be interpreted as a weakening of the identity, and thereby of the bases of security. (Barth, 1969: 37)

According to Segal: “the breaking of one rule involves an attack on the whole system of rules, rituals, personal identity and community” (Segal, 1971: 265). It can therefore be seen that the rejection of the sedentarist norm (not accepting it as natural or the done thing) could signal the potential rejection of all norms which would signal the potential dangerousness of the nomad to the social order or to the State which has to be seen as natural and the best and only way. Similarly, as Salim’s (1962) anthropological research concluded, disorder depicts dishonour: abiding by social rules or norms shows respect for the State and, in general, individuals. The threat, then, is not merely locational. Social control is an ideological as well as a practical issue: knowledge is informed and elicited within spatial as well as ideological institutions.

Another significant reason for Local Authorities not fulfilling their legal duty to provide sites, could be the fact that many authorities had no intention of doing so, because they saw the CSA purely as a mechanism to control Gypsies, as was argued earlier. As Odley argues:

... whilst paying lip service to the need for accommodating “all those whom the Act defined as ‘persons of nomadic habit of life, whatever their race or origin’ and who were ‘residing in or resorting to their area’”, the requirements of the Act only appear to have been pursued insofar as the Act would restrict and curtail the movements and intended movements of the Romani and general travelling communities! (Odley, 1992)

In effect, the CSA persecuted the people the Act was said to favour. As one Traveller said, the sentiment of the Authorities and legislators seems to be saying: “Of course we must cater for your interesting differences, but we must encourage you, to the point of coercion, to stop being different - or at least make it as difficult as possible” (Hawes and Perez, 1995: 128). “Alternatives” can only be condoned as long as they remains unattractive options for the rest of the population. From this (Durkheimian) perspective, it can be seen that the control and punishment of the nomadic population is a lot to do with the social control of the rest of society. As Cardiff City Council was

reported to have said in 1954, about a proposed site with amenities: “the more comfortable we make them, the more attractive it will be for vagabonds to join them.” (Fraser, 1996) The threat of punishment as well as the manufactured threat of Gypsies pacify and assuage the public into consensual complicity.

Few areas were actually “designated” and there is no record of any sanctions against Local Authorities who failed to meet the criteria for designation. This also had much to do with authorities responding to local opposition and pressure, or at least assuming to do so, as has just been detailed. This was recognised (yet again) by the DoE⁵²:

One of the main causes of delay in site provision has undoubtedly been the tendency of local authorities to seek to refer to the Secretary of State decisions on gypsy site proposals. In particular, the vast majority of objections under section 8 relate to local planning issues which would not otherwise warrant the attention of the Secretary of State. Moreover, in the face of the local protests, which gypsy site proposals almost invariably arouse, the automatic reaction of some authorities is to press the Secretary of State to cause a local inquiry to be held... [But,] intense and vocal local opposition does not in itself justify such intervention. (DoE, 1977, paragraphs 29 and 30)

As a national support group for Travellers has recently described in research entitled *Confined, Constrained and Condemned*, the effects of an insufficient number of sites:

... has been to compound the problems faced by both Travellers and the sedentary population. Firstly, it reduces the available places to stay and means that Ts are unwilling to travel simply because there is nowhere else to go, and leaving a site risks it being denied to them for future use. Consequently, site conditions are likely to deteriorate from continuous use, especially if no services such as toilets or rubbish collection are available, and there may be a threat to health of the Travellers due to their being forced to live in one place for an extended period. Fewer sites mean that those that do exist tend to attract others and they may become overcrowded and lead to nuisance problems for residents. (Friends, Families and Travellers Support Group (FFT), 1996b: 18)

As Smith (1996) has said, neither the sedentary population nor the Gypsies or other Travellers want “shanty towns”. According to opposition arguments, it is assumed that Gypsies somehow enjoy poor conditions. Gypsies neither desire such conditions nor

⁵² Although no successful steps were taken towards remedying the situation.

orchestrate them: they are generally the result of poor management and lack of service on the part of the Local Authorities:

Imagine one of your council estates in the middle of town – before it becomes privatised – with its high concentration of children and household pets such as cats and dogs. Now imagine the water supply being disconnected – permanently – no more water on tap, no more hot baths, no more hot showers, - NO MORE TOILETS BEING FLUSHED. Now imagine its road being torn up and the refuse disposal service being abolished, - you now have no water, no road and your own litter in your house is in the garden. (Frankham in Acton et. al., 1998: 3)

Another side-effect of the CSA was to make uncertain the legal recognition that Gypsies were a racial group in terms of the Race Relations Act 1976: the CSA being supposedly set-up to benefit Gypsies but defined “gypsies” as those of a nomadic habit of life. Further, as Acton said in his response to the Government’s consultation paper on the reform of the CSA: “It also disguised the extent to which sites provided under the 1968 Act were, effectively ethnic ghettos.” (Acton, 1993a)

Additionally, the legal definition of “Gypsy” as being “persons of a nomadic habit of life whatever their race or origin” (Caravan Sites and Control of Development Act 1960, s.24)⁵³, meant that many Gypsies were not only denied site provision, due to the subjective specificity of nomadism, but were also denied protection under the Race Relations Act 1976. A Gypsy may have to be sedentary or dwell in housing for a time until a pitch is available and paradoxically automatically lose his or her Gypsy status. Alternatively, the same may occur if he or she chooses to live in a house for a while, because of ill health, education, security, or a number of other reasons. Consequently, a person may legally lose his or her ethnic status because of the exercise of free choice or because of extenuating circumstances such as the need to escape insecurity and

⁵³ Under the CJPOA, the definition of Gypsy is restricted by the added criteria that it means those who “travelled for the purpose of making or seeking their livelihood” (Circular 18/94 s.3). With the added stipulation that there has to be a purpose to a nomadic life in order to be legally counted as a Gypsy (arguably, an attempt to alienate so-called New Age Travellers from the “privileges” that Gypsies are entitled to), Gypsies have the added dilemma of having to present their work history and, sometimes having to prove that the locality is likely to provide relevant work opportunities - akin to immigration procedures. Again, it is seen that services should not cater for Gypsies but be protected from them, in this case the employment and social security services.

harassment until an authorised pitch is available⁵⁴.

The definition of “Gypsy” under the CSA ironically excludes their ethnic status, despite the fact that the CSA was presented as a recognition that nomadism is integral to Gypsy way of life and tradition. Dangerous consequences arose in the sense that it sent the message that anti-Gypsyism is not ethnically discriminatory. A party to this is the DoE twice yearly Gypsy counts⁵⁵. Apart from the manipulation of statistics and flawed methodology, many Gypsies (as well as other Travellers) are not accounted for in policy decisions because they were not included in the count. This is because they were in housing or on the roadside, for example, or because the Local Authority purposefully evicted Gypsies from their jurisdiction immediately before a count (Dawson, 1996b). In essence, the existence of these groups, those who do not fit neatly into the stereotypical definition of “Gypsy”, can be denied, and as such, so can responsibility to them and harassment of them. Practical consequences at the local level for Gypsies included under-provision of sites and amenities and an almost full-proof amnesty for all anti-Gypsy attacks. In summary, statistics on Gypsies can be, at best, guesswork or estimates. From them, conclusions, theories and policies are made. In other words, conclusions, theories and policies are informed by the stereotypical definition of “Gypsy”.

The fact that there were (and remain) insufficient sites contributed to the generally poor standard of living of many Gypsies on council-owned sites (not to mention those unable or unwilling to be officially sited). To this day, many Gypsy families feel trapped on sites and afraid to pursue their nomadic tradition or to travel to find work or visit relatives and leave the site for periods of time should they lose the pitch⁵⁶:

⁵⁴ Or, today under the CJPOA, a desire to live within the law, as the CJPOA criminalises those on official sites.

⁵⁵ FFT (1996) have said that undercounting is used as a strategy to minimise responsibility. Gypsy counts are about controlling Gypsies and not about provision for them, as is shown with many Local Authorities’ “support for monitoring numbers but not for maintaining a land bank suitable for occupation” (Interview with Planning Officer, 1995).

⁵⁶ As Davis (1992) found with housing project residents in Los Angeles, Gypsies often do not complain about poor conditions or behaviour of officials in case they are evicted. In many cases this has led to wardens regularly invading Gypsies’ privacy, for example, with the residents feeling unable to complain (fieldwork, 1995-6).

The notion remains valid; a family may remain for months or years in the same place, and the fact that it may, at will, change its domicile will make it feel the more at home. That is the situation of the nomad who stops voluntarily. But the nomad who is forced to stop and is, moreover, assigned a residence, feels like a prisoner. (Liégeois, 1987:111-2)

For example, on a site in Cardiff, most Gypsy families had been there for twenty years as the Council rules that you can only leave the site for a certain amount of weeks per year. Many of the residents were nostalgic about a more nomadic age and felt depressed about feelings of loss, pointlessness and entrapment (Interviews, 1995-6). Being trapped on sites also makes Gypsies more vulnerable to outside attack: “immobility makes it impossible to escape from a hostile environment” (Liégeois, 1987: 111). Young gorgio men interviewed (1996) in one area said that the local Gypsy site provided a focal point for much of the violence of gorgio men. The interviewees said people would go to the site for a fight knowing that the Gypsies could not get away, and would also likely be blamed for the disturbances. As with the dispersal policy, enforced sedentarism facilitates violent attacks upon Gypsies, as well as other forms of abuse because it makes Gypsies more easily locatable and more vulnerable.

Rigid site regulations also add to the fact that it is now very hard for Gypsies to retain their traditional work, such as making pegs, flowers, and so on. Nomadism supported their economic activities, so it is now hard for Gypsies to survive, as they used to be able to stop on the side of the road, for example. If a Gypsy family left a site they would also consequently face the onerous task of finding another pitch, as well as another school, doctor, employment, and social network. Only a few Local Authorities allow site residents to travel each year. Like council tenants, Gypsies pay rent and Council tax. Unlike some council tenants who are able to vacate their homes for a year and sub-let their accommodation, Gypsies risk losing their pitch if they leave. As the London Irish Women’s Centre have commented:

This is a double denial of rights because travelling is one of the basic traditions associated with a Traveller lifestyle. (London Irish Women’s Centre, 1995: 19).

However, apart from restricting the movement of the site residents, the way a site is

generally organised is detrimental to Gypsies' lifestyles and, consequently detrimental to their employment, health, and social well-being. Most sites have fifteen pitches and a warden's hut (the number fifteen being based upon specified minimum for London Boroughs). Consequently, extended families are split and, because of the lack of space and site conditions, even unable to visit unless able to share the sited caravan. This problem is exacerbated when children grow older and need separate caravans, as many Local Authorities rule that only one caravan per pitch is allowed. Also, they are unable to choose their neighbours and, as has happened on some occasions, if animosity or trouble arises, the residents have the choice between putting up with it or finding themselves homeless and criminal.

Concentration Camps

As many of Charlie Smith's (Chair of GCECWCR) poems put so articulately, sites had an immediate and detrimental effect upon the nomadism of Gypsies:

Trial of Life

... So we're living on the cheap
On the garbage heap
There seems no way out
And it makes you wana shout
Because I feel so down and out
Now tell me
What's it all about? (Smith, 1995: 14)

Mum and Her Two Boys

Now all the family's pinned down
As good as chained up to the ground
Even their granny's penned up on a site
They all dream that one day
They can pack up and go away
To a land where travelling isn't lost
But there ain't much hope of that
Because they're in the poverty trap
And if they did they'd have nowhere to stay (Smith, 1995: 47)

Sites, therefore, resemble concentration camps or prisons in terms of physically incapacitating residents and imposing restrictions on behaviour, and having a warden⁵⁷ on site who frequently invades Gypsies' privacy and signs in their visitors. As in prison, what are generally accepted as "rights" by mainstream society, become "privileges" for those entrapped: "Having visitors is a privilege and not a right" (Local Authority in North Somerset, cited in Thomson, 1997: 8). Consequently, "privileges" have to be earned via complicity and sacrifice and can equally be legitimately withdrawn. As Sibley says:

As in prison, power and domination are expressed in arbitrary rules and transgression warrants the imposition of sanctions, including eviction in the case of many English Gypsy sites. (Sibley, 1995: 84)

It is clear who the warden is there to placate. Similarly, it is clear who the screening of a site is for (to be discussed in Chapter Three). As a County Council Secretary said, wardens:

... have not been provided too much for the benefit of the gypsies themselves but for the local communities who had previously endured gypsies living in squalor on unauthorised sites. (*Evening Argus*, 11.9.92)

The resemblance can also be seen in their poor conditions and lack of amenities⁵⁸. Furthermore, they serve as the focal point for local and institutional hatred, punishment, control, surveillance, violence and opportunism (such as dumping rubbish or the blame for social problems on the site – to be discussed further in Chapter Six). The prevalence of institutional and local attack (with little legal recourse for protection) and the poor conditions of many sites also contribute to many Gypsies feeling they are being victimised and might as well be living on a concentration camp.

Generally speaking, in their stark and regimented physical appearance and structural

⁵⁷ Most sites have wardens. Some wardens are ex-policemen and ex-army officers (fieldwork).

⁵⁸ Many sites are in a state of disrepair with broken toilets or exterior lighting, unsafe gas and electrical appliances, unhygienic sewage and water provision, blocked drains, and so on. Some sites have no water, gas, and/or electrical supplies, rubbish collection, or sanitary amenities. Yet, the residents are still obliged to pay rent and tax and are generally perceived to be "scrounging" tax-payers' money. This will be analysed in more detail shortly.

set-up, sites do resemble the archetypal prison or concentration camp, far from an aid to Gypsies' nomadic way of life. And, as FFT have said: "The physical design often resembles a tarmac pit surrounded by fencing confining and constraining the inhabitants." (FFT, 1996: 19) Each pitch is uniform and, as the site as a whole, is often cordoned off with brick walls "like cattle pens" (Gypsies in Lydia Park Public Inquiry, fieldwork, 1995). Structures, other than the most necessary and basic, are forbidden under planning legislation and site regulations, and any repair work is generally forbidden without prior approval of the Local Authority⁵⁹. Structures often fall into disrepair as a result of Local Authority negligence or prejudice. Furthermore, because of planning legislation further restricting renovation, Gypsies are prevented from repairing or rebuilding these structures. The location of many sites also connotes "punishment": banishment to the ghetto (for example, next to rubbish dump or industrial grounds, or amidst pylons). The fact that there are site wardens, normally residential, lends the State provision of sites an air of control and surveillance over suspect communities. While residents on council estates may be seen as problematic, the whole community of the estate never becomes a prime focus or agenda for the myriad of social control agencies, to the extent that Gypsy sites do:

Planned settlements for Australian Aborigines, native Canadians and some European travelling people, for example, express the state's interest in separation and the correction of deviance. Locations are selected which remove the minority from areas valued by the dominant society and, in isolation, the design and regulation of space are supposed to induce conformity. The regularity of design, the high visibility of internal boundaries which interrupt traditional patterns of social organization, make what is culturally different appear disruptive and deviant. (Sibley, 1995: 84)

Whilst "an Englishman's home is his castle" (Semayne, 1604 cited in Robertson, 1993), a Gypsy's home is his prison. The respect that UK law has always paid to the rights of property ownership has never been afforded to Gypsies. This suggests that the law does not merely discriminate against individuals in favour of property, but in favour of the propertied classes: the ruling elite. In this sense, UK law is predicated upon the protection of property, but property is hierarchised within power structures (i.e.

⁵⁹ Even repair work to, or construction of, things such as safety walls, toilets or other essential amenities are prohibited, even when the effects are potentially lethal.

someone who owns a caravan is likely to receive less legal protection than someone from the landed gentry). Therefore, the law is not property based, as many critiques purport. The concept “property” is merely a device to retain control and imbue the dominant ideology. During this research, numerous occasions were witnessed where Council and Police Officers visited and regularly patrolled sites in a nature that would outrage house-dwellers if they were the subject of such “investigation”. Sites were open access, they were not a collection of homes: they were not the private space for the residents but public property. However, when it comes to receiving personal visitors (see previous discussion), the site warden must normally be informed, thus further undermining the privacy and integrity of the “home” where Gypsies are concerned. Some sites have even been fitted with security cameras - facing inwards. For example, the Bangor site, situated next to an industrial works, was fitted with CCTV cameras after a spate of thefts from the works, while no evidence was given that the culprits were the Gypsies.

Everyday activities, such as receiving friends unannounced, or having bonfires or pets, are forbidden on many sites. There are also limits on trade despite the CSA stipulating that Gypsies’ employment should be incorporated into the site under Circular 1/94 s.15 (to be discussed in Chapter Four). On one site hoses are banned for washing caravans (Interview with a Traveller Support Group member, 1996). Even official sites that are not owned by Local Authorities have conditions attached to residency and planning permission, imposed by the Council. These conditions restrict a “natural” and traditional lifestyle that the “settled” population would not concede to. These conditions include restriction of people, vehicles, dwellings, other structures, activities, and movement. As Kenrick says, accepting these regulations means “radically changing their life style” (Kenrick, 1995).

On top of this the Gypsy site resident has no security of tenancy, while the Local Authority can evict at any time for any reason. On many occasions Gypsies have been falsely evicted or threatened with eviction or denied access to a Local Authority site because of assumptions that Gypsies do not understand the law, or are aware of the

relevant legislation, or do not read and write⁶⁰. One Gypsy had had her name on a waiting list for a Local Authority site for two years. When she was evicted from her temporary residence, the warden denied he had ever spoken to her and her name was not on the waiting list. Although there were vacant pitches, the woman was evicted and prevented from occupying one of the pitches.

The site regulations that forbid certain activities and planning legislation, are also shrouded in the language of punishment. As Kenrick (Interview, 1996) and Frankham (1997) have signalled, the recent Government legislation, with regard to the control of Gypsies, is reminiscent of the early Nazi policies of the 1930's⁶¹. The general similarity is the targeting of the homeless, nomads and the unemployed. Such similarities obviously forebode an alarming future: As Kenrick said at the release of his book, *Gypsies Under the Swastika* (1995):

Any time a person is seen as inferior or criminal because they belong to a group, not because of what they've done, then you're on the slippery road.

The official language, too, is reminiscent of the Nazi era, and will be analysed in Chapter Three. "Screening", for example, is a concept that reviles Gypsies and, also, many Local Authority officials and others working in the area (fieldwork, 1995-6). The obvious connotations include the need for the sedentary community to be protected. Ironically, screening is sometimes more detrimental to the aesthetic appeal of an area than a small group of caravan homes. As such, a site can be seen to have the same social function as a prison: being hidden from and "protecting" society whilst also making it publicly prominent, so as to serve as a threat to the outside community. Both prison inmates and sited Gypsies also describe feelings of being in a rabbit hutch; always on show and under uncertain but potentially constant surveillance (fieldwork,

⁶⁰ On one occasion, during this research, a group of Local Authority officers proceeded to evict a family until one of the Gypsies produced a letter that I had written which stated all the relevant legislation and Local Authority duties. It is highly unlikely that the Council members were unaware of their duties, especially as there has been so much debate on the subject recently (fieldwork, 1995).

⁶¹ For example: legislating against mass trespass (people travelling or gathering in hordes); splitting ethnic and non-ethnic Travellers (the "genuine Gypsy" and the "New Age Traveller", for instance); segregating minority groups from the mainstream; putting Gypsies in camps with wardens (as they were before deportations in the Weimar Republic), and; generally controlling people's movement and relationship with the land.

1995-6).

Over and above a neo-Marxist analysis that would see Gypsies as rubbish, to the extent that they are surplus to society (on reserve on the reservations), Gypsies, in effect, are literally treated as rubbish: discarded and hidden and denied human value⁶². Ironically, the location and lack of services, such as rubbish collection, create unhygienic conditions on some sites which is consequently used to justify treating Gypsies as dirt, as dirty, and further like practices ensue. This is apart from the actions of local opportunists or abusers. Again, the general message seems to be: if you want to *take* liberties you have to pay for them. Similarly, from a social control perspective, poor treatment of Gypsies can be seen to be about controlling the sedentary population: assuaged or manufactured public hatred of Gypsies ensures that members of the public will not associate themselves with Gypsies. In other words, they will remain sedentary and ideologically uncritical and unchallenging. To paraphrase, hatred provokes conformity and, as such, creates a successful “democracy” or, rather, a stable, consensual, socially controlled State.

In this sense Gypsies are “suitable enemies” (Christie, 1984). A common enemy will always unite the majority and, as a bonus, will open the door to more governmental or centralised power and control. Civil liberties become axed in the name of democracy and freedom in the form of “compensatory measures” (Schengen Agreement, 1985⁶³) that nomadic populations provoke. In essence, “we” all have to suffer our protection from “them”⁶⁴. The most popular argument is “Why should they have the freedom to do this when I can’t”: illogically Gypsies are blamed for the sedentary status of the general population. The other favourite argument is “Why should they be able to take from society and not give back”. As has been said, Gypsies do pay taxes *and* are forced to be more dependant upon the State, being trapped on sites (trailer parks are not about travelling, as so many Gypsies have said) or criminalised and institutionalised

⁶² For example, basic civil liberties and human rights, such as water, secure residence, protection from violence and discrimination, access to health care, and voting rights.

⁶³ The Schengen Agreement’s purpose is to remove all national borders controls between the Schengen States of Europe. Consequently, “compensatory measures” are necessary, which ironically constitute increased policing, surveillance and legislative restriction on freedom of movement.

⁶⁴ These themes will be explored in Chapter Six.

into subjects for the consumption of the social control agencies. On interviewing Gypsies on Local Authority sites (1995-6), most complained about being forced to remain on sites for the majority of the year. For example, one Gypsy family (Interview, 1995), felt that they had been trapped on their site for the past twenty years. Gypsies are more suppressed for the misconceived belief that they are free or escaping. Paradoxically, Gypsies have less opportunity to be independent, out of the public gaze, and mobile, in comparison with the sedentary population. Holiday caravanners rarely experience the law and holiday caravan sites are rarely subjected to microscopic inspection, adjudication and control. Another of Smith's poems highlights this irony:

Reservations

All penned up on the reservations
On a bit of waste land next to the sewage works
Behind earth mounds, fences and walls
Must not offend delicate eyes
Out on the edge of town
So we know they don't want us among them
Keeping us at a distance on the reservation
Static trailers sit, never made to move
Little brick sheds and concrete pads
A warden to keep us under control
We are allowed out for a while
Just to pick potatoes and fruit that everyone eats
Or for one day at a horse fair, before these all disappear
There's nowhere left for us to stop anymore
Nowhere we can light a fire to cook a bit of food
Only room for their own kind
With campers and twee little caravans
Bar-B-Qs and the outdoor life of freedom
Things taken from the Gypsy taken for themselves
Always take, take some more until it's all gone, what then
Designate, denigrate talk about us like we're filth
Put on the Reservations next to your stinking factories
Lots of talk about equal rights, social justice
You only talk amongst yourselves
Telling what we want, what is good for us
Kindly, you give us these reservations
Look what you have taken away. (Smith, 1995: 26)

This poem highlights the concentration camp and ghettoisation themes. It describes

how Gypsies are ideologically and practically excluded from society, shown by the desire to conceal and push Gypsy sites out to the edges of Local Authority jurisdictions, to the outskirts of society, so as “not to offend delicate eyes”. A number of Gypsy support and liaison workers have said they felt the Local Authorities have treated Gypsies as refuse to be dumped as far away as possible. For example, Kenrick (Interview, 1996) notes how many Gypsy sites are as close as they can be to Authority boundaries. The discriminatory hypocrisy of the sedentary community is punctuated with the “us”/“them” divide, and paradoxical notions of democracy and freedom - enslaving Gypsies and adopting their traditions as privileged pastimes. Meanwhile Gypsies themselves are finding it increasingly difficult to pursue their way of life. As Mercer has said:

Today we're stagnating... as in Eastern Europe in houses - we're stagnating on sites. (Interview, 1995).

Implicit to the reservation metaphor is the political ideology of Native American Indians, having been condemned to experience punishment in the name of the “civilising process” and the social ills of the colonialists in the name of “The American Dream”. Ironically, the mass media in the UK affords attention⁶⁵ to the threat to the tradition and community of the Indians as a result of Western ghettoisation, and yet closer to home Gypsies remain a legitimate target. A similarity between Gypsies and Native American Indians and other indigenous groups, is that they are subject to hostile expressions of the State intent on their abolition through criminalisation, violent attack, or by legislating them out of existence. In the 1980's, a group of Native American Indians in prison declared themselves to be “Prisoners-of-War” because the “Canadian Government is waging a War of Genocide against the Indigenous People of North America” (*Almighty Voice*, 1983: 30). A Gypsy in a UK prison could also be said to be a prisoner-of-war if he or she was there because of the genocidal laws which directly or indirectly restrict a law-abiding and traditional Gypsy existence.

Gypsies entrapped on sites might also be said to be prisoners-of-war and the sites regarded as concentration camps. Sites could be seen to resemble pseudo-

concentration camps because they are the focal point for violence against Gypsies, and are often targeted by the police and other social control agencies (Interviews with Gypsies on sites, 1995-6). Many visits occur when no crime or misdemeanour has been committed. The nature of their visits can also be seen to be reminiscent of concentration camps: the suspect community in the punishment block. All Gypsies who have lived on a Local Authority site who were contacted during this research, had experienced many police raids and invasions of privacy by many Council Officers and other officials (see Chapter Six). They also said that their sites often attract criminals, aware that any misconduct in the area is likely to be automatically blamed on the Gypsy residents (Interviews with many Gypsies and Gypsy support group members, 1995-7).

Like concentration camps or prisons, sites have a “regime”, are “managed” and “monitored” (Local Authority discourse), and have wardens occupying the panoptic centre. Such secured and controlled provision is undesirable to most non-Gypsy Travellers who have articulated the fear of the loss of mobility (Campling, 1996), and it is questionable whether it would be acceptable if it were for the sedentary population. Many Gypsies are dissatisfied with the structure and operation of sites. However, some Gypsies do prefer wardens who can sometimes ease problems with officialdom, bureaucracy, or hostile locals. A warden can often be a contact with the outside world, but they often operate to keep Gypsies ostracised, therefore making them dependant, further resembling prison culture. Many Gypsies have also mentioned that the presence of a warden contributes to the feeling that they are being continually spied upon. In effect, Gypsies are pacified and made dependant upon the State, while control of perceived deviants is presented as benevolent patronage.

Analysis of the site as panopticon, drawing on Foucauldian theories of space and surveillance will be in Chapter Five. For the moment, however, it is worth noting how the general management and physical structure of sites fit into post-Enlightenment theories of social control regarding segregation, institutionalisation and professionalisation: problematising groups in order to “cure” them on the one hand (legitimising control) whilst on the other hand, and arguably the latent function of such

⁶⁵ Albeit limited attention, and mostly constructed of images of savage Indians versus heroic Cowboys.

practices, to paradoxically retain their problematised status. This is intrinsically linked to concepts of knowledge and power.

Gypsies are sited, they are “in sight”, able to be easily located and observed. However, they are sufficiently out of the way (on rubbish dumps and so on) to be out of direct sight of the general public. This insures that the majority of direct knowledge remains in the hands of the powerful. Ironically, sites are out of the public gaze as far as crimes against Gypsies are concerned. Nevertheless, sites are sufficiently noticeable when it comes to targeting by local vigilantes⁶⁶, the police and other social control agencies, and the media. In effect, Gypsies are “outside” society in terms of provision and status, whereas the agencies of social control intervene more into the lives of Gypsies than those of the general public. There is, then, a balance to be found between, on the one hand, the need/desire for surveillance and knowledge and, on the other hand, the need/desire to retain the moral panic (which has to be relatively unknown, unseen and therefore potentially unpredictable and threatening). Such a balance has many functions: to socially control the rest of the population; to unite the nation; to distract attention away from Government policy failures or other activities; to increase centralised and unaccountable control and policing; to decrease civil liberties and welfare. These functions will be discussed in detail in Chapter Six. In summary, Gypsy sites have to retain a seemingly paradoxical state: they have to be sufficiently visible and vulnerable in order to be the target of attack, and sufficiently invisible and powerful to incite fear and thereby increase the legitimate magnitude of the attack.

To reiterate, the effect of State involvement in the public/private lives of Gypsies is the creation of ghettos and those who are trapped on them are blamed. Because Gypsies are criminalised they are able to be “legitimately” victimised and then are further blamed or made deviant⁶⁷.

Gypsies are either trapped on “reservations” or outlawed: either way they are ostracised and observed as suspects or criminals. As Acton argues regarding the

⁶⁶ See earlier discussion regarding sites being sufficiently noticeable in communities to encourage locals to frequent them for fights (Interview with a sedentary neighbour of a Gypsy site, 1996).

preoccupation with defining the “true” Gypsy, site provision policies, in the main, appear to be “guidelines for building better ghettos, not for implementing human rights” (cited in Hawes and Perez, 1995: 131). As Wilkinson has said: “[sites are] designed to affect the assimilation of the Gypsy” (Wilkinson, 1978: 33). Many Gypsies see Local Authority sites as the last nail in the coffin as far as their tradition and way of life goes. In Ireland, the Dublin Accommodation Coalition for Travellers delivered ten small white coffins to Local Authority representatives. They symbolised the ten “shanty sites” into which Travellers were “herded” and for “bringing many Gypsies to an early grave [because the sites] lack the most basic facilities” (Dublin Accommodation Coalition with Travellers, 1996).

Helge Valamar, a Gypsy who works for the Finnish Ministry of Labour, was shocked when he first saw a UK site. He felt they were half way between a house and a van and said that if Gypsies lived all together in Finland like this it would resemble a ghetto and there would be massive fights. Finnish Gypsies are more sedentary than Gypsies in the UK, although Valamar said sited Gypsies might as well live in houses as they cannot move. However, in Finland the difference is recognised between participation and assimilation, in that they want their own culture but not segregation. (Valamar, 1995 and Interview, 1995)

Not only do many Gypsies feel trapped on sites because they are prevented from continuing their nomadic tradition, but they also feel trapped because the location of many sites is far away from services and amenities, such as shops and laundrettes. This is a problem for day-to-day living, employment and education opportunities, and causes problems for visiting friends and family members. For example, one site in Shropshire (fieldwork, 1995) is too far from any conurbation for the residents to travel to work. Also, residents are unlikely to be provided with access to public transport. Children on a site in Hackney were denied a bus to take them to and from school. The Local Authority said this was because of a lack of funds. But, when the residents offered to pay the Local Authority still refused (London Irish Women’s Centre, 1995: 22).

⁶⁷ This will be discussed in Chapter Six.

Further problems arise, even before a pitch is obtained, because of the amount of paper work that is expected to be filled in. This is because of the illiteracy of many Gypsies and because of the personal nature and number of questions (see Kenrick, 1995). As Kenrick (1995) says, after having completed the application form, the applicant has to stay in contact with the Local Authority until a decision is made: an arduous task if living illegally on the roadside, or having to wait in housing and risk losing their Gypsy status. It is not unusual for Gypsies to wait many years for a vacant pitch.

There was no time scale for the provision of sites and, as such, the relatively few sites that there were by the time the Act came to be repealed, were also a long time in the making. There remain many Gypsy families waiting in council houses for a vacant pitch. As one Gypsy pointed out:

There's definitely a need for more sites. They forget that as Travellers have kids and grow up and have their families, there's nowhere for them to go. That's why lots of Travellers are being forced into houses. (London Irish Women's Centre, 1995: 17)

Needless to say the ways in which all Local Authorities approached Gypsy site policies were not, and is not, homogenous⁶⁸. An example of concerned Local Authority officers can be found at a recent Conference held by the Advisory Council for the Education of Romany and Other Travellers (ACERT). A group of Local Authority Planning Officers discussed the fact that Gypsy sites are often vote-losers, not by arguing how to deal with the "Gypsy problem" but by asking:

How is it possible to get over the prejudice which people have against Gypsies. Possibly through education, a campaign to try and change peoples' view about Gypsies. It will be difficult but it [is] likened to the long term campaigns to lessen racial and sexual discrimination. (ACERT, 1996)

However, the structure of Local Government, the perceived and actual guidance of

⁶⁸ Many Local Authority officers that were interviewed during this research were very aware of the discrimination and harassment facing Gypsies, and very eager to help or educate members of the public, for example. Many were keen to help with this research, in the hope that it might help undermine the stereotypes of Gypsies and the hostility they can produce.

central Government and of the available legislation, and the dominant ideology of sedentarism and racism, mean that the policies or behaviour of officials are likely to be hostile towards Gypsies regardless of any conscious intention. As Christie said of former Nazi concentration camp guards: "I find mostly nice people doing these things with the best of intentions." (Christie, 1996: 12) Similarly, Lifton has said:

One important lesson is that the Nazi doctors that I interviewed were all ordinary people. They teach us that it is possible for ordinary men and women who are not inherently demonic to engage in demonic pursuits... And it can be said that among the Nazis, teachers and other professionals with pride in their professions, lent themselves to mass murder. The majority of teachers in the universities in Nazi Germany did not actively take part in mass murder, but they accommodated themselves and went along, or sat back and did nothing to prevent it (Lifton, 1988: 66).

Overt discrimination and hostility is possibly easier to address and condemn. The ingrained, naturalised discrimination that is so often found reminds social researchers how difficult such discrimination is to expose, analyse and challenge and how another Holocaust could happen (see Bauman, 1994)

Furthermore, in the main Local Authorities did not only renege on their duties but, when a site was developed, the Gypsies needs were rarely consulted. Thus, a Local Authority may appear to have a reputable Gypsy policy record, whereas, in actual fact, the Gypsies of that authority were ignored (usually more so because of the appearance of being provided for). This must still not, however, be taken as a universal situation, as groups such as the Cardiff Gypsy Sites Group (1992) have achieved great improvements in consultation between Authorities and Gypsies, particularly in the selection, design and management of sites. But, in the main Gypsies were rarely consulted and their needs rarely addressed. As the London Irish Women's Centre have said:

If councils are not addressing the issues and listening to Travellers, they are much more likely to make ill informed and inappropriate decisions. (London Irish Women's Centre, 1995: 32).

They give the example of Hackney's permanent site which Gypsies only signed up for "because we have no choice" (London Irish Women's Centre, 1995: 33). The site is located on a busy road, near to the River Lee, and far away from schools and shops. Gypsies foresaw problems that would arise as a result of the poor location and were concerned that they themselves would get the blame. Poor design and amenities also contribute to the poor perception of Gypsies as "dirty" or disrespectful of property (Interviews with locals and Gypsies, 1995-6).

Some sites have no heating or hot water, others are positively dangerous to the health of the site residents because some Local Authorities do not take the construction and maintenance of sites seriously and so have been known to renege on health and safety checks. Sites often lack basic facilities such as toilets, clean water, electricity, washing facilities, fire precautions, telephones, and so on. Some have no water provision at all⁶⁹. Whilst, on the other hand, Local Authorities nit-pick over the erection of walls, and the colour of caravans, for instance. One site in Essex would have had contaminated water were it not for the vigilance of Anne Bagelot (GCECWCR committee member). Before this site was built, the Local Authority had refused to speak to the future residents or anyone representing the Gypsies' because, according to the Local Authority, Gypsies did not know what they wanted. When the site was under construction, the builders put the sewage pipe on top of the water pipe. This is illegal and would have contaminated the water in the underneath pipe. It was rectified although people liaising with the Council doubted anything would have been done about it if the job had already been finished when the fault was noticed by a lay-person, and further doubted whether such a thing would have happened if it were not a Gypsy site that was being built (Interview with Bagelot, 1996). The same builders also left bricks in the drains "to bugger up the Gyppos" (*ibid.*) by creating flooding and hygiene problems.

The perception of Gypsy sites as being dirty contradicts with common complaint of lines of washing (Wilkinson, 1978), for example. As Smith says: "few stand in comparison to Brighton beach in the aftermath of an August Bank Holiday" [cited in

⁶⁹ Many Gypsies and Travellers have problems accessing water and while Local Authorities departments agree that water is essential, they disagree on whose responsibility it is (Clements, 1997a). The provision

Wilkinson, 1978: 5). The fact that rubbish is often not collected by Local Authorities, many Gypsies are refused entrance to dump their rubbish at local tips (see Dawson, 1996b for example), and locals have been known to dump rubbish near or on sites (Interviews with Local Authority Gypsy Liaison Officer, 1995 and Gypsies, 1995-6), is often ignored. The condition of many sites is poor because of a lack of Local Authority provision and/or maintenance and the geographical location of many sites.

The perception of Gypsy sites as dirty or messy is also a result of the gorgio perception of scrap dealing, which generally views it as a mess rather than a viable economic activity. As Steve Staines (1996b) of FFT has said, Gypsies and Travellers do not want to live on dirty, unhealthy sites: they want the right not to be a nuisance. The paradox is that because Gypsies are subject to inhumane treatment and poor living conditions, the perception is that because they live like this they *choose* to live like this, which encourages further discriminatory treatment and abuse. This perception can be seen in the following excerpt from a complaint letter to a Local Authority about a very discreet and tidy, private site:

The [...] family have been allocated houses in the past but they prefer to live in squalor despite all the protests. (Local Authority planning files, 1995)

Many Gypsies have been forced into houses or illegal dwellings because they were unwilling to accept the dangerousness of sites, or the insecurity of tenure, for instance.

Bad site conditions affect the physical and emotional health of Gypsies, as well as others' perceptions of Gypsies. The two public sites in Leeds are referred to by Gypsies as "Dallas" and "Hell". On the site the drains are blocked because of the poor design. Consequently, the Gypsy residents "live in a sewage pit" (Interview with local Gypsy teacher and researcher, 1996). Also, the communal toilet lid is screwed down. According to the Local Authority, this is so that it won't be broken; evidencing their preconception of Gypsy criminality and disrespect for property⁷⁰. As the toilet lid is

of water and sanitation services is also a right recognised in international law (see Appendix 10).

⁷⁰ Given that vandalism of Gypsy sites is usually done by gorgios, and that which is not is generally done because of the poor standards of amenities they have and because they are treated as criminals or suspects (with facilities chained or locked to bases, for example). One site in Shropshire, for instance, was

screwed down, when the toilet floods it cannot be easily fixed. Therefore there is constant flooding and sewage outpour. Such practices create a cyclical reproduction of stereotypes.

Social Service and Social Control

The sites also have indirect consequences with regard to civil liberties or “equal opportunities”. For example, one Gypsy teacher said that if she gave her address at the caravan site she would not get any job interview, while she got every job she applied for when she gave a friend’s address (Interview, 1996). In general, sites are not recognised as legitimate dwellings. On many occasions post is not delivered⁷¹, for example. In effect, such instances constitute racial discrimination. On most sites no provision is made for children or women who “can’t escape”. Playground areas, for example, are generally banned by the Local Authority because of regulations attached to site residency⁷². (fieldwork, 1995-6).

The Rover Way site in Cardiff was at one stage reported to be the worst in Britain: “It’s location is environmentally and socially disastrous; based on communal design, the living space is cramped and overcrowded” (Cardiff Gypsy Sites Group, 1992: 4). In the 1980’s and early 1990’s, the site residents experienced rat infestations, flooding, electricity disconnections, poor facilities, bad management, and evictions. Residents on the Shirenewton site in Cardiff also experienced similar problems, with little being done by the relevant Authorities to remedy the situation. In 1991, the Cardiff Gypsy Sites Group noted:

... the much needed redevelopment of the Shirenewton site to provide 56 permanent pitches has not commenced, particularly with regard to the decant site. Families are still “doubling up” on pitches and the poor facilities (Portaloo, one cold tap, one electric socket) are forcing some families to look to housing. Other families who have experience of previous failures to develop the site are,

vandalised by locals within a few weeks of it being built (fieldwork).

⁷¹ For example, the Shirenewton site in Cardiff did not receive post until 11.3.96. Apart from the civil rights issue, residents who do not receive post are at a disadvantage with regard to employment, schooling, and health, if they cannot receive letters.

⁷² And to planning permission, as will be discussed in the following chapter.

unsurprisingly, disillusioned by the whole process. (Cardiff Gypsy Sites Group, 1992: 7)

Living under such conditions also detrimentally effects accessing services. For the Gypsies it is hard to think of education, for example, when there is no hot water, or they are under the constant threat of eviction. On top of this, overt discrimination and poor access prevent Gypsies from enjoying the same services that the majority takes for granted. Services, such as receiving health care, are often based on the concept of a permanent address (see Hurst, 1997). Service providers also do not necessarily escape the stereotyped beliefs and prejudices that can be found elsewhere in mainstream society. It becomes a vicious circle when Gypsies on sites (not to mention on the road side) are, in effect, denied access to such things as health and welfare care, education and employment opportunities, which further leaves them vulnerable to more discrimination and prejudice. It also reinforces the stereotypes that people hold about Gypsies – being uneducated or unhealthy, for example.

The provision of sites has always been dealt with in isolation from social and welfare needs⁷³. With no site, education (for example) cannot be considered, and with education that does not cater for Gypsies, sited Gypsies are also disinterested. Education often does not cater for Gypsies because it is inaccessible to nomads or does not recognise their distinct culture, ethnicity, and the discrimination that they face. Also, education fails to cater for Gypsies because of what is taught, as well as the way things are taught. Many teachers do not realise the racism embedded in their actions. For example, one Gypsy child attended a class in which the exercise was to fill in the missing word and one of the sentences was: “A Gypsy _____ my bike”. Or, as Fiona Earle (1996) of the Travellers’ School Bus said, it is difficult when you are asked to “draw picture of your house” when you don’t live in a house.

Overt and extreme forms of discrimination and abuse are also common in schools. One female Gypsy’s experience involved having to enter school through the back door

⁷³ Additionally, there is a conflict of interests within Local Authorities between evicting and policing Gypsies and their role as a service provider: “Within the Local Authority we’ve got these different departments, and very often our brief crosses or is in direct conflict with somebody else’s” (Interview with a Gypsy Education Officer, 1995).

everyday while all the others went through the front door. While the other children were praying, she had all her clothes taken off her and was showered. She was never allowed to participate in the classroom, and had to sit at the back at all times while other children sat next to her for punishment. She was regularly violently and verbally attacked⁷⁴. This is a typical example of the abuse and segregation that Gypsy children suffer in school, often creating a situation where it is a choice between safety and welfare, and education:

The degree of hostility towards Gypsies' and other Travellers' children if they do enter school is quite remarkable even when set alongside the racism encountered by children from other ethnic minority groups (*The Swann Report*, HMSO, 1985).

One Gypsy teacher who suffers discrimination from other members of staff says that it fills her with horror to think what the Gypsy children must be going through (Interview, 1995). As Earle (1996) has said, it is terrible for parents to leave their children in a place where they daily face what adults could readily prosecute; i.e. racial abuse and discrimination, and assault.

Harassment and discrimination comes from teachers and parents, as well as other pupils. For example, parents withdrew their children from a school in Gloucester and protested outside the school because twelve Gypsy infants had been allowed to attend (*FutureNet News* via *PANEWS*, 23.3.98)⁷⁵. The children were escorted to school, reminiscent of apartheid or racial segregation in the US. Parents protesting and threatening to withdraw their children from schools because of the presence of Gypsy children has happened often⁷⁶. The Report by the Office for Standards in Education (OFSTED) found that:

⁷⁴ She persisted through school, but is not offered employment that she is more than qualified for, even when the post requires "knowledge of Travellers" - the position was given to a non-Traveller because the employers said this person had more experience (Flynn, 1996).

⁷⁵ There was hardly any mention of this incident in the national media.

⁷⁶ For example, it has happened in Dover, Kent, and Somerset recently (also see Malyon, 1994, and *Statewatch* 4:4, 1994).

Negative attitudes frequently manifest themselves in the refusal to admit Travelling children or in delay or the imposition of difficult or discriminatory conditions. (OFSTED, 1996: 10)

Harassment at school can lead to truancing, which leads to further marginalisation. With the added stresses of possible evictions and daily discrimination from other sources, the fact that Gypsy children may be put into foster care because they are not going to school seems especially inhumane⁷⁷. Also, parents may be punished if they don't send their children to a place that does not recognise, if not condemns, their way of life, and which conflicts with many of their values⁷⁸.

The CSA also paid little attention to adequate health and social provision, let alone in the context of their ethnic identity and the discrimination they face. It was precisely because the ethnic element and the fact that Gypsies are prejudiced against was ignored by the CSA and the CJPOA that prejudice continued at an accelerated rate.

As a recent report on Travellers sites in London concluded:

Service provision will not be accessible to Travellers if it is viewed in isolation from Travellers' identity and cultural values. Councils need to be flexible and innovative in addressing Travellers' needs. (London Irish Women's Centre, 1995: 38)

To reiterate, education, welfare and health services are predicated upon sedentary status, and encourages the assimilation and sedentarisation (i.e. the abolition), or marginalisation, of Gypsies. These services are more about social control and

⁷⁷ Some Gypsy and Traveller children are taken into care because of the prejudices held about their way of life. Some social service workers have been known to wait at school to collect the children, which sometimes frightens Gypsies into keeping their children away. Although this practice is not comprehensive, it still constitutes ethnic cleansing, and is reminiscent of more systematic programmes of taking away Gypsy children or preventing births and thus committing genocide under the Genocide Convention 1948, Article 2 [d] and [e]: "Imposing measures intended to prevent births within the group" and "Forcibly transferring children of the group to another group". The most widely known of these programmes was orchestrated by the Swiss Pro Juventutē Foundation until 1973. This involved taking Gypsy children without consent and putting them into foster homes. Similar programmes can still be seen in Eastern Europe. For example, it has been reported that coercive sterilisation of Gypsy women in the Czech and Slovak Republics is continuing to this day (Hancock, 1995). It is therefore especially ironic that a prevalent myth of the Gypsy is as child-thief.

⁷⁸ Especially regarding contact with the opposite sex for girls, sex education, and the relative availability of drugs.

maintaining the social order than the supposed manifest functions. Local Authority services often do not cater for nomadic people *or* people of a different ethnicity or culture. Often, money allocated for community services and public accommodation excludes Gypsies whether on Local Authority sites or not. For example, financial help for disabled members of the community has not been given to disabled Gypsies on a Local Authority site (fieldwork). Also, the general condition, location, or absence of sites often results in discriminatory treatment by employers, schools, social services, and others.

In summary, coupled with the discrimination by Local Authorities and other State institutions and individuals, Gypsies experience social exclusion as a result of the consequence of the poor conditions, location, number and regulations attached to sites. Sites often operate as the final and most effective attempt at the institutionalised curtailment of the Gypsy way of life, as well as every civil liberty that most citizens expect. Gypsies have poor access to social institutions such as education, health and recourse to the law⁷⁹, and have suffered the fatal consequences of ill health (as a result of stress or lack of water, for example) and of violent attack. In effect, Gypsies, individually and as an ethnic group, are being threatened according to the terms of the Genocide Convention 1948.

Sites, then, ironically operate to obliterate nomadism and enforce potentially genocidal living conditions onto Gypsies, rather than represent an attempt, on behalf of the Establishment, to recognise the Gypsy way of life as legitimate. Sites are a poor person's panopticon, the residents being punished for something they have never had the freedom to exercise. Until nomadism is properly recognised as an integral part of Gypsies' lives, the Race Relations Act 1976 might as well be null and void as far as Gypsies are concerned. This is because informal punishment in the form of either making Gypsies criminal or entrapping them on "reservations", coupled with a recognition in public discourse that Gypsies are synonymous with travelling, will continue to encourage other forms of local and institutional discrimination and abuse.

⁷⁹ While, ironically unable to escape the attention of the institutions of the Criminal Justice System (see brief discussion of Althusser's Ideological State Apparatuses and Repressive State Apparatuses in Chapter

As Fraser (1996) has said, official policies concerning Gypsy sites are not rational, as might be perceived in the public realm, but emotional or irrational. The introduction of the CSA did not constitute a respite from harassment and discrimination. Similarly, the repeal of the CSA, under the CJPOA, did not constitute the cutting of the State's apron strings and the arrival of a level playing-field. The CSA did not support the Gypsy way of life because Gypsies, in effect, became sedentarised on sites or extradited from "designated" areas. Similarly, the repeal of the CSA has not enabled Gypsies to successfully pursue their own cases in the planning process.

The Criminal Justice and Public Order Act 1994 (CJPOA)

The CJPOA was presented as a benevolent aid for Gypsies in cutting the apron strings of State provision and thereby encouraging Gypsies to "help themselves" (Circular 1/94 s.20). However, although the stated intention of the CJPOA is to encourage Gypsies to buy their own land and apply for planning permission, the fines and penalties are higher for being on your own land without planning permission, than for being on the road side. The maximum fine for being on the road side is £2 500, while the maximum fine for being on your own land is £20 000. The disparity in the fines implies that the real desire is to keep Gypsies subordinated and impoverished, by encouraging a precarious and dangerous existence rather than a potentially secure and legal one⁸⁰.

The sections in the Act that enabled increased policing, control and punishment of nomads were, according to Central Government:

... aimed not at cars and caravans but at mass invasions of land by new-age convoys... It is not aimed at the genuine Romany or other Gypsies because they do not indulge in mass invasion⁸¹ of people's land... The new powers will certainly not be discriminatory because they will apply to all and not just Gypsies. (David Maclean, Minister of State, Home Office – parliamentary developments 10.2.94]

Three).

⁸⁰ Given that gaining planning permission for an unoccupied site is highly unlikely.

⁸¹ NB: a "mass invasion" is six or more vehicles.

The fact that Maclean contradicts himself is ignored: The CJPOA cannot both be “not aimed at the genuine Romany or other Gypsies” *and* “apply to all and not just Gypsies”. As was borne out immediately, the Act was being used against Gypsies. As Kenrick says with regard to the Public Order Act 1986:

The ‘trespass’ clause was not intended to apply to Gypsies, but was being used against them daily, while the ‘incitement to racial hatred’ provisions were intended to help Gypsies but in practice they won’t. (Kenrick, 1995: 30)

In effect, restrictive and penal legislation is to apply to the largest possible group and enabling or protective legislation is to apply to the smallest:

At many inquiries where Gypsies are trying to get permission to station a caravan on their own land much time is spent debating whether the applicant has lost his Gypsy status. It comes as a surprise to the applicant that, even though all his life he has been treated as a Gypsy both by his family and the authorities, he is no longer legally one when it comes to trying to get sympathetic consideration for trying to find a place to legally stop. (Kenrick and Bakewell, 1995: 57)

Furthermore, it takes gorgios, non-Gypsies, to determine whether or not the applicant is a Gypsy:

It is not enough for a Gypsy to say he is a Gypsy in court: it takes a non-Gypsy professor like me to say it convincingly. (Acton, 1998a)

Throughout the parliamentary debates on the subject of the CJPOA, ministers repeatedly referred to the “Genuine Gypsy” so as to deny the racist element to the legislation. This technique has been used when distinguishing between “genuine” and “bogus” asylum seekers, and has also been used against other ethnic minorities in other countries, such as Maoris in New Zealand. In this regard, ethnic identity is a moral classification. Distinguishing between genuine and non-genuine Gypsies is a subtle, and therefore very effective, form of ethnic cleansing which only accepts as Gypsies those who fulfil near impossible categories:

Real gypsies were deserving people, with well-kept horses, pretty caravans and an ability to predict the future. (Hardy, *The Guardian*, 25.10.97)

As Smith has said: “We don’t sit round camp fires all day telling old folk tales while we make pegs or paper flowers.” (Smith, 1995: 6) And, to quote Sandford:

It would be as unreasonable for us to ask them to conform to what they were as for them to ask us to put on clogs, drink mead, and do morris dancing in the streets or live in half-timbered houses. (Sandford, 1975: 19) say

As well as serving as a charge against racism, the existence of the romantic myth, epitomised in the novels of George Borrow, lends credence to the existence of the racist stereotype of the Gypsy criminal, in much the same way as Keith describes the existence of contradictory images of Black criminality and “young upwardly mobile Black professionals” (Keith, 1993: 277).

The Government implied that it was the existence of so-called New Age Travellers that prompted the CJPOA attack against nomadism. However, Gypsies have been legislated against for centuries, and if the Act was not intended to target Gypsies it is curious why no exemption clauses were included. Although some Gypsies and others regarded the existence of New Age Travellers as the reason for the legislative attack: “Most Gypsies, knowing at first hand what stereotyping is, have not been prepared to join the Government in putting all the blame on New Age Travellers.” (Acton, 1993b: 2) Furthermore, many recognise that New Age Travellers are being used as an excuse to target an old “enemy”: “as a stepping board to give us a kick.” (Mercer, *Financial Times*, 26.3.94) The irony is clear from the oxymoronic statement Mr Maclean made in response to criticism that the CJPOA targets Gypsies:

... the Government have no quarrel with the nomadic way of life, but nomadic persons must keep within the confines of the law. (Mr Maclean, HC Standing Committee B 10.2.94 col. 704)

Under the current legislation, however, it is impossible for nomads to “keep within the confines of the law”. Furthermore, Mr Maclean’s statement contrasts with part of the initial intention of the CJPOA, which was to assimilate Gypsies into houses⁸².

Even if the supposed benevolent intentions of the CJPOA were true, under the Act the State is seen to deny responsibility for, and assistance to, Gypsies. Consequently, the nomadic Gypsy way of life is seen to be illegitimate by many members of the sedentary community. This is further given credence by making it a criminal offence (rather than a civil offence) to be nomadic, or stationary on unofficial sites. The message is that Gypsies are criminal, and their social and welfare needs are treated as a criminal justice and public order issue. This is reinforced by the fact that the Act brings Gypsies and police, and other social control agencies, into increased contact, thereby increasing the perception that Gypsies are criminogenic. As Dawson has said, the CJPOA is:

A piece of social legislation changed in criminal law. It illustrates the official view of traditional travellers only too bleakly. When this news broke, many of my Gypsy friends wept openly. ‘Why are they doing this to us? What have we done?’ I was asked on many occasions. (Dawson, 1996b).

While the then Prime Minister, John Major, introduced the Act as: “the most comprehensive attack on crime”, Liberty said:

The CJPOA is the most wide-ranging attack on human rights in the UK in recent years... likely to increase discrimination against groups who are already marginalised, and to increase harassment and intimidation... Instead of tackling crime, the Act tries to outlaw diversity and dissent. (Liberty, 1995a: 2)

Michael Mansfield QC has called the Act “the most draconian Act this Government has put through”, comparing it to the ‘banning orders’ of South Africa a few years ago banning the association of more than two people (Malyon, 1994).

Apart from criminalising those who have no authorised sites to pitch on, the Act makes

⁸² As Wilkin (1998) says, although this section of the Act was repealed, the outcome has not been too dissimilar from any assimilatory intentions.

it possible for Gypsies' homes to be confiscated and destroyed, thereby retracting a promise made by the DoE not to allow this to happen (HoC, 31.3.93 Col.292). As Hawes and Perez (1995) say, this punishment is excessive to say the least, for what is essentially a parking offence. As Stone says in *Fierce Dancing: Adventures in the Underground*:

Everything is inverted. The Criminal Justice Bill will make dancing a crime. But beating people over the head in order to break up a festival is called "public order" Travelling is a crime. But trashing someone's home, taking their vehicle and then destroying it, forcing children into care and parents into prison, this is called "justice". Wanting a roof over your head is a crime. But vigilantes with pickaxe handles smashing through your front door and laying waste all your possessions is called "property rights". Something is fundamentally wrong here. (Stone, 1994: xiv)

Arguing that Gypsies should not be evicted if they have nowhere else to go, Lord Irvine of Lairg said: "No man should be made a criminal because he has nowhere lawfully to rest." (cited in Peters, 1994: 4) With reference to the CJPOA he continued:

The suggestion of private site provision is a smokescreen... The real effect of the legislation, which they dare not openly avow, is to make those who have no lawful place to reside in their vehicles disappear through the imposition of criminal sanctions (*ibid.*);

I move from the Government's unwillingness to provide special protection for minorities who require it to their willingness to persecute – and I use the word advisedly – an even more vulnerable minority. I refer to ... gypsies and New Age travellers... The clauses represent a high watermark of repressiveness without any countervailing social policy and give the lie... to the Government's claim to be the party of family unity. At one stroke the provisions destroy the tradition that non-conforming minorities are not to be persecuted. (CJB2-L: 502-3)

The CJPOA splits families and renders them more vulnerable to attack, by reducing the number of vehicles that are legally able to be on land, without authorisation, from twelve to six. It also enables destruction of their homes, imprisonment and the choice between a relatively secure and legal existence and the sacrifice of their traditional way of life, or constant harassment and potential arrest:

We now have ethnic cleansing by legislation – far more subtle and far more dangerous than ethnic cleansing by violence. That can be fought against, you can see your enemy (Frankham, 1997).

The Government ignored expert opinion (from the police, legal experts, Gypsies, Local Authorities, and so on) criticising the effects of the CJPOA, and rejected the House of Lord's amendment to delay the repeal of the CSA for five years. The most severe criticism was that the Act contravened many international obligations concerning human rights and civil liberties. With regard to Gypsies, the rights which are ratified in international law but undermined by the CJPOA include: protecting liberty and freedom of movement; equal access to education, health care, and life essentials (such as water); protection from violence and discrimination; equal opportunities; accommodation (see Appendices). In particular, the European Convention of Human Rights (Articles 8, 11, and 14) and the International Covenant on Civil and Political Rights (Articles 2, 17, and 27) come into conflict with the CJPOA as far as Gypsies are concerned. Of course, many of these international obligations were contravened with previous legislation, which forced Gypsies onto unhygienic and unsafe sites, discriminated against Gypsies, and did not protect them from discrimination and attack. However, it is only under the CJPOA that an ethnic minority is criminalised and punishable under criminal law just for living according to their traditional way of life. Their right to freedom of movement, security and protection from discrimination have been completely subverted under the CJPOA. While Gypsies suffered legislative, institutional and local discrimination and attack before the CJPOA, the Act formalises and "legitimises" what many have deemed to be a concerted effort to exterminate Gypsies - to legislate them out of existence and encourage widespread violence and abuse:

The Act amounts to genocide. It is an attempt to destroy our culture and everything that Gypsies do. They are seeking to exterminate us. (Mercer, *The Times*, 24.1.95)

The CJPOA also comes into conflict with domestic law, such as: the Children Act 1989; the Housing Act 1985; the Education Act 1993; the Education Reform Act 1988

the Race Relations Act 1976, and; various health and welfare statutes. Circular 18/94, accompanying the CJPOA, reminds Local Authorities of these responsibilities, with regard to accommodating or evicting Gypsies and other Travellers. The celebrated Wealden judgement⁸³ re-emphasised such considerations and made a number of other judgements in favour of the applicants. For instance, it was determined that Local Authorities have to consider humanitarian aspects at the beginning of the eviction process. Furthermore, it should be an ongoing process. In addition, the Judgement made no distinction between Gypsies and other Travellers with regard to the attention Local Authorities have to pay to issues of welfare and common humanity. The Judgement also made no distinction between public and private land and stipulated that Section 77 only applies to those people on whom it was duly or specifically served. As Steven Cragg, Solicitor for the Travellers said: “what the Judge is saying is that... it’s the people that matter more than the land they’re on” (BBC, *Southern Eye*, 1995)

Wealden District Council argued that this Judgement has “major practical implications... [and] renders the procedure [of trying to evict Travellers] endless” (Wealden District Council, 1995b). Wealden District Council are also anxious about the difficulties of proving vehicle ownership and personal identity, and keeping track of movements on and off sites, therefore rendering the CJPOA powers of eviction “unworkable” (Interview with Wealden District Council Environmental Health Manager, 1995).

The result is some Local Authorities are not using the CJPOA and adopting a policy of “toleration” whilst others are adopting strong-arm or underhand tactics. Many also continue to use the Act (personal correspondence with FFT). Many of these evictions using the CJPOA disregard their obligations, often under the suspicion that Gypsies, with little legal knowledge⁸⁴, will leave the land for fear of arrest (personal

⁸³ R v Wealden District Council ex parte Wales. A group of New Travellers failed to comply with, and challenged, a removal direction served by Wealden District Council under the CJPOA s.77. The Local Authority then obtained an order allowing removal by force. The Travellers applied for judicial review. Because the Local Authority had not made welfare inquiries until after obtaining the removal order, the Judge (Sedley) quashed the order (see Low-Beer, 1996).

⁸⁴ One District Solicitor (Interview, 1997), explaining the rationale behind taking advantage of the perceived legal ignorance of a Gypsy, said that like many people they will do what they can to get away with the least amount of trouble and work.

correspondence with Gypsies and members of the legal profession, 1995-6). It could be simply because the Local Authority officers responsible for evictions are unaware of the obligations under the jurisdiction of other departments (see Wheeler, 1995 and Clements, 1996). ACERT (1995) have reported that eviction guidelines are not being upheld, even since the Wealden judgement. Furthermore, as one solicitor told FFT:

The short time scales involved both in civil and CJA evictions makes it extremely difficult for solicitors to respond in time to prevent evictions. (FFT, 1996: 44)

Many Local Authorities are using alternative methods for eviction under the misapprehension that the Wealden judgement only applied to evictions using the CJPOA (*Travellers Times*, November 1997), and that their humanitarian obligations are not independent of the Wealden judgement and Circular 18/94.

It is noticeable that many Local Authorities concern themselves with their humanitarian obligations, especially since the Wealden judgement, so as not to “jeopardise the validity of any consequent step” (Worthing Borough Council, 1995: paragraph 4.2) rather than because of any concern about the welfare needs of the Gypsies or Travellers themselves. Furthermore, there are still ways for Local Authorities to circumvent these obligations by using Bye-Laws or antiquated legislation. For example, Hounslow Borough Council used the Middlesex Borough Council Act 1944 to evict a group of Travellers. This Act prohibits people setting up home without the consent of the Local Authority. The Council argued that they did not have to consider the Wealden judgement or Circular 18/94 because their actions were not for repossession but the prosecution of a criminal offence (Travellers Advice Team, 1997).

Aside from the practical ramifications of the relevant sections of the CJPOA, the ideological implications are likely to be very detrimental to Gypsies’ everyday and long-term existence. The CJPOA legitimises the stereotype of the Gypsy criminal. The message that the CJPOA sends out to many people is that there must be something wrong with Gypsies’ way of life for central government to legislate against it. This Act effectively condones institutional and local discrimination and abuse, and, in turn,

encourages and legitimises more draconian legislation. This process is self-perpetuating.

Paradoxically, as a result of the CJPOA the State social control agencies increasingly intervene in Gypsies' lives, contrary to the stated intention of withdrawing from State intervention so the Gypsies can "help themselves" (Circular 1/94 s.20). In effect, because the State is seen to withdraw, it can more effectively intervene, leaving a situation where responsibilities and rights have been disassociated: the State has no responsibility or duty towards Gypsies, only apparently towards the sedentary population in the form of demanding responsibility from Gypsies while denying them their constitutive rights. In effect, site opposition and anti-Gypsyism has been vindicated and consequently encouraged. Institutionalised attack on the Gypsy community, in the form of the CJPOA, is highly unlikely to assuage the public into a state of sympathy for those targeted as criminals. Gypsy hatred and punishment, at both the local and institutional level, is also likely to be encouraged by a planning system that is weighted heavily against Gypsies, forcing many into "unauthorised camping".

According to this hypothesis, it is necessary to analyse public policies within their ideological framework. It is not sufficient to superficially evaluate policies by viewing the history of policy making as a see-saw of benevolence following draconian periods. As Cohen (1984) has said: "Beware the Rulers Bearing Justice". Accepting that such a dualism exists is to partake in the mystifying process which presents policies at face value and disguises any underlying and institutionalised discrimination against Gypsies as the Gypsies own problematic. This ensures that the interdependent State functions of punishment and control (in the form of criminalisation or assimilation, or a combination of the two) will continue. The CSA and the CJPOA, therefore are two sides of the same coin. It is never a question of how acceptable nomadism is considered by the State: the impulse is always to assimilate. It is not State provision under the political ideology of liberal-democracy versus State withdrawal or attack in the Police State. Rather, both movements in the recent history of Gypsy policy are part of the continuum that seeks to delegitimise, punish and control nomadism.

Why nomadism should be such a threat or such a useful political tool will be discussed in Chapter Five, in relation to concepts of space, surveillance and social control. Whether or not it is the nomadic element of Gypsies that should be the focal point in an analysis of the criminalisation and victimisation of Gypsies, will be addressed in Chapter Six.

In conclusion, insufficient sites were built during the reign of the CSA. Most Local Authorities have no intention to build any more sites since the repeal (Interview with Local Authority Planning Officers, 1995-6): the excuse now being money. Existing Local Authority sites will deteriorate (the resolve of Local Authorities to provide for Gypsies having been weakened) and close due to the abolition of central Government funding⁸⁵. In effect, those on existing Local Authority sites are also vulnerable under the CJPOA (ACERT, 1994). What has effectively happened with the repeal of the CSA, is that those Authorities who fulfilled their duties to provide sites have effectively been penalised, especially if they continue to maintain existing sites. The sentiment behind Government legislation, then, appears to condone overriding Gypsy needs. If Gypsies have sufficient funds to provide their own site and are not arrested on suspicion about where the funds came from (Interviews with Gypsies, 1995-6: see Chapter Six), they are very unlikely to be successful in their planning application, as will be detailed in the following chapter. Consequently, Gypsies will be forced into houses and into sacrificing their traditional way of life, or into the jurisdiction of the Criminal Justice System. Every opportunity for Gypsies to live according to their ethnic and cultural traditions have been legally curtailed. In the UK, the relatively fortunate Gypsies are sedentarised on sites. The less fortunate have either surrendered their way of life and the legal recognition of their ethnicity (in planning law) and live in houses, or they suffer the constant and repeated threat of daily evictions and arrest. All suffer legislative attack and the institutional and local discrimination and violence that accompanies it.

⁸⁵ As Clements observed, in his address to the Association of District Councils, September 1995, and as has been reiterated in Interviews with Local Authority Gypsy Liaison Officers, 1995-7).

Chapter Two

Private Sites: Planning Gypsies Out of Existence

Under the Criminal Justice and Public Order Act 1994 (CJPOA), Local Authorities are unlikely to provide sites now that their statutory obligation to do so has been removed. In addition, many existing sites are likely to fall into disrepair and, consequently, out of existence. Consequently, Gypsies have to rely on the planning system in order to gain secure and legal accommodation. This chapter, therefore, will ascertain the likelihood of Gypsies gaining planning permission. The hypothesis is that the new legislation will lead to security and legality only for those wealthy, lucky, and able enough, and therefore constitute the destruction of an ethnic minority. In other words, it will be discussed whether the change in the law heralds a more impartial system that will enable Gypsies to “help themselves” (Circular 1/94 s.20), or whether it constitutes genocide.

In an age when homelessness, community fragmentation, and massive and costly urbanisation is rife, discrimination against Gypsy site development seems particularly short-sighted and hypocritical. Current domestic and international thinking on the rural environment, such as that contained within Agenda 21 (see Chapter One), signals the urgent need for low-impact housing, and resistance to the growth of social and economic conformity. Gypsy sites, by their very nature, tend to be small and temporary, consisting of close-knit and diverse communities, low-impact dwellings and “fluid” economies (with regard to time, place and eco-friendliness). Not only is discrimination against Gypsy sites ignoring a viable alternative to the current economic and environmental problems, but it is blatantly racist, bearing on the genocidal, in the contravention of many statutory obligations as expressed in domestic and international law, such as various Health, Education, Housing and Children’s Acts, and human rights conventions (as was detailed in the conclusion to the previous chapter). Such racism in relevant UK legislation and in the planning process, is rarely recognised due to the lack of public recognition that Gypsies constitute an ethnic minority, and due to the perception that Gypsies are criminal. Because of recent changes in the law making trespass a criminal rather than a civil offence, the criminalisation of a way of life is often cause enough to justify further Gypsy victimisation and denial of rights.

As with the CSA, the CJPOA is presented as an aid to Gypsies’ way of life. Government rhetoric, such as that contained within the DoE Circular 1/94,

accompanying the CJPOA, appears to encourage Gypsies to provide their own sites: to “help Gypsies to help themselves” (Circular 1/94 s.20). This is in line with the ideology of privatisation and is presented as progressive and non-discriminatory - treating Gypsy site proposals like any other planning application. However, there is little practical chance for Gypsies being granted planning permission for sites. Indeed, the planning process is considered by Gypsies, lawyers and human rights activists¹ as one of the largest problems Gypsies have to face: “the nail in the coffin” and “the single largest impediment to travellers receiving equal treatment before the law”, as lawyer Luke Clements puts it (*Legal Action*, May 1994b: 14). As Eric Shopland of the Sussex Racial Equality Council has said:

Gypsies face an arsenal of legislation in their efforts to try and go about what they see as a legitimate and proper way of living. (Interview with Shopland, 1995)

And, as John Brookes, lecturer at the Centre for Housing, Management and Development, argues:

It is most unlikely that travellers will be able to pursue this option [to provide their own sites] with any success. The opposition from local residents and businesses when local authorities seek to provide new sites will be intensified if travellers engage in this process on their own behalf. (Brookes, 1993: 16)

With the concomitant withdrawal of future public funds for the provision of Local Authority sites, together with the current inadequate provision² and declining conditions (described in the previous chapter), many Gypsies are forced to live an illegal existence under the CJPOA, unless they sacrifice their nomadic tradition. Prior to the introduction of the CJPOA, the European Court of Human Rights suggested that “the cumulative effect of British laws making nomadic life impossible was [only] softened by the... legal duty on local authorities [to provide sites] which has now been abolished” (*West Sussex County Times*, 28/1/94).

¹ Interviews throughout fieldwork (1995-7).

² Only 38% of Local Authorities had met their responsibility under the CSA '68 (House of Commons Debate, Vol.248, col.359).

The many factors which impinge upon Gypsies being able to provide their own sites begins at the basic level of land ownership and access. As Linnell informed Government ministers:

... it remains a fact that Gypsies and other Travellers have great difficulties in finding landowners willing to sell. Even on the few occasions when small parcels of land are sold at public auction, the Pony paddock fraternity are consistently able to outbid those who require land for more basic needs. (Linnell, 1993)

Most land in the UK is privately owned³ and much more has many planning restrictions placed upon it preventing certain developments:

It can be stated with certainty that, in recent times, there has not been any pasture land anywhere that has not been claimed, at least *pro forma*, by any institution – such as the State – by a specific group, or by an individual. (Casimir, 1992: 154)

Land ownership is regarded, in the main, as legitimate and is protected in law over and above much else, as landowners are powerful enough to influence legislative decisions. The violent acts behind land ownership, and the power relations which support and are formed by it, are often hidden behind the rhetoric of rights (protection of property) and conservation (protection of tradition and land/the countryside). As Rousseau wrote in *Discourse on the Origins and Foundations of Inequality among Men*:

The first person who, having fenced off a plot of ground, took it into his head to say “this is mine” and found people simple enough to believe him, was the true founder of civil society. What crimes, wars, murders, what miseries and horrors would the human race have been spared by someone who, uprooting the stakes or filling in the ditch, had shouted to his fellow men; “Beware of listening to this imposter! You are lost if you forget that the fruits of the earth belong to all and the earth itself to no one!” (cited Spunk Press, 1997: 5)

In addition to the problem of land ownership, the multitude of national and local policies literally means that any Gypsy site planning application can be legally turned down. One solicitor (Interview, 1995) said that it was almost impossible to find a piece of land with no planning restrictions on it. Even Local Authority Planning Officers have

said that it is “difficult for most sites to fulfil all the criteria which local authorities produce” (ACERT, 1996):

It is a very difficult problem finding sites in districts in the south east [because they] are covered by Green Belt⁴. Any land which is available is expensive and tends to go on housing. (ACERT, 1996)

Furthermore, the contradictory or conflicting nature of the legislation (as will be analysed in detail in Chapter Four) means that Gypsies are often caught in a catch-22 situation when it comes to securing a legal place to stay. As Thomson says: “Plans are drafted with mutually exclusive criteria” (Thomson, 1997: 6). Even solicitors specialising in Gypsy site development have found the legislation impenetrable or unworkable, due to its contradictory and ever-changing nature, and the vast amount of it. A number of solicitors and planners who were interviewed said that they found it difficult, if not impossible, to keep abreast of the situation. It is curious to know how the legally untrained are expected to cope and protect their rights. As Viscount Tenby said in a House of Lords Debate on the then Criminal Justice and Public Order Bill (now the CJPOA):

I share the anxieties of some other noble Lords that gypsies through their tradition and upbringing, may have difficulties in relation to coping with the complexities and frustrations of, for example, planning procedures. I know that I cannot cope with them, so it may well be that some gypsies may also find it difficult. (Viscount Tenby, House of Lords Debate on the Criminal Justice and Public Order Bill, 11.7.94 col.1550)

However, as Linnell says, the multitude of planning guidelines is irrelevant if Gypsies cannot secure a piece of land in the first place. As a Gypsy Liaison Officer said: “[when there is nowhere left to go] the roadside becomes the final resting-place” (Lydia Park Public Inquiry, 1995).

Under the CJPOA, Gypsies have to provide their own land *and* planning guidelines have been increased. So, while the State has supposedly benevolently withdrawn from

³ 75% of UK land is owned by 1% of the population (Brass and Koziell, 1997: 51).

⁴ Green Belt having been removed from possible land for the consideration of Gypsy site development, under Circular 1/94, as will shortly be discussed.

the provision of sites, it has become more involved in the legislative restriction and policing of Gypsies' lives, making a hypocrisy of the supposed benevolent intention. As the Safe Childbirth for Travellers Campaign, have said:

If the Government has failed to achieve site provision within a legal framework, it can hardly be expected that Travellers themselves will be able to do so without legislation to assist them. (Safe Childbirth for Travellers Campaign, 1992: 1)

The strengthened planning guidelines include the direction that Gypsy sites in Green Belt, National Parks, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest, or similar areas will not now normally be allowed. Circular 1/94 repeals Circulars 28/77 and 57/78, which urges consideration of Gypsies' special accommodation needs, especially with regard to Green Belt development. Withdrawal of Green Belt, as a suitable area for Gypsy sites, leaves little land available for development. Arguing that the policy conflicts with "sound principles of sustainable development", a group of Local Authority Planning Officers said:

Green Belt locations may well be very suitable for the provision of sites and stopping places, offering as they do proximity to urban facilities and frequently containing landscape of compromised quality. (Wintersgill, 1996)

As one sympathetic County Council Planning Officer has said: "*something* has to happen in Green Belt" (Interview, 1996). The suitability of Green Belt land for Gypsy sites is supported by the fact that 90% of Local Authority sites are in Green Belt or similar areas (*ibid.*). This could also signal the lack of available alternatives. Additionally, Green Belt is more attractive to Gypsies, in that it is more affordable and more suitable for their traditional type of work. As Lewes District Council have said:

Sites in urban areas are likely to be too expensive and unacceptable to the neighbours. Sites in rural areas might be affordable but would be unacceptable under normal development control criteria. Therefore, it is hard to envisage how gypsies could help themselves, if the system is stacked against them doing so. The scenario therefore is that the situation which would be created by implementation of the White Paper proposals [now the CJPOA] would be one of constant conflict, whether under criminal, civil or planning powers. (Lewes District Council, 1992a: 12-15)

As the North Country Travellers Association (NCTA) have said:

If Hypermarkets, Golf Clubs, Tourist developments etc., with all their permanent and environmentally-damaging infrastructures, are frequently permitted in Green Belts, then why not Gypsy sites... which are by their nature temporary structures and of minimal impact on the landscape and local resources? (NCTA, 1993).

The language of Agenda 21 has been adopted by Local Authorities, but this does not often translate to mean that the ideology of Agenda 21 has been incorporated or put into practical effect. For example, rather than supporting local and diverse communities and ecosystems, “sustainability” has been translated to mean sustaining the economy and the social order, which means reinforcing capitalism and the dominant ideology, and protecting elite interests. Consequently, the low-impact dwellings of Gypsies and others that the Rio Summit appeared to have in mind in Agenda 21⁵, are discriminated against as being “alien”, “not in keeping with the locality”, or “not serving the community” (Local Authority discourse). In other words, they are socially marginal and primarily *not* a capitalist venture. The Rio Summit proposed that a commitment should be made to “support the shelter efforts made by the urban and rural poor, the unemployed and the low-income groups, by adopting regulations to facilitate their access to land, finance and low-cost building materials.” (Agenda 21 s.3 paragraph 26 [c]) In fact, under the CJPOA an antipodal trajectory has been taken. So, whereas Gypsy sites “violate” and “spoil” areas, “access to all” is the justification when it comes to dominant or elite practices and activities. As a result, the principles of Agenda 21 are lost, with the countryside (and land in general) reduced to a biological and social monoculture (Monbiot, 1997). As Chapter Five will detail, land-use is inextricably linked to power relations: spatial relations are social relations and so exclusionary land rights can be seen to represent, as well as maintain, social inequalities.

With the expressed concern of threat to the countryside, it appears curious that the same policy-makers are urging Local Authorities to continue building houses at an enormous rate. The Housing Campaign for the Single Homeless and many Local

⁵ See below (Agenda 21 s.3 paragraph 26 [c]).

Authorities warned Central Government of the effects of the CJPOA on homelessness. Many other individuals and groups were also similarly concerned:

It is a source of alarm that the legislation has been drafted in a manner designed to drive 13, 000 gypsy families into non-existent council houses... at worst [the Act] can be construed as direct discrimination against a minority, a discrimination that would not be tolerated if gypsies were black, came from another country or were homosexual." (*Police Review* editorial, 28.8.92)

But, of course, property developers are in a position to reciprocally support the policy-makers. The consequences of such house-building exercises also severely threaten the local economy, because there is no concomitant concern for expanding social and welfare resources to cope with the increased amount of residents. Moreover, while Gypsies and other caravan-dwellers present viable alternatives to the economically and environmentally costly exercise of excessive urbanisation, they are criminalised. Ironically, this could make many Gypsies homeless and therefore possibly legitimise further house-building initiatives. Furthermore, Local Authorities have provided caravans for the sedentary in need, while many make a concerted effort to prohibit Gypsy caravan-dwelling at any cost:

... in view of the fact that many local authorities are providing emergency housing in newly created mobile home parks which are vastly more cost effective than using Bed and Breakfast hostels... there is no reason for this realistic approach to not be extended to allow the technically homeless (a caravan dweller without a lawful stopping place) to occupy either their own or rented land. This must be seen in terms of releasing scarce Local Authority housing (Linnell, 1993).

On top of strengthened planning guidelines is the ability of Local Authorities to introduce policies that prevent any Gypsy site development (under Circular 1/94). Central Government advice to Local Authorities is:

It is important that policies for gypsy site provision are set out clearly in development plans (Circular 1/94 s.9).

This leaves the door open for Local Authorities to contain policies which state that no Gypsy site development will be considered⁶. While the advice is supposedly drafted for the benefit of Gypsies wishing to acquire their own land for development and to ensure incorporation of land for Gypsy site provision in development plans, it is frequently “used negatively” (Eric Shopland, Director of the Sussex Racial Equality Council, *West Sussex County Times*, 28/1/94). Although the Royal Town Planning Institute (RTPI) was opposed to the 1992 Government consultation paper, Council Planners now “seem willing to devise negative policies, or policies which give the Local Authority the opportunity to refuse applications at its discretion” (Home, 1995b: 1006). As a former member of the RTPI Race Panel, Home sees this practice as “unethical, unprofessional and discriminatory” (*ibid.*).

The Commission for Racial Equality (CRE) also feels “there is a danger of this guideline [to set out Gypsy site provision policies in Development Plans] being interpreted in a negative way by those authorities determined to keep Gypsies out of their authorities.” (CRE, 1993) As the DoE’s own research noted:

In many Districts, local plans provide evidence of the prevalence of indifference or hostility to the need for gypsy sites; and to their statutory obligations with regard to provision. Many Districts state unequivocally that no gypsy sites can be located in their area. (Todd and Clark, 1991)

Shopland gives an example of a District Council in Kent that used the guidelines “negatively”, so as to “justifiably” over-ride material concerns and get eviction orders within twenty-four hours. In Canterbury, to give another example, the guidance states that only Gypsies who have been resident to the locality for more than five years will be favourably regarded when applying for planning permission. As FFT rightly wonder: how is a person able to be resident in the area for five years if he or she has no-where legal to stay, and constantly faces evictions (FFT, 1996b: 22)? Of course, Gypsies may give up a nomadic lifestyle for five years to be resident in houses. However, they would be sacrificing their Gypsy status, so would no longer qualify to be considered when

⁶ Furthermore, despite this advice, a third of Local Authorities have still not incorporated any policies with regard to Gypsy site development in their Development Plans (ACERT, 1996). Many of these Authorities argue that it favours Gypsies as it makes the criteria more flexible. But, of course, it makes the criteria more flexible for the Local Authorities.

eventually applying for site permission. With such draconian rules in place, it is also unlikely that the same authority would eagerly provide housing accommodation. For example, one Interviewee (1996) was refused housing because of prejudices about Gypsies getting on with other people.

The removal of Green Belt and other areas from the consideration of Gypsy site developments, the removal of a statutory duty on behalf of Local Authorities to provide sites, and the implementation of Gypsy site proposals within developments plans, do not constitute the long overdue treatment of Gypsy site proposals “in the same impartial manner as any other kind of development”. Furthermore, house-dwellers receive benefits which are denied to Gypsies living in caravans:

Since the government’s stated aim has been to put Travellers on the same footing as other members of the population, they merit equivalent access to public money for the provision of good facilities... Financial arrangements on a par with householders’ subsidies (mortgage tax-relief, renovation grants) should be introduced (ACERT, 1995: 2);

The principle of equality would also suggest that Travellers should have the opportunity of buying their site or pitch on the same “right to buy” basis as all other local council tenants. Likewise, the possibility of “self-build” funding, encouraged by the Housing Corporation should equally apply towards Travellers site development... By removing the possibility of central government subsidy for publicly-provided Gypsy sites but leaving such subsidy for publicly-provided houses, there is obvious discrimination in relation to the provision of publicly-provided accommodation. (Clements, 1997a: 4)

The fact that a Gypsy has to pass certain criteria in order to “qualify” as a Gypsy, also puts into question the “impartiality” of the planning system, “particularly in view of the gratuitous hysteria and personal inquisitions which it introduces... and difficulties of proof in individual cases” (NCTA, 1993: 2). As the NCTA points out, this contradiction in government policy, urging Local Authorities to recognise the special needs of Gypsies whilst treating them as any other applicant, must be resolved. Either the definition of “Gypsy” is irrelevant or their rights as a minority must be recognised and met. Currently Gypsies in the planning system are in a double bind: having to fight to prove their Gypsy status and consequently facing institutionalised prejudice, without having the protection or recognition against such prejudice. In effect they become more

vulnerable as an ethnic minority and, consequently, their rights as a minority group are further undermined.

Aside from the legality of the direction being in doubt, it is questionable as to whether the way of life of an ethnic minority should be treated in the same way as plans for a supermarket or holiday home. As the NCTA said:

... the whole issue of Gypsy site provision (whether public or private) is one fraught with political, administrative, and emotional difficulties which are simply not encountered in any other sphere of the Planning System... human and social needs must be given proper weight amongst other planning considerations (NCTA, 1993: 1-8).

Furthermore, businesses are at an advantage within the planning system:

Planners call it “offsite planning gain”. You and I would recognize it as bribery. Developers can offer as much money as they like to a local authority, to persuade it to accept their plans. “You don’t like my high-rise multiplex hypermarket ziggurat? Here’s a million quid – what do you think of it now?” (Monbiot, 1997: 4)⁷

Businesses which are motivated by profit and able to provide the community with a new playground, for instance, are therefore more favourably treated than Gypsy site applications which are perceived to have little economic value

Many Gypsies have complained about being treated as mere objects in the planning process: objectified as plans for any other development (Interviews with Gypsies, 1995-7). As the European Commission of Human Rights declared, when considering whether the Buckley case was admissible to the European Court of Human Rights, “‘home’ is an autonomous concept which does not depend on classification under domestic law.” (*Journal of Planning and Environment Law*, July 1995: 635) So, Gypsy site proposals should not be regarded in the same light as other development proposals and activities. The fact that central government directs planning officers to do so does not represent a progressive step towards Gypsies’ self-responsibility.

This is the benevolent rhetoric masking the denial of basic human rights protecting “home” and “way of life” that the rest of the population enjoys. As it stands, planning restrictions protect the interests of the majority (in the name of “protecting the landscape” and “public amenity”) to the detriment of the fundamental rights of minorities.

The dramatic change in legislation will severely restrict the ability for Gypsies to live on official sites. The removal of Local Authority duty will not be compensated for by private development, because “objections to planning applications are often based on prejudice against Gypsies as an ethnic group” (CRE, 1993: 5), and this has never been addressed by the legislators. As the Commission for Racial Equality states, until Gypsy prejudice, being the greatest barrier to site provision, is addressed, “it is impossible for applications by Gypsies to be treated on the ‘same footing’ as the rest of the population.” (CRE, 1993: 6). Furthermore, anti-Gypsy prejudice is likely to increase now the State has been seen to surrender responsibility for Gypsy site provision and has criminalised many Gypsies. At the moment the planning system’s “impartiality” functions as a justification to deny minority rights. As Clements said: “The state seems to have forgotten that the Race Relations Act also applies to planning” (*Planning Weekly*, 1993). Furthermore, most Local Authorities conveniently ignore the planning document PPG1 (paragraphs 4 and 30), which emphasise that the planning system must take account of international obligations, such as those protecting basic human rights (see Appendices).

Only 4% of planning applications for Gypsy sites are given permission (FFT General Meeting, 24/2/96). All other planning applications at the same level have an 80% chance of being approved (*ibid.*). At the appeal stage, it is estimated that between one fifth and one third of cases succeed (FFT, 1996b: 21)⁸. This also compares

⁷ Under the belying ideology of entrepreneurialism, massive conglomerates dominate markets. This makes Gypsies unable to compete in the purchase of land and in the practice of continuing their traditional means of employment.

⁸ At a conference on Gypsy site provision, Home said that the success-rate at appeals has been in decline over the past few years (ACERT, 1997).

unfavourably with similar developments, for instance holiday caravan sites⁹. Both the planning system and central government policy are to blame for this low success-rate. With many areas of the countryside being removed, as a rule, from consideration of a Gypsy site, and the unsuitability of residential areas (because of “hysteria and opposition” (*ibid.*) and lack of space), Gypsies and other Travellers are denied access to a large part of the UK. As Linnell makes clear in his response to the Government’s draft guidance on planning guidance for Gypsy sites, there must exist, within the planning system, a substantial expectation of success of applications, in order for that system to function effectively:

In order for any planning system to achieve the dual objectives of preventing unsuitable overdevelopment whilst meeting people’s real needs for accommodation and employment it must enjoy the confidence of it’s users by offering them a reasonable expectation of success in exchange for the effort demanded in preparation and the fees charged. (Linnell, 1993)

Linnell goes on to say that:

It is abundantly clear that Travellers do not enjoy such an expectation. It is also clear that this derives from institutionalised prejudice if not against Travellers themselves, then against the type of homes in which they live. (*ibid.*)

Gypsies also often find themselves between conflicting Local Authorities. A Local Authority Planning Officer agrees that Local Authorities are likely to become increasingly pitched against each other in the removal of Gypsies (Interview, 1996)¹⁰. Many Local Authorities are reluctant to give planning permission or “tolerate” unauthorised sites because, if neighbouring Authorities are stricter, the Local Authority is fearful of an influx of Gypsies and other Travellers. With the precarious definition of “local Gypsy” many local authorities try to pass their “Gypsy problem” onto

⁹ As well as the planning system appearing to favour holiday caravan parks above caravan sites as homes, planning policy discriminates against the poor and an ethnic group because under the Town and Country Planning Act 1990 it is an offence for someone to live in a caravan as their main or only home without planning permission. Anyone who also has a house or other form of accommodation is exempt. The leisure of the sedentary is therefore seen to be more important than the lives of Gypsies. Furthermore, stop notices are able to be served on people occupying a caravan on unauthorised land, but is not able to be served on people occupying buildings (as amended by the Planning and Compensation Act 1991). It is therefore credible to believe that the planning system is both racist and class-based, discriminating against caravan-dwelling Gypsies, other nomads, and the poor.

¹⁰ Also see ACERT, 1997.

neighbouring authorities¹¹. FFT have said that “cross border dumping” of Gypsies and other Travellers is a common occurrence (FFT, 1996b: 26). What often happens, then, is that sites, both public and private, are pushed out as far as possible to the very edge of authority boundaries. As Kenrick said: “If you can’t get rid of Gypsies you make them as invisible as possible” (Interview with Kenrick, 1996).

One area which the Government highlights as a potential area for Gypsy site development is “outside existing settlements but within a reasonable distance of local services and facilities, e.g. shops, hospitals and schools.” (Circular 1/94 s.14) However, as many planning experts and barristers (for example, Blaker, 1995) have explained, these pin-pointed areas tend to be in the Green Belt or other protected landscapes. As FFT have said, this has lead to some calling the present condition “a kind of apartheid within the planning system”, leaving the most dispossessed living “twixt the sewage works and the railroad tracks” (*ibid.*), as was shown in the previous chapter. Solicitor, Low-Beer said that “reasonable distance” was included in Circular 1/94:

... to stop Gypsies from being put on blasted heaths ten miles away where there were no facilities because it’s the only place you could not annoy the residents with them. Whereas [Local Authorities] were using it to say that this means that unless a Gypsy is actually on the edge of an established settlement - and, if course, they can never afford a site anyway because of building values - if it is not on the edge of a settlement, therefore it’s not within convenient distance so therefore we should exclude them... “Reasonable distance” is a bombshell for the Gypsies – a catch-22 (Interview with Low-Beer, 1995).

As even the RTPI have recognised, planning policies and practices are generally geared towards protecting elite interests to the detriment of minority groups:

There is concern that planning standards and the rules of thumb inevitably reflect the values of social groups who have been historically influential to British society. (RTPI, 1993)

¹¹ For example, during the Lydia Park Public Inquiry it was asked why the Gypsies, who were locals to Surrey, could not be accommodated by a neighbouring Authority. This was asked by the people who otherwise argued the sanctity of planning legislation, despite the knowledge that this request was contrary to established policy.

As the planning system reflects dominant values and power relations (see: Abram, Marsden and Murdoch, 1996; Buller and Lowe, 1990; Cullingworth and Nadin, 1994; Lowe *et. al.*, 1995, and; Wong, 1995), it also naturalises and embeds them further into the social fabric, so that they literally, as well as metaphorically, become set in stone. Consequently, inequalities increase because of the vulnerable position with regard to accommodation that the poor are forced into, which, in turn, reflects negatively upon them (the poor are blamed for their poor living standards), thus further legitimising the social order and persecution of the poor.

So, if Gypsies achieve the unlikely goal of obtaining land, they are still unlikely to gain planning permission, because of the mistrust about Gypsies being able to afford to buy land. One family with five children (one of which has special needs) was refused planning permission for a pitch on their own land. The Local Authority then made a compulsory purchase order for £300, after which it gave itself planning permission for residential use and offered it back to the family for £8000. After the family was evicted, when the money could not be raised, the Local Authority rented it to a childless couple for £60 per week (Kenrick, *traveller-acad*, 31.3.98).

One member of a Gypsy Support Group (Interview, 1996) said that advantage is taken of Gypsies because many cannot read or write, or because of their perceived lack of legal knowledge and awareness of their rights. For example, on a couple of occasions, when a Gypsy family wanted to buy a piece land, the Authorities have said that if they can afford to buy the land they must have not paid taxes on the money they have earned. Consequently, the Gypsies had to prove they had paid all their income tax which is difficult for anyone self-employed who is not believed by the Authorities. Consequently, the Authority gave them the largest bill possible, preventing the family from being able to afford land. On other occasions Local Authorities have lied to Gypsy planning applicants. For instance, one family was told that they would have to pay hundreds of pounds if they wanted to appeal a decision and would have to pay for many tests on the land. This was untrue and led to them relinquishing on their land (Interviews with Gypsies, 1996).

The tendency to presume that Gypsies are not educated and consequently have little legal knowledge, has lead to Local Authorities withholding relevant information, advice (contravening advice contained within Circular 1/94)¹², and generally overriding rules and obligations¹³. One Gypsy family was prevented from seeing the Local Authority documentation relating to their planning application until the midnight before the Appeal hearing; one year after it had been requested (Conversation with the Gypsy applicant, 1996). The planning department had a duty to inform the public and the applicants about decisions and action but, had denied knowledge of the whereabouts of the relevant documentation. The same applicants were also misguided and subjected to continual racial discrimination and abuse by their Local Authority. Every Council request was met on the assumption that planning permission would then be granted. At the request of the Local Authority, the derelict nursery was cleaned and a main sewer put in, costing the small family over £5.7K. The nursery is now clean and tidy, but the one caravan in a four-acre piece of land is referred to as “the Gypsy camp” by the Council and local media, and the former fallen-down bungalow now restored is called “the structure” whereas it used to be known as “the bungalow”. In desperately trying to abide by the law they have spent all their savings, suffered ill-health, and have been put into limbo until the Local Authority takes direct action.

For as long as anti-Gypsy racism and incoherent legislation remains unaddressed, Local Authorities will continue to be seen by Gypsies and others to “make law among themselves” (Interview with a Gypsy, 1996). For the above applicant this “jungle law” has meant seven years of the Local Authority withholding information, denying verbal conversations, denying they had received papers, sending blackmail letters to local householders, informing the local paper of the personal circumstances of the applicant and family¹⁴, turning down the application some two months before the application arrived at the Council offices, absence of evidence to support claims, and “aggravation”:

¹² Even Local Authority Planning Officers have said that “many planners are not keen to give any kind of positive response to Gypsies over where to buy land with a chance of success” (ACERT, 1996).

¹³ As was mentioned with regard to evictions in the previous chapter.

We have done everything humanly possible. We have stuck by the law and all they have done is threaten us. It's got beyond a joke... Every penny I've had has gone into [the planning application]... We can't afford to get justice. (Conversation with the Gypsy applicant, 1996)

As a High Court Judge wrote in a letter to the local paper (which was refused publication):

[Local Authorities are] not adverse to underhand practices [such as providing] opinions and suggestions but no statement of fact... The [...] family deprived of their legal right by the Council is not unusual (*ibid.*).

The family also felt that they have been taken advantage of by solicitors who just “take your money”, as well as by planning officers. Having little faith in, and assistance by, what is often conceptualised as the Establishment, it is surprising that Gypsy families are still resolute in their attempts to abide by the law, and recognise that “there is good and bad in everyone”¹⁵ in an attempt to understand the hostility felt towards them.

The lack of trust felt by Gypsies often leaves them feeling vulnerably isolated and as if the Establishment are “out to get them” (Interview with Gypsies, 1995). This is implied in the following comment made by a Gypsy during the Lydia Park Public Inquiry (1995): “stick to the truth then they can't get you.”

Public Inquiries

In Public Inquiries, exclusionary practices contributed to the victimisation of Gypsies. These exclusionary practices include: referring to documents and other evidence by code or page number where only the legal professionals had access to them and could therefore know what was being spoken about¹⁶; the objectification of the “subjects” of the case (referring to plot numbers rather than residents, for example); the use of technical and legalese language, and so on. Many lawyers do not take the time to

¹⁴ As a result, the newspaper published details of the owner of the caravan (the applicant's widow mother), including the fact that she lived on her own and had expensive Derbyshire china. She was forced into giving up her valuables because of the fear of being burgled and/or attacked (Interview with the son, 1996).

¹⁵ Gypsies reiterated this sentiment throughout the fieldwork.

¹⁶ As many lawyers acknowledge, they generally prepare cases and documentation for everyone in court except “the one person who depend(s) on the outcome” (Cooper, 1996: 26).

explain to their clients the proceeds and decipher what the Legal Action Group have referred to as the “alphabet soup” (*Legal Action*, April 1996). As will be discussed at greater length in due course, the spatial arrangements of the courtroom also contributed to this exclusionary process. For example, when showing documents and other evidence, such as maps, to the courtroom, the position of the witness stand meant that what was being shown was not visually accessible to those in the public gallery (which is where the applicants have to sit when not on the witness stand. In other words, the “subjects” of the case, to whom the outcome matters most, cannot see what is going on). As has been often noted¹⁷, the spatial arrangements in the courtroom contribute to power relations in the sense that they allow or prevent interactive access, whether that be the ability to see and hear what is happening or to be seen and heard oneself. A lot may be read into the spatial arrangements of a courtroom. In Public Inquiries, the Inspector (who is centre-front and elevated) has the focus of the participants’ attention, while the Gypsies in Public Inquiries are physically on the sidelines. What may be assumed, then, is that the “subject” (of focus) is not Gypsies and accommodation, but the Law (being represented by the Inspector).

As with the spatial practices and professional discourse, the demeanour of the professionals¹⁸ and the routinisation of official activity¹⁹, create an obscurity or opaqueness around the process of the law. Access to the law, in any meaningful sense, therefore, is far from assured. Of course, the members of the dominant class are more ideologically and educationally equipped to participate in this process (see: Goffman, 1968; Erikson, Lind, Johnson and Barr, 1978; Atkinson and Drew, 1979).

Gypsies within the Criminal Justice System are at a disadvantage. The competing discourses of the State and Gypsies are hierarchised and that which is “natural” to one discourse is problematic to another. Precisely because the Criminal Justice System is so intrinsically linked with concepts of rationality and impartiality, competing discourses are deemed irrational, undemocratic, and anarchic. This is particularly true within formal “speech exchange systems” (Hester and Eglin, 1993), where the

¹⁷ See Philips (1986 and 1987), for example.

¹⁸ Often a “calm obliviousness”, as Philips (1987) puts it.

circumstances can be said to be ritualistic or ceremonial, such as that which takes place within court settings. Within “speech exchange systems”, discourses which do not obey the strict codes are usefully and legitimately curtailed because they can be said to be irrational and partisan, or “disruptive” and “irrelevant” (*ibid.*)²⁰. Consequently, the focus of this research can be said to be in line with the critical paradigm’s commitment to challenging discourses and putting forward alternative definitions and interpretations (Jupp and Norris, 1993), because the law is problematised while the interpretations of, and effects upon, Gypsies are attended to.

As Worrall (1990) has shown with regard to women’s experience of the court process official discursive practices include “the prohibition of certain topics on the grounds of “irrelevance”, the disqualification of certain individuals from being authorised speakers and the rejection of certain statements as illegitimate” (Worrall, 1990: 9). As Hester and Eglin (1993) state, introducing what would be called “irrelevant matters”, “disrupts” the proceedings and therefore threatens its specific character. In other words, the legitimacy of a court proceeding is challenged if its character changes, i.e. it doesn’t look like a court proceeding.

In court there are strict codes as to who speaks when and, the form and content of what is spoken. According to the critical and structural conflict perspectives, restriction of witnesses’ and defendants’ speech is part of the process of domination and pacification of the poor. Their contributions are contextually restricted: physically (in the witness box) and temporally and form-ally (in reply to a question). It could be assumed, therefore, that the outcome of a court case is, more or less, predetermined in that select knowledges and speech patterns and utterances are accepted. This is in contradistinction to the legitimising ideology of the courts which professes to eke out “the truth” and retain a sense of equality before the Law. The court is presented as being one of the few areas where the “ordinary citizen” can have his or her voice heard, where debate, justice and impartiality appear paramount. In fact, the court system

¹⁹ Often perceived by Gypsies as a lack of care or knowledge about their stress and the ramifications of the result of the case for the Gypsies.

²⁰ During the Lydia Park Public Inquiry, for example, the Gypsies were prevented from asking questions about the implications of various policies and potential decisions. The absence of the human element will be discussed further in the following chapter.

works via processes of restriction and exclusion. This is made obvious in the way counsels organise and present their cases. It is not a matter of “lecture” and debate, but persuasion and image-management. For example, Atkinson and Drew (1979) explain how lawyers “prospectively manage” or lay the grounds for effective accusations. As one lawyer has said:

I don’t have to tell you that a lawsuit is not a disinterested investigation but a bitter adversary duel. (Marshall, 1980: 5).

And, as Keeton explains:

The great majority of cases are won or lost upon the persuasion of a factfinder. Legally sufficient evidence, though essential, is not enough. (Keeton, 1973: 11)

In the courtroom, as elsewhere, there is an expectation that everyone “knows” the “rules” of social interaction: i.e. they are taken for granted. So, when a rule is “broken” - when the anticipated action or utterance is “noticeably absent” (to use ethnomethodological terminology) - the presumption is that the rule was broken deliberately, or they are devious or ignorant. For example, in the Lydia Park Public Inquiry, when Gypsies in the gallery became upset²¹ and when one had to leave the courtroom because of ill health exacerbated by the proceedings, many of the legal professionals in court became visibly annoyed. The social “rules”, however, are never natural or automatically taken-for-granted. They have to be learnt. “Rules” within courtroom interaction are especially formal and, therefore, alien to many of the non-professionals entering the space:

The narration that takes place in the adjudication process operates under rules quite different from those we employ in normal conversation, but witnesses are in general unprepared for this abrogation of what I call discourse rights, and thus frequently fail to understand why their answers are met with objections of “irrelevant, immaterial, and unresponsive.” (Walker, 1987: 61)

²¹ Gypsies became upset about the prospect of becoming homeless or imprisoned, and the way the proceedings diminished the magnitude of what was at stake. For example, the legal professionals appeared to ignore the Gypsies, indulged in light-hearted banter, and used impersonal and/or ambiguous language.

As Walker (1987) describes, role integrity is intrinsically linked with concepts of power and control. Legal representatives repeatedly refuse the “right” of witnesses to ask questions, or change topics of conversation, for example. To such an extent power is embedded in the role of lawyer versus witness, for instance, as initiator and actor versus the passive and controlled. Even in the limited role of the witness as respondent, their responses are restricted by the linguistic abilities of many lawyers which are used to manipulate question form²². By using yes/no or “what” questions, or by phrasing a question so as to give an interpretation of events to the Inspector or Judge), control of both the witness and the “evidence” and “facts” is assured. And, as Walker puts it:

In what is essentially a linguistic event, having power means having control over the testimony. (Walker, 1987: 78)

Further, questioners have a very shrewd idea of what answer is going to be elicited. The control over “evidence”, therefore, is more firmly assured.

These constraints that are placed upon witnesses vary according to their social status (Philips, 1987) and verbal dexterity (Odell, 1987). It can be assumed, therefore, that coming from an almost entirely different knowledge base and a culture which is often pejoratively perceived, Gypsies are afforded little opportunity to give their interpretation of events. Ironically, academics as well as lawyers have suggested that this control over what the witness says is for their own good. For example, Philips (1987) says that the perceived ignorance of witnesses may be harmful to themselves if they are allowed to speak untethered²³. It may be said then, that whether or not an individual case result is favourable to Gypsies (or any other applicant or “subject”), over all the adversary battle is always between the legal institution and it’s transitory “subjects”, it’s “outsiders”, and so with the balance of power in question the “winners” will always be the “professionals”.

As Fisher and Todd (1985) argue, the structural organisation of institutions lend those with the power the authority to pursue defined goals. It can be said that the “subjects”

²² For example, see Walker (1987), Philips (1987 and 1986), and Tannen (1987).

²³ It is interesting to note that the resolution of this potential danger lies not in informing and therefore empowering the witness, but in further restricting their input and therefore power.

or “clients” of the legal profession pass through the system. It is therefore imperative that they should not threaten or challenge the status quo. They are the least permanent and knowledgeable members of the system and therefore, paradoxically, should have (and do have) the least say in the structure and workings of it. This point can be supported by the numerous instances of “client’s” information being deemed “irrelevant” or “improper” despite the fact that they are the subject of the particular case. In this sense, then, the case belongs not to the “client” but the legal profession. As is seen with Gypsy planning applications, what is legally important is the notion of precedent: the significance of this case within the legal world. This concern often overrides the concern for the individual case at hand, let alone concern for the human rights of the applicants.

As Weatherford says, echoing Bloch (1975), formal speech rules, of which courtroom discourse is constituted, have “a binding effect which [makes] the final resolution inevitable” (Weatherford, 1987: 14). And as Foucault (1971) shows with regard to discourse in general, there are several “procedures of exclusion” which operate as a means to control and predict social order. These exclusionary procedures include the prohibition of what is said, by whom, where and when. They also include the creation of opposing dualisms, such as nomadism versus sedentarism, and the subsequent rejection of discourses associated with the “other”, in this case nomadism. These two processes can be linked to the rise of institutions and professions, who generally dictate when and how the “subject” speaks.

As Foucault explains, discursive practices are intrinsically linked with knowledge and power. In this sense, discourse, as power, has an enabling role as well as a restrictive and controlling function. It is a form of action and not merely representation. In *L'ordre du discours* (1971), Foucault analyses the most obvious systems where exclusionary procedures occur. These systems have ritualistic frameworks and include many professional discourses, such as those of the judiciary and medical practices. The restrictions that occur within these practices include “the qualifications required of the speaking subject, the gestures, behaviour, circumstances, and the whole set of signs that must accompany the discourse.” (Sheridan, 1980: 127) What occurs is the promotion of specific realities justified as “proper”, “relevant” or “rational”.

Discourses, and access to them, are restricted while being presented as abstract or empty, legitimised “by proposing an ideal truth as law of discourse and an immanent rationality as the principle of their expression” (*ibid.*). Any alternative or competing discourse, especially within ritualistic settings such as the courtroom, are delegitimised on the basis of being irrelevant, irrational or misplaced.

From an Althusserian perspective, an analysis of the politics of discourses reveals the part they play in the production of the dominant ideology and the consequent legitimisation of social divisions (Jupp and Norris, 1993; see Althusser, 1971). As a result, the restriction or denial of a marginal discourse may make the subject feel inadequate and stupid rather than aggrieved and discriminated against. Their subordination may be articulated as “a lack of knowledge” or “stupidity” (fieldwork, 1995-6). They may also regard themselves similarly, in the sense that what may be perceived as a “problem” by the subjects is turned in on themselves rather than critically charged against the court system. To this end the subject is pacified. There are no competing discourses or ideologies, nor subjective realities or perspectives, only “right” and “wrong”. While there remains the potential for challenge, the ideological constraining function operates to more firmly secure the obedience and subservience of the unprivileged, than physical attack or punishment could:

A stupid despot may constrain his slaves with iron chains; but a true politician binds them even more strongly by the chains of his own ideas; it is at the stable point of reason that he secures the end of the chain; this link is all the stronger in that we do not know of what it is made and we believe it to be our own work (Foucault, 1991: 102-3).

From a Foucauldian perspective, therefore, the court functions to create obedient subjects, as does the prison and other social institutions, through the regulation of time and space, action, speech and thought, by the introduction of “rules” or courtroom etiquette. Therefore, what might seem pedantic, infinitesimal or overly meticulous²⁴ is actually of the utmost importance in maintaining control. The desire is to reduce the

²⁴ For example, the refusal to pose a question: the acceptance of only the utterances that correspond exactly in form to expectations.

dangerousness of the unpredictable event and therefore the smaller this “event” is, the harder it is to legitimise its punishment or condemnation²⁵.

As Spitzer (1975), Box (1987 and 1989) and others have shown, the Criminal Justice System operates to control, use and disarm the threat of “problem populations” (Spitzer, 1975). As Hester and Eglin (1992) add, the courts’ specific function is to disarm the potential threat that the criminalisation of these populations have with regard to the legitimacy and opaqueness of the Rule of Law and the State. In the case of Gypsies, the genocidal anti-Gypsyism of the State must be mystified, and the equality of the law must be affirmed. This is done through the ideology and formality of the court and other branches of the Criminal Justice System, as well as by criminalising nomadism rather than Gypsies directly, thus hiding the racist intent of such legislation. In Public Inquiries over planning applications for Gypsy sites, the resonant message is that the Gypsies have been taken to justice, as anecdotal evidence regarding popular and media representations suggests, rather than are just involved in applying for planning permission. Gypsies are treated with suspicion, and are constantly having to defend their way of life, culture and ethnicity:

It is very wearing that you feel you have to fight a cause every day of your life (Gypsy, at Conference on Romani Studies and Work with Travellers, Greenwich University, 1996)

Imagine you were a Traveller and you were asked by a local resident to explain your lifestyle and why you have the right to live the way you want to live” (Traveller, cited in Supple, 1993: 282).

As many criminologists have indicated (for example, Snider, 1988), the court symbolises the play between good and evil and sends a message to the public that something, generally “justice”, is being done. In effect, Public Inquiries represent the battle between the State and Gypsies; a moral battle between good and evil, or order and deviance, where “good” generally prevails. Belief in the mutually exclusive dualistic structure of justice (i.e. good/evil, right/wrong, not guilty/guilty) discriminates

²⁵ For example, in the Lydia Park Public Inquiry (to be discussed shortly) more unease was felt when a Gypsy asked if a question was allowed to be put forward, than when people were “disturbing” the court

against all marginal discourses and ensures that dominant power relations will generally remain secure. The mutually exclusive dualistic structure can be seen in the restriction placed upon witnesses. For example, “just answer yes or no” suggests that the Modernist Metanarrative of Truth and Justice versus falsity and crime is in play. Gypsies are, in effect, on trial. Apart from having to justify their way of life to a culture that does not recognise or appreciate nomadism, their discourse is in competition with the dominant discourse labelled Truth and Justice.

Gypsies applying for planning permission encounter local and institutional distrust, hatred and harassment. If their planning application fails and they are presented with an eviction order, Gypsies can either risk imprisonment or they can move off the land and face constant eviction and harassment. Either way, Gypsies are forced into a situation when they are breaking the law, not to mention the severe distress and vulnerability both of these choices offer. One family describes the “long fight” they had to endure, before being granted planning permission three years after first settling on a field they had bought:

A couple of days [after moving onto the field] we had a visit from the local planning enforcement officer saying that we had been reported by one of the locals. He then said that if we thought we could get away with it, we wouldn't, making rude comments and veiled threats... We wrote twenty letters to the local planning committee, but only one of them managed to reply to us (*GCECWCR Newsletter*, Spring 1996: 14).

The author of the letter describes how council members were involved in photographing his vehicles (inside and out), accusing him of non-payment of poll-tax, postponing important votes on the case, and, as the author feels, only eventually agreeing to temporary permission because they, reluctantly, had to. Even though the family had local support, the author feels the council “tried everything they could to stop us”. Without the support of knowledgeable and influential organisations and people, the family feels that they would not have won the case. It is usual for an application with gorgio support to be more successful, thus highlighting the prevalence of anti-Gypsy prejudice of officials. As Brighton Borough Council explains, they

process by “chatting” in the gallery, probably in the same way that Garfinkel's (1967) experiments were

“tolerated” a group of Travellers “because of the strong pleas made to us by the support group” (Brighton Borough Council, 1996). The “facts” or “merits” of the case seem, therefore, immaterial: the determining factor seems to be gorgio advocacy. As a Local Councillor said with regard to a planning application made by Gypsies in her locality: “This case is not about right, wrong, or planning, but money and politics.” (Interview with Local Councillor and Journalist, 1996)

To appeal a refusal of a planning application, in writing or at a Public Inquiry, is costly (legal costs, as well as loss of earnings) as there is no entitlement to legal aid at this stage. Without the legal expertise provided by a hired solicitor, or someone else with a specialised knowledge of planning law, a case is extremely difficult to win (Interview with Low-Beer, 1996). Of course, there is no guarantee that an appeal may be won. So, what faces many Gypsies wishing to provide their own sites, once land has been purchased, is the thought of years of consecutive appeals.

Court proceedings entered into in the hope of gaining planning permission can be a most humiliating ordeal. The Lydia Park site residents have spent the last fourteen years attending six Public Inquiries in an attempt to gain planning permission to site their caravans on their land²⁶. The most recent Public Inquiry left the Gypsy applicants feeling “like a cross between refuse and a refugee” (observation fieldwork, 1995). Another Gypsy said:

We are no different to Bosnia. The only thing that you haven’t done is drop bombs on us. (*ibid.*)

And another: “[I feel like you have] picked our bones clean.” (*ibid.*)

In the courtroom there is no respect given to the applicants whose lives are almost literally at stake: convoluted language; in-jokes; patronisation of them because of perceived ignorance and criminality; objectification; belittling, and so on. Even

more disruptive than blatant deviancy (to be discussed in Chapter Five).

²⁶ Planning permission for the Lydia Park site was eventually granted in July 1997, after more than a decade of court proceedings and at a cost of £5 Million public money (the Gypsies paid their own court costs).

something as slight as a sigh of relief when the day or the case is over, or a comment or a laugh is very injurious to those physically kept on the side-lines while their future is debated. Unlike most other planning applications, their traditional way of life and security is at stake. If they do not get planning permission they face homelessness, criminalisation, or surrendering their ethnic traditions.

In court, minute details of the applicants' private lives are exposed to the public. The applicants are over-looked, regarded as ignorant and criminal, and generally regarded as being irrelevant to the proceedings. In the witness box, they are patronised, confused (especially with regard to writing and reading), and forced into Catch-22 situations²⁷. Convoluting language, in-jokes, mystifying formalities, massive amounts of "confidential" material, as well as having to sit in the public gallery, makes many Gypsies feel powerless to have any effect on their future security. They are literally kept on the sidelines when their whole way of life is at stake. Such proceeds can significantly increase the stress for the applicants.

The effects of such a lengthy and costly process can be seen with the case of the Lydia Park site Gypsies, who have suffered years of stress, illness and financial and emotional cost, as a result. They have also been unable to settle into jobs and school because of the possibility of being evicted at any time, and because of the time given to the process of gaining planning permission:

To bring up a family not knowing when you may be forced to move, or how often, or to where induces in any normal person deep stress and troubling anxiety. (Surrey County Council, 1995p: 10)

As one Gypsy said, who has waited fourteen years to "be permitted" to build a toilet: "It takes over your whole life" (Lydia Park Public Inquiry, 1995).

²⁷ For example, an opposition QC said to one applicant: if you can't read the rules how can you uphold them, but if you can read them shall I tell the Secretary of State for the Environment that you won't sign until you have read and agreed to them (observation fieldwork, 1995).

As was mentioned earlier, the Lydia Park site residents have spent the last fourteen years attending six Public Inquiries in an attempt to gain planning permission to site their caravans on their land²⁸. After years of being “dogged by uncertainty and misery” (Newnham, 1995: 2), after in excess of £4M of public money had been spent (not including the money the Gypsies had spent) and mountains of paper collected, the relevant Local Authorities were about to grant permission for the Lydia Park site. In less than an hour before papers were signed, a fax from the Secretary of State for the Environment ordered the case to be considered by him rather than the County Council: “Because of the potential impact of the development on the environment of this rural site” (letter from the Secretary of State to the Local Authority Planning Officer, 4.1.95)²⁹. And so, to simplify, the Public Inquiry became a debate between visual impact on the countryside and homes for the landowners. As with most Gypsy site applications, the decision could only be subjective and consequently, lay not in the hands of “the rule of law” but in the value-judgements of elected Council officials and politicians. It was unanimously agreed in the Council Chamber that “at the end it is a balancing exercise” (QC for the applicants, Lydia Park Public Inquiry), and the contradictions are rarely exploited in favour of vote-jeopardising Gypsies.

On the last day of the Inquiry a letter was produced, contrary to courtroom etiquette, which challenged the ownership of the land designated for the screening boundary for the site. This was said to be, by some, an attempt to pervert the course of justice. Similar tactics were used at the previous Inquiries. For example, one of the opposition organised his friends into driving up and down the access road to the site, the day the Inspector was visiting, in the hope that the planning application would be refused because of “excessive activity” or because of safety reasons. Fortunately, the Inspector noticed that a pale lilac van had driven past him a number of times (Interview with Local Authority officer, 1995). The fact that this single letter was produced, with no supplementary evidence, at such a late stage suggests a desire on behalf of the opponents not to have a Gypsy site at all rather than their manifest arguments which suggest that they would accept the proposal if it could be adequately screened and fulfil

²⁸ See page 138.

other planning criteria. As CRE (1993) have found, supporting the research of Todd and Clarke (1991), much opposition to Gypsy sites is solely based upon generalised prejudice rather than “sound planning objections” (such as traffic or amenity considerations). Because of the vague, contradictory and prolific nature of planning policy relating to Gypsies, a policy objection can be quickly found to support and disguise anti-Gypsy hatred or prejudice. The comments of one solicitor highlights the fact that it is simply the existence of Gypsies that is the problem, and not any concern for the sanctity of planning legislation:

I thought it was so typical that the very people who screamed when he was on the verges and wanted enforcement against him and the injunction, were just the same people who screamed when we found him a place to camp so that he didn't have to be on the verges. (Interview with Solicitor and advocate of Gypsies' rights, 1996)

During the Lydia Park Public Inquiry, the solicitor for the opposition said that while planning policies stand in the way of the Lydia Park site receiving planning permission, the policies could be overturned on another site. Furthermore, with regard to the potential opposition that another site might also incur, he said: “maybe one day they will have a more balanced view of such a development” (Observation in Court, 1995).

The milieu of preventative policies and other conditions aimed at Gypsies, are described by Clements as forcing Gypsies “to jump so many hurdles to try to get planning permission that it is frankly racist” (*ibid.*). A Public Inquiry Inspector reported to the Secretary of State that the applicants were “victims in the planning system” rather than “actors” (Inspector's Decision Letter, Hoile 1997: 42). Such proliferation and force of restrictive actions and policies (which will be analysed in depth in Chapter Four) has caused many Gypsies to perceive themselves under direct attack and genocidal threat³⁰.

The European Commission of Human Rights found that UK planning law with regard to Gypsies violates their right to family life (*Buckley v UK*, 1995). The Commission

²⁹ Contravening stated policy to only call in an application when it is of “more than local significance”.

³⁰ Mercer (1992, 1996a, and in Interviews 1995-6) is one of many who have voiced such fears.

made this decision *prior* to the advent of the CJPOA. Under the CJPOA Gypsies' rights are under further attack, to the point that many Gypsies are automatically criminalised. Although the Buckley case lost in the European Court of Human Rights (see Chapter One: footnote 12), its fate depended upon the specific details. As such, many solicitors believe the legality of planning laws and other legislation directed at Gypsies come into conflict with various human rights obligations, as contained within international law³¹ (Interview with solicitors, 1996). In other words, it has opened the gates for numerous cases to be taken to the European Court of Human Rights.

Neither the supposed "good intentions" of the CSA or the CJPOA were realised in practice. The CSA did not respect Gypsies' nomadism by entrapping them on sites and the CJPOA, did not liberate Gypsies by preventing lawful existence. Facing possible imprisonment, having homes impounded and children taken into care, suffering the social, welfare and health implications, and suffering the consequences of being more prone to hostility and attack, do not constitute a liberating experience. Even those who were successful in gaining planning permission were still forced to assimilate in many ways:

The practicals of dealing with authority are (to me) the same as dealing with a victorious army. When you begin to negotiate you are accepting defeat: the battle for a life controlled by the person living it is in some ways lost when you decide you need to deal with planning authorities... you have to make a major compromise to the eyes of and ears of authority by appearing to conform totally (letter to *Squall*, no.13, Summer 1996: 65).

In conclusion, Gypsies have suffered a three-pronged attack under the CJPOA:

- 1) Local Authorities are no longer statutorily obliged to provide sites;
- 2) Gypsies face stricter planning policies, and;
- 3) Police and Local Authorities have greater powers of evictions.

³¹ See Appendices.

This also has the added effect of encouraging local discrimination in response to the threat that is being signalled by the legislation. An analysis of the full implications of the legislation will be detailed in the next chapters, beginning with the connotations of the language used.

Because of everyday discrimination and harassment, not to mention knowledge of the cost, time and stress involved in gaining planning permission *and* the knowledge that they are unlikely to succeed (because of the nature of the legislation and widespread discrimination against Gypsies), it is surprising that any Gypsy attempts to enter the planning process. There is strong belief, even by Local Authority officials, that the “horror stories” prevent Gypsies from buying land (Interview with a Local Authority Planning Officer, 1996). After years of putting everything into trying to “stay within the law” most Gypsies literally “cannot afford justice” (Interview with a Gypsy, 1996). The Gypsies who remain unsited are forced into housing and into sacrificing their traditional way of life (and recognition that they are Gypsies in planning law), or are forced into living outside of the law: either way is genocidal.

Chapter Three

Official Discourse: The Language of War and Punishment

Government legislation has severe implications outside its direct impingement into the behaviour of individuals. It emits a message that the target of restrictive legislation (and public policy) is a viable target for attack. In other words, because the Criminal Justice and Public Order Act 1994 (CJPOA) effectively criminalised Gypsies, it sent the message to members of the public and officials that the Gypsies' way of life was illegitimate. In addition to the direct effects and connotations of legislation and public policy, the language used also has a large effect on how Gypsies are perceived and, therefore, treated. In the case of Gypsies, the language of war and punishment that is often employed encourages pejorative stereotypes about Gypsies, which encourage discriminatory treatment and violent attack. Therefore, as this chapter will show, the language used in legislation, public policy, and other official discourses concerning Gypsies, has a large part to play in the abuse of their human rights.

The professional discourse on the subject of accommodating Gypsies is striking in the regular use of war and prison imagery and terminology. Such words as "regime", "regulations", "conditions", "encampments", "dispersal", "over-concentration", "screening" are used as if they were symbolically empty¹. Because these words refer to policies which may not have anything to do with war or prison, and are used in other areas of bureaucratic control (for example, with regard to council housing²), criticisms of the language are often either ridiculed or brandished as intending to incite panic or conflict. But, because prison discourse, for example, has utilised such concepts, anyone who consequently uses such concepts should be attentive to their acquired and associate meaning. As Dennis Potter has said, attentiveness to the use of words should be at its utmost because "you never know whose mouths they've been in" (Potter, cited in *Squall*, no.8, Autumn 1994: 17). The subjects/ objects/ targets of this professional discourse are sensitive to the connotations, whether intended or not by the authors. Therefore, once the authors are aware of the effects of the discourse the language should be

¹ Where "regime", "regulations", and "conditions" refers to the rules and regulations that must be abided by on a site, where "dispersal" and "over-concentration" refer to policies restricting the number of Gypsies allowed in an area, and where "screening" refers to the necessary construction around a site to hide it from those outside. All non-referenced quotes are selected, as typical, from a large selection of publicly available Local Authority documents.

² The words here, however, are used with regard to houses - not people, let alone members of a specific group or ethnic minority.

changed. Alternatively, the language should be explained or decoded to the (often frightened) subjects and to the general public, who may be informed by such language in their attitude towards Gypsies. That is unless, of course, the effects of the language are desired.

Gypsies often express fear and concern over the meaning of words to the relevant professionals. In one particular case, many Gypsies repeatedly asked, “What is dispersal?” without being answered, fearing that it was “like the army or when you put old people in a home” (Lydia Park Public Inquiry). The intention behind this professional discourse needs to be addressed if there appears to be such reluctance and resistance to outside criticism, comment, and even discussion, especially when obvious distress is knowingly caused. The “unintentional” use of war and prison language comes further under question when it is remembered that the Holocaust, of which the language particularly reminds Gypsies, not only acutely affected them³, but also, the genocide of Gypsies still remains largely ignored or denied⁴. Further, many Gypsies believe they are still the target of genocidal policies, and that another Holocaust is likely, if indeed the Holocaust ever ended for the Gypsies (see Smith (1995) and Hancock (1987), for example).

Many assumptions can be made from the disavowal of any intended pejorative connotations of punishment and control. Firstly, as the pejorative connotations exist, whether authorially intended or not, and the concepts continue to be used, the connotations are either intended or deemed unimportant. Secondly, the professional discourse that employs such concepts can be said to be exclusive and repressive (Pateman, 1980)⁵. Ironically, the language of public institutions is about restricting communication, pertaining to be incomprehensible, convoluted and therefore hiding “meaning”. If the reader or audience “gets the wrong message”,

³ Two million Gypsies were killed in Nazi Holocaust (the figure varies) – 80% of the Gypsy population of Nazi occupied Europe. See: Hancock (1988a; 1989; 1997b); Kenrick and Puxon (1972; 1995); Novitch (1997).

⁴ Many people are unaware of the extermination of Gypsies in the Holocaust. Even academic texts on the Holocaust, until recently, only contained footnotes on Gypsies (Interview with Kenrick, 1995). Also see, for example, the recent events concerning Swiss monies and the cessation of the post of Gypsy Representative on the US Holocaust Council.

⁵ It is important to note that this is not too dissimilar from the language of academia. In order for the PhD to be “seen” or “included” it must be equally exclusionary, for the same reasons: legitimization and elevation (i.e. work can only be done by a trained few).

they are ignorant and their contributions to, or interpretations of, a professional discourse are irrelevant. Ironically, the more “disturbing” or “problematic” the professional discourse, the more the power, autonomy and unaccountability of the Professional and his or her discourse can increase. This occurs because if an outsider criticises professional discourse it signals not the need for greater professional reflection and accountability, but the need to separate the professional discourse even further away from the public realm because “they” cannot understand and can be disruptive to the efficiency and productivity of the discourse and its cohorts. As Cohen describes:

The power of professional language is such that for the outsider to redefine these practices in everyday, common-sense or pictorial terms would be seen as shocking. (Cohen, 1985: 274)

As he recognises, his “redefinition” of therapy discourse as Newspeak “would be dismissed as disingenuousness, naiveté or pathetic ignorance about the theory and its practice” (Cohen, 1985: 275). Interestingly, Mehan (1986) concludes that the more confusing and incomprehensible the language used in professional discourse, the more likely that the content of the utterance will not be challenged.

Not listening to the concerns of Gypsies and others, then, characterises the professional discourse as repressive because it is unlike discourses that are the product of the relationship between writer and reader. It is only in repressive discourses or relationships that Barthes’ conjecture cannot be made: “I don’t understand you; therefore you’re an idiot” (cited in Pateman, 1980: 17).

Pateman makes the distinction between “oppressive” and “repressive” discourses, with reference to the “naked” or “disguised” power characteristic of each of them, respectively. With regard to the professional discourse about Gypsies, while Local Authorities are responsible for Gypsies, the tone and language of their discourse reflects a relationship of coercion and punishment. As Pateman says, repressive discourses “disguise their own nature, disguise social relations, and inhibit the possibility of becoming aware of that nature and those relations” (Pateman, 1980: 107). The severity of the linguistic connotations and the implied policies or actions is mystified by the sanitised and exclusionary process of professionalism.

Paradoxically, the professional discourse of public agencies, such as Local Authorities and Courts, is presented as objective (because it is public and representative) and yet elitist (only a qualified and specialised few can do it). In other words, it can only be done by “experts” who, ironically, reflect the public who are, unfortunately, too ignorant themselves to understand what is going on, let alone judge.

Professional discourse, therefore, legitimises and mirrors the “professionalism” of the institution and their practices, while castigating any challenge. As Habermas (1948, cited in Pateman, 1980) has said, it is necessary to depoliticise the public so that public discussion does not problematise government work (by rendering political questions as technical or objective ones). What has occurred is the delineation between professional and public, competence and incompetence, knowledge and ignorance: the creation of public acquiescence in the process of their petrification and powerlessness. They would, therefore, be unable to legitimately participate or speak with any authority and, most likely, be too apathetic to want to do so. As Powell says:

The whole power of the aggressor depends upon preventing people from seeing what is happening and from saying what they see. (cited in Pateman, 1980: 96)

Such an outcome is legitimately achieved by a subtle redefining of “the job at hand”. It is not the “discovery of facts” and “achievement of justice” in Court, nor public representation and responsibility in the case of Local Authorities, but the smooth operation of the organisation and its activities. Anything that might threaten this can then be defined as “disruptive” or “irrelevant” as was described in the previous chapter. Success as far as these organisations is concerned is consequently defined purely in relation to managing workloads and complying with institutional rather than “public” agendas (see Hester and Eglin, 1992). As Blumberg (1976 cited in *ibid.*) describes with regard to the legal system (although it is applicable to any type of organisation) lawyers have greater allegiance to the court system than to their clients. The lawyers’ audience, or where the lawyer looks for approval, is other lawyers. As such, even clients are “outsiders”. Consequently, what the “clients” represent (a problem to be solved, a deviant to be

cured or punished) is owned by the professionals, who are then the only ones legitimately able to speak about the subject and the object (the client) is muted. Habermas (1987) has called this process the “colonisation of the life world”.

Professionalisation, together with the depoliticisation of the public and the compounding factors mentioned above, creates the anaesthetic function of professional/political discourse. This means, as Cohen articulates, “how words might insulate their users and listeners from experiencing fully the meaning of what they are saying and doing” (Cohen, 1985: 273). Similarly, Edelman (1977) refers to this as “therapeutic language” which functions to disguise power relations and inequalities, often under the cloak of benevolent assistance (see, for example, discussion of the Caravan Sites Act 1968 (CSA) in Chapter One). So, “over-concentration” of Gypsies in an area appears to simply refer to planning regulations (which are presented as democratically decided), and protection of the environment and “local interest” (both very laudable concerns). What is not seen or heard is the destruction of the Gypsy community, unparalleled in any other ethnic community, and connotations of concentration camps and prison regimes, disguised under the veneer of professionalism (with its own connotations of logical and impartial thought) and democracy (with its connotations of justice, order and protection). What is also not seen or heard is the fact that targeting certain cultural activities *is* targeting certain cultures: because no one can participate in the particular cultural activity does not mean that the prohibitive policy is democratic, impartial and fair. As Smith (1989) has said with regard to racial discrimination in the UK, “colour-blind” policies does not mean “race-neutral”⁶.

⁶ “Spatial deconcentration” (i.e. “dispersal”) programmes in American cities, prompted by the fear of massive social unrest because of acute poverty (Ward, 1992), which might disrupt “a workable mechanism ensuring that whites will remain in the majority” (Anthony Downs, a programme participant, cited in Ward, 1992: 5), present stark similarities with the reaction towards Gypsies in the UK. The programmes worked by close involvement of the military and a withdrawal of social spending and services, to encourage movement out of an area and subsequent legitimate demolition. Again, there are very noticeable similarities with how Gypsies are treated on UK sites.

On the surface the CJPOA prohibits everyone from “illegal camping”⁷ or trespass. However, in reality the legislation targets a minority, as Anatole France’s infamous remark illuminates: “in [the law’s] majestic equality forbids the rich and poor alike to sleep under the bridges of Paris” (cited in Hall *et. al.*, 1978: 208). The Criminal Justice and Public Order Act 1994 is just part of the current and general move towards excluding minorities from public spaces. “Zero Tolerance” policies on both sides of the Atlantic are targeting the homeless, young people, squatters, graffiti artists, and anyone else who deviates from a role of pure consumption on the streets.

In the countryside, as in other spaces, certain activities are privileged over others. Justification for the prevention of certain activities is often based upon environmental (and libertarian) concerns. When it comes to those activities that have been deemed privileged, economic issues prevail over such environmental concerns. It is generally those activities outside the realm of capitalist consumption or production that are demonised. For instance, camping and bike riding has been legislated against on many beaches, while such activities are legitimate if contained within a corporate space, such as “official” campsites or bike lanes (similar to the criminalisation of free raves). Alternatively, many “wealthy” sports on beaches, for example, such as power boat, are not prohibited, although arguably more disruptive (spatially, and in terms of noise and safety). In effect, as is blatantly clear from the distinction between nomadic Gypsies and consumer-tourists, it is not certain activities that are being demonised and legislated against (which happen to be, in general, the activities of the poor), but certain groups of people (i.e. the poor). And as the only legitimate means for challenging such a weighted system is more accessible to the rich⁸, little is likely to change. However, increasingly there are successful local initiatives that have been broadly described as being part of a new “DIY Culture” (see Brass and Koziell, 1997).

⁷ To repeatedly link the word “illegal” with Gypsies and their traditional activities encourages inferences to be made about the legitimacy of the Gypsy way of life. Public anxiety is, therefore, likely to increase, and the resultant public opinion is likely to encourage and condone further legislative assault.

⁸ In terms of the availability of time, money and social contacts, and the less quantifiable attributes of language, knowledge and protocol.

Exclusion of the poor from public spaces appears to be increasing. This we can see from the proliferation of institutional and informal attacks upon alternative or non-mainstream activities (from counterculture movements to marginal religious or ethnic practices) and upon the homeless (specifically so-called “aggressive beggars”). While the counterculture is increasingly focussing its attention upon “reclaiming the streets”, the UK and US governments increasingly and systematically impose harsh regimes of social and political exclusion and suppression under the concept of “cleaning the streets”.

Brady (1996) has shown how this process of “cleaning the streets” (of the undesirable, the dangerous or the unwanted) often translates itself into the persecution of ethnic minorities. Brady describes how the Christian Democrat political party attempted to ban immigrants from public spaces under the guise of simply banning barbecues and picnics in Berlin’s main park (the Tiergarten), because of the creation of litter. Because immigrants make up the largest group of people who use parks for barbecues and picnics, the motivation is apparently more than simple aesthetic concern for the beauty of public spaces. The same exclusionary practice, hidden under a concern for the beauty/tidiness of public spaces, is in operation in the UK with regard to Gypsies and, to a lesser extent, to other minority groups (fortunately not so dependent upon access to public spaces). Consequently, as Brady elucidates, those minorities targeted suffer a double injustice: the exclusion from public spaces and the constituent exclusion from social and political and citizenship rights, and the intervention of the State into their private activities. This loss of privacy, under the politicisation of their activities, renders the immigrant, the Gypsy and other minorities, the subject of institutional control and informal disrespect or harassment. The “other” thus becomes at once easily locatable but semi-invisible (in that s/he is denied access to public and moral spaces): a non-citizen, akin to the institutionalised convict. As will later be evident from the discussion of “screening” Gypsy sites and the nature of the Gypsy site “spoiling” the countryside, the threat of the “other” incorporates the very sight of “them”. Their very visibility, Brady argues, threatens the perception of a homogenous and unchanging nation.

The professional discourse that contains and constructs the “Gypsy problem” uses language that hides the violence and pain involved, and disguises practices of victimisation, discrimination and harassment as a necessary part of maintaining law, order and democracy. As Cohen says:

By authorizing for themselves this technical language as the standard of all serious speech, professionals forbid any appeal to common sense (“Hang on, isn’t she suffering?”) or traditional morality (“Is what you’re doing right?”). (Cohen, 1985: 275)

Because formal language is seemingly devoid of emotion, the assumption is often made that it is consequently devoid of subjectivity or political partiality. It is argued that the unemotional and professional apparel of professional discourse and its textual products (in this case government legislation, court transcripts, and so on) is not something that should be aimed for but is destructive and despotic. As Leffler has said:

Rarely does a sense of real compassion and/or moral fervor emerge from the documents and diaries of high officials. These men were concerned primarily with power and self-interest, not with real people facing real problems (Leffler, 1992 cited in Chomsky, 1993b: 5).

The lack of emotion is typical of professional discourse. Professional discourse tends to anonymise or dehumanise the subjects and objects of the discourse and objectify what might otherwise be seen to be a political and partisan agenda, thus disguising the harm inflicted and denying responsibility⁹. In so doing, it justifies itself and its effects as legitimate, logical and professional. The language, therefore, has a sanitising or anaesthetising effect upon the consumer or reader, while absolving the producer or writer of self-responsibility for the harm that, as hidden, does not exist. . As Gouldner says, professionals are

... guild masters of an invisible pedagogy... Speech becomes impersonal. Speakers hide behind their speech. Speech seems to be disembodied, decontextualised and self-grounded. (Gouldner, 1979: 29)

⁹ Segregation also means that the sedentary will never see, or rather can ignore, the pain and suffering being inflicted upon Gypsies as a result of policies and harassment. Furthermore, segregation is an important, if neglected, feature of the reproduction of social relations, sustained for both ideological and material purposes (see Smith, 1989).

Consequently, referring to the “dispersal” or “over-concentration” of Gypsies, or the need for their sites to be “screened” or the “regime” to be “enforced”, is not viewed as discriminatory and harmful in its implications and effects. Because of the presentation of professional discourse, as objective and dispassionate, the professional remains detached from the implications of his or her words and disassociated from any harm or suffering that results; even if protection against that harm and suffering is contained within domestic and international law. What might be considered “unorthodox connotations” to words such as “dispersal” and “over-concentration”, for example (not to mention their manifest policy implications), are the beliefs that Gypsies are dangerous and undeserving. They are too dangerous, like category A prisoners, to associate freely with each other. They are undeserving of the community ties that other populations enjoy and of the choice of where and how to live. Gypsies, in fact, threaten to expose the nature of this “choice”. As is seen with so-called New Age Travellers, the non-Gypsy community does not, in fact, exercise choice to any great extent.

What is unusual about Gypsies is that less abstract or symbolically empty words are unashamedly in regular use in professional discourse. This would seem to suggest that over and above other populations, Gypsies are legitimately perceived as being “a problem”. The language is in contradistinction to the language used to accommodate people into the social services or psychiatric wards, for example. These populations are controlled under the auspices of “help” or “treatment”. To this extent, these populations are “rewarded”, in keeping with the Western and Christian ideologies whereby absolution rests upon repentance, upon the acceptance of wrong-doing by the subject, in accordance with the Parsonian sick role. Rehabilitation in prisons and psychiatric wards, for example, only officially begins once an individual accepts that there is a problem, and they are it. Any groups labelled deviant by the State who do not accept that they are a problem are considered to be threatening because of their independence. In the case of other groups there seems to be a need to justify intervention and control (to construct “problems” that need to be “punished” or “treated”), whereas this need to justify does not exist with regard to Gypsies. This implies that blatant control of Gypsies would be unchallenged and that appearing to be responsible towards Gypsies is

unnecessary or, indeed, illegitimate. In other words there is no “moral doubt about coercion or constraint” (Cohen, 1985: 274) when it comes to Gypsies.

Euphemism is often employed within professional discourse to disguise the coercion and pain as well as the power relations and inequalities. As Christie (1981) says with regard to the prison system, the use of words such as “inmate” rather than “prisoner” and “measures” rather than “pain infliction”, disguises the character of the actions of the penal system¹⁰. Christie believes the motive for disguising the intended punishment and its concomitant pain, lies in its dissonance with the tenets and ideals of society. It therefore disguises practices or ideologies that might otherwise be considered unethical or undemocratic, as well as disguising the resultant harm and suffering. The hygienic prison discourse therefore hides the infliction of pain and suffering and, in so doing, the inflictor’s hand. This is also achieved by depersonalising “inmates”: punishment of “numbers” is much easier to ignore than of individuals¹¹.

Linguistic devices to protect the hand that deals the punishment and pain is peculiarly absent when it comes to Gypsies. The language used when referring to the accommodation of Gypsies is reminiscent of the language used in Nazi Germany, whereas the language used when referring to the punishment of convicts is reminiscent of a supermarket transaction. It seems as though the situation needs to be “talked up” while still retaining the denial of any connections between the terminology used and the situations in which it has been previously and most prolifically used. We are still encouraged to believe that “dispersal”, “over-concentration”, “screening”, “regimes”, and so on, only really refer to good and proper planning practice and not a coercive, if not genocidal, routine. So, whereas the hygienic and commoditised supermarket lingo of prison discourse disguises its reverse, the conflict and penal terminology of planning discourse with regard to Gypsies, although denied, reflects the practice. As Kenrick has studied with reference to Gypsies (Interview, 1996), UK legislation increasingly reflects Nazi

¹⁰ It is accepted, however, that all language is deceptive to a certain extent.

¹¹ Incidentally, Gypsies are talked about generically and in terms of groups or numbers, never individually.

Germany policies¹². So, the CSA linguistically hid the politics at play: the assimilation, control, and punishment of Gypsies was disguised as benevolent patronage. While, the Criminal Justice and Public Order Act (1994) “talks up” the relationship between Gypsies and the State, and the need for control and resistance. Gypsies and other Travellers become “hyperreal” (Baudrillard) - anonymous but stereotypical, so that the threat is exaggerated and can be potentially around any corner, akin to the Red Scare (to be fully discussed in Chapter Six).

What could also be at play, with the use of such terminology, is the process of technologising and complicating the banal and politicising the everyday (akin to demonising the powerless to justify putting the boot further in: the blaming the victim syndrome). Without such terminology Gypsy site applications might be perceived as any other planning application. Hence, the need to bring in other agencies of control and involve the locals in a public amenity exercise, might seem unnecessary. As Cohen and Edelman have said with regard to “medicalism and psychologism” or “therapeutic language” (respectively), this type of language-use “renders the most banal of everyday activities into complex, professional ‘treatment modalities’” (Cohen, 1985: 278). It also justifies intervention and control while masking the power relations and value conflicts intrinsic to such intervention and control. By professionalising the issue¹³ (by technologising the language: making it esoteric), the issue is depoliticised, in the sense that it is deemed inappropriate for political or democratic discussion. In other words, it should be left to the specialists, the elites. This is done while parading as democratic and logical. It is also done at the same time as heightening public concern for an issue which, ironically, affects them but which should be left to others to resolve. So, ironically, while the issue is politicised to the extent that public interest and opinion can be mobilised, it is depoliticised as far as is necessary so that the elites can justifiably “take control”. As Edelman has said, such a depoliticisation of an issue is done whenever an issue is ideologically or practically threatening to elites. In order for the elites to legitimately deal with it and deny public participation, the issue is sufficiently “talked up” so as to incite public panic and therefore acquiescence in whatever the knowledgeable

¹² As mentioned previously in Chapter One.

¹³ In this case, the accommodation of Gypsies.

accommodating Gypsies is a planning issue it should be left to the expert planners, and because it is “talked up” the public is all the more eager that these professionals should do whatever and as much as they can. The threat, however, is politically useful. It pacifies and unites the public as well as lending increased legitimacy and power to the professionals. Consequently, the professionals must not be too successful. Therefore, Foucault’s hypothesis, that the failure of the prison paradoxically ensures and constitutes its survival, can be adequately applied to the planning system, and the social system in general: each consecutive problem and failure legitimises more of the same, translated as more centralised and unaccountable power for a select few. So, mythical threats and “problems” will be repeatedly addressed while social policy and structural problems of an inequitable society remain unaddressed, and the real threats to democracy, liberty and equality are either ignored or exacerbated (see Chomsky, 1994c). Blame shall reside with those who are the most disadvantaged, and the strong arm of the law will be repeatedly used against them – in so doing, undermining the values of a supposedly democratic society.

The language of policy-making appropriates concepts and phrases suggestive of fair, logical and considered thought¹⁴, despite the recurrent use of war and prison terminology. Indeed, the juxtaposition between the calm and tentative language of Local Authority texts when it comes to how the Authority intends to respond to the issue (“the solution”) and the dramatic and emotive language of the texts when it comes to what is happening or might happen (“the problem”), effectively conjures up an image of the democratic good being threatened by the destructive and criminal evil. The very nature of the war and prison imagery suggests that “the problem” is that “we” are in conflict with our “enemy”. The enemy becomes the opposite of all the “we” present ourselves as being and, as such, in order to surmount the attack, all measures are justifiable and necessary. Hence, in full

¹⁴ It is interesting to note, however, that those arguing *against* Gypsy site development generally use phrases that imply confident and logical reasoning (“If one considers for a moment...”; “Close scrutiny is urged and will reveal...”), while, on the other hand, professionals defending a Gypsy site development generally use phrases that imply excuse-making (“We can see the problems; however...”; “We know about the relevant legislation, but...”). The phraseology imparts meaning, and in this case it serves to reinforce the message that Gypsy sites are, on the whole, illegitimate forms of development.

circle, the use of war and prison imagery, representing “the attack” and “the punishment”.

Particularly when what is being proposed could be considered as particularly contentious or despotic, the language appears all the more calm and considered. One Local Authority, for example, emphasises its attachment to a policy of non-harassment except in “some circumstances in which it is necessary to evict gipsies”¹⁵. Phrased as an aside, these circumstances could constitute every possible situation: the Gypsies are “causing a significant hazard”, “causing significant damage”, “interfering with the normal use of adjacent land or property”, or the Local Authority either wants them to go and/or they have no legally binding responsibilities towards them. What is also worth noting from this particular example, which is generally archetypal, is the vague and undefined concepts and the implications behind them. The implication is that the Gypsy way of life is potentially “hazardous”, “damaging” and is an “interference”. The only preventative and binding measure on the part of Local Authorities is their legal requirement to account and provide for the Gypsies welfare and educational needs. To this effect there should be “a rapid evaluation of [their] social requirements”, linguistically implying benevolence towards Gypsy needs but, in it’s context implying the desire to evict as quickly as possible paying Gypsy needs only a cursory and simulated glance.

Screening Sites in the Sensitive Countryside

The contrast between the little England pedanticism of talk about screening and the genocidal implications of the term, is particularly startling. “Screening” is interchangeable in Local Authority discourse with “landscaping” and “planting”, effectively depoliticising a policy which is akin to policies of concentration camps where an ethnic minority is systematically and institutionally bound to be segregated, trapped and hidden from “outside” or mainstream sight and therefore attention: Gypsies are forced into geographic and ideological marginalisation and it

¹⁵ All quoted material in this paragraph is from personal correspondence with a Local Authority Planning Officer (1995).

would seem that it was only Blue Peter's garden that was getting the once over. As Ward says regarding the general state of the planning system:

By the 1990s we surely find something unattractive about the way the shapers of policy took it for granted that **they** were entitled to a country retreat while wanting to deny, on aesthetic grounds, the same opportunity to people further down the hierarchy of income and opportunity. (Ward, 1996: 20)

Bauman (1989) uses the gardening metaphor to analyse "modernity", and show how space is ordered through cultivation and neatness, rather than logic or reason. From Bauman's analysis it is easy to see how Gypsies "mess up" the order (see Bancroft, 1997). Since Nietzsche's death of God, it was up to people to bring order and harmony to the world:

The world turned into man's garden but only the vigilance of the gardener may prevent it from descending into the chaos of wilderness... It was now up to man and man alone to make sure that the strangers do not obscure the transparency of legislated order, that social harmony is not spoiled by obstreperous classes, that the togetherness of folk is not tainted by alien races... It was the combination of growing potency of means and the unconstrained determination to use it in the service of an artificial, designed order, that gave human cruelty its distinctively *modern* touch and made the Gulag, Auschwitz and Hiroshima possible, perhaps even unavoidable. (Bauman, 1989: 218-9)

Gypsies are, in effect, being "weeded out" – slowly – in the meantime they are being kept apart from "cultivated plants" so as not to destroy the ordered and cultivated garden as quickly and thoroughly as weeds can. It is also easy to see why the disease metaphor is so often used when referring to Gypsies. Disease, like weeds, know few barriers and are indiscriminate in their attack. Therefore, counter attack on the same scale is justified on the part of the State, in order to protect the "healthy body" or the "cultivated garden".

The practice of ghettoisation is not only institutionally condoned, it is enshrined in statute: "screening" is necessary for sites to obtain planning permission. Euphemistically, in order that Gypsy sites "integrate" into their surroundings, or "blend in", they need to be "screened", to be "tolerably inconspicuous" (Inspector's Decision Letter, Lydia Park 1984: paragraph 36). In other words, for

Gypsy sites and Gypsies to be acceptable to the mainstream they have to be hidden: the screening of sites “ameliorates” their “visual impact”, just as hiding, ignoring and entrapping Gypsies “ameliorates” their social or ideological impact.

Another stark contrast exists between the finicky attention paid towards the aesthetic or the superficial, and the scant attention paid towards the human element and the hardships facing Gypsies. There is usually an enormous amount of time, money and paper work given to debating exactly which types of trees, shrubs and plants will be used for screening purposes, and what mixture (the exact percentage), how old, tall, and wide (by points of a centimetre) and how often they should be trimmed. Personal hardships are often irrelevant unless it might signal their inability to comply with the planning conditions. When Local Authority members debate “trailing plants such as ivy” (for the outside of the “screen” of a site which is practically only visible from a motorway), it seems as though members seek to “prettify”, or “soften the impact” of a social issue where human lives are being annihilated¹⁶. The implication is that the life of foliage, by nature of the words used as well as the wider argument, is more important than the life of the Gypsy race.

It is very evident from the talk about screening, exactly who is being screened from whom, and who is being protected from whom¹⁷. The screening is for the outsiders, and yet the residents are expected to pay. In effect, Gypsies pay for the privilege of not being seen. Screening has to look “attractive” and “in keeping” with its surroundings. However, the view of the screen to the residents is irrelevant as far as planning permission and the officials are concerned. As Waverley Borough Council makes clear, Surrey sites

... are visually intrusive, particularly in winter months when the sites can be clearly seen from the Dunsfold road (B2130) about a quarter of a mile to the north. The sites are especially noticeable at night, the glow of unshielded electric lighting being particularly alien and intrusive. (Waverley Borough Council, 1995j: 17)

¹⁶ All quotes are from Waverley Borough Council (1995h)

¹⁷ When a Local Authority decided fencing should be erected around the site of one Gypsy family, the Chairman of the local Parish Council said: “That is good news – we can contain the problem.” (*Surrey Advertiser*, 2.3.90)

It is even necessary to “screen the caravans and mobile homes from long distance views” (Waverley Borough Council, 1995h: 55). Even “gaps in the vegetation [which] allows views into the site” are important in the planning process (*ibid.*).

Interestingly, when debating the screening of a particular site, a delineation between different types of travellers occurs - between the legitimate and the illegitimate - between sedentary travellers conforming to the capitalist ideology of leisure, and the permanent cultural and/or ethnic nomads. Views from roads can substantially prejudice a planning application¹⁸. Whilst it is imperative to ascertain whether or not the applicant is “local”, there seems to be more concern for the occupants in cars who are more likely to be “foreigners”, “strangers”, “outsiders”, or “not local”. Prejudice and control, then, is economically driven. Car-drivers and passengers, it is presumed, contribute more to the economy than Gypsies, as well as having seemingly accepted the ideology of the State by nature of them using cars and roads in a particular way. The State, it seems, cannot abide people travelling without what it defines as a specific destination and purpose: specifically travelling to and from something¹⁹. We are used to people travelling from home to work to leisure: from one institution to another. The transient phase is not threatening if the intention of the movement is to get another fix of social control: the travelling being necessitated by and increasingly characterised by the institutions, rather than existing outside the ideological as well as physical boundaries of the “places”. People need to be placed and predictable as well as subject to regular reaffirmations of the dominant ideology (whether in the family, work or school). If these are presumed to be absent, as difference often signals, then what Althusser (1971) calls Repressive State Apparatuses come into play²⁰.

¹⁸ Concerning the “visual intrusiveness” argument, when asked whose view would be ruined if the area was secluded as the opposition argued, the opposition witness at the Lydia Park Public Inquiry replied: “car passengers on the motorway”.

¹⁹ Something of which is caught in the current definition of a Gypsy with regard to planning law: “persons who wandered or travelled for the purpose of making or seeking their livelihood” (Circular 18/94 s.3).

²⁰ As Kendall (1997) has analysed, minority and relatively powerless groups are controlled by segmentalising and spatially marginalising them, on “dump estates” for example. Gypsies are perceived to challenge/resist this marginalisation or at least are seen to be unaffected by the same controls as the rest of society. Gypsies are seen to escape what Althusser (1971) would call “ideology” and what Foucault (1980; 1982; 1991) would call the effects of “the gaze” and the

The fact that “pedestrians, riders or travellers in higher vehicles would be able to see over the hedge” highlights the inequity of governmental protection and recognition: the middle-class past-times of Middle England are evidently more important than the accommodation needs of an ethnic minority. Even when only the drive or entrance of a site is visible by a single “outsider”, the site application is prejudiced. When multi-story buildings are built in full view of many local residents without proper public consultation, it seems disproportionate to consider refusing an application because a site “will have an impact on neighbours because the drive is in view” (Lewes District Council, planning files, 1994-6).

Control over what is seen is also about control and punishment. The “screen”, the warden and “regulations” such as “all exterior lighting shall be designed to minimise night time glow” and “TV, radio and satellite aerials could be rationalised” (Waverley Borough Council 1994: 8) smacks of prison-culture or curfews. Screening, for example, is also about the control of activities. It is not just about hiding, but manipulation.

As will be seen later, there is so much effort expended to account for every conceivable objection. This would not occur with regard to the bulk of other policies or planning applications. The need to adhere to the planning policies is adamantly stated, and yet when Gypsy site proposals comply with the policies, the policies suddenly become less important. For instance, the fact that one site “would not be very noticeable is not by itself a very good argument for permission.” (Westmeston Parish Council, 1994) A “lack of demonstrable harm” does not, by itself, lend sufficient support to an application. And yet if the circumstances were reversed it would be a sufficient argument to deny planning permission. Ironically, this same application failed in gaining planning permission in the following appeal precisely because the Inspector considered that “demonstrable harm would be caused to the appearance and rural character of the area.” (*ibid.*)

consequent internalisation of control or self-regulation. Therefore, harsher means of control are used.

What is being said is that the sight of Gypsies has a physical impact: being able to see Gypsies is bad for you. And the more Gypsies there are, the more harmful the effect, as one Inspector says:

... whilst I heard no evidence to suggest that the occupation of the site caused any problem with services and facilities, I find that, visually the concentration is significant and harmful. (Inspector's Decision Letter, Lydia Park 1991: paragraph 14)

So, despite the fact that the said Gypsies are causing no problems, harm is arising simply by them being there. Consequently the Gypsy community is segregated and fragmented for the sake of aesthetic conformity. Aesthetic fascism doubly punishes the victims; those who have been victimised are victimised further by being deemed different, "out of place" or "alien", unattractive or disturbing. These victims face discrimination on racist, imperialist and aesthetic grounds, which manifests itself in the splitting of families solely because of their ethnicity. In an elitist, sedentarist and capitalist culture, any planning application that is at odds with the culture (i.e. if it is communitarian, nomadic, or sustainable) is condemned as being "out of place" or "alien". Protecting the countryside and public amenity can, therefore, be translated to mean protecting elite interests and power relations. The promotion of a monoculture is not only contrary to international socio-environmental advice, such as that contained within Agenda 21 (see Chapter One), it conflicts with the ideals of pluralism, democracy and liberty. This does not just apply to Gypsies as is seen with the hostile reactions to others who "misuse" public spaces, which often means acts of insubordination by the poor but, more generally, means simply the visibility of the poor. Consequently, graffiti artists and the homeless, for example, are described in terms of defiling or "spoiling" public spaces, and are dealt relatively harsh punishments, both informal and institutional. The criminalisation of these groups is part of the general "clean-up" of unwanted social groups, their visibility serving as a reminder of the despised "other". Their existence challenges the authorised image of social reality, and emits the message that the ruling elite cannot maintain the image of, what they deem to be, "order" and do not wholly control public spaces. The appearance of a Gypsy site (like the appearance of graffiti) signifies that things are done out of sight of officials and others, implying that crime too can occur if spaces are relatively insecure. In effect,

then, social space reinforces and naturalises the social order and the relations of power and oppression.

As Chapter Five will detail more fully, the economically/politically powerful are able to leave their mark in public (and private) spaces, while the poor are criminalised if they do the same. So, while the environment is saturated with signs and symbols encouraging people to acquiesce with the capitalist ideology, the poor or those keen to voice an a-capitalistic message are silenced. For instance, in cities, billboards are commonplace, as are large signs forbidding the practice of fly-posting (and, of course, graffiti is prohibited). Similarly, Gypsy sites, unable to economically or ideologically ingratiate the decision-makers, are generally excluded under the pretence of democratic and conservationist principles. What is occurring is the plastic surgery of the environment, the natural: the denial of human rights under the guise of protecting nature, which is nothing to do with “nature” and everything to do with illegitimate elite violence.

The evidence is contained within the belief that a “screen” is more “aesthetically pleasing” (and, as such, of paramount importance) than a small group of people and their homes²¹. Similarly, walls are often roughened to prevent graffiti. While the rough walls are arguably very unattractive, graffiti art is a valuable outlet for young people as well as often “brightening up” inner city or derelict places. Only those with something to sell are able to leave their mark in public spaces (see Luna, 1995). The importance of the visual or the superficial is as a symbol, suggesting who has ownership of places and control over behaviour:

Establishing a canon for what is beautiful and what is ugly is one of the ways power and influence are displayed. Punishing the behaviour of others is another way power and influence are displayed. (Ferrell, 1993: 5)

Aesthetic control is also about the eradication of the inassimilable “other”. Those who do not conform must be criminalised and made invisible. They must be white-washed or “screened” to hide all evidence of “otherness” from public sight:

²¹ On arguing for a particularly dense screen, one solicitor said: “there are children on site and things of that nature” (Observation in Court, 1995).

Messages that support the establishment, whether it's a corporate ad or local community board announcement, are tolerated and even encouraged. Any words or images that present an alternative viewpoint or attack the establishment are forbidden and are punishable by fine and imprisonment. (Lederman, 1997: 1)

No alternative ideologies or ways of living should be able to seep into the consciousness of the public. Hiding the "other" also prevents any interaction, and any potential empathy, understanding or responsibility. Paradoxically, because visual presence of the "other" is suppressed, when the "other" is seen the event is out of the ordinary and is presented as being unpredictable and therefore threatening. Hence, Gypsies and graffiti "spring from out of no-where", "assault the eye" (see Luna, 1995) and "spoil" places, hence the association with dirt and disease imagery. As Luna asks:

So what's really the stain in our everyday lives? The not-for-profit acts of meaning creation perpetuated by the tagger, or the multi-million dollar advertising campaign that convinces me that the smiling Indonesian peasant woman picking leaves for my Tejava Tea leave no residue of their undesirable otherness on the 'purest expression of tea'? (Luna, 1995: 7)

As was shown in Chapter One, the threat to the countryside lies not in a relatively minute amount of it being used, according to principles of sustainability, for the accommodation needs of the nomadic members of an ethnic minority who are otherwise criminalised and endangered. The threat to the countryside comes from the increasing acts of enclosure and encroachment of the interests of capital into every last acre.

It is, nevertheless, the Gypsy site that is repeatedly said to "harm" and "spoil" the "sensitive" landscape. However, when it is accepted that an application does not "cause demonstrable harm" or have an "adverse impact" upon the surrounding environment, it is still not sufficient reason to grant planning permission. This seems to suggest that the impetus behind the prejudice against Gypsy sites emanates not simply from a desire to banish (or make invisible) and disarm Gypsies (both physically and socially). It is, perhaps, the ideological threat of "a

good example” (Chomsky, 1994c)²² and the capitalists nightmare of a resource not being taken advantage of that motivate the authorities, aside from, of course, the need to appease real or imagined public hostility.

Primarily, however, it is the visual impact that is used as justification to eradicate or “screen” Gypsies (in an attempt to reduce their perceived social impact). The implication behind planning policy is that the more Gypsies there are, the more severe the threat: Gypsies must be “dispersed”, not “over-concentrated” in one area, to reduce the impact and make the situation/Gypsies more controllable. Ironically, many Inspectors deliberating over planning applications, say that the “dispersal” policy²³ is in Gypsies’ best interests, as it leads to “a deterioration of both the living conditions for the occupants and the visual amenities of the surrounding area” (Waverley Borough Council, 1995h: 32) and “the distress of both gypsies and the settled population” (Circular 28/77). The final implication of these remarks was that planning permission was denied for the Gypsies’ own good. This attitude that Gypsies’ do not know what is good for them is commonplace and makes many Gypsies homeless/placeless and forces them into dangerous situations on the road under the threat of arrest and vulnerable to violent attack, poor health, insecure livelihoods and schooling, and so on. A precarious and illegal existence is presumably better than having poor living conditions. The administrators and police of the sedentary world are able to deny the freedoms and rights of association, movement and habitat by donning the guise of aid.

This policy is particularly reminiscent of Nazi doctrine because so many of their slogans are echoed. The repetition of “enough is enough” in the associate informal discourse, akin to other racist and imperial discourses, is uncannily suggestive of the ethnic cleansing programmes. For example, one Inspector reports:

Local residents do not object to gypsies among their midst but they consider that “enough is enough”. They are now outnumbered by gypsies. (Inspector’s Decision Letter, Stovolds Hill, Dunsfold, 1979: paragraph 47)

²² The idea is that if a nomadic life did not have the disadvantage of being demonised and punished, many more might consider leaving what is otherwise presented as “natural” or “inescapable” – i.e. sedentarisation.

²³ Which splits families, makes Gypsies unable to choose where to go and who to go with, and makes them more vulnerable to attack.

Minorities, in other words, should not have power, status and rights. As Gypsies are only able to gain planning permission if they are “local”, the fact that Gypsies “outnumber” “local residents” challenges the democratic processes that are meant to underlie Local Authority decision-making. For, if it works by majority rule, the Gypsies would surely “have their way” which would not be tolerated. It highlights the selective labelling of who is a “local resident” and who is not (to be discussed in the next chapter) Therefore, for as long as there is no “over-concentration” of Gypsies in one area democratic procedures will not be problematised. Also, the importance of maintaining public amenity is generally stressed, unless, that is, a Gypsy site has large public support. Then the planning decision “is not a matter to be done by popularity vote” (Lydia Park Public Inquiry).

UK policies concerning the accommodation needs of Gypsies strikingly resemble the language and practice of the genocidal policies of fascist dictatorships. Furthermore, the proliferation of disease and dirt imagery adds to the suggestion that Gypsies, or the land they “spoil” or “invade”, needs “cleansing”. For instance, objecting to the proposal of a Gypsy site, one local resident said that he had “been encouraged to live in what was then unspoilt countryside” (Inspector’s Decision Letter, Stovolds Hill, Dunsfold, 1979: paragraph 48). In this and many other instances, Gypsies are portrayed as something that spoils, dirties and destroys things, and the countryside is generally presented as being “unspoilt” (for example, see Inspector’s Decision Letter, Lydia Park 1984: paragraph 34) but profoundly vulnerable. Consequently, any criticisms of actual dirt, whether qualified or not, are dealt with very strongly and are often used as reasons to deny planning permission. Gypsies and other Travellers have been evicted, condemned and blamed for being unhygienic and messy, when the Local Authority has refused to provide rubbish skips or water stand-pipes (fieldwork and interviews with Gypsies and members of support groups, 1995-7). Further still, they have been castigated for being without modern systems of drainage, which, it is supposed, is less harmful to the environment than compound chemicals. However, by the same critics they are condemned for using modern detergents and toiletries when they do (Local Authority planning files: complaint letters from local constituents and councillors). Furthermore, while Gypsies are criticised for wanting to live

somewhere “unspoilt”, the sedentary population is allowed to say that this is their primary motive for moving to a place, and that their presence in no way threatens the “unspoilt” character of the place.

Man-made or manicured screens are all that can “naturalise” or lessen the effects of “spoiling”, and protect “the sensitive countryside”, bar, of course, the complete abolition of Gypsies (see, for example, Waverley Borough Council, 1995h: 14). Interestingly, “sensitive” is a word never used when describing Gypsies. As one Gypsy said during the Lydia Park Public Inquiry (1995): “We’re more sensitive than trees”. The countryside is animated and humanised and is described as vulnerable and innocent, while Gypsies are dehumanised and demonised. Also, when the countryside is addressed it is called the “neighbouring countryside” when another Gypsy site is addressed it is termed “adjacent site” or “alien presence”. Even such an apparently insignificant choice of words creates a particular meaning: the countryside is friendly, vulnerable, human, in contrast to and in conflict with Gypsy sites. Consequently, Gypsies are deviants and potential criminals who spoil things belonging to others. The countryside is not “open access”: it is the property of the elites, and the protection is for their political and economic interests, not for the countryside per se. Consequently, criminalisation of nomads is needed to protect the exclusivity of the countryside and to disguise that exclusivity as earned rights.

Legitimate access to the countryside (a term sufficiently expandable to include as many or as few places as is required) is again highlighted in the following statement made by an Inspector, about the local residents who opposed a proposed Gypsy site:

Many are farmers, retired professionals, some commuters, all long established residents following the traditional way of life and mostly living in the immediate vicinity... in the garden of Surrey (Inspector’s Decision Letter, Lydia Park 1984: paragraph 23).

The countryside (or nature in general), here as elsewhere, is presented as occupying a contradictory status: as a cultivated and protected “garden” and as a natural and unspoilt wilderness. This is akin to the contradictory status of the

Gypsy as dirty criminal and romantic musician, for example. In general, it is akin to the contradictory status of all other “others”, who are, more or less, presented as victim/offender: vulnerable and potentially threatening. For example, nature is needed to be protected, but is also wild, unpredictable and in need of being controlled and cultivated. The same can be said of how women are popularly conceptualised within the masculinist eurocentric ideology: women are virgins or whores depending on whether protection/pacification or punishment/demonisation is considered to be the most effective form of control at that time. Ethnic minorities and indigenous groups too, have to be “helped” (i.e. told what they want and forced into dependence upon the State or entrapment in ghettos or sites, for example) or overtly punished (i.e. demonised and legislated out of existence [criminalised] or murdered [often in the name of peacekeeping]). The contradictory status occupied by the “other” also enables the powerful to legitimately plunder the “other” (by emphasising its uncivilised and threatening power) while preventing anyone else from doing the same (by emphasising its vulnerability). The wilderness, for instance, is there for man to conquer, cultivate and control. When others attempt to access the countryside, however, it is no longer a wilderness but a cultivated and ordered garden. It is power that is being protected in the name of protecting the countryside.

Similarly, the countryside and Gypsies (as with other “others” such as women, children, animals, indigenous populations and ethnic minorities) are reducible to their aesthetic value or impact at best: they become objectified in the power of the gaze²⁴. At worst they are conceptualised as uncivilised and threatening. This serves to justify elite violence and colonisation in the name of the civilising process (see Mohawk, 1996, Plumwood, 1994, and Slicer, 1994)²⁵. The link between the domination of nature and the domination of “others”, first addressed by the Frankfurt School, reinforces the image of the “other” as chaotic, irrational and in need of domination. The link between nature and dominated groups also functions to legitimise exclusion from “civilised society” (Sibley, 1995). As Alexis de Tocqueville and John Stuart Mill viewed the Native American Indians as asocial,

²⁴ Gypsies can be seen to challenge the power relation at work in beautifying or reducing nature to its superficial qualities (i.e. devoid of political or social content).

disorderly and savage, so too does Western thought similarly denigrate Gypsies. In *Writing and Difference*, Derrida (1978) has termed such a stereotyped presentation of the “other” a “violence of representation”, no less destructive or different from the physical acts of colonialisation or reterritorialisation that it accompanies.

Furthermore, the association of nature, Gypsies, women, and so on, reinforce each other’s weaker status within the masculinist eurocentric ideology (see Cheney, 1994): for example, the feminisation of nature and the naturalisation of women (i.e. asserting their emotionality/irrationality). Similarly, Gypsies and other ethnic minorities are often associated with the uncultured, unpredictable and powerful side of nature – the wilderness. As Collins has said: “All categories of humans labelled Others have been equated to one another, to animals, and to nature.” (Collins, 1990: 223) They also share in common an association with disease imagery, thus emphasising the indiscriminate nature and magnitude of the threat.

Gypsies are presented as “spoiling” the countryside and for not being local, but the local residents mentioned in the quote above (“farmers, retired professionals, some commuters”) include people who have possibly moved to the locality after or because of employment (Interview with local solicitor, 1996), especially as Surrey is particularly convenient for London commuters. As a local councillor has said:

High on the agenda of people living near the sites is the drop in house value, though I have to say I can quite understand this position when people have lived in an area a long time, the most vociferous are always the people who moved in after the gypsies. (personal correspondence with Local Councillor, 1996)

This passage also suggests that the local residents have more authority and legitimacy with regard to their voices being heard by emphasising their “localness” and traditional way of life, in spite of the fact that the local residents the Inspector speaks of amounts to only twenty in this case, and their protests are against a “traditional way of life”. It is unclear what the Inspector means by the “traditional way of life” of farmers and professionals. Presumably the intention is to morally qualify the sentiments of these people, and to usurp the very claims for the exercise

²⁵ Academia also often practices such colonialist and imperialist activities by constructing totalising

of legitimate rights of Gypsies – namely that they be allowed to live according to *their* traditional way of life.

These local residents are also more likely to “spoil” the countryside. For example, many farmers do not, as their romantic image suggests, “protect” the countryside or work with it but work on it and increasingly “spoil” it as farming has become increasingly industrialised. As Monbiot said when condemning the CJPOA, while the Act introduces a new offence of damage to the land for Travellers (which could constitute a footprint), the real damage to the land is that which is always given free reign:

The new act is another act of enclosure, a further assertion of exclusive rights by those who claim to own the land... The argument most often advanced by the Country Landowners’ Association in favour of the Criminal Justice Act is that travellers damage hedges, fields and features of historical or scientific value. Yet, every year throughout the 1990s, country landowners have overseen the loss of 18, 000 kilometres of hedgerow. (Monbiot, 1995c: 7-8)

And the modern day nomads of commuters, as Low-Beer (conversation, 1997) has said, are much more likely to “spoil” the countryside because their livelihoods generally depend upon travelling to and from cities. The permanence of their properties in comparison with caravans or mobile homes, is also more detrimental ecologically. Furthermore, the damage to land cause by Gypsies is often far exceeded by the damage caused by evictions (see Earle *et. al.*, 1994).

The most ferocious attacks upon Gypsies, for not being local and so on, come from and within areas characterised by many commuters and retired folk recently moved. The “local” of which they speak rarely exists, partly because of the changes in the economy which has meant increased mobility, less small-scale and local businesses, and a re-characterisation of the countryside as a place for the privileged, legitimised by being defined as “a place for all”.

Policy-makers are operating and mobilising a selective nostalgic imagination: idealising the countryside as devoid of a past and human interaction and as

accounts, which do little to liberate the oppressed or enlighten the oppressor (see Cheney, 1994).

unchanging, but continually under immense threat from illegitimate plunder and rampage. The creation of a known but inexperienced (simulated) past, a nostalgia where people feel safe, pictures any difference as threatening. The physical threat to the countryside comes in the form of massive road-building programmes or other capitalist initiatives. However, when it comes to such ventures, blind faith in The Economy as for the general good overrides planning policies which are for only this moment conceptualised as transitory and locational: “The deep countryside remains relatively inviolate, except where it is chosen for the route of a major road scheme or the site of a new tourist development or dormitory settlement” (Fairlie, 1996: 9). Part of the myth of capitalism is that a successful economy is considered to benefit the general population. But, as Chomsky says: “Free enterprise is socialism for the rich: the public pays the costs and the rich get the profits” (Chomsky, 1995c: 12). Even human rights have been considered to be a hindrance to a successful economy (the most notable recent example being the US-China trade agreements). Human rights are only introduced as significant when the control of the economically and politically powerful is threatened. Then human rights are “an instrument to beat people over the head with” (Chomsky, 1995b: 9). And so, public amenity and countryside protection become paramount when a Gypsy site is the issue. When it comes to Gypsy site proposals, the planning legislation takes on an unerring permanence supported with the Micky Mouse concepts (Cohen, 1985) of democracy, rationality, order and rights. Conservation is valorous and of the utmost importance until it is ridiculed with the rationality of the economy, when a road needs to be built, for example²⁶.

While the stipulation that developments should “benefit the rural economy” (PPG 7) remains, Gypsies will continue to be discriminated against in the planning process, and the countryside will continue to function as no more than the cities’ factory; a far cry from the rural idyll that landowners and developers claim to be protecting from the marauding Gypsies. This stipulation also creates muddy waters, a potential mire to ensnare Gypsies and catch them 22-style once more. It does so in the sense that “the economy” and “the rural” are unproblematically coupled as if they could never contradict each other, as if one can easily sit with

²⁶ Then the conservationists and/or road protesters are presented as naïve at best, anarchist at worst.

the other, as well as if they both reside in the same area of concern and conceptual framework. As Gypsy sites are not automatically accepted as being beneficial to the (undefined) “rural economy”, Agenda 21 is often disregarded, despite the fact that many of its proposals are precisely concerned with supporting the rural economy, but from a local and sustainable perspective, and supporting the initiatives of the rural poor. Agenda 21 is often disregarded because it is not legally binding and because of the domestic legislation which forbids preferential treatment of planning applications. However, preferential treatment is legitimate if the application can offer evidence of “benefit to the rural economy”, according to a certain set of cultural values. Consequently, whether or not a development is less permanent and damaging to the environment and concurs with international covenants is irrelevant, despite the fact that sustainability is a material consideration under PPG 1.

Ironically, despite the advent of Agenda 21, Gypsy sites are often criticised for being detrimental to the rural locality and countryside in general, even when the area in question is far from “desirable”: most Gypsy sites are forced into unsafe or unpleasant areas – next to roads or on old rubbish dumps, for example. Ecologically, what is primarily considered when determining a planning application is the use of cars. Although Gypsies and other Travellers are likely to use their cars less often than the sedentary population because of the nature of their employment (Interview with local councillor, 1997), any use of motor vehicles (termed “intensification of traffic”) is used against them, even though many sites are adjacent to busy roads²⁷. The predicted use of motor vehicles is gauged on whether or not the Gypsies in question have any links with the locality: i.e. whether the children are in school and whether other local services are used. It is also estimated on the basis of whether or not their employment is nomadically related. This creates a no-win situation for Gypsies who have to prove local links and that they travel “with the purpose of making or seeking their livelihood” (Circular 18/94 s.3) in order to gain planning permission. They are consequently either “alien” or they spoil things, or both: they cannot both fit into the mainstream

²⁷ “Intensification of traffic” in rural areas is used against Gypsy sites, whereas official intensification of traffic and other activities in rural areas is legitimate precisely because the areas

culture and be considered local, and not be seen to spoil the countryside. It is especially ironic that in order to be officially recognised as a Gypsy in planning law, a Gypsy has to prove his or her nomadism, whereas this is exactly what is used to determine their threat to the countryside (through “intensification of activities”, for example)²⁸.

Because such prejudicial and emotive beliefs are enshrined within planning legislation and criminal law, any local prejudicial and emotive beliefs can appear fair and rational. As one Inspector puts it, the local opposition mentioned above

... recognise the special needs of gypsies and the responsibility of the County Council to meet those needs but their objection to this additional caravan site is genuine and sincere and is based on planning and environmental grounds. (Inspector’s Decision Letter, Lydia Park 1984: paragraph 24)

Because factors such as “over-concentration”/“dispersal” and “visual impact” are incorporated into planning law, racial discrimination is re-presented as impartial and reasonable.

The Gypsy Problem: Punishment or Toleration

In general, an “over-concentration” of Gypsies in one area is vehemently opposed, with the “dispersal” of Gypsies the argued objective. However, even when the dispersal policy is opposed, the same anti-Gypsy fascist language and policy implications are used: dispersal will “affect... a number of residential areas” (Surrey County Council, 1995a) and will cost time and money in future and repeated evictions. The interest is not in the effect upon Gypsy families being split or forced onto roads, but in the effect upon the sedentary population (“the public”

are rural and therefore, it is argued, likely to disturb fewer people. The excessive amount of military activity in rural areas, for example in North Wales, is an example of this.

²⁸ Additionally, the smaller the site the more likely that the argument of “intensification of traffic” will be used. In a draft of the consultation paper *Planning Police Guidance on Transport*, the Department of the Environment said that “small settlements tend to be less efficient in terms of transport because they are less self-contained” (Department of the Environment, 1993). Although the final version implied that smaller sites do not necessarily mean a higher reliance upon motor vehicles, Fairlie (1996) believes that the perception amongst planners is that it does. This belief is at odds with the dispersal policy, which creates further problems for Gypsies trying to get planning permission.

of which the Local Authority is employed to protect). As was mentioned earlier, this particular debate is reminiscent of the debate about whether IRA prisoners should be dispersed so as to disempower the group by isolating them from each other and making the threat less, or, alternatively, grouping all IRA prisoners together so that the threat can be contained and the effect, although arguably more intense, will be less widespread. The implication is, then, that Gypsies are a threat to the public: they are “other” and “deviant” and threaten “our” safety.

Many official arguments in favour of granting planning permission, imply that the option is the best of a bad lot, rather than argue in favour of planning permission because of a concern with the human rights of Gypsies or the impartiality of the system. In the Lydia Park Public Inquiry, the submissions made on behalf of the applicants argued that dispersal would adversely affect the sedentary population to a greater extent than a concentration of Gypsies, and an evacuation of the commercially unattractive site would create a “shanty town”: “It would be likely to attract a succession of passing occupiers, such as New Age travellers.” (Surrey County Council, 1995p: 9) It is apparent that even those in favour of granting planning permission still suffer from the same stereotypes and prejudices about a nomadic way of life. In the case of the Lydia Park site, the implication seems to be that, if there is no commercial interest, then some control of nomadic peoples is better than none. The Local Authority’s Consultation Leaflet introduced its area of concern by saying that “none of the options is ideal and all have serious environmental and planning objections.” (*Proposals for the Painshill Copse Gypsies: A Consultation Leaflet*)

The report of the public consultation (Surrey County Council, 1995k) is confusing in that the debate is reduced to simply “for and against”, thus defining out of the equation any support for the Gypsies that does not fit neatly into the Local Authority police/punish debate. Furthermore, the report uses the concepts “support” and “concern” to map the arguments in favour of, or opposed to, the Gypsy site planning application. It is therefore difficult for the reader to decide whether “support” means supporting the Gypsies or the document drafted by the Local Authority. Similarly, it is not clear whether “concern” is for the Gypsies or about them (or, indeed, about or for the

document). Many individuals and District Councils responding to the document also expressed concern over its wording.

Most officials arguing on behalf of a Gypsy site development conceptualise Gypsies as “a problem” and as needing to be controlled and hidden. “Reasons” justifying a Gypsy site development include assurances that “the visual intrusiveness can be ameliorated” and that the applicants will abide by a “unilateral obligation”. The debate is how and if Gypsies can be controlled: not whether they should be. And, while some Local Authorities are guided by more benevolent motives, their actions are still couched in the terminology and ideology of Gypsies being a problem that can be punished, exterminated or “tolerated”. In effect, Local Authorities generally conceptualise Gypsies as “a problem” that stands in the way of Local Authorities performing their duty to “serve the public”.

Although policy arguments for and against granting planning permission for a Gypsy site use the same language, the arguments in favour of Gypsy sites disproportionately use much more tentative phraseology, such as “on balance”, “in this instance”, and so on. It would seem, therefore, that those in favour of Gypsy sites have to be careful, unlike the confident opponents who vociferously rely upon the abstract and grandiose philosophies of the rule of law and social order. It could be assumed that the flaccid qualifications of statements in support of Gypsy site applications exist in order not to appear permissive, as is often charged. The enduring implication appears to be that those in favour of Gypsy site developments are irrational or ignorant, as if any association with the “other” tars the party with the negative characteristics that are imposed by “us”. This sentiment is evident from the much-banded “Loonie Leftie” and “Wet Liberal” of the previous decade. It appears to be that with the use of such phrases as “on balance”, they are purporting to be knowledgeable and rational (and their arguments predicated upon considered, balanced and logical thought), *despite* the fact that they are supporting a Gypsy site planning application. Presumably, the general assumption is that, in the main, Gypsy site developments are contrary to all the cherished virtues of modern societies: they are, in general, irrational and should be guarded against.

Whereas at times the Gypsy situation is “talked up” so as to incite panic and, therefore, acquiescence in draconian measures, often a similar use of “soft” language is used by Local Authorities when the information is intended for general public consumption. This is in contrast to the dramatic use of war, punishment and disease imagery used in general policy documents, emanating, in general, from Central Government. For example, the terms “leaflet” rather than “document”, “multiple site” rather than “dispersal”, “visual prominence” rather than “intrusion” or “impact”, are used. The language is thus sanitised: the pain and the politics is absent. It seems, therefore, that democratic procedures of informing, involving and consulting the public amount to nothing more than offering baby food, to elicit acquiescence rather than critical thought. Control of the public, therefore, is manipulated through either their pacification or petrification. In other words, the use of soft and violent language is varied according to how best to elicit permission without participation.

As has been described, “soft” language is also used to describe the countryside or any other piece of land that might be the location of a Gypsy site. Phrases such as “sympathetic planting” and “protecting sensitive countryside” contrast with phrases used when talking about a Gypsy site, which is a “significant intrusion” or an “alien form of development”. These words are associated with dirt, decay, disease and destruction, suggestive of conflict with and threat to the vulnerable and the human, implying the harmful effect of Gypsies. Gypsy sites are “an eyesore” which “damage”, “spoil” and “disfigure” “sensitive countryside”²⁹, despite the fact that most sites are forced into places no-one else wants – as was detailed earlier. The site spoken about above is referred to as a “visual intrusion” into attractive area, creating an adverse impact on the wildlife and nearby residents (of which there are 5), and having an “urbanising effect” and increasing the “generation of activity” in a secluded area. This site, however, is situated on what used to be a swamp and adjacent to an airfield and busy motorway³⁰.

²⁹ Such words were frequently used throughout the Lydia Park Public Inquiry, as they are throughout official discourse pertaining to Gypsy site development.

³⁰ And has been turned into a very attractive place by the Gypsy residents.

This is further suggested by the language used and the arguments given when Gypsies are authorised to stay on a particular site without planning permission: they are not “allowed”, they are “tolerated”³¹. “Toleration” implies having to put up with something negative in character. Either that or it implies the Local Authority as paternalistic benefactor rather than service provider. Verschueren and Blommaert (1998) have shown that the language of tolerance is not too dissimilar from that of overt racism: both are antagonistic towards diversity. As Thomas Paine says in *Rights of Man*:

Toleration is not the opposite of Intolerance, but is the counterfeit. Both are despotisms. The one assumes to itself the right of withholding Liberty of Conscience, and the other of granting it. (Paine, 1791 cited in Thomson, 1997: 24)

When it is argued that a Gypsy site should be given planning permission after a having spent some time existing as an unauthorised encampment, the site is still not “allowed”, it is “regularised”. The implication is that illegal sites are irregular, out of place, and unstructured, with “regularisation” sometimes being the best resolution in worst scenario. Many Local Authorities advocate “regularising” existing sites in order “to contain the extent of the harm to the Green Belt and to prevent the possibility of its spreading” (Inspector’s Decision Letter, Meadow Lane, Runwell, Essex, 1994).

In conclusion, what is noteworthy throughout official discourse on the subject of Gypsies, is the universal use of the same language, which has its associations with disease, punishment and war imagery even when debating a situation supposedly favourable to the Gypsies in question. In other words, the potential harm that Gypsies have is implicit in arguments for *and* against granting planning permission for a Gypsy site. The debate, then, is not whether nomadic Gypsies’ accommodation needs should be met, but whether Gypsies should be punished or policed: whether Gypsies should be criminalised and evicted or whether “permission should be strictly monitored”. Both those in support and against Gypsies urge that planning permission should only be granted with controls. There

³¹ A policy of toleration is encouraged by Central Government under Circular 18/94, where Gypsies “are not causing a level of nuisance which cannot be effectively controlled” (s.6).

exists little choice with regard to the outcome for the Gypsies. Both conceptualise Gypsies as a nuisance, a “problem” which professionals need to solve. It is not a debate about whether or not the sedentary community should accept and respect the nomadic Gypsies’ way of life³². The choice, and it does not even lie in the hands of the Gypsies, is between assimilatory policing and enforced eviction. The welfare of Gypsies is a subsidiary consideration, if it is at all.

³² Or whether it should be up to them whether the nomadic way of life should be accepted and respected, as this denotes a position of legitimate authority.

Chapter Four

Catch 22:

Applying for the Permission of Gypsy Sites

As was shown in Chapter Two, Gypsies are unlikely to be able to secure legal accommodation in keeping with their culture, since the duty of Local Authorities to provide sites was repealed and planning policies were strengthened. This chapter will detail how the proliferation and nature of such policies creates a no-win situation for Gypsies, and ensures that those who are not entrapped on Local Authority sites or in houses will remain outlawed.

Many people argue that Gypsies should not be granted planning permission because they have “flouted planning control” or “taken the law into their own hands” whilst “everyone else has to obey the law”. Making claims about a Gypsies criminality functions to hide racist discrimination and denial of rights, as the following statement given at the Kings Hill¹ Public Inquiry shows:

I have no objection to them as individuals or of their lifestyle as such² however I do object to their flagrant disregard of planning laws. (Friends, Families and Travellers Support Group (FFT), 1995)

Central Government directs that:

People who wish to adopt a nomadic existence should be free to do so [but this should not] entail a privileged position or entitlement to a greater degree of support from the tax payer than is made available to those who choose a more settled existence. (DoE, 1992)

With the law being sedentarist, however, the nomad is automatically illegal.

With few other avenues open to safeguard their traditional way of life within legal boundaries, being illegally sited on land for which planning permission is being sought could equally be praised as evidence that “the applicants have made great efforts to assist [us] in helping secure planning permission” (Waverley Borough Council, 1995: 15). It could also be impressively received as a sign of “the sincerity of the gypsies, and the earnestness of their desire to bring themselves within ‘the system’ and to stay there.” (Surrey County Council, 1995p: 10) However, many Local Authorities are adamant that “persons who camp illegally

¹ A residential bender site.

should not be 'rewarded'" (Lewes District Council, 1995c: 26), despite this Local Authority recognising that the responsibility of illegal camping does not rest wholly upon the Traveller, as planning permission "has allowed the applicant to escape from the cycle of illegal camping in which he was previously trapped" (Lewes District Council, 1995c: 14). Enforcement action automatically means Gypsies cannot be trusted and therefore should not be granted planning permission, and it brings Gypsies more firmly into discourses of deviance and criminality. Ironically, in attempting to bring themselves within the legal and social boundaries set by the sedentarist and supremacist ideology of the West, Gypsies become legitimate targets for punishment and condemnation.

Likewise, Westmeston Parish Council complained that:

The planning history of this site reflects the single minded determination of the Applicant to secure a residential planning consent on this site [and] a reluctance to accept that it is necessary to obey the rule of law (Westmeston Parish Council, 1994).

This poses a double bind for Gypsies who are trying to be legal but condemned because this involves contravening imposed legislation. Furthermore, because Gypsy sites are so much less likely to gain planning permission than any other development, Gypsies are more likely to try to gain planning permission a second or third time. However, they are then condemned for "flouting planning regulations" or "making a mockery" of Local Authorities' legal action. This is also compounded by the fact that it is often not "good" practice for Local Authorities to repeal planning refusals, irrespective of changed circumstances or precarious earlier decisions. This is because of much local criticism and ridicule. Often, Local Authorities maintain refusals for fear of public opposition being turned against the Authority as well as the Gypsies³. Fear of local opposition, and the complaints and Judicial Reviews that may follow, is evidenced by the space given to outlining supportive and antipathetic arguments: a proportionately greater amount of

² Although in the next sentence, he describes how they are "less desirable elements" and "anti-social".

³ Many government seats have been lost because the representative supported, or did not condemn, a local Gypsy site (Interview with Councillor, 1995 and with locals and others, 1995-7). Similarly, many seats have been won on an anti-Gypsy stance, as the examples in Chapter One show.

attention, detail and space is given to the points raised in letters of objection, while letters of support have simply been described as “non-specific” in many cases when it comes to Local Authorities consorting with the public or formulating policies. As a result, pandering to the more powerful members of a constituency is redefined as responsible Local Authority action against law-breakers. Fieldwork has also highlighted the effect of local opposition upon decision-making, as is detailed in Chapter One.

Public consultation exercises are also often notable for the lack of consultation of Gypsy support groups or the Gypsies themselves. Additionally, complaints by the public tend to be taken more seriously by the professionals, accepted as being a true and rational account, primarily because they are perceived as having no other motive other than a desire to see that the law is enforced. Comments by Gypsies, however, would be considered partisan (see Sharrock and Turner, 1978 and Eglin, 1979). Additionally, Local Authority officers are more likely to empathise with someone they can identify with.

No matter how small the site or number of occupants, local opposition in many cases has manifested itself into a frantic search for any legal loophole or criticism that could result in planning permission being denied. This is, of course, if they do not resort to illegal means, as some do (see Chapter One). In one case, the day before the planning decision was due to be made over the occupancy of a family on private land, a local opponent stalled the case by introducing concern over a neighbouring badger set. Ironically, by arguing that the site should not receive planning permission because the nearby badger set should be protected (under the Badgers Act 1992), the publicity threatened the badgers by letting badger-hunters know its whereabouts. It could be presumed from this that the opponent who brought up the existence of the badger set, knew or cared little about badgers. Therefore, it might be further assumed that the concern was not about the protection of the badgers but eviction of the Gypsies. Ironically, it would now be in the badgers interests for the applicant to stay, so that there could be a watch-person over the set. The same opponent also falsely claimed that the caravan was situated a few inches off the agreed site and spent hundreds of pounds researching the

history of the Gypsy family, to argue that they were not “real Gypsies” (planning files of a Local Authority, 1995).

Remarkably, Local Authorities and members of the judiciary praise local opponents for expressing their “misgivings... with commendable restraint” (Inspector’s Decision Letter, Stovolds Hill, Dunsfold, 1979: paragraph 60) and their usual anonymity is respected for the supposed legitimate fear of reprisals from the Gypsies in question. In one Appeal case, the Inspector reported that the local residents

... wished to advance their views with moderation... Deliberately no oral evidence is given so as not to stimulate animosity or fuel fires. (Inspector’s Decision Letter, Lydia Park 1984)

It is difficult to imagine such a readily accepted justification for unaccountability in any other type of legal case. That those who, in effect, advocate an ethnocentric and genocidal ideology are deemed “moderate”, implies that Gypsies are, in contradistinction, unreasonable and irrational, therefore justifying any deviation away from “normal democratic procedures”.

Aligned to the local hostility that a Gypsy site arouses, is a further double bind. They have to be recognised as a distinct group in law in order to get planning permission, but their “distinctiveness”⁴ is what is often used against them in the same process. Their rights are legitimately denied because of the animosity that might be aroused if they were granted (i.e. the victim is blamed). For example, to quote one Inspector:

There should not be such an expansion of people of different culture on the doorstep of the village. (Inspector’s Decision Letter, Lydia Park 1984: paragraph 27)

There is a further double bind in that they have to be treated as any other applicant within the planning system (whilst also having to prove that they belong to a distinct group). Effectively, their “difference” is denied when it is of benefit to

⁴ Or “alien nature” – see previous chapter.

them, treating Gypsies as different in the planning system, for example, is giving them a “privileged status”. However, their difference is exaggerated when threat to the community (“us, “the order”) is wanted to be claimed. Furthermore, three paragraphs later, the Inspector recognises that the applicants, far from belonging to such a “different culture”, have a “desire to settle down”.

Place, Mobility and Crime

Because the system is set against Gypsies, being “other” in terms of culture, ethnicity and way of living (accommodation), Gypsies are literally “born criminal”. This categorisation of the “other” as deviant, or Gypsies as criminals, is further strengthened because of the importance of “place” in determining criminality. Place and crime are inextricably linked and are symptomatic of a State which needs to exteriorise problems derivative of social policies and which likes to find facile relationships between geographic place (generally inner cities, i.e. the poor) and crime. For example, inner city areas are often perceived to be synonymous with crime. Therefore, the association between crime and the people who live in these areas (the poor) is strengthened. Little regard is paid to the influence of social policies that reinforce inequities, or the targeting practices of the police. The State, then, is able to find scapegoats and blame the victims, which are perceived to be too politically impoverished to retaliate. Geographies of crime are further embellished by the ideology of a socially stratified State: the rhetoric of “knowing one’s place”. Consequently, transgression or deviation of social expectations signals potential criminality, deviance and threat.

Modern political rhetoric about crime is predicated upon the assumption that it is geographically situated. It is politically useful to reiterate the link between impoverished city areas and a high crime-rate. This is so as to blame the least politically useful and the least politically powerful, and to justify increased policing, and decreased civil liberties and welfare spending (by dint of their assumed criminality and, therefore, undeserving status). As part of this, crime and disorder is white-washed from the surface of the rural landscape: undesirables are either extradited (as Gypsies are, for example) or hidden/denied (as are drugs, for instance). The city becomes the “urban jungle” and the countryside the “rural

idyll". These mythical formulations therefore translate spatial organisation into social organisation: the poor, who are then usefully defined as criminogenic and uncivilised⁵ are pushed into the jungle and the rich into the unspoilt, natural "gardens". Consequently, concerns about the protection of the environment can disguise autocratic desires: the countryside needs to be protected from the city, which means from the poor.

Furthermore, continual movement (nomadism) between and through boundaries has always aroused suspicion, when it is illegitimate and defenceless - i.e. partaken by non-elites. It is also politically useful for a State. Under the spectre of a mobile (therefore invisible, and therefore immeasurable) threat, the State is able to increase its powers by increasing policing and legislative restrictions. Furthermore, the increased policing is often covert/unaccountable because of the supposed covert nature of the nomadic threat. Additionally, the spectre of a mobile threat is able to unite the Nation against a common evil. This is evident by the repeated and impassioned use of immigration or terrorism issues in an attempt to justify retreating from the tenets of a supposedly democratic and free State. When States are vulnerable, especially in terms of geographic and imagined borders (i.e. its identity), targets are more readily found. This we can see at the moment as the States within the European Union become more xenophobic⁶.

Place and movement are therefore intrinsically linked to perceptions of criminality, as will be discussed in detail in the next chapter. This is given practical credence when legislation is passed to reinforce such beliefs, thus also hiding the political interest under the supposed objectivity and impartiality of the Law. Therefore, as the majority of Gypsies are unable to immediately secure planning permission without first occupying land, the perception of Gypsies as criminals is justified⁷.

⁵ In part because of the places they inhabit: "problem people" blamed for the "problem places" that they have been forced into and entrapped within. See Damer (1989) for a discussion of this blaming the victim syndrome.

⁶ This will be discussed in greater detail at the beginning of Chapter Six.

⁷ There are, however, only options open to Gypsies that would prejudice a planning application, because of: a "lack of demonstrable need" (living on an authorised site); lack of Gypsy status (living in a house), or, criminality (living on an unauthorised site or on the road side). This final option also reflects upon his or her character, and often jeopardises the presumption that he or she will obey planning conditions, as well as threatening his or her Gypsy status because he or she is no

As criminals they are also undeserving of anything other than punishment, as has just been argued. The following letter from a local resident to Lewes District Council highlights this:

It is outrageous and it would be most unjust if these lawless people who have caused endless trouble and distress to local residents were to be granted a privileged site in the Area of Outstanding Natural Beauty that would certainly not be available to an ordinary hard working tax paying citizen and I look forward to hearing from you urgently in a letter as to what action you are taking to correct the enormous blunders that have been made in this matter. (Lewes District Council, 1993a)

Rights, Responsibilities and Regulations

As it happens, in this case most residents were in support of the Gypsy applicant. It is clear here that the image of the Gypsy is of a criminal, destructive and undeserving parasite/scrounger, and the image of the Authority who support a Gypsy site application is of being irresponsible, incompetent, uncaring and/or underhand. Many members of the public who oppose a particular Gypsy site proposal, criticise the Local Authority for “allowing things to get out of hand” and for prevarication. For example, the above complainant says:

It is inconceivable that you can sit back⁸ and allow this situation to continue. It is most urgent that action is taken to remove this caravan. (*ibid.*)

Ironically, the harder the Gypsy appears to try to situate him- or herself within the strict confines of the law, the more suspicion and hostility is aroused. For instance, as one Inspector expressed:

The appellant has expended much in preparing this site. For 2 years he has used subterfuge and misrepresentation to conceal his true intentions. If the money has been wasted this should have been foreseen. (Inspector's Decision Letter, Lydia Park 1984: paragraph 29)

longer nomadic for economic reasons (eviction or potential eviction becomes the prime motivation for movement).

⁸ When “sit back” means granting planning permission, and replying to her letters within days of receipt.

The applicant's "true intentions" were to gain planning permission and to secure a pleasant and safe environment to live in, and not what is implied by the spy imagery here used. It is not hard to imagine the official response if the Gypsy had not expended any money on improving the site. It can be seen from the quote that Gypsies are represented as criminals or fools, or both, depending upon which characterisation accords with the desired effect, when it comes to enforcing the strong arm of the law and legitimately removing rights of democratic debate and protection.

A common complaint made is that Gypsies "escape" or renege on their duties and responsibilities towards the State and they should not be able to live "above the law". That "they should be treated as any other citizen" is vehemently argued when it comes to Gypsies attempting to "enjoy" the privileges of privacy, security and safety that the sedentary population takes for granted. What is ironic is that "democracy", "fair play" and "equal treatment" is voiced in order to preclude Gypsies from the very things supposedly being lauded. Gypsies are, in fact, more "duty-bound" than most: having all of the responsibilities and none of the associated rights. Accounting for where, how and why they live, they are the least likely group to be able to be "above the law", with the focus of the Criminal Justice System and criminological discourse (popular, academic, policy and media) firmly fixed upon them. They suffer the supposed consequences of a "free society" (a restriction of civil liberties, public policing and surveillance, control of public spaces, intervention by "specialists") but none of the things that supposedly make a "free society" (individual independence of thought and action, freedom of movement, association, speech and beliefs).

The rights-responsibility argument is often used against Gypsies. For example, it is often argued that they cannot receive "benefits" because they do not contribute: they do not have rights because they do not have the attached responsibilities (for example, Interviews with local critics of Gypsy sites, 1995-6). However, the argument is used for the opposite effect when the subject is the Local Authorities. In the case of Gypsies, they have the duty to police and punish but not to protect and provide for. Local Authorities now have power without responsibility and regulation without commitment. Additionally, although the duty to provide sites

has been removed by the CJPOA and the two attendant Circulars 1/94 and 18/94, the power to do so has not. However, now that the responsibility to do so has gone, most Authorities say that they will not due to economic considerations. This is despite evidence that suggests that it is cheaper to provide sites than it is to evict or provide houses for accommodation. The Lydia Park site Gypsies have saved £0.5 Million of public money by buying and laying out their own site (Inspector's Decision Letter, Lydia Park 1986: paragraph 66). Also, caravans have been provided for members of the sedentary community, while they have been denied to Travellers (communication with participants in a conference hosted by the National Council for Voluntary Organisations: *Land, People and Movement*, 1997). Although the role of Local Authorities is to respond to the needs of the members of the public under its jurisdiction, it is now time for Gypsies to provide for themselves (whilst the sedentary population can still, theoretically, rely upon social housing).

It seems that the rights-responsibility relationship translates itself as the Gypsies having all the responsibility and the Authorities (as the name would suggest) having all the rights. Local Authorities are not, however, over-zealous about the situation that has befallen them. Many Local Authorities feel that they are in a no-win situation themselves because of the proliferation of contradictory and vague policies and advice from Central Government, and neither do they derive any pleasure from criminalising Gypsies. Many Local Authorities recognise and bemoan the lack of any nationally integrated or coherent policy, as the Head of Environmental Services, Wealden District Council, remarked: "the problem of finding sites or homes, temporary or otherwise, for travelling people... must form an integral part of a national policy or strategy but is currently sadly lacking."⁹ Local Authorities also still have to take account of obligations under the relevant education, welfare and social policies, often putting them in further difficulties. The Association of District Councils, for example, has been informing Central Government of the difficulties facing Local Authorities (ADC Circular 1996/423).

Ironically, because of the various pieces of welfare legislation, Gypsies are the ones who can, in effect, assist Local Authorities in fulfilling their obligations, via private planning applications, as the following quote highlights:

... in the event of planning permission being refused, consideration would have to be given to the question of enforcement. This will have implications for housing, educational, health and welfare organisations. In addition it could lead to the creation of other illegal sites. (Waverley Borough Council, 1995f: 20)

The Inspector residing over this case also commented that:

The Appellants development has saved a great deal of public money. The private development will encourage a stable population and care of the site and will minimise problems of coalescence and expansion. If the Appellants are forced back onto the roadside that will be damaging environmentally. (Inspector's Decision Letter, Lydia Park 1986: paragraph 41)

Implicit to these statements is that the concern of the Local Authority lies not with the consequences for Gypsies, but with the impact it would have upon themselves in terms of financial expenditure, workload, and local support/political impact. This is not always the case, however. Many Local Authority officers are very concerned about the hardships facing Gypsies at the moment. For instance, Wealden District Council, despite infamous efforts to evict non-Gypsy Travellers, notes that: "there is a continuing need for public provision of sites for social, moral and practical reasons." (Wealden District Council, 1995a).

In the main, however, many Local Authorities and adversaries of Gypsy site planning applications, profess to be sticklers for rules, often implying that were they not, disorder would irretrievably erupt. The implication is that nothing less than strict submission to the policies is necessary in a democratic society. However, "need", education, health, welfare and accommodation considerations are often overlooked or disregarded, although they are also part of planning policy. Supposed "rules" then, are infinitely flexible. The fact that all forms of residential

⁹ In his address at the Association of District Councils Conference: *Gypsies and Travellers: After the Act, After the Circular* (29.11.95).

development in the countryside are to be treated the same within the planning process, precludes international treaties on sustainability and environmental protection (for example, Agenda 21). However, impartiality within the planning system is not a sufficient reason to preclude factors that weigh against a Gypsy site. For instance, other proposed developments do not have to ascertain that the new residents, if applicable, will fit into the locality, both socially and visually. When it comes to providing for Gypsies, any policy can be overridden because it is “less significant” or “not as important” as other policies or pieces of advice which protect the countryside (or rather, protect the appearance of the countryside for white, middle-class, sedentary consumption). In effect, an individual policy or obligation is often used to deny planning permission, but when the policy is met, other material considerations come into play to prohibit the development, as will be discussed later.

The Legislative No-Win Situation

The only thing that can override policies is the “exception” rule, or “special circumstances”¹⁰. However, all “exceptions” can be redefined as “departures” and therefore legally unsound, which potentially prevents any Gypsy site application from gaining planning permission. Additionally, “exceptions” are often mistakenly taken to mean “unique circumstances” by Local Authority officers and Inspectors alike. If this is the case, Gypsies have no chance of gaining planning permission as only, in effect, the top small percentage will constitute the “unique”. However, this small percentage will also be argued against for fear of setting a precedent. Furthermore, because personal hardship and discrimination against Gypsies is widespread, an applicant’s particular circumstances, if harsh, may not constitute “special” or “unique” circumstances. For example, one Inspector did not believe that “those personal circumstances, or any others put forward, are unusual or exceptional.” (Inspector’s Decision Letter, 6.4.94, Meadow Lane, Runwell, Essex 1994). Moreover, the “special circumstances” needed to override planning

¹⁰ On a positive note, a group of Local Authority Planning Officers recently said: “Gypsies may fall into the category of special needs and so may be eligible for sites under exceptions policies” (The Advisory Council for the Education of Romany Travellers, 1996).

obligations, can be overridden if the impact upon the environment can be predicted as outweighing the personal hardships of the applicants (under PPG 1).

However, it is still Gypsies who are charged with the offence of either disregarding or cherry-picking the law, whilst it is the Local Authorities who abide by certain obligations selectively. Although it is primarily because Local Authorities have to 'pick-and-choose' the policies and advice to which they will adhere, they often defend decisions by recourse to the rigidity of certain planning policies. So, whilst advice to note the human element goes amiss, advice to protect the countryside and the locals is generally intractable, despite the fact that there exists in planning legislation the addendum "exceptional circumstances"¹¹. This is also despite the decision made by Lord Parker in the Barnet case of 1962, recently used in defence of the Kings Hill Collective, where he said that it was "inhuman pedantry to exclude human circumstances from land use. The human factor is always present, in exceptions this may be terminative." (cited in FFT, 1995) Furthermore, paragraph 40 of Circular 28/77 (still operative under paragraph 34 of Circular 1/94) supports a flexible and favourable approach, stating that:

In the present financial situation and in view of the urgent need for more sites, Local Authorities may wish to consider the advantages of encouraging self-help in this matter. It may involve a sympathetic and flexible approach to applications for planning permission and site licences.

As a legal representative for a Gypsy has said with regard to one particular case:

It may be worth pointing out that neither the planning authority nor the DoE have treated AONBs¹² in Lewes District as sacrosanct with regard to development in the past. A major industrial development allowing in-filling at Streat Sandpit was granted permission fairly recently, despite being highly obtrusive and clearly visible from the South Downs. That site lies close to the northern edge of the AONB in an analogous location to the site proposed for [the applicant], except the Sandpit site had very little screening and is highly visible from many locations. (Lewes District Council, 1994p)

¹¹ It is important to note that it is people who are really being protected when the environment argument is used: it is people's views or their exclusive access, or a certain ideology of what constitutes proper practice.

¹² Areas of Outstanding Natural Beauty.

So whilst Gypsies are criminal for being unable to satisfy all policies manufactured by the sedentary community, it seems Local Authorities are praised, pitied, or understood by its constituents, until, that is, they support a Gypsy applicant. Indeed, because in the main, policies dealing with the accommodation needs of Gypsies are so vague and have a surfeit of loopholes, contradictions and get-out clauses, any reneging on responsibility towards Gypsies can be easily redefined as proper practice, and any support as “underhand” or “unprofessional”, for example. Strictly speaking, the fact that there are so many double binds that Gypsies have to encounter should be taken into consideration by the relevant authorities, since Gypsies are supposed to be treated as any other applicant within the planning system.

Policies, it seems, are abided by for policies’ sake until, that is, a policy favours the Gypsies¹³. Many Public Inquiries highlight the proliferation of catch-22s. In the Kings Hill and Tinkers Bubble Public Inquiries, for instance, personal circumstances, Agenda 21, environmental benefits were deemed irrelevant to the Inquiry. As with the Lydia Park Public Inquiry and the debate over whether or not the European Convention of Human Rights was relevant to the case, anything that could not be contradicted, would be deemed irrelevant¹⁴. This is especially true for human rights issues.

Local Authorities adhere to many policies simply for policies’ sake. For example, many planning applications are refused on the basis of protecting the countryside or keeping the locals happy when it has been accepted that neither the countryside or the locals are harmed or affected. For example, one Inspector noted that

... no specific evidence has been produced that the present concentration of gypsy accommodation... has lead to any serious social problems or to undue pressures on local services. However the total number of caravans far exceeds the guidelines in the Structure Plan (Inspector’s Decision Letter, Lydia Park 1986: paragraph 85).

¹³ For example, policies relating to “toleration”, “exception”, the Race Relations Act 1976, the European Convention of Human Rights, or Agenda 21.

¹⁴ Even though the matters needed to be addressed and were legally binding under planning policy, Government Acts and international covenants.

It is generally overlooked by officers of Local Authorities and the Court that they themselves can decide upon or influence policy matters. So, if there are no “problems” or “pressures” emanating from a “large” group of Gypsies, why is the Gypsy community penalised rather than the legislators who decided that “over-concentration” is harmful and something to be avoided. Once written, laws generally become objective and static. The Law, as an entity, is presented as being omnipotent, unerring and impartial. No-one can cherry-pick the law nor rise above it. The Law has to be abided for its own sake. And yet the Caravan Sites Act 1968 was effortlessly repealed because “it did not work”. And, Local Authority vigilance and belief in the sanctity of the law is not in keeping with its pre-CJPOA disregard of the duty to build sites. Furthermore, Local Authorities, by choosing to protect the countryside over the rights of an ethnic minority for example, *are*, in effect, cherry-picking the law.

The proliferation of vague and contradictory Government advice and policies creates many no-win situations for Gypsies when trying to gain planning permission. It is virtually impossible for Gypsies not to contravene at least one policy at a given time. In effect, Gypsies cannot help but be portrayed as deviant and criminal. As a consequence, Gypsies become more firmly entrenched within the discourse of crime and, consequently, their citizenship rights are legitimately withheld.

One particular no-win situation is the fact that applications have been rejected because they are too disturbing to locals in the nearby vicinity (in settlement areas) as well as because they are too alien to the natural surroundings (away from settlement areas). For example one Councillor said:

I think it is better that Kings Hill is outside development limits as it gives a bit more space between them and the village and so they are much less noticeable, and the villagers much less threatened by a new presence, it gives space for toleration. (FFT, 1995)

And yet within Government advice (often interpreted by Local Authorities as compelling), sites need to be located near to existing settlements and services: “within a reasonable distance of local services and facilities, e.g. shops, hospitals

and schools.” (Circular 1/94 s.14). The rejection of many non-compliant applications attests this advice as generally sacrosanct. Many sites have been opposed because they contravene advice in being located away from settlements at the same time as being criticised for having attracted local opposition (fieldwork and Local Authority planning files, 1995-7). It is also interesting to note that Gypsy sites are not considered to be settlements. One site in Surrey was not granted planning permission primarily because of the over-concentration area (the site was adjacent to two existing official sites), whilst it was also condemned for being situated away from existing settlements. Regardless of whether or not the argument was concerned with the proximity of available services and facilities, it is explicit in the use of terminology that Gypsy sites are not considered to be settlements, while many arguments against Gypsy sites centre around their permanence and settled character. Together with the proliferation of countryside protection policies, Green Belt catchment areas being practically “out of bounds” to Gypsy site development, and Local Authorities desire to appease it’s (“settled”) constituents, there is little opportunity for the legitimate development of Gypsy sites.

It might be presumed from the Government advice to locate Gypsy sites near existing settlements, that the concern is to benefit Gypsies by easing their proximity and, therefore, access to services and facilities. This might be questioned, however, when this very advice is used against Gypsies to deny planning permission, because roads and services would become overloaded, or because the Greenbelt¹⁵ is prohibited from consideration. It is argued that the concern to locate Gypsies near settlements is for the benefit of the sedentary population and for the regulators. Other benefits include the belief that if Gypsies are nearer to the things that they might travel to, they are going to spend less time “out there”. This is evidenced by many Gypsy site applications on which a lot of time is spent debating highway matters, use of vehicles, and visibility (especially in transit) of site vehicles. The double bind can prevent a site being established either near settlements or away from them, depending on the individual

¹⁵ A logical place for Gypsy sites which have to be near existing settlements but at a sufficient distance to appease local opposition and remain sufficiently hidden.

circumstances (as is legally proper). This is done under the guise of benevolence towards Gypsies and professional attachment to rules and regulations.

There is obviously something loathsome about a Gypsy site when it is “undesirable in [a] secluded locality” (Inspector’s Decision Letter, Lydia Park 1984: paragraph 36) or “in the open countryside” (Lewes District Council, 1994a), and when it is inappropriately “located immediately adjacent to existing housing” (East Sussex County Council, 1995: 6) or in the Green Belt (Circular 1/94). Circular 1/94 in itself introduces very restrictive locational criteria:

As a rule it will not be appropriate to make provision for gypsy sites in areas of open land... In deciding where to provide for gypsy sites, local planning authorities might, for example, consider locations outside existing settlements, but within a reasonable distance of local services and facilities, e.g. shops, hospitals and schools. Sites on the outskirts of built-up areas may be appropriate, provided that care is taken to avoid encroachment on the open countryside. Many sites may be found in rural or semi-rural settings, but care needs to be taken to ensure consistency with agricultural and countryside policies, including those set out in PPG 7 on the protection of the best and most versatile agricultural land. (ss.13-14)

One example in particular highlights the catch-22 that Gypsies are in. The Inspector criticises the development for being “a big encampment [which] is swamping a small and scattered community” and yet goes on to say that:

The site is well suited to gypsy occupation. It is fairly isolated and has a minimal impact on neighbours by comparison with the nearby airfield. (Inspector’s Decision Letter, Lydia Park 1986: paragraphs 64 and 66)

And, for all the planning applications that have failed because they were “not in the vicinity of other gypsy sites” (Lewes District Council, 1994a), many have also failed because they were adjacent to other Gypsy sites (this constitutes “over-concentration” or “unwarranted intensification”). Gypsy sites have been denied planning permission in large part because they were situated away from roads (environmental arguments), but others have been prejudiced because they are near main roads (visibility and safety arguments). Gypsy sites have also been criticised for having too much space for the number of caravans (“expansive development”)

whilst others have been criticised for having too little space for the number of caravans (“intensification of development”).

Policies are reneged upon or abided by according to the ideologies of professional practice and sedentarism. Local Authorities “serve” a privileged section of the sedentary population by penalising and policing the rest (non-citizens). In effect, while the privileged have “needs”, the under-privileged have “problems”. Consequently, “needs” can be met and “problems” can be dealt with. Although it may appear to outsiders (non-professionals) that Local Authorities abide by policies as and when it suits, many Local Authority officers believe that they are performing their duties properly. It just so happens that the system prevents and prohibits equal or fair treatment¹⁶.

Many planning applications are objected to in the belief that granting planning permission would set “an unwelcome precedent”, irrespective of whether or not such a decision is legally proper. That is to say that the fear of allowing planning permission for future Gypsy sites is often argued as constituting a sufficient reason to deny planning permission for the case in hand: a fair and equal hearing is denied because others in the future may wish to replicate similar rights. In effect, such an argument overrides legally binding case law and the “own merits” approach which requires each new case to be judged on its own merits within the boundaries of the law (which includes case law, i.e. previous relevant court decisions). Indeed, the opposition blur the distinction between the “own merits” approach and the situatedness of the rule of law, to use or reject the precedent argument whenever useful. For example, while applications are rejected for fear of creating precedents, they are also rejected on the basis of the refusal of previous applications (if similar in nature or concerning the same site, even if the circumstances are different). For example, the Lydia Park site has, ironically, felt the brunt of both of these decisions. There is further selective use of the law by the opposition when it comes to the existence of advice which urges consideration of “exceptions” to planning policy; “exceptions” being the only potential way that many applications can override the blanket of planning policies. It is also argued that “exceptions” would

be unlawful and dangerous if they were recognised and thus became a potential precedent. But, it would only become a precedent for a future case if that case was also “exceptional” in the same way, therefore a similar and, therefore, a legally proper decision would be made. In itself it is not legally proper to reject a case purely on precedent grounds, and as one Barrister on behalf of his clients, the Gypsy site residents, recently said:

... each case on its own merits is the standard approach. An objection on the ground of precedent is necessarily founded on the proposition that the sitting case is wrongly decided; if it is rightly decided it should be followed in like cases on the ground of consistency in public decision making. (Waverley Borough Council, 1995j).

However, the opposition utilise a precedent where useful, and argue that it is a logical and reasonable way of predicting the likely impact of the development if conceded. Case law has been used in support of denying planning permission, where the legal bind that each case should be treated on its own merits and the precarious reliability of precedents is vociferously defended by the opposition when the appellants argue their case (fieldwork and Local Authority planning files, 1995-7).

Such an objection on the basis of precedent also contravenes the legal stipulation that Gypsy site applications should be treated as any other form of development. As it stands, Gypsy site applications are discriminated against because of the prevalent implication that Gypsy sites are illegitimate forms of accommodation (more is not better).

As the next section continues to show, the proliferation of contradictions permeates the planning policies that Gypsies are expected to follow if they are to have any chance of gaining planning permission. Gypsies need to prove that they are a “Gypsy”, a “local”, and have a “need”. These categories are often mutually exclusive. As will be shown, throughout the process of attempting to gain

¹⁶ Not that “the system” exists outside of individuals and relationships, but that the discrimination is more entrenched and genealogically naturalised.

planning permission, they are treated with suspicion and doubt, as the criminal attempting to prove his or her innocence.

Defining Gypsies Out of Existence

As was established in *CRE v Dutton* [1988] Gypsies are legally recognised as a racial group. However, the definition of Gypsy in planning legislation ignores the fact that they are a racial group, and categorises them according to habits of movement. Since the repeal of the Caravan Sites Act 1968, the definition of a Gypsy is “persons of nomadic habit of life, whatever their race or origin”, under the Caravan Sites and Control of Development Act 1960. This has clarified by a number of recent court cases (the most authoritative at present being *R v South Hams District Council ex parte Gibb* [1994]) to mean persons who travel for the purpose of making or seeking their livelihood. Therefore, the implication is that there can be no such thing as a Gypsy on income support, as this would not necessitate movement. To travel is generally deemed not to be “actively seeking work” and prejudices any claims for benefit (Clark, 1997a). Gypsies are consequently denied rights that many others in the UK theoretically “enjoy”. Whilst it is recognised that income support does have a sedentarising and entrapping effect upon claimants, they are not expected to surrender their ethnicity and traditional way of life. The “rights-responsibility” argument is partly at play here, as is the belief that freedom comes at a price¹⁷. This can be seen in the following remark made by an Inspector:

One type depends for its living on the DHSS, on the taxpayer and on the local authority for accommodation on static or local sites. The other type is independent and free and is prepared to pay for it. (Inspector’s Decision Letter, Lydia Park 1984: paragraph 33)

It seems that citizens are only allowed to claim benefits if they are socially conforming: money is saved, scapegoats are found and this is all dressed up in the sanitised and accepted ethos that there is no privilege without responsibility.

¹⁷ Punishment of “licentiousness”, in the Durkheimian tradition, discourages others from being tempted to undo the shackles of their own subordination. This will be discussed in Chapter Six.

In order to have their ethnicity, and therefore their accommodation needs, legally recognised, Gypsies have to prove a pattern and purpose of travel. Because of the constraints of age and health, the most vulnerable face the added threat of losing their ethnic status in the eyes of the law and, consequently, may be denied the ability to live legally as a Gypsy. Gypsy definition is therefore problematic for retired or disabled Gypsies. One Local Authority solicitor asks whether Gypsies are expected to work until they die if they wish to be recognised as a Gypsy under planning legislation and therefore live as a traditional Gypsy (Interview, 1995).

Many Gypsies have been denied planning permission because “travel is not purposive but prompted by the risk [or actuality] of District or County action being taken against them if they remain in one place” (Lewes District Council, 1995c: 17). To this extent they are doubly punished in that they are blamed for their own harassment. The expectation is that while facing eviction, the prime concern and motive for movement should be work, over and above finding a safe and legal stopping place.

There is further confusion due to the fact that some Gypsies are denied Gypsy status because they have not been travelling except when trading. However, some Local Authorities would consider this to completely fulfil the criteria of proof. Authorities also differ on whether or not they look at the ethnic identity of the applicant. In one case a Local Authority accepted an applicant as a Gypsy in order to take legal action against him, but when it came to granting him planning permission the District Solicitor argued that this was “not relevant to planning issues” (Lewes District Council, 1994p). And as Clements says: “In law the definition of “Gypsy” is wide when it comes to punishing “New Age Travellers” from illegal camping, but narrow when it comes to determining who is granted planning permission or a place on a public site (*The Times* 11.1.94).

Furthermore, the definition of a Gypsy includes specifications with regard to group association, as Lord Justice Millett said:

Living and travelling in groups was a distinctive feature not only of Romanies but also of nomadic peoples, and the term nomadic could not be

properly be applied to an individual except metaphorically. (*The Times Law Reports*, 8.6.94)

Lord Justice Leggat argued that the definition of “gypsies” was in the plural “because the duty conferred on local authorities was to provide sites for gypsies generally and not for individual gypsies.” (*ibid.*) It would be shocking to many if Local Authority services were denied to the disabled, the young, the old, the ill, and so on because they were individuals in need, rather than in a group. And yet, when Gypsies do travel in groups they are also discriminated against: informally, their threat, as a “marauding horde” is often signalled in the media¹⁸; legally under the CJPOA¹⁹, and; practically, as families are often split because of the lack of availability of sites and because of the dislike of “large” sites or “over-concentration”.

The no-win situation is further compounded by the stipulation that in order for Gypsies to be recognised they must first prove their attachment to the locality, thus problematising any movements that may take them out of a small area. For example, some locals reported to the Local Authority:

We know of no evidence on [the applicant’s] part of purposeful travel to achieve economic self sufficiency. [He] seems to be permanently attached to Meadowbank. (Lewes District Council, 1994r).

On the other hand, applicants have been discriminated against for providing “little firm evidence of clear and well established links with Surrey or with the District” (planning files), for example. For instance, as one Inspector said:

Surrey is a very attractive area for travellers because of the opportunities for work. Accordingly it tends to draw in gypsies with no established local links. (Inspector’s Decision letter, Lydia Park 1986: paragraph 52)

There can, therefore, be no such thing as a Gypsy, under planning law, who has to prove that s/he is nomadic because of employment but is also local, especially if constantly under the threat of eviction which can jeopardise all claims and rights.

¹⁸ “New Age Travellers” are often negatively distinguished from the “genuine Gypsy” for travelling in large groups.

¹⁹ More than two people or six vehicles on unauthorised land is a criminal offence.

Simply trying to be nomadic and economically self-sufficient is very difficult for Gypsies in an age when their traditional means of employment have been made obsolete²⁰. In addition, many Local Authorities specify that only in the case where there is a demonstrable need for the Gypsy to be in the countryside so as to run an enterprise, will planning permission be granted, and then only temporarily. The East Sussex County Council Rural Areas Local Plan makes this specification, for example. And yet, within the same County, one Gypsy was denied planning permission because she wanted to more fully establish her egg business in the countryside, as this supposedly rids her of her Gypsy status as she is no longer nomadic. But, this argument can be taken to its illogical extremes by suggesting that since permanence is antithetical to nomadic, no permanent sites should be developed.

The task in proving Gypsy status is made more difficult because whilst Gypsies have to prove their economic attachment to a nomadic way of life, many sites are not allowed to entertain commercial or business activities, even the storing of scrap. Having an economic or business attachment to a particular area is often used against Gypsies (as is being settled and local), being a threat to Gypsy status but also a prerequisite of it in planning terms. A Gypsy has to have a strong attachment to an area to be considered “local” and therefore a Gypsy in planning terms. But, a Gypsy can have too much attachment and be said to be no longer nomadic and therefore no longer a Gypsy. In other words, if a Gypsy has not moved out of a particular area frequently then he or she is not “nomadic”, but if he or she has moved out of the area frequently then he or she is not “local”, both being necessary to the definition of a Gypsy. One Local Authority solicitor highlights the inequity of the current situation:

One interpretation... would be that no person would qualify as a gypsy unless the work opportunities that arose made it absolutely essential for them to move their home from one work place to another. This seems to me a very harsh interpretation and introduces a suggestion that a person cannot be gypsy unless there are significant distances between one work place and the next. (Lewes District Council, 1994h)

²⁰ The irony is that at a time when traditional means of employment are dwindling, the definition of

Furthermore, sometimes Gypsies need to prove a travelling pattern whilst at other times this could operate against them in that they do not simply go where the work is²¹. Moreover, whilst proving economic attachment to the countryside is a prerequisite, it is often argued that Gypsies should be treated as any other applicant and hence can live in towns or villages away from the place of work. It is also often argued that “there is no reason” why this Gypsy cannot live in a house²². This could be argued for every Gypsy and is as foolish as suggesting there is no reason why a sedentary family should not live in a caravan. In order to be defined as a Gypsy under planning law and therefore hope to gain planning permission for a Gypsy site, a Gypsy has to prove he or she has a nomadic habit of life that is economically driven. But, and despite the impracticalities of this constraint, this way of life cannot be legally endeavoured until planning permission is sought, but planning permission cannot be sought until this way of life is established. The only option is to live an illegal existence.

It can therefore be seen that every hurdle is in place to ensure that as few people as possible can have legal claim to be recognised as a “genuine Gypsies”. Ironically, the definition of a Gypsy in planning legislation precludes most of those immobilised on public sites, in houses, and those who move because of eviction or harassment:

But, someone who breaks the law by stationing a caravan where there is no planning permission is a Gypsy. This serves to reinforce the link between Gypsies and crime, with law-abiding Gypsies ironically not fulfilling the legal criteria to be recognised as a Gypsy. (Liégeois, 1987: 88)

As Liégeois has said, the Gypsy is “an outlaw merely because he exists, a habitual offender because he has not complied with the orders which would have led to his physical or cultural extinction. (*ibid.*)

Gypsy becomes dependent upon employment status.

²¹ For example, work opportunities are not necessarily better elsewhere: it may make economic sense to remain in one place for a time.

²² This is ironic considering that there is such pedanticism when it comes to the seeming permanence of a Gypsy site versus the supposed nomadism of the Gypsy.

To define an ethnic group according to certain practices “whatever their race or origin” (CJPOA/Circular 18/94 s.2) is unknown elsewhere. It would be similar to denying someone their English identity or ethnicity, and its constituent rights and protections, because the person didn’t drink tea²³. The denial of cultural characteristics, redefining them as social characteristics, means that criminalisation of those characteristics is merely the control and punishment of deviance: racially discriminatory legislation is disguised as impartial targeting of an asocial activity. So, whilst Gypsies are supposedly protected under the Race Relations Act 1976, other legislation which criminalises their way of life, makes a nonsense of such a statute. As a Gypsy Education Officer said, the process of determining Gypsy status is very distasteful with strangers determining whether or not the applicant for a planning proposal is or is not a member of his or her ethnic community (Interview, 1995). A District Solicitor dealing with Gypsy planning applications, asks whether it is fair that someone can be a Gypsy one week and not the next (Interview, 1995). It might also be asked that why, if the Government is so concerned to level the planning playing field, do Gypsies still have to prove their ethnicity, and then with recourse to their travelling habits. This type of ethnic classification smacks of Nazi policies, and, as the Labour Campaign for Travellers Rights has said:

Even if Gypsy status can be proved, is this the main issue? Recent events in the former Yugoslavia should teach us that basic human rights should transcend ethnic boundaries. (LCTR, 1993)

Furthermore, nomadism is a state of mind, rather than simply an activity, as Liégeois says:

Some Travellers... have spent their entire lives in houses, while their children after marriage will always live in caravans. The Traveller is someone without material ties, who can move when he likes or when he finds it useful or necessary. There is a great difference between the objectivity of the journey – the fact of travelling – and the subjectivity of the journey – the feeling of being a Traveller. Whereas a sedentary person remains sedentary even when travelling, the Traveller or Gypsy is a nomad even if he does not travel. Immobilized, he remains a Traveller. It is therefore preferable to speak of Gypsies and Travellers who have become

²³ Of course, I would have said “didn’t live in a house” but the homeless *are* discriminated against in such a way – especially regarding their precarious right to vote.

sedentary rather than of sedentary Gypsies and Travellers... Nomadism is more a state of mind than an actual situation. (Liégeois, 1987)

Ironically, it is the same Authorities that condemn Gypsies for not being sufficiently nomadic, that entrap Gypsies on sites. The impulse seems to be geared towards outlawing nomadism, entrapping Gypsies and problematising Gypsies' ethnic identity:

The maxim is "leave or be hounded to death"... You do not want him to settle down. You do not want him to travel. What do you want? The answer is simple: you do not want the Gypsy. (Frankham, 1997)

In order to gain a place on a Local Authority site, Gypsies have to prove that they are nomadic, and then they spend years on a site unable to travel. The process of penalising Gypsies who are economically attached to a specific piece of land and self-supportive, also challenges the hypothesis that Gypsies are condemned by society for being economically non-productive or non-consumptive. When the economically "successful" are threatened with the loss of their traditional way of life, and Gypsies on sites are often trapped and prevented from doing on-site work²⁴, the impression is that Gypsies per se are the target of genocidal policies. Alternatively, the image of the Gypsy as unsuccessful, incompetent, uncivilised, and parasitic is politically useful. The desire, it seems, is to imprison Gypsies economically, spatially and ideologically, ensuring that they do not have the means to challenge the useful stereotypes of them, either through money, political clout, or access to others: capital, power, or knowledge.

The power/knowledge relationship highlights the importance of the spatial. Those who are not immediately locatable are the socially displaced or the powerful observers. One threatens the order of knowledge (what and how things are known; the bedrock of social order, understanding and identity). The other orders the knowledge of "threat" (who and what enemies are, what should be done and who should do it). The unknown terrain is a powerful place: the elite observers are at once threatened by someone who is literally not "in their place" yet grateful for the

²⁴ This is despite Government advice to the contrary under Circular 1/94. It also conflicts with the ideology of sustainability as contained within Agenda 21.

rejuvenated useful enemy. This enemy is all the more ferocious and malleable for its presented invisibility, which makes it not easily accessible or able to be questioned by members of the public. In other words, the debate is outside the remit of Habermas' (1989) "public sphere". It is purely in the confines of the political - the elites being charged with the responsibility to resolve "the problem" as their expertise has already been established by being able to see something that many of the "ordinary citizens" could not.

In general, Gypsies are either criminalised or have to surrender their Gypsy status by becoming settled. Both options sacrifice the possibility of gaining planning permission for a Gypsy site. This is unless "exceptions" are made which would, however, contravene the legislation that urges equal treatment. There is widespread manipulation of interpretations: Gypsy sites are rejected because they are too different from other general planning applications, or because they are not different enough from other Gypsy sites. Furthermore, although Gypsy site applications have to be treated as any other development application, they are criticised when they "have all the appearance of permanent bungalows" (Waverley Borough Council, 1995h: 21), for example. Additionally, under Circular 1/94, for applications to be approved, accommodation needs to be consistent with "Gypsies' nomadic lifestyle" (which is at odds with the stipulation that Gypsies should be treated as any other applicant for planning permission). Ironically, this is used against granting planning permission for any Gypsy site as the planning process generally works on assessing developments according to specific pieces of land, i.e. as if they were permanent. Gypsy sites are, then, inherently at odds with the planning system. Further, at other stages, a caravan or mobile home is described as having antithetical properties to a house, being alien and threatening to the housing settlements nearby, rather than being indistinguishable from it in planning terms. Sites, then, are criticised for being too settled and similar to other developments, whilst at other times they are penalised for not being "a settlement in Policy terms" (FFT, 1995), or being "alien" to the surrounding settlements. Ironically, because planning permission for a caravan is as permanent as planning permission for a house, theoretically planning permission for a residential caravan can never be granted because the Applicant can only be recognised as a Gypsy if he or she can prove his or her nomadism. Theoretically planning permission could only occur if

the applicant has another legal place to stop (and therefore travel to and from). This is unlikely as there would be no demonstrable need necessary to gain planning permission for the second and subsequent planning applications. Because the Gypsy applicant has to be treated as any other, the very fact that he or she might be nomadic, and the site less permanent and sustainable, is often irrelevant. Gypsy status, therefore, seems to only be mentioned in the planning process when it is used to disadvantage the Gypsy.

The fact that settlement into houses has often been encouraged by Central Government would seem to suggest that the impetus or rationale behind the contradictory policies is anti-Gypsy – i.e. anti-nomadic with nomadism defining the Gypsy in planning law. In the consultation period of the CJPOA, the Government considered giving financial assistance to those Gypsies who vacated pitches on public sites and went into housing. Local Authorities were encouraged “to explain the value of this to the community” (Lewes District Council, 1992a). As Lewes District Council says:

It is hard to imagine justifying a planning decision or policy on this basis if all Government support, both material and policy, is withdrawn... The gypsy lifestyle has survived for centuries and the planning system should accommodate its certain continuance without generating automatic friction in Central and Local Government policy formulation... It is unlikely that any but a small proportion who are genuine nomadic people will opt for a conventional house and thus the ongoing provision for sites is essential to achieve the government's aims in establishing a settled population. Reduction in site provision will merely have the opposite effect. Government of both Local and Central level is unlikely to be effective in regulating nomadic people out of existence. (Lewes District Council, 1992a: 12-15)

However, some Local Authorities, for a long time, have had “a policy of encouraging gypsy families towards housing” (Wealden District Council, 1992c). Wealden District Council bemoans the fact that they have had “very limited success” in this regard:

Generally, those living on official gypsy sites prefer to live in caravans and do not want to be housed. Families living on unauthorised sites are occasionally housed but find it very difficult to settle, misuse the house and cause disruption to neighbours. Due to very limited resources it is rarely

possible to offer “carefully selected housing” in such circumstances (Wealden District Council, 1992c).

FFT are “aware that great pressure is brought on Travellers of all types to move into housing, especially by some Gypsy/Travellers Liaison Officers.” (FFT, 1996: 19). But, while a perceived “unsettled” way of life is generally disliked by the Authorities, when a Gypsy wants to, or is forced²⁵ to go into housing, they are still discriminated against by the Authorities and their neighbours. For example, a Gypsy who had been homeless for a year, sleeping rough and in ill health, was refused council housing precisely because he was a Gypsy. This meant that the Local Authority was able to refuse responsibility arguing that because of his nomadism he was not a local. Often Housing Associations also deny Gypsies accommodation by saying that there will be trouble with non-Gypsies (Interview with Housing Officer, 1995, also see Butler, 1983).

Another irony is that many planning applications are partly refused because the caravan is not strictly “mobile” (because of the tight definition of “mobile home” in planning law), while in other instances Gypsies are generally praised for becoming more “settled”.

So, while Gypsies have to go far to prove their nomadic way of life, everything appears to be set to prevent any movement at all (*and* to prevent them settling anywhere). The legislators and interpreters (Bauman, 1987) who have decided that Gypsies can get no planning permission without proving extensive nomadism, are the ones who have done everything to persuade Gypsies to “settle”. For example, Worthing Borough Council defines Gypsies as being characterised by “the extended family, the prospect of mobility and special fields of work” (Worthing Borough Council, 1995: paragraph 3.2). However, in the same document the Authority announced:

We have looked at the possibility of selling some or all of the sites but have concluded that, even if anyone wanted to buy them, their sale would not, at present, be in the best interests of either the County Council or the gypsies

²⁵ Because of ill health, old age, or constant harassment.

and might reinforce a traditional lifestyle (Worthing Borough Council, 1995: paragraph 5.4).

Gypsies are seen as a “problem” in the smooth and efficient running of Local Authorities, rather than as a responsibility:

We are concerned that this extension to the enforcement powers (under the CJPOA) will lead to greater mobility in the gypsy population as illegal campers are moved from area to area, possibly causing an influx into formerly designated counties like ours where it is known that a high level of provision has been made. (West Sussex County Council, 1994)

It is evident from this quote that this Local Authority is more concerned with controlling Gypsies rather than with the effects of the CJPOA upon Gypsies’ quality of life, safety and health. This quote also reveals that there is no intention to provide for the nomadic element of the traditional Gypsy way of life, as is usually claimed. Indeed, Gypsy “mobility” is to be guarded against.

Moreover, Gypsies are generally encouraged to “settle” and are praised when they do, whether they move into houses or more firmly establish themselves within the locality and ingratiate themselves with the non-Gypsy locals (assimilation). They are generally criticised for being “unsettled”, with all its pejorative connotations. But, when they do “settle” they risk losing their Gypsy status and the potential to live in a caravan again (see, for example, Lewes District Council, 1995c). For instance, when Gypsies establish businesses attached to the land (see above), or when they move into houses²⁶, they are unlikely to gain a future planning permission for a Gypsy site.

Furthermore, when Gypsies make “proper use” of the local amenities and services they are condemned for becoming “too settled” and “overusing” the services and, in consequence, overusing their vehicles. This creates an environmental objection, relying upon PPG 13²⁷, which is sufficient to deny planning permission. Gypsies are therefore forced into another catch-22 situation because they are criticised if

²⁶ Because they have no-where else legal to go, but then return to the road because of harassment from neighbours (Interviews with Gypsy families, 1995-6).

²⁷ Planning Policy Guidance on transport, encouraging the reduction of the growth in the length and number of motorised journeys.

they are not a part of the locality (using local shops and schools, for instance)²⁸. Like so many other loopholes in planning legislation relating to Gypsy site development, it discourages Gypsies from the “settlement” that Government rhetoric seems to encourage. PPG 13 is especially ironic, as Murray Hunt QC on behalf of the Kings Hill Collective in a recent Public Inquiry said:

PPG 13 is about reducing the need to travel, yet MDC are using it to try to stop travellers from stopping travelling! (FFT, 1995)

There is generally a long debate on highway access with most site proposals. This implicitly blames Gypsies for any problems associated with highway access, whereas the Highways Department would probably be expected to resolve a problem if the residents were sedentary. In one instance, poor public transport was used by a Local Authority as one determining factor against a planning application, rather than addressing public transport problems as their own.

Alien Culture

Another no-win situation is created by the mutable antithetic relationship between aesthetics and settlement. One Inspector stated:

... the investment in and the maturity of the site have, to my mind, significantly increased the harm to the local environment. (Inspector's Decision Letter, Lydia Park 1991: paragraph 16)

However, the Gypsies are in a catch-22, for when Gypsy sites are not “uniform” or “clean” they are condemned for being dirty, disorderly and alien, and suggestive of their deviance. But, when Gypsies make sites aesthetically pleasing in accordance with the sedentarist ideology, it is claimed that that creates more harm to the countryside. So, when sites become too neat and uniform, they are praised for not being like their dirty and criminogenic counterparts, but are condemned for becoming “too settled” as well as intruding into the aesthetics of the countryside (being urban in character) whether the surrounding landscape is urban or rural.

²⁸ It also gives the impression that Gypsies can only get planning permission if they are not seen: if they do not use roads or other services (water or sewage for example), and the screen around them is high and thick.

Furthermore, if a “commitment to settlement” is evident, a site is called “a decent place to live”, “thriving” and “attractive”, but, as such, threatens the Gypsy status of its residents (because of a lack of nomadism). It is quite clear, therefore, what stereotypical image the authorities and policy-makers have of Gypsies, if they determine that Gypsies do not live in “attractive”, “thriving” and “decent” places.

Additionally, the regulations regarding a site’s appearance, imposed by Local Authorities if a site is to gain planning permission, have also, ironically, been used against Gypsies in the planning process. For example, one Inspector decided that “the hardcore surfacing, the electricity boxes and the wide surfaced access are alien and obtrusive features in the rural area, harmful to its attractive appearance.” (Inspector’s Decision Letter, Lydia Park 1986: paragraph 66) However, if the site mentioned above was not surfaced or supplied with electricity, complaints would still abound. Even the screens that have to be erected in order to gain planning permission are used against Gypsies to reject their planning application, on the basis that they are “out of place” or “an alien feature” (Inspector’s Decision Letter, Lydia Park 1984: paragraph 43). Furthermore, despite the existence of legislation protecting Gypsies’ welfare, the aesthetic appeal of the countryside is still, in the majority of cases, considered to be more important than whether or not sites are dangerous. Additionally, “aesthetic appeal” and Gypsy sites are so often mutually exclusive categories in the planning system that the appearance of a site is simply an excuse recognised in planning legislation not to permit the development.

A further aspect of the no-win situation can be seen when a site is denied planning permission because it lacks mains sewerage and electricity. Yet, the opposite argument is also used: if the site is connected to an already existing mains sewerage and electricity, it is argued that this will over-work it²⁹. One Inspector’s decision letter highlights this quandary particularly well:

Although all of the Appellants plots are neatly laid out and well cared for the caravans and other structures on the land, and the extensive area of hardcore, give the development, as a whole, and the individual plots, an

²⁹ Furthermore, land prices are at a premium where facilities already exist, thus forcing many Gypsies out of a legal as well as secure and healthy existence, or out of a traditional caravan-dwelling one.

urbanised appearance, which is alien and very obtrusive in the countryside³⁰. (Inspector's Decision Letter, Lydia Park 1986: paragraph 73)

If the Inspector is suggesting that if the plots were *less uniform there would be less* impact, two points need to be considered. Firstly, if the plots were less uniform, the Gypsy residents would be contravening directions made by the Local Authority, which would consequently be used against them to imply their deviance and disruptive behaviour. Secondly, belief in the "naturalness" of the countryside (often conceptually blurred with "nature" itself - whatever this may be) is a fallacy: UK countryside is plotted and structured in detail, as any aerial photo will show. The countryside is not "natural" as Malcolm Wilson, giving evidence in support of the Kings Hill Collective, describes:

Rural England today is a product of human society. Today's landscape is a product of the United Farm Policy of 1947, giving power to MAFF, and the T CPA Act of 1947 are responsible for shaping post-war rural Britain - fine for post war Britain but an anachronism incompatible to meeting today's social and environmental imperatives. Agricultural policy has moved no further, it is now not about good husbandry, but about profits... modern farms are modern rural industrial estates. (FFT, 1995)

This value-system of what is "out of place" and what is "local" is also highly subjective and unsystematic, if not highly contentious and hypocritical. Anything different is, it seems, unnatural and alien, unless it is, say, a housing or industrial estate, farm, golf course, supermarket or factory. "Suburban features within the site" (Inspector's Decision Letter, Lydia Park 1995: paragraph 20) prejudice a Gypsy site applications. Yet, paradoxically, "suburban features" are taken for granted (overlooked) when it comes to more permanent structures. This is despite the fact that all planning applications should be treated equally. For example, one criticism an Inspector had about a site was that:

... the boundary walls and trappings of domesticity are... discordant features in this otherwise predominantly rural area where only isolated dwellings in large plots prevail. (Inspector's Decision Letter, Lydia Park 1995: paragraph 16)

³⁰ Although the Inspector had earlier noted that the impact was "minimal".

The site under question is also a very small and isolated dwelling in a large plot (consisting of three pitches). It is ironic that the measures that would support Gypsies' nomadic/caravan-dwelling way of life are denied because of what has been imposed by the Authorities: i.e. screens to contain the Gypsies and protect the outside. It is further ironic that a Gypsies "alien culture" is often a sufficient reason to prejudice a case, but here it is the "trappings of domesticity". What is being suggested is that what is in keeping with the sedentary culture (rather than with the nomadic culture), and what has been imposed by members of the sedentary population, is what stands in the way of (the sedentarists) granting planning permission. Needless to say, planning permission would not be granted if screens or other "suburban features" were not erected. The implication behind the Inspector's criticism is that nomadism and freedom are advocated. This is in contradistinction to the ideology and workings of Local Authority run, owned or sanctioned sites. Gypsies are no longer legally and realistically able to be fully nomadic. They are, therefore, doubly punished when they are blamed for their own entrapment. Gypsies are so often criticised for being "unsettled", "uncivilised", and "undomesticated". However, when they do not fit the stereotypic image, they are penalised by being denied planning permission, denied Gypsy status, or both.

The recent Kings Hill Public Inquiry, concerning the planning application of a group of benders, especially highlights the hidden agenda of the planning system. An environmental consultant, giving evidence on behalf of the Kings Hill Collective, argued that in environmental terms the Travellers had enhanced the landscape due to abandoning the use of chemical fertilisers and blanket mowing (FFT, 1995). However, the applicants' benders were still considered to be more damaging to the "environment" because they appeared "alien features on the landscape". Two things are note-worthy here. Firstly, the interchangeable use of the word "environment" to mean either the natural landscape or the surrounding social habitat. Secondly, it is very telling that benders, which are generally made of natural and temporary materials and aesthetically fit into the locality in terms of their shape and colour, are considered to be more "alien" than industrial structures. What can be concurred is that planning legislation, contrary to its own pontifications and guidelines, is concerned with whether new developments disrupt (visually and ideologically) the social environment, not the natural one. At one and

the same time the accommodation of Gypsies and other Travellers is criticised on the one hand for being “alien” and “unsettled”, whilst on the other hand criticised for being a “permanent” and “major development” and therefore “intrusive” and, again, “alien”.

It is apparent, therefore, that any Gypsy site can be (and usually is) condemned, and that nomadism/caravan-dwelling is not recognised as a legitimate way to live, as the next section, on how the accommodation needs of Gypsies are denied, shows.

Need

“Need” is a material consideration in Gypsy site planning applications. Inspectors and others often mistakenly consider that if the accommodation needs of Gypsies have been previously addressed there are, consequently, no “needs”, as such. The very fact that there is a planning application or Public Inquiry over a Gypsy site, all other matters considered, should suggest an outstanding need. For example, Worthing Borough Council complains of large problems of illegal camps, and Waverley District Council recognise that there is an ever pressing need for further or bigger sites, and yet both these Authorities, as many others, say they will not permit any more sites. The accommodation needs of Gypsies are not reassessed regularly like the accommodation needs of the sedentary. Many previously undesignated districts have also argued that the provision of Gypsy sites in the area “so acute as to warrant... [another] encampment” (Inspector’s Decision Letter, Lydia Park 1984: paragraph 38). In general, the lack of unauthorised encampments is used against Gypsies to signal there is no demonstrable “need”, which consequently prejudices any plans for Gypsy sites. On the other hand, if there are a number of unauthorised sites this, too, is used against Gypsies to signal their deviance, as a homogenous group. It is referred to as a “blatant breach of planning control” (Wealden District Council, 1992a) which, again, is used against future planning applications, “we cannot be seen to reward those who transgress the rules” (Interview with Local Authority Planning Officer, 1995).

If need is reconsidered, it is done so in accordance with the biannual counts of Gypsies made by the Department of the Environment. Even Local Authorities acknowledge that these statistics are inaccurate and therefore highly problematic if forming the basis of Local Authority policies for the provision of Gypsy sites (for example, Brighton Borough Council, personal correspondence, 1995). Apart from the political and methodological aspects, the very nature of nomadism problematises statistical analysis. This is not to mention the legitimate fear of surveillance and official administration felt by nomadic groups who have continuously been the subject of systematic and State-sanctioned harassment and discrimination. Additionally, as was mentioned in Chapter One, Local Authorities have under-counted so as to reduce the “need” that they may have to respond to.

The Advisory Council for the Education of Romany and other Travellers (ACERT) has partaken in a planning project, aiming to assess Local Authority policies that pertain to Gypsy sites (1997). It has found that, although many Local Authorities have spent a lot of time incorporating the new legislation and advice, many policies are very negatively phrased and inflexible, and some still do not take the CJPOA into account. Local Authority policy documents with regard to Gypsies and their accommodation needs are generally concerned with how best to police or eliminate Gypsies, rather than how best to provide for them. Many Local Authorities are at pains to say that they will not provide Gypsy sites (see FFT, 1995), often in order to maintain (a perhaps mythical) public amenity. It is argued that with no other group (social let alone ethnic) would an Authority responsible for it’s constituents and in the public eye, be so forthright about reneging on it’s duties.

The overall implication seems to be that the accommodation needs of Gypsies merely represent an irrelevance of which just a cursory glance is necessary to maintain the image of fair play. Indeed, anything more than such a glance would tar the Local Authority, or other party, with not performing its job properly (i.e. not responding to “public demand”). District Councils, for example, have been known to urge the County Council “not [to] seek a promotional role” (Surrey County Council, 1995k). Similarly, Parish Councils have objected to toleration policies, arguing that Gypsies should be removed from highways and unofficial sites as

quickly as possible, whether or not there is anywhere else to go (fieldwork, 1996). Other Parish Councils articulate their concerns over a perceived “relaxation of attitude to unauthorised encampments” (*ibid.*), while some Borough Councils, for instance, have expressed “concern that non-harassment policy may encourage unauthorised encampments” (Surrey County Council, 1995k). It is difficult to imagine “non-harassment policies” being criticised without compunction against another ethnic minority.

It is now the responsibility of the Gypsies to provide for themselves. As such determining “need” is problematic. The sentiment is that Local Authorities should no longer “help” Gypsies secure their accommodation needs (despite advice to the contrary contained within the Circulars).

As is seen with the amount of Judicial Reviews and general complaints against the granting of planning permission for a Gypsy site, Local Authorities are likely to be chastised for any action that vaguely resembles support for a Gypsy site. Judicial Reviews are so costly in terms of money, time, and public image, that Local Authorities will avoid such situations if they possibly can. Consequently, it is far from a matter that lies solely within the hands of the Gypsies. The apparently benevolent “cutting of the apron strings” (akin to the discourse of decolonialisation) is a double edged-sword. Patronage is the only thing that has been taken away: policing, regulation and control have significantly increased since the repeal of the CSA.

Many Local Authorities recognise that strong countryside policies, the withdrawal of government grant, and the substantial local opposition a site search inevitably creates, will ensure that it is extremely unlikely there will be further effort in providing public sites. The fact that Local Authority provision is not likely to improve suggests that the need argument will usually be capable of proof. However, the need argument is often insufficient to override environmental policies, as Surrey County Council maintains:

... public or private applicants will... find difficulty in proving the very special circumstances required to justify exceptions to Green Belt and other

policies where the normal presumption is against such development. (Surrey County Council, 1995r)

This is especially true if the opposition to a proposed site use the precedent argument to create the fear of thousands of descending Gypsies. This argument is repeatedly used. The message is clear: if we allow them to live peacefully, thousands will descend upon us. There is nothing wrong with them, the message is at pains to emphasise, but they are suddenly intolerable should they be joined by like people. Consequently, in the name of protecting the democratic State against “marauding hordes”, democracy itself is undermined in the form of increased police, government and legislative intervention into people's lives and decreased official accountability and responsibility. The implication is that rights should be denied else others take advantage of them. The implication that thousands of others are likely to become attracted to a nomadic lifestyle suggests that the lifestyle is not as deviant, alien or abhorrent as is often presented. The alternative implication is that thousands of others (the “we” that is generally used to deny the minority rights of Gypsies) are irrational and criminogenic “aliens” (as Gypsies are often conceptualised) without the guidance of government. The argument that “thousands will descend” if we respect Gypsies’ rights, is similar to the immigration moral panic: the panic button is hit, and something must be done quickly and steadfastly. The association between Gypsies and crime is thus strengthened, as it is by the war imagery implicit to this and other arguments.

Returning to the discussion of “need”, planning permission is not allowed to be refused on the basis of the availability of alternative sites (Circular 1/94 s.21). The “need” argument is also contradictory, however, because it seems that in most cases “need” is defined according to whether or not other existing sites are available. However, even when there are no available sites, the need argument can still be overridden. In many cases the Gypsies are blamed for creating the need themselves; therefore no legitimate need exists. For instance, one local resident complains that “the applicants housing needs should not have been taken into account as he made himself intentionally homeless when he abandoned his council accommodation [four years ago]” (Lewes District Council, 1993a). One Inspector overrode the need argument for a group of Gypsies, who had spent years on their

own site and had no-where else to go, by saying: “No overwhelming need has been demonstrated but only that the appellants would find it convenient to live on the site.” (Waverley Borough Council, 1995h) Local Authorities have also argued that Gypsies, in effect, can never have “need” as they have the option of houses³¹:

We also note that the applicant argues that there should be an exception to the countryside policy on the basis of local housing need. [The applicant] has created this situation himself. (Wealden District Council, 1992c).

The victim is being blamed. The argument is similar to saying that there are no welfare, education or employment needs in the UK because the citizens “have created these needs themselves”.

“Need” is, at best, a box that should be ticked only on paper, it is not an ongoing responsibility. “Need” is also defined en masse, not individually. This leaves small groups of Gypsies³² or individuals whose needs may be left unmet³³. For example, in a recent case the local Parish Council argued that “an application for a single mobile home in the countryside might well be thought to have little if anything to do with the particular needs of gypsies” (Inspectors Decision Letter, Meadowbank, Hundred Acre Lane, Lewes 1994). It can be safely generalised that no member of another ethnic community is discriminated against because the needs of other members of his or her community have been met, or because their needs do not accord with the needs of the wider community (i.e. the sedentary community).

Planning permission for developments outside existing settlement areas can only be granted in exceptional circumstances, when it meets an essential local need. For example:

The planning policies introduced to protect the area permit only development essential for agriculture, forestry or other locally generated need. (Inspector’s Decision Letter, Lydia Park 1984: paragraph 34)

³¹ They are then, ironically, not a Gypsy according to the definition in planning law (discussed earlier).

³² Although, this may include any number if need can be said to have been met already.

It is easy to see how Gypsy sites would never be considered to be essential with regard to “local need”, where “local” generally means the majority or the mainstream. It is also easy to see, from this quote, how the development of supermarkets or roads are given priority over Gypsy sites in the face of environmental impact considerations, because of the implication of a “locally generated need”. Gypsies will be discriminated against in the planning system for as long as Local Authorities define “local” and “need”: these categories do not refer to anything the Gypsy is or has.

In conclusion, there are so many loopholes and contradictions within planning policies, that any application can fail³⁴. Judge Pettiti, one of the judges of the Buckley case, said that the reason why the Court found difficulties in understanding why Mrs Buckley had been poorly treated was that the:

... deliberate superimposition and accumulation of administrative rules (each of which would be acceptable taken singly) result, firstly, in its being totally impossible for a Gypsy family to make suitable arrangements for its accommodation, social life, and the integration of its children at school and, secondly, in different government departments combining measures relating to town planning, nature conservation, the viability of access roads, planning permission requirements, road safety, and public health that, in the instant case, mean that the Buckley family are caught in a “vicious circle”. (cited Clements, solicitor for the applicant, 1997c)

To quote Fairlie:

Someone once said that the English planning system is Newtonian: for every policy guidance in one direction there is an equal and opposite guidance in the other. (Fairlie, 1996: 46)

This means that when Local Authorities argue that a Gypsy site cannot be granted planning permission because it would mean overriding policies, they really mean that they are choosing to override certain policies in favour of others. The choice is generally dependent upon responding to perceived or actual “public demand”, thus

³³ Ironically, this conflicts with the “dispersal” policy and, since the advent of the CJPOA, it is only small groups of nomadic Gypsies who are not officially sited that are within the law. Hence the “need” of larger groups can be overridden with recourse to their criminality.

³⁴ Interviews with solicitors (1995-7) specialising in planning law relating to Gypsy sites have supported this thesis.

fulfilling their job criteria and increasing the likelihood of another term in office. Explanations for this “public demand”, for the abolition or prevention of Gypsy sites, will now be discussed with regard to the spatial nature of capitalist societies.

Chapter Five

Out of Place:

The Geopolitics of Anti-Gypsy Discrimination

In order to understand the intense feelings of suspicion and fear that nomadic Gypsies arouse, it is necessary to question the spatial nature of capitalist societies. Part of this approach will involve analysing other nomadic phenomena (such as tourists, asylum seekers, capital, and digital information) and looking at groups condemned for “spoiling” public spaces (such as graffiti artists, political protesters and homeless people). The hypothesis is that the colonisation of space is ultimately tied to struggles of control and resistance, and the organisation of public space can be seen as a reproduction of power relations where social inequalities are reinforced and naturalised:

A whole history remains to be written of *spaces* – which would at the same time be the history of powers (both of these terms in the plural) – from the great strategies of geopolitics to the little tactics of habitat. (Foucault, 1980)

Halfacree (1995) argues that it is the perceived challenge to capitalist spatiality, and the physical and ideological trespass of the “rural idyll”, that mobilises anti-Gypsy sentiment. In other words, the dominant social representation of the countryside acts as a form of social control; policing activities and restricting access for certain individuals. The countryside, therefore, becomes the property and cultural capital of the ruling elite, whether the land is privately or publicly owned in the eyes of the law. The legitimacy of the exclusivity of access to and rights within the countryside is established through violence and then through repetition, until the whole process appears natural through its longevity. As “natural”, dominant codes appear essential to the smooth running of society. This process has the added benefit of establishing penetrating regimes of policing and surveillance, to protect the elite interests, redefined as the social order.

The countryside is a powerful symbol of national identity¹ for many Nation States: it is a product and a commodity of State manufacturing, as are other “spaces”. Gypsies might be “out of place” in the rural idyll, but they are also out of place in every other regimented space imbued with the capitalist ideology. The social and geographic landscapes, public and private spaces (indistinguishable though they

¹ As Häyrynen (1994) has described regarding the Finnish natural landscape, the allegory of the harmonious landscape has been widely used to naturalise and idyllicise social relations, especially

are) are saturated with the capitalist ideology. The Gypsy, as with any other “other”, is unlikely to be granted a place in such a landscape².

In modern capitalist societies, nomads threaten the segregated, commoditised social and physical landscape. Nomads threaten to disrupt the order of an age where everything is identifiable and locatable as either a commodity or a consumer: a paradoxical age where private lives are increasingly politicised, made into public property and consumed, while Politics becomes increasingly unaccountable, private property. Capitalist territoriality has monopolised the means of defining, regulating and experiencing security, identity and community, so that the attainment of what is presented as constituting these notions is futile. As Sack says, under capitalism there is a “repeated and conscious use of territory as an instrument to define, contain, and mould a fluid people and dynamic events [which] leads to a sense of an abstract emptiable space.” (Sack, 1986: 78 cited in Halfacree, 1995: 11) Consequently, social ties are imposed, rather than fluid, individuals are insecure about their “belonging” and identity, and the meaning of space comes under the dictation of capitalism, rather than through what may be called historical or usury practices. Capitalist territoriality is the destructive, exclusionary and regulatory contemporary colonialism of the ruling elite, and it has destroyed the traditional concepts of community, citizenship and democracy. Nomads, especially those exhibiting strong community ties and a strong sense of distinct cultural identity, not only threaten the organisation of space (i.e. the organisation of capitalism), they also threaten to discredit the myths of citizenship and democracy that have formed the bedrock of capitalism:

Ever since the simultaneous and intrinsically related expansions of capitalism and colonialism, the travelling dispossessed have threatened the established economic and political order. Their existence remains evidence of the acts of colonial and class theft which were the definitive part of the transition from free nation to colony and from feudalism to capitalism. (McVeigh, 1997: 21)³

those between the citizenry and the State. Consequently, anything “out of place” or “out of order” is especially disquieting for politicians in power.

² Furthermore, as land generally symbolises the State, land rights are at the crux of citizenship.

³ “The Law locks up the hapless felon who steals the goose from the common, but lets the greater felon loose who steals the common from the goose.” (Anon, cited *Z Mag*, 1998: 11)

As Spitzer has detailed, those groups which “disturb, hinder, or call into question... capitalist modes of appropriating the product of human labour,... the social conditions under which capitalist production takes place,... patterns of distribution and consumption,... the process of socialization for productive and non-productive roles,... [and] the ideology which supports the functioning of capitalist society” (Spitzer, 1975: 642) are controlled and punished, in part, by being criminalised. The social order is thus maintained by punishing resisters and the powerless. As Box (1989) has analysed, the creation of the “dangerous classes” or the “undeserving poor” renders the criminalised poor as deserving of both poverty and punishment, as part of the same morally depraved package. Consequently, the State can hide behind the illusion that social harm is caused by the poor, and can elevate itself as guardian of good, thereby encouraging total dependency and blind faith from the citizenry. Crimes of the powerful (from victimising the poor in the form of discriminatory social policies to programmes of ethnic cleansing) are therefore not merely out of sight, but disguised as the protective and rational policies of maintaining law and order.

Contrary to popular thought, capitalism has not liberated and civilised Third World countries; it has not introduced them to democracy and order. The New World Order mythology of free markets, opportunity and choice has merely replaced one form of Western domination (colonialism) with another, more penetrating and ubiquitous, for its alter ego appearance. The repeated acts of geographical violence under the imperial project (Said, 1990b) continue under capitalism. The post-colonial era is only “post” the technological ignorance and restrictions, which now enable fast movement of capital. Who needs armies and guns now that the subordination and the predictability of subjects, and the eradication of “enemies”, can be achieved via market forces, mass media and computer technology, whereby less human effort and monetary costs are expended. Info-tainment and -technology are generally presented as levellers of social stratum, as is capitalism. Consequently, pacification and homogenisation are presented as liberating, and policing and propaganda are presented as part of the civilising process. In the supposedly post-colonial era, therefore, colonisation of geographic place has not disappeared but been replaced with the more effective and efficient colonisation of subjectivity, and a transferral of the techniques of colonialism onto the domestic

front. As Deleuze and Guattari (1987) say, this colonisation of subjectivity occurs because of despotic capitalism. The current academic fascination with redefining space mirrors the postmodernists' retreat into compliant apathy and apolitical hopelessness at a time when intervention and criticism is most needed. The nostalgic imagination replaces any active interaction and anger, at a time when minority groups are suffering genocidal policies precisely because of the perceived or created splintering of territories and identities. Just as the politician denies any responsibility for the genocidal policies by recourse to the threat facing the social order, so too the academic by recourse to a similar nostalgic myth⁴.

The social boundaries of ethnicity, class and gender, for example, are not crumbling. Nor are the physical boundaries of nations being dismantled. Characterising the "postmodern" age as postcolonial, postnational, translocal, deterritorial, and so on, depoliticises the Western recolonisation of the "other". Globalisation does not mean democracy, liberty and equality for everyone. It means that the rule of capitalism is now totalitarian in character. Capitalism is unifying space. It transcends legal, geographical, and social barriers and, increasingly, transcends the barriers between public and private, and institutional and personal with the exclusion of human rights issues from economic concerns.

The threat that Gypsies pose is precisely the risk of revealing that social boundaries have not crumbled. The myth of a classless Britain and an open Europe has sustained a violent capitalist hegemony and the systematic violation of human and civil rights. Baltis in Birmingham, academic interdisciplinary sexiness, media pastiche and parody, and the supposed removal of the internal borders of the European Union, epitomise nothing more than the seizure of economic opportunity. The intensification, infiltration and naturalisation of the capitalist ideology occur precisely because these changes are represented as a move towards multiculturalism and liberal pluralism. An analysis of nomadic Gypsies shows that this is not the case. Indeed, social exclusionary and regulatory boundaries have been fortified precisely because of the supposed new indiscriminate freedom that makes citizens vulnerable to threat from the former outside. "Compensatory

⁴ That things were once able to be comprehended and criticised, attacked, or changed.

measures” (Schengen Agreement 1985) are needed at local levels as well as on the larger political field. At a time when there is renewed political debate concerning ownership, control and identity of the countryside⁵, anxieties and the need to enforce “traditional values” in the face of change, may be more strongly felt. “Traditional values”, of course, meaning sustenance of power relations, rather than a necessary attachment to certain moral choices.

Even “green issues” have been centred around or usurped by the capitalist ideology. Creating the choice of unleaded petrol and CFC-free aerosols has created a more dogmatic and totalitarian capitalist ideology, leaving little ideological or critical space for dissent. As Marcuse has argued in his *Essay on Liberation* (1969), consumer choice functions as part of the “repressive tolerance” in an age of extreme conformity, used to divert people’s gaze away from the means of attaining functional freedom towards an illusory one. Interestingly, Marcuse believes that the only hope for the realisation of functional freedom lies with “the outcasts and outsiders”, giving a possible explanation for the fear and hatred expressed towards Gypsies, especially since so-called New Age Travellers have grown in number. In *One Dimensional Man*, he asserts that freedom has become “a powerful instrument of domination” (Marcuse, 1964: 21), in that the supposed free choices made by consumers merely replicate and strengthen the dominant ideology and existing power relations. The creation of an “ethical consumer” has merely pacified the dissatisfied. Under the façade of decentralisation and political participation, whereby individuals can also make “political” decisions and be responsible for or effect the environment, industries and States have been able to shirk their own responsibilities. In other words, immanent ecological problems have been evaded by an illusory nod towards a democratic, self-responsible citizenry. Indeed, the ecological problems will increase now that capitalism “gone green” has rejuvenated the previously sullied public image of capitalism. If it is believed that capitalism per se is not at the root of environmental destruction, “capitalism per se” can continue unhindered.

⁵ Particularly who defines what is legitimate rural activity, such as hunting and road building as opposed to rambling, camping and road protesting.

And so it is with the freedom of movement myth, which only extends so far as to strengthen the capitalist system of the West and make a lot of money by exploiting the politically and economically controlled and subordinate. The pretence is evident when it is considered that privileged areas are considered to be threatened or ruined should the prospect of visiting tourists be realised. Exclusive areas within the countryside, as on the international field, are deemed “sensitive”, “tranquil”, and too “important” or “beautiful” to have to suffer the marauding hordes. It is another matter when the location is less the reserve of the privileged. Then, the tourist is valued over and above the local. Indeed, relatively unprivileged locals are extradited or imprisoned, as we are currently seeing with the Zero Tolerance policies, under the belief that they may deter many prospective tourists. “Aggressive beggars”, “squeegee merchants”, “tearaway cyclists”, and Gypsies and Travellers are all presented as polluting public spaces and deterring valuable tourists. The current Home Secretary, Jack Straw, has recently strengthened the law against people who cycle on pavements by giving police new powers to impose on-the-spot fines, as part of “his campaign against anti-social and disorderly behaviour” (*ibid.*). In Brighton, buskers can now be fined up to £500 and receive a criminal record under Home Office bylaws being adopted by Brighton and Hove Local Authority (*The Big Issue*, No. 278, April 6-12.98). Gypsies and Travellers have always prompted such reactions (see, for example, Morgan, 1997b).

Tourists have important functions: affecting social policies; strengthening and/or constructing social maps; even changing national identities⁶. Therefore, the threat of the nomad is evident. If a tourist (whose movements and locations are generally predictable and regulated) can cause massive social effect, the nomad who is not restricted to specific “tourist areas” or allotted time-slots, is likely to cause effect other than in accordance with the capitalist system. The nomad is likely to greatly disrupt a system within which tourist areas are specific and consciously presented, and “site seeing”, as generally synonymous with modern day travel, is passive. The threat of unregulated and unpredictable movement is clearly evident. Additionally, through Gypsies nomadism and other aspects of their culture, Gypsies blur the

⁶ Consider the many symbolic monuments originally constructed to draw in spending tourists (see, for example, Ulmer (1994) and his discussion of the Rushmore monument).

delineation between leisure and work. Such a delineation is necessary for an ideology which presents leisure as the goal of work and which has established distinct rules of behaviour for these distinct social activities.

As Foucault (1967 and 1991) most prominently wrote, control of people's movement is the foundation upon which social control and social order have been established. In *Madness and Civilization* (1967), Foucault links the "problem of mobility" to the regularisation of society. Similarly, Sennett (1994) associates the physical organisation and regulation of individuals with that of the metaphysical and political structures. Space and time were therefore political, with legitimate movement signifying order and illegitimate movement signifying threat. As Foucault saw, insanity, like criminality and dirt, had to be regulated through being cleansed or removed. The nomad, the vagabond of the eighteenth century, appears to embody all three characteristics (irrationality, criminality and dirtiness). The nomad, therefore, symbolised an almost insurmountable threat to the modern order at the same time as appropriating the contemporary mood and ideology of mobility. To this extent, the nomad is doubly deviant: illegitimately accommodating the space and appropriating the practices of the privileged. For, this is the time when increasing mobility symbolises the civilising process, or rather, Nietzsche's will to power, and when the poor are increasingly categorised, regulated and their movements controlled. As forms of surveillance and control through the regulation of movement have always been prevalent, from astronomic to religious to bureaucratic and computerised ideologies, it is no surprise that Gypsies have always been regulated, condemned and punished. As the Industrial era continued, however, discipline necessitated a tighter regulation of individuals via panoptic architectures, for the maintenance of social order and existing power relations:

Discipline proceeds by the organisation of individuals in space, and it therefore requires a specific enclosure of space. In the hospital, the school, or the military field, we find a reliance on an orderly grid. Once established, this grid permits the sure distribution of the individuals to be disciplined and supervised; this procedure facilitates the reduction of dangerous multitudes or wandering vagabonds to fixed and docile individuals. (Dreyfus and Rabinow, 1982: 154-5)

Within this Foucauldian vision, closed and distinct areas for distinct activities, such as the prison, school and factory, ensured productivity and docility. As Foucault articulates in *Discipline and Punish* (1991), social order was to be achieved architecturally, by channelling and overseeing movement, association and knowledge. The discipline of individuals occurred through segmentalisation and institutionalisation. Consequently, as Bauman (1992) has described, architecture and urban planning became the project and metaphor of an ordered utopia within which there could be no nomads or vagrants. Mobility was not a threat in itself, but it must be wholly predictable and occur within the parameters of “order”⁷. The myth of mobility is therefore revealed to be a concrete programme of disciplinary channelling. Nomadic Gypsies and other Travellers disrupt these channels, and are therefore charged with the crime of disrupting what the channels represent: “order”. As McVeigh (1997) has said, the nomad has come to symbolise the unfinished project of modernity.

The fact that certain forms of nomadism are outlawed while the general consensus seems to be increasing speed, is not as incongruous as it might appear. As Virilio (1986) has examined, the increasing speed of modern societies has created somewhat of a stillness. As many postmodernists have described, the flickering images that surfeit the imagination exhaust and eventually suffocate the mind. Consumer-citizens are bombarded with a multitude of messages, to the extent that even leisure time is not “time off” but is a replay of what has been shown to them many times before, and it certainly is not “free time” as Adorno and Horkheimer (1993) have shown. Even reflection is a regurgitation of an Americanised psychobabble creating millions of pounds for the professionals and the system, and creating millions of legal junkies whose anger and pain can only be cured if responsibility or blame is placed firmly upon their local circumstances and away from the State and abstract notions. Consequently, it is those social groups who are perceived to have the ability to be idle that are deemed threatening - for whom “the Devil makes work” (see Clarke and Critcher, 1985). Their threatening image is encouraged to legitimise State intervention and control of these groups. It is those

⁷ At the advent of the railway, for instance, the fear that many people could quickly move from one place to another, prompted “the booking office” (as it was called, rather than the ticket office) so that destination and passenger details could be written in a book and thereby monitored.

groups that do not or cannot commit to the capitalist dream (to “keep up with the Joneses”), such as the poor or disadvantaged, or “subcultures” (see Hebdige, 1979 and Cohen, 1972), rather than the idle rich who have every interest in the maintenance of the existing system. Under such perceived threats, boundaries are strengthened, and the victim blamed and further excluded.

Travel is seen as legitimate or illegitimate depending upon the individual’s social class. Travel is a status symbol, signifying the accrued wealth, the ability to avoid work and the social position of an individual. Incongruities arouse suspicion, fear and hatred, as well as creating intense feelings of vulnerability or threat, not only due to the challenge this represents to the social order. To this extent, travel is for the privileged. It is recognised that travel is also regulated and restricted for the privileged in the sense that, similarly, they do not have, in practice, complete freedom of movement to go into a working men’s club, for instance. However, it is argued that the agenda is generally set by the privileged, who also have to abide by fewer insurmountable restrictions. The speed of information and capital exchange, and increased opportunities to travel, has created the myth of mobility. The philosophy of freedom that a mobile work force represents, for example, has tended to either entrap and tie people within otherwise unsatisfactory jobs and places, or it has splintered communities and families by forcing individuals to travel for or to work. Either way it has, paradoxically, given them little choice, self-regulation and control. To this extent travel is a right (rather than an obligation or transgression) for the privileged (and capital): the poor are condemned to live in ghettos while the rest of the population is “entrapped” within the need to keep up, to move wherever the work is. Both groups are insecure. Their entrapment, in turn, may make them jealous of what they perceive to be illegitimate freedom: freedom from 9-5 work and a mortgage, or the benefit trap, and a sedentary, entrapping ideology. They may become jealous of the Gypsy they see from their high rise flats, down below, congregating with others and, as they see it, free to move (Interview with Kenrick, 1996). They may become jealous, as one Local Authority put it, of “a free and easy roadside existence” (West Sussex County Council, 1993) Berger (1967) goes so far as to say that those who do not experience the pleasure of deviance can experience the pleasure of moral outrage.

As Chomsky (1995b) has detailed, highly mobile capital contributes to immobilising labour and individuals and has dire consequences with regard to human rights. Industries are able to compete for labour and locate themselves where labour costs and environmental and health standards are lower. This also creates another type of immobility. As has been said, globalism (the rule of capital) does not, as the Western myth goes, empower and liberate formerly weaker countries. These countries, if “successful”, become so Westernised that the traveller will “feel at home” abroad. Homogenisation or replication of the banal, is redefined as economic independence.

In the “New Europe” it is generally only capital that is mobile and legitimately so under the guise of multiculturalism and freedom of movement for all⁸. The extent of freedom of movement for people consists of tourism, which is part of the circulation of commodities. The acceptance of non-British goods has nothing to do with a destabilisation of nationalistic tendencies. For example, the Friday night curry in the UK does not symbolise a more tolerant and open society. Differences and boundaries are not dissolving, and the “other” is not being embraced. Rather, the “other” is being exploited under the stronghold of capitalism. If the “other” is not demonised, it is eroticised. This can be seen with the popular representations of women, for example. With eroticisation the “other” is assimilated, made into hyperreal fashion fodder, and its threat is consequently disabled, thereby increasing the size and strength of the mainstream. Assimilation of the “other” serves the purpose of disempowering the threat and creating a focus or site upon which conflict can be seen, contained and controlled. The “other” subsequently exists in limbo or occupies contradictory territory, with what the “other” can offer the mainstream being differentiated from their deviance, illegitimate occupancy and threat. The “other” is not being embraced but, as with spaces, predatorily consumed. For, as Hall (1995b) has noted, the “other” is only available to the relatively powerful: the poor are not concerned with ethnic cuisine, they just want to eat). Diamond (1995) describes this colonial activity, in the metaphorical sense, as fetishistic, as it highlights the seemingly contradictory feelings towards the prey:

⁸ The militarisation of borders is often justified by recourse to the argument that the free flow of capital and free trade need to be protected while the free movement of illegal migrants and unlawful

those of attraction and revulsion: the fetishistic attention functioning both to normalise (define and make visible) and retain the initial, but disempowered, difference. The threat is thus contained and put to good use, to the effect that the colonialist State can be presented as being democratic and pluralistic by dint of “accepting” otherness, as well as paradoxically satisfying predatory and authoritarian lusts. This perspective offers an explanation about the two, often antithetical, stereotypes of the Gypsy (the romantic or sexualised “other” and the dangerous deviant). This perspective also suggests why nomads, who often escape the fundamental administrative techniques for locating and defining subjects, are so readily criminalised by States.

Geographers (see Dieberger, 1996) have determined that areas which transmit a feeling of “home” to groups of people, tend to exhibit strong visible frameworks and characteristic parts. Consequently, it may be assumed that anyone or anything that disrupts the spatial organisation (by being nomadic for example, or, more often, simply by being “out of place”) also disrupts the “home”. A form of territorial, or turf, war is therefore staged whenever it is reported, or can be construed, that the “home” (whether it is the national “homeland” or a municipal area or a house) has been “invaded”. Territory, and therefore identity, have literally been challenged, to the extent that any space changes its meaning once the objects, activities and individuals within that space change. For example, national identity is intrinsically linked to a bounded territory, and is often reflected or represented by visual symbols (the countryside being the most typical example). To the extent that territories are bound or boundaried spaces, Gypsies threaten the legitimacy, authority and meaning of territories and territorialisation⁹. Individuals and objects already within that space also change their meaning, in accordance with the “new” space (according to the principle that spaces are information carriers about the objects within it - see Deiberger, 1996). For example a church hall and the individuals and objects within it change their meaning if the hall becomes the location of a jumble sale or group meeting, to the extent that a table changes its

merchandise is curtailed (see Palafox's (1996) paper on the militarisation of the US-Mexican border).

⁹ Nomads threaten national identity because of the crossing of borders and the perception of lack of State loyalty (Kendall, 1997; Buzan, Kelstrup, Lemaitre and Waever, 1993). Consequently, Gypsies are the focus of attack for many extreme nationalist groups.

changes its meaning if it is sat upon, or a beer barrel changes its meaning within a pub if it is inverted and used as a table. The place is in effect jeopardised, as the meanings imbued to a certain space makes it a distinct “place” (*ibid.*) In a sense, Garfinkel’s experiments (1967) showed how violently people cling to the accustomed meanings of particular spaces: the threat of acting as a tenant in a family home or of cleaning a supermarket was greatly disproportionate to the passionate responses such rule-breaking elicited. Even “legitimate” activities, such as vacuum cleaning or working at a computer, take on deviant connotations when executed during the night, for example, the extreme reactions that such things provoke, suggests the importance and fragility attached to social norms and conformity. Activities out of place or out of context, such as living permanently in a caravan or painting or writing on exterior walls (in the case of Gypsies and Travellers and graffiti artists) arouse equal suspicion and fear. The break in uniformity and predictability creates unease and anxiety. The “other”, the “out of place”, must, therefore, be eradicated often by symbolic ritual or must be assimilated/cleansed. Change or difference is generally only acceptable if it occurs within the same ideological framework - if it is logical to capitalist progression, for instance. A development of a thousand houses or new theme park does generally not affect the character of an area as much as a small Gypsy site is said to.

As Philips (1986) says about the court room, positional shifts signal changes in the participants’ role relationships and character of the interaction as a whole or, as Goffman says, they operate as framing devices conveying to the participant a situational change or juncture (Goffman, 1974 cited in *ibid.*). It might be assumed, therefore, that movement (spatial repositioning), in general, creates unease because socially it suggests change and therefore threatens identity and the status quo. Assuming this, it is clear to see how nomadic groups threaten the cornerstones of the social order of understanding/ comprehension and social organisation/ interaction. Further, as boundary marking in the courtroom or school contributes to the participants’ abilities of comprehension and participation (Philips, 1986), it seems likely that again on the larger plane, a nomadic community may appear threatening to the identity and functioning of the social order. There is also the notion of status attached to individuals who move independently or are moved around. Spatial positioning also has implications with regard to social interaction

and power or control of others. What is deemed “out of place” is, it can be assumed, that which challenges certain power relations. Social space is therefore a very effective means through which to naturalise and reinforce relations of superordination and subordination, inclusion and exclusion. Elementarily, the social is spatial.

The globalisation of visual signs (for example, MacDonalds) also shows how the creation of a feeling of “home” is, it must be imagined, persuasive and powerful. It can be construed from this that it is a powerful political tool, assuaging people into spending money as well as impregnating the “other” with the ideology of “home” (i.e. Western capitalism) and thereby neutralising and strengthening that ideology. It has become expected to “feel at home” abroad when tourists temporarily colonise other places. The stronghold of the ideology of capitalism is presented as offering the citizen-consumer choice and comfort. The Modernist project of the complete disguise of the capitalist Metanarrative, serving the elites whilst exploiting and destroying the “other”, has been realised. Under the benevolent façade of enabling the citizen-consumer, and under the banner of democracy and liberty that says that anyone can (commercially) make it, fascist dictatorship and “cleansing” programmes of every “other” is justified. For, if the ideology says that anyone can make it, those who do not are treated with suspicion or condemnation. Individuals are manifestly given credit for their own “success” or “failure” in capitalist societies. Subsequently, there lies suspicion over those who have houses repossessed, for example, and the further down the scale of homelessness they go, the more blame-worthy they become.

Mirroring Sack’s (1986) hypothesis of capitalism’s creation of “abstract emptiable space”, Augé (1995) argues that it is supermodernity’s characteristic speed which compresses space. The previously unknown or distant terrain of the globe becomes easily knowable and reachable, via the aeroplane or electronic media. Hence, they become familiar and are consumed or assimilated into the familiar - the rhetorical and ideological territory of “home”. In effect, they become “home”. The holiday abroad becomes a part of what constitutes the way of life of British citizens. The foreign, then, is familiar ideologically and physically, whereby the more commendable the resort the more it caters for Western (UK/US) tastes. What

happens is that the foreign is rewarded for assimilating itself into the capitalist ideology in the form of having a successful tourist industry that sustains, to a certain extent, the economy of the place. The citizens at home are also rewarded for assimilating themselves within the capitalist ideology that commits them to fifty weeks work to pay for the commodity of the mythical foreign break (being neither foreign nor a break {from subservience to the capital}). While “escape is the explicit message” of tourism and other “trips”¹⁰ (Cohen and Taylor, 1992: 132), it must be strictly regulated, temporary and paid for. It works to anaesthetise people to the mundane drudgery of everyday life, and blind them to the exploitation and violence of the State. From a Marxist perspective, it works as an effective opiate of the workers.

With travel as a commodity, as well as serving to sustain a work force, the nomad threatens to expose the myth of travel as representing individual escape and freedom, because the travel of nomadic Gypsies is not dependant upon the organised service of others. The nomad also subverts the meaninglessness of modern day travel, whereby the speedier the movement from one destination to another the less time is wasted. Modern day travel is approaching stasis. Many industries depend upon consigning travel as an increasingly unnecessary evil. Faster cars, planes, trains and boats, and roads which are wider, longer, more proliferate, under seas, underground, over street levels, play a large part in the economic stability and capitalist hegemony of a country. Even cruises, which might be imagined to represent a reification of modern day travel, actually expend every effort into replicating a land-based resort. The more cinemas, casinos, en suite cabins, and the less movement and change is noticed - the less like a floating vessel - the higher the class of establishment it is esteemed to be. The experience becomes unreal where:

... the acceleration of technology-, event- and media- driven modernity, as well as the speed of other economic, political and sexual exchanges have set loose a tempo of liberation whereby we have become removed from the sphere of reference to the real... moved beyond a certain space-time (Baudrillard, 1992a: 1).

¹⁰ Such as drug-taking or journeys into “self-awareness”.

This placelessness, disorientation and increasing speed creates meaninglessness and insecurity. This is suitable ground for the creation of scapegoats, especially those who can be seen to relate, albeit symbolically, to the area of concern. Thereby fear of mainstream movement and change is displaced onto Gypsies and other nomads:

The driving imperative is to salvage centred, bounded and coherent identities – place identities for placeless times. This may take the form of the resuscitated patriotism and jingoism that we are now seeing in a resurgent Little Englandism. (Robins, 1991: 41 cited in Urry, 1995: 170)

Virilio (1986) has termed this world governed by the will-to-speed, the “negative horizon”: a world where space has imploded because of the violence of speed, and where the frontiers of space are being relentlessly pushed back to conquer and expel the difference that is found. The impetus is anti-travel, whereas Gypsies feel “at home” travelling and therefore threaten to challenge the myth of modern day tourism. The impetus is not to travel but to conquer space: to take away the liberty of travel for the underprivileged and control it for the rest. As Virilio has documented, this “conquest of space” has its own trajectory from “the nearly static travelling of sexual intercourse to the escape velocity of spacecraft” (Wilbur, 1994: 3). The colonisation of spaces or bodies, the rupture or transgression of boundaries, is most clearly an activity of the powerful. Whether the perpetrator be individual men or the masculinist/phallogentric ideology of Science, from rape to genetic engineering and cryonics, movement over and through social and physical boundaries (with the human body representing the ultimate boundary) has been the business of the privileged. Power is intimately related to the physical control of such spaces or bodies, as can be seen with the techniques of survival usually performed by women, such as eating disorders or self-infliction of wounds. As Bahri has said, “[t]he body under siege... is not surprisingly the space for resistance” (Bahri 1994: 3), in an attempt to retrieve control of what has been abused by others. Similarly, groups excluded from either social or political public space are increasingly reappropriating those spaces in the form of graffiti, bike rallies, raves, street parties, demonstrations, and so on. The criminalisation of the

above suggests the recognised power¹¹ and political implications behind such activities, and the importance of space:

The anxiety of our era has to do fundamentally with space (Foucault, Berlin Lectures, 1967 cited in Shields, 1991: iix).

To reiterate, the space is the site for struggles of power and resistance. The creation or colonisation of space is ultimately tied to theories of power. As Burns (1997) argues, power is ultimately associated with 'occupation' and 'possession'. Consequently, anyone who is "out of place" or who occupies "unauthorised" spaces (especially repeatedly - i.e. if they are nomadic) is threatening to the ruling elite for two reasons. Firstly, they do not passively inhabit pre-ordained spaces. This means that because their location is potentially uncertain, knowledge and therefore power and control is limited. This is especially true because they often do not (or are seen not to) inhabit social spaces within which the dominant ideology is already imbued or through which official access is easy. Also, those who transgress one social norm are seen to be, as a result, potentially deviant in other ways (as was discussed earlier): it is not what was transgressed that is important, but the act of transgressing. Secondly, actively "discovering", "territorialising", or "colonising" spaces are generally activities undertaken by the interested and the powerful. In *Pure War* (1983), Virilio describes the State as a "military predator" which needs to have a clear battlefield, and so it destroys anything out of place. Transgression of borders is only legitimate, then, when undertaken by the elites. As Bauman has said:

Defence of social space boils down to the struggle for the right to mobility for oneself and for the limitation of such rights of others. (Bauman, 1993: 158)

Critical attention paid towards what is fixed and what is mobile, therefore, will shed new light upon power relations and highlight "the political violences inherent in fixing and mobilization" (Shields, 1997: 6).

¹¹ This power is recognised by the agencies of social control as well as by excluded groups (see *Reclaim the Streets*, for example).

As Cohen shows, what is operating is “a conceit of ‘travel’ [which] errs in presupposing the experience of movement” (Cohen, 1997: 2). The tourist is, in fact, less a stranger or foreigner than the residents: “other” places are constructed for the consumption of tourists, to the extent that the “other” place becomes their place. Tourism becomes the parody of escape, whereby places are constructed and services are dependent upon the existence of the “visitor”. As Urry, in response to Simmel, has said:

It is not the *flâneur* who is emblematic of modernity but rather the train-passenger, car driver and jet plane passenger. (Urry, 1995: 141)

And the project is mass consumerism, not mass travel or movement, as many theorists suggest (see Urry, for example). Space and time are not being compressed as part of the postmodernist design. Rather, space is being re-colonised. Far from living in a post-colonial age, the colonisation of spaces by seemingly apolitical means (in the form of the movement/entry of tourists, communications and capital), is more successful at controlling people and places precisely because of its clandestine nature. This conquest of space has been implied in the work of Urry (1990 and 1995) who speaks of tourism as the consumption of places. This consumption takes the form of literally consuming things (purchasing, taking away, and destroying) as well as having an ideological form, whereby the capitalist manifesto is effectively reinforced or pushed in through the back door.

Modern day travel also has great ideological import, as the reigns of Hitler and Mussolini, being the most infamous examples, would suggest with their autobahn and futuristic/speed projects. The Gypsy site visible from a motorway, therefore, disrupts the State propaganda or ideology, by challenging the placelessness of the motorway. The less travel is noticed (the quicker, the quieter, the more monotone the surroundings), the better. As Augé (1995) says, subjects in the supermodern society bypass places en route to somewhere else, or rather, back “home”. Places have been replaced with road signs, and the community has been replaced with advertising billboards. The only politics of travel is capitalism.

Other politics are not allowed on the roadside, the airport or seaport, or the foreign or domestic resort, as it challenges the totalitarian rule of capitalism. Hence, Gypsy sites on road-sides, immigrants in airports, animal rights activists at ports, Kurds in Turkey, and surfers in sewage, are either ignored or violently challenged, so that the ostensibly apolitical transport and tourist industries can continue to function. The Gypsy site on the roadside therefore threatens to expose the image of freedom and individuality embodied in the car and more generally in the capitalist manifesto, with the burgeoning face of totalitarian despotism and self-ascribed facelessness and subservience. The Gypsy site on the road-side smarts the passengers who have been assured that their lives will be simple and apolitical: they are confronted with an “otherness” that belies the pervasiveness, impartiality and naturalness of capitalism. The voyeur-consumer in the passing car must be satisfied over and above the persecuted and vulnerable poor trying to survive. This is in order to reaffirm the aestheticisation of life within which it remains a privilege for the general public to remain blissfully unaware of politics (and within which Gypsies are a disruption: “spoiling” both the view and the ideology – i.e. physical and metaphorical space). Those evidently not part of the same plot must be demonised or eradicated, if the social order is to remain natural and lives meaningful: there has to be seen to be no choice with regard to way of life, for the maintenance of control for the ruling elite, and maintenance of the myth of choice and active participation for the subjects.

What the “other” in this instance threatens to expose is the artificiality of life, so lamented by the postmodernist theorists: a life lived according to the pre-ordained plan of another, travelling to and through non-places which all look alike, when not in front of electronic screens. The “other” shatters, for a brief moment, the amnesia and cuts through the opiate of life. The “other” in space needs to be excluded so as to depoliticise and dehistoricise space, creating an empty space. Such a space is what any ruling elite would want: a space that is not contestable, where meanings and identities are fixed. Interestingly, Gypsies, immigrants and other “aliens” are spoken about in terms of invading, infecting and polluting the spaces they illegitimately try to inhabit. The fact that these spaces are perceived to be pure (but vulnerable), has not alerted many to the implication that totalitarian rather than democratic politics are in action. What must remain hidden is the conveyor-belted

regulatory panopticon of Fritz Lang's *Metropolis*, a commoditised version of Foucault's carceral city, where everyone is alike and performs alike tasks and has their field of vision (and, therefore, knowledge) ultimately controlled.

In effect, the ruling elite control (and are controlled by) the means of production and consumption as well as maintain social control through spatial control. Controlling what and who has access to spaces, controls the system of reference and therefore knowledge of those who are granted access. As with many forms of punishment, from a Durkheimian perspective, the aim is to socially control the ones who should be watching. Capitalism has consumed places and, as such, consumes the minds of the individuals within or passing through those places. Anything within those places that has no capital value, has no value and is "out of place".

In a society analogous to Foucault's carceral society, the curtailment of freedom of movement and freedom of association are the primary forms of discipline and control, maintained by a central and uncertain force of surveillance. Control of space, therefore, is an essential prerequisite to a disciplined society. Despite these freedoms supposedly characterising a democratic Britain, they have been criminalised under the CJPOA. As Lodge has commented, measures contained within the Act represent a "profound attack upon the notion of public space" (Lodge, 1995d: 9). Others have compared the legislation to the Enclosure Acts of the 1760s (see *ibid.*). Interestingly, the groups targeted under this legislation are also similar in that they all represent a threat to the spatiality of capitalism. Anti-bloodsports activists, environmental protestors, Gypsies and other Travellers, ravers, and squatters, all challenge the commoditised and regimented character of space, notions of private property, and hegemonic rule. Interestingly, while commoditised spaces are presented as apolitical, when these groups challenge the commoditised nature, their actions are deemed political. In effect, all these groups trespass spatial and ideological boundaries, and consequently threaten the reproduction of space and the social order. These groups, as with other members of the unwanted, such as the elderly or the homeless, are spatially controlled and spatially stigmatised (Harvey, 1996; Sibley, 1995, and; Smith, 1989). As Bender (1993) has analysed, the powerful have physically, aesthetically and ideologically

appropriated spaces. Any transgression, therefore, threatens to debunk the unambiguous, God-given and legitimising status of space. Shields notes that, as space is epistemologically and ontologically essential to the social order, “to question ‘space’ is to question one of the axes along which reality is conventionally defined” (Shields, 1991: 31). And this is, in effect, what nomadic Gypsies and other “spatial deviants” do. This reappropriation of space represents literal and ideological sites of resistance: the struggle for the redefinition of space is the struggle for power:

It is thus possible to disrupt the closely woven fabric of social practices and conventions through interventions at the level of spatial practice. Resistance in the form of reterritorialisations of space, abrogations of the private property system (as in squatting, particularly in the context of Third World barrio communities), or denials of pragmatic conventions such as just sitting on the floor rather than using benches (a tactic often used by disenfranchised youth) is possible. The resulting counterspaces, even if momentary, present an ever-shifting ground on which power and constraint is exercised by state and society. (Shields, 1991: 53-4)

The struggle for power is intertwined with the struggle for space. Public order legislation is generally concerned with the control of access and activities associated with public space. Conversely, political protest locates itself spatially, generally to signify the desire to challenge the establishment by appropriating or subverting its spaces, places and symbols. Reappropriation of spaces in revolutions, by destroying the symbols of the old order such as with the storming of the Bastille, for example, has always been a powerful and mobilising metaphor, signifying the arrival of a new social order. From this perspective, the military violence of the Tiananmen Square massacre or police heavy-handedness at the UK *Reclaim the Street* demonstrations, is more than a response to a potential riot. The threat is ideological and reaches further than the disruption it may cause to the immediate locality and temporality. Spatial order and social control are therefore intrinsically linked¹². In this struggle for places and power, nomadic Gypsies can be seen to be at a disadvantage in that they are perceived to be attempting to appropriate or colonise certain spaces and therefore political power, while, in general, they have no permanent and secure territory of their own. Nomadic

¹² The relative lack of attention social scientists have paid space until recently is, therefore, surprising.

Gypsies are at a further disadvantage spatially in that they rebuff attempts to locate or place. The act of locating, physically and metaphorically, is essential to any social order, dependent upon identifying, comprehending and valuing things (Harvey, 1996).

According to the panoptic principle, each citizen should have his or her eyes fixed dead ahead and only be viewed him- or herself by the invisible and omnipresent authorities. The physical environment is therefore ultimately bound up with practices of social control. Physical and metaphysical boundaries channel movement and determine activity. The nomad transgresses these boundaries. The nomad therefore challenges the process of territorialisation and, with it, legitimacy of ownership and authority. According to Deleuze and Guattari (1987) and Lefebvre (1991), the basic strategy of territorialisation is to fix boundaries in order to discipline the mobility of “flows”¹³. As Virilio theorises in *Pure War* (1983), this process resembles modern warfare. Control of space symbolises State control of its citizenry. Spatial organisation, therefore, is the physical manifestation of power relations. Anyone who transgresses or disrupts the organisation, or who is powerless enough to be unable to defend such an accusation, is consequently punished, primarily to warn others to remain in their place.

As Mary Douglas (1966) asserts, the social order is challenged when things are “out of place”. Society then re-establishes that order via ritual action, whether in the form of punishment or cleansing. Matter out of place, however, becomes functional in certain circumstances, namely if money can be made out of it. Both Disney World and Aborigines are out of place in different ways, but wholly in place so far as the capitalist ideology and therefore the social order are concerned. A fictionalised space in Paris and the otherness of Aborigines both attract the tourists. Interestingly, like Gypsies, the Aborigines were perceived to be pollutants until they attracted tourists and journalists. Then they also became “exotic” and “traditional”, and there was talk of official compensation for their maltreatment (Urry, 1995).

¹³ As Virilio reminds us, cities functioned as “immobile machines” to thwart the movement of an enemy or outsider (Wilbur, 1994).

The Gypsies are also paradoxically mythologised: as being either dirty criminals or “people in nicely painted caravans singing folk songs with guitars while a horse pulled them gently round meandering country lanes” (*Hansard*, 5.2.93: 600). A similar paradox exists concerning the popular representations of the homeless, who are shown to be dangerous and deviant, but often also romantically free. Of course, as Reich shows, the homeless are actually “deprived of liberty” (Reich, 1995: 110). It is argued that the paradoxical existence of the romantic myth is, in fact, functional in that it implies that their marginality is chosen. This is at times the justification for Gypsies’ persecution, similar to the function of envy as a guilt-reduction device. We can see this in the remarks made by some people that vigilante attacks and harassment don’t hurt Gypsies as much as us because they are used to violence and hard times, or, if it was that bad they wouldn’t stay nomadic. As Hall has said, the construction of the dual myth, apparently contradictory, can also be seen to occur in the discourse of masculinity which constructs the female subject as Madonna and Whore, and in the discourse of racism which constructs the black subject as “noble savage and violent avenger”(Hall, 1992). Desire and loathing, then, often co-exist¹⁴.

Douglas’ analogy between crime and dirt illuminates, to a certain extent, the use of dirt and disease imagery in discourse concerning Gypsies. Both deviants and dirt are “matter out of place” (Douglas, 1966: 48), and are naturalised in order to sanction a particular set of moral codes. The acts of punishing and cleansing are useful in redefining, in strengthening, or reminding people of social rules and boundaries. Rules and rituals function as part of the need to separate “them” from “us”, the need for boundaries, for gaining identity through difference. They are particularly useful when national identity, for example, is unstable or blurred. Therefore, “folk devils” (Cohen, 1972) or “suitable enemies” (Christie, 1984) are often created or “found” by the State in order to perform the symbolic ritual. In this respect, crime, dirt, or the “other” in general, is more functional than threatening: the threat is, perhaps, exaggerated to justify a more totalitarian and blanket reaction, thereby strengthening centralised State control. The “clean up” is rarely the nuisance that it is portrayed as being: it is socially, politically and economically

¹⁴ See Chapters One and Three.

useful. The current fervour with which policies of Zero Tolerance are being executed both sides of the Atlantic, suggest political motivation over and above a desire to punish the visible and vulnerable.

In this respect, many indigenous populations are similarly treated¹⁵ (see Mander, 1991; Kroker, 1992b, and; Churchill, 1996). In Canada, for example, the State is involved in what has been called by some to be a programme of terrorism: “the act of war without declaring war, so that there is no formal protection of civil rights, and no political rights for international agencies to intervene on behalf of the Mohawks” (Kroker, 1992b: 2). Mohawk reserves have been repeatedly raided by the police and army since less than fifty Mohawks protested against a proposed extension to a golf course which would involve the destruction of a sacred pine grove of their ancestors. This State terrorism is primarily a violent warning to the other indigenous populations not to oppose capitalist development: in other words, to be prepared to sacrifice what is left of their territory and culture.

Kroker argues that it is the conflict between the indigenous populations and the logic of capitalism that constitutes the perceived threat:

Maybe this is what is so threatening about the struggles of the First Nations¹⁶. It violates and refuses the genetic logic of the technological dynamo. (Kroker, 1992b: 2)

There are obvious parallels with the relationship between the State and Gypsies. Indeed, it is argued that the nomadic heritage, if not practice, of the Gypsies contributes to a much greater threat. As Deleuze and Guattari (1987) have detailed, the “smooth space” that the nomad inhabits, clashes with the “striated space” of despotic capitalism, and exposes the meaninglessness and needlessness of the striations (physical or ideological channels or borders, for instance). Indeed, the nomad can be said to be intrinsically subversive of territorialisation, and thereby indirectly threatens those who are sedentary (see Halfacree, 1995 and 1996a). The

¹⁵ Many Gypsies have identified with what has happened to indigenous groups (for example, see *Traveller*, winter 1997).

¹⁶ Some indigenous groups in the US have begun to refer to themselves as “First Nations” or “First Americans” because they were the first to be in America and because the term “Native American” could apply to anyone born in America (see Metzner, 1995)

nomad also poses a threat because both the dominant ideology and the spatial representation of that ideology is challenged and, in consequence, denaturalised. In other words, as has been suggested, spatial organisation is effective in maintaining social control and power relations because it is perceived to be apolitical and abstract. As Lefebvre has said: "The space of a (social) order is hidden in the order of space" (Lefebvre, 1991: 289). It is generally accepted as natural and therefore less open to political challenge. Space is commonly perceived to be "[s]omething that exists regardless of things and previously to their existence" (Dieberger, 1996 section 2.1) As Freksa (1991) has said, people are generally and unusually wholly confident about space, and what is known about it: where everything else may be debatable, space is "real". Anything, which disrupts the organisation, automatically reveals the interests at work - the politics of place and space – because more overt methods of control have to be employed. Gypsies, therefore, conflict with the dominant (or rather manifest) ideology of modern societies (indeed, any society wishing to look for reasons to exercise police powers, for example) as well as the latent means by which the indoctrination of that ideology is most effectively deployed (space).

Returning to Kroker's use of the term "technological dynamo", he argues that the speed-orientated, technological societies are exposed for their lack of history and tradition by the now (ironically) sedentary Mohawks: spatialised power versus twenty-five thousand years of aboriginal history. As Deleuze and Guattari (1987) have theorised, different spatialities or "other" uses of space, challenge the contemporary technological fascism that dictates the way in which space is to be used and perceived and thereby dictates behaviour, thought and knowledge. Gypsies, too, have always been an "other" which threatens to expose the hypocrisy and forfeitures of the mainstream. By nature of their association with tradition, community, freedom and nature, Gypsies, in general, threaten to destabilise these categories as legitimate tenets for "host" societies. Furthermore, a steadfast culture, despite the attacks it has withheld, is an often unwelcome and disruptive control by which to judge the changes of mainstream society. As Kroker says with regard to aboriginal populations:

If the peoples of the First Nations can be so oppressed, that is because they are the bad conscience of what we have become in the society of speed and war: perfect sacrificial scapegoats for feelings of anxiety and doubt about that which has been lost in the coming to be of the technological dynamo. (Kroker, 1992b: 2)

Many others, including Foucault, have lamented the subordination of time to space. However, it is often too easy to go the way of the Postmodernists and view the world pessimistically for its increasing speed and crumbling history and humanity. There still remain many sites of struggle and stasis in the physical environment: violence, subordination and entrapment are still prevalent. As Bauman (1997) has said, postmodernity means freedom and travel for the elite, but for the rest it means slavery and immobility. And, as Massey (1992) has argued, Baudrillard's hyperspace does not tally with ghettos, bus queues, or the general mundanity and localness of everyday lives. Furthermore, as Wardhaugh (1996) and hooks (1991) have said, the poor have always experienced disintegration, displacement and insecurity.

Placing Space

Philosophical and physical concepts of space have informed social and political concepts and, consequently, social interaction, including practices of social control. Within the past decade the concepts "space" and "movement" have been given renewed critical attention, especially since the advent of cyberspace and cryogenics and the general interest of social scientists and geographers in each others work¹⁷. Mathematical theories of space inform general concepts of space. We are, from this perspective, living in three-dimensional Euclidean space. Philosophically, since Einstein's general theory of relativity, perception and matter are dependent upon space. They influence and effect space, which is now often assumed to be a four-dimensional space-time continuum (Dieberger, 1996). As objects in space impart information about that space and the other objects which occupy that space, Gypsies "out of place" are a particularly potent or threatening symbol. Furthermore, space is subjective. Even if this aspect is not wholly accepted, it is at least acknowledged that physical social spaces affect or, at least, indicate identities

¹⁷ See, for example, The Society for Philosophy and Geography or the journal *Space and Culture*.

of those who enter or are excluded from those spaces. Consequently, control of physical spaces can be translated as control of identities. Space, in summary, controls, effects and produces the subjects or objects within it, as they in turn control, effect and produce it. As such, space is inherently political. As Bertsch and Sterne have said, informed by the work of Foucault:

Politics does not merely use the organization of space to its own ends; politics *is* the organization of space. (Bertsch and Sterne, 1994: 2)

Space is, to repeat, the physical realisation of power relations; it serves as a reminder and resource of dominant ideology and history (see Lynch, 1960). Control of spatial relations, practices and knowledge is, therefore, essential for the maintenance of power relations. Indeed, Durkheim goes so far as to say that it is essential for the maintenance of social life:

If men do not agree upon these essential ideas at any moment, if they did not have the same conceptions of time, space, cause, number, etc., all contact between their minds would be impossible, and with that, all life together. Thus, society could not abandon the categories to the free choice of the individual without abandoning itself... There is a minimum of logical conformity beyond which it cannot go. For this reason, it uses all its authority upon its members to forestall such dissidence. (Durkheim, 1912: 29, cited in Douglas, 1987: 12)

To this extent, social activity and space inform each other, with the deviant and the regulators performing their boundary-maintenance roles. Social constraints are, therefore, attached to certain spaces. Deiberger (1996) gives the example of the space where people eat, which replicates social status in the various positions around a table, for instance. Alternatively, the courtroom provides a good example of power relations and the physical and ideological social structure. It is the Judge or Inspector who controls all the exits and entrances (see Philips, 1986 and 1987) and who can see all parties. Location within a space thus confers social status. In what might be called “public places”, Gypsies disrupt this social hierarchy. This is especially true when their location is perceived to block the movement of others (whether physically or through fear¹⁸), or subvert the notion of legitimate

¹⁸ Many people say that they are too frightened to go near Gypsy sites (fieldwork and letters to Local Authorities and local newspapers, 1995-7).

movement. Social spaces signify expected social action, which is culturally dependent. The social order is organised by structuring activities into specific places, so that work, play, prayer and different groups of people within those activities, take place within distinct and often separate locations¹⁹. The importance of spatial organisation, and its relation to social activity and cultural identity, can be seen in the reactions to proposals for the construction of specific places for non-Christian religious spaces, such as the first eruv in Britain (see Acton, 1993b). Reactions tend to be very hostile, exhibiting fears of insecurity and loss of control and understanding of their life world, whether or not, in the final event, it will be visually disruptive.

Understanding is spatio-temporal:

We operate with an implicitly spatial model. I, the subject, am here, gazing across a metaphorical or physical space, at an object which is in some sense out there. We can also imagine introspection in these terms: the knowing subject viewing the known self as object. (Young, 1994a: 7)

The proliferation of spatial concepts, especially concerning social status, support this thesis. Schroeder argues that the concept of place is central to Western discourse: “meaning is understood in terms of knowing the place of things, of objects and entities, in the given order of the cosmos” (Schoeder, 1996: 22). The symbolic potency of Gypsies, who redefine both space and time through their nomadism, is therefore extensive. Gypsies can be said to disrupt identity, security, and meaning, as movement changes the system of referents, necessary for understanding and interaction. If this connection between spatial thought and the ability to be self-conscious is valid (first suggested by Kant: Eilan, McCarthy and Brewer, 1993), Gypsies destabilise the perception of “the world out there”, the perception of oneself within it, and, in essence, the actual ability to perceive coherently or understand.

Because of the Western spatio-temporal mind-set which sees movement as the process or activity of moving from one specific place to another, movement for

¹⁹ The fact that many Gypsies blur work and leisure spaces and times adds to the anxieties felt about them.

movement's sake, or divorced from the tenets of the sedentarist ideology, disrupts this way of thinking and the State which likes to know where its citizens are literally going. Hence, the definition of a Gypsy as an economic nomad²⁰ is an attempt to control the physical and ideological patterns/non-patterns of movement. Boundaries, whether in the form of physical barriers or social taboos, operate, in part, as a defence against the threat of the mobile.

Changes in or of spatialities are very disquieting, as can be seen by looking at the cultural or historical records of a particular time. For example, at the time when cosmic space was being redefined, Donne wrote:

And new philosophy calls in all doubt:
The element of fire is quite put out;
The sun is lost, and the earth, and no man's wit
Can well direct him where to look for it. (Donne, 1611: 205-08, cited in
Shelburne, 1997: 3)

The definition, or accepted perception, of cosmic space had changed from the Ptolemaic universe to the heliocentric system, as an innovation of Copernicus and supported by Galileo (Shelburne, 1997). Although the Copernican innovation was still firmly embedded within the same familiar context, all systems of thought, understanding and action were destabilised as a consequence of the new definition of cosmic space, or at least felt to be threatened, as poets such as Donne have described. Although still challenging, different spaces are generally only accepted if they are similar to the existing or preceding space. It might be assumed, therefore, that nomadism, or "smooth space", which is diametrically opposed to capitalist-sedentarist systems, or striated space, is wholly unacceptable. Definitions of space shape how the social world is seen. New definitions of space which are wholly dissimilar or "other" to existing definitions, have no loci on which to be situated and understood, or to be treated as feasible and desirable.

Nomadic Gypsies threaten social chaos because they are bringing attention to space that is, in this sense, antithetical to place (and therefore, also order and

²⁰ i.e.: "persons of nomadic habit of life whatever their race or origin" who "wandered or travelled for the purpose of making or seeking their livelihood" (Circular 18/94 ss.2-3).

meaning). Space and place are conceptually and etymologically linked²¹. However, space also implies a void, an absence: the opposite of place. In *Physica*, Aristotle suggests that “chaos” was one of the earliest concepts meaning space. This comes from a cosmo-theological tradition which conceptualises the time immediately pre-existent to Earth as “Chaos” (Hesiod’s *Theogony* in Bochner, 1973) and “without form, and void” (*Genesis* 1:2). The untamed, unknown character of space has been violently impressed upon by the staticity of “place”, and those who challenge the logic of a “place” also threaten to unmask the danger of space.

Questions over territorial ownership, access, or use tend to arouse the most vehement reactions from the ruling elite. Power needs a “space” within which to be exercised. Territorial space, outer space (the cosmos), innerspace, and now cyberspace, have all been the arenas on which, and because of which, knowledge is disseminated and retrieved and power experienced: space war has characterised social life for as long as power relations have. Ways of perceiving space are instrumental to ways in which the social world is itself perceived, ordered and controlled. Cartography, for example, has been particularly influential with regard to creating and sustaining ideologies and practices of nationality, nationalism and colonialism. Maps, as ideological structures, offer a way of perceiving the world and interacting with the world, as well as offering a means of assessing individuals’ places within that world (Shelburne, 1997).

Exploring and conquering spaces has not been for its own sake: under the auspices of “knowledge for knowledge’s sake” and the Enlightenment principles of progress (“the civilising process”), “spaces” have been created, found and filled in order to view and control others. It has been argued that domestic spaces and cityscapes have been constructed so as to control and restrict women, and reproduce gender roles of domination and subordination (see Harvey, 1996). The spaces allotted to groups of people or individuals, especially the size of those spaces, often symbolise their perceived status by the State²². Harley (1988 and 1992) shows the

²¹ From the Greek and Hebrew concepts of “topos” and “makom” respectively.

²² The poor location and condition, and small size of Gypsy sites and pitches is representative of Gypsies’ social status. Gypsies, as other ethnic minorities (see Davis, 1992), are afforded the minimum amount of space.

link between power, knowledge, and the cartographic project - the map symbolising the project of European imperialism, for example:

The map was above all a national signature of possession and a public declaration of the right to settlement. This is ultimately why the colonist and the explorer did not really see the Indian as much as they saw through him. (Boelhower, 1987: 48)

Geography, as Wallerstein (1996) describes, is an important part of schools' curricula. Wallerstein argues that this is because it is politically useful in conveying symbols and feelings of nationalism: "conveying to the students that they were part of a single national structure whose roots lay deep in time" (*ibid.*) Furthermore, geography, as a school subject is useful in conveying certain spatial truths as facts, and in so doing representing a certain view of history and presenting it as natural rather than man-made. As Wallerstein goes on to say, the parameters of space, as those of time, "are internalized beneath the level of conscious awareness, in order that they not be constantly open to question, in order that they function with seeming automaticity" (*ibid.*).

Colonisation is about imposing a new social, political and economic order as well as new conceptions of space, identity and what is taken to be "real". Consequently, threats (if not too great) within certain spaces can offer the opportunity for governments to reaffirm order, ideology and identity, as is seen with the resurgence of nationalism at times of war. As Minh-ha has shown, the West often wages such wars in order to preserve its own values:

Its expression is always associated with seemingly generous motives and the pass-key ideal to provide a "richer," "more meaningful" life for all men. Whereas its by-now-familiar purpose is to spread the Master's values, comforting him in his godlike charity-giver role, protecting his lifestyle, and naturalizing it as the only, the best way... "Don't they see We are only trying to help?!" The compulsion to "help" the needy whose needs one participates in creating and legislating ultimately leads to "bombing people into the acceptance of gifts." (Minh-ha, cited in Diamond, 1996: 1)

Mobility is an important concept within Western societies that have associated movement with progress, as part of the civilising process, for the past two centuries. It is often the vulnerable or the politically disempowered or powerless

who appear to be relatively immobile. Or, rather, immobility is forced upon them: upon children, women, the elderly, the disabled, itinerant populations, refugees, the mentally ill, the deviant or criminal (as is defined by the mainstream) who all have some form of curfew thrust upon them. Those who are deemed to be “victims” are encouraged to stay “safely indoors”, from the deviants (criminal and non-criminal) who are also cleaned off the streets, most recently by Zero Tolerance policies: “others” are forced into private spaces, either the domestic sphere for the weak or institutions for the dangerous. In effect, many social problems are being brushed into private, invisible and politically unaccountable spaces.

Public and Private Spaces

Furthermore, those private spaces into which the powerless are urged are carefully chosen: private spaces also have exclusionary codes of behaviour and access. As much socio-geographic research has shown²³, minority groups are excluded from more affluent private areas, as well as from public areas which are suitably redefined as private or “out of bounds” (for the reasons outlined above). Phillips, Sarre and Skellington (1989) have researched into the discriminatory practices of Local Authorities with regard to housing ethnic minorities. The standards of education, speech and appearance of the applicants, and the cleanliness and orderliness of the current accommodation determines whether or not they “should be considered for a new or a good property” (Phillips, Sarre and Skellington, 1989: 363). Even unsubstantiated suspicion prejudices a case. From a Weberian perspective, exclusion or social closure (which includes preventing access to certain areas and generally preventing mobility) acts as a way of maintaining social and economic privileges and opportunities and therefore status, legitimacy and power.

It should be noted, as is probably clear, that these private spaces, into which the poor are forced (if they do not initially go, after encouragement and warnings) are *not* private to the extent that they escape surveillance, policing and accountability like the privileged. They *are* private to the extent that the occupants are rendered

²³ For example, see: Sibley (1995); Phillips, Sarre and Skellington (1989); Liggett and Peny (1995); Davis (1992), and; Smith (1989).

invisible and passive and their movements into and within the public arena (Habermas' "civil society") are ultimately controlled. Private spaces from this perspective are apolitical spheres, or rather they have the appearance of being apolitical. This is particularly useful when the State wishes to distance itself from tensions or problems within the so-called private sphere. For example, it is useful when the State wants to renege on its duties to protect the poor from socially deprived, unhygienic or violent environments, or when it simply wants to spend less on welfare. However, the State politicises or problematises certain activities or relationships within the private sphere as and when it wants to, in order to justify intervention and control. The Conservative "Back to Basics" manifesto was a good example of this.

Public and private spaces are therefore ultimately controlled, and whether a space is "public" or "private" alternates as a means of excluding and governing certain sections of the population. Public places are, in fact, private to the extent that only certain activities, objects, ideologies and people are allowed access. Even those that have legitimate access are threatened with suspicion if they are in certain places at certain times (considered "unsafe"). Public places are highly policed and privatised: "the adjective 'public' in the notion of public space really only applies to privileged and conformist constituencies whose use of the space coincides with corporate and state interests." (Hassan, 1994: 2) Spaces, and people within those spaces, are legitimate if they are in keeping with the capitalist ideology. A golf course replacing a Gypsy site in Morfa is seen as "desirable" (Hodge, 1997: 12), while Brighton promenade, for example, is a "success" and "something to be proud of" now that gift shops and bars have replaced the unofficial shelters for the homeless (*The Evening Argus*).

Nomads challenge the privatisation and exclusivity of public spaces, and the delineations between different spaces. This suggests why anti-nomadic sentiments and legislation are proliferating in the Western world²⁴. The nomads are visible by the very fact that they are not filed and locked away. Their difference makes them

²⁴ Aside from the obvious suspicion felt about people who move through territories who have, in the past, been perceived as being constituted in the main by pirates and colonialists and, in the modern day, by terrorists and drug smugglers - else they have been the poor or the foreign.

noticeable. The main threat lies in their movement out of the invisible areas that the State attempts to push all the undesirables and their social policy implications (State responsibilities) into. They, therefore, present a fierce challenge to a Government obsessive about ideologically and physically imprisoning its citizenry: banishing all “problem populations” (Spitzer, 1975), and with them their social problems, from public and political realms. Consequently, those who are portrayed as illegitimately occupying, or “spoiling”, public spaces are transformed into a public order problem and are consequently able to be dealt with by the Criminal Justice System²⁵. Therefore, State responsibility to them is legitimately denied: their needs are redefined problems and their private lives are redefined public property. Gypsies’ appearance and, consequently, their social activities and beliefs, are exposed and public consumption of them is justified (see earlier discussion of Brady, 1996). The message is that those who are portrayed as illegitimately occupying public spaces become public property. Ironically, Gypsy lives are made public property and publicly accessible while they are denied access to places and spaces the rest of the population enjoys.

As Wardhaugh (1996) has shown in her analysis of homelessness, the poor are spatially marginalised as they are socially, economically and politically marginalised. If they transgress the borders between prime and marginal space (Duncan, 1983; Snow and Anderson, 1993) they are deemed dangerous and the street (the public prime space) is deemed to be “out of control”. Such a talked-up situation and process is evident within the discourse of Zero Tolerance, as was mentioned earlier, aimed at “aggressive begging by squeegee merchants, winos and addicts”, according to Jack Straw (the then Shadow Home Secretary, *The Guardian*, 9.9.95), and “the growing menace of tearaway cyclists” (Assinder, 1997). This process can also be seen every time Gypsies enter an area, whether as asylum seekers or to establish a site. Similarly, both Gypsy sites, the homeless, and others supposedly transgressing public spaces are repeatedly described as “matter out of place” (Douglas, 1966) or as “eyesores” (see Wardhaugh, 1996). The intense focus on the exteriority or the aesthetic appeal/harm of things clouds and depoliticises processes of social,

²⁵ From a Marxist perspective, it could be argued that since Gypsies challenge the commoditised nature of space (as well as land as a commodity in itself), Gypsies are put into another market

cultural and ethnic *cleansing*. The function of talking-up the dangerousness of the poor and their threat when in public spaces, when visible, is to reinforce the social order within which the poor either occupy marginal or deviant places. By criminalising the visible poor, they become the undeserving poor who are innately “out of place” when in prime spaces. As Wardhaugh has said:

Homelessness is perceived as dangerous because (and only if) it is visible in public places. It is this visibility that represents a threat to the security and sense of place enjoyed by settled citizens. Thus it is not marginality *per se* that is dangerous: rather, it is the visible presence of marginal people within prime space that represents a threat to a sense of public order and orderliness. (Wardhaugh, 1996: 706)

Although this is evident from the recent sensationalised talk about “aggressive beggars”, for instance, it is argued that the criminalisation of the visible poor in fact criminalises all the poor and their visibility is oftentimes constructed so as to legitimise welfare and civil liberties cutbacks and increased policing, rather than the other way around. For example, single mothers or squatters, for example, are not necessarily publicly visible. However, their threat is talked-up and a stereotyped image constructed.

As many critical criminologists have articulated (Box, 1987; Chambliss, 1969; Reiner, 1985, and so on) the Criminal Justice System, the Government, the media, and the public, focus on street crime as the most important, if not the only, type of crime. As caravans are not generally seen as homes in the sedentary sensibility, the caravan sites is potentially seen as a legitimate place for targeting by the police because it is not viewed as strictly private, like houses often are. Gypsy sites are seen as being in public space, and public space is seen as the domain of crime. Those people who inhabit public spaces more frequently are more likely to be targeted *and* perceived as criminal types. For example, young black men constitute another group that is similarly targeted, because the general racism in society has created the stereotype of the Black criminal (from mugger to Yardie) and has led to ethnic minorities inhabiting poorer areas and more likely to be on the street (being young and/or poor, for example):

relation. They consequently become a product of the Criminal Justice System and functional to it, as well as functional to the wider capitalist system.

Given the inequality of access to private space in our society (available more to the wealthy than to the poor, to older rather than younger), those groups who have to resort to public space for their leisure time are automatically more vulnerable to policing. When this visibility coincides with police definitions of them as a “threat” to public order or as suspicious persons, then they are subjected to a process of double discrimination at law. (Clarke and Critcher, 1985: 26)

Ironically, while Gypsies’ private lives are made public, the public space or place of their landscape becomes a private space - a private place for the enjoyment of by an elite few. Rather than Gypsies trespassing *our* public space “we” trespass their private space. This, however, is not peculiar to Gypsies: increasingly everyone’s private lives are subject to penetration by legislation and policing.

Gypsy sites are public property to the extent that they have been appropriated by certain State agencies - colonised, in this respect - as is every citizen’s private life, increasingly. Gypsies are also presented as challenging the nature of public spaces (when a site is unauthorised). They are presented as, ironically, privatising a public space; preventing the legitimate activities of others to take place in the space. What is actually being said is that the space in question is exclusive (private) in that only certain groups can legitimately access or use it. As Kealey says:

The public/private dichotomy is the foundation of liberal society, and establishes the norms for the development of the rule of law, citizenship, sovereignty and legitimacy. (Kealey, 1994: 7)

Kealey shows how Information Technology (“cyberspace”) represents a challenge to this dichotomy between the public and private spheres, and consequently destabilises power relations, in much the same way as Gypsies do.

Smooth Space and Cyberspace

It is expedient to compare the “smooth space” of nomadic Gypsies with the “cyberspace” of Information Technology. In cyberspace, individuals appear not to be geographically locatable and can jump from virtual location to virtual location with the click of a button. Both “smooth space” and cyberspace disrupt the taken-

for-grantedness of mainstream spatiality and expose the social-constructedness of space, and with it also disrupt identity, power relations and legal torts.

Physical boundaries play an important part in the application and comprehension of the law. Its legitimacy resides upon its clear message and distinct delineation. Physical boundaries function as a signpost, signalling that different rules are likely to be in play. Physical boundaries are thus essential in determining legal rights and responsibilities. Nomads' "smooth space" and cyberspace radically disrupt these boundaries and, consequently, destabilise the logic and ascendancy of the law. As Johnson and Post say with regard to cyberspace:

The rise of the global computer network is destroying the link between geographical location and: (1) the *power* of local governments to assert control over online behaviour; (2) the *effects* of online behaviour on individuals or things; (3) the *legitimacy* of the efforts of a local sovereign to enforce rules applicable to global phenomena; and (4) the ability of physical location to give *notice* of which sets of rules apply. The Net thus radically subverts a system of rule-making based on borders between physical spaces (Johnson and Post, 1996: 4).

"Smooth space", like cyberspace, creates confusion and also, importantly, threatens to expose the social-constructed nature of law.

Both "smooth space" and cyberspace also destroy the primacy of space as a means of control and ownership of goods, capital and people. Territorial boundaries disappear. A challenge to authority is therefore perceived because:

Control over physical space, and people and things located in that space, is a defining attribute of sovereignty and statehood. (Johnson and Post, 1996:3)

The anonymity and lack of geographical address of much that occurs on the Internet, in like fashion to nomadic Gypsies, concerns State governments. A placelessness ensues. As Meyrowitz (1985) has described with regard to cyberspace, this is a social as well as a physical placelessness, in that social roles, identities (particularly in relation to "others"), and behaviour or protocol are also

blurred²⁶. Power relations are therefore changed which is politically threatening. Meaninglessness is thus created in a world organised upon locating, overseeing and controlling the objects and subjects within it. Interestingly suggestive of the link between nomads and IT, Meyrowitz (1985) argues that an Information Age system of hunters and gatherers has occurred. What has also happened is the revelation of a new frontier; a new space over which territorial control is at stake. Additionally, both represent a reappropriation of pseudo-public spaces (Davis, 1990): spaces for public use, rather than Habermas' (1984) so-called public sphere which is reserved for the privileged. Hence, this reappropriation is anti-privatisation and could also be conceived as anti-capitalism, and consequently a major challenge to Western hegemony.

The public sphere espoused by Habermas and advocated by Western "democracies", is a bourgeois space functioning as a forum for consent, whereby the privileged congratulate and empower one another. Whereas it is presented as epitomising the ideals of public participation and inclusivity, it is, in fact, antithetic to these concepts. Activity that is deemed disruptive, "out of place", or political (i.e. non-consumptive behaviour) is criminalised in public spaces (see Section V of the CJPOA for the most obvious and recent examples). An analysis of Kant shows that Habermas' public sphere is open to anyone able to use reason (see Daniel, 1996). These happen to be the propertied classes because they are less likely to have special interests or ulterior motives, as they are "their own masters", unlike the property-less (also see Chomsky, 1994c). The fact that a person has no interest in changing the system, because it privileges him (or, sometimes, her), is translated into a lack of political motives, especially of an anarchistic nature. The parallel between political power and legitimate access to public space is evident in the fact that Gypsies are generally denied access to the public sphere of political decision-making. This is in the sense that they are usually unable to have any effect on the decisions that are made about them and also sometimes are prevented from voting because of having "no fixed abode". They are therefore doubly punished: their citizenship status is undermined because of insecure accommodation due to the sedentarist bias of the law and of society in general. Gypsies are also denied

²⁶ Also see Streltzer (1995) and Sproull and Kiesler (1993) for a discussion of the last two points.

access to the physical public spheres, themselves symbolic of the wider political meaning of the public sphere. Exclusion of the under-privileged from the public sphere is justified by creating certain codes of practice, making the public sphere seemingly open to all. As Negt and Kluge describe:

All bourgeois forms of the public sphere presuppose special training, both linguistic and mimetic. In public court proceedings, in dealings with officials (and, we might add, in university classrooms, whether traditional [or] electronic), it is expected of all parties involved that they be concise and present their interests within forms of expression fitting to the official context... As a rule, they must be grammatically correct (and meet the expectation for) economy of thought and abstract flexibility... This is one of the most important exclusionary mechanisms of the bourgeois public sphere. (Negt and Kluge, 1993: 45-6, cited in Daniel, 1996: 6)

Exclusionary practices have dominated spaces, from the eighteenth century public sphere²⁷ to cyberspace and through every other institutionalised space of the modern world. Furthermore, exclusionary practices are all the more effective because the spaces are presented as democratically inclusive and idealistic.

However, the analyses of nomadic Gypsies and cyberspace illuminatingly differ at certain levels. Cyberspace offers a “space” for disenfranchised groups to access and transmit information. For instance, many grass-roots organisations have been able to cost-effectively liaise with relatively powerful groups. This threatens a government which does not want to see those with the desire interacting with those with the means. To this extent there is the possibility for dissent and decentralisation. However, as Daniel (1996) makes clear, without the market system of producers and consumers there would be no cyberspace. Members of cyberspace could be considered to be passive consumers; their activities support the capitalist ideology (see Harasim, 1993). Also, the system is still relatively exclusive, with English-speaking, educated, middle-class men/masculinity predominating. Lockard, agreeing, says that cyberspace “for all its globality remains nonetheless a heavily American discourse, operat[ing] within the unacknowledged parameters of raciality.” (Lockard, 1996: 1) Racial and other inequalities are, in fact, being consumed rather than embraced, and it is a

²⁷ As well as previous societies.

consumption of the colonialist kind. As Daniel iterates: “you still can’t make a democratic classroom in a society based on a system that remains fundamentally anti-democratic” (Daniel, 1996: 9). To a certain extent, cyberspace may paradoxically ensure that social inequality increases as it superficially blurs such distinctions and takes people away from real (as opposed to virtual) spaces, where inequalities exist. In this sense, cyberspace differs to “smooth space” in that it is physically immobilising: it could be said to be anti-travel with everything “arriving” without anyone or anything “leaving” (see Virilio, 1991b). Debord, in *The Society of the Spectacle* (1994), has said that the age-old problem of controlling the streets has been resolved (partially) with the absent of IT which isolates people. Lockard warns of the dystopic future of cyberspace:

Even as ethnic/race-defined user groups establish themselves on Internet, they disappear from public view, accessed only by those interested. Non-physicality elides their presence and alterity. While the Internet’s intercontinental breadth ensures its multiracial character, its character as a totalizing medium denies the diversity of its users... Such internalized online monoculturalism reiterates the external racisms prevalent in American social structures. Middle-class America, confronted with diversity, has retreated to cyberspace to avoid otherwise inescapable realities. (Lockard, 1996: 4)

This is akin to the process highlighted by Bauman (1989), whereby the excluded, peripheral or “other” is assimilated into the mainstream and thereby vanishes and paradoxically becomes further disempowered and ignored, with the mainstream being absolved of responsibility. It is not that “Planet Earth has never been this small” (French advertisement for cellular telephones, cited in Virilio, 1995b: 1). Rather, as with the postmodern fears of increasing speed and the supposed shattering of space and time creating meaninglessness and hopelessness, the inequalities and acts of violence are increasingly prevalent precisely because they are ignored or denied by establishmentarians and critics alike. “Smooth space” is different to cyberspace in that nomadic Gypsies threaten to highlight social inequalities, publicise them to people who might otherwise only receive news from the mass media, rather than hide them. Furthermore, the “smooth space” of nomadic Gypsies differs to the exclusivity of cyberspace. “Smooth space” does not support the status quo or the barriers that prevent or allow access to certain spaces, activities, or privileges.

Just as with space exploration of the 1950s and 1960s (see Baker, 1992), cyberspace represents “the new frontier”: it is the “information superhighway” or the “digital city”. “Smooth space” is therefore more of a threat to the status quo, being relatively acapitalist and certainly disruptive of power relations of control and subordination, activity and passivity. “Smooth space” does not accord with the colonisation of spaces by the privileged, functioning to reassert or maintain a group or nation’s legitimacy and strength, with each new colony affording the colonisers the labels of freedom, progress and opportunity.

However, often the threat posed by nomads and others who transgress spatialities, is constructed or exaggerated, in order to perform many useful social functions. These functions range from distracting the citizenry from social problems or government misdeeds/criminality, to uniting the nation against a common evil. As Barth has said: “boundaries persist despite a flow of personnel across them” (Barth, 1969: 9). The threat of the nomad is therefore prone to exaggeration. The former example of the church hall which alters its identity according to the activities and people within it, also shows how social identities are relatively fixed. Symbols are rearranged or revealed and signs are put up in order to reaffirm the identity of a space, should a challenge or question arise. Furthermore, exclusivity of territorial ownership is not a necessary prerequisite of group identity (for example, ethnic identity), contrary to popular thought. It is therefore argued that spaces have multiple meanings, with certain ones presiding over others. It is the powerful who define which meanings are valid or worthy. As with the public sphere, the meaning attached to a space operates as a form of exclusion and therefore as a means of social control.

One particularly useful function that bringing attention to the threat of nomads and others who transgress socio-spatial boundaries offers, is that of petrifying the public. This has two consequences: discouraging freedom of movement and encouraging acquiescence for the privatisation of supposedly public spaces (see Judd, 1995), and the general “militarization of the landscape” (Davis, 1990). Surveillance cameras have entered the neighbourhood and school playground. Foucault’s carceral city has been realised under the guise of law and order. We

have made ourselves prisoners in our desperate attempt to avoid contact with the “other”. In so doing, we have become the very criminals that we have so feared and put so much energy into eliminating from our lives. It is not only the Gypsy site that resembles a concentration camp. To a lesser extent we are all subject to similar techniques of surveillance, control and punishment: we are increasingly encouraged to “stay in our homes” to stay “safely indoors”.

What characterises the changing landscape is a privatisation of public spaces and the operation of a “spatial apartheid” (Whyte, 1988; Davis, 1990 and 1992), whereby the rich and poor are physically separated, and with it social problems are separated from social responsibilities. In other words, the needs of the poor are redefined problems, and thereby the State is denied responsibility for them. Whereas the needs of the rich and the responsibilities of the poor are increased: i.e. the need for the liberties of the rich to be protected against the licentiousness of the poor, is legitimised and augmented. As Judd (1995) describes, this apartheid is ironically sold under the label of community, whereby isolation offers protection for the individual: or rather, isolation socially controls the individual so that he or she will be sufficiently comfortable to spend lots of money and to stay in place (while remaining sufficiently anxious to give the necessary nod of approval for any draconian legislation or quasi-military technique that the State may introduce). For instance the infamous gated communities increasingly prevalent in the West, most notably in Los Angeles, are praised for being part of the general trend of “positive ghettoism” (*ibid.*) Freedom of movement is thus markedly curtailed, especially since the police are increasingly able to stop and search anyone at will. What Davis calls “social control districts” are therefore constructed, with “strangers” being continually monitored as though the district was under siege or civil war. Those who are “out of place” (i.e. the poor in the protected, rich enclaves) are legitimately policed. As Bartolovich (1995) has said, the attributions of “belonging” are deemed to be a valid police activity.

Strangers, Others and Undecidables

Increasingly, as *Panic Encyclopedia* (1989a; 1989b) has described, the very act of moving in public (private) spaces characterises the individual as suspicious to

agencies of social control. The fact that those who occupy public spaces without purchasing anything are labelled deviant and dangerous, verifies this. The spatial organisation of public (private) spaces also shows that the individual is discouraged from “hanging around”. Those that do “hang around” are treated with the suspicion of one of Simmel’s (1950) strangers. The fear of the stranger emanates from the uncertainty of whether the stranger is friend or enemy. This can be seen in the discourse surrounding UFOs, where an uneasy balance of fascination and repulsion/denial is maintained, in similar fashion to reactions towards Gypsies. The stranger, according to Simmel (1950), is not the perpetual wanderer, but someone who is spatially located within a group who has not always been there – who does not belong. To this extent, the Gypsy is a stranger in that if the Gypsy was permanently nomadic he or she would, in fact, be relatively invisible and unknown. It is only when a Gypsy physically or metaphorically enters an area that “the locals” and their representatives feel cause to react. In this sense, it is not nomadism per se that is feared, but the fact that Gypsies might stay. Gypsies, like the stranger, occupy the status of nearness and remoteness, similar to other undecidables (Derrida, 1981). This status increases the threat posed by the stranger, the Gypsy in this case, to equal more than that posed by the enemy. He or she becomes the internal enemy, of the kind Thatcher alerted the nation to. Just like the Red Scare or the “dangerous classes”, the Gypsy becomes the enemy within, the close in proximity but different and therefore threatening.

The stranger is neither friend nor enemy²⁸, but this makes the stranger more threatening as he or she blurs social boundaries or dichotomies. As Bauman has said, strangers “unmask the brittle artificiality of division – they destroy the world” (Bauman, 1990a: 148)²⁹. These social dichotomies (such as nature/culture, man/woman, inside/outside,) structure social life and comprehension, or rather structure a particular view of social life and re-articulate and reinforce power relations. The stranger symbolises the fusion of self and other, representing the

²⁸ To the extent that the stranger occupies some of the same social and geographical space as “us” (as opposed to “them”).

²⁹ Gypsies destabilise spatial and social boundaries which, in turn, destabilises the Modernist method of control, i.e. categorisation of things into antithetic dualisms: man over woman; culture over nature; and so on.

realisation of the nightmare of the loss of self and the disruption of home, identity, order and knowledge. Consequently, the deviant status of the stranger is exaggerated. The stranger is the perfect and permanent “other” (Sarup, 1994), given all the inhuman and evil attributes rejected by the mainstream, the inside, “us”. Unlike those who transgress established and formalised social rules, the Gypsy, like all strangers, must be stereotyped, exoticised, stigmatised and, often as a last resort, criminalised. Stereotyping dehumanises the stranger and prevents potential empathy. As Bauman (1991) has noted, exoticisation and stigmatisation serves to neutralise their dangerous incongruity and make them more visible, and therefore disables their actual threat, while exaggerating their mythical threat. Stigmatisation further serves to suggest that the difference is irreparable or inherent to the stranger (Gypsies’ nomadism, for example), which consequently justifies permanent and unaccountable cultural, social and political exclusion (Goffman, 1968). Criminalisation strengthens the justification for excluding and denying the stranger citizenship status and rights. Gypsies are so often denied rights because they are popularly conceived to be synonymous with crime, as the next chapter will detail.

The fact that Gypsies are associated with nomadism and the land makes them almost perfect strangers, in the sense that the stranger is no “owner of soil” (Simmel, 1950: 403), either of the physical or social environment, and “an eternal wanderer, homeless always and everywhere... stateless” (Sarup, 1994: 102). As Simmel said:

If mobility takes place within a closed group, it embodies that synthesis of nearness and distance which constitutes the formal position of the stranger. (Simmel, 1950: 404)

As Simmel goes on to describe, the threat of strangers lies in the perceived and actual dominant social position they potentially accommodate because of their association with notions of objectivity and freedom (from the mainstream)³⁰:

³⁰ In addition, the perception of nomadism as illegitimate leisure (and leisure being the mother of philosophy) adds to this fear.

Simmel's attribution of greater cognitive freedom and the apprehension of truth through the "critical distance" of the marginal stranger (1971:143-144) has continued to ground the political claims of contemporary social thought, especially in the work of the post-structuralists (Deleuze and Guattari 1976). Margins, then, while a position of exclusion, can also be a position of power and critique. They expose the relativity of the entrenched, universalising values of the centre, and expose the relativism of cultural identities which imply their shadow figures of every characteristic they have denied, rendered "anomalous" or excluded. (Shields, 1991: 277)

Consequently the strangers position is perceived to be dangerous to the mainstream, primarily because of it's association with spies and with uprisings, which are believed, by the establishment, to be initiated by outsiders (Simmel, 1950). Similarly, such a potential threat is contained within social science. Although this threat has been neutered and manipulated into serving the social order, through the construction of a hierarchy of truths, the category of "legitimate knowledge", and an esoteric exclusionary language³¹.

In conclusion it can be said that the ghettoisation of Gypsies is part of the general power struggle in which subordinates are extradited and thereby displaced, prevented from accessing rights (such as those of education, employment, clean water)³², and forced to live in unhygienic and stressful environments. Ethnic minorities, the poor, the young and married women are all further disempowered and disadvantaged via housing policies which either work to exclude or entrap. The underprivileged and ethnic minorities are "dumped" onto poor housing estates, for example. This disguises the racism, sexism, classism, and sedentarism behind spatialised control, because these segregated groups can be controlled and targeted by hostile authorities and individuals under the justification that they are targeting places ("crime black spots") rather than ethnic minorities. In the vicious circle, discrimination becomes rationalised with recourse to the deprivation and high-crime rates of those areas. Therefore, the spatial marginalisation of minority groups mirrors their social marginalisation. In effect, spatial segregation or exclusion reflects, structures and reinforces inequalities. Space is, therefore, racialised, as it is politically demarcated according to gender, age, health, and other characteristics

³¹ As was discussed in the Methodology Chapter.

³² For a discussion of the full effects of residential segregation of ethnic minorities, see Smith (1989).

that are often the foundation or justification for the imposition of inequalities. Most significantly, spatial segregation serves to disguise such inequalities as natural or circumstantial, at best, or as deserved and proper at worst:

Racisms become institutionally normalized in and through spatial configuration, just as social space is made to seem natural, a given, by being conceived and defined in racial terms. (Goldberg, 1993: 185)

As Davis (1990), Dumm (1993), Caldeira (1996), Goldberg (1993), and Shapiro (1997b), amongst others have shown, contemporary racism is organised, maintained and legitimised spatially:

... contemporary racism is less a matter of social attitude and explicit legal separation of public services and accommodations and more a system of geographic and economic enclosure. (Shapiro, 1997b: 8)

Chapter Six

Born Criminal: The Genocidal Implications of Crime Control

Gypsies face legislative, institutional, structural, and informal discrimination and attack. This creates a vicious circle with each form of discrimination and attack, encouraging and legitimising the other. This final chapter will broaden the discussion of anti-Gypsyism in the UK, to incorporate a study of the general criminalisation of Gypsies which serves as a justification to deny their human rights. As such, an analysis of the Criminal Justice System's discrimination against Gypsies, and of the myth of the Gypsy criminal, will be undertaken.

I have investigated reasons for this discrimination with regard to concepts of space, territory, and movement in the previous chapter and have analysed the prejudices both of individuals and those contained within official discourse. The prejudices I have analysed have tended to focus around desires to prevent the development of sites. However, anti-Gypsy sentiments are to be found at all times, including when Gypsies are in houses, often rooted in the stereotype of the Gypsy criminal. Anti-Gypsyism is not just about sedentarism or spatial and property relations. There is also an element of racism involved and, as this chapter will show, often anti-Gypsyism is reducible to a simple antagonism towards any "other".

This chapter will detail some typical occasions on which Gypsies are discriminated against or otherwise attacked, from institutionalised racism to informal abuse and vigilantism. Such occasions range from perceptions of Gypsy criminality, to unfair treatment of Gypsies in the Criminal Justice System (whether as victim or accused, or both), to the daily attacks Gypsies suffer (which are often officially ignored or condoned). In determining whether Gypsies are discriminated against it will be suggested that Gypsies suffer a three-pronged attack, at the legislative, institutional and local levels. This serves to reinforce each other's legitimacy, appearance of naturalness, and likelihood of reoccurrence with increased frequency and severity. Furthermore, this three-pronged attack is informed by a further two factors – the ideological and historical background to such discrimination – which increase the legitimacy and naturalness of the practical discrimination and prejudice that Gypsies face. In other words, the ideology of a sedentary, racist and capitalist State, together with the history of the persecution that Gypsies have suffered, serve to ensure that Gypsies continue to be persecuted: discrimination against Gypsies has been going on for so long and is so widespread that it appears

natural. As this chapter will show, the presentation of the image of the criminal Gypsy is central to their persecution. It is the most functional form of propaganda ensuring that Gypsies will remain underfoot. As criminal, their rights are frequently overridden and crimes against them are often justified and officially ignored or condoned. As criminal, they also serve many other useful political, social and psychological functions, that will be detailed in this chapter, such as occupying the ground of the “suitable enemy” (Christie, 1984). Accompanying the analysis of the functions of criminalisation, this chapter will necessarily detail how Gypsies can be effectively presented as being criminogenic. This will be done by analysing four distinct, but related, hypotheses:

- 1) Gypsies are repeatedly stereotyped as being criminal in informal, media, and official discourses;
- 2) They are prejudged to be criminal in the Criminal Justice System, thereby undermining their equality before the law;
- 3) They are, in fact, prevented from living legally by restrictive legislature and over-zealous State institutions, and;
- 4) Crimes against Gypsies are redefined as crime-control or in some other way made justifiable.

The Politics of Difference and the Politics of Indifference

As was alluded to at the end of the last chapter, the location or creation of the “other” is socially, politically and psychologically functional. Primarily the “other” is essential to the concept of self and identity (see Erickson, 1966 and Shuinéar, 1997). It serves to recreate or reinforce identity. Consequently it is very effective in uniting groups, reinforcing their similarities against a common “other”. “Others” are, therefore, particularly useful when a State faces domestic problems. White argues that it is in “times of sociocultural stress” in particular that the location and definition of the “other” is most necessary, as a technique of reaffirming self-identity:

If we do not know what we think “civilisation” is, we can always find an example of what it is not” (White, 1978: 152).

“Sociocultural stress” occurs, for example, in times of economic decline when self-esteem may be poor. When the economic situation becomes strained, the most affected are those who have less. They are also the ones who are scapegoated. Especially in Eastern Europe, Gypsies have both been blamed for the recession and poor social conditions, and been the hardest hit¹. Furthermore, as Hutton (1996) has argued, there is less altruism in times of change, when people are feeling insecure. Insecurity also often generates fear (Reich, 1995), and the most likely targets are “others” or deviants. However, as was mentioned in the previous chapter, if insecurity and instability lead to racism and other forms of abusive scapegoating, Gypsies and other minority groups who are constantly forced into insecure and threatening environments, would be discriminatory in the extreme, whereas, in the main, the opposite is the case. It might be said, then, that during times of change, insecurity or decline, racism is more likely to occur in the search for someone to blame, but it is generally the franchise of the mainstream because the scapegoat has to be sufficiently powerless and distinct for the label to stick. Additionally, an analysis of anti-Gypsy hatred shows that discrimination occurs throughout the social spectrum; it is not simply the premise of the poor or powerless or otherwise insecure. Furthermore, as Powell (1997) has described with regard to the current situation facing Gypsies in Slovakia and the Czech Republic, the lack of official response to racism at the local level and the implementation of racist policies at the level of the State could be seen as a concerted effort to increase State power rather than as a result of the loss of State power post-Communism. Similarly, racist attacks, whether informal, institutional or legislative often happen because the perpetrator or State can get away with it in the racist climate. Rather than emanating from a powerless State, for example, the State has sufficient legitimacy to be able to get away with implementing policies that conflict with an ideology of democracy, pluralism and justice, and contravene various domestic and international legal obligations. So, while an insecure State may have more cause to find a scapegoat, a secure State has more chance of

getting away with it. Such a State can be found in much of the Western world, where State power is totalitarian in character and partially disguised with the ideology of democracy, and where social problems of unemployment, poor accommodation, crime, and so on never abate.

Enemies are also found in order to distract attention from social problems, Government ineptitude and misdemeanours, or in order to find a scapegoat for them: to unite against a common, identifiable and relatively powerless “other” and retain the legitimacy of the Government and general “health of the nation”². When a nation faces severe problems of unemployment, poverty, homelessness, and so on, pacification of the public may not suffice:

Just having [the public] watch the Superbowl and the sitcoms may not be enough. You have to whip them up into fear of enemies. In the 1930s Hitler whipped them into fear of the Jews and Gypsies. (Chomsky, 1991: 6)

Furthermore, it might be said that criminalisation redefines social problems, or replaces, disguises or hides certain problems and threats with other problems and threats. Political, legal and popular discourse bring to the fore what they will find expedient.

As Chomsky has detailed with regard to international relations and Western foreign policy, the search for a new enemy has been rampant since the end of the Cold War, to justify the activities of the police, military and secret services:

It has been intriguing to observe the desperate search for some new enemy as the Russians were visibly fading through the 1980’s: international terrorism, Hispanic narcotraffickers, Islamic fundamentalists, or Third World “instability” and depravity generally. (Chomsky, 1994c: 3)

The nomad is a particularly useful “other” because as Shuinéar says:

¹ As in Elizabethan England when “vagrancy” was seen as the cause rather than as an effect of economic crisis (see Acton, 1998).

² The “other”, then, only needs to be cut out or cured as a “disease” (which the “other” is so often described as), rather than the body politic, as a whole, being addressed.

The non-sedentary group is so tiny that almost everybody in the society, regardless of class, religion, even language and race, can use it as a shared “them” (Shuinéar, 1997: 29).

As the concept of the “other” is central to the comprehension of self and identity, it is subsequently essential to the perception of one’s place in the world, and one’s virtue. According to Said (1978), Wetherell and Potter (1992), and Zizek (1992), for instance, identity is dependent upon the construction of the “other”, the marking of what it is not, the erection of boundaries. Consequently, from a Durkheimian perspective, “others” are found to reinforce mainstream values, norms and boundaries, and reassure people of their virtue and reward them, therefore protecting the status quo. For instance, as Ferrell has said with particular regard to graffiti art:

In addition to displacing attention away from elite rule breaking, wars waged against powerless people give ordinary citizens an opportunity to “do good” by enforcing authorized rules. It empowers them --- or at least it gives them the impression of power. (Ferrell, 1993: 6)

From this perspective, the “other” fulfils Christie’s (1984) criteria for a “good enemy”. The location of the “other” gives tangible form to that which should be avoided and what should be condemned. It also ensures that the ruling elite will retain their power by dint of their necessary role in combating threats. The “other” is then ritualistically, and as a warning to others, punished and expunged. To this extent, pluralism is a utopic myth used for propagandising. The “other” is always deviant. The minority is always an inconvenience to democracy. The rights of the majority are repeatedly threatened by the temerity of minorities, as Thatcher’s “enemy within” speech demonstrates:

The concept of fair play... must not be used to allow the minority to overbear the tolerant majority (cited in *Statewatch*, 1991 vol 1: 7-8).

Consequently, every State tends towards totalitarianism simply because the loudest voice discredits the quieter ones. This inability to unequivocally accept difference is, needless to say, very destructive for all minority or marginalised groups. As de Bono says:

If I had to put my finger on the most harmful aspect of everyday “implicit” logic it would be the habit of dichotomies (either/or) and their use in judgement. In this matter the knife-edge discrimination behaviour of patterning systems is woefully abused so that things which are really quite similar are treated as totally separate (obviously in racism). As I have written before the dichotomy habit arises from the need for: categories, identity and the principle of contradiction. These three things are the essence of table-top logic. (de Bono, 1990: 225-6)

The “other” is a measure by which to judge oneself. As “other” it is always the opposite. Consequently, if the perception of oneself (whether it be an individual, group or Nation State) is of being democratic and orderly, the “other” is automatically savage, totalitarian and threatening. Consequently, the politically powerful will always be able to mobilise definitions and identities to their advantage, and thus find legitimacy for their own agendas. As Chomsky asserts:

The conventional framework of interpretation has served very well the interests of those who hold the reins. (Chomsky, 1994c: 1)

The “other”, therefore, is always presented as being inferior, but sufficiently threatening to be able to mobilise support for State ventures presented as being aimed at the threat:

... assumption about the wholly others maybe an ideological presupposition excusing much violence and injustice. The human instinct when confronted with an inassimilable other is to obliterate it, as the Europeans did their best to obliterate the Native Americans. (Miller, 1994: 7-8)

Additionally, social norms are translated to be moral rules, where difference is decreed to be “disrespect for the rules”, for example. As is stated in a social work monograph: “It is too easy to see cultural differences in minorities as pathological and label them as a social work problem.” (Butler, 1983: 32) And, of course, when legislation, in effect, criminalises ethnic characteristics (for example, the nomadism of Gypsies), this perception is reinforced.

The “other” cannot simply be accepted as different in a non-hierarchical way: the “other” of order is always disorder:

The problem is that the dominant privileged groups, i.e. sedentary people, implicitly define standards according to which all will be measured. These standards are presented as neutral and universally valid when actually they reflect the norms and values of the dominant groups. (Dublin Travellers' Education and Development Group, 1994: 14)

Politically and psychologically Gypsies and Travellers have always caused the state, local communities and people to fear unrest... The otherness of Gypsies and Travellers was perceived as dissent. (Liégeois, 1987: 87)

It runs that if you are different, you are bad if I am good³. If I don't understand you I am not stupid, you are devious. Gypsies are discriminated against primarily because they are perceived to be different and because the only knowledge that many people have of them is from sensationalised scare stories and stereotypes from the media or fiction (see Hancock, 1997). For instance, a common nursery rhyme is still frequently heard today:

My mother said
I never should
Play with the Gypsies
In the wood.

Consequently, people's reactions are predictably bigoted and often violent. As Liégeois maintains: "Most people who come into contact with Gypsies know nothing of where they come from, misjudge their custom, and, in their ignorance, project their own anxieties and desires" (1986: 13). Also, ironically, the more official and unofficial measures are effective in conspiring to make nomadic Gypsies extinct, the more people will only have the sensationalist media images and stories to rely upon when formulating their opinions about Gypsies. They are then more likely to lend support to further genocidal policies. Ignorance, and the resultant fear (because of the assumed unpredictable and disorderly status of the unknown), as a justification for prejudice and discrimination, is even implicitly contained within British National Party (BNP) literature in the form of one of Kipling's poems:

The stranger within my gate,
He may be true or kind,

³ And people do not generally want to believe that they are not good (see Edelman, 1977).

But he does not talk my talk –
I cannot feel his mind.
I see his face and the eyes and the mouth,
But not the soul behind.
...
I cannot tell what powers control -
What reasons sway his mood
(Rudyard Kipling, *The Stranger*, cited BNP, 1997:5)

The nomad is a particularly valuable “other” because of his or her association with the unknown and the covert. As the discussion of “the stranger” in the last chapter highlighted, nomadism is a particularly valuable characteristic of a collective “other”⁴. This was seen with the threat of the Red Scare: more menacing because of its unknown character, and also, therefore, unable to induce potential empathy⁵. Consequently, with the supposed borderless New Europe, it is, perhaps, predictable that the new enemy comes in the form of immigrants and other mobile peoples such as Gypsies and other Travellers. Drug smugglers and terrorists loom as the threat accompanying open borders and freedom of movement, and increasingly immigrants and nomads are associated with this threat. This justifies increased policing, surveillance, and militarisation of borders (see Palafox, 1996)⁶. So, freedoms are curtailed for our own benefit and minority groups are persecuted under the guise of “law and order”. It might also be expected that a transnational minority would be targeted at a time when national identities are dramatically changing⁷. Furthermore, social groups are no longer tightly territorialised and secure in the “global ethnoscape”, in which people are increasingly having or wanting to move (Appadurai, 1991). Groups that are iconographically associated with space and movement, might again become the focus of anxieties that are likely to be felt in - what Bauman has referred to as - “The present explosion of respacing efforts throughout Europe” (Bauman, 1993: 230). The fact that property (and land being property of the most valuable kind) has structured the social order for centuries (via its exaltation in law in order to protect elite interests and power)

⁴ As one Gypsy has said, however: “We move not to be strangers but because it’s our way; it’s the freedom to get up and go” (Traveller Education Team, 1992: 9).

⁵ Gypsies and other Travellers, like UFOs and similar threats, are described as “descending from nowhere”, thus amplifying the threat.

⁶ As Michael Howard, the former Home Secretary (Conservative) said, as a justification for more draconian legislation: “Terrorists do not respect national frontiers” (1.3.97).

⁷ From this perspective, it is not surprising that the more severe forms of anti-Gypsyism are to be found in Eastern European countries.

means that it is no surprise that Gypsies have survived as a scapegoat throughout various historical crises and panics⁸. Those who challenge property/power relations challenge the particular social order and are thus presented as challenging order *per se*, as well as everything presented as being associated with it (democracy, liberty, security). At times when anti-Gypsy sentiment is likely to be strongest is precisely when threats to land or property are most intensely felt. Currently in the UK, land issues, along with the law-and-order motif, have taken political centre-stage:

Land is the underlying factor lurking beneath the surface of many “single issues” – from the countryside being destroyed, to the loss of public space in towns, homelessness, house-owners facing negative equity, the freedom to hold festivals, road building and the slow death of many town centres. (Brass and Koziell, 1997: 51)

As Cohen (1972) and Hall *et. al.* (1978) have said, moral panics relate to the general unease, or dis-ease, of the moment and, in particular, each moral panic relates to the specific concerns and tensions of the moment. So, in *Policing the Crisis*, Hall *et. al.* show how the mugging moral panic of the 1970s embodied the contemporary anxieties of race, youth and crime.

Gypsies are often persecuted because of their association with supposed covert behaviour - because they have been socially excluded and have often chosen not to wholly assimilate because of different moral values, justifiable distrust and an unwillingness to relinquish their culture and way of life:

Romani cultural values do not encourage close social relationships with non-Romani populations, leading to the assumption by those populations that roam are furtive and must be hiding something. (Hancock, 1993: 18)

A member of the Cardiff Gypsy Sites Group believes that the main reason there is prejudice against Gypsies is because they are so separate from the rest of society that they are not there to challenge the stereotypes about them. People are also suspicious of others who actively separate themselves: what are they hiding, what

⁸ Ironically, while the nomad is a useful scapegoat, the nature of the scapegoat is itself generally nomadic in that a particular scapegoat tends to lose currency after a short time – not so with Gypsies.

have they got that they don't want or need us, for example. Gypsies' association with fortune telling also encourages feelings of fear and suspicion. Together with their mobility, these factors create the impression of being devious:

People who have been traditionally uncommunicative are perceived as secretive, and if they are secretive, they cannot be trusted. And if they remain on the move, never mind why, they must have something to hide. (Hancock, 1987: 131)

Gypsies have often been accused of being spies (Hancock, 1990; Lippman, 1995). They were accused of being spies in mediaeval and Nazi Germany, for example, and, more recently in contemporary Britain when the charge was used as a reason not to grant planning permission for a Gypsy site near a Ministry of Defence research centre (Hancock 1995). So, Gypsies' nomadism contributes to the perception of their deviance. Within a culture which views nomadism as a way of life as incomprehensible or, at least, reprehensible, nomads will always be treated with suspicion. This is partly due to the lack of understanding of how a person could choose (*sic*) to be nomadic when it is considered to be uncivilised and involves so many hurdles (placed there by the sedentary community).

When crimes occur in a locality, therefore, Gypsies are often blamed, especially because of the association that crime has with secrecy or mobility:

Individuals who are here today and gone tomorrow, are potentially prime suspects in cases of theft, for example - especially if they already have a reputation as thieves, and if they can be accused with little likelihood of that accusation being challenged. (Hancock, 1987: 129)

Blaming the nomad also avoids the potentially difficult task of blaming someone from your own community "and thus having to critically examine and possibly undermine or threaten the structure of your 'own' community." (Kendall, 1997: 79) Not having faith in the system of government or law results in insecurity and a fear that "the real criminals" or "the real danger" is still out there. The nomad is sufficiently powerless and invisible to be used as a scapegoat, because these qualities ensure that knowledge about them will be found in the mass media and official discourse. As Edelman (1977) has said, one of the characteristics of

⁸ Ironically, while the nomad is a useful scapegoat, the nature of the scapegoat is itself generally nomadic in that a particular scapegoat tends to lose currency after a short time – not so with Gypsies.

“enemies” is the supposition that they operate through covert means; the proof being their invisibility, or rather, the lack of evidence of their supposed crimes. Such a categorisation dehumanises them, and so denies empathy and responsibility. The association with a covert nature also legitimises State appropriation of covert means and covert practices, which translates as extreme, underhand and unaccountable actions. The supposed covert nature of a nomadic existence, therefore, is emphasised in order to legitimately increase the extent and the nature of domestic policing, in the form of increased militarisation, surveillance and social control, as well as increased secrecy. It also serves to increase restrictive legislation and increase public fear of the unpredictable and invisible threat. This also reinforces social control by making people too frightened to go outside. As Liégeois says:

“Danger” and “disorder” loom so large in the stereotype of the nomad, that “preventative” action is considered better than waiting for proof. (Liégeois, 1987: 122)

The nomad, therefore, is a particularly suitable “other” because the State is able to increase public fear and acquiescence for a thorough and unaccountable or secret attack, by recourse to the nomads’ invisibility and unpredictability. Like the Red Scare, the hype suggests that a Gypsy site or a Gypsy “invasion” could spring up anywhere, leaving locals helpless, vulnerable and generally leaving areas “in crisis” (as repeated media stories and political leaflets scare-monger). And as the media hype of the Red Scare served to effectively destroy unions, freedom of the press, and freedom of political thought (Chomsky, 1991), so too have latter-day threats served to further undermine civil liberties.

Enemies, whether internal or external to a Nation State, and even extraterrestrial, are useful in that they legitimise the mobilisation of otherwise questionable actions:

Increasingly, laws and policies are made in the context of the emergency state, i.e. the presumption that there exists direct, immanent, and fatal threats to average citizens that can only be countered by state actions that curtail the civil liberties, freedom and the range of permissible behaviour of citizens. (Gibbons, 1997: 1)

In legitimising increased State intervention, the constructed enemy also legitimises increased spending for the police, the military, and other forms of social control. In this sense, the State operates what Tilly has called “a protection racket”:

Since governments themselves commonly simulate, stimulate, or even fabricate threats of external (and internal) war and since the repressive and extractive activities of governments often constitute the largest current threats to the livelihoods of their own citizens, many governments operate in essentially the same way as racketeers. (Tilly, 1987: 175)

The State often creates enemies to legitimise the use of violence in the name of securing order, thereby strengthening the legitimacy (use-value) and strength of their control (domination):

There is a standard device to whip the domestic population of any country into line in support of policies that they oppose: induce fear of some terrifying enemy, poised to destroy them (Chomsky, 1989: 269).

It can therefore be said that the State wants to use the “problem” (for example, the “Gypsy problem”) whatever it might be, rather than eliminate it: suggestive, perhaps, of the longevity of the “Gypsy problem”. It wants to retain the disempowered enemy, but exaggerate its threat. As Christie has said:

Good enemies are those that never die. Generals want victory, but not necessarily peace. (Christie, 1984: 2)

So, just as Foucault (1991) argues that the prison’s failure to “solve the crime problem” is its manifest function – its primary agenda, in order to justify the need for the Criminal Justice System and other social control agencies - so too the failure to “solve the Gypsy problem” is, if not intentional, functional in its retention of a “good enemy” and the institutions and ideologies supposedly designed to counteract such enemies. The threat, then, is often manufactured, and the use for an enemy generally arises before the enemy is found. As with the Red Scare of the Cold War era and the “Islamic Fundamentalists” or the “enemy within” of the New World Order, Gypsies serve as a pretext rather than a reason for increased social control (see Chomsky, 1994c). As Chomsky has said

concerning international terrorism, as defined by the West: “the rise and decline of the plague had little relation to anything happening in the world” (Chomsky, 1989: 113), except the need to mobilise public support for excessive or increased State power and violence. It might therefore be concluded that the CJPOA was not introduced in response to the increase in the number of so-called New Age Travellers.

The problems that Gypsies face (of discrimination, lack of services, and so on) are reconceptualised as Gypsies being the problem. The creation of the “Gypsy problem” not only vindicates the government, institutions, and individuals that repeatedly discriminate and abuse Gypsies, but blames Gypsies for their predicament, thereby legitimising more discrimination and abuse, redefined “control” and “punishment”. Furthermore, just as had occurred within Nazi Germany, the construction of a race as a “problem” legitimises measures to find a solution to the “problem”. In other words, it can legitimise genocide.

Enemies, therefore, operate as a justification for unaccountable and extensive police, military and secret service practices: the whole population is more intensely policed and its freedoms curtailed through legislative changes (as it was under the CJPOA). The enemy also often serves as a testing-ground for increased paramilitary policing, as has been seen in Northern Ireland and during the Miners’ Strike of the mid-1980s. The way Gypsies are treated can also be seen to be precursory⁹. Enemies also legitimise an increase in the amount and extent of other forms of social control and surveillance, whether formal (such as ID cards) or informal (as that which might be experienced via the media, or in the work-place or school). The existence of enemies, crime, and other forms of threat also serve to increase public anxiety (aided by the sensationalist media) and thereby social control, by encouraging an increasing amount of obedient and self-regulating people who stay “safely indoors”, as the last chapter discussed. Consequently, everyone suffers as a result of the measures designed to counteract the supposed threat of generally powerless and impoverished groups:

⁹ For example see the recent Police Bill, which legalises ubiquitous intrusive surveillance of people who have not necessarily broken the law.

The legitimization of repression associated with the Travellers is part of the construction of a coercive hegemony which is dangerous to sedentary and nomad alike. (McVeigh, 1997: 8)

In a sense we are expected to feel grateful for the increased infringement of our civil liberties, or at least are encouraged to see intervention “as a liberating, empowering experience” (Hume, 1994: 5). The whole population is effectively punished under the guise of protection. Our consent has been sufficiently manufactured or represented, after which we are expected to return to our traditional state of apathy. Indeed, if we do not we too may be criminalised as demonic and threatening deviants. This state of apathy is maintained by petrifying the public - by the creation of vivid images of the enemies that abound and by the vivid and ritualistic punishment of such enemies – so that the individual is less likely to venture into supposedly dangerous public places, and less likely to criticise governmental measures presented as being designed to counteract the threat, or partake in the activities which are targeted. As Chomsky has put it:

The bewildered herd is a problem. We’ve got to prevent their rage and trampling. We’ve got to distract them. They should be watching Superbowl or sitcoms or violent movies. Every once in a while you call on them to chant meaningless slogans like “Support our troops.” You’ve got to keep them pretty scared, because unless they’re properly scared and frightened of all kinds of devils that are going to destroy them from the outside or inside or somewhere, they may start to think, which is very dangerous, because they’re not competent to think. Therefore it’s important to distract them and marginalize them. (Chomsky, 1991: 4)

Furthermore, as Christie (1993) has said, the threat to civil liberties comes from the crime-control industries and not, as is presented, from the enemies they target. Ideologically speaking too, the cultural climate is increasingly sensitive to such calls to arms, and people are increasingly suffering the effects of the techno-bureaucratisation, politico-banalisation and militarisation of everyday life, as well as the intensification of the activities of the crime-control industries. As Cohen warns:

There is never the fear of too much control, but of too much chaos. If we feel we are losing control, we must try to take control. (Cohen, 1993: 235)

⁹ For example see the recent Police Bill, which legalises ubiquitous intrusive surveillance of people who have not necessarily broken the law.

The law and the practices of the Criminal Justice System are important in their ideological, as well as their practical, effects. The law, in effect, legitimises State practices and informs the public of supposed mainstream norms and values. It is also important to note that the crime-control/maintenance industry is very lucrative, and has significantly boosted the British economy (Taylor, 1997). Therefore, existence of “enemies” is useful financially, in terms of selling security and protection, and in terms of employment for members of the Criminal Justice System, Government¹⁰, security systems manufacturers, social workers, and, of course, criminologists.

Just as civil liberties are being withdrawn upon the premise that they are needing protection, so too are welfare benefits being withdrawn upon the premise that they are being protected for “legitimate” claimants. In effect, in protecting the Welfare State those most in need are excluded and blamed. And, as Oakley and Williams (1994) say, the dismantling of the Welfare State raises elemental questions about the concept of citizenship. Furthermore, the taxes that are illegitimately spent on the “undeserving poor”, are taken away and put towards policing and crime-control measures: the money-saving argument that was put forward in support of repealing the Caravan Sites Act 1968 Act, for instance, is deceptive and flawed. The stereotype of the Gypsy criminal, therefore, is socially, politically and economically functional, in much the same way as is the supposed recurrent failure of the Criminal Justice System. The threat also provides an opportunity for the ruling elite to justifiably attack and reproach the activities of the powerless, being those who tend to occupy the status of “suitable enemy” (Christie, 1984). As Duster (1970) has analysed with regard to the criminalisation of drugs, legislature and morality operate in a symbiotic relationship, whereby the activities of the powerless are deemed morally repugnant and legislated against. This moral repugnance is, of course, absent when those concerned are not poor or powerless, suggesting that the repugnance comes from a desire to exert control and reinforce power relations. In other words, the law is a political tool of social control, which defines as its object groups of people (criminals) rather than types of behaviour (crime). For example, marijuana use was decriminalised once the middle classes of

¹⁰ Law-and-order being top of the political agenda.

America became involved, whereas previously the perceived users were Mexican labourers and other relatively powerless groups. A change in the perception of the act thus occurred, as the title of Himmelstein's paper (1983) says: *From Killer Weed to Drop-Out Drug*. Alternatively, the relatively carte blanche approach to the development of holiday caravan parks as compared to Gypsy or other Traveller caravan sites, also shows how the same act is differently perceived depending upon the actor.

Box (1987) also argues that "the crime problem" discourse is another way in which the social control of the poor is maintained: the war against crime is also the war against those groups perceived to be surplus to the productive process and are likely to be seen as more threatening to the social order, having less to lose and more to complain about. Spitzer (1975) has referred to these groups as "problem populations": being either "social junk" and/or "social dynamite" in that they are the least necessary to placate, but the most likely to revolt. Concurring, Edelman says: "Low status in itself seems to encourage the perception of threat to society" (Edelman, 1977: 33). Box and Hale (1984) have argued that the economic problems facing the UK over the past few years have resulted in more groups being more thoroughly criminalised, because the State faces a "legitimacy crisis", coercion being a truly Machiavellian response to such a crisis. In effect, the victim is blamed, with Gypsies and other underprivileged groups suffering the worst conditions in economic slumps *and* being blamed for their own poverty as well as for the poverty of others (the economic slump itself).

Furthermore, as Shuinéar (1997) has said with regard to Gypsies, as sites tend to be in poorer areas, the Government and police can get support from those groups who ordinarily might be less inclined to lend their support, if they "get tough" with Gypsies. The Government, in persecuting Gypsies, not only find themselves a scapegoat for an array of social and economic problems (ensuring that the social and economic problems will not be suitably addressed), but also can solicit support from those groups which have also been poorly served by Government. This is a classic example of the divide and rule theory, whereby the victim is blamed in order to split the poor into the deserving and the undeserving:

By setting people against each other, by permitting insecurity, fear, and even hatred to fester, the System's control can be strengthened. Seeing each other as the enemy, individuals and groups use up their energy in fighting each other, while each turns to the System for help and advantage. (Reich, 1995: 111)

Consequently, class interests are served because the divide between the rich and the poor can increase with less likelihood that the poor will revolt, persuaded that the blame for their poverty lies with Gypsies and other scapegoats and that the Government is serving them by "acting tough against crime". Blaming the victim also justifies a politically uninvolved life, which would not arise if the Government was blamed:

... the official explanations are bound to be dominant, for these political beliefs permit people to live with their political worlds and with themselves with a minimum of strain. The alternative means a politicized life of active protest and resistance, and few want it. There is a related reason people normally accept the conventional explanation in spite of periodic doubts. To accept a belief about serious public issues, whether or not it is a myth, is to define one's own identity. The overwhelming majority want to believe that their own roles are meaningful contributions to a greater good, and so have good reason to accept the reassuring perspective on public affairs, rather than one that upsets both their belief in institutions they have supported and their belief in themselves. (Edelman, 1977: 150-151)

Blaming the victim also disguises (real) social problems which might be too difficult, distressing, or costly to address.

As Taylor has said, the "war against crime" is a "smokescreen for the general retrenchment of a bourgeois, imperial and racist state" (Taylor, 1997: 56), serving to hide white-collar and State crimes and justify inequities and power relations. The protection of social order is protection of a specific social order and of the particular distribution of power and wealth: the nation is united insofar as power relations are reinforced. This is possible to see by looking at Nation States when they announce war on another State or on crime: issues become focussed and lesser differences between citizens are ignored. The likely enemy is going to be symbolically pertinent, powerless and nomadic. As Cohen has said, when physical or structural boundaries are blurred or transgressed, the depiction of these

boundaries as being under threat “is a ready means of mobilising collectivity” (Cohen, 1985: 109).

An increased number of people on the move, externally and internally with the explosion of refugees and internally displaced people (BBC, 1996 [*Legacy of the Lost Peoples*]), intensifies apprehension felt about other groups on the move, Gypsies included. Furthermore, nomadism is intricately involved with the rhetoric of invasion, where, in the face of nomadic groups, the easiest option is to “close the door” and withdraw from any humanitarian obligations. This can be seen occurring with Gypsies and other Travellers as well as with asylum seekers, especially Gypsy asylum seekers, the most notable case of recent months being when Gypsy asylum seekers from the Czech Republic and Slovakia were entering Dover port, which will be discussed later. This accumulates to feature in the general increasing divide between the rich and the poor, between those in control and the dispossessed. As Griffiths has said:

The increased scale of refugee flows which has occurred since the end of bipolarity is widely believed to pose a serious security threat to the “new world order”. The EU response has been one of increased exclusion and intensified policing within national boundaries... destabilising presence of the other as endangering “societal security” or the national imagined identity. (Griffiths, 1997)

The poor are then criminalised in order to lend some justification for the iniquitous situation and disregard of humanitarian obligations. As Scraton and Chadwick (1991), Hall *et. al.* (1978) and Gilroy (1987) have described, criminalisation of a group insures that any grievances they may air will be seen as illegitimate. Asylum seekers become “bogus refugees” and Gypsies become “illegal campers” and, with other internally displaced people, have become the subject of Zero Tolerance policies. These groups are the most likely to be targeted in such a way because they are less than likely to be able to defend themselves against such attacks. This is especially true of Gypsies: “the fact that [they] have no military, political, economic and particularly territorial strength, and no nation state to speak for them, ensures that they are an ideal target for scapegoatism.” (Hancock, 1995: 4) Arendt’s comments on anti-Semitism, it is argued, are more apt with regard to modern anti-Gypsyism when she says the hatred is due to Jews being a “non-

national element in a world of growing or existing nations” (Arendt, 1962: 22. Also see Bauman, 1989). Consequently, wherever Gypsies go they are outsiders and, as Kenedi (1986) has observed, a State needs someone to blame for all its ills and the least able to defend themselves against blame will be chosen. Especially in Eastern Europe, Gypsies are the scapegoats for their economic and political problems (see Supple, 1993 and Barany, 1995).

It is necessary to say that it is not simply the nomadic element that is at play in anti-Gypsyism. Some Gypsies in houses in the UK are also routinely discriminated against¹¹. Many are subjected to informal abuse and attack and intensive policing (see Williams, 1994; Dawson, 1996b, and; Kenrick, 1996). Furthermore, most Gypsies in the UK are prevented from leading a nomadic life because of the sedentarist bias of the planning system and the Criminal Justice System, and because of the restrictions placed upon residents of Local Authority sites (see Chapter One). It is generally when Gypsies “settle” in an area that hostility arises¹²:

Just as has been the case with Jews and gypsies down the centuries, the New Age travellers are hated not because they are always on the move but because they might stay and “contaminate” through their ambivalence and bring all manner of horrors upon the “locals”. (Hetherington, 1992: 91)

However, it is necessary to say that nomadic (or, rather, caravan-dwelling) Gypsies potentially face more discrimination because, in certain aspects, they are more vulnerable than their sedentary counterparts. Caravan-dwelling Gypsies are more physically vulnerable due to the increased visibility, easy access¹³, and mythology surrounding Gypsy sites (that they are dirty and the locus of criminal activity, for instance). Nomadic Gypsies also face discrimination because of the bureaucratised nature of the employment, education, social services and welfare systems. Furthermore, nomadic Gypsies are able to be discriminated against in legislation

¹¹ Most Gypsies in Europe are sedentary but the extent of discrimination and violent attacks is often extreme, especially in Eastern European countries (Barany, 1995).

¹² As Shuinéar puts it: “Why do settled people everywhere block the exact same thing that they demand: that is, that nomads should settle down and become part of the community?” (Shuinéar, 1997: 26)

¹³ On sites, Gypsies are more vulnerable to vigilante attack and police harassment. For example, one interviewee (a young local gorgio man, 1996), said that locals going to Gypsy sites for a fight was a frequent occurrence in his area.

because it can be disguised and legitimised as targeting an activity (i.e. nomadism or caravan-dwelling) rather than an ethnic minority.

Hancock (1995) explores the historical reasons for anti-Gypsyism, noting the association of the first Gypsies in Europe with Asiatic and Islamic invaders, and the darkness of their skin with sin as articulated within mediaeval Christianity. So, initially, discrimination against Gypsies could be described as racism. However, in the UK today, Gypsies are generally not visibly different from the sedentary population. Furthermore, it can be generalised that so-called New Age Travellers are regarded less favourably than Gypsies, mainly because of sensationalist news stories, implying that nomadism is perceived as more disturbing than any ethnic difference. However, the reaction towards the Gypsy asylum seekers from the Czech Republic and Slovakia and Poland, as will be analysed later in this chapter, suggest that there is more involved in anti-Gypsyism than hostility towards potential or actual nomads. Referring to Rao's book (1987), Kenrick says:

... wherever you are you find that there is discrimination against industrial nomads. People are suspicious of them, worried about them. So, it is a common phenomenon, and it applies to non-Gypsy nomads... and they all seem to suffer similar discrimination, even though ethnically they look exactly like everybody else... I think there's a small racial element, not so much in England anymore, it's the fear of difference (Interview with Kenrick, 1996).

It is argued that racism and sedentarism are part of the same dialectic of discrimination against the "other": there are not, "distinctive systems of oppression" but interlocking systems, all part of "one overarching structure of domination" (Collins, 1990: 222-223). Whatever quality the minority or deviant exhibits (whatever difference can be found, imposed or constructed) is used to justify discriminatory treatment: rationalisations are generally found in order to justify the violence of the powerful (a social control tool): "Slavery came first; racism was its rationalisation." (Young, 1994c: 7) Or as Chomsky has said:

... repression and domination breed racist contempt as a mechanism of self-defense; how can the oppressor justify to himself what he does, if the victims are human beings? Racist contempt in turn breeds ignorance, and compels the resort to violence (Chomsky, 1983: 46).

Violence is not necessarily imposed as a result of a perceived threat. One of the most effective means of labelling and denigrating the “other” is by way of criminalisation. So, as Chadwick and Scraton (1991) say, any criminological analysis must be based upon analyses of racism, sexism, classism, and economic production – and, of course, sedentarism.

Looking at the recent works of Black feminists, such as Collins (1990) and Lorde (1984), it might be useful *not* to decipher whether anti-Gypsyism is more aligned to racism, sedentarism, or even classism. Deciphering whether it is the nomadic element or the ethnic status of Gypsies that should be central to any analysis of anti-Gypsyism, is a distraction to the main task of demystifying the processes of marginalisation by the segmentalisation and categorisation of the “other”. It also leaves the responsibility of anti-Gypsyism with Gypsies, rather than those who attack and discriminate against Gypsies and label them as deviant. This approach problematises Gypsies and retains the debate within the confines set by the ruling elite. Most importantly this approach does not deconstruct the hierarchical modes of thought and either/or binarisms, thereby contributing to the maintenance of the privilege of man over women, black over white, sedentarist over nomad.

To define groups as deviant lends sufficient justification for the withdrawal of so-called benefits to these groups. These benefits are what other members of society might refer to as rights or civil liberties. Citizenship status, therefore, is predicated upon the extent to which mainstream values and practices are adhered to (or the extent to which they can be presented as being subverted or transgressed). This often translates to mean that the poor and dispossessed unable to access the same opportunities are further penalised. The poor, in effect, are punished for their poverty. In a so-called capitalist democracy, the poor have only themselves to blame: their economic poverty being symptomatic of their moral and emotional poverty, rather than of their lack of privilege¹⁴. As Kohn (1995) has said, these fascist tendencies are mystified as natural and impartial Social Darwinism. The category of the “undeserving poor” is politically useful in other ways. For

example, as was recently mentioned, it increases public anxiety and thereby increases social control by encouraging people to stay in doors and acquiesce in the intensification of penal law, policing techniques and severity of punishment.

The creation of the “risk society” has been addressed by many social scientists (for instance: Beck, 1992; Ericson, 1994; O’Malley, 1992, and; McMahon, 1996). Risks can be said to be personified into Christie’s “suitable enemies”. “Suitable enemies” tend to be the poor, in order to legitimise power relations, or rather the subordination of the “undeserving poor”. Furthermore, as McMahon has articulated: “Within the criminal justice sphere, the advancement of the risk society, and of privatization, go hand-in-hand.” (McMahon, 1996: 14) Whereas McMahon is referring to the profits companies make on the creation of public fear, this hypothesis also gives weight to the opinion that public Gypsy site provision came to an end on the back of the creation of the “New Age Traveller” moral panic and upon the stereotype of the Gypsy criminal.

Even when Gypsies become economically and professionally successful, in accordance with mainstream ideology, suspicion of them still persists. For example, before he became a Councillor, Charlie Smith (the author of the poem below) had to go out of the room in council meetings when discussing “sensitive” issues regarding Gypsies (Smith, Friends, Families and Travellers Support Group (FFT) General Meeting 24.2.96). He said that most Local Authorities just “want a nodding Gypsy” (*ibid.*):

With contempt they treat the Gypsy, thinking he’s a fool,
Gypsies ask to come to their meetings, and letters they write,
Twenty-two gauja’s don’t think they have that right.
We don’t need Gypsies telling us where they want to be.
(Smith, cited in Williams, 1994)

Gypsies are treated as objects or children. Specialists and the social control agencies usurp the opportunities and legitimacy for Gypsies to control their own lives. This can be seen to be increasingly taking place in society as a whole, being

¹⁴ This belief is not often criticised, even by many of the poor who want to believe that if they try hard enough they can “make it”. They do not want to believe that external circumstances determine their status and that, therefore, they are likely to remain poor. In other words, hope would be lost.

part of the Enlightenment move towards specialisation, segmentalisation and institutionalisation. However, it is most evident in “problem populations” - those groups who are relatively powerless and used as scapegoats or who ideologically challenge the social order and the ruling elite. The poor, therefore, are often stigmatised and disempowered by losing control of their lives to the State. So, while the poor are generally condemned for being “scroungers” and for being instrumental in their fate and therefore “undeserving”, when they take action they are criticised and often criminalised (as nomads or squatters, for example) or seen as suspicious (as in the case of relatively wealthy, Gypsies who are deemed to have become successful through illegitimate means)¹⁵. Chomsky has analysed this phenomenon on the international front by showing the West’s antagonistic reaction to an independent and successful democracy, or “the threat of a good example” (1994c):

Whatever its political coloration, an independent course is unacceptable, successes that might provide a model to others still more so. The miscreant is then termed a “rotten apple” that is spoiling the barrel, a “virus” that must be exterminated. It is a “threat” to stability. (Chomsky, cited in *Open Eye* 2, 1993: 6)

In other words, as Chomsky later said: “The basic threat is loss of control.” (Chomsky, 1993: 5) As with the former colonies in the colonial era, the persecution of Gypsies is less of a crime than their attempt at independence. So, when every avenue to overcome poverty “legitimately” is blocked, when (through discriminatory practices and prejudice) employment, accommodation, health, education, and so on are denied, entrepreneurial methods are criminalised¹⁶. The poverty trap ensures that all those who “escape” can be brought back in through the Criminal Justice System. Furthermore, as will be discussed later, discriminatory practices feed into one another and justify one another, to the extent that criminalisation of the poor appears natural and uncontroversial. In other words, lack of satisfactory accommodation, employment, welfare and social services, civil liberties, targeting by the Criminal Justice System, and so on

¹⁵ To be discussed later in this chapter.

¹⁶ For example, New Travellers who have “got on their bikes” in an attempt to secure a pleasant, sustainable and communitarian way of life have been demonised by the Government-media duopoly, as have other participants in the “DIY culture”.

paradoxically validate each other. Gypsies are seen as deserving of their poverty and to blame for their often poor circumstances, which, in turn, encourages further erosion of their civil liberties, such as service provision or protection against discrimination and harassment.

This vicious circle is aided and legitimised through the processes of the law and, as Chambliss concluded:

Those persons are arrested, tried and sentenced who can offer the fewest rewards for non-enforcement of the laws and who can be processed without creating undue strain of the organisations which comprise the legal system. (Chambliss, 1969: 84-5)

It might be assumed, therefore, that Gypsies are targeted by the Criminal Justice System because they are presumed to be the least politically powerful and therefore less able to defend themselves¹⁷. For example, many of the arguments used against Gypsy sites can be challenged or more suitably directed at someone else (for instance, big business' threat to the countryside). Furthermore, as Hillyard (1995) has said, it is political expediency rather than the rule of law that dictates policing and other work in the Criminal Justice System. Eventually, the swell in the number of Gypsies and other targeted groups, or the increased attention of the various bodies of the Criminal Justice System, encourages legislative attack and further media hype, thereby legitimising and reproducing more targeting by the Criminal Justice System. And this process continues perpetually. Coinciding with this is the creation of public fear. It would, therefore, be illegitimate for the Criminal Justice System, Government and media *not* to respond to this public fear and, paradoxically, reinforce it. The self-fulfilling prophecy of crime, once labelled, is clearly evident. As Box (1987) has shown with regard to the perceived link between unemployment and crime, Judges respond to a perceived rise in crime or threat, rather than any actual evidence of it. So, in times of recession a Judge may give harsher sentences because of the perceived relationship between unemployment and crime. As Gypsies are also perceived to be associated with crime, it might be assumed from this hypothesis that a Judge is likely to sentence

¹⁷ Although, having survived persecution for centuries, it could be argued that Gypsies are a very powerful group.

Gypsies more severely. Also, other members of the Criminal Justice System, the Government and the media respond likewise and, in so doing, legitimise each others' actions and encourage more of the same, each responding to their peers actions as well as their own stereotypical beliefs. The history of this process naturalises and legitimises more control and attack. As Hall *et. al.* (1978), Box (1987) and Keith (1993) describe, discriminatory practices within the Criminal Justice System feed off each other until they eventually become naturalised. The fact that Gypsies feature heavily within the Criminal Justice System is seen as indicative of their criminality rather than of the stereotypes that lead to them becoming targeted and discriminated against. The more involvement the targets (in this case, Gypsies) have with the Criminal Justice System the more legitimate the initial claims of deviance. In other words, the more the agencies of the Criminal Justice System and the Government legislation target Gypsies, the more legitimacy there is to increase the targeting and harassment and the more "understandable" it becomes when Gypsies suffer vigilante attacks and the State passes genocidal legislature.

In essence, moral panics and fears are manufactured and then responded to. Paradoxically, the response gives credence to the existence of the initial fear. Alternatively, existing fears may be transposed onto an easy and identifiable target.

To transpose the fears and concerns of society onto a relatively powerless and distinct "other" has been theorised by Liégeois (1994) and Shuinéar (1997):

The image of the stranger and of the strange, updated every few years, exposes the fears and worries of those who create it, by giving shape to the group's idea of its "opposite"; this idea is then - like a film - projected away from the group, so they can see it clearly and distance themselves from it. Just as a tent is held up by the guy ropes holding it down, the group needs a counterbalance to stand upright. The worries projected onto this image are the worries on the mind of the group at any given time. Therefore, whenever we look at how Gypsies and Travellers are treated, we are at the same time looking at the social history, the politics and the psychology of those who are reacting to them. (Liégeois, 1994: 199)

Gaujos need Gypsies to personify their own faults and fears, thus lifting away the burden of them. (Shuinéar, 1997: 27)

Faults and fears are transposed onto Gypsies in order to be able to blame someone else, cope with the enormity of the problem and, often, attack the problem by attacking Gypsies. This would offer an explanation for the common, racist remarks about Gypsies being dirty or immoral, while, in general, their cleaning habits and morals are stricter than the non-Gypsy community. Western societies' preoccupation with dirt and cleanliness, and a narrow set of Christian ethics, means that issues of dirt and deviance are often transposed onto easy targets. The preoccupation stems from the bourgeois concern with "the unwashed masses" – now a preoccupation with ethnic and social minorities (see: Corbin, 1986; Stallybrass and White, 1986, and; Sibley, 1995). Charlie Smith, Chairman of the Gypsy Council for Education, Welfare and Civil Rights (GCECWCR), says that the anti-Gypsy argument "always goes back to rubbish" (*Esther*, BBC2 3.11.95). Many interviewees have said that their sites turned into local dumping grounds because the sedentary population would leave their rubbish there, so that the Gypsies would get the blame and might also be encouraged to abandon their sites. Also, Gypsies are forced into marginal spaces which no-one else wants – such as in currently dangerous or unhygienic places (including former rubbish dumps as was discussed in Chapter One). Many Gypsies who were interviewed during the course of the fieldwork had spent a great deal of time and money improving their sites. However, many of these were criticised for making the site "more urban in character" or "alien to its natural surroundings" (Local Authority documentation, 1994-7: see Chapter Four). Furthermore, the traditional trade of scrap dealing is often just viewed as creating a mess, rather than as clearing scrap and creating a viable means of economic support.

As Hobson (1965) has said, dirt is often a convenient hook to hang certain projections on, especially if the target is relatively unknown. Fascist ideologies often utilise the concept of a healthy body to metaphorically represent a healthy State, with the dispossessed or different often referred to in terms of disease or dirt imagery (see Elias and Scotson, 1994 and Duncan *et. al.*, 1995), thus implying the need to be cut or otherwise obliterated. Dirt and disease imagery is therefore often employed to justify violent and full-scale attack, especially as the imagery implies a threat that is undiscerning, boundless and boundary-less. It also implies moral pollution and the threat of contagion. Also, the use of dirt imagery often

legitimises hypocritical disparity between the imposition of dominant ways of behaviour and thought and the withdrawal of the concomitant rights and freedoms. For example, Arondekar (1996) has described how the myths about the dirtiness and primitivism of the natives of Western colonies, supported the disparity between the imposition of Western ideologies and dictates and the withdrawal of Western liberties. When moral or social boundaries are unclear, threatened or transgressed, dirt and disease imagery come to the fore to emphasise the dangerousness of the threat, the reprehensible characters of those who would endanger others and, the naturalness of the dominant social order. Dirt and disease imagery is also related to amorality and deviance or criminality, as was previously described when analysing Douglas' work (1966). As Sibley has said:

Exclusionary discourse draws particularly on colour, disease, animals, sexuality and nature, but they all come back to the idea of dirt as a signifier of imperfection and inferiority, the reference point being the white, often male, physically and mentally able person. (Sibley, 1995: 14)

In other words, the minority, the marginal, or the powerless are often described in terms of dirt imagery, as well as imagery borrowed from "others", to justify further subordination and/or attack.

Paradoxically, by blaming the victim, the perpetrator can be absolved from responsibility for his or her behaviour and beliefs, leading to further prejudice and discrimination. Increasingly in the modern era, moral outrage against the "other" coexists with moral indifference to their plight (see Bauman, 1989 and Christie, 1993). It is argued that this is a result of at least four interdependent factors: the bureaucratisation and routinisation of everyday life; the encroachment of the State into private spaces; the opinion-forming, somnambulistic and alienating character of the mass media; the criminalisation and dehumanisation of minority groups. As Bauman explains in *Modernity and the Holocaust* (1989), by increasing the distance between "us" and "them", physically (as in the case of the type and location of Gypsy sites) and psychologically (the Gypsy as "other"), the mainstream is absolved of responsibility for the crimes committed against Gypsies:

Among societal achievements in the sphere of the management of morality one needs to name: social production of distance, which either annuls or weakens the pressure of moral responsibility; substitution of technical for moral responsibility, which effectively conceals the moral significance of the action; and the technology of segregation and separation, which promotes indifference to the plight of the Other which otherwise would be subject to moral evaluation and morally motivated response... On many occasions moral behaviour means taking a stance dubbed and decreed anti-social or subversive by the powers that be *and* by public opinion (Bauman, 1989:199).

Distancing also ensures that Gypsies will continue to suffer similar crimes, as it ensured, as Bauman theorises, that the Nazi Holocaust would occur and will so again. The objectification of Gypsies as a “crime control problem”, and their subsequent dehumanisation, justifies and encourages violence against Gypsies:

If you once let yourself believe he's human, then you'd have to admit you've done things to him you can't admit you've done to a human. (Smith, 1950: 165)

As Chapter Three showed with regard to professional discourse, the language used assists in the dehumanisation of Gypsies:

When the qualities of being human are deprived from the other, then the usual principles of morality do not apply. The enemy is described as animals, monsters, gooks, sub-humans. A whole language excludes them from your shared moral universe. (Cohen, 1993: 503)

Cohen (1993) says that the denial of the implications or the responsibility of crimes occurs through dehumanisation, as well as through authorisation (State sanction of anti-Gypsyism via legislature, practice and ideology) and routinisation (Gypsies have always been persecuted). As Bauman suggests above, such a process of denying responsibility for crimes against Gypsies and ensuring that more will continue, is more effective when institutionalised, bureaucratised and enshrined in law (as under the CJPOA), and therefore further neutralised and justified. Despite the perceived political use-value of dehumanising the “other”, as Reich (1995) has said, the rest of the population become victims of dehumanisation when they don't recognise others' suffering.

Ironically, whenever violent attacks on Gypsies are reported, the general consensus seems to be that they somehow deserved it, akin to the treatment of rape victims, especially of earlier years. As one audience member on *Kilroy* said about the Gypsy asylum seekers in Dover: “If they’re in fear of their lives then they must have done something wrong” (BBC, 1997e). While, conversely, when people fear Gypsies the blame lies, as always, with the Gypsies.

The perception of the Gypsy as criminal legitimises and encourages human rights abuses and attacks. This can be most evidently seen in the example of the Nuremberg Trials when crimes against Gypsies were not prosecuted because Gypsies were considered to be “asocial and criminal” (Sway, 1988 and Earle *et. al.*, 1994). Also, during the Holocaust Gypsies were distinguished from other victims, as Trumpener’s account makes clear:

Whatever the real state of knowledge or ignorance among the German civilian population during the Second World War about the transport and the murder of millions of German and non-German Jews in Europe, the initial internment of the Roma was kept secret from no one. Concentration camps were built on the outskirts of the capital city, and the internment of the Sinti and Roma was not only covered by a number of Berlin newspapers, but was even joked about in their columns. (Trumpener, 1990: 17, cited in Hancock, 1993: 6-7)

The acceptability of anti-Gypsy hatred, victimisation and violence is still plainly evident today. Hancock quotes the rhetorical question of a French physician following the war, to highlight the indifference felt towards crimes against Gypsies:

... everyone despises Gypsies, so why exercise restraint? Who will avenge them? Who will bear witness? (Bernadec, 1979: 34, cited in Hancock, 1993: 7)

Many people do not see violent attacks, for instance, against Gypsies as criminal acts but, rather, as part of a solution to a social problem. In a small town in East Sussex in 1997, for example, when Gypsies’ caravans were fire-bombed, all locals that were spoken to believed the Gypsies deserved it because they were untidy and did not look after their dogs. The following example of a reported incident shows

that many so-called law-abiding citizens have no shame in publicly declaring their intentions to fire-bomb caravans or violently attack Gypsies:

People living on the Barnet Wood estate, Leatherhead, have threatened to “petrol-bomb the gypsies” who have moved on to land behind their homes... “The behaviour of the gypsies has disgusted estate people... we don’t want them in our community. The fuse is there - it’s going to explode”. (Leatherhead Advertiser, 4.8.88)

On a number of occasions Gypsies and other Travellers have lost everything because their homes and vehicles have been fire-bombed (fieldwork; also see Carey, 1995c). Oftentimes, violence against Gypsies is “neutralised” by saying that Gypsies are used to violence, so it does not affect them as much as it would any other person (personal correspondence with a local critic of an existing Gypsy site, 1996):

You see, they are not in the least like ourselves. They don’t need and can’t use the luxuries that you and I must have. They have the animal capacity to endure the pain of, shall we say, domestication. The very words the white master had said in his times about the black race as a whole. Now we say them about the poor. (Ikem, 1994: 37)

In *Techniques of Neutralization: A Theory of Delinquency* (1957), Matza and Sykes argue that deviants use some mainstream values or norms to justify breaking others. For instance, violent crimes against Gypsies are often justified by recourse to their deviance and the need to punish and thwart it:

If you don’t like the rules, you get out, and they don’t obey the rules, so they can get out. It’s as simple as that. (A local interviewed by the BBC for *Southern Eye* 21.12.95)

As was discussed in Chapter Four, often the justification for verbal and physical abuse, is that they have themselves broken the law:

I don’t accept the fact that they can just walk in on an area and deposit themselves and say that we’re part of your community. Something’s going to go bang. I think the community will reach the end of their tether and if nothing is done legally, one wonders what will happen illegally, whether the residents will take their own actions. (Another local, *ibid.*)

Bagelot says the typical example is “I’m not racist, but they bring it on themselves with their dirty sites” (Interview, 1996). As Chomsky says, the scenario tends to go as follows:

When you have your boot on someone’s neck, you have to justify it... The standard reaction is to say: “It’s their depravity. That’s why I’m doing it. Maybe I’m even doing them good.” If it’s their depravity, there’s got to be something about them that makes them different from me. What’s different about them will be whatever you can find... Of course you can lie about it, so it’s easier to find. (Chomsky, 1994c: 64-5)

As Adorno *et. al.* (1950) have described in *The Authoritarian Personality*, scapegoating is a form of excuse-making, used to justify behaviour on the basis of the existence of the behaviour or attitudes of another. In order to tolerate feelings of hate, violence, or envy it can be explained away by saying that another’s amorality or disrespect provoked you (Tomov, 1995). As Lyman and Scott have said, justifications and excuses “are socially approved vocabularies that neutralize an act or its consequences when one or both are called into question” (Lyman and Scott, 1970: 120). They give the example of declaring a person an enemy of the State to justify taking his or her life. Similarly, as Matza and Sykes (1957) have shown how other “techniques of neutralisation” are used to justify what may otherwise be construed as deviant activities (these are equally applicable to States, governments and institutions as they are to individuals). These techniques include “denial of responsibility”, “denial of victim”, “denial of injury”, “condemnation of condemners” and “appeal to loyalties”.

State implementation of genocidal policies against Gypsies is legitimised in similar ways. The CJPOA was introduced to enable Gypsies to be responsible for their own provision of accommodation (“denial of responsibility”). The argument was that Gypsies had been privileged within the planning system for too long at the taxpayers expense. Furthermore, they are deviant, if not criminogenic: they victimise the “host” society, not vice versa (“denial of victims”). It is argued that Gypsies now receive equal treatment before the law and are protected by domestic and foreign legal obligations (“denial of injury”). When Government policy or official practices have been criticised, the retort is that the critics should try living next to a Gypsy site, or that the critics have an ulterior motive, for instance

(“condemnation of condemners”). For example, Marlock and Dowling (1994) have said that Gypsy civil rights groups operate a “campaign of intimidation”. Finally, the repeated appeal is that the majority cannot be held to ransom by a vociferous minority, and the responsibility of guardians is to protect the interests of the majority (“appeal to loyalties”). As Lyman and Scott (1970) go on to say, however, accounts are often unnecessary because of the status of the actor or because of strategies of meta-accounts, which include mystification, referral and identity switching. Such strategies are evidently used by professionals, as has been recently discussed. A reference to “expert” knowledge, convoluted language, secrecy for security’s sake, are some of the many techniques used to deter or confuse the critic, and thereby escape responsibility and condemnation.

Crimes against Gypsies are hidden, then, by the denial of the Gypsy as victim. As Smith has said:

Society instinctively prefers to draw a sharp line between offenders and victims, isolating criminals morally as well as legally. (Smith, 1986: 98)

The Gypsy, therefore, cannot be both criminal *and* victim. Denial of the Gypsy as victim also means that responsibility and accountability are denied. This type of neutralisation technique was evident during the Nuremburg Trials, as was described earlier, where the crimes against Gypsies were denied because they were due to their “asocial and criminal” behaviour and not their ethnic status. In so far as Matza and Sykes (1957) attempted to show the “normality” of crime, crimes against Gypsies certainly are normal in the sense that they are widely practised, institutionalised and wholly neutralised. The stereotype of the dirty criminal rationalises discriminatory practices (poor standards of sites, for example) and vice versa, creating a vicious circle and a ripe climate for more abuse of Gypsies. As the above quote by Chomsky suggests, Gypsies’ “otherness” and criminality can be seen to be constructed so as to justify, or absolve guilt and deny responsibility for, the widespread crimes against Gypsies. From this perspective, the CJPOA serves to disguise or explain the rising racism in the UK as well as reinforce a politically useful scapegoat. Many argue that Gypsies have sacrificed a right to have their civil liberties protected because they have disregarded the law, by trespassing for

instance. In other words, if the State legislates against a group, their human rights can be justifiably ignored.

There has been an increase in racist attacks in the UK of 884 since the 1995/96 figures of 12 222 (Home Office 335/97). The UK has one of the highest rates of racially motivated crimes in Western Europe (Human Rights Watch Report, 1997, cited *AFA*, 1997). The Police Research Group Report on *Policing Racial Incidents* found that the perpetrators of racial violence were both male and female and of all ages. Importantly, they found that:

The views held by all kinds of perpetrators towards ethnic minorities are shared by the wider communities to which they belong. Perpetrators see this as legitimising their actions. In turn, the wider community not only spawns such perpetrators, but also fails to condemn them and actively reinforces their behaviour. The reciprocal relationship between the two suggests that the views of the “perpetrator community” also need to be addressed in efforts to reduce racial harassment. (*ibid.*)

It is argued that the situation is worse for Gypsies as there is not widespread acceptance of Gypsies as an ethnic group: their attributes are considered to be socially deviant rather than ethnically distinct. Consequently, the Gypsy way of life is easily criminalised, and racist violence against them is often seen as reactions of moral outrage against criminals. As Bagelot has said, Gypsies are considered to be “fair game”: “if everyone thinks the same, it must be right” (Interview with Bagelot, 1996). Furthermore, the potential for attacks against Gypsies is increased because of official discrimination and condemnation in the form of legislation, publicly aired views, and media reportage. This is compounded by the frequent official denial of racial abuse, harassment and discrimination.

As the Police Research Group Report on *Policing Racial Incidents* concludes, racist abuse is often functional to the perpetrator in that it often serves to transpose fears and concerns onto a relatively powerless “other”, as was previously discussed from a macro perspective:

... [it serves] the function of distracting their own - and others’ - attention away from real, underlying, concerns which they feel impotent to deal with.

These include a lack of identity, insecurity about the future and physical and/or mental health problems. (Home Office 335/97)

Other people who exhibit anti-Gypsy and racist feelings clearly enjoy the power they are able to exert:

Somehow it seems that when you belittle somebody, you get satisfaction. Words like “indecent, disrespectful, wrong” spring to mind. But think again. Is the satisfaction I felt unnatural? No, it isn’t. And it is bound to be difficult to be a nice, politically correct person. Especially in view of the facts. (Eada, 1997: 1)

And this was said by someone who “wish[es] to stress that I’m considered to be crazy by many because I do not hate the Gypsies”. The author then goes on to say that fear of Gypsies is natural:

... since that’s exactly what THEY want to inspire in you. Once again I took the risk to write “THEY” when what you’d expect would be “THEM GYPSIES”. (*ibid.*).

Perhaps the above example shows that there is a danger in looking for complex, academic explanations of the root causes of hate and prejudice, when, oftentimes, they are merely simplistic and mimical reactions.

It is also important not to make large generalisations about the reasons for discrimination, as Lee points out:

I’m not sure that I can really answer your question as to **why** racism and targeting of Romanies occurs. I’m not sure that there is a clear specific answer but rather a series of different answers for particular circumstances. (Lee, personal correspondence, 1996).

While Gypsies face the most extreme forms of persecution, Central Government and other public bodies are unwilling to recognise such a situation, let alone develop a strategy to address it. When crime and preventative measures are officially debated it is only with regard to the perceived deviance of Gypsies. As Williams says:

Having been recognised as a “racial” group under the terms of the Race Relations Act 1976 it seems curious that there is such resistance by the Local Authorities and the Government to offering the same protection as to other ethnic minority groups who chose to live in conventional housing. (Williams, 1994: 23)

Furthermore, in recent years there has been an increased amount of official acknowledgement of differential treatment of ethnic groups in the Criminal Justice System. This culminated in legislation passed to monitor and publish treatment of ethnic minority groups, in the form of the Criminal Justice and Public Order Act 1991. It then seems strange that only three years later, in the CJPOA, an ethnic minority was specifically legislated against.

To recapitulate, the perception of Gypsy criminality allows these discriminatory official practices (those detailed in previous chapters) to continue and become institutionalised, and reproduces and condones anti-Gypsy practices at the structural and local levels. This creates a vicious circle, involving the agencies of the Criminal Justice System, the media, government and the public responding to each other targeting Gypsies as “folk devils”. As the process continues, crimes against Gypsies become justified under the banner of “Law and Order” thereby ensuring that they shall continue. Portrayal of the Gypsy as criminal functions to absolve the State of responsibility for their wellbeing. It also serves the State by distracting the voting public from any mismanagement and crimes of the powerful, as well as from general social problems and inequities. The mythology of the Gypsy as criminal therefore has many socially useful functions for agencies and individuals. Furthermore, human rights are costly, and so maintaining the image of the Gypsy as criminal ensures rights will not be protected. The image of the Gypsy criminal is also economically productive because it sells media stories, fiction, and academic texts. It also sells security and protection, and keeps many other professionals in employment, as was discussed earlier.

The perception of the Gypsy as criminal is almost universal, to the extent that there exists a “Gypsy type” in the popular discourse on crime. This is in spite of the dearth of supportive empirical evidence and people who say they have any first hand experience to support such claims. Perception of Gypsy criminality can be

partly explained by the poverty and discrimination that many Gypsies face, which, according to this hypothesis, would not surprisingly lead to criminality through necessity or anger. Liégeois gives an example of such an attitude, given by a Strasbourg magistrate at the beginning of the nineteenth century:

I have no evidence of criminal acts committed by these people, but their situation is such that they cannot but be tempted to commit them if the occasion presents itself... They cannot but be dangerous. (Liégeois, 1995:8)

As Chomsky has analysed, the plundering, segregation, and containment of the poor by the rich is justified by recourse to the argument that less powerful countries or individuals may revolt because they have more cause to. "To rule is the right and duty of rich men dwelling in deserved peace." (Chomsky, 1994c: 5):

... we are Good and they are Evil, and therefore it is only right and just that we should be in charge. Our essential goodness is unaffected by the disasters we have brought to large parts of the world, as we protected our "security". (Chomsky, 1994c: 35)

Local and Central Government create the very situation of poverty that could lead some Gypsies into crime or being perceived as likely to be criminal. For instance, the standard of living and opportunities for Gypsies is affected by discriminatory legislation, lack of sites, poor standards of available sites, and non-provision of water and health care. A self-fulfilling prophecy is in operation whereby Gypsies are either forced onto poor sites or forced into living illegally, unless they surrender their Gypsy status. This reinforces the pejorative stereotype of the dirty, criminogenic Gypsy. But, even when a Gypsy is economically successful, he or she is considered to have become so through illegitimate means. For instance, many Gypsies who were interviewed (1995) for this research had been made to show receipts for everything in their possession, when they have been travelling or when there has been a police raid on their site. This is often done in order to arrest someone for theft, as having receipts for every object is unlikely. It is also a tactic used to encourage Gypsies to leave the area and discourage others from entering:

They very often used to do it just to get people to move on, rather than because they're seriously interested in finding stolen property. (Interview with Kenrick, 1996)

One Gypsy family that was interviewed was asked to make improvements to their privately owned site by the Local Authority before planning permission could be issued. When the improvements were made, the Local Authority refused planning permission and investigated the family for fraud because they were able to afford the expensive improvements. As a number of interviewees attested, Local Authorities have asked Gypsies to upgrade their land before planning permission can be issued, believing that this will discourage the Gypsies from pursuing planning permission and from staying in the area (Interviews with Gypsies; also see Bancroft, 1997 and Lowther, 1995). The fact that Local Authorities have often refused planning permission after improvements have been made, supports this view. One family was refused planning permission by the same Local Authority officials who had encouraged them to invest £80K on improving their site. Furthermore, it was only since the time they bought the land that the Local Authority seemed interested in enforcing planning legislation (Taylor, 1997). One Gypsy interviewee (1996) was refused planning permission after having spent nearly £6K on a main sewer and on clearing the land, at the request of the Local Authority.

In essence, the Gypsy is considered to be "born criminal". Effectively, since the CJPOA the Gypsy *is* born criminal: "a criminal by birth – a criminal by virtue of having no legal and lawful sites to move onto." (Frankham, 1997) In many other ways the Gypsy is often prevented from a law-abiding existence:

Gypsies frequently do not have the possibility of complying with the law – it is the law itself which is in disrepute. (Clements, 1996: 11)

As Mercer has said:

There is no other community in the United Kingdom that is persecuted from the cradle to the grave for simply trying to live the life that Gypsy people have lived for centuries... We demand the right to a proper education for all Gypsy people – the right to bring up our children in our own way without fear of persecution or intimidation, and to be treated on

an equal basis with everybody else: no more, and definitely no less. (Mercer, 1992, cited in Hawes and Perez, 1995: 100-101)

Late nineteenth century eugenicists believed in the hereditary criminality of Gypsies (Burleigh and Wipperman, 1991). For example, Lombroso argued that Gypsies were “a living example of a whole race of criminals, and have all the passions and all the vices of criminals” (Lombroso, 1918: 40). His ideas formed the basis for the Nazi policy of extermination.

While the nineteenth century eugenicists have been largely discredited today, their theories are still prevalent when it comes to Gypsies. Whenever a crime occurs in an area near a Gypsy site, for example, the Gypsy site is raided:

Whatever happens, the Gypsy is blamed... Whether you do anything or not, you're nicked. (Interview with a Gypsy, 1995)

If something gets stolen ten to fifteen miles away, the first place they come is to the Travellers. (Interview with a Gypsy, 1996)

Of course, some Gypsies have broken the law, just as some house-dwellers have also broken the law. But, the whole house-dwelling community is not policed and effectively punished as a result:

In any society you will get some outside the law... It is wrong to blame a whole community for the wrong-doing of a few. (Mercer, on *Esther*, BBC2 3.11.95)

Entrepreneurs take advantage of the perception of Gypsy criminality by committing crime in an area where there are Gypsies: “the arrival of Gypsies in an area is a signal for local criminals to get to work, knowing that the Gypsies will become scapegoats” (Sandford, 1973: 6). As has been mentioned previously, rubbish and stolen cars are also left near Gypsy sites with the knowledge that the Gypsies will get the blame. As Mercer (1995c) has said, if someone leaves a burned out car near a Gypsy site it is easier to get insurance, because not as many questions will be asked; the presumption being that Gypsies did it. All this contributes to reinforcing the stereotype that Gypsies are criminogenic.

Gypsies' deviance is seen differently to the deviance of non-Gypsies, in the same way that working class rule-breaking is seen differently to middle-class high spirits. As Becker has described, criminalisation is based upon power relations:

Distinctions of age, sex, ethnicity, and class are all related to differences in power, which accounts for differences in the degree to which groups so distinguished can make rules for others. (Becker, 1963: 17)

Criminalisation is part of the process that justifies power relations: the further subordination of the relatively powerless and the increased legitimacy and remit of the powerful. As Scraton and Chadwick have described, criminalisation "is a powerful process because it mobilizes popular approval and legitimacy in support of powerful interests within the state." (1991: 289)

Linked to Gypsies being criminalised and categorised as deserving of punishment, is the common belief that much of the discrimination and prejudice against Gypsies is because of envy, or rather "I don't do it, so why should they"¹⁸. Illegitimate perceived freedom, as was detailed in the last chapter with regard to travel, needs to be punished in part to reward the socially controlled and deter them from similar actions. At the least punishment of nomads gives the sedentary absolution or excuse for apathy: for relinquishing self-control. Furthermore, the freedom to travel or to enjoy oneself is generally perceived to be inextricable from the capitalist system. Freedoms and privileges have to be earned, and are, as such, often the sole prerogative of the rich: "if you want to travel you have to pay for it" (Interview with landowner, 1997). The sedentary poor are encouraged to "settle down", work hard, and reap the benefits that lie at the end of capitalism's rainbow:

I think there's some envy in it. When I was working in East London, there was a very tall block of council flats and [beside it] there were four Gypsy caravans with a fire and everyone was sitting round the fire. These people in the council flats must have thought, nobody does any work and tomorrow they can go off somewhere else and we're stuck here in this council flat and our children can't go out and play because it's too far down and we can't speak to our neighbours because we don't know them (Interview with Kenrick, 1996).

¹⁸ Additionally, Hewison (1995) and others have argued that since Western culture has moved away from a hunter-gatherer existence, the experience of sedentarists is one of loss and nostalgia concerning nature. This is suggestive, perhaps, of the feelings of jealousy towards nomads.

However, Gypsies do not escape the trappings of modern society. They are probably the most policed and controlled and restricted community in Europe. According to Waters (1982) and Butler (1983) unsubstantiated envy operates as a guilt-reduction device: responsibilities to the poor are absolved if the poor are portrayed as fortunate and enjoying some of the benefits denied to the rest of the population¹⁹. It also operates, of course, as an excuse to vent anger, and feelings of frustration, alienation and powerlessness upon a vulnerable and seemingly legitimate target and scapegoat.

So, it can be seen that problems (to scapegoat), guilt, and desires (in the form of envy) are placed upon Gypsies. The connotations of a nomadic existence are that it involves freedom from responsibilities and social rules, aimlessness, and frivolousness. Consequently, the Gypsy way of life is often trivialised. In actual fact, contrary to the romantic mythology, the daily discrimination that Gypsies suffer and continual harassment and policing, make their lives, in this sense, the least free: "I'm much more likely than a Gaujo²⁰ to get stopped at any border once people realise who I am." (Mercer, cited in Acton, 1997: 166)

Contrary to the popularly-assumed image of "gypsies" as a free and untroubled people, the Romani population everywhere in fact endures systematic, gross deprivation of their human, social and civil rights. (Hancock, 1993: 5)

The message seems to be that we are legitimately entitled to be bad-natured towards Gypsies because they are expecting to take advantage of our good nature, by being irresponsible scroungers. The mythical construction of the Gypsy as scrounger is not borne out by facts. Rent is paid on Local Authority sites or land is bought. On one site in Leeds residents have paid over £1million in rent over the past seven years, but the site is rat infested and falling apart, begging the question "where does the money go?" (*Groundswell Newsletter*, April 1998). Any dependency upon State benefits is generally due to restrictions placed by mainstream society, prejudices, or bureaucratic hurdles. For instance, their

¹⁹ Similarly, homeless people are sometimes presented as being romantically free (Reich, 1995): see Chapter Five.

traditional means of employment have suffered because of the criminalisation of nomadism, industrialisation, and the prohibition of work areas on many Local Authority sites. Furthermore, there is actually a low take-up rate of benefits because of various factors: the inflexible, bureaucratic nature of the benefits system; Gypsies' lack of knowledge of their entitlements; the relatively high level of illiteracy in the Gypsy community; the fear of authority because of previous experience; repeated evictions that Gypsies often suffer; and general harassment. In actual fact, so many people make money from Gypsies (academics, journalists, security and police officers, and so on), that it could be said that many gorgios are parasites on Gypsies.

The Criminal Justice System

Williams' (1994) empirical research on the discrimination against Gypsies and other Travellers by Criminal Justice agencies showed that they are over-represented in the Criminal Justice System. It was revealed that they are likely to be prosecuted earlier in their criminal careers than are members of the sedentary population. They are also more likely to be prosecuted for first time minor offences and receive more restrictive penalties. Williams found that Gypsies were marginally less likely to receive a caution (46.7% compared with 53% total cautions) and more likely to be prosecuted (40% compared with 33.3% total prosecutions). However, as Williams notes, there are geographical discrepancies in the treatment of Gypsies in the Criminal Justice System. For instance, the Association of Chief Officers of Probation and The National Association for the Care and Resettlement of Offenders (1993) found that 38% of "White" admissions to Feltham Remand Centre from London courts were Gypsies. Research undertaken by probation officers in Newark (Stanton, 1994) concluded that Travellers were targeted by the police. They found that their vehicles were especially targeted and, as a result, they were more likely to be arrested again and serve a prison sentence.

²⁰ Non-Gypsy.

Having said this, there are no official statistics to prove whether or not Gypsies and other Travellers are more criminogenic than gorgios. This suggests, perhaps, the degree of racism and lack of address, and signals the usefulness of research on this topic. However, it can be said that with the proliferation of laws directed against nomads, police targeting and prejudicial sentencing practices, and the extent of institutional and local discrimination and attack, it is surprising that there is no evidence to support the stereotypical belief that Gypsies are more criminogenic. The few studies that have been done do not show that Gypsies are more likely to break the law – only that they are discriminated against in the Criminal Justice System. One of the most significant pieces of research (Dawson, 1970), carried out in the West Riding of Yorkshire over a seven year period in the 1960s, showed that Gypsies committed no more crime than the sedentary population. This is despite the daily harassment, discrimination, and provocation that Gypsies faced from the Criminal Justice System, Government, the media, and locals, and despite opportunistic criminals knowing that the police would blame Gypsies for crimes committed in the vicinity. It is ironic that the perception of Gypsy criminality is all pervading, despite the complete lack of official evidence. It is doubly ironic that the Gypsy community is stereotyped to be criminogenic when they are the unrecognised victims of crimes of endemic proportions. They are, to use Chomsky's (1989) concept, "unworthy victims". As Acton has said:

Compared with the massive record of murder, theft, kidnapping and other crimes by non-Gypsies against Gypsies (throughout history), Gypsy crime against non-Gypsies pales almost into insignificance, so that to prioritize the study of the latter over the former shows a twisted sense of values. (letter from Thomas Acton to Detective Marlock, dated 2.8.90, cited in Hancock, 1990: 8)

Williams' (1994) research also revealed that many Gypsies have been subject to countless stop-and-searches. I also found that most Gypsies I spoke to said that they were frequently and heavy-handedly the subject of stop-and-search procedures, sometimes occurring on a daily basis. Most also said that they were the subject of regular police raids on their sites, whether or not they have a criminal record or are suspected of doing anything. One Gypsy, who was on probation at the time of the interview (1995), was strip searched in public, in view of shops and people he knew. He explained that it was the deceptive way that the police

searched him, “sort of playing with you” rather than admitting that it was a routine check, that annoyed him, and the fact that they always pulled him up when there were people around:

I’ve had really posh people talk to me, but as soon as they see the police pull me up. And now, as soon as they see me they turn back and go the other way... they say they don’t know me... You try to get in with people like that but you can’t. And it puts you right down... If you’re a Travelling person you’re all the same. (Interview, 1995)

He said that he cannot prove that he has changed to either police or probation officers, and that they keep targeting him and treating him “like an animal”. He has been the subject of police violence and, on one occasion, medical attention was significantly delayed in coming to him. Like other Gypsies and members of the Criminal Justice System who were interviewed, he believed that the difference in culture of Gypsies antagonised many police officers. His probation officer agreed he suffers from police harassment, and that “he is not allowed to get on with his life” (personal correspondence, 1996). Many Gypsies have said they have been falsely arrested, arrested with no charge or the charges were later dropped. As the interviewees and other correspondents have said, this operates as a form of intimidation. One Gypsy who was falsely arrested and assaulted by police (which caused him to be hospitalised) said that because he had filed a complaint about this incident the police in the area and in neighbouring areas would not leave him alone:

They said right, he’s filled a complaint against us, he’s in your area, mark him. He told others he’ll get me. He said “At the moment you’re a bit quiet, we’ll use a little bit of violence.”... “As far as I’m concerned, you ain’t doing your job right”. He said “Well, you tell us why”. And I actually told all of them, even told the CID... “I’ll even tell the Judge it. The trouble is, if I tell the Judge in front of you and the Judge listens to me, the end of the day you’ll still catch me”. (Interview, 1995)

Gypsies are unlikely to go to the police when they are a victim of crime because of past experience and because of the knowledge of police perception of Gypsies. Consequently, Gypsies rights and safety are further eroded. For example, as the Labour Campaign for Travellers’ Rights (LCTR) said about one incident:

Fear of retaliation and damage to homes, together with scepticism about the Police Complaints Procedure, meant that Travellers moved on without lodging further complaints. (LCTR, 1993)

As one Traveller said about eviction:

When you've only got 24 hours to do everything... what comes first? ... not usually complaints. (*ibid.*)

In general, during evictions, there is large police presence in riot gear accompanying many other officials. There are often hundreds of police when dealing with a normal size site of sixteen pitches. Approximately one hundred police officers and other officials were present during the eviction of one Gypsy family from wasteland (Dawson, personal correspondence, 1996). Many Gypsies have faced daily evictions over a period of a few months (ACERT, 1990), irrespective of the welfare needs of the inhabitants. One family with a disabled child were evicted twice-weekly for over a year, with no "meaningful enquiries" taking place (*Righttrack*, 1997: 17). Many times the police have given only a couple of hours to go, which is difficult if people have been camped for a long time, because of work, school and emotional ties. Fieldwork revealed that many Gypsy families without pitches have been prevented from stopping anywhere for extensive periods of time, often becoming dangerously tired. Officials have been known to evict very early in the morning when it is too early to ring solicitors, and given only a couple of hours to leave (FFT, personal correspondence, 1996). One woman who was seven months pregnant with twins miscarried as a result of being evicted and being forced to drag her caravan out of a muddy site (Mapp, 1994).

There have been a number of occasions when Gypsies have been prevented from stopping or evicted when a member of their family was very ill or in hospital. For example, on one occasion a Gypsy with serious 'flu discharged himself from hospital on hearing that his family were to be immediately evicted. As a result he had a heart attack and died before leaving the building. The Local Authority still evicted the family on hearing the news (fieldwork, 1995 and Dawson, personal correspondence, 1996).

During many evictions there are threats and acts of violence, sexual harassment and vandalism, by the police or the Local Authority enforcing the eviction (Interviews with Gypsies, 1995-6). This is often done because they wish to “hit first before they are hit” (Interview with Local Authority Gypsy Liaison Officer, 1996). There is also a lot of pre-emptive violence, to the extent that prejudices borne out by experience on both sides cause people to “be prepared”. This highlights the modern character of power, being relational from a Foucauldian perspective, but also indistinct, intangible, and open to interpretation and misunderstanding. Both Gypsies and Local Authority officials (Interviews, 1995-6), for example, have said that some bailiffs smash caravans during eviction because they are frightened they will be attacked, so want to attack first. Some interviewees have said that police often intimidate and harass Gypsies in order to get rid of them (Interviews with Gypsies, Gypsy and Traveller support groups, and solicitors, 1995-7). This practice is generally regarded favourably because it saves time and money with eviction costs, and deters other Gypsies from going to that area as it would be considered a “tough area”. One member of a Gypsy support group said that this involved smashing caravans, killing and maiming dogs, constant pestering and patrols, taking in and questioning Gypsies and “putting the fear of God into them” (Interview, 1995). Because many Gypsies do not know the law, and because of past experience, Gypsies often believe police threats. According to many of those interviewed in the course of this research, there is a lot of police and Local Authority bluffing on the premise that Gypsies do not know their legal standing. For example, Gypsy interviewees (1995-7) have said that the Police or Local Authority officers were significantly more cautious when non-Gypsies were in company (during site raids or visits, for example). This was noticeable during fieldwork undertaken for this research, and supported by comments from members of various Gypsy and Traveller support groups.

While some police take advantage of Gypsies’ lack of legal knowledge and illiteracy, other police have threatened Gypsies who are legally informed, or have viewed their legal awareness with suspicion. As one police spokesman said: “These Gypsies are well aware of what the law can and cannot do” (Interview with Police Constable, 1996) Alternatively, the police do not believe that the legally informed are “real” Gypsies. For example, one Gypsy who educated himself with

regard to the law and his rights was told that he was getting “too big for his boots”, and that if he continues to “show off” his pitch will be raided (Interview with a Gypsy, 1995). Other Gypsies in professional occupations have been told that they are “not like the others” or they are “not a proper Gypsy” (Interview with professional Gypsies, 1995-6). Similarly some Local Authority officials take advantage of the belief that Gypsies are often illiterate and unaware of their legal rights²¹, whilst on another occasion they may make use of the stereotype that Gypsies are cunning, devious and purposefully deviant (fieldwork, 1995-6).

Police have also threatened Gypsies if they do not inform them of things. For example, they regularly harass and threaten to raid one Gypsy site resident who is also a member of the local Council, if he does not sort out certain things. Other Gypsies have spoken of being blackmailed with the threat of arrest if they do not move off unauthorised sites or surrender certain belongings to the officer (Interviews with Gypsies and members of Gypsy and Traveller support groups, 1995-7).

There have been many reports of police harassment consisting of: raids at all times of the day and night, sounding sirens and flashing lights, especially during the night; knocking on caravans and shining torches through windows; driving at speed through sites²²; blocking site entrances and roads; impounding every vehicle on a site and confiscating belongings, and; verbal and physical attack, as well as general harassment and targeting, such as frequent stop-and-searches as previously mentioned. All of these incidents have occurred when the Gypsies involved have not been suspected of any crime. Police have also arrested people not on a warrant and held them without bail, and have demolished their caravans (conversations with Gypsies during fieldwork, 1995-7). As Box and Hale have said, there is often police disregard for the law when dealing with “enemies of the state” (Box and Hale, 1984). One of the worst reported incidents was cited by Kenrick: “police

²¹ For example, correspondence with a Gypsy man during this research prevented a Local Authority from illegally evicting his brother. Local Authority officers withdrew an enforcement order when he produced a copy of a letter I wrote to him outlining Local Authority obligations. Presumably the Authority was aware of its obligations, but assumed that the person who they wanted to evict would not be so aware.

carried out a 'mock raid' with machine guns (*sic*) on a roadside camp as a demonstration for visiting continental officers." (Kenrick, 1995: 62) Vans of riot police, with accompanying senior C.I.D officers, regularly visit Gypsy sites (witnessed during fieldwork, 1995-7). This contributes to the perception of Gypsies as criminals as well as exacerbating the hostility between Gypsies and the police. As Mercer (1995c) has said, when police visit sites in their "battle gear" it causes a reaction in the Gypsy community. As every raid is heavily backed-up with police in riot gear, everyone will perceive this to be the way to handle Gypsies. For instance, a new Inspector will employ the same tactics when he is in charge of an operation. It is a cycle that has been performed so many times that it is almost impossible to break it.

When a site is raided, the police search every caravan. This happened when the person the police are looking for does not even live on the site (witnessed during fieldwork, 1995). Gypsies on sites regularly face such snowball raids, where all caravans are thoroughly searched and ripped apart, sometimes irreparably so. One young Gypsy female said that usually everyone's belongings are thrown out of doors and windows, including underwear, which is a big insult and embarrassment within the strict morals of the Gypsy community (Interview, 1995). On one particular occasion this happened when the police were looking for a man who did not live on the site and, in any way, could not, presumably, fit into an underwear drawer (*ibid.*). Also, sexual comments have been made to some of the females spoken to (Interviews with Gypsies, 1995). It seems that *carte blanche* police tactics are used when it comes to Gypsies, when there would be outrage if every house on a council estate were to be searched in such a way. When asked whether they operated snowball raids on council estates, the police were evasive and appeared to be embarrassed, and said they raid Gypsy sites a lot less than they actually do (Interviews with Police Officers, 1995-6).

Police often raid neighbouring sites when looking for an individual and also raid sites for no (given) reason at all. Although the police frequently do not have

²² Resulting in the death of a dog on one incident and injuring a child on another (fieldwork). There are also examples of more serious incidents of children being killed (personal correspondence with Gypsies, 1995-6; Acton, 1974; Davies, 1995).

warrants or numbered uniforms (fieldwork), Gypsies do not question or prevent the police because they know it will make the situation worse (Interview with Gypsies, 1995-6); the police will be much more destructive and violent or raid more frequently, for example. For instance, in one incident a caravan was made unliveable in after it had been searched and destroyed by the police, making the owners homeless. The police did not repair the caravan or offer an apology.

Police raids of Gypsy sites are often starkly different from the image that is presented in the mass media. A violent battle is often implied which contrasts to the fact that during day-time raids it is often mainly women, the elderly and children who are on site, and the event is characterised by confusion and fear on the part of the residents (observation of police raid, 1995). It is harder to demonise the more vulnerable and, as such, the mass media is complicit in the criminalisation and victimisation of Gypsies. The story would not be as dramatic and the loyalties as clear cut if it was made obvious that the subjects of many police raids of Gypsy sites were generally vulnerable as well as innocent.

A number of Gypsies have found that while the police regularly raid Gypsy sites for little or no reason, they have refused to come to the aid of Gypsies when non-Gypsies have gone onto sites to cause trouble, for example. On one occasion, the police refused to go down to the site, saying that it was a "domestic matter" (Dawson, personal correspondence, 1996). On other occasions, the Gypsies were arrested while those who have sought to cause trouble were not (Interviews with Gypsies and gorgio locals, 1995-8). On one occasion, three Gypsies were charged with assault after they had been threatened with iron bars by non-Gypsies going to the site to look for a fight. The non-Gypsies were not arrested (personal correspondence with a Gypsy civil rights activist, 1995). If people cause trouble for Gypsies in a pub, for example, it is the Gypsies who are thrown out (witness to a number of these incidents, 1995-7). Or, if one Gypsy gets into trouble the whole group is thrown out.

Often, crimes against Gypsies are overlooked by the police and, at times, condoned and even perpetrated by the police. Many examples of police violence against Gypsies, and against their animals and caravans, have been found throughout this

research. For example, a woman was arrested for assault after trying to prevent police officers from beating up her husband outside her trailer. Another woman was arrested after threatening the policeman who had just run over her dog on her site (Interviews with Gypsy women, 1996). One Gypsy had her caravan moved by the police while she went shopping. She did not know where it was and when she found it, a few miles down the road, the windows and television, amongst other things, had been smashed (Interview, 1995). One incident of police brutality involved a Police Constable in a police car running over a Gypsy boy. The Police Constable got out of the car and said, "It's only a fucking Gypsy", drove off and failed to inform the emergency services. The boy was later taken to hospital and the Police Constable was reprimanded by his Inspector (Dawson, personal correspondence, 1996). On another occasion, when a Gypsy male was eight years old, a policeman held a gun to his head. Ever since then, when he has seen police he runs around in circles, and consequently gets more harassment from the police because they believe he is behaving suspiciously (Interview with a Gypsy friend of the male, 1995). Another incident occurred after a stone was thrown at a police car near a Gypsy site. A juvenile was severely beaten because he happened to be in the area, although he had nothing to do with the incident and was not charged with any offence. The police beat him despite all the while his companion was shouting that he was ill, having just had a kidney transplant. He was hospitalised as a result of this attack (Interview with his companion, a young Gypsy female, 1995).

Many Gypsies say that they receive excessive police attention and force on arrest, which has included regular harassment at funerals and fairs (Interviews with Gypsies, 1995-7). The attention they receive is often provocative, encouraging confrontation, which may lead to stereotypes being reinforced. According to Gypsies and even some police (Interviews, 1995-6), police often use excessive force to provoke violence and then arrest. For instance, an ex-serving policeman has said that colleagues "were encouraged, if a Traveller was stopped and questioned and no offence appeared to have been committed, to verbally harass them to provoke a section 4 assault." (Williams, 1994: 45) The European Roma Right Centre (ERRC) in Budapest, has found many examples of Gypsies' rights being denied, especially when being attacked by the police. This is most often done by bringing charges of assault or resisting arrest against the Gypsy in question

(National Coalition of Anti-Deportation Campaigns, 1998). Another police officer has also described the extent of the loathing expressed towards Gypsies by his colleagues, and believes this attitude to be universal (Young, 1993). Naturally, after a time, targeting becomes naturalised and crime spots appear:

The view of the police officer at [one] Headquarters appeared to be based on the assumption that most Travellers are involved in illegal activity... He was anxious to convey the view that the police did not target Gypsy Travellers because of who they are, but only because of their illegal activities. Anecdotal evidence which supports and perpetuated the stereotypical perceptions that police officers have of Gypsy Travellers is repeated and embellished over many years, culminating in police “no-go” areas in respect of certain sites, or a provocative response to incidents. The attitudes and behaviour of the police influence public opinion, particularly at local level, and it is important that the police act responsibly.” (Williams, 1994: 44)

Sometimes, when Gypsies have entered an area, police have warned members of the public to be wary (Interview with member of Gypsy support group, 1995). Also, on a number of occasions, local police have told the public not to give Gypsies work (*Worthing and District Advertiser*, 27.7.88; *West Highland Free Press*, 29.5.98).

Some police officers who concentrate their attention on fortune telling, presume that all Gypsies “con vulnerable people” (Interview with Police Constable, 1996). A Chief Inspector in another county did believe that many Gypsies were involved in serious crime, especially “preying upon the vulnerable”, and that they were very hard to prosecute because they all keep silent, protect each other, and often abscond from court appearances (Interview, 1995). This highlights a very important and worrying development since the advent of the CJPOA: as a result Gypsies are in increased contact with the police, even and especially when trying to secure legal accommodation. Because the police only come into contact with Gypsies who they believe or suspect have broken the law, and the concomitant relative invisibility of all those Gypsies who do not conform to the negative stereotype of the Gypsy criminal, the police will believe that Gypsies are criminogenic. This is especially due to the lack of awareness that Gypsies constitute an ethnic minority. If, however, the police come into contact with law-

abiding Gypsies they are considered to be “a Gypsy turned good”, a psuedo-gorgio or non-Gypsy (Interview with professionally employed Gypsies, 1995-6). Alternatively, they are deemed too criminally clever to be caught. Police in one area accused the Gypsy children of being too clever because there was a very low crime-rate (Interview with a Gypsy, 1996). As Hancock has said:

To the police, Gypsy life is synonymous with confidence crime. It has been defined by them as our very culture, our sole means of gauging our self worth: “The only measure of respect a Gypsy woman can get is based on her abilities as a thief,” according to law officer Jaye Schroeder (1983: 63) (Hancock, 1990: 15-6).

Particularly in Eastern Europe and America, many police forces have distinguished what they believe to be “Gypsy crime”. When US Detective Lieutenant D. Marlock and Dr J. Dowling (a cultural anthropologist), for example, warn of potential accusations of “racist remarks” they say:

Although those of us in law enforcement know who these organized criminal groups are and can justify our use of this classification does not mean that those outside the law enforcement community share our beliefs. (Marlock and Dowling, 1994: 18)

“Gypsy crime” is supposedly constituted of fortune telling, burglary and benefit fraud. This leads to the perception that all Gypsies are criminals, and all people who commit these and similar offences are Gypsies. References are even made to the existence of a Gypsy Mafia (Marlock and Dowling, 1994) to imply the magnitude of the threat (see Quinn, 1996). Also, some police believe that “real Gypsies” are serious criminals “in a totally different league” to the “rabble living in caravans on illegal sites, dealing in scrap metal” (correspondence with Police Constable, 1996; also see Marlock and Dowling, 1994). So, whilst many police officers may not consider themselves to be racist, simply in fulfilling their role of law enforcement has a massive discriminatory effect. This is more harmful than the dystopic picture often presented of the Criminal Justice System being made up of racist reprobates, because it lends the system the impression of fairness and encourages recruits to believe in the sanctity of the law and the validity and impartiality of law enforcement. As Gypsies are presented as being criminogenic, and even have their own special category of criminal behaviour, targeting of

Gypsies is not racist but proper police practice. Discriminatory practices become crime control and sensible policing because of ingrained prejudices and sensibilities.

Police targeting and prejudice become self-legitimizing after a while, with police concentrating their efforts on the Gypsy community and attributing crimes committed by non-Gypsies to Gypsies, because they were a supposedly typical Gypsy crime or because the suspect was “a Gypsy type”, or simply because a crime has happened in the vicinity of a Gypsy site. Some cases where police have reported “Gypsy types” as their suspects, have been criticised and taken to court by the Commission for Racial Equality (CRE), under Section 29 of the Race Relations Act. However, these are few and far between (correspondence with CRE, 1995). Most Gypsy interviewees articulated the stressful existence of being under constant suspicion, surveillance and targeting by the police:

You get some police, they's alright with Gypsies and you get another one he gets, well he's like an idiot. Because you's a Gypsy, he just picks on to you... they say “Well he's a Gypsy so we'll go a book him”. They say he's up to no good because he's a Gypsy... What it is we're fetched up in different ways. They don't accept that. They don't accept that at all. They say “No, he's a dirty Gypsy” and a bit more than that. “We'll just keep going till we get him”. (Interview with a Gypsy, 1995)

Police perception of Gypsy criminality also leads to incidents of law-breaking, whether against Gypsies or not, being overlooked. When one Gypsy, for example, tried to inform the police of what he believed to be child abuse, the police ignored what he was saying and began to harass him:

They don't listen... They say “Oh no, he's a Gypsy”. They say “No, he's criminal, he's up to no good”. No they don't listen, they's just watching. (Interview with a Gypsy, 1995)

There is frequent police surveillance of sites, checking vehicle movement and number-plates: “if you spend a day on a Gypsy site then you'll see a police car, an eye is kept on them” (Interview with Kenrick, 1996). Dawson says the regular practice of taking down number-plates on sites as “a crime prevention measure, clearly [implies] that Gypsies and those who visit them are criminals per se.”

(Dawson, 1996b) Local Authorities also regularly check vehicles and their number-plates that they believe belong to Gypsies and other Travellers, without informing them. Two Gypsy Liaison Officers (Interviews 1995 and 1996) said that the Local Authority gets the vehicle number plates as soon as a Gypsy Traveller moves into an area or onto a site. They said this so that they can pass on the information to the police to check if the number plates are false, for future use if an incident arises, or if wanted for anything in another area. Many sites have frequently experienced police helicopters flying overhead. There has also been some installation of CCTV cameras next to sites, often facing inwards. As was mentioned in Chapter One, on a site in North Wales the cameras face in to the site, despite the fact that they were supposedly introduced to protect neighbouring properties. Needless to say, the neighbouring properties had firm opinions about where the threat was likely to come from (fieldwork).

At the national scale, the Northern Intelligence Unit, hosted by Cumbria police, and a sister unit, hosted by Wiltshire police, collect information from all police forces on the movements of so-called New Age Travellers and ravers in England and Wales, and then disseminate all the information to police forces. It might be expected that Gypsies are also kept an eye on in this way, especially as leaked documents said that the intention was “to gather intelligence in respect of the movement of itinerants and travellers and deal with minor acts of trespass.” (Carey, 1997: 58). A national data bank has echoes of the Nazi era when the same thing occurred²³. Information gathering on ethnic and social minorities by the police also reinforces the public perception of the link between these groups and crime. At the international scale too, TREVI²⁴ and SIS²⁵, for instance, police the movement of “undesirables” and maintain their personal details. This is at odds with the ideology of an “open” Europe, in which “freedom of movement” is an oft-bandied slogan. In fact, the supposed “freedom of movement” ironically justifies

²³ Surveillance of Gypsies, as if they were criminals, served as a precursor to the genocidal activities of Nazi Germany (see Hancock, 1987). See Chapter One.

²⁴ An anachronism for Terrorism, Radicalism, Extremism and Violence. Set up in 1976.

²⁵ National Schengen Information System, which maintains and distributes data on over 10 million criminals, “suspects” and other “undesirables” who may cross borders. These databases are potentially racist and in other ways discriminatory, which does not bode well for the safety and equality of minority groups. In effect it is a system which associates the vulnerable, the dispossessed and the persecuted, with terrorists and drug-smugglers (who justify the existence of the System).

increased policing, because in an open Europe deviants can “merge into the background” (Pastore, 1991: 9). Therefore, “compensatory measures” (Schengen Agreement, 1985) are necessary, in much the same way as intolerance in the UK is necessary to protect a supposedly tolerant society.

As with other forms of social control, the surveillance of Gypsies is really only an intensification of the surveillance governing the whole population, a part of Foucault’s “normalising gaze” intent on creating “docile bodies” (1991)²⁶. CCTV cameras, curfews, increasing bureaucratic control and the militarisation of policing, have been introduced by reference to the existence of criminals, deviants or other “unsociables”. In particular, however, those groups who are believed to be escaping the social control that is administered through social institutions (the jobless, the homeless, and so on) are subjected to more overt forms of social control - the legitimate introduction of the strong arm of the law. Gypsies appear to escape the ceaseless passing from one enclosed environment to another (see Deleuze, 1991). Often officials enter into and control Gypsies’ lives under the auspices of aid and assistance. For example, officials often visit Gypsy sites in order to determine their welfare or educational needs (Interviews with Gypsies, Health Visitors, and Local Authority Officers, 1995-7). A member of a Traveller support group said that the media and Local Authorities officials manipulate and feign magnanimity until they have got what they want (Interview, 1996). Even when information is being collected for such purposes, the intention is generally to get enough information to legally begin eviction proceedings (Interviews with Environmental Health and Gypsy Liaison Officers, 1995-7) and not because the Local Authority “cares”, as Paul Winter of LCTR recently warned at the Conference *Romani Studies and Work with Travellers* (9.7.96).

Although Gypsies are targeted by the police and are popularly perceived to constitute part of the law and order agenda, the police deny that they categorise Gypsies or nomads, or that police records hold such information (LCTR and

²⁶ However, the assumed objectivity and perfection of computerised and electronic forms of social control and surveillance tends to disguise the inherent discriminatory aspects and interests of those in control.

interviews with police, 1995-6). But, others have said that the police do classify Gypsies:

... [some] mark Gypsies in some way in their records and call them something like F15 There are records kept of any Gypsies, with something special to say they are Gypsies... I'm sure that every police force is aware of Gypsies in its area, and notice is made of it... Police attitudes, some police have told me, is that Gypsies are trouble (Interview with Kenrick, 1996).

According to Williams (1994) the police have to determine the ethnicity of those arrested, including Gypsies, for statistical purposes. This confusion signals a large area open to exploitation and interpretation by those who come into contact with Gypsies. In effect, Gypsies suffer the discrimination without being afforded the protection that accountability, or the establishment of an ethnic relations policy, might afford them. As Kenrick has said, although Gypsies are "harassed as a minority, they have not, in practice, had the protection which the law should afford to minorities." (Kenrick, 1995: 7) Because Gypsies are unofficially categorised and targeted, but they are not officially identified as a distinct group, discriminatory practices can continue without any chance of redress or accountability. Particularly when a Gypsy is the victim of a crime, on the rare occasion that it reaches the prosecution stage, the Crown Prosecution Service is unable to ascertain whether or not there was a racial aspect to the offence, because their ethnic identity may not be noted. Consequently they are often unprotected by the Race Relations Act 1976 and section 95 of the CJPOA 1991 (see Williams, 1994). On the other hand, when Gypsies are arrested for an offence, it is widely believed that Magistrates are aware of the identity of Travellers in the area and that this influences their decisions (Williams, 1994, and Interviews with Gypsies and Probation Officers, 1995-6).

As Chapter Two has detailed, many Gypsies do not believe that they get a fair hearing in court. This is the case whether they are seeking planning permission, or they are part of a criminal trial. For example, one probation officer said to a Gypsy on probation:

They don't like the fact that you're of no fixed abode, that you haven't got anywhere. They just think of you as a local nuisance, and sort of seem to punish you (focus group/ observation, 1995).

He further explained the additional pressures and discriminatory practices and structures that are in play in the courtroom, partly because of the exclusionary language and knowledge-base:

I walk in there, they know I can't read or write. So, say you go into court, you can read everything. You can go into the library and get the law book and say to yourself "oh yeah, this is it, yeah I'm gonna say this word". But me, I can go in there and I have to get it straight out my brain. And the question that they ask you, it's too big, you can't answer it. I gotta do my best to answer it and I think to myself I've said it right and I haven't. And they sort of say "no". All it is is you just get muddled up. (*ibid.*)

His probation officer responded by saying "You get in a muddle, then they think you're lying. (*ibid.*)"

Many Gypsies sacrifice their legal right of redress because of their awareness of the discrimination in court and because of their suspicion of officials. This suspicion often prevents Gypsies from even seeking legal advice (Interview with a Gypsy, 1997). Many Gypsies believe that defence lawyers and solicitors collude with the police and prosecution services. As Williams says: "this perception can be easily understood by observation of the social interaction between the agencies in the Court when the Magistrates retire" (Williams, 1994: 59). This leads some Gypsies into seeking legal representation outside their locality. This, obviously, incurs more money. Additionally, many solicitors refuse to act for Gypsies so as not to upset their clients (especially if their other clients are landowners), because they may have insufficient relevant knowledge of the relevant legislation (Wheeler, 1995), because they may believe they may not win the case, or because they may simply be prejudiced (personal correspondence with FFT and TLAST, 1995). Because of these and additional factors (analysed in Chapter Two), Wheeler concludes, "Gypsies are not equals before the Law... [and] the judiciary has... failed to protect the Gypsies from governmental excesses and prejudices" (Wheeler, 1995: 23). Furthermore, Wheeler argues that Gypsies are discriminated against in terms of both procedural and substantive justice.

Gypsies are often refused bail and given prison sentences because of the prejudices about a nomadic existence (Interview with Probation Officers and Solicitors, 1995-6). There is a fear that Gypsies will abscond unless imprisoned:

There is a great deal of despair and you'll see most people feel things are now worse. It seems very rare to get bail and rare to be believed when they are innocent. (Dawson, personal correspondence, 1996)

The following excerpt from a Local Authority policy document shows how many officials view the situation:

But fine enforcement action by the courts against a moving population is very difficult and the last resort for fine default - imprisonment - may be reached in a high proportion of cases. An alternative penalty would be to seize the caravan; such action would also prevent the offence being repeated... this proposal raises the question of cost and practicality arising from the provision of suitable compounds as and when required²⁷; it is also assumed that local authorities exercising these powers would not be held responsible for accepting such persons as 'homeless' under the Housing Act 1985. (Wealden District Council, 1992c)

That Gypsies are more likely to receive a prison sentence is, in effect, a double punishment because, arguably, Gypsies suffer more in prison than members of the sedentary population. This is because it is most alien to their way of life (being within walls, amongst non-Gypsies, in an institution and under the command of authority). It is also more difficult because Gypsies are picked on by other inmates and staff (Interviews with Gypsy ex-convict and Local Authority Gypsy Liaison Officer, 1995). One seventeen year old Gypsy boy committed suicide last year whilst on remand in an adult prison in Cardiff for a petty offence. In response to this a member of the Cardiff Gypsy Sites Group set up a training programme for Prison Warders to teach them the needs of Gypsies and other Travellers, which is now working well with many warders becoming interested in Gypsy culture.

²⁷ Note the concern is not about humanitarian considerations or issues of Gypsy "need".

So, Gypsies are discriminated at all levels of the Criminal Justice System, as well as receiving disproportionate attention from other agencies of social control, vigilante groups, and legislators.

Not all members of the Criminal Justice System are racist or prejudiced towards Gypsies by any means, but it's overall structure together with the sedentary, property-based character of the law ensure that Gypsies will be targeted, discriminated against and harassed. Ideologically and structurally the system allows for racism. As Hester and Eglin say with regard to judicial discrimination against aboriginal peoples in Canada:

It is not necessary for the judiciary to be racist. In a racist society just by doing their job they keep the bothersome natives off the streets. (Hester and Eglin, 1992: 186).

Keith's analysis of the anti-Black racism inherent in the British Criminal Justice System is probably more applicable to Gypsies, especially when he describes how Black communities today "are in part a subject created by the racializing discourse of criminalization." (Keith, 1993: 276) Indeed, the definition of Gypsy and the ability of Gypsies to pursue their traditional way of life lies firmly in the hands of the law-makers. To be officially recognised as a Gypsy a set of behavioural²⁸ criteria set out by non-Gypsy legislators and authorities must be fulfilled. Added to this is the synonymous relationship between Gypsies and crime in informal discourse. This all contributes to a culture in which Gypsies are highly unlikely to be seen as anything other than criminal, and are thus likely to be the subject of official and unofficial targeting and discrimination. Rather than being seen as an ethnic minority, Gypsies are viewed as a criminal class.

However, as was briefly alluded to directly above, there are many examples of good behaviour and policies within the Criminal Justice System, as well as in government and at the local level, despite the overall lack of any systematic or institutionalised approach. For instance, there is an increasing amount of "Gypsy

²⁸ Travelling with a purpose (i.e. Gypsies' movements should be related to their livelihoods, as was determined in *R v South Hams DC ex. P. Gibb* [1993] 26 HLR); see Chapter Four.

friendly” solicitors (FFT, personal correspondence, 1996)²⁹. Also, many police are sympathetic towards the situation that Gypsies have been placed within and have expressed their desire not to use the CJPOA (Interviews with Police Officers in various areas, 1995-6). This is because it unnecessarily brings into conflict the police and Gypsies by bringing a civil tort into criminal law, and because it will exacerbate existing problems. As Chief Constable David Wilmot of Greater Manchester Police, speaking on behalf of the Association of Chief Police Officers, said:

Legislation is not the total answer to this problem, as I feel all it may achieve is to pass the problem on more frequently. (Chief Constable David Wilmot, cited in *Squall*, no.8, Autumn 1994: 16)

Furthermore, one Chief Inspector that was interviewed (1995) for this research said that he did not see that it was anyone’s business to tell Gypsies that they should not live the way they do: “and it certainly is not a police issue”. At a presentation made at a Metropolitan Police/Greenwich University seminar³⁰, Mercer (1995c) said that in many cases the conflict is not the police’s fault. He argued that the CJPOA has, in effect, brought the police back into the front-line and into conflict with Gypsies, ruining many years of building a rapport and system of knowledge-exchange. In response to Mercer, the police agreed, saying that they did not want the role of enforcement, and said that it was necessary to co-operate³¹.

Many police forces are attempting to improve their relations with Gypsies. For example, Sussex police representatives have recently liased with FFT, which has been valuable in changing opinions and stereotypes on both sides (Interviews with members of FFT and Police Officers, 1996). Steve Staines of FFT said that there is progress once police and Travellers come together away from the scene of conflict: problems arise because “the decision-making process is distant from the scene... and from their effect and the people that make those decisions are very distant from the effect.” (Staines, 1995a). Similarly, many Local Authorities have reported

²⁹ Most notably: the Travellers Advice Team at McGrath and Co.; the Public Law Project, and; the Telephone Legal Advice Service for Travellers (TLAST), based in the Cardiff Law School and originally set up to balance unequal access to justice for Gypsies and other Travellers.

³⁰ Entitled *Romani Studies, Community Policing, and Developing Police-Ethnic Minority Relations in Bulgaria*.

that initial hostilities towards Gypsies from the community often declines once the sites becomes more established (Interviews with Gypsy Liaison and Planning Officers, 1995-6):

Racism against Gypsies is widespread – but often very shallow, ready to implode the first time a non-Gypsy knows a Gypsy as a personal friend. (Acton et. al., 1988: 6)

Media imagery is therefore of the utmost importance. Academic research takes on a renewed importance in this light³².

The police can form stereotypes about minority groups being criminogenic because they tend to only come into contact with those under suspicion of breaking the law. This can escalate with the police paying more attention to a group because of their stereotypes that have been formed by these very targeting practices. After a short while, statistical evidence can support what was hitherto unsubstantiated. As Box (1987) has detailed with regard to the perception of the criminality of the unemployed, this is because intensive policing produces more opportunities to find wrong-doing (aside from any labelling theory impact, whereby the targeted groups respond antagonistically towards police attention). In turn, police perception of Gypsy criminality feeds into other parts of the Criminal Justice System, the media and the public conscience. If no political agenda has preceded these events, this often provokes parliamentary response in the form of drafting more legislation to outlaw more and more activities of Gypsies. This, then, creates the moral panic whereby more and more Gypsies are criminalised and visible. The public fear that has been mustered translates itself as consent for the agencies of social control. Further targeting and discriminatory practices are legitimised and encouraged as they are now in response to public fear, and therefore necessary. Consequently, police targeting of an ethnic minority is redefined as crime control. Such police targeting of “suspect communities” is institutionalised and rationalised racism - hidden by bureaucracy, repetition and logic.

³¹ Having said all this, however, FFT have said that the CJPOA is being widely used.

³² However, the broadcast and publication of the situation facing Gypsies has not always resulted in compassion or enlightenment. For example, Amnesty International’s publication of a document referencing the human rights abuses of Gypsies (Roma) and others in Romania, resulted in the

The worrying development is that the most recent example of this trend has been the CJPOA, which has meant that police are now directly involved in every area of Gypsies' lives. The results are likely to be serious, because the everyday lives of Gypsies will be policed by those who assume Gypsies are criminogenic. Furthermore, the CJPOA encourages institutional and vigilante attack because of the perceived Government denigration of a nomadic way of life. In particular, it reinforces the link between Gypsies and crime:

The very fact that the legislation dealing with the Caravan Sites Act has been brought in as part of the Criminal Justice Bill, is an insult to our community and could be misunderstood as suggesting that all Gypsies are potential criminals. (Mercer, 1994)

In effect, the CJPOA legitimised targeting of an ethnic minority: it redefined genocidal practices as crime control.

The Mass Media

The mass media has a large part to play in this escalating process of criminalisation. Like other ethnic minority groups, Gypsies are generally only mentioned in the media when they are associated with crime or deviance (see Van Dijk, 1987). And as with other ethnic minorities, Gypsy status is mentioned in press coverage, whereas it is omitted if the suspect or criminal is white. This creates the impression that Gypsies are more criminogenic, because they receive disproportionate media attention and association with the category of crime. The viewing public are therefore likely to assume that Gypsies are more deviant than other groups, simply because it is brought to their attention more. Local intolerance of Gypsies is consequently intensified. In effect, the media reinforces negative stereotypes, which are then used as justification for discrimination, harassment and alienation. Furthermore, crimes against Gypsies are rarely mentioned in the media, nor are stories containing positive images. As Hancock says:

Romanian Government passing a law against "slandering of the state and the nation" with a punishment of up to five years imprisonment (*Romnews* No.46: 1, 19.11.95).

Gypsy priests and ministers don't ever seem to generate media interest. (Hancock, 1987: 122)

As Van Dijk (1987) has shown, ethnic or social minorities are also minorities in the mass media, and therefore less likely to receive empathetic reporting. Furthermore, information for "stories" is derived from "legitimate sources" – i.e. from officials, who must not be discouraged from soliciting further information by a challenging article. Advertisers also need to be kept content to insure their future financial support. Consequently, the mass media must present a pro-capitalist, conservative image. Gypsies and other minority groups are at odds with this image and do not offer any other incentive to the media industry to be treated other than in a derisory way. Moreover, stereotypes prevail because they have:

... remained unchallenged by the Romani community because of the traditional lack of access to the means necessary to combat stereotyping, and has created an image in the popular mind which combines fascination with resentment. Because journalists must still rely in large measure upon literary and poorly-researched sources for their background information on Roma "the mass media, in a veiled and often less-veiled form, goad opinion in an anti-Gypsy direction." (Hancock, 1993: 19, citing Kenedi, 1986: 14)

As Chomsky has said, the "powerful are able to fix the premises of discourse" (Chomsky, 1989: xi), so that "in effect the citizenry pays to be propagandized in the interests of powerful groups" (Chomsky, 1989: 22). The media therefore operates as an effective form of social control: legitimising the activities of the powerful, inculcating people with social values and norms, setting the boundaries of political debate, and encouraging social apathy through the isolatory and somnambulistic qualities of the mass media. Crucially, the media is popularly seen as a barometer of opinion:

The mass media provide a major source of knowledge in a segregated society of what the consensus actually is and what is the nature of the deviation from it. They conjure up for each group, with its limited stock of social knowledge, what "everyone else" believes. (Cohen and Young, 1973: 342)

Additionally, "newsworthiness" is dictated by a preoccupation with sound bites and visual impact. Consequently events need to be sensationalised, simplified and

predictable in order to be classified as “news”, so that they can be easily consumed. As Chomsky (1989) details in *Necessary Illusions*, a dissenting viewpoint is unlikely to be presented in the mass media because it would need an additional explanatory text and would therefore take up too much valuable space:

People will quite reasonably expect to know what you mean. “Why did you say that? I’ve never heard that before. If you said that you’d better have a reason. You’d better have some evidence. In fact, you’d better have a lot of evidence because that’s a pretty startling comment.” And you can’t give evidence if you’re stuck with concision. That’s the genius of this structural constraint. (Chomsky on Channel 4, 1994)

The necessary concision in the media means that only conventional thought can be repeated. In result, repeated and officially condoned images of the Gypsy as criminal give these images credence and fortitude.

Much media reportage can be said to play upon people’s fears, to stoke their prejudices, to outrage. This is especially true with the recent trend in hotlines (*The Sun*, 23.10.97³³), whereby people can record their hatred of Gypsies³⁴. Negative news reporting, according to Liégeois (1992), has increased in recent years. This type of reportage encourages other forms of racism and violence: “A vicious circle of sorts: violence attracts more violence on both sides and because everyone takes part, it is both fuelled and legitimatised” (Liégeois 1992: 14). A hearing held by the European Commission in 1991 concluded that the media often contains racist propaganda, which encourages racist attitudes and conduct in members of the public (Liégeois, 1995).

On one particular occasion, when a Gypsy woman died in hospital, her family wanted to take her home as part of their custom. The hospital refused saying that it was necessary to perform a post-mortem. The next day the local paper headlined “Gang of Gypsies Try to Take Dead Woman” (Interview with family and Gypsy support group member, 1995).

³³ “Tell us how you feel about the gipsy invasion. Do you think the refugees should be kicked out of Britain?” 17/18 out of 24823 people who used the hotline voted that Gypsies “should be kicked out” (*The Sun*, 24.10.97).

If police raid a Gypsy site, it will be reported in the local (and possibly national) media. On a number of occasions the media have been at sites when there was a police raid so early that they must have been in contact with the police beforehand. On one particular raid, all the cars on the site were impounded and the local paper ran the front-page headlines "Graveyard of Despair" and reported that all vehicles had been seized and impounded during a massive police raid. When the police returned all the vehicles with no charge, the media declined to return to the site to hear the Gypsies' side of the story or to mention in the paper that no charges had been made (site visit, 1995). When the police raid sites, the media rarely discloses the fact that there were no arrests, but the reportage implies that Gypsies have done something wrong, or at least are likely to. This encourages locals to believe that Gypsies are criminals, especially as police generally go to sites in large numbers, in riot gear, with dogs, and sometimes armed. This style of reporting could be considered to constitute incitement to racial hatred. Such a case is being considered by concerned people after the media reportage of the Gypsy asylum seekers in Dover (*traveller-acad*, 1998).

The media had a crucial part to play in the political and public reaction to an increased amount³⁵ of Czech and Slovak Gypsy asylum seekers entering Dover port and Polish Gypsies arriving at Heathrow airport during 1997. A hate campaign was being mobilised by the media, with excessive use of the words "flood", "invasion", "siege", "scroungers", and "scam" for example. *The Daily Mail* reported that Dover was "being used as an entry point for organised bogus asylum seekers, leaving Dover on the verge of a crime wave." (*The Daily Mail*, 7.8.97). *The Express* headlined "Port under siege" (*The Express*, 21.10.98) and "Gipsy scam grows" (*The Express*, 20.10.97), while *The Sun* referred to the Gypsies as "con merchants" and "Giro Czechs" (*The Sun*, 23.10.97). The occasion also presented the media with the opportunity to make use of Gypsy stereotypes with regard to magic and crime³⁶, and a number of cartoons exploiting the

³⁴ Hotlines have also been set up by Local Authorities, so that the public can inform them whenever they see a Gypsy or other Traveller (Interview with Local Authority Environmental Health Officer, 1995, and Local Authority Gypsy Education Officer, 1996).

³⁵ Although, the figures are greatly exaggerated (see Millar, 1997).

³⁶ "EU law is a gipsy curse" (*The Sun*, 24.10.97).

romantic image of Gypsies dancing around campfires or using crystal balls. It wasn't just the tabloids that were seen to be inciting racial hatred, with *The Independent* (20.10.97) headlining "Gypsies invade Dover, hoping for a handout" and *The Times* declaring that "French immigration officials wave through central European gypsies bound for the good life in Britain" (9.11.97).

Many of the locals interviewed (1997-8) would repeat, almost verbatim, the sentiments and catch-phrases of the tabloids and, when questioned further, be unable to substantiate their claims and beliefs. For example, all those who believed the Gypsies were criminals, such as shop-lifters, had no direct or indirect evidence. And when a group of Gypsies fled Dover because the National Front were demonstrating, the BNP said:

The gypsies say that they came to London to avoid a National Front march in the town on Saturday - code for a belief that the pickings might be better in the capital. (BNP, 1998: 13)

As Hardy wrote of one of the tabloids:

THE SUN has spent all week stirring up prejudice against gypsies. If – God forbid – we see gypsy children burned to death in refugee hostels, that paper will bear direct responsibility. (*The Guardian*, 25.10.97)

Because of this media sensationalisation, many asylum seekers who had been living peacefully were now too afraid to go outside (Pollitt, 1997). That is if they are not one of the 300 Gypsy asylum seekers being held in detention (Jeremy Corbyn MP, 1997). Similarly, sensationalised reportage of New Travellers during the ascent of the CJPOA had a direct affect on Gypsies' perceived and actual safety, with vigilante attacks reported to have increased as a result (*Squall*, Summer 1995).

The National Front

Since the sensationalist media reportage of Czech and Slovak Gypsy asylum seekers arriving in the port of Dover, there have been two National Front

marches³⁷ (15.11.97³⁸ and 28.2.98) and inflammatory leaflets circulated in the area by the National Front³⁹, BNP, and other fascist groups. Some members of the BNP carried baseball bats, while distributing leaflets headed “Crisis in Dover” along Folkestone Road where many asylum seekers are temporarily resident (Hudson, 1998). These events reflected the mood expressed in Parliament and by members of the general public. The ERRC (1997a and 1997c) condemned the “alarmist and racist” nature of much of the British press output. It is argued that such reporting would have been unlikely to have been allowed had the Gypsies been another ethnic minority. Similarly, had the National Front demonstrators carried placards carrying threatening or derogatory remarks about another ethnic minority (complete with spelling errors), rather than “Go home gipsies”, the police might have been more inclined to intervene under the Race Relations Act 1976⁴⁰.

That they are deemed to be economic refugees, let alone scroungers who “exist on crime”, belies the extreme abuse that Gypsies face across Europe, especially in Eastern European countries. In the Czech Republic and Slovakia many Gypsies have been murdered, severely beaten, raped and had their homes torched, with little response, if not complicity in the crime, from the Criminal Justice System (Kohn, 1995; Edington/Voluntary Service Overseas East European Partnership, 1997; ERRC, 1997; Romnews/Roma National Congress, 1997). Violent attacks, often by extreme nationalist skinhead groups, and discrimination in the fields of criminal justice, employment, education⁴¹, welfare⁴², and accommodation services is increasing in former communist countries looking for scapegoats during economic, political and psychological upheaval. The Czech non-governmental organisation HOST has documented 1250 racist attacks on Gypsies in the Czech Republic between 1991 and 1997, but estimates are far higher considering the reluctance to report such crimes (ERRC, 1997a and ERRC 1997c). Official

³⁷ Including a small number of C18 and BNP participants (*Anti-Fascist Action (AFA)*, 1997).

³⁸ The first fascist demonstration for several years (*AFA*, 1997).

³⁹ Entitled “Dover in Crisis: Invasion Alert”

⁴⁰ Although this is not necessarily so, bearing in mind the persistent racism in the Criminal Justice System.

⁴¹ The majority of Gypsy children are segregated and put into schools for the handicapped and mentally retarded in the Czech Republic: Helsinki Watch, 1992; ERRC, 1997a; ERRC, 1997c; Edington/ Voluntary Service Overseas (East European Partnership), 1997.

⁴² In the words of President Meciar, child benefit to Roma in Slovakia has been withdrawn to “curb the reproduction of socially unadaptable people” (*Direct Action*, 1998: 10), and many others are denied benefits because of widespread illiteracy (Boyes and Gledhill, 1997).

curfews have been placed upon Gypsies⁴³ and about 100 000 were denied citizenship status and rights when Czechoslovakia divided (Edington/Voluntary Service Overseas East European Partnership, 1997; O’Nions, 1996). The Labour Home Affairs Team has found evidence of persecution of Gypsies (*Direct Action*, 1998), but the Government still refers to Gypsies as “economic migrants”. Even the British Foreign Secretary, Robin Cook, urged the Czech President, Vaclav Havel, to address the problems which leave Gypsies in the Czech Republic unrecognised (*BBC News online*, 28.11.97). But, the Government still, somehow denounces their asylum claims as “bogus”. Even if the Government was right in saying that the Gypsies were “economic migrants”, economic marginalisation is still a factor of oppression and discrimination with dire consequences. Mike O’Brien, a Junior Home Office Minister, said that lying about reasons for seeking asylum is what Gypsies do (Acton, 1998b). He had urged ferry companies not to let Gypsies on board, thereby encouraging racial discrimination. He also said that no Gypsy asylum seekers would be accepted and said that those lawyers who assisted Gypsies were corrupt (*ibid.*).

A senior councillor of Dover Migrant Helpline, Annie Ledger, said that Gypsy asylum seekers make up a very small number of all asylum seekers, but the Government has decided to target them (BBC, 1998 [*Scenes From Provincial Life*] and *The Guardian*, 22.10.97). As Tony Travelli, a solicitor in the area says:

Gypsies are so lowly thought of, that the thought of another nine hundred Gypsies anyway... forget about where they come from, simply nine hundred Gypsies are descending from Leeds to Dover, you would have one hell of a reaction. (BBC, 1998 [*Scenes From Provincial Life*])

As has happened with Gypsy site accommodation, Local Authorities now have to pay for any provision. Central Government has withdrawn it’s direct funding of provisions for Gypsies and asylum seekers, and is thus escaping responsibility and blame and fuelling local hostility towards Gypsies, whether British nationals or asylum seekers. Claude Moraes of the Joint Council for the Welfare of Immigrants said that the recent developments at Dover have:

⁴³ For example, in Slovakia, one mayor passed a curfew on “Gypsies and other suspicious persons” (Focal Point f/8, 1998). It was, however, later repealed.

... produced more hostile calls than we have ever had before... There is an instinctive reaction just because they are gypsies. They really, really hate them. It seems to be some kind of combination of gypsies – whom everybody thinks they know – and in some kind of way the garden of England, Kent, being violated. It is vile stuff. (*The Guardian*, 22.10.97)

It is ironic that Parliament regards the Gypsy asylum seekers as economic refugees, and the media and locals are equally vociferous (and often violent) in the expression of their disbelief of their legitimacy, when such reactions are *evidence* of the widespread discrimination and prejudice that Gypsies face all over Europe. The fact that there have been two officially sanctioned National Front demonstrations against the Gypsies in Dover would suggest that the UK is not “the land of milk and honey” or “a soft touch” that is being so fervently protected. The logic is that totalitarian methods and ideas are justified and, indeed, necessary in order to protect a fair and democratic State:

... there is now a widespread tendency to argue that one can only defend democracy by totalitarian methods. If one loves democracy, the argument runs, one must crush its enemies by no matter what means. And who are its enemies? It always appears that they are not only those who attack it openly and consciously, but those who “objectively” endanger it by spreading mistaken doctrines. In other words, defending democracy involves destroying all independence of thought (Orwell, 1995: 168)

Furthermore, that such extreme and widespread examples of racism have remained relatively unchallenged, seems to suggest that anti-Gypsy hatred is an acceptable form of racism, or as Walsh puts it: “Britain’s reaction of disdain and dismissal reflected an attitude so ingrained across the continent that it hardly occurs to Europeans to consider it racism” (Walsh, 1997: 1). In Dover, the locals appeared to be more supportive of the National Front demonstrators than of the opposing demonstrators⁴⁴. In Dover, as in many other places in the UK (see Chapter One), Gypsies are verbally and physically abused and often prevented from entering shops, schools⁴⁵, from going on public transport, and so on. Locals have said “they

⁴⁴ Although there is a very active local Asylum Seekers Support Group.

⁴⁵ Many parents have petitioned against Gypsy children attending primary schools in Dover (*Direct Action*, 1998).

should be burned” and one said: “they ought to be taken out in a boat and sunk” (*Direct Action*, 1998: 10).

The National Front demonstrations took place even while the Home Office have said, “the flood of gypsies was down to a trickle” (*BBC News Online*, 1.11.1997) and while there have been no asylum claims granted to Gypsies who had arrived in recent months (*The Independent* 20.10.97)⁴⁶. Both demonstrations were escorted, or protected as many counter-demonstrators and witnesses said, by police⁴⁷, while the anti-fascist counter-demonstrations were forcibly coerced by approximately 500 police in riot gear from Kent and Surrey, and police dogs. They were accompanied by an entourage of over 30 police vans, three abreast to protect the National Front marchers from their critics. The seaward side of the National Front marchers was protected by a Harbour Patrol and police launch (Nardone, 1998). There was also a number of plain-clothed and undercover police officers, and some military presence, noticeable at the end of the demonstrations.

Alarming, the arrests witnessed (observation at the second demonstration, 1998) were of the more vulnerable members of the anti-NF demonstrators and no law breaking seemed to have occurred (six were released without charge immediately, while seventeen have been charged with public order offences). One man was arrested for “persistent swearing” and another was forcibly tackled by seven police men for refusing to let go of a hand-railing, which appeared to be through fear of the seemingly heavy-handedness of the police. Other police appeared to be over-zealous in their duties of maintaining public order, which was threatened, it seems, only by those risking arrest to oppose an organised and officially condoned public expression of racial hatred. Police spokesman, Mark Pugash, said:

It is not something we would apologise for. We said we would do three things; protect public order, facilitate a lawful protest, and apply the law to those who broke it. We did all of these. Nobody was injured, no property was damaged, and we kept distribution to a minimum. The National Front finished its march as planned. With robust policing, we arrested anybody

⁴⁶ No one has been granted asylum from Slovakia or the Czech Republic in over seven years (Jeremy Corbyn MP, 1997).

⁴⁷ The first ended when the National Front abandoned their demonstration because of the vociferous opposition, the second was able, with massive police support, to complete the march and hold a rally.

who broke the law... We needed enough resources to enable public order was maintained. It was extremely expensive, but public safety is an enormous responsibility that we take very seriously. We devoted whatever was necessary to ensure the people of Dover were protected. (Nardone, 1998)

There was constant video surveillance of all those involved with the anti-fascist demonstration⁴⁸ by police on foot, on top of buildings, in boats next to the promenade where the march was taking place, and from the windows of adjacent flats. One conclusion to be made is that the police were not so much concerned with law-breaking but were operating a political agenda: “collecting political information and trying to intimidate us” as one demonstrator said (Association of Gypsies/ Romani International, 1998: 2). This also offers an explanation as to the arrest of the more vulnerable looking demonstrators while the obvious ring-leaders were left alone, as presumably information was already held on these (their arrest might also have sparked disorder). At the first demo, anti-fascists

... half a mile away from the National Front march were video-filmed and threatened with arrest unless they submitted to a comprehensive body search and gave their names, addresses and personal details. One person had every scrap of paper in his wallet examined under the pretext of “looking for a razor blade”. (Hudson, 1998: 3)

On both occasions there were approximately 20 National Front demonstrators as opposed to approximately 200 anti-fascist demonstrators. This begs the question why the march was allowed, costing thousands of pounds and employing hundreds of police, when only a handful of people wished to protest about Gypsy asylum seekers in Dover. It is particularly questionable as the National Front demonstrations can be said to have contravened the Race Relations Act 1976. Furthermore, demonstrations have recently been legislated against under the CJPOA. When *SchNEWS* asked the local police why the Home Secretary allowed the march, they were told that the Home Secretary “can only ban a demonstration if he thinks there might be Public Disorder” (*SchNEWS*, Issue 144, 1997: 1). The fact that there was public disorder suggests that public order is only threatened by non-mainstream protests and demonstrations, concerning such things as minority

⁴⁸ No surveillance was witnessed of the National Front demonstrators although, of course, this cannot be ruled out.

rights, parliamentary reform or civil liberties. When it comes to protesting against Gypsies, public order, it seems, is not considered to be threatened⁴⁹, presumably because the sentiments behind the protest are widely held. It obviously suits the Government to have public support for strict asylum policies, and it also seems that it suits them to have a racist climate whipped up.

It appears that the National Front is exploiting the political ambiguity of the status of the human rights of asylum seekers and Gypsies. As one anti-fascist demonstrator said:

The National Front simply wants to stir up hatred and to set people against each other in Dover. They are out to get a foothold in the town by taking advantage of the asylum seekers' plight. (*Dover Express*, 26.2.98).

The National Front literature (1998a; 1998b) certainly bears out the assertion that they are seeking to recruit members and support and gain council seats, by what they term "successful", "well planned operations". According to Hudson, the National Front has made a concerted effort to raise its profile and supplant the BNP (since failed merger talks) by using demonstrations and street activities to "kick their way into the headlines" (Hudson, 1998: 2). Therefore, Gypsies are used as a reason to raise their public profile.

As UK law defines Gypsies as being nomadic, the drive towards the sedentarisation of Gypsies can only be described as genocidal, in that the State is "[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part" (Genocide Convention 1948, Article 2d). Accompanying this is widespread anti-Gypsy discrimination, harassment and violence, which receive no public or official condemnation. Additionally, inflammatory materials are frequently published, which incite vigilante attack and fascist demonstrations. In summary, legislative, institutional, structural, and informal anti-Gypsyism inform, encourage and legitimise each other. In effect, because of the uniform discrimination and perception that Gypsies are inherently criminal, their human rights are effectively curtailed. The National Front marches

⁴⁹ Especially since another National Front demonstration was allowed and "protected" by the police after the first ended in public disorder.

in Dover are typical of the climate of hate against Gypsies in the UK. They are also typical of other climates where events lead to State-sanctioned murder. As Mondallant has said:

The resurgent fascist activity in Germany did not kick off with events like Rostock, it began with relatively low profile and somewhat mundane activity very much like the NF march at Dover. (Mondallant, 1997: 20)

Conclusion

In the UK, the past year has seen extreme hostility directed against Gypsy asylum seekers epitomised by Government discrimination, media frenzy and two officially sanctioned fascist demonstrations in Dover. Ironically, at the same time as the Gypsy asylum seekers entering Dover were being persecuted, talk about compensation for victims of Nazi crimes during World War Two was being widely broadcast in the media. No connections were made. It is doubly ironic that 1997 was the “European Year Against Racism and Xenophobia”.

Mercer (1994 and Interviews, 1995-6) has said that at the moment Gypsies are under genocidal threat in the UK and across Europe, whether as asylum seekers or nationals:

I believe that since the Holocaust the Gypsy race has never been in so much danger from institutional racism, neo-Nazis, fascism, discrimination, and xenophobia as it is today. (Mercer, 1994)

Vigilante attacks on Gypsies are increasing across Europe (Council of Europe, 1993 [Doc 6733]; Statewatch 4:4, 1994; Barany, 1995; Liégeois, 1995; European Roma Rights Centre, 1997a; Minority Rights Group, 1998). They are encouraged by (and encourage) legislative and institutional discrimination and targeting, thus creating a vicious circle (or, more accurately, a vicious spiral), as has been discussed throughout this thesis. The Minority Rights Group has recognised Gypsies as the most disadvantaged minority group in Europe (Emerson, 1996).

Hancock has said that little has changed for Gypsies since the Holocaust:

Official statements calling for the sterilization, deportation and even extermination of Gypsies are still being released today in both eastern and western European countries. (Hancock, 1987: 2)

Inmates of concentration camps during the Holocaust were tattooed for identification purposes, when photographing them all became too expensive:

And to think, a teacher in England recently suggested tattooing Gypsy children, so that records could be kept more easily on the movements from school to school. (Smith, 1995: 20)

In the past three decades, various international bodies¹ have addressed the problems faced by Gypsies (see Gheorghe, 1997 and Danbakli, 1994). However, even the Council of Europe recognises that little positive effect has been achieved (Council of Europe, 1993 [Doc. 6733]). Also, while international bodies have been addressing the protection of the Gypsy way of life, the UK and other EU nations have virtually ignored the local and institutional discrimination and violence suffered by Gypsies. In fact, many Governments and public institutions have encouraged and taken part in the persecution of Gypsies. Genocidal activities against Gypsies in Eastern and Central Europe over the past decade have rarely been addressed by the West. These activities have included sterilisation programmes, taking children away from Gypsy families, and murder (see Hancock, 1991). And while there was sympathy for the victims of the Balkans' conflict, the plight of Gypsies was generally overlooked, with Gypsy asylum seekers in the UK being called "bogus Bosnians" at the height of the war in Bosnia and Herzegovina, for instance. In 1993, the UK Government accepted the Council of Europe's Recommendation 1203 on Gypsies in Europe (see Appendix Two), which recognised the increasing human rights abuses of Gypsies:

Intolerance of Gypsies by others has existed throughout the ages. Outbursts of racial or social hatred, however, occur more and more regularly, and the strained relations between communities have contributed to the deplorable situation in which the majority of Gypsies live today. (Council of Europe, 1993, Recommendation 1203 s.5)

Ironically, at this same time the CJPOA was ascending through Parliament.

In the UK, the combination of legislative, institutional, informal and vigilante attacks poses a genocidal threat to Gypsies. It is argued that this threat is largely ignored because Gypsies are generally perceived to be a criminal group rather than an ethnic minority. For example, in UK planning law, the definition of Gypsies is "persons of a nomadic habit of life, whatever their race or origin" (CJPOA s.80). Targeting ethnic minorities is, then, redefined as targeting crime and, thus,

¹ Most notably the Council of Europe, European Commission of Human Rights (ECHR), the European Commission on Racism and Intolerance, the Office for Democratic Institutions and Human Rights (ODIHR), and the Organisation for Security and Cooperation in Europe (OSCE).

naturalised and escapes charges of racism. So, while Gypsies are supposedly protected under the Race Relations Act 1976, other legislation which criminalises their way of life, makes a nonsense of such a statute. The added problem that Gypsies face is that their Gypsy status can be lost. If a Gypsy cannot prove his or her attachment to a particular form of nomadism, he or she is no longer seen as a Gypsy in the eyes of the law when it comes to planning applications. Therefore, you can get rid of Gypsies simply by defining them out of existence.

As the term “genocide” may seem excessive to use with regard to Gypsies, it is necessary to further explain the relation between the term, the ethnicity of Gypsies, and their attachment to nomadism.

While ethnicity is a social construction, rather than biologically determined, the concept is socially, legally and politically accepted as representing a specific set of characteristics. While the concept may mean different things to different people, as with the conceptually related terms ‘race’, ‘nation’ and ‘citizenship’, it is accepted as real and has real consequences. It has a part to play in self-identity and perception and treatment of others, and it predetermines many experiences that may be encountered. While “ethnicity” is an ambiguous and fluid concept, as a category in political, legal and popular discourse, it operates to contain, marginalise, depoliticise and, at times, exclude Gypsies and, on the Gypsies’ part, to unite, defend, politicise and, at times, isolate. In other words, ethnicity is about micro and macro politics; about power relations; about control and resistance. Ethnicity, as a definition of the self, is of the utmost importance to many Gypsies. Membership of the group and attachment to belief systems and activities are integral to many Gypsy’s way of life and as a necessary means of preserving and defending group identity. However, as Gheorghe has said:

The problem is, that any argument based upon ethnic particularism may be turned back to limit and control the ethnic group in question. (Gheorghe in CoE, 1992: 106)

Defining groups according to ‘ethnicity’ is a means of differentiating and subordinating ‘others’. However, in such a world, to adhere to one’s ‘ethnicity’ is

also a means of struggle and resistance and, at least on paper, affords some protection from discrimination. Recognition of the ethnic status of Gypsies is important for reasons of legal protection (see Williams, 1994). However, the fact that Gypsies may be recognised in law as an ethnic group does not necessarily mean that protection is afforded them, nor does it mean that their individual and group needs will be met.

Protection has often been afforded the individual by disguising his or her Gypsy identity and 'passing' for another. Similarly, non-Gypsies exaggerate Gypsies' identity or deny their ethnic status to maintain or reinforce boundaries between "them" and "us" or to make "them" disappear. Ethnicity is a way in which group differences and similarities are constructed, organised and comprehended.

An analysis of the relationship between Gypsies and the State in the UK has shown that "ethnicity" is not as stable and unambiguous a concept as is often popularly assumed. Under UK law, Gypsies may be recognised as Gypsies one day and not the next, or in a particular context and not another. In addition, it must be stressed that, identifying and defining Gypsy ethnicity is as problematic as identifying and defining English ethnicity.

According to the Romany and Traveller Family History Society in the UK, ethnic identity is legitimised with reference to how the individual sees him- or herself and how other members of the ethnic community in question regard the individual. Further, belonging to an ethnic community means frequently, socially interacting with other members of the community, and maintaining particular cultural beliefs and behaviours.

Gypsies in the UK identify themselves primarily with recourse to their descent and attachment to a set of ideological beliefs and/or practices. These include shared values, rituals of cleanliness, self-employment, family and community bonds, language and nomadism. While a Gypsy may not necessarily be nomadic, there is often an attachment to the ideology of nomadism. However, although many Gypsies share the above beliefs and practices, as with English ethnicity for

instance, the Gypsy culture is diverse and heterogeneous. Gypsies are an ethnic group diverse in language, religion and race:

... the ancestors of the Romani people who left India were probably of diverse cultural and phenotypical origin even then, drawn together outside India only by their ability to communicate in a, or perhaps a group of, Prakritic lingua francas. Since then there has clearly been a continuous process of ethnic fragmentation and reconstruction alongside a wide range of other ethnicities. (Acton, 1996: 5)

As Kohn (1995) has said, asserting the ethnic identity of Gypsies “glosses over the diversity of the Romani mosaic”, as much as it would if English ethnicity were defined. As Acton (1974) has said, Gypsies are a diverse group, possessing a continuity, rather than a community, of culture. In addition, ethnicity is subjective:

... in the ethnic group which is sub-divided, each individual will have a perspective, explaining his relation to other individuals ethnically differentiating from him... ethnic differences are... matters of degree, rather than the sharply distinct characteristics of clearly bounded groups. (Acton, 1974: 53-54)

Similarly, Liégeois (1986) has said that the structure of the Gypsy group is ever-changing, rather than rigid:

Some cultural traits may be symbols of identity, others may not. The important traits may also change over time (for example travelling with wagons and horses) and new ones (lorry and trailer) take their place. In the process of adaptation, aspects of Gypsy culture may even come to resemble some of the wider society. But cultural similarity with any housedwelling, non-Gypsy group does not necessarily weaken the permanent feature in Gypsy identity, namely their conception of themselves as a distinct group. (Adams *et. al.*, 1975: 34-5)

Indeed, a defining characteristic of Gypsies is precisely their diversity and adaptability, living across nations and often in dire circumstances.

The fact that Gypsies have survived various forms of discrimination and persecution through being adaptable has led many non-Gypsies to claim that they are not “genuine Gypsies” because they may not be nomadic or share a common religion, for instance. As O’Nions (1995) has said “there is no one single factor

which identifies a Gypsy to a Gorgio”. Nonetheless, Gypsies do share a common identity as an ethnic group based upon self-awareness and separateness from non-Gypsies (see O’Nions, 1995 and *CRE v Dutton* [1989] 1 All ER 306). As Gheorghe puts it:

The unity of ethnic unity is created by the existence of a common threat: racism... But in so far as these groups share a common experience of discrimination based on dominant ethnic groups regarding them as non-white, and in so far as culture is experientially determined, that common identity will become an increasing reality. (Gheorghe in CoE, 1992: 98)

As established in *CRE v Dutton*, 1988, under the Race Relations Act 1976 Gypsies are recognised as an ethnic minority as they are an identifiable group with common “ethnic origins”, with a long shared history and its own cultural traditions. *Mandla v Dowell Lee* ([1972] AC 342) established these necessary criteria for the legal recognition of an ethnic group. The fact that in law, when attempting to gain planning permission, Gypsies are defined according to behavioural attributes rather than descent suggests that there is at least some suspicion over whether or not Gypsies constitute an ethnic group. This is underlined with the discourse of the “genuine Gypsy” who generally exists within the recesses of nostalgic imagination.

As was detailed in Chapter IV, every hurdle is in place to ensure that as few people as possible can have legal claim to be recognised as a “genuine Gypsies”. Ironically, the definition of a Gypsy in planning legislation precludes most of those immobilised on public sites, in houses, and those who move because of eviction or harassment:

But, someone who breaks the law by stationing a caravan where there is no planning permission is a Gypsy. This serves to reinforce the link between Gypsies and crime, with law-abiding Gypsies ironically not fulfilling the legal criteria to be recognised as a Gypsy. (Liégeois, 1987: 88)

As Liégeois has said, the Gypsy is “an outlaw merely because he exists, a habitual offender because he has not complied with the orders which would have led to his physical or cultural extinction. (*ibid.*)

This irony is highlighted by Maclean statement during the ascent of the CJPOA: “the Government have no quarrel with the nomadic way of life, but nomadic persons must keep within the confines of the law.” (Mr Maclean, HC Standing Committee B 10.2.94 col. 704) The fact that nomadic Gypsies can only remain within the confines of the law if they permanently reside within the confines of an official site does not appear to concern Maclean.

Furthermore, nomadism is a state of mind, rather than simply an activity, as Liégeois says:

Some Travellers... have spent their entire lives in houses, while their children after marriage will always live in caravans. The Traveller is someone without material ties, who can move when he likes or when he finds it useful or necessary. There is a great difference between the objectivity of the journey – the fact of travelling – and the subjectivity of the journey – the feeling of being a Traveller. Whereas a sedentary person remains sedentary even when travelling, the Traveller or Gypsy is a nomad even if he does not travel. Immobilized, he remains a Traveller. It is therefore preferable to speak of Gypsies and Travellers who have become sedentary rather than of sedentary Gypsies and Travellers... Nomadism is more a state of mind than an actual situation. (Liégeois, 1987: 27)

As Acton has said, nomadism is central to the ethnic identity of Gypsies, and is officially recognised as a “deeply-felt part of ... gypsy life-style” (European Commission of Human Rights, 1995: para 64):

... one may repeatedly hear Gypsies indicate that this is the word that gives the key to their ethnic separateness. Gypsies continue to be called “Travellers” even when they have long settled in a house. (Acton, 1974: 64)

Ironically, it is the same Authorities that condemn Gypsies for not being sufficiently nomadic, that entrap Gypsies on sites. The impulse seems to be geared towards outlawing nomadism, entrapping Gypsies and problematising Gypsies’ ethnic identity:

The maxim is “leave or be hounded to death”... You do not want him to settle down. You do not want him to travel. What do you want? The answer is simple: you do not want the Gypsy. (Frankham, 1997)

The Government desire for Gypsies to settle is expressed in the consultation paper for the CJPOA: "...the Government believes that it may be necessary to provide advice on education, health and housing, which encourages gypsies and other travellers to settle and, in time, to transfer into traditional housing" (DOE, 1993 paras 27-8). Additionally, financial aid to encourage this was suggested at the time. As Lord Irvine said about the Government's introduction of the CJPOA: "The real effect of the legislation, which they dare not openly avow, is to make those who have no lawful place to reside in their vehicles disappear through the imposition of criminal sanctions" (cited in Peters, 1994: 4):

We now have ethnic cleansing by legislation – far more subtle and far more dangerous than ethnic cleansing by violence. That can be fought against, you can see your enemy (Frankham, 1997).

As Gheorghe (CoE, 1992) has said, in the UK Gypsy ethnic identity is so strongly linked to the ideology of nomadism and caravan-dwelling that house-dwelling Gypsies are often not regarded as Gypsies and, hence, escape discrimination and harassment. Nomadism is central to the ethnicity of many Gypsies in the UK. As McVeigh (1997) has described, while sedentarism is not reducible to racism, it takes on racist forms when it affects ethnic nomads:

This is because nomadism is a constituent part of the ethnicity of 'ethnic nomads' - forcibly to sedentarize them is not simply to stop them travelling, it is actively to destroy their ethnicity or 'race'. Thus sedentarism has genocidal implications *vis-à-vis* ethnic nomads, like Roma and Irish Travellers. (McVeigh, 1997: 16)

Until nomadism and caravan-dwelling are recognised as an integral part of the Gypsy culture in the UK, laws targeted against these activities will not be seen as being racist or potentially genocidal in their implications:

It bears emphasis that a crucial element in the operation of contemporary sedentarism is the denial of the ethnicity of any nomads. (McVeigh, 1997: 16-17)

Henceforth, discriminating against Gypsies escapes charges of racism. Discriminatory policies and targeting practices against an ethnic group are

redefined crime-control; a problem needing to be solved. The solution is sedentarisation. Consequently, as McVeigh (1997) has said, the Gypsy demand for recognition of their ethnicity is central to their struggle for survival as nomads. Additionally, as McVeigh attests, anti-nomad discrimination has been, and remains, a “prelude to genocide” (McVeigh, 1997: 19).

Despite a general lack of criminological literature on the subject of genocide, there is significant definitional debate regarding this relatively new concept (see Yacoubian, 1997). However, in general, the definition as contained within the Genocide Act 1948 is adhered to. ‘Genocide’ was coined by Lemkin to denote “a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.” (Lemkin, 1944: 79) The aim is fulfilled, according to Lemkin, by eroding the political, economic and social institutions of the group and follows two phases: “first, the desolation of the national example of the oppressed group, and second, the imposition of the national pattern of the oppressor” (Yacoubian, 1997: 3). In the words of Lemkin:

The objectives of such a plan [of the destruction of essential foundations of life] would be the disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. (Lemkin, 1944: 79)

Genocide is not simply mass killings, therefore, as is often presumed, but, in the words of Fein, herself critical of generalised labelling, a “sustained purposeful action by a perpetrator to physically destroy a collectivity or through interdiction of the biological and social reproduction of group members.” (Fein, 1994: 97) As Destexhe has said, the definition as it stands today is predicated upon four factors: “a criminal act... with the intention of destroying... an ethnic, national or religious group... targeted as such.” (Destexhe, 1995: 4) The final factor is important to the extent that it is the perpetrators of the act who define who is to be included in the group; in the case of Gypsies, it is the State who defines who is, and who is not, a Gypsy and then targets them accordingly.

However, it must be said that the definition of genocide as contained within the Genocide Act 1948, is narrower than originally conceived by Lemkin. Notably, the Act excludes the concept of cultural genocide, which more accurately defines the forced assimilation of Gypsies in the UK. However, as McVeigh has argued, there is no dichotomy between extermination and assimilation:

Rather both approaches have been part of a complex dialectic committed to a 'final solution' to the 'problem of nomads'. (McVeigh, 1997: 22)

Indeed, the benign appearance of assimilation is dangerous (see Cohen, 1994). Both approaches aim to eradicate Gypsies, both are part of the same genocidal project:

The nomad is increasingly caught in this genocidal dialectic between sympathetic incorporation and unsympathetic repression. (McVeigh, 1997: 23)

Also, the relationship between the State and Gypsies is not confined to forced assimilation, or the criminalisation of nomadism. The conditions imposed upon Gypsies, particularly those on sites or illegally pitched, cause "serious bodily or mental harm" as a result of lack of services, impingement of human rights, and constant harassment and assault by officials and locals, as detailed in the previous chapters. In addition, the Act contains measures against the act of "forcibly transferring children of the group to another group", and many Gypsy children have been taken away from their families because of the perception that the Gypsy way of life is unsuitable. It is unlikely, however, that in the current climate of a lack of political will to define any act as genocide and a lack of judicial resolution, the combined acts against Gypsies will be considered genocidal.

However, just because the situation facing Gypsies cannot be compared with the events of the Holocaust or the 1994 Rwandan genocide, this does not mean that the Gypsy community, albeit on a lesser scale, is not facing potential destruction. Gypsies are the only ethnic group targeted specifically by laws in the UK and are

being prevented from living according to their own self-definition and the criteria, laid out in law, which defines them.

Forced sedentarisation and criminalisation of a nomadic ethnic group can be seen as genocidal in that the State is “[d]eliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part” (Genocide Convention 1948, Article 2: d) (see Appendix Six). Of course, it depends upon the definition of “physical destruction”. However, it must be mentioned that “[k]illing members of the group” is mentioned in Article 2 as distinct from “physical destruction”:

The Act amounts to genocide. It is an attempt to destroy our culture and everything that Gypsies do. They are seeking to exterminate us. (Mercer, *The Times*, 24.1.95)

This thesis has shown that every opportunity for Gypsies to live according to their ethnic and cultural traditions has been legally curtailed. In the UK, the relatively fortunate Gypsies are entrapped on prison-like sites. The less fortunate have either surrendered their way of life and the legal recognition of their ethnicity (in planning law) and live in houses, or they suffer the constant and repeated threat of daily evictions and arrest. All suffer legislative, institutional, and local attack that accompanies it. Under the CJPOA, the likely deterioration in the condition and number of sites is likely to exacerbate the situation. The CJPOA has also encouraged an intensification of institutional discrimination and vigilante attacks in response to the perceived official denigration of the Gypsy traditional way of life:

The very fact that the legislation dealing with the Caravan Sites Act has been brought in as part of the Criminal Justice Bill, is an insult to our community and could be misunderstood as suggesting that all Gypsies are potential criminals. (Mercer, 1994)

The Act has also discouraged Local Authorities from providing sites (as well as other services), as their statutory duty to do so has been removed. Consequently, Gypsies have to rely on the planning system in order to gain secure and legal accommodation. However, the CJPOA has also toughened planning legislation,

which has ensured that Gypsies are very unlikely to gain planning permission for sites. Consequently, two-and-a-half thousand Gypsy families have nowhere legal to stop (see Appendix Thirteen). In addition, the effect of the CJPOA upon Gypsies is to split families and render them more vulnerable to attack, by reducing the number of vehicles legally able to be on land, without authorisation, from twelve to six. It also enables police to arrest Gypsies and confiscate and destroy their mobile homes and caravans that are not on the few authorised sites.

Because the provision of sites underpins Gypsies' security, safety and human rights, many Gypsies are in a very precarious position. However, as was shown in Chapter One, even those on sites are denied basic human rights in the form of healthy living conditions, access to welfare and social services, privacy, freedom from harassment, and freedom to move.

It is argued that not only is discrimination against Gypsy sites in planning and criminal law ignoring a viable alternative to the current economic and environmental problems, but it also undermines basic human rights, in the contravention of many statutory obligations as expressed in domestic and international law².

Lord Archer of Sandwell (Labour) said that reforming the policies on Gypsies, by reinstating the CSA 1968 for instance, would be the last thing that the Labour Party would do because it would not be a vote winner (Interview, 1996). Correspondence with the Department of Environment, Transport and the Regions (DETR) has also confirmed this. However, the DETR has issued a letter to the Chief Planning Officers of Local Authorities, re-stressing the importance of Circular 1/94 and their statutory obligations concerning Gypsies' education, housing and health needs (FFT Newsletter, July/August 1998).

The DETR is also planning to issue good practice guidelines to Local Authorities concerning "unauthorised camping". These guidelines will be based upon research

² In particular: the European Convention of Human Rights (Articles 8, 11, and 14) and the International Covenant on Civil and Political Rights (Articles 2, 17, and 27); the Children Act

carried out by the University of Birmingham. The perspective of the research project is clearly evident from the articulated intentions:

... to explore, through case studies of Local Authorities, in what circumstances Local Authorities have used these powers successfully and to explore the scope for developing good practice guidance for dissemination to other local authorities. (University of Birmingham research team, personal correspondence with DTER, 1998)

Good practice here is clearly synonymous with successfully carrying out evictions.

However there is some hope for the future in that recent case law has slightly mitigated the full effect of the CJPOA (Clements, 1997a and Campbell, 1997). The most notable example is *R v Wealden District Council ex parte Wales*, which reinforced the necessity for Local Authorities to investigate Gypsies' health and welfare needs before and during eviction proceedings. There is also hope in the Human Rights Bill.

The Human Rights Bill, which will incorporate the European Convention on Human Rights³ into UK law, was published on 24 October 1997 and is likely to come into force mid-1999. Previously, the UK was the only European or Commonwealth country without an enforceable Bill of Rights. The newsletter of the Telephone Legal Advice Service for Travellers reported that:

There is widespread acceptance that the incorporation of human rights law will result in increased pressure for Traveller law reform. (*Travellers' Times*, November 1997: 1)

Although the Bill is a significant move in the right direction, there are a number of things to be wary of. For instance, practice and policy are not necessarily correlative. The Bill may actually disguise a movement in the opposite direction or may induce complacency. As Cohen in *The Punitive City* (1994) details, a move away from seemingly centralised control and authoritative policies (in his case

1989; the Housing Act 1985; the Education Act 1993; the Education Reform Act 1988; the Race Relations Act 1976. See Appendices.

³ Full title: European Convention for the Protection of Human Rights and Fundamental Freedoms. See Appendix One.

exhibited in so-called “alternative community punishments”) often masks increased centralised control and intervention, more severe for its unaccountability and alter-egoed appearance. More institutional intervention into the human rights of individuals is not, therefore, automatically beneficial to the individual. Moreover, the European Convention on Human Rights has too many get-out clauses for it to be effective. For instance, if nomadism is criminalised in domestic law, the clauses “legal person” and “national security”, for instance, can be used to override claims of the abuse of Gypsies’ human rights. As Liberty has said:

The statements of principle are heavily diluted by exceptions and provisos. (Thornton, 1989: 94)

Furthermore, as Mitchel has said, the transformative effects that the Government supposedly anticipates are undermined by the fact that the Government “has not provided any means by which this change can practically occur.” (Mitchel, 1998: 3) As Chomsky has said:

The operative meaning of international conventions (and domestic law, for that matter) is not determined by words on paper, but by the ability to interpret and enforce them. (Chomsky, 1998: 5)

In domestic and international law, there are already many pieces of legislation protecting Gypsies, which are repeatedly contravened. Furthermore, there is little acknowledgement that Gypsies are unfairly discriminated against, and so little optimism is warranted for the advent of the Human Rights Bill. As Max van den Stoel, High Commissioner for National Minorities, said concerning Gypsies in Europe:

The problem of racially motivated attacks against Roma and their property... is not a purely legal one. Certainly a proper legal framework is necessary for protecting persons against racially motivated attacks, but in most cases a basic framework already exists. There must, however, also be clear political will - from the highest to the lowest levels of the state - to combat racial violence. (cited in Liégeois, 1995: 16)

An analysis of anti-Gypsy discrimination highlights the malleable quality of the law when it comes to human rights, and its rigidity when it comes to issues of land

and property. Rights are not natural as is often assumed, but social constructs. They are slogans and used as an effective form of social control, to assuage the public into acquiescence and dependence. Focus upon rights tends to presuppose the system works. As Burgess (1997) and Gheorghe (1997) have said, the debate about rights reproduces and legitimises the social order rather than threatens to redistribute power, and disguises and reduces the question of power “to that between donor and recipient” (Burgess, 1997). Furthermore, as has been shown throughout this thesis, rights in the West have been conceived within an ethnocentric and sedentarist ideology. Consequently, the abilities for minority groups to pursue their traditional ways of life are significantly reduced. Indeed, their differences are often defined as threatening and are thus criminalised, to the extent that:

Gypsies frequently do not have the possibility of complying with the law – it is the law itself which is in disrepute. (Clements, 1996: 13)

As was hopefully shown in this thesis, the so-called “Gypsy problem” is, in fact, a problem created by the State.

As Hall *et. al.* (1978), Gilroy (1987), and Scraton and Chadwick (1991) have described, criminalisation of a group insures that any grievances they may air will be seen as illegitimate. Because it is difficult to occupy the status of criminal *and* victim, crimes against Gypsies are hidden by the denial of the Gypsy as victim. Denial of the Gypsy as victim also means that responsibility for the crimes is denied. Portrayal of the Gypsy as criminal also functions to absolve the State of responsibility for Gypsies’ wellbeing. The image of the Gypsy as criminal also serves the State by distracting the voting public away from any official mismanagement or misdemeanours and from general social problems and inequities. Additionally, portrayal of the Gypsy as criminal is a useful social control tool, through the petrification of the public and encouraging them to stay “safely indoors”. It is also useful from a social control perspective because it discourages others from abandoning a sedentary lifestyle, to avoid punishment and demonisation. Most importantly, the image of the Gypsy criminal functions to

scapegoat Gypsies for social and economic problems *and* to blame them for their own persecution.

Ironically, Gypsies are made scapegoats for many of the social problems to which they offer solutions. However, their relatively sustainable way of life, strong family and community ties, and entrepreneurial skills are treated with suspicion and contempt. Rather than seeing what Gypsies can offer the mainstream in the way of values and skills, Gypsies are likely to be continually attacked. The Parliamentary Assembly of the Council of Europe, in their *Report on Gypsies* said:

As a non-territorial minority Gypsies greatly contribute to the cultural diversity of Europe. In different parts of Europe they contribute in different ways, be it by language and music or by their trades and crafts. (Council of Europe, 1993: 2)

However, it seems that their value as a scapegoat outweighs their value as anything else.

The image of the Gypsy criminal also serves to legitimise increasing paramilitarisation of the police and State appropriation of public spaces, and decreasing civil liberties and welfare assistance. The persecution of Gypsies, then, has implications for everyone within a State that is looking for reasons to restrict freedoms and rights. To quote Gheorghe:

Everyone has a right to their own cultural identity and to be protected against racism; in short ethnic rights are morally defensible only as a sub-class of human rights; when Gypsies fight for theirs, they are also fighting for the future of humanity. A new holocaust would not merely be a disaster for Gypsies; it would taint, contaminate or destroy all the hope that we now have of building a new Europe. (Gheorghe in CoE, 1992: 107-8)

As Christie (1994) has described, it is often crime-control, rather than what has been labelled crime, that is the threat to democracy and liberty. Furthermore, social control depends upon segmentalising people and channelling their movements. Together with the deification of property in law, it is no surprise that nomads, who commit crimes against property by deterritorialising land, are likely to be targets of overt social control and punishment. The times when anti-Gypsy sentiment is

likely to be strongest is precisely when threats to land or property are most intensely felt. Currently in the UK, land issues, along with the law-and-order motif, have taken political centre-stage.

It might also be expected that a transnational minority would be targeted at a time when national identities and borders are dramatically changing. Groups that are iconographically associated with space and movement, might again become the focus of anxieties that are likely to be felt in - what Bauman has referred to as - "The present explosion of respacing efforts throughout Europe" (Bauman, 1993: 230).

This thesis has undermined the legitimacy of a supposedly borderless, "open" and "pluralistic" Europe, and the tenet of "freedom of movement". As Powell has said:

The New (Fortress) Europe promotes itself on the basis of maximising security and freedom for its citizens but can only do so by increasing levels of insecurity and control for those deemed ineligible or unwilling to accept the nationalistic and statist assumptions underpinning citizenship. (Powell, 1997: 99)

As has been shown throughout this thesis, human rights are predicated upon assimilation, which for Gypsies means sedentarisation.

The ideology of a sedentary, racist and capitalist State, together with the longevity and indiscriminate nature of the persecution that Gypsies have suffered, serve to ensure that Gypsies continue to be persecuted. In other words, discrimination against Gypsies has been going on for so long and is so widespread that it appears natural. Power abuse becomes legitimised and naturalised by its repetition and by having few people challenge its legitimacy. Hancock forewarns that unless this persecution of Gypsies "is recognized and addressed immediately, it is leading relentlessly towards a new Holocaust within the next decade, directed specifically at the Romani minority." (Hancock, 1993: 5)

As Bauman said in the groundbreaking *Modernity and the Holocaust* (1989), the Holocaust was not something alien to modernity and for as long as it is treated as

such, the way will be free for another Holocaust to occur. Similarly, the “ethnic cleansing” of Gypsies during the Nazi era was not a unique and unusual event but part of the historical and rationalised process of exterminating the “other”, either through assimilation or extradition, that continues to this day. As Christie has said:

Holocaust is only a continuation of a major trend of European colonial history. (Christie, 1993: 165)

This supports Acton’s analysis of the persecution of Gypsies, when he sees “recurrent genocide as a condition of the foundation and continuation of the institution of the nation state.” (Acton, 1993b: 11)

It is argued that if the Holocaust continues to be seen as something at odds with the underlying principles and impulses of the State, the persecution of Gypsies (and other groups) will continue to be rationalised and ignored. The “forgotten genocide” of the Armenians by the Turks in 1915, and the lack of punishment metered out to the perpetrators, meant that twenty years later those involved in the Nazi Holocaust were not deterred by the thought of the reactions of the international community (Jagger, 1997). The disregard for the crimes against Gypsies signals that the climate may be still ripe for another Holocaust.

Appendix One

Convention for Protection of Human Rights and Fundamental Freedoms

[The European Convention on Human Rights]

Rome, 4.11.1950

[section 1]

Text completed by Protocol No.2 (ETS No. 44) of 6 May 1963 and amended by Protocol No. 3 (ETS No. 45) of 6 May 1963, Protocol No. 5 (ETS No. 55) of 20 January 1966 and Protocol No. 8 (ETS No. 118) of 19 March 1985

The governments signatory hereto, being members of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948;

Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;

Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend;

Being resolved, as the governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration,

Have agreed as follows:

Article 1

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

SECTION I

Article 2

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2.

Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

a in defence of any person from unlawful violence;

b in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

c in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 4

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
- 3.

For the purpose of this article the term "forced or compulsory labour" shall not include:

a any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;

b any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

c any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

d any work or service which forms part of normal civic obligations.

Article 5

- 1.

Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

a the lawful detention of a person after conviction by a competent court;

b the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

c the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

d the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

e the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

f the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3. Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

Article 6

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
- 3.

Everyone charged with a criminal offence has the following minimum rights:

a to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

b to have adequate time and facilities for the preparation of his defence;

c to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

d to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

e to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the

licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 13

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 15

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.
3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

Article 16

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties

from imposing restrictions on the political activity of aliens.

Article 17

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Appendix Two

RECOMMENDATION 1203 (1993)¹ *on Gypsies in Europe*

General observations :

1. One of the aims of the Council of Europe is to promote the emergence of a genuine European cultural identity. Europe harbours many different cultures, all of them, including the many minority cultures, enriching and contributing to the cultural diversity of Europe.
2. A special place among the minorities is reserved for Gypsies. Living scattered all over Europe, not having a country to call their own, they are a true European minority, but one that does not fit into the definitions of national or linguistic minorities.
3. As a non-territorial minority, Gypsies greatly contribute to the cultural diversity of Europe. In different parts of Europe they contribute in different ways, be it by language and music or by their trades and crafts.
4. With central and east European countries now member states, the number of Gypsies living in the area of the Council of Europe has increased drastically.
5. Intolerance of Gypsies by others has existed throughout the ages. Outbursts of racial or social hatred, however, occur more and more regularly, and the strained relations between communities have contributed to the deplorable situation in which the majority of Gypsies lives today.
6. Respect for the rights of Gypsies, individual, fundamental and human rights and their rights as a minority is essential to improve their situation.
7. Guarantees for equal rights, equal chances, equal treatment, and measures to improve their situation will make a revival of Gypsy language and culture possible, thus enriching the European cultural diversity.
8. The guarantee of the enjoyment of the rights and freedoms set forth in Article 14 of the European Convention on Human Rights is important for Gypsies as it enables them to maintain their individual rights.
9. Specific legislation to protect minorities has been adopted by the member states of the Council of Europe. The Council of Europe has adopted several resolutions and recommendations concerning minorities. Reference should be made in particular to Assembly Recommendation 1134 (1990) on the rights of minorities. These texts are important to Gypsies, but as one of the very few non-territorial minorities in Europe Gypsies need special protection.
10. In the past the Council of Europe has also adopted several resolutions and recommendations specifically concerning Gypsies : Assembly Recommendation 563 (1969) on the situation of Gypsies and other travellers in Europe ; Committee of Ministers Resolution (75) 13 containing recommendations on the social situation of nomads in Europe and Recommendation No. R (83) 1 on stateless nomads and nomads of undetermined nationality ; Standing Conference of Local and Regional Authorities of Europe Resolution 125 (1981) on the role and responsibility of local and regional authorities in regard to the cultural and social problems of populations of nomadic origin. The implementation of these resolutions and recommendations, and particularly in the new member states, is extremely important for the position of Gypsies.
11. The Assembly therefore recommends that the Committee of Ministers initiate, where appropriate by proposals to governments or the relevant local and regional authorities of member states, the following measures :

In the field of culture :

- i. the teaching and study of Gypsy music at several schools of music in Europe should be stimulated and the development of a network of such music schools encouraged ;
- ii. a European programme for the study of Romanes and a translation bureau specialising in the language should be established ;
- iii. the provisions for non-territorial languages as set out in the European Charter for Regional or Minority Languages should be applied to Gypsy minorities ;
- iv. the foundation of centres and museums of Gypsy culture should be stimulated, and support given to regular Gypsy festivals ;
- v. a travelling exhibition should be organised in the series of European art exhibitions on the reciprocal effects of contacts with Gypsy culture ;

In the field of education :

- vi. the existing European programmes for training teachers of Gypsies should be extended ;
- vii. special attention should be paid to the education of women in general and mothers together with their younger children ;
- viii. talented young Gypsies should be encouraged to study and to act as intermediaries for Gypsies ;

In the field of information :

- ix. information should be provided for Gypsies on their fundamental rights and how they can be secured ;
- x. a European information centre should be established on the situation and culture of Gypsies, one of its tasks being to inform the media about Gypsies ;

In the field of equal rights :

- xi. member states, which have not yet ratified the International Covenant on Civil and Political Rights (New York, 1966) or the International Convention on the Elimination of all Forms of Racial Discrimination (New York, 1966), should be urged to do so ;
- xii. discrimination against Gypsies in the European Convention on Human Rights should be removed by an appropriate declaration to the effect that the term "vagrants" in Article 5.1.e does not necessarily apply to people with a nomadic lifestyle ;
- xiii. the provisions of any additional protocol or convention relating to minorities should apply to non-territorial minorities ;
- xiv. member states, which have not yet done so, should ratify the 4th Protocol to the European Convention on Human Rights, which guarantees the liberty of movement and is as such essential for travellers ;
- xv. member states should alter national legislation and regulations that discriminate directly or indirectly against Gypsies ;
- xvi. it should be acknowledged that the fact of being the victim of a pogrom or having a reasonable fear of becoming a victim of a pogrom, against which the authorities refuse or prove unable to offer effective protection can, in individual cases, constitute a well-founded fear of persecution for being a member of a particular social group, as indicated in the 1951 United Nations Convention relating to the Status of Refugees ;

Everyday life :

xvii. member states should ensure that Gypsies are consulted in the drawing up and application of regulations regarding them ;

xviii. further programmes should be set up in the member states to improve the housing situation, education and labour possibilities of those Gypsies who are living in less favourable circumstances ; the Gypsies should participate in the preparation of these programmes and in their implementation ;

General measures :

xix. independent research should be initiated into the national legislation and regulations concerning Gypsies, and their application in practice, and regular reports on this research presented to the Assembly ;

xx. co-operation should be pursued with the European Community on subjects relating to Gypsies, such as education, combating poverty, safeguarding the European cultural heritage, recognition of minorities and promotion of equal rights ;

xxi. the Council of Europe should grant consultative status to representative international Gypsy organisations ;

xxii. a mediator for Gypsies should be appointed by the Council of Europe, after consultation with representative organisations of Gypsies, with the following tasks at least :

a. to review the progress made in the implementation of measures taken or recommended by the Council of Europe concerning Gypsies ;

b. to maintain regular contact with representatives of Gypsies ;

c. to advise governments of member states in matters concerning Gypsies ;

d. to advise the different bodies of the Council of Europe in matters concerning Gypsies ;

e. to investigate government policy and the human rights situation related to Gypsies in member states ;

f. to investigate the position of stateless Gypsies or Gypsies with undetermined nationality ;

and with the authority :

g. to receive replies to questions addressed to governments or government representatives of member states ;

h. to enjoy full access to relevant government archives and other material ;

i. to question citizens of member states of the Council of Europe ;

xxiii. member states should report to the Secretary General of the Council of Europe in two years time on the progress made in improving the situation of Gypsies and implementing Council of Europe recommendations.

1. *Assembly debate* on 2 February 1993 (24th Sitting) (see Doc. 6733, report of the Committee on Culture and Education, Rapporteur : Mrs Verspaget).

Text adopted by the Assembly on 2 February 1993 (24th Sitting).

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Appendix Three

Recommendation 1355 (1998)¹

Fighting social exclusion and strengthening social cohesion in Europe

1. Deeply concerned about the grave social problems arising in all the member states and the resulting risk of a social explosion, the Assembly notes that persistent unemployment, poverty and all the manifestations of social exclusion affecting a growing number of individuals and families pose a threat to the social cohesion of European states.
2. In the countries of central and eastern Europe, the transition to a market economy with its accompanying economic restructuring has gone hand-in-hand with the disappearance of communist social policies. The ensuing dramatic social situations are insurmountable at the present time because of inadequate and inappropriate health-care and social infrastructures and the absence of appropriate legislation.
3. In the countries of western Europe, social protection policies are declining and being called into question, with a concomitant massive disengagement of the state.
4. The traditional concept of poverty limits itself to considering the poor as those with the lowest income levels. The Parliamentary Assembly underlines in its Recommendation 1196 (1992) on severe poverty and social exclusion: towards guaranteed minimum levels of resources, that "severe poverty relates to the possibility of living and bringing up children in minimally decent conditions", and is a cause for exclusion from normal social life.
5. The concept of poverty refers to inadequacy or inequality of material resources, whereas social exclusion goes well beyond participation in consumer society and includes inadequacy, inequality, or total lack of participation in social, economic, political and cultural life. Exclusion extends from social isolation to a total rupture with society.
6. However, certain specific groups are the victims of poverty, which is condemning a considerable proportion of young adults, women, children, old persons, single-parent families, large families, refugees and asylum seekers, as well as members of ethnic minorities such as Gypsies, to social exclusion.
7. Poverty and exclusion must not be the price to pay for economic growth and well-being. Today, social exclusion is no longer a marginal problem in Europe: it is a painful and dramatic reality for millions of people.
8. Social exclusion not only offends against human dignity and denies people their fundamental human rights; it also leads, in conjunction with social and economic instability and worsening inequality, to phenomena of marginalisation, withdrawal or violent reactions, thereby creating conditions which undermine the democratic foundations of our societies.
9. Social exclusion clearly calls into question the principles underlying current security and social protection policies and structures, and underscores their inappropriateness.
10. Referring expressly to its Recommendation 1196, the Assembly notes that the concerns it voiced at that time are unfortunately still topical.
11. It also draws attention to its Recommendation 1290 (1996) on the follow-up to the Copenhagen Summit on social development, which sets out the undertakings made by the heads of state and government to eradicate poverty through action at national level and international co-operation, to achieve social integration and the participation of all in society and to provide access for all to education and health care.

12. As industrial peace and a resumption of the social dialogue are prerequisites for democratic stability in Europe, it is urgently necessary today to give fresh impetus to the fight against exclusion and to take up the challenge of strengthening social cohesion.

13. In particular, social cohesion means promoting a Europe of social rights, these being fundamental human rights on an equal footing with civil and political rights.

14. The Assembly fully endorses the wording of the final communiqué adopted by the participants in the Colloquy on Social Cohesion, organised jointly by its Social, Health and Family Affairs Committee and the National Council of the Slovak Republic and held in Bratislava on 16 and 17 September 1997, and calls for a "better state" based on a more just society and a new social contract.

15. Because it makes respect for human dignity and personal integrity paramount and enables the social link between the individual and society to be restored, the best response to the tragedy of exclusion that has struck tens of millions of Europeans is to strengthen social cohesion. Given the upheavals in our societies and the risks of social explosion, confidence and social tolerance must be restored if social equilibrium, an essential element of democratic security in Europe, is to be maintained.

16. The Assembly welcomes the decisions taken by the heads of state and government at the second summit, in Strasbourg on 10 and 11 October 1997, to reaffirm the Council of Europe's social dimension, and in particular that social cohesion now constitutes one of the vital requirements of an enlarged Europe, an indispensable adjunct to the promotion of human rights and human dignity. It notes that the Council of Europe is the sole pan-European organisation capable of effectively proposing to all the countries of the continent the necessary measures for taking on the challenge of strengthening social cohesion in Europe as a factor of the continent's democratic stability.

17. Consequently, it encourages the promotion of the key instruments of social cohesion in Europe, and in particular the European Social Charter, the revised Social Charter and the European Code of Social Security, among those states that are not yet parties thereto.

18. As it underscored in its Recommendation 1304 (1996) on the future of social policy, it is essential to implement active employment policies at the same time, employment playing a vital role as a factor for integration. However, economic growth and technological progress constitute necessary, but not sufficient, conditions for strengthening social cohesion.

19. Accordingly, the Assembly recommends that the Committee of Ministers invite the governments of the member states to act and take the following measures:

- i. give social rights the same priority as that accorded to human rights;
- ii. reform existing social policies as a matter of priority, basing them on the principle of solidarity, with the objective of apportioning aid to the most disadvantaged in a more efficient, targeted and balanced fashion and protecting them more effectively against social exclusion;
- iii. promote policies to prevent poverty especially aimed at groups with the highest risk factors;
- iv. step up policies for the reintegration of marginalised or excluded persons, based on the contractual principle, by means of occupational training, literacy campaigns and the acquisition or updating of skills so as to restore their sense of social usefulness;
- v. improve the process of participation and civil dialogue as a sine qua non of social inclusion and citizenship;
- vi. define rapidly and jointly effective policies to fight unemployment.

20. In particular, the Assembly recommends that the Committee of Ministers encourage the governments of the member states:

i. in the field of town planning and housing:

- a. to reinforce legal protection of tenants and sub-tenants who are victims of poverty;
- b. to establish a mechanism for rent-rebate as well as assistance for basic utilities;
- c. to stimulate the supply of low-rent housing and to develop programmes to build or renovate welfare housing;
- d. to adopt town planning policies that prevent ghettos and violence;

ii. in the field of education and training:

- a. to put into practice positive actions to make up for the educational disadvantages of the poor and excluded;
- b. to promote training programmes for unemployed of all ages;

iii. in the field of health care:

- a. to provide free medical care for the poor, with the aim of preventing serious illness;
- b. to fight pathological diseases prevalent among the poor, through special medical care programmes;

iv. in the legal field:

- a. to establish free legal assistance for the poor;
- b. to set up legal advisory services for the socially excluded in need of immediate help, for example, the homeless or unemployed.

21. The Assembly expresses its full support for the "Human dignity and social exclusion project" begun in 1995, which has drawn the attention of governments to the problems of exclusion and afforded a clear picture of the scale of the phenomenon. It intends to be closely involved in the preparation and holding of the follow-up conference, to take place in Helsinki in May 1998, and calls on the Committee of Ministers to pursue the project.

22. The Assembly also invites the Committee of Ministers to create an observatory of social cohesion in Europe, which could be set up on the basis of a Council of Europe partial agreement, with the task of collecting information and statistics on poverty and exclusion in the states parties and of producing, either at their request or as requested by the steering committees or the Parliamentary Assembly, expert reports on questions relating to social cohesion as well as opinions on national and European policies to promote it. The Assembly takes note of the invitation of the Turkish Government to host the observatory of social cohesion in Europe in Istanbul.

23. The Assembly welcomes the decision of the Committee of Ministers to launch a campaign on "Global interdependence and solidarity: Europe against poverty and exclusion", and hopes that the Council of Europe's wide experience in the field, in particular through the "Human dignity and social exclusion project", will benefit the substance of this campaign. It asks the Committee of Ministers to include representatives of the competent committees of the Assembly in the campaign as from the preparatory stages.

24. Finally, aware of the current redefinition of the Council of Europe's goals and working methods in the social sphere, the Assembly urges the Committee of Ministers to give practical effect to the decisions taken at the 2nd Summit of Heads of State and

Government, and to keep it informed of progress made in stepping up activities relating to social cohesion, including the relevant restructuring within the Secretariat.

1. Assembly debate on 28 January 1998 (5th Sitting) (see Doc. 7981, report of the Social, Health and Family Affairs Committee, rapporteur: Mr Hegyi).

Text adopted by the Assembly on 28 January 1998 (5th Sitting).

Appendix Four

Framework Convention for the Protection of National Minorities

Strasbourg, 1.2.1995

The member States of the Council of Europe and the other States, signatories to the present framework Convention,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Wishing to follow-up the Declaration of the Heads of State and Government of the member States of the Council of Europe adopted in Vienna on 9 October 1993;

Being resolved to protect within their respective territories the existence of national minorities;

Considering that the upheavals of European history have shown that the protection of national minorities is essential to stability, democratic security and peace in this continent;

Considering that a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity;

Considering that the creation of a climate of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor, not of division, but of enrichment for each society;

Considering that the realisation of a tolerant and prosperous Europe does not depend solely on co-operation between States but also requires transfrontier co-operation between local and regional authorities without prejudice to the constitution and territorial integrity of each State;

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto;

Having regard to the commitments concerning the protection of national minorities in United Nations conventions and declarations and in the documents of the Conference on Security and Co-operation in Europe, particularly the Copenhagen Document of 29 June 1990;

Being resolved to define the principles to be respected and the obligations which flow from them, in order to ensure, in the member States and such other States as may become Parties to the present instrument, the effective protection of national minorities and of the rights and freedoms of persons belonging to those minorities, within the rule of law, respecting the territorial integrity and national sovereignty of states;

Being determined to implement the principles set out in this framework Convention through national legislation and appropriate governmental policies,

Have agreed as follows:

Section I

Article 1

The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.

Article 2

The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

Article 3

1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.
2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

Section II

Article 4

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.
2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.
3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

Article 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

Article 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

Article 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.

Article 9

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.
2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.
3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.
4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

Article 10

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.
3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

Article 11

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.
2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.
3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including,

where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

Article 12

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.
2. In this context the Parties shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.
3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

Article 13

1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.
2. The exercise of this right shall not entail any financial obligation for the Parties.

Article 14

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.
3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

Article 17

1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.
2. The Parties undertake not to interfere with the right of persons belonging to national

minorities to participate in the activities of non-governmental organisations, both at the national and international levels.

Article 18

1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.
2. Where relevant, the Parties shall take measures to encourage transfrontier co-operation.

Article 19

The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.

Section III

Article 20

In the exercise of the rights and freedoms flowing from the principles enshrined in the present framework Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities.

Article 21

Nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.

Article 22

Nothing in the present framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.

Article 23

The rights and freedoms flowing from the principles enshrined in the present framework Convention, in so far as they are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms or in the Protocols thereto, shall be understood so as to conform to the latter provisions.

Section IV

Article 24

1. The Committee of Ministers of the Council of Europe shall monitor the implementation of this framework Convention by the Contracting Parties.
2. The Parties which are not members of the Council of Europe shall participate in the implementation mechanism, according to modalities to be determined.

Article 25

1. Within a period of one year following the entry into force of this framework Convention in

respect of a Contracting Party, the latter shall transmit to the Secretary General of the Council of Europe full information on the legislative and other measures taken to give effect to the principles set out in this framework Convention.

2. Thereafter, each Party shall transmit to the Secretary General on a periodical basis and whenever the Committee of Ministers so requests any further information of relevance to the implementation of this framework Convention.
3. The Secretary General shall forward to the Committee of Ministers the information transmitted under the terms of this Article.

Article 26

1. In evaluating the adequacy of the measures taken by the Parties to give effect to the principles set out in this framework Convention the Committee of Ministers shall be assisted by an advisory committee, the members of which shall have recognised expertise in the field of the protection of national minorities.
2. The composition of this advisory committee and its procedure shall be determined by the Committee of Ministers within a period of one year following the entry into force of this framework Convention.

Section V

Article 27

This framework Convention shall be open for signature by the member States of the Council of Europe. Up until the date when the Convention enters into force, it shall also be open for signature by any other State so invited by the Committee of Ministers. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 28

1. This framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which twelve member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 27.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 29

1. After the entry into force of this framework Convention and after consulting the Contracting States, the Committee of Ministers of the Council of Europe may invite to accede to the Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, any non-member State of the Council of Europe which, invited to sign in accordance with the provisions of Article 27, has not yet done so, and any other non-member State.
2. In respect of any acceding State, the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 30

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this framework Convention shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this framework Convention to any other territory specified in the declaration. In respect of such territory the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 31

1. Any Party may at any time denounce this framework Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

Article 32

The Secretary General of the Council of Europe shall notify the member States of the Council, other signatory States and any State which has acceded to this framework Convention, of:

a any signature;

b the deposit of any instrument of ratification, acceptance, approval or accession;

c any date of entry into force of this framework Convention in accordance with Articles 28, 29 and 30;

d any other act, notification or communication relating to this framework Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this framework Convention.

Done at Strasbourg, this 1st day of February 1995, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to sign or accede to this framework Convention.

Appendix Five

International Covenant on Civil and Political Rights

[parts I – III]

G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976.

PREAMBLE

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article I

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3.

(a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court,

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and

in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.

(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. 3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the

competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and

equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Appendix Six

Genocide Convention

War Crimes and Crimes Against Humanity, Including Genocide.

Convention on the Prevention and Punishment of the Crime of Genocide

Approved and proposed for signature and ratification or accession by General Assembly resolution
260 A (III) of 9 December 1948

Entry into force: 12 January 1951, in accordance with article XIII

The Contracting Parties,

Having considered the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946 that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world,

Recognizing that at all periods of history genocide has inflicted great losses on humanity, and
Being convinced that, in order to liberate mankind from such an odious scourge, international co-operation is required,

Hereby agree as hereinafter provided :

Article 1

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Article 2

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such :

- (a) Killing members of the group,
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article 3

The following acts shall be punishable :

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

Article 4

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

Article 5

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention, and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.

Article 6

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Article 7

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article 8

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

Article 9

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article 10

The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall bear the date of 9 December 1948.

Article 11

The present Convention shall be open until 31 December 1949 for signature on behalf of any Member of the United Nations and of any non-member State to which an invitation to sign has been addressed by the General Assembly.

The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

After 1 January 1950, the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid.

Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 12

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article 13

On the day when the first twenty instruments of ratification or accession have been deposited, the Secretary-General shall draw up a procès-verbal and transmit a copy thereof to each Member of the United Nations and to each of the non-member States contemplated in article XI.

The present Convention shall come into force on the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession.

Any ratification or accession effected, subsequent to the latter date shall become effective on the ninetieth day following the deposit of the instrument of ratification or accession.

Article 14

The present Convention shall remain in effect for a period of ten years as from the date of its coming into force.

It shall thereafter remain in force for successive periods of five years for such Contracting Parties as have not denounced it at least six months before the expiration of the current period.

Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article 15

If, as a result of denunciations, the number of Parties to the present Convention should become less than sixteen, the Convention shall cease to be in force as from the date on which the last of these denunciations shall become effective.

Article 16

A request for the revision of the present Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General.

The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

Article 17

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in article XI of the following :

- (a) Signature, ratifications and accessions received in accordance with article XI;
- (b) Notifications received in accordance with article XII;
- (c) The date upon which the present Convention comes into force in accordance with article XIII;
- (d) Denunciations received in accordance with article XIV;
- (e) The abrogation of the Convention in accordance with article XV;
- (f) Notifications received in accordance with article XVI.

Article 18

The original of the present Convention shall be deposited in the archives of the United Nations. A certified copy of the Convention shall be transmitted to each Member of the United Nations and to each of the non-member States contemplated in article XI.

Article 19

The present Convention shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

Appendix Seven

Universal Declaration of Human Rights

Adopted by the United Nations General Assembly on 10 December 1948.

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore,

THE GENERAL ASSEMBLY

Proclaims

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be

made on the basis of the political, jurisdictional or intentional status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage, and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any medium and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Appendix Eight

Promoting the realization of the human right to adequate housing

[UN] Sub-Commission resolution 1995/27

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the human right of every woman, man and child to a safe and secure place to live in peace and dignity,

Deeply concerned that well in excess of one billion persons remain homeless or inadequately housed throughout the world, and have yet to attain and enjoy their legal right to adequate housing,

Concerned also that Governments having the legal obligation to respect, protect and fulfil the human right to adequate housing have failed to take the necessary steps to ensure the full realization of this right for everyone entitled to it,

Convinced of the continuing and urgent need for renewed attention, commitment and constructive action by all relevant actors, in particular Governments and the United Nations, with regard to the human right to adequate housing,

Recalling Commission on Human Rights decision 1993/103 of 4 March 1993, resolution 1994/14 of 25 February 1994 and resolution 1995/19 of 24 February 1995,

Recalling also its resolutions 1994/38 of 26 August 1994, 1993/36 of 25 August 1993, 1992/26 of 27 August 1992 and 1991/26 of 29 August 1991,

Welcomes the United Nations Commission on Human Settlements document entitled "Towards a housing rights strategy: practical contributions by UNCHS (Habitat) on promoting, ensuring and protecting the full realization of the human right to adequate housing" (HS/C/15/INF.7), as reaffirmed by the Commission on Human Settlements in its resolution 15/2 of 1 May 1995,

Disturbed by developments in the preparatory process for the United Nations Conference on Human Settlements (Habitat II) in which housing has been questioned as a human right,

Recalling paragraphs 3 and 4 of its resolution 1994/38, in which it took note with interest of the draft international convention on housing rights and invited all relevant actors to provide the Special Rapporteur with comments on the draft convention,

Recalling also paragraph 11 of its resolution 1994/38, in which it decided to consider the final report of the Special Rapporteur and develop a series of concrete measures based upon the final report at its forty-seventh session,

1. Expresses its deep appreciation to the Special Rapporteur on the right to adequate housing, Mr. Rajindar Sachar, for his final report (E/CN.4/Sub.2/1995/12), in particular its specific recommendations;

2. Firmly endorses the specific recommendations contained in chapter VIII of the final report, and urges the entities listed therein to implement these recommendations in a timely fashion;

3. Strongly encourages all Governments faithfully to implement their existing legal obligations concerning the human right to adequate housing, including the adoption of effective legislation and policies respecting, promoting and protecting the human right to adequate housing, the removal of all obstacles to the full realization of this right and the repeal of legislation and policies which contradict housing rights standards, and to refrain from violating the human right to adequate housing;

4. Requests the High Commissioner for Human Rights fully to incorporate activities directly relevant to the human right to adequate housing in his mandate, with a view to preventing violations of this right and generally promoting the realization of the right to adequate housing to the

maximum extent possible;

5. Encourages once again the programme of advisory services and technical assistance of the Centre for Human Rights to endeavour expeditiously to develop and provide within its mandate to those States requesting it expertise concerning how most effectively to promote the full realization of this right within States;

6. Urges the Preparatory Committee for the United Nations Conference on Human Settlements (Habitat II), to be held in June 1996, to take full account in its agenda, plan of action and final declaration of the views of the Special Rapporteur on the right to adequate housing, including those contained in his final report, and all other ongoing activities of the United Nations concerning housing rights, and to undertake explicitly identified activities with regard to the human right to adequate housing within and beyond the context of Habitat II;

7. Urges the Fourth World Conference on Women, to be held in September 1995, to take full account of the views of the Special Rapporteur on the right to adequate housing and the ongoing activities of the United Nations concerning housing rights and to identify specific activities and principles designed to ensure for all women the full enjoyment of the right to adequate housing as expeditiously as possible;

8. Requests the Secretary-General to compile in one document all four reports of the Special Rapporteur and to publish them as part of the Human Rights Study Series;

9. Also requests the Secretary-General to solicit from States, United Nations bodies, the specialized agencies and relevant non-governmental and community-based organizations their comments on the draft international convention on housing rights contained in the Special Rapporteur's second progress report (E/CN.4/Sub.2/1994/20, chap. IX) and the indicators contained in his final report (E/CN.4/Sub.2/1995/12, chap. IV);

10. Requests the Secretary-General to submit to the Sub-Commission at its forty-eighth session a compilation of and an analytical commentary on the views and comments received from States, United Nations bodies, specialized agencies, international and regional organizations, non-governmental organizations and community-based organizations on all aspects of the right to adequate housing and to develop further the analysis contained in the final report of the Special Rapporteur regarding the use of indicators in monitoring compliance with the right to adequate housing;

11. Also requests the Secretary-General to distribute the final report of the Special Rapporteur to each of the entities mentioned in chapter VIII, with a view to informing them of the recommendations contained therein and to receiving their views on any plans or programmes they may have or will develop to implement the relevant recommendations of the Special Rapporteur;

12. Decides to examine and determine at its forty-eighth session how most effectively to proceed within the United Nations human rights programme with activities designed to promote the full realization of the human right to adequate housing.

35th meeting

24 August 1995

[Adopted without a vote.]

Appendix Nine

Forced evictions

[UN] Sub-Commission resolution 1997/6

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1991/12 of 26 August 1991, 1992/14 of 27 August 1992, 1993/41 of 26 August 1993, 1994/39 of 26 August 1994, 1995/29 of 24 August 1995 and 1996/27 of 29 August 1996,

Recalling also Commission on Human Rights resolution 1993/77 of 10 March 1993 and the analytical report on forced evictions prepared by the Secretary-General (E/CN.4/1994/20) and submitted to the Commission at its fiftieth session,

Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity, which includes the right not to be evicted arbitrarily or on a discriminatory basis from one's home, land or community,

Recognizing that the practice of forced eviction often involves the coerced and involuntary removal of persons, families and groups from their homes, lands and communities, resulting in greater homelessness and inadequate housing and living conditions,

Noting that when, under exceptional circumstances, evictions are considered to be justified, such evictions must be carried out in strict compliance with relevant human rights provisions which demand, *inter alia*, that such evictions must not be carried out on a discriminatory or arbitrary basis, that evictions must be carried out through legal procedures that ensure appropriate due process protections and that, owing to the universal right to housing which is enshrined, most notably, in article 11 of the International Covenant on Economic, Social and Cultural Rights, such evictions must not result in individuals being rendered homeless or vulnerable to other human rights violations,

Emphasizing that ultimate legal and political responsibility for preventing forced evictions rests with Governments,

Recalling that general comment No. 2 (1990) on international technical assistance measures, adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, *inter alia*, that international agencies should scrupulously avoid involvement in projects which involve, among other things, large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation (E/1990/23, annex III, para. 6), and general comment No. 4 (1991) in which the Committee considered that instances of forced eviction were, *prima facie*, incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights and could only be justified in the most exceptional circumstances, and in accordance with relevant principles of international law (E/1992/23, annex III, para. 18),

Noting with appreciation the adoption of general comment No. 7 (1997) on forced evictions by the Committee on Economic, Social and Cultural Rights (E/C.12/1997/4), in which the Committee recognized, *inter alia*, that women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable groups all suffer disproportionately from the practice of forced eviction, and that women in all groups are especially vulnerable, given the extent of statutory and other forms of discrimination which often apply in relation to the property rights of women, including home ownership and rights of access to property or accommodation, and given the particular vulnerability of women to acts of violence and sexual abuse when they are rendered homeless,

Noting also the provisions on forced evictions contained in the Habitat Agenda (A/CONF.165/14, annex II) adopted by the United Nations Conference on Human Settlements (Habitat II) convened in Istanbul in June 1996,

1. Reaffirms that forced evictions may often constitute gross violations of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment;
2. Strongly urges Governments to undertake immediately measures at all levels aimed at eliminating the practice of forced eviction by, inter alia, ensuring the right to security of tenure for all residents;
3. Also strongly urges Governments to confer legal security of tenure on all persons, including all women and men who are currently threatened with forced eviction, and to adopt all necessary measures giving full protection against unreasonable eviction, based upon effective participation, consultation and negotiation with the affected persons or groups;
4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their rights and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups, and recognizing the obligation to ensure such provision in the event of any forced eviction;
5. Invites all international financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, to take fully into account the views contained in the present resolution and other related pronouncements under international human rights and humanitarian law on the practice of forced eviction;
6. Requests the United Nations High Commissioner for Human Rights to give due attention to the practice of forced eviction in discharging her responsibilities and to undertake measures, whenever possible, to persuade Governments to comply with relevant international standards, to prevent planned forced evictions from taking place, and to ensure the provision of adequate compensation when forced evictions have already occurred;
7. Welcomes the report of the expert seminar on the practice of forced evictions, which was convened by the Secretary-General in Geneva from 11 to 13 June 1997 (E/CN.4/Sub.2/1997/7) and the comprehensive human rights guidelines on development-based displacement adopted by the expert seminar and annexed to its report;
8. Requests the Commission on Human Rights to invite all States to consider the comprehensive human rights guidelines on development-based displacement with a view to their approving guidelines for such displacement as soon as possible;
9. Decides to consider the issue of forced evictions at its fiftieth session under the agenda item entitled "The realization of economic, social and cultural rights", insofar as necessary to achieve the objectives outlined in paragraph 8 above, and to determine how most effectively to continue its consideration of the issue of forced evictions.

27th meeting

22 August 1997

[Adopted without a vote.]

Appendix Ten

Promotion of the realization of the right of access of everyone to drinking water supply and sanitation services

[UN] Sub-Commission resolution 1997/18

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the indivisibility, interdependence and interrelated nature of economic, social and cultural rights and civil and political rights,

Mindful that the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and a wide range of additional texts provide unequivocally that all persons are entitled to the full realization of economic, social and cultural rights,

Taking note of the Declaration on the Right to Development (General Assembly resolution 41/128 of 4 December 1986, annex),

Recalling section I, paragraph 10, of the Vienna Declaration and Programme of Action (A/CONF.157/23), in which the World Conference on Human Rights, inter alia, reaffirmed the right to development as a universal and inalienable right and an integral part of human rights, and urged States and the international community to promote effective international cooperation for the realization of the right to development and the elimination of obstacles to development,

Taking account of the results of the World Summit for Social Development, held at Copenhagen from 6 to 12 March 1995, especially the recommendations of its Programme of Action concerning the United Nations system (A/CONF.166/9), inter alia, the need to strengthen United Nations operational activities for development in order to implement the World Summit outcome, and the United Nations system's capacity for gathering and analysing information and developing indicators of social development, taking into account the work carried out by different countries, particularly by developing countries (para. 99 (e)),

Taking particular account of the provisions of chapter 18 of Agenda 21, the programme adopted by the United Nations Conference on Environment and Development on the protection of the quality and supply of fresh-water resources,

Aware that all States have legally binding obligations to respect, protect and fulfil economic, social and cultural rights,

Deeply concerned to note that one billion four hundred million people in the world are still deprived of access to drinking water supply and that some four billion lack decent conditions of sanitation,

Affirming the right of each woman, man and child to access to drinking water supply and sanitation services in order to live in dignity, security and peace,

Taking into consideration the International Drinking Water Supply and Sanitation Decade (1981-1990), and the celebration, on 22 March of each year, of the World Day for Water (General Assembly resolutions 45/181 of 21 December 1990 and 47/193 of 22 December 1992, respectively),

Bearing in mind the objectives of a "twenty-twenty"-type compact concerning in particular the access of all to drinking water supply and sanitation services, as expressed in the United Nations Development Programme's Human Development Report 1994,

Reiterating the fundamental principles of equality of opportunity, human dignity, equity and justice,

Reaffirming the inherent link between the enjoyment of all human rights, in particular economic, social and cultural rights, and the right of each woman, man and child to have access to drinking

water supply,

1. Reaffirms the Declaration on the Right to Development, as proclaimed by the General Assembly in resolution 41/128 of 4 December 1986, wherein stress is laid on the multidimensional, integrated and dynamic character of this right which promotes partnership for development and constitutes a relevant framework for international cooperation and national action aimed at universal and effective observance of all human rights in their universality, indivisibility and interdependence;

2. Affirms that the global and multidimensional approach, as defined in the Declaration on the Right to Development, should constitute a basis for work to be carried out on the promotion of the realization of the right of access of everyone to drinking water supply and sanitation services;

3. Decides to entrust to Mr. El-Hadji Guissé the task of drafting, without financial implications, a working paper on the question of the promotion of the realization of the right of access of everyone to drinking water supply and sanitation services;

4. Requests Mr. Guissé to submit his working paper to the Sub-Commission at its fiftieth session;

5. Decides to consider the question of the promotion of the realization of the right of access of everyone to drinking water supply and sanitation services at its fiftieth session under the agenda item entitled "The realization of economic, social and cultural rights", and to determine the most effective way of continuing consideration of the question of the promotion of the realization of this right.

35th meeting

27 August 1997

[Adopted without a vote.]

Appendix Eleven

Press Summary of Agenda 21

August 1992

Department of Public Information

United Nations

(based on the final text)

On 22 December 1989, the United Nations General Assembly called for a global meeting that would devise strategies to halt and reverse the effects of environmental degradation "in the context of increased national and international efforts to promote sustainable and environmentally sound development in all countries".

Agenda 21, adopted by the United Nations Conference on Environment and Development on 14 June 1992, is the international community's response to that request. It is a comprehensive programme of action to be implemented "from now and into the twenty-first century" by Governments, development agencies, United Nations organizations and independent sector groups in every area where human (economic) activity affects the environment.

The programme should be studied in conjunction with the Rio Declaration on Environment and Development and the principles for the sustainable management of forests. These were also adopted at the Conference, known as the Earth Summit, which was held from 3 to 14 June 1992 in Rio de Janeiro, Brazil.

Underlying Agenda 21 is the notion that humanity has reached a defining moment in its history. We can continue our present policies which serve to deepen the economic divisions within and between countries; which increase poverty, hunger, sickness and illiteracy worldwide; and which are causing the continued deterioration of the ecosystem on which we depend for life on Earth.

Or we can change course. We can improve the living standards of those who are in need. We can better manage and protect the ecosystem and bring about a more prosperous future for us all. "No nation can achieve this on its own," states Mr. Maurice Strong, Secretary-General of the Conference, in the preamble to Agenda 21. "Together we can in a global partnership for sustainable development."

This press summary is not an official document. It has been issued to help journalists become familiar with the programme adopted by Governments. It was prepared by the Communications and Project Management Division, Department of Public Information, as part of the United Nations information programme on sustainable development.

The Rio Declaration

A/CONF.151/26 (Vol. I)

12.8.1992

REPORT OF THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

(Rio de Janeiro, 3-14 June 1992)

The United Nations Conference on Environment and Development,

Having met at Rio de Janeiro from 3 to 14 June 1992,

Reaffirming the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972, and seeking to build upon it,

With the goal of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people,

Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system,

Recognizing the *integral and interdependent nature of the Earth, our home*,

Proclaims that:

Principle 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 5

All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

Principle 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

Principle 7

States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Principle 8

To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

Principle 9

States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

Principle 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Principle 11

States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.

Principle 12

States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

Principle 13

States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

Principle 14

States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

Principle 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

Principle 18

States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.

Principle 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

Principle 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

Principle 21

The creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all.

Principle 22

Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their

effective participation in the achievement of sustainable development.

Principle 23

The environment and natural resources of people under oppression, domination and occupation shall be protected.

Principle 24

Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.

Principle 25

Peace, development and environmental protection are interdependent and indivisible.

Principle 26

States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

Principle 27

States and people shall cooperate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in this Declaration and in the further development of international law in the field of sustainable development.

Appendix Twelve

Criminal Justice and Public Order Act 1994 (c. 33)

The Act is introduced by the Long Title which states: "An Act to make further provision in relation to criminal justice (including employment in the prison service); to amend or extend the criminal law and powers for preventing crime and enforcing that law; to amend the Video Recordings Act 1984; and for purposes connected with those purposes."

The Arrangement of Sections shows the contents of the Act.

Part I - Young Offenders

Part II - Bail

Part III - Course of Justice: Evidence, Procedure, Etc.

Part IV - Police Powers

Part V - Public Order: Collective Trespass or Nuisance on Land

Part VI - Prevention of Terrorism

Part VII - Obscenity and Pornography and Videos

Part VIII - Prison Services and the Prison Service

Part IX - Miscellaneous Amendments: Scotland

Part X - Cross-Border Enforcement

Part XI - Sexual Offences

Part XII - Miscellaneous and General

Part V - Public Order: Collective Trespass or Nuisance on Land

Powers to remove trespassers on land

61. Power to remove trespassers on land.

62. Supplementary powers of seizure.

Powers in relation to raves

63. Powers to remove persons attending or preparing for a rave.

64. Supplementary powers of entry and seizure.

65. Raves: power to stop persons from proceeding.

66. Power of court to forfeit sound equipment.

Retention and charges for seized property

67. Retention and charges for seized property.

Disruptive trespassers

68. Offence of aggravated trespass.

69. Powers to remove persons committing or participating in aggravated trespass.

Trespassory assemblies

70. Trespassory assemblies.

71. Trespassory assemblies: power to stop persons from proceeding.

Squatters

72. Violent entry to premises: special position of displaced residential occupiers and intending occupiers.

73. Adverse occupation of residential premises.

74. Protected intending occupiers: supplementary provisions.

75. Interim possession orders: false or misleading statements.

76. Interim possession orders: trespassing during currency of order.

Powers to remove unauthorised campers

77. Power of local authority to direct unauthorised campers to leave land.

78. Orders for removal of persons and their vehicles unlawfully on land.

79. Provisions as to directions under s. 77 and orders under s. 78.

80. Repeal of certain provisions relating to gipsy sites.

Appendix Thirteen

COUNT OF GYPSY CARAVANS: 16 JULY 1997
 RESEARCH SERVICES LIMITED FOR DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS
 GYPSY SITE BRANCH

REGIONS			GREATER LONDON	SOUTH EAST	EASTERN	SOUTH WEST	EAST MIDLAN- DS	WEST MIDLAN- DS	NORTH WEST	YORKS AND HUMBER- SIDE	NORTH	TOTAL
C A R A V A N S	U N N A C A U T O M O B I L I T I E S	JUL 95	24	470	816	403	345	683	257	322	37	3357
		JAN 96	98	517	657	285	166	556	247	328	33	2887
		JUL 96	58	541	901	468	267	498	197	411	128	3469
		JAN 97	55	491	598	288	188	531	209	214	17	2591
		JUL 97	171	479	833	520	400	570	345	240	56	3614
	A S U I T H E S O R I C O U N D N C I L	JUL 95	676	970	1191	562	350	582	414	726	292	5763
		JAN 96	600	1039	1345	534	335	632	453	735	336	6009
		JUL 96	640	1030	1295	564	333	635	429	726	264	5916
		JAN 97	726	991	1415	632	355	654	453	737	361	6324
		JUL 97	643	941	1342	562	353	678	395	716	316	5946
	A S U I T H E S O R I P R I S E V A T E	JUL 95	31	561	911	361	319	502	390	206	82	3363
		JAN 96	15	548	965	391	465	430	428	201	118	3561
		JUL 96	24	548	948	453	402	397	393	182	76	3423
		JAN 97	20	628	1038	462	492	478	459	226	78	3881
		JUL 97	41	575	1045	480	480	442	448	204	61	3776
	T O T A L	JUL 95	731	2001	2918	1326	1014	1767	1061	1254	411	12483
		JAN 96	713	2104	2967	1210	966	1618	1128	1264	487	12457
		JUL 96	722	2119	3144	1485	1002	1530	1019	1319	468	12808
		JAN 97	801	2110	3051	1382	1035	1663	1121	1177	456	12796
		JUL 97	855	1995	3220	1562	1233	1690	1188	1160	433	13336

COUNT OF GYPSY CARAVANS: 21 January 1998
 RESEARCH SERVICES LIMITED FOR DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS
 GYPSY SITE BRANCH

REGIONS			GREATER LONDON	SOUTH EAST	EASTERN	SOUTH WEST	EAST MIDLAN- DS	WEST MIDLAN- DS	NORTH WEST	YORKS AND HUMBER- SIDE	NORTH	TOTAL
C A R A V A N S	U E N N A C A U A T H P O M O R E N T S E S	NO.	152	340	722	315	289	387	199	158	22	2584
		CHAN-GE SINC-E JAN '97	97	-151	124	27	101	-144	-10	-56	5	-7
	A S U I T H E O S R I C O U N D N C I L	NO.	613	954	1501	602	377	679	424	755	231	6136
		CHAN-GE SINC-E JAN '97	-113	-37	86	-30	22	25	-29	18	-130	-188
	A S U I T H E O S R I P S R E I D V A T E	NO.	58	656	1080	506	525	538	478	303	66	4210
		CHAN-GE SINC-E JAN '97	38	28	42	44	33	60	19	77	-12	329
	T O T A L	NO.	823	1950	3303	1423	1191	1604	1101	1216	319	12930
		CHAN-GE SINC-E JAN '97	22	-160	252	41	156	-59	-20	39	-137	134

Appendix Fourteen

European Commission on Racism and Intolerance
General Policy Recommendation No. 3:
Combating Racism and Intolerance Against Roma/Gypsies

(adopted 1998)

The European Commission against Racism and Intolerance (ECRI):

Recalling the decision adopted by the Heads of State and Government of the member States of the Council of Europe at their first Summit held in Vienna on 8-9 October 1993;

Recalling that the Plan of Action on combating racism, xenophobia, antisemitism and intolerance set out as part of this Declaration invited the Committee of Ministers to establish the European Commission against Racism and Intolerance with a mandate, inter alia, to formulate general policy recommendations to member States;

Recalling also the Final Declaration and Action Plan adopted by the Heads of State and Government of the member States of the Council of Europe at their second Summit held in Strasbourg on 10-11 October 1997;

Stressing that this Final Declaration confirms that the goal of the member States of the Council of Europe is to build a freer, more tolerant and just European society and that it calls for the intensification of the fight against racism, xenophobia, antisemitism and intolerance;

Noting the proposal concerning the nomination of a European mediator for Roma/Gypsies contained in Recommendation No. 1203 (1993) of the Parliamentary Assembly of the Council of Europe;

Bearing in mind the conclusions of the human dimension seminar on Roma in the CSCE (OSCE) region organised on 20-23 September 1994 by the Organisation for Security and Co-operation in Europe (OSCE), in close consultation with the Council of Europe and the continuing co-operation between the two Organisations in this field;

Welcoming the nomination by the Secretary General in 1994 of a Co-ordinator of Council of Europe Activities on Roma/Gypsies;

Bearing in mind the work of the Specialist Group on Roma/Gypsies (MG-S-ROM);

Recalling Recommendation No. R (97) 21 of the Committee of Ministers to member States on the media and the promotion of a climate of tolerance;

Recalling the provisions contained in ECRI's general policy recommendation No. 1, which sought to assist member States in combating racism, xenophobia, antisemitism and intolerance effectively, by proposing concrete and specific measures in a limited number of particularly pertinent areas;

Profoundly convinced that Europe is a community of shared values, including that of the equal dignity of all human beings, and that respect for this equal dignity is the cornerstone of all democratic societies;

Recalling that the legacy of Europe's history is a duty to remember the past by remaining vigilant and actively opposing any manifestations of racism, xenophobia, antisemitism and intolerance;

Paying homage to the memory of all the victims of policies of racist persecution and extermination during the Second World War and remembering that a considerable number of Roma/Gypsies perished as a result of such policies;

Stressing in this respect that the Council of Europe is the embodiment and guardian of the founding values - in particular the protection and promotion of human rights - around which Europe was rebuilt after the horrors of the Second World War;

Recalling that combating racism, xenophobia, antisemitism and intolerance forms an integral part of the protection and promotion of human rights, that these rights are universal and indivisible, and that all human beings, without any distinction whatsoever, are entitled to these rights;

Stressing that combating racism, xenophobia, antisemitism and intolerance is above all a matter of protecting the rights of vulnerable members of society;

Convinced that in any action to combat racism and discrimination, emphasis should be placed on the victim and the improvement of his or her situation;

Noting that Roma/Gypsies suffer throughout Europe from persisting prejudices, are victims of a racism which is deeply-rooted in society, are the target of sometimes violent demonstrations of racism and intolerance and that their fundamental rights are regularly violated or threatened;

Noting also that the persisting prejudices against Roma/Gypsies lead to discrimination against them in many fields of social and economic life, and that such discrimination is a major factor in the process of social exclusion affecting many Roma/Gypsies;

Convinced that the promotion of the principle of tolerance is a guarantee of the preservation of open and pluralistic societies allowing for a peaceful co-existence;

recommends the following to Governments of member States:

- to sign and ratify the relevant international legal instruments in the field of combating racism, xenophobia, antisemitism and intolerance, particularly the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages;
- to ensure that the name used officially for the various Roma/Gypsy communities should be the name by which the community in question wishes to be known;
- bearing in mind the manifestations of racism and intolerance of which Roma/Gypsies are victims, to give a high priority to the effective implementation of the provisions contained in ECRI's general policy recommendation No. 1, which requests that the necessary measures should be taken to ensure that national criminal, civil and administrative law expressly and specifically counter racism, xenophobia, anti-semitism and intolerance;
- to ensure that discrimination as such, as well as discriminatory practices, are combated through adequate legislation and to introduce into civil law specific provisions to this end, particularly in the fields of employment, housing and education;
- to render illegal any discrimination on the part of public authorities in the exercise of their duties;
- to ensure that suitable legal aid be provided for Roma/Gypsies who have been victims of discrimination and who wish to take legal action;
- to take the appropriate measures to ensure that justice is fully and promptly done in cases concerning violations of the fundamental rights of Roma/Gypsies;
- to ensure in particular that no degree of impunity is tolerated as regards crimes committed against Roma/Gypsies and to let this be clearly known among the general public;
- to set up and support specific training schemes for persons involved at all levels in the various components of the administration of justice, with a view to promoting cultural understanding and an awareness of prejudice;

- to encourage the development of appropriate arrangements for dialogue between the police, local authorities and Roma/Gypsy communities;
- to encourage awareness-raising among media professionals, both in the audiovisual field and in the written press, of the particular responsibility they bear in not transmitting prejudices when practising their profession, and in particular in avoiding reporting incidents involving individuals who happen to be members of the Roma/Gypsy community in a way which blames the Roma/Gypsy community as a whole;
- to take the necessary steps to ensure that rules concerning the issue of de jure and de facto access to citizenship and the right to asylum are drawn up and applied so as not to lead to particular discrimination against Roma/Gypsies;
- to ensure that the questions relating to "travelling" within a country, in particular regulations concerning residence and town planning, are solved in a way which does not hinder the way of life of the persons concerned;
- to develop institutional arrangements to promote an active role and participation of Roma/Gypsy communities in the decision-making process, through national, regional and local consultative mechanisms, with priority placed on the idea of partnership on an equal footing;
- to take specific measures to encourage the training of Roma/Gypsies, to ensure full knowledge and implementation of their rights and of the functioning of the legal system functions;
- to pay particular attention to the situation of Roma/Gypsy women, who are often the subject of double discrimination, as women and as Roma/Gypsies;
- to vigorously combat all forms of school segregation towards Roma/Gypsy children and to ensure the effective enjoyment of equal access to education;
- to introduce into the curricula of all schools information on the history and culture of Roma/Gypsies and to provide training programmes in this subject for teachers;
- to support the activities of non-governmental organisations, which play an important role in combating racism and intolerance against Roma/Gypsies and which provide them in particular with appropriate legal assistance;
- to encourage Roma/Gypsy organisations to play an active role, with a view to strengthening civil society;
- to develop confidence-building measures to preserve and strengthen an open and pluralistic society with a view to a peaceful co-existence.

Appendix Fifteen

European Commission on Racism and Intolerance
General Policy Recommendation No. 1:
Combating Racism, Xenophobia, Antisemitism and Intolerance

(adopted 1996)

The European Commission against Racism and Intolerance:

Recalling the Declaration adopted by the Heads of State and Government of the member States of the Council of Europe at their Summit held in Vienna on 8-9 October 1993;

Recalling that the Plan of Action on combating racism, xenophobia, antisemitism and intolerance set out as part of this Declaration invited the Committee of Ministers to establish the European Commission against Racism and Intolerance with a mandate, inter alia, to formulate general policy recommendations to member States;

Bearing in mind the proposals contained in the Recommendation N° 1275 on the fight against racism, xenophobia, antisemitism and intolerance adopted by the Parliamentary Assembly of the Council of Europe on 28 June 1995;

Convinced that effectively countering racism, xenophobia, antisemitism and intolerance requires a sustained and comprehensive approach reflected in a broad range of measures which complement and reinforce one another, covering all aspects of life;

Recognising the social, economic and legal diversity of member States and the need for specific measures in this field to reflect this diversity;

Aware that racism, xenophobia, antisemitism and intolerance cannot be countered by legal measures alone, but emphasising that legal measures are nevertheless of paramount importance and that non-enforcement of relevant existing legislation discredits action against racism and intolerance in general;

Recalling that medium and long-term preventive strategies based on educational and other measures are crucial for curbing the various manifestations of racism, xenophobia, antisemitism and intolerance and expressing in this respect its support for the initiatives taken within the Council of Europe, in particular in the field of history teaching, as well as for Recommendation (84)18 on the training of teachers in education for intercultural understanding, notably in a context of migration and Recommendation R (85)7 on the teaching and learning of human rights in schools;

Acknowledging the active role the media can play in favour of a culture of tolerance and mutual understanding;

Seeking in this first general policy recommendation, complementary to other efforts at the international level, to assist member States in combating racism, xenophobia, antisemitism and intolerance effectively, by proposing concrete and specific measures in a limited number of areas which are particularly pertinent;

recommends the following to the Governments of the member States:

A. CONCERNING LAW, LAW ENFORCEMENT AND JUDICIAL REMEDIES

- Ensure that the national legal order at a high level, for example in the Constitution or Basic Law, enshrines the commitment of the State to the equal treatment of all persons and to the fight against racism, xenophobia, antisemitism and intolerance;

- Sign and ratify the relevant international legal instruments listed in the Appendix;
- Ensure that national criminal, civil and administrative law expressly and specifically counter racism, xenophobia, anti-semitism and intolerance, *inter alia* by providing:
 - that discrimination in employment and in the supply of goods and services to the public is unlawful;
 - that racist and xenophobic acts are stringently punished through methods such as:
 - defining common offences but with a racist or xenophobic nature as specific offences;
 - enabling the racist or xenophobic motives of the offender to be specifically taken into account;
 - que les infractions pénales à caractère raciste ou xénophobe sont poursuivies d'office;
 - that criminal offences of a racist or xenophobic nature can be prosecuted *ex officio*; that, in conformity with the obligations assumed by States under relevant international instruments and in particular with Articles 10 and 11 of the European Convention on Human Rights, oral, written, audio-visual expressions and other forms of expression, including the electronic media, inciting to hatred, discrimination or violence against racial, ethnic, national or religious groups or against their members on the grounds that they belong to such a group are legally categorised as a criminal offence, which should also cover the production, the distribution and the storage for distribution of the material in question;
 - In conformity with the aforementioned international obligations, take measures, including where necessary legal measures, to combat racist organisations - bearing in mind the fact that they can pose a threat to the human rights of minority groups - including banning such organisations where it is considered that this would contribute to the struggle against racism;
 - Ensure that the general public is made aware of the legislation combating racism, xenophobia, antisemitism and intolerance;
- Ensure that criminal prosecution of offences of a racist or xenophobic nature is given a high priority and is actively and consistently undertaken;
- Ensure that accurate data and statistics are collected and published on the number of racist and xenophobic offences that are reported to the police, on the number of cases that are prosecuted, on the reasons for not prosecuting and on the outcome of cases prosecuted;
- Ensure that adequate legal remedies are available to victims of discrimination, either in criminal law or in administrative and civil law where pecuniary or other compensation may be secured;
- Ensure that adequate legal assistance is available to victims of discrimination when seeking a legal remedy;
- Ensure awareness of the availability of legal remedies and the possibilities of access to them;

B. CONCERNING POLICIES IN A NUMBER OF AREAS

- Take measures in the fields of education and information in order to strengthen the fight against racism, xenophobia, anti-semitism and intolerance;
- Adopt policies that enhance the awareness of the richness that cultural diversity brings to society;
- Undertake research into the nature, causes and manifestations of racism, xenophobia, anti-semitism and intolerance at local, regional and national level;

- Ensure that school-curricula, for example in the field of history teaching, are set up in such a way to enhance the appreciation of cultural diversity;
- Set up and support training courses promoting cultural sensitivity, awareness of prejudice and knowledge of legal aspects of discrimination for those responsible for recruitment and promotion procedures, for those who have direct contact with the public and for those responsible for ensuring that persons in the organisation comply with standards and policies of non-discrimination and equal opportunity;
- Ensure, in particular, that such training is introduced and maintained for the police, personnel in criminal justice agencies, prison staff and personnel dealing with non-citizens, in particular refugees and asylum seekers;
- Ensure that the police provide equal treatment to all members of the public and avoid any act of racism, xenophobia, antisemitism and intolerance;
- Develop formal and informal structures for dialogue between the police and minority communities and ensure the existence of a mechanism for independent enquiry into incidents and areas of conflicts between the police and minority groups;
- Encourage the recruitment of members of public services at all levels, and in particular police and support staff, from minority groups;
- Ensure that all public services and services of a public nature such as healthcare, social services and education provide non-discriminatory access to all members of the public;
- Take specific measures, such as providing targeted information, to ensure that all eligible groups *de facto* have equal access to these services;
- Promote and increase genuine equality of opportunity by ensuring the existence of special training measures to help people from minority groups to enter the labour market;
- Initiate research into discriminatory practices and barriers or exclusionary mechanisms in public and private sector housing;
- Ensure that public sector housing is allocated on the basis of published criteria which are justifiable, ie which ensure equal access to all those eligible, irrespective of ethnic origin;
- Since it is difficult to develop and effectively implement policies in the areas in question without good data, to collect, in accordance with European laws, regulations and recommendations on data-protection and protection of privacy, where and when appropriate, data which will assist in assessing and evaluating the situation and experiences of groups which are particularly vulnerable to racism, xenophobia, antisemitism and intolerance.

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