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Racism and equal opportunity policies in the 1980s

SECOND EDITION

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Cambridge University Press

978-0-521-38968-6 - Racism and Equal Opportunity Policies in the 1980s, Second Edition Edited by Richard Jenkins and John Solomos

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#### Comparative ethnic and race relations

# Published for the Centre for Research in Ethnic Relations at the University of Warwick

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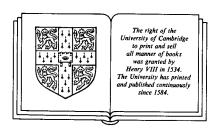
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**SECOND EDITION** 

edited by
RICHARD JENKINS AND
JOHN SOLOMOS



### CAMBRIDGE UNIVERSITY PRESS

Cambridge
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> CAMBRIDGE UNIVERSITY PRESS Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo, Delhi, Dubai, Tokyo

Cambridge University Press
The Edinburgh Building, Cambridge CB2 8RU, UK

Published in the United States of America by Cambridge University Press, New York

www.cambridge.org

Information on this title: www.cambridge.org/9780521389686

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First published 1987 Reprinted 1988 Second edition published 1989 Re-issued in this digitally printed version 2009

A catalogue record for this publication is available from the British Library

Library of Congress Cataloguing in Publication data

Racism and equal opportunity policies in the 1980s / edited by Richard Jenkins and John Solomos. – 2nd ed.

p. cm. – (Comparative ethnic and race relations series)
 Bibliography
 Includes index.
 ISBN 0 521 38968 2

1. Discrimination in employment – Great Britain. 2. Race discrimination – Great Britain. I. Jenkins, Richard, 1952–II. Solomos, John. III. Series.

HD4903.5.G7R33 1989 331.13'3'0941-dc20 89-32977 CIP

ISBN 978-0-521-33013-8 Hardback ISBN 978-0-521-38968-6 Paperback

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## Introduction to the second edition

Even in the short time since the first edition of this volume was published much has changed in relation to the issues it covers. For this reason we have decided to add a new introduction to bring the coverage of some of its main themes up to date. Obviously we cannot discuss all changes over the past few years, and so we shall concentrate particularly on four of the main variables: the political context; the local politics of anti-racism; equal opportunity in Northern Ireland; and finally on the prospects for the future.

#### The changing political context of racial equality

After Mrs Thatcher was returned to power for the third time in 1987 she declared that one of her main priorities would be the regeneration of the inner cities. Shortly afterwards she undertook a short tour through Britain's inner cities, with the aim of declaring her government's commitment to regenerating these areas. This tour was supposed to symbolise the high priority given to inner city deprivation during her third administration. On the face of it therefore there are hopeful signs about the prospects for radical changes in policy orientation during Mrs Thatcher's third term of office.

In the years since 1981, when Lord Scarman called for urgent action to tackle racial discrimination and the social conditions which underlay the disorders in Brixton and elsewhere, there has been little evidence of such urgency. Whatever the merit of the particular programme proposed by Lord Scarman – and this has been the subject of some debate (Benyon and Solomos 1987) – the one consistent response that has been evident since 1981 has had little to do with the pursuit of social justice: rather than dealing with the root causes of racial disadvantage and urban unrest the government has chosen to give more resources, more training and more equipment to the police in order to control the symptoms of urban unrest. The government's overall objective has been to decrease public expenditure, for the sake of lower taxation and to encourage an enterprise culture. In this context aid for



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the inner cities has been dwarfed by the financial cuts applied to inner city local authorities.

Increasingly the most strident political voices are raised in the name of free enterprise and law and order, not for equity and social justice. For the new right and other influential sectors of political opinion the attempt to achieve racial equality through legal and political means is at best naive political folly and at worst a restriction on the workings of the market. The present political climate gives one little cause for optimism that a radical change in governmental priorities in this field is likely (Solomos 1989).

In the aftermath of the 1985 outbreak of urban unrest, central government promised to help those inner city areas particularly hard hit by economic restructuring and urban decay. The impact of such promises in practice has, however, been limited, and there is little evidence that the initiatives which have been set in motion as a result of the urban unrest have had much impact on the socio-economic position of black minorities in the inner cities.

The government's plan of 'Action for Cities' (DoE 1988), issued after Mrs Thatcher's post-election promise, says very little directly about racial inequality. It remains to be seen whether it will suffer the fate of numerous other initiatives on the inner cities and fade into obscurity. But one thing seems clear: since the late 1970s the government has been more intent on reducing the powers of local authorities than on providing for fundamental changes in the social conditions of the inner cities.

In this environment the auguries for equal opportunity and racial equality policies are not good, despite the government's self-proclaimed commitment to the regeneration of the inner cities. Within the present political climate it becomes increasingly unlikely that the government will respond favourably to calls for greater state intervention to combat racism and social injustice. The fate of the CRE's proposals for the reform of the 1976 Race Relations Act is the most clear example of how calls for urgent legal and political reforms have fallen on deaf ears.

Failing a strong lead from central government the CRE has attempted to innovate within the terms of its powers. It has tried to encourage both public and private sector employers to develop and implement equal opportunity programmes. The failure of the government to give it greater legal powers or to support it politically has, however, limited the impact of the CRE's initiatives (McCrudden 1987). A good example is the fate of the Code of Practice for the elimination of discrimination in employment, which came into force in April 1984. First published in draft form in early 1982, the Code went through a number of stages of discussion and redrafting before the government formally laid it before Parliament in April 1983. Since April 1984 the Code has been admissible in evidence to tribunals, and if they



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think a provision in it is relevant to the proceedings they can take it into account in determining the question. However, the CRE's own survey of employers' responses to the Code showed that many employers were still unaware of its existence, and even fewer had taken any positive measures to put it into practice (CRE 1988: 8).

At a broader level the attempts by the CRE and various local authorities to encourage the development of positive action and contract compliance measures as tools for the promotion of racial equality in employment have met with both legal and administrative resistance. There seems little likelihood that such measures can have a significant impact on the extent of racial discrimination in British society without a broader political commitment to the goal of racial equality.

The relative absence of policy innovation at the national level during the past decade is no indication that the question of racial inequality has been resolved. Rather, the present situation can best be seen as an impasse in the search for means to achieve greater equality for black citizens in British society (Gordon 1989). Unless a way is found to move beyond the present impasse it is likely that racial inequality will remain a volatile and explosive issue in British society for some time to come. If the experience of the past few years is anything to go by it will take sustained political pressure and mobilisation to alter current priorities and establish a radical agenda for action.

#### Local politics and 'anti-racism'

Perhaps the most notable change in this field over the past few years has been in relation to local politics. Since the early 1980s public attention has been focused on the experiences of a number of local authorities which have introduced radical policies aimed at tackling racial inequality. The most notable cases have been the Greater London Council before it was abolished, the Inner London Education Authority and the London boroughs of Lambeth, Brent, Hackney and Haringey. Nationally, a number of other local authorities have adopted comprehensive policy statements on racial equality and equal opportunity generally.

In all these cases a combination of factors seems to have prompted rapid policy change. First, bolstered by the urban unrest that has been much in evidence during the 1980s, local black politicians and groups have sought to include racial inequality on the local political agenda. Second, a number of left local authorities sought to use the issue of equal opportunity as a mechanism for widening their basis of support among ethnic minorities and other constituencies (Stoker 1988: 207–8). Third, the failure of central



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government to respond to calls for radical reform was seen as a sign that relatively little change could be expected as a result of the actions of central government.

The result of these pressures was reflected in three main policy changes. The first addressed the central question of who gets what, and the emphasis has been on establishing equality of treatment and equality of outcome in the allocation process. Ethnic records have been introduced to monitor channels of access and allocation. For example, in relation to housing, authorities such as Hackney and Haringey have sought to monitor mobility within the local housing stock and the quality of distribution, and to change procedures that facilitated discretion and contributed to discriminatory outcomes.

The second policy change has addressed the question of the employment of black staff within local authorities. This has resulted in a number of authorities linking the question of allocative equality with the representation of black and ethnic minority staff in local government departments. Racially discriminatory outcomes, it was argued, were not solely the function of organisational procedures but also related to the under-representation or exclusion of black and ethnic minority staff. Consequently, targets have been established to increase the employment of black and ethnic minority staff.

Once again, however, the experience of local authorities seems to mirror that of central government initiatives, since there has been a gap between the promise embodied in policy statements and the actual achievements of policies. During the early 1980s authorities such as Lambeth and Hackney did make some progress in changing their employment practices and service delivery to reflect the multi-racial composition of their local populations. Initiatives in specific policy areas such as social services and housing have also been put into practice. In Hackney's case the combination of pressure from the local black communities and a formal investigation by the Commission for Racial Equality forced the council to rethink its housing policy and introduce major changes. During the early 1980s local authorities were also the site of important debates about the delivery of social services and education.

Yet after the flurry of policy activity and change during the early 1980s the last few years have been a period of conflict, negative media publicity about racial equality policies and in some cases resistance to change by the local white population. The debates about multi-racial education in Brent and Bradford, the media coverage of the activities of the 'loony left' in a number of local authorities in London, and the attack on 'anti-racism' launched by sections of the political right have tended to push even the most radical local authorities on the defensive. Indeed in some cases the public



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attention given to 'anti-racism' has tended to take attention away from the persistence of racial inequality and direct critical attention at those local authorities attempting to allocate resources to minority groups.

Most importantly, perhaps, the increasing fiscal constraints imposed by central government and pressure on the resources available to local authorities have left little room for the maintenance of the initiatives already introduced or for new developments. During 1987 and 1988 there were signs that even previously radical local authorities are now adopting a lower profile on issues concerned with racial equality.

#### Equal opportunity in Northern Ireland

Reviewers of the original hardback edition of the present collection were united in singling out John Darby's critique of Northern Ireland's Fair Employment Agency (FEA) for particular attention. Robin Oakley, for example, suggested that 'it is to Northern Ireland that we might look if we wish to progress equal opportunity policies further' (*The Times Higher Education Supplement*, 20 November 1987). Robert Cormack, in a similar vein, argued that the province had become the 'lead jurisdiction' in the United Kingdom with respect to equality of opportunity (*International Journal of Urban and Regional Research*, vol. 12, 1988, p. 660). At the end of the chapter in question, however, Darby argues – more pessimistically – that unless the Fair Employment Agency adopts a more aggressive stance in its operations 'by 1990, the issue of equality of opportunity will have gently slipped into the backwater of Ulster politics'.

Since that sentence was written, far from slipping further down the agenda of government in Northern Ireland, questions concerning ethnic equality of opportunity in employment have assumed a greater degree of political importance than hitherto. One reason for this development is the direct pressure exerted by the United States government, in relation to the placing of orders and investment, as described by Darby. In addition, however, there is now the 1985 Anglo-Irish Agreement to take into account, Article 5(a) of which is concerned with the encouragement of measures to prevent economic and social discrimination (Arthur and Jeffery 1988: 103). Finally, the United Kingdom state has probably also been moved to action in part by the need to head off the Irish lobby in the United States, in particular to meet the challenge of the 'MacBride Principles'. These are affirmative action principles which, while they may look routine enough in the American context, are not supported by the US government and have aroused considerable opposition in Northern Ireland, from



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unionists and constitutional nationalists alike, because of suspicion as to the motives of their proponents and doubts about their legality and appropriateness (Arthur and Jeffery 1988: 29–30; Cormack and Osborne 1987; McCormack 1987; Richmond 1987). The campaign in the United States supporting the MacBride Principles has nonetheless achieved some success in affecting state legislatures and public opinion.

The state has responded to these pressures in a number of ways: administratively it has made changes in its own procedures as an employer; legally, it has begun the process of altering the legislative framework which defines, promotes and polices equality of opportunity. Less directly, quangos (see chapter 12, note 2) and state-owned companies have also produced responses of one sort or another. We shall discuss each of these in turn, commencing with administrative action.

In 1983, the Fair Employment Agency published the report of one of its most controversial investigations, into the non-industrial Northern Ireland Civil Service (Fair Employment Agency, 1983). The investigation was marked by a series of disputes between external consultants, the FEA and the Civil Service about the findings and their analysis. Depending upon where one stood, the investigation either largely exonerated the Civil Service of persistent charges of discrimination (in its final, published version) or produced strong evidence (in its draft form) of systematic Catholic disadvantage, particularly within Civil Service promotion procedures (Miller, 1986: 227–30; 1988).

Whatever interpretation one adopts - and the circumstances of the investigation's final publication might strongly suggest the latter - the report made a number of recommendations. A direct outcome of these was the establishment of an Equal Opportunities Unit within the Civil Service. As revealed in its Annual Reports (Equal Opportunities Unit, 1986; 1987), the Unit has introduced a personnel monitoring system, concerned with issues such as recruitment, promotion and wastage with respect to religious ethnicity, gender and disability, in addition to a package of measures concerned with such things as recruitment publicity, training, sexual harassment, maternity-related issues and pensions. In short, a comprehensive equal opportunity programme has been introduced, covering both industrial and non-industrial civil servants. While it is too early to see what difference all of this activity has made, the Unit's programme represents a major rhetorical and practical step towards enhanced equality of opportunity in Northern Ireland. A further contribution to this has been the Department of Economic Development's Religious Equality of Opportunity in Employment - Guide to Effective Practice, issued in 1987.

Legal developments have been even more far-reaching. The Northern Ireland Department of Economic Development published in 1986 a Con-



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sultative Paper, Equality of Opportunity in Employment in Northern Ireland: Future Strategy Options (Department of Economic Development 1986). Originally commissioned by the Secretary of State in July 1985, the options which the paper offered for comment included an all-embracing regulatory agency covering ethnicity, gender and disability, on the basis of a single anti-discrimination law for all three, and the introduction of a strong form of contract compliance – affecting government tenders and grants – with respect to fair employment practice in the area of ethnicity.

This was followed by a report on fair employment from the Standing Advisory Commission on Human Rights, entitled *Religious and Political Discrimination in Northern Ireland* (Standing Advisory Commission on Human Rights 1987). The Commission draws its statutory authority from section 20 of the Northern Ireland Constitution Act 1973; its role is to advise the Secretary of State on the workings of the law with respect to political or religious discrimination.

The Commission's report is the most comprehensive critical review of the existing legal and administrative measures for preventing discrimination and providing equal opportunities in Northern Ireland and of the available options for improving the situation. It is impossible to do more than summarise briefly some of its major recommendations. Among these are the prohibition of indirect discrimination, the use of the industrial tribunal system to process individual complaints of discrimination (rather than, as at the time of writing, the FEA), the replacement of the FEA by a more powerful agency and the tougher use of contract compliance strategies with respect to government tenders, contracts and grants.

In February 1988, in the wake of the Commission's report and the response to the Consultative Paper, the Department of Economic Development announced a series of proposals. These included the introduction of the legal concept of indirect discrimination as a category of prohibited practice, the introduction of statutory requirements that all organisations with more than twenty-five employees monitor their workforces and that all employers provide equality of opportunity and, finally, the foundation of a new regulatory agency to replace the FEA. A White Paper, Fair Employment in Northern Ireland (Northern Ireland Office 1988), followed in May; among other changes, the proposed statutory ethnic monitoring was extended to all organisations employing ten or more workers.

The Queen's Speech on the State Opening of Parliament on 22 November 1988 marked the public unveiling of the Fair Employment Legislation (Northern Ireland) Bill. A *Guardian* leader writer (19 December 1988) has summarised the Bill's proposals thus:



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It will require all employers with more than 10 workers regularly to monitor their workforce, submit annual reports to the Government and carry out systematic reviews of their recruitment, training and promotion policies every three years. Any employer who refuses will be committing a criminal offence. A Fair Employment Commission will be given new powers to audit the composition of workforces, issue directives and take recalcitrant employers to a Fair Employment Tribunal, which will have the unique power for a tribunal in the UK of being able to impose fines. Not small fines either. The maximum will be £30,000. Employers which have discriminated in the past, will be encouraged to adopt affirmative action programmes. Employers who refuse to change, will face losing all government subsidies and will be prohibited from tendering for any public authority contract.

This is an impressive package. What it will look like following debate in the House and the Committee process is impossible to predict. Allowing for a reasonably safe passage, however, Northern Ireland will have been given, by UK standards, a uniquely powerful framework of anti-discrimination law (for contrasting views on this, see McCrudden 1989; Miller 1989).

There is more to the situation than the law, of course, although law is at the heart of the matter. The Fair Employment Agency has continued to do its job as well as possible under the circumstances: in March 1988, for example, following an investigation by the FEA, Northern Ireland Railways announced the introduction of a comprehensive 'equality of opportunity charter'. The Standing Advisory Commission on Human Rights, as part of the process of information gathering for its fair employment report, referred to above, commissioned a massive report on Equality and Inequality in Northern Ireland from the Policy Studies Institute (Smith and Chambers 1987). Although locally controversial – see the acrimonious exchanges between its authors and Northern Irish academics in Fortnight, numbers 258 and 259, January and February 1988 – the report is an unrivalled source of information (for further controversy see Cormack and Osborne 1989; Smith 1988).

Finally, there are state-owned companies to consider. The most obvious case is that of the aerospace company, Short Brothers and Harland, based in Belfast. They have been one of the most obvious targets for United States government pressure, in the context of orders for the C23 Sherpa aircraft. In June 1988, Shorts told the Defence Department in Washington that it planned to increase the Catholic proportion of 'new starts' to 17.5 per cent in 1988, 25 per cent in 1989 and 35 per cent in 1990. The formulation of such explicit quotas implies a form of affirmative action (or 'reverse dis-



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crimination') way beyond that which would be permitted in British law. In October 1988, the order was confirmed – for ten aircraft worth £60 million.

This brief resume of recent events in Northern Ireland has done little justice to the complexities of the situation and overlooked much that is of importance. Nor has it attempted a thoroughgoing comparison of the Northern Irish situation with Great Britain (see Jenkins 1988). It is, however, sufficient to allow a number of tentative conclusions to be drawn.

The first conclusion, and perhaps the most obvious, is that despite the strength of the state's administrative and legal response to ethnic disadvantage in Northern Ireland, there is no guarantee that it will actually make much difference. If for no other reason, the depth of recession and economic depression in Northern Ireland places severe limitations upon the possibilities for equality of opportunity (O'Dowd 1986). The interaction of patterns of residential segregation with patterns of industrial location serves to further disadvantage the Catholic community. The equal opportunity situation may be exacerbated by other dimensions of government policy; there is, for example, little gain to be had from greater equality or opportunity in Shorts if the company's operations contract drastically as a consequence of privatisation and the withdrawal of state support. There is, in addition, much opposition to the new package of measures within Northern Ireland, particularly from Unionist and loyalist political constituencies. Inasmuch as the new emphasis on equal opportunity is both less radical than demanded by the MacBride Principles and part of a 'carrot and stick' approach which embraces a tougher line on security and policing, militant republicans are not likely to be impressed either. Finally, there is always a legitimate doubt as to whether the state's commitment to equality of opportunity is genuine or just another exercise in symbolic politics; a serious attempt to produce change or merely window-dressing.

The second conclusion is that, while it is undoubtedly true that the progress which has been made so far in Northern Ireland could have major implications for the rest of the UK, it need not necessarily lead to concomitant changes in Great Britain. Such an outcome is, in fact, unlikely, for a number of reasons. There is, for example – as the use of proportional representation in elections in Northern Ireland illustrates – no reason why radical change in one part of the United Kingdom should 'leak' into another. Northern Ireland is routinely viewed as so utterly different from Great Britain that no necessary political lessons for the mainland are perceived to flow from what happens there (except, of course, when it suits, as in the area of security and anti-terrorism measures). This is all the more so if, as seems likely, the Northern Irish equality of opportunity measures are part of a strategy, com-



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mencing with the Anglo-Irish Agreement, which has as its long-term goal the 'solution' of the Northern Ireland problem (and from Westminster's point of view, this probably means divesting itself of responsibility for the province). On top of all of these considerations, the Conservative Party is unlikely to allow any legislative leakage in this area – Tory backbenchers are unhappy about the proposals in their Northern Irish context, let alone in Great Britain.

Finally, the role of the struggle of the Catholic community – a struggle which has embraced a wide range of options, from constitutional politics to non-violent protest to political violence – is worth considering. While this struggle has been significant in re-establishing Ireland as a political problem for the UK, it has only been influential with respect to economic disadvantage and equality of opportunity insofar as it has been able to mobilise the support of powerful external constituencies, particularly in the United States, although the importance of the Republic of Ireland in the European setting should not be underestimated. Similarly, the possibility of an eventual territorial settlement of the problem has also influenced the ability of struggle to make a difference. It should not be forgotten, however, that reform with respect to equal opportunity in Northern Ireland has been accompanied by ever-more repressive security policies.

All of these things have implications for the potential which the struggles of Britain's black communities have for effecting change, as does the fact that Northern Ireland's Catholics are proportionately more numerous than black Britons and, therefore, capable of being more troublesome. To put it quite simply, while the political struggles of Catholics in Northern Ireland have resulted in legislative and administrative reforms designed to promote greater equality of opportunity, they have also resulted in greater legal and administrative repression. In the British context, however, the more limited struggles of black people, while they may be met by repression, are unlikely to generate further reform. The shame is that, in the face of the state's present intransigence with respect to ethnic equality of opportunity in Great Britain, this may be the only avenue open to black people.

#### Future prospects

Finally, as we move closer to the 1990s, what of the prospects for the future? Certainly the experience of the past decade makes it difficult to be optimistic about the chances of a radical change in public policy on this issue. As the predominant political ideas have shifted to the right, so the probability of the required political action at the national level to tackle the



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roots of racism and social disadvantage has diminished. At the same time the fundamental changes in the functions of local government which the Thatcher governments have introduced make it more difficult for local authorities to intervene positively to promote racial justice.

The situation, however, is by no means static. The frequency of outbreaks of urban unrest during the 1980s indicates that the continued exclusion of black communities and other inner city residents may result in the repudiation of political authority, manifest as civic indifference, as a refusal to comply with laws and directives or as open conflict and violence. While the excluded black and white citizens of urban areas seem set to continue to suffer deprivations and injustice, it cannot be assumed that they will do so in silence.

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978-0-521-38968-6 - Racism and Equal Opportunity Policies in the 1980s, Second Edition Edited by Richard Jenkins and John Solomos

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## Acknowledgements

This collection is the product of a two-day workshop concerned with the issue of equal opportunity in employment, which the editors organised at the SSRC Research Unit on Ethnic Relations at the University of Aston in Birmingham in July 1983. We are grateful to the Unit, and its then Director, Professor John Rex, for financial support and subsequent encouragement for this venture.

Since the workshop, a number of problems have delayed the final publication of this volume. First, one of us, Jenkins, left the Unit in September 1983 to take up an appointment elsewhere. Second, as a result of the workshop a number of areas which we had neglected were identified; papers specifically concerned with these topics had then to be commissioned. Third, one erstwhile contributor withdrew his contribution immediately before the (then) deadline and a replacement contributor had to be found. Fourth, a couple of contributors delayed their contributions, due to the pressures of their own work. Finally, there were unfortunate delays during the book's production process which were beyond our control. All in all, an editor's task is thankless and fraught with complications. However, despite the time lapse between the initial preparation and final publication of many of the papers, we have made every effort to ensure that, where necessary, information has been updated. As a consequence, we are confident that the usefulness of the collection has not been reduced.

Finally, we owe a heartfelt debt of gratitude to the support staff of the Centre for Research in Ethnic Relations at Warwick, who prepared the manuscripts for publication. Without the unstinting work of Rose Goodwin and Gurbakhsh Hundal, in particular, our task would have been even more difficult.

Richard Jenkins John Solomos

16 January 1987

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