authorisation in the Roma case: that was a matter for its tactical choice but the courts should not bend over backwards to save the executive from what may have been its own folly. Their duty, as Laws LJ said, is to apply the will of Parliament as enacted in its laws. Moreover, the danger in the majority's reasoning is that it is capable of application outside the limited areas with which the Court was concerned. For example, it could be applied in the context of police stop and search powers. Simon Brown LJ expressly gives an example from just that context. This is potentially very damaging to race relations law going beyond what may have been perceived to be the problem in the Roma case itself.'

I am in respectful agreement with this analysis. In my view the majority was wrong. Laws LJ was right.

38. I agree with the conclusion of Baroness Hale of Richmond that the system operated by immigration officers at Prague Airport was inherently and systemically discriminatory on racial grounds against Roma, contrary to section 1(1)(a) of the Race Relations Act.

Baroness Hale of Richmond

72. [The] issue is whether the operation at Prague Airport was carried out in an unlawfully discriminatory manner, in that would-be travellers of Roma origin were treated less favourably than non-Roma were. In particular, it is alleged that they were subjected to longer and more intrusive questioning, they were required to provide proof of matters which were taken on trust from non-Roma, and far more of them were refused leave to enter than were non-Roma. The appellants seek a declaration to that effect.

73. Since 1968, it has been unlawful for providers of employment, education, housing, goods and other services to discriminate against individuals on racial grounds. The current law is contained in the Race Relations Act 1976, which in most respects is parallel to the Sex Discrimination Act 1975. The principles are well known and simple enough to state although they may be difficult to apply in practice. The underlying concept in both race and sex discrimination laws is that individuals of each sex and all races are entitled to be treated equally. Thus it is just as discriminatory to treat men less favourably than women as it is to treat women less favourably than men; and it is just as discriminatory to treat whites less favourably than blacks as it is to treat blacks less favourably than whites. The ingredients of unlawful discrimination are (i) a difference in treatment between one person and another person (real or hypothetical) from a different sex or racial group; (ii) that the treatment is less favourable to one; (iii) that their relevant circumstances are the same or not materially different; and (iv) that the difference in treatment is on sex or racial grounds. However, because people rarely advertise their prejudices and may not even be aware of them, discrimination has normally to be proved by inference rather than direct evidence. Once treatment less favourable than that of a comparable person (ingredients (i), (ii) and (iii)) is shown, the court will look to the alleged discriminator for an explanation. The explanation must, of course, be unrelated to the race or sex of the complainant. If there is no, or no satisfactory explanation, it is legitimate to infer that the less favourable treatment was on racial grounds: see *Glasgow City Council* v. *Zafar* [1997] 1 WLR 1659, approving *King* v. *Great Britain-China Centre* [1992] ICR 516. If the difference is on racial grounds, the reasons or motive behind it are irrelevant: see, for example, *Nagarajan* v. *London Regional Transport* [2000] 1 AC 501.

74. If direct discrimination of this sort is shown, that is that. Save for some very limited exceptions, there is no defence of objective justification. The whole point of the law is to require

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