Executive Summary: ICERD Submission

What this report is about

This is a report by the Scottish Human Rights Commission (known as 'the **SHRC**' or 'the Commission'), Scotland's human rights 'watchdog.' The report is the SHRC's evidence to the United Nations Committee on Racial Discrimination (often known as **CERD** or **the Committee**). The Committee is responsible for holding the UK Government and other public bodies such as the Scottish Government, Police Scotland, and the NHS to account for how they are protecting the human rights of people who are affected by racism.

Our report contains evidence from Commission research and the views of individuals we spoke to at events organised to hear from people with lived experience of racism in Scotland. The evidence from these events has been published alongside this report, with a foreword from our Commissioners. We have also made recommendations to help the Scottish Government (and sometimes other public bodies) to better protect human rights.

The Committee monitors the ways countries implement the International Convention on the Elimination of Racial Discrimination (again, this is commonly shortened to '**ICERD**'). It does this through issuing requests for reports like this one and looking at evidence that the UK Government has sent in its own report.[1] In August 2024, all the evidence that the CERD has received will be read and used to ask the UK Government questions at a meeting of the Committee at the UN in Geneva. This is called the **Interactive Dialogue**. As Scotland's human rights watchdog, the

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[1] UK Government Combined twenty-fourth to twenty-sixth periodic reports submitted by the United Kingdom of Great Britain and Northern Ireland under article 9 of the Convention, due in 2020

Commission will make sure that the CERD has information they need to prepare those questions.

Once the question-and-answer session is completed, the CERD will make a list of recommendations about how to better protect the human rights of people affected by racism across the UK, including in Scotland. These are called '**Concluding Observations**.' To help the Committee, we regularly refer back to their previous Concluding Observations in the footnotes of this report so that they can see where things have improved or changed (for example CERD/C/GBR/CO/21-23/8).

What we found

The report starts by listing themes we have previously suggested to the Committee that they might want to consider when they plan their questions to the UK Government. This is called the **List of Themes** and is sent to the UK Government in advance to help them prepare for the **Interactive Dialogue**.[2]

We then highlight that since the Committee last published its Concluding Observations in 2016, Scotland has become more diverse. According to the Census, people with a minority ethnic background increased from 8.2 per cent to 12.9 per cent between 2011 and 2022.

We looked at measures that the Scottish Government have highlighted as positive steps they have taken since the last review. Although we recognise that there are good intentions, we look at the example of the second Scottish National Action Plan for Human Rights, known as SNAP 2", to show that there are often big gaps between what the Scottish Government says it wants to do and what life is like for people and how easily we can check how well things are actually progressing.

We then looked at the human rights protected in **ICERD** in order. Some key highlights include:

- We have been concerned for a long time about the amount of data and evidence we have to monitor human rights for people, especially people who

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[2] CERD Committee List of Themes in relation to the combined twenty-fourth to twenty-sixth periodic reports of the United Kingdom of Great Britain and Northern Ireland

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experience racism, and whether this can be broken down to understand different outcomes for people with different ethnicities or to show differences for women, disabled people, older people and LGBTI+ (for example) who come from minority ethnic communities.

- We found that the Scottish Government's plans to set up an 'Anti-Racism Observatory' are not well understood, and that people don't know how this will work alongside the framework for tackling race inequality, the Race Equality Framework 2016-2030. We think there needs to be more information and new Race Equality Strategy to help people work together.

- The legal framework for protecting people from racism would be made stronger by the Scottish Government's commitment to '**incorporate'** the ICERD so that it becomes part of the law in Scotland, and by the UK Government no longer restricting the Human Rights Act 1998, especially in immigration cases.

- The SHRC could play a stronger role in protecting human rights of people who are affected by racism if we had more resources and more legal powers.

- Gypsy/Travellers have been subjected to attempts to force them to abandon their cultural practices for many years. There needs to be more work to make amends for this and to protect Gypsy/Traveller cultural identities.

- The recent media - and social media - discussion of changes to the law on Hate Crime could undermine confidence that both hate crime is taken seriously and that freedom of expression is sufficiently protected.

- Prison data suggests that some groups – 'African, Caribbean and Black' and 'Other' ethnic groups – are disproportionately over-represented in the prison population compared to 'White' and 'Asian' people. We are also concerned that it is difficult to complain about experiencing racism in Scottish prisons.

- Senior people in Police Scotland have said that "**institutional racism**" exists within Police Scotland but representatives of the Scottish Police Federation – a representative body for officers – have disputed this. An ongoing inquiry into the death of Sheku Bayoh who died after being restrained in police custody will examine whether race was a factor in his death. It is too early to tell whether Police Scotland's anti-racism and non-discrimination programme, Policing Together, is working, but we recommend that there needs to be more effort to work directly with communities to understand their concerns and improve relationships.

- Strategies to end and protect people from human trafficking and violence against women in Scotland could be strengthened to meet the needs of people who experience racial discrimination.

- We continue to think that the UK should introduce a time limit for how long people can be held in immigration detention. Although immigration is

reserved, there is more that the Scottish Government and other public bodies in Scotland could do to make sure that migrants and refugees are as safe as possible, in line with human rights standards.

- We found that the data shows that people from minority ethnic communities are more likely to be in expensive, unsuitable, or insecure accommodation. Asylum seekers and Gypsy/Travellers have particular accommodation needs that are not always met.
- There is a lot of evidence that both the health outcomes and the ways in which people are treated in the health system are poorer for people from minority ethnic communities. This is in both physical and mental health. Evidence collection in Scotland has improved in recent years following the Covid-19 pandemic but there needs to be more specific plans to reduce these inequalities.
- People from minority ethnic communities appear less likely to think that social security is something that is for them, despite the Scottish Social Security Act being based on the idea that social security is a right for all people in Scotland. Data also shows that people from minority ethnic communities are more likely to live in poverty, including children, but are slightly less likely to be approved when they apply for social security.
- Racist bullying is something that children are worried about and the national approach that the Scottish Government has introduced to gathering data on racist bulling is not always used consistently. The Scottish Government has committed to an Anti-Racism in Education programme that will reform the curriculum to improve balance in how human rights violations perpetrated as part of colonialism and the British Empire are taught. However, some pupils from minority ethnic communities still seem to lack support and experience discrimination in schools.
- The No Recourse to Public Funds (NRPF) condition which is applied to many visas means that migrants in Scotland cannot access essential services and are at risk of destitution. All room for collaboration between public services in Scotland needs to be explored and the Scottish Government should push the UK Government to end the use of the condition or at least make more exemptions that allow Scotland more flexibility.
- The Scottish Government needs to improve and restructure the legal aid system because there is a shortage of practitioners who can give legal advice and assistance for immigration cases, especially outwith Glasgow.
- The Scottish Government could do more to promote **'intersectionality'** in its policy strategies i.e. making sure that programmes to improve outcomes for groups affected by other forms of discrimination pay attention to the ways racism and racial discrimination apply and change these experiences of

discrimination for '**racialised**'[3] people who are also LGBTI+, women, disabled or older or younger.

[You can read all of our recommendations to the Scottish and UK Government in the full report on our website.](#)

Highlights from the 'In Our Words' Reports

Many people who came to the events organised by **CEMVO** told us that they did not know much about the Scottish Government's work to tackle hate crime, including the new law and the new national strategy. Many of them shared personal stories of experiencing harassment or violence in their communities, but often then said that they weren't sure if this was a hate crime, did not know how to report it or were doubtful that the police would take it seriously. Schools, workplaces, and public transport were often picked out as places of concern.

This often led to discussions about education. There was agreement that education was an important place where children could learn about different cultures and the impacts of racism on people. However, participants also told us that racism was common in schools, and that how it was dealt with very much depended on individual schools.

Many people at these events had no or very limited experience of applying for social security and most had not heard of many of the payments managed by Social Security Scotland. A few who had applied had mixed experiences and almost everyone said there was some sort of stigma or sense that these payments were not for them, especially for migrants, who are not allowed to claim most forms of government help. The No Recourse to Public Funds condition in visas was specifically highlighted by many people as unfair.

All participants felt that there were challenges to accessing the healthcare they needed, especially over the course of the pandemic. Some groups emphasised very positive experiences of the NHS although overall experiences were mixed, with

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[3] The Scottish Government defines the term 'racialised' to mean "the process by which groups of people are given racial identities and placed within the hierarchy based on their presumed superiority or inferiority to one another'. See: [Scottish Government,(2023) Anti-racism in Scotland: progress review 2023](#)

examples given of direct racism from (other) patients and the healthcare system systematically failing to take the participants seriously or give them the information that they needed.

The people who came to the events organised by **BEMIS**[4] told us that there were too many barriers to accessing services, which undermined community integration. They told us they did not think that the Equality Act and the equality obligations that public bodies have to meet were working well enough, and that there were inequalities and discrimination in employment, housing, education, social justice and social security. The Scottish Government's overarching policy framework for tacking racism (the Race Equality Framework 2016-2030) was seen positively, but some participants worried that it had been deprioritised. Most had not heard of a planned Anti-Racism Observatory, but some people were concerned that it could be too focused and cause division between communities.

The role of the media in generating hostility towards people from minority ethnic communities and migrants was a concern for many people. Hate crime and prejudice towards a number of different communities was discussed. Schools and public transport were highlighted as places where people felt unsafe or encountered violence. In general, participants felt that Police Scotland would not take reports seriously and suggested that relationships between the police and their communities needed to be nurtured consistently.

Immigration was a significant concern for these participants. Many of them were worried about the impact of No Recourse to Public Funds for their communities and the levels of poverty they could see. They felt that the impacts of the hostile environment policy were now being seen in both the level of racism they experienced but also throughout the state systems such as social security, housing, and higher education. This was having a significant impact on their lives and health.

As part of our commitment to making what we do accessible to all of the people of Scotland, we have included this summary of the following report to help explain its purpose, findings and some of the legal and policy jargon we use in our international reports. We have also produced an easy read version of this summary.

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[4] Black and Ethnic Minority Infrastructure in Scotland

If you require this information in other ways or want to ask us questions about international human rights reporting, please contact hello@scottishhumanrights.com.