

Parallel Report for the Combined twenty-fourth to twenty-sixth periodic reports submitted by the United Kingdom of Great Britain and Northern Ireland (UK) under Article 9 of the Convention on the Elimination of All Forms of Racial Discrimination

July 2024

Who we are

The Scottish Human Rights Commission (SHRC) is the National Human Rights Institution (NHRI) for Scotland, accredited with A-status by the Sub-Committee on Accreditation of Global Alliance of National Human Rights Institutions. The SHRC was established by an Act of the Scottish Parliament in 2008. It has a general duty to promote awareness, understanding and respect for all human rights and to encourage best practice, including through education, training and awareness raising, and by publishing research.

SHRC has a number of powers including:

- The power to conduct inquiries into the policies or practices of Scottish public authorities.
- Recommending such changes to Scottish law, policy, and practice as it considers necessary.
- The power to enter some places of detention as part of an inquiry.
- The power to intervene in some civil court cases.

SHRC is one of the three NHRIs in the UK. SHRC is a member of the UK's National Preventive Mechanism (NPM) designated in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

For further information, contact us at hello@scottishhumanrights.com

Table of Contents

Part 1: Introduction	4
Scope of Report	5
Evidence and engagement	8
Part 2: Progress; Positive Aspects and the Implementation Gap	10
Part 3: Concerns and recommendations	12
Article 1: Scope of the Convention and Definition of Racial Discrimination	12
Article 2: Obligation to Prohibit Racial Discrimination and Prevent Discriminatory Effects	17
Article 3: Prohibition of Racial Segregation	23
Article 5: Duty to Prevent Discrimination in Substantive Rights	28
Article 6: Access to Remedies (LOT §24; LOT §26)	60
Article 7: Public Education in Combatting Prejudice (LOT §27)	62
The Durban Declaration and Programme of Action (LOT §10)	63
Recommendations	67
Annex A.....	72
Summary of reserved and devolved area	73
Endnotes.....	76

Part 1: Introduction

The Scottish Human Rights Commission ('the Commission' / 'SHRC') is pleased to provide the following information to the Committee on the Elimination of Racial Discrimination ('the Committee') ahead of the UK's examination at the 113th Session in August 2024.

This submission follows our correspondence and input to the Committee in May 2024,¹ in which we raised a number of issues of concern to support the development of the List of Themes:

1. How the success of policies to improve health and wellbeing outcomes for people from minority ethnic communities across Scotland is being measured.
2. How the Scottish Government intends to build trust with and realise the human rights of Gypsy/Traveller communities.
3. Whether the Scottish Government has considered all measures to maximise support for people with No Recourse to Public Funds and ensure the safety and dignity of asylum seekers, refugees, and migrant workers.
4. What measures are being undertaken to improve the quality of data and its use in measuring human rights outcomes by race and ethnicity, and for further marginalised communities including women, LGBTI+ and disabled people from minority ethnic communities.
5. How Scottish Government legal and policy frameworks such as the proposed Human Rights Bill and the Anti-Racism Interim Governance Group will drive meaningful improvements to race equality and human rights.
6. What Scottish Government is doing to ensure that its anti-poverty and housing affordability measures are appropriately targeted, culturally competent, and accessible to people from minority ethnic communities.
7. How the Scottish Government plans to tackle the level of racist hate crime and racist bullying in schools and other settings.
8. How the Scottish Government and other public bodies intend to address structural racism and improve relationships with communities who have experienced historic or ongoing harmful treatment in the public sector.

9. What measures the Scottish Government will take to increase the diversity of institutions, including cultural institutions, in Scotland.
10. How the Scottish Government is responding to the disproportionately high levels of mortality and negative health outcomes witnessed throughout the COVID-19 pandemic.
11. How measures to improve women's health outcomes in Scotland are considering racial inequalities for racialised women and girls, up to and including increased maternal mortality.
12. How the Scottish Government is addressing sectarianism, including specific measures to monitor feelings of safety and inclusion and respond to criminal and non-criminal incidents.

We recommend that the previous submission and this one are read together in order to provide a comprehensive analysis of implementation of the Convention on the Elimination of All Forms of Racial Discrimination in Scotland.

As the List of Themes² was not available at time of writing (June 2024), the Commission has organised its report to align with Articles of the Convention, the previous Concluding Observations, and our recommended issues. Subsequently, we have added a reference to the relevant paragraph in the List of Themes to further assist the Committee's dialogue with the UK delegation.

Scope of Report

The Commission was established by an Act of the Scottish Parliament – the Scottish Commission for Human Rights Act 2006.³ The exercise of our mandate is focused on areas devolved to Scotland within the UK's devolution settlement. The Equality and Human Rights Commission has a human rights mandate in Scotland across areas of reserved competence and as the equality law regulator.

As reserved law and policy applies directly to people and communities in Scotland and invariably interacts with devolved policy, the Commission maintains its awareness of reserved policy.

An overview of the devolution settlement is provided at [ANNEX A](#).

Since our submission to the List of Themes was published in May 2024, the analysis of the most recent census (2022) by ethnic group, national identity, language, and

religion has been made available.⁴ This represents the most comprehensive and robust data available on Scotland's demographic make-up:

- The percentage of people with a minority ethnic background¹ increased from 8.2 per cent to 12.9 per cent between 2011 and 2022;
- People from 'Gypsy / Traveller' backgrounds were previously identified under this single heading, but in 2022 new categories of 'Roma' and 'Showman / Showwoman' were added. This means that the proportion of people identifying as Gypsy / Travellers on paper fell from 0.08 per cent to 0.06 per cent, but that adding Roma groups (0.06 per cent) and Showman / Showwoman (0.03 per cent) could indicate total population increases over the eleven years, or perhaps greater confidence in providing the data.²
- The 'Other white' category saw an increase of 56,600 people from 1.93 per cent to 2.92 per cent of the total population. Around three quarters of people who identified in this way also provided 'European' or country in Europe to define their backgrounds. The 'Polish' category saw an increase of 29,500 people, most frequently in urban council areas.
- Increases were recorded for 'Pakistani, Scottish Pakistani and British Pakistani' (0.93 per cent to 1.34 per cent) 'Indian, Scottish Indian, and British Indian (0.62 per cent to 0.97 per cent) and Bangladeshi, British Bangladeshi and Scottish Bangladeshi (0.07 to 0.13 per cent). The proportion of people identifying as 'Chinese, Scottish Chinese or British Chinese' increased at a smaller rate (0.64 per cent to 0.87 per cent).
- The number of people who identified as Caribbean or Black stayed the same at 0.12 per cent. However, the proportion of people who identified as African, Scottish African or British African has doubled from 0.56 per cent to 1.08 per

¹ 'Minority ethnic group' is used to refer to all other ethnic groups. This includes some ethnic groups that were in the White category on the census form such as Irish, Polish, Gypsy/Traveller, Roma and Showman/Showwoman. See: [Scotland's Census 2022 - Ethnic group, national identity, language and religion | Scotland's Census \(scotlandscensus.gov.uk\)](#)

² The statistics are not comparable. Members of these communities may have recorded their data in numerous other ways. Some further analysis of statistics and community engagement with data collection is provided throughout this submission.

cent). The proportion of people who identified as Arab, Scottish Arab or British Arab also doubled from 0.18 per cent to 0.41 per cent.

- The proportion of people who provided their ethnicity as ‘Mixed or Multiple Ethnic Groups’ increased from 0.37 per cent to 1.12 per cent, an over 200 per cent increase.
- Judaism was an option in the religion category and not in ethnicity. Religion was an option question however just under 6,000 people reported their religious as Jewish. A total of 27,328 people in the ethnicity question chose to describe their ethnicity as ‘other ethnicity’, once Arab, Scottish Arab or British Arab descriptors were isolated. Analysis of write in answers is still to be published.

The analysis also shows that “Without migration Scotland’s population would have decreased, and we would have fewer people in younger age groups.”⁵ The overall percentage of people living in Scotland who were born outside the UK is 10.2 per cent, but this is higher for younger age groups - 17.8 per cent of Scotland’s population aged between 20 and 39 were born outside the UK.⁶

As we noted in our List of Themes Report, the language, and preferences that people have around their identities are complex and contested. We acknowledge that some terms used throughout this paper will not resonate with or feel appropriate for some readers. Everyone has the right to define themselves and to use terminology that best aligns with their sense of (community) identity.⁷

Where we can, we aim to be as specific as data allows us to be when describing the situation of specific groups. Where we are speaking more generally, we use both the terms ‘racialised’⁸ and ‘[people from] minority ethnic communities’³ in this report

³ In using the term ‘people from minority ethnic communities’ we are generally inclusive of both visible and non-visible (i.e. white) groups. Usually used to cover all ethnic groups except White: British / White: Scottish. It also common to see the term ‘BME’ or ‘Black and Minority Ethnic’ / ‘people from BME communities’ used in Scottish Government and official sources (c.f. ‘Black, Asian and minority ethnic / BAME’ which is more commonly seen in UK Government and UK official sources). However the term is criticised by some individuals and communities for failing to reflect the role of systemic racism and homogenising communities. In 2021 the Commission on Race and Ethnic Disparities recommended that ‘BAME’ should not be used going forward.

unless using another term to maintain consistency with the one used in an original source. This reflects the developing approach in Scottish Government publications.⁴

Evidence and engagement

This report has been informed by evidence from the Commission's research and our engagement with a wide range of Scottish policy processes and participatory work between 2016 and 2024.⁹ It specifically builds upon:

- Research undertaken for our report to the Universal Periodic Review in 2022¹⁰
- Research for the Council of Europe's Baseline Assessment of the Istanbul Convention in 2023¹¹
- Research for our Parallel Report to the UK Review under the International Covenant on Civil and political Rights in 2024.¹²
- Forthcoming research being undertaken by the Commission on key spotlight priorities of concern:
 - Human Rights in Places of Detention
 - Access to Justice
 - The human rights of people with learning disabilities and autism, especially the right to liberty.
 - The human rights of the Gypsy / Traveller community to cultural life

In addition, following the publication of our List of Themes input, the Commission awarded funding⁵ to two strategic intermediary organisations to undertake

⁴ The Scottish Government has defined 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](#)

⁵ Funding was provided on the basis of an invitation to tender, shared with three known national level intermediaries with a track record of community engagement in Scotland. Two responses were received and after applying a scoring framework, contracts to provide the events and written reports were awarded to [CEMVO](#) and Black and Ethnic Minority Infrastructure in Scotland ([BEMIS](#)). The

consultation events with individuals affected by racism and community organisations working in the race equality sector in Scotland.

Four events were held over the course of May 2024, three in Glasgow (Scotland's largest city) and one in Aberdeen, each with Commission attendance and support. In total, these were attended by 75 people.

The discussion at these events has been recorded and analysed in a separate publication and used to inform this submission, its priorities, and recommendations. The views and perspectives shared by the participants have not been edited by the Commission. Any comments should not be assumed to be representative of all individuals and communities affected by racial discrimination in Scotland, nor taken as representative of the views of the Commission.

The Commission notes the Committee's previous recommendation⁶ that the State Party undertake "meaningful and effective consultations" in the preparation of its state report, which was submitted in May 2023.¹³ The engagement with organisations and individuals suggests that there are not currently avenues for third sector organisations to feed into the state report. When asked, participant awareness of the Convention and the reporting process was limited. While the Commission has a generally constructive relationship with state officials leading on human rights reporting, the Commission was not able to discuss preparation of the state response in advance of its submission due to other departments leading on this work. We have subsequently engaged with these officials and established dialogue for the review and subsequent ICERD implementation.

The Commission recommends that pathways to consultation and engagement between people affected by racism, their intermediaries and the Scottish Government are developed specifically focused on CERD and that there is a commitment to work with communities in the response and implementation of Concluding Observations.

Commission thanks CEMVO, BEMIS and all community organisations and all individuals who participated in this work.

⁶ CERD/C/GBR/CO/21-23/45

Part 2: Progress; Positive Aspects and the Implementation Gap

The Commission notes the information provided in the State Report and recognises the positive and well-intentioned efforts of the Scottish Government to commit to tackling structural inequalities, mainstreaming equality and human rights and embedding anti-racist approaches. Examples of progress areas provided include:

- The Hate Crime and Public Order (Scotland) Act 2021¹⁴
- The Scottish Government Mental Health Transition and Recovery Plan
- The UNCRC (Incorporation) (Scotland) Act¹⁵
- Equality Data Improvement Programme (EDIP) and Equality Evidence Finder (EEF)¹⁶
- The Gypsy/Traveller Action Plan: Improving the lives of Gypsy/Travellers (2019)¹⁷
- Anti Racism in Education Programme (AREP)¹⁸ and Education Scotland's Race Equality and Anti-Racism in Education Programme.¹⁹

In 2016, the Committee welcomed “Scotland’s National Action Plan for Human Rights [known as SNAP], in December 2013; New Scots, the strategy for 2014-2017 to support the integration of refugees and asylum seekers in Scotland, in December 2013; and the Race Equality Framework for Scotland 2016-2030, in March 2016.” Progress on some of these measures is discussed throughout this report.

The Commission has raised particular concern about the legacy of SNAP and its successor SNAP 2. Following initial scoping work funded and coordinated by the Commission in 2017, the Scottish Government provided funding for a multi-stakeholder Leadership Panel (co-Chaired by the Scottish Government and SHRC) and an independent Secretariat, with interim hosting and resources provided by the SHRC.²⁰ The Leadership Panel²¹ led a review and finalisation of SNAP 2 collaboratively using a form of consensus-based decision-making to agree 54 actions.²² SNAP 2 was launched in March 2023.

The Commission was clear that from publication it would move to a new role to monitor the implementation of SNAP 2. This decision reflected both the Commission’s own strategic priorities as well as the independent evaluation of SNAP

1 published in 2019, which found that it did not have adequate support to put all its commitments into practice.²³

In January 2024, the Commission wrote to the Scottish Government requesting an update, highlighting delays to meetings, a lack of updates on progress and the failure to identify priority actions.²⁴ We remain in correspondence.

The intentions and status of SNAP and SNAP 2 are highlighted as evidence of a well-recognised gap between policy ambition and implementation in many aspects of Scottish policy. This is not limited to racial discrimination, as evidence in recent NHRI parallel reports to the UN Human Rights Committee,²⁵ the UN Committee on Economic and Social Rights²⁶ and the Council of Europe Group of Experts on Violence Against Women.²⁷

The Commission recommends that the Scottish Government consider tools to support a focus on implementation and accountability for existing policy which is intended to improve the human rights of people at risk of racial discrimination. This should include resource and driving of SNAP 2 priorities, a human rights tracker tool and accountability frameworks with a focus on direct and indirect racial discrimination.

Part 3: Concerns and recommendations

Article 1: Scope of the Convention and Definition of Racial Discrimination

Data and evidence (List of Themes paragraph 2 (LOT §2))

The Commission has ongoing and significant concerns about the shortage of disaggregated data to monitor human rights compliance.^{7 28}

The Commission's submission to the List of Themes raised our continued frustration that there continues to be a lack of available official disaggregated data, especially intersectional data that can accurately depict the experience of marginalised groups.

Public authorities in Scotland are required by the Specific Duties of the Public Sector Equality Duty to publish employee information reports, however there are significant inconsistencies in recorded and published data and high rates of non-disclosure.²⁹

Data and evidence that could be used to identify and respond to further inequalities and specific forms of discrimination experienced by further marginalised people from minority ethnic communities, including women, disabled people, older people, children and young people, and lesbian, gay, bisexual, transgender and other people whose sexuality is not heterosexual, or whose gender identity is not based on a traditional gender binary (LGBTI+). The Scottish Government has itself recognised that "policymaking rarely takes an intersectional approach. Where an intersectional approach has been attempted, this could be developed further."³⁰ Examples are further considered [later in this report](#).

The Equality Evidence Strategy 2023-2025 places tackling structural and intersectional inequality of outcomes at the forefront of its vision.³¹ The Evidence Finder and Equality Data Improvement Programme that stem from this strategy aim to address some of the data challenges, although stakeholders have encouraged the Scottish Government to be more committal on the use of data to inform policy.³²

⁷ CERD/C/GBR/CO/21-23/14

The Scottish Government should take concrete steps to improve the collection of racial disparity data across the public sector, in partnership with communities and experts. This data should be capable of analysis by ethnicity and capable of further disaggregation to understand the needs of further marginalised groups.

Anti-Racism Observatory for Scotland (AROS) and Race Equality Framework (LOT §7)

The Scottish Government has proceeded with a significant review of its existing policies and programmes aimed at promoting integration since 2020.⁸ The Scottish Government set out medium-term visions and goals in its Race Equality Framework 2016-30. This is intended to be realised through a series of action plans, the first being A Fairer Scotland for All: Race Equality Action Plan 2017-2021.³³ The Race Equality Framework 2016-30 is a broad toolkit of 30 goals organised around 6 areas:

- Overarching work,
- Community cohesion and safety,
- Participation and representation,
- Education and lifelong learning,
- Employability, employment, and income and
- Health and home.³⁴

Analysis by the NGO Coalition for Racial Equality and Rights (CRER) in 2019 found that progress assessment tied to the Framework and Action Plan had been inconsistent, overly generic and focused on delivery of specific output rather than the outcome. They concluded that:

“This suggests that although the focus has been in the right place, design and/or implementation has missed its mark. The way in which strategies are designed and implemented is, in many ways, just as important as their content.”³⁵

⁸ CERD/C/GBR/CO/21-23/14

During COVID-19 pandemic, in response to data indicating significant racial disparity in mortality and morbidity, the Scottish Government established an Expert Reference Group on Covid-19 and Ethnicity ('the ERG'). This group recommended that the Scottish Government consider creating "an Independent Oversight Commission... to establish a more effective accountability and governance infrastructure in Scotland" for action on race equality. The Scottish Government accepted this recommendation in 2020. They also developed an 'Immediate Priorities Plan' (IPP), pausing development of a successor to the Race Equality Action Plan 2017-2021.³⁶

The Anti-Racism Interim Governance Group (AIGG) sat between April 2022-September 2023. The AIGG was appointed by Scottish Ministers and consisted of people with expertise and lived experience of racism. Its remit was "to determine how best to create the infrastructure and determine collective ambition to bring about meaningful system change for those who experience racialised inequity."⁹ The group undertook research with racialised communities³⁷ to inform a proposal for an Anti-Racism Observatory for Scotland (AROS). The AIGG was also asked to provide independent oversight of the IPP. Learning from the National Advisory Council of Women and Girls has also been considered as the AIGG developed its own understanding its role and proposal for the AROS.³⁸

Findings from the AIGG's oversight of the IPP were used to inform the Scottish Government's Anti-Racism Progress Review in 2023, which indicated progress against the thirty actions in the Race Equality Framework.³⁹

While the Scottish Government has published no further updates since September 2023,⁴⁰ in researching this report the Commission identified a series of publications

⁹ Terms of Reference ([Developing National Anti-Racism Infrastructure: Interim Governance Group - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/developing-national-anti-racism-infrastructure-interim-governance-group-terms-of-reference/pages/1-10.aspx)) outline that this includes:

- provide independent oversight and to hold Scottish Government accountable for progress against the actions in the Race Equality Immediate Priorities Plan (IPP)
- provide scrutiny and advice on the work to establish a programme of systemic change on race equality
- consider, gather evidence, and propose the model to support the establishment of an independent observatory
- support and advise on the transition to a permanent governance body
- provide advice and feedback to Scottish ministers

from the AIGG,⁴¹ outlining a model structure and proposed activity for the first 18 months, which has been agreed to by the Scottish Government.⁴² This proposal also indicates a role for the SHRC, however the Commission is not aware of having been a party to any discussions about the AROS. In April 2024, the Scottish Government issued a public notice seeking a supplier to host the AROS, including staffing, to the value of £3,000,000 over two years.⁴³

Views from some participants at the engagement events to support this report indicate that there is frustration and a sense that the Race Equality Framework 2016-30 has been deprioritised in favour of the AROS. Participants' comments indicate to us that there is a lack of awareness about the remit, functioning and resourcing of the Scottish Government's commitment to establish National Anti-Racism Infrastructure.⁴⁴ The available information that would support a proper analysis is often confusingly worded and haphazardly published. Most participants who were asked had not heard about AROS and those who did described it in often critical terms, such as lacking in transparency and divisive.

There was a view that the AROS would focus on the needs on 'people of colour' and not all communities affected by racial discrimination, as defined by Art.1(1) of ICERD. This perception appears to have been influenced by the AIGG's work on developing an understanding of racism:

"The approach adopted for AROS is informed by an established body of research and evidence, nationally and internationally, evidences that people of colour and people in these communities are often most adversely impacted by institutional racism, and there is a differing impact of racism on people."⁴⁵

The Commission hears and recognises the concerns, while also noting that AIGG had its own participatory engagement processes in developing the proposals and that the relatively small number of participants at our events may not be representative. For comparison, around 500 people were engaged in the AIGG community research.⁴⁶

All communities who are affected by racial discrimination as defined in Art.1(1) must have their rights respected, protected, and fulfilled by duty bearers. This does not however preclude duty bearers, including the Scottish Government, from taking differentiated approaches to meeting specific needs, provided these approaches are evidence-based and do not amount to segregation (Art.1(4)). Of note in this regard is the Committee's previous recommendation that the UK "consider adopting a national action plan to combat discrimination against persons of African descent, in

partnership and consultation with communities of African descent, with concrete targets, implementation mechanisms and adequate resources.”¹⁰

However, the lack of accessible information about how the AIGG fits into wider race equality work, such as the Race Equality Framework 2016-2030, the lack of replacement Scottish Government Race Equality Strategy from 2021 onwards and a shortage of parallel approaches for groups affected by discrimination on the basis of nationality, ethnicity etc, makes it difficult to assess to what extent the anti-racist approach is so-far successful and to what extent people within the broader ambit of ICERD will see their specific needs met by research and accountability processes.

Since 2020, an Equality and Human Rights Mainstreaming Strategy has been in development. The Scottish Government has indicated that this will be published later in 2024.⁴⁷

The Commission recommends that Scottish Government responds to concerns of stakeholders, set out the role and purpose of the AROS and wider framework for complementary activities.

The Scottish Government should undertake specific scoping of how the AROS will work alongside existing bodies, including the NHRI, to improve accountability for human rights of people affected by racial discrimination.

The Scottish Government should develop a race equality strategy which clearly articulates how it will progress the Race Equality Framework 2016-2030.

¹⁰ CERD/C/GBR/CO/21-23/23

Article 2: Obligation to Prohibit Racial Discrimination and Prevent Discriminatory Effects

Legal Frameworks for Equality and Human Rights (LOT §4; LOT §7)

While the Scottish Parliament has some responsibility in respect of equal opportunities, the framework for non-discrimination is reserved to the UK level. The Equality Act 2010 is the predominant legislative framework across Great Britain,¹¹ regulated by the Equality and Human Rights Commission. Scotland has some limited power to go beyond the measures in the Equality Act and has introduced Scotland Specific Duties (SSDs) for Scottish Public Authorities. A review of the SSDs undertaken by the Coalition for Racial Equality and Rights on behalf of the Equality and Human Rights Commission suggests almost no examples of positive changes as a result of the SSDs.⁴⁸

The Scottish Government's review of the Scotland Specific Duties has been underway for the last three years. Following a public consultation in 2022⁴⁹, the Scottish Government provided an update on next stages of the review in October 2023 with some limited proposals for change.⁵⁰

Public Bodies in Scotland, including the Scottish Government, are required to undertake equality impact assessments as part of all policy development processes. The Scottish Government also produces an equality and fairer budget statement (EFBS) as part of documents supporting the national budget process. The EFBS is a post-hoc rationalisation of prospective spending decisions and is not a cumulative analysis.⁵¹

The Commission recommends the Scottish Government use devolved flexibilities to enhance equality and non-discrimination across all rights in the Covenant and to inform the approach to the forthcoming Scottish Human Rights Bill.

¹¹ A separate equality regime exists in Northern Ireland.

Incorporation of the ICERD (LOT §3)

Recalling the Committee’s Recommendation¹² “that the principles and the provisions of the Convention are directly and fully applicable under domestic law” including in Scotland, the Commission notes that there is cross-party¹³ support for stronger human rights laws in Scotland. As reported in the State report, the Scottish Government has repeatedly committed⁵² to introducing new legislation incorporating a range of UN treaties into Scots law, including CERD.¹⁴

In 2024, the Scottish Parliament passed the UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024⁵³, which establishes duties on devolved public bodies to consider and comply with the UN Convention on the Rights of the Child (UNCRC). The Commission strongly welcomes this step, which includes greater access to justice for all children and young people. This includes incorporation of the obligation in Article 2 on the UNCRC, which protects children and young people from discrimination, including on the grounds of race.

Further incorporation of other international human rights treaties to the extent that devolution allows would enable domestic courts to review compliance with international standards, including ICERD. The Scottish Government has indicated this will include new obligations for public bodies, including the Scottish Government

¹² CERD/C/GBR/CO/21-23/8

¹³ The Scottish Parliament passed motions in support of the Act in [2014](#), [2017](#) and again on 4 March [2021](#). There have been many recent expressions of support for strengthening human rights in the Scottish Parliament, for example during consideration of the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill](#). Increased focus on international human rights standards has also been reflected in references to international human rights instruments in Scottish domestic legislation. Examples include the [Community Empowerment \(Scotland\) Act 2015](#); s. 1 of the [Land Reform \(Scotland\) Act 2016](#); and the [Social Security \(Scotland\) Act 2018](#), and s.1(1) of the [Children and Young People \(Scotland\) Act 2014](#).

¹⁴ The Scottish Government’s commitment also includes:

- the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- The Convention on the Rights of Persons with Disabilities (CRPD)
- Developing further protections for environmental rights, older persons, and lesbian, gay, bisexual, and transgender (LGBT+) people

and Scottish Parliament, to demonstrate compliance across devolved policy, such as duties to conduct human rights impact assessments and a proposed Human Rights Scheme.

Proposals for the new human rights Bill were consulted on in 2023 and the Scottish Government committed to introducing legislation in the first half of 2024.⁵⁴ In response to the consultation, the Commission recommended that careful consideration should be given to the legal approach to incorporation, emphasising the need to avoid a weakening of international treaty protections and preventing undue complexity in Scotland’s human rights system. Our response highlighted alternative models for incorporating international human rights treaties into domestic law within the devolved context, beyond the ‘full and direct’ approach proposed by the Scottish Government.⁵⁵

However, following a change in Scottish Government leadership in April 2024, no further updates on the future of the incorporation have been provided. Both civil society⁵⁶ and the Commission⁵⁷ have asked for confirmation that the Scottish Government intends to progress with its commitment to both the legislation and the standard of protection envisioned. At the time of writing, the Scottish Government has stated its intention to provide an update after the UK General Election on 4th July 2024.⁵⁸

The Commission recommends that the Scottish Government improve the accountability for human rights compliance through the most maximalist incorporation of human rights possible within the competence of the Scottish Parliament, especially given proposed new duties for public bodies.

Changes to the UK Human Rights Framework (LOT §5)

Recalling the Committee’s recommendation CERD/C/GBR/CO/21-23/10 “that the State party undertake meaningful and broad public consultation on its proposal to revise its human rights legislation and that it ensures that any changes to the current human rights framework strengthen the protection of human rights”, proposals by the UK Government to replace the Human Rights Act (HRA) with a new Bill of Rights were withdrawn in 2023.⁵⁹

The Commission is clear that the HRA works well as it stands, and that no convincing case has been made for reform.⁶⁰ While we welcomed the decision not to proceed, the UK Government simultaneously committed to other reforms to

“address specific issues with the Human Rights Act and the European Convention including through the Illegal Migration Bill, the Victims and Prisoners Bill, and Overseas Operations Act 2021 and indeed the Northern Ireland Legacy Bill.”⁶¹

All of these measures have now been passed into laws which significantly limit access to justice for certain groups of rights holders under the European Convention of Human Rights.

The proposals for replacement of the HRA are part of a wider trend towards regression of human rights protections and standards. As human rights have been increasingly politicised, moves to restrict their scope of application have resulted in both individual denials of human rights and cultural significance, especially post the UK's departure from the EU. There remains ongoing political debate about the UK's commitment to remaining a member of the European Convention on Human Rights, as evidenced throughout the 2024 General Election campaign.

The UK's Exit from the EU did not maintain the EU Charter of Fundamental rights in UK law, reducing sources of rights protection and opportunities to challenge rights violations in domestic arenas.

The Commission has publicly outlined its opposition to the Illegal Migration Act 2023.⁶² Building on the Nationality and Borders Act 2022⁶³ passed just 15 months before, the Illegal Migration Act characterises people arriving by irregular means as 'illegal entrants' and makes them ineligible for refugee or other secure status. This ignores the fact there are no safe or legal routes available to enable refugees to come to the UK from the vast majority of conflict or crisis zones. Vulnerable people who arrive in the UK will be criminalised, locked up and eventually removed. This includes the UK Government's plans for the offshoring of asylum claims to Rwanda through the Rwanda Partnership,⁶⁴ which have previously been found by the UK Supreme Court to be incompatible with Article 3 and the principle of non-refoulement.⁶⁵

The UK Parliament has passed the Safety of Rwanda (Asylum and Immigration) Act 2024,⁶⁶ which seeks to limit the rights of individuals to challenge relocation on the basis that Rwanda is not *in general* a safe country, instead required to prove an individual personal risk. In introducing the Bill, the Home Secretary was unable to confirm to parliament the move was compatible with the ECHR. The Commission is of the view that the legislation and / or attempted removal is at risk of challenge in the European Court of Human Rights.

The Commission recommends that the UK, at every level of government, desists from and seeks to remedy all policy activities which restrict or undermine the level

of protection for civil and political rights as set out in the present Convention and the ECHR.

Role of the NHRI in addressing accountability for non-compliance (LOT §6)

The Commission acknowledges and welcomes the Committee's previous recommendation and comments in support of National Human Rights Institutions.¹⁵ As noted in our previous correspondence, the SHRC is Scotland's NHRI with a statutory mandate set out in the Scottish Commission for Human Rights Act 2006.⁶⁷ The Equality and Human Rights Commission is the NHRI for Great Britain and considers human rights in reserved areas. Our roles are distinct; the SHRC has the sole remit in respect of all human rights in devolved areas.⁶⁸

In addition to general duties to promote awareness, understanding and respect for human rights in Scotland, we have specific powers to:

- Publish advice and guidance
- Conduct research
- Provide education and training
- Review and recommend changes to law, policy, and practice
- Conduct inspections in places of detention
- Conducting inquiries
- Intervening in civil proceedings before a court in certain circumstances.

The Commission has been assessed three times by the Sub-Committee on Accreditation (SCA) and consistently been awarded an A-status accreditation. However, the SCA has expressed concerns and expectations in relation to the Commission's restricted mandate, governance structure, and funding. The Commission does not have the powers to raise legal proceedings in its own name or

¹⁵ CERD/C/GBR/CO/21-23/12

to provide advice to victims of human rights violations. The mandate and resource of the SHRC has not been revisited since 2006.

The SHRC has recognised that many groups and individuals do not have access to advice, justice or who are dissatisfied with their experience of human rights standards.⁶⁹ The Scottish Parliament is currently considering the impacts of calls for new bodies and mandate holders.⁷⁰ In addition, it is anticipated that the proposed human rights Bill for Scotland⁷¹ may offer an opportunity to review the Commission's functions and powers.⁷² However, the Commission would strongly resist any new powers being restricted to the rights incorporated via this Bill and is open to other legislative routes.

The Commission recommends that the Scottish Government and the Scottish Parliament consider whether the mandate, powers, and resourcing of the NHRI are sufficient to protect the human rights of all people in Scotland.

Article 3: Prohibition of Racial Segregation

De Facto Segregation in Scotland

The Scottish Index of Multiple Deprivation (SIMD) analyses 6,976 'data zones' across Scotland, with the most deprived areas found to have fewer resources or opportunities (not only lower incomes.)⁷³ Analysis of the 2011 census highlighted that in Scotland 28 per cent of African, 17 per cent of Caribbean, 12 per cent of White Other and 12 per cent of Other Asian groups live in the most deprived neighbourhoods of Scotland compared to 10 per cent of the White Scottish population.⁷⁴ Further evidence of poverty markers (see below) such as the higher rates of child poverty among people from minority ethnic communities supports the general proposition that people in in these communities have a higher rate of social exclusion, inter-connected with socio-economic status.

Analysis of the latest census is ongoing and therefore it is not yet possible to assess change since 2011.

Legacy of the forced assimilation of Gypsy / Travellers (LOT §22)

Research continues to show that Gypsy/Traveller¹⁶ communities are reluctant to engage with public agencies due to longstanding discriminatory practices. As a result, data, and evidence directly from the communities is subject to significant gaps.⁷⁵

The Commission welcomed the Gypsy/Traveller Action Plan 2019-2021,⁷⁶ but noted that an impact evaluation was required with meaningful participation from Gypsy/Travellers' Communities. This was subsequently expanded and extended to 2023 to account for delays associated with the Covid-19 impact.⁷⁷

¹⁶ CERD/C/GBR/CO/21-23/25. These included a comprehensive strategy, develop though consultation with members of the community; prioritising access to adequate and culturally appropriate accommodation and stopping sites, and active consultation with the community, especially around changes to planning laws.

Victims of the ‘Tinker Experiment’¹⁷ in Scotland continue to campaign for a public apology for their own and their families’ experiences of forced assimilation beginning in the 1940s.⁷⁸ The Scottish Government are undertaking desk-based research to better understand the experiment and what occurred. To date, the Commission is not aware that lived experience research has been undertaken. Victims of the experiment have expressed concerns around how the ongoing research will listen to the views of victims and the delays to a public apology.

The Commission as Scotland’s NHRI is now undertaking its own research examining the denial of cultural recognition of Scotland’s Gypsy Travellers and its impact, both past and present. We expect this work to conclude in the summer of 2025.

The Commission recommends that the Scottish Government take steps to support the Gypsy/Traveller communities in Scotland to realise their rights and to build trust with communities, including working with them to consider a reconciliation process for past harms.

¹⁷ From conversations with community members the Commission recognises this term has been used as a derogatory term to the community. However, community members request that in relation to the ‘Tinker Experiment’ this term be used to highlight the injustices they have faced.

Article 4: Obligation to Prevent Incitement of Racial Hatred (LOT §8)

Media

Participants across all four of our lived experience events made reference to the negative impact of traditional and social media reporting on race-related issues and immigration.⁷⁹ Research and media reporting has demonstrated the ways in which social media in particular is increasing hostility towards Scottish Gypsy/Travellers⁸⁰ and other minority ethnic⁸¹ and religious communities.⁸² In research carried out by the Scottish Parliament's Cross Party Group on islamophobia, 85 per cent of participants believed the media promoted Islamophobia.⁸³ 89 per cent of survey respondents believed that print media promote Islamophobia, which rose to 93 per cent among Muslim respondents. A further 84 per cent thought that social media was increasing Islamophobia.⁸⁴

While responsibility for regulation of both broadcasting and internet communications sits with the UK Parliament, the Scottish Government has previously encouraged proactive steps through voluntary guidelines, such as Reporting Guidelines on Violence Against Women.⁸⁵

The Scottish Government should support the development of voluntary guidelines for media outlets and promote standards for the responsible reporting of issues which relate to matters such as immigration and ethnicity.

Hate Speech and Stirring Up Offences (LOT §8, LOT §9)

As noted in the Commission's List of Themes submission, it is an offence in Scotland to 'stir up' racial hatred¹⁸ under the Hate Crime and Public Order (Scotland) Act 2021.⁸⁶ The 2021 act replicated existing offences of stirring up of racial or religious hatred and expanded the use of 'stirring up offences' to include hatred based on sexual orientation, disability and transgender identity. The Scottish Government also launched a refreshed Hate Crime Strategy in March 2023.⁸⁷

¹⁸ CERD/C/GBR/CO/21-23/16,

The Independent Review of Hate Crime suggested that both the racial and religious stirring up offences are rarely used.¹⁹ However, when the new Act came into effect in April 2024, a significant amount of public and media discourse about the tension between the rights to freedom of expression and stirring up offences prompted concern that Police Scotland would be deluged with reports.⁸⁸

Police Scotland published data showing that in the first week of the new law, 1st April – 7th April 2024, a total of 7,152 reports were made online, of which 240 led to a recorded incident and of which one recorded hate crime related to ‘Stirring up hatred: Racial’; and 8 recorded hate crimes related to ‘Stirring up hatred: Other Group’.⁸⁹ By week 7, online reports had fallen to 59, with the number of recorded incidents remaining fairly consistent at 231.⁹⁰ In total 13 recorded hate crimes between 1st April – 19th May related to ‘Stirring up hatred: Racial’; and 13 related to ‘Stirring up hatred: Other Group’.

The 2021 Act does not enable intersectional uses of the provisions. Separate legislation on misogyny is being considered which could be subject to the aggravation model²⁰, however, this is a matter of future debate. At present, should an incident of hatred based on being, for example, a disabled person from a minority ethnic community, be recorded, separate charges would need to be proven for race and disability stirring up offences.

A publicity campaign to encourage the reporting of hate crimes was launched by the Scottish Government and Police Scotland in 2020.⁹¹ Despite this, under-reporting of all hate crime remains a particular concern.⁹² Civil Society engagement undertaken as part of the Universal Periodic Review (UPR) process noted that low level harassment is often not reported to the police but impacts on peoples’ sense of

¹⁹ [Independent Review of Hate Crime Legislation in Scotland: Final Report \(www.gov.scot\)](https://www.gov.scot/resources/documents/2024/04/Independent-Review-of-Hate-Crime-Legislation-in-Scotland-Final-Report-2024-04-2024.pdf) suggests that “Between 2006 and 2016 in Scotland there were only 9 cases involving charges of stirring up racial hatred under the Public Order Act 1986.”

²⁰ The existing core method of prosecuting hate crimes in Scotland is via the attachment of a statutory aggravation when a person has committed an offence. A statutory aggravation ‘attaches’ to an offence in certain circumstances based on the conduct or motivation of the offender. In order for an aggravation to attach there needs to have been an offence (this is sometimes referred to as the ‘baseline’ offence). An aggravation affects the recording and sentencing of the baseline offence.

safety in their homes and communities.⁹³ This is strongly re-confirmed in the views shared as part of the engagement work for this report.⁹⁴

The Scottish Government should provide reassurance to communities that stirring up offences are taken seriously. It may wish to consider the role of the Rabat Plan of Action in providing reassurance to the general public that freedom of expression is not undermined by the existing of stirring up offences.

Article 5: Duty to Prevent Discrimination in Substantive Rights

(a) Equal treatment before tribunals and all other organs administering justice

Criminal Justice (LOT §16)

The Committee previously recommended²¹ action to tackle the “overrepresentation of black people and people belonging to ethnic minority groups at all stages of the criminal justice system” in Scotland and measures effectively address racial prejudice and bias in the criminal justice system. The Commission highlights a range of evidence produced by the Scottish Government since 2020 examining racial disparities across the Criminal Justice System.⁹⁵

Across its statistical summaries, the Scottish Government routinely reports that most measurable outcomes for individuals in the justice system occur among ‘White:British’ groups, however given that these groups represent the vast majority of the general population this is entirely unsurprising.⁹⁶ Annual prison statistics show that in Scotland, between 2022-23, the rate of imprisonment for the ‘White’ ethnic groups was 3.2 per 1,000, 2.6 per 1,000 for ‘Asian’ ethnic groups, and 4.5 per 1,000 for ‘Mixed or Multiple’ ethnic groups. Imprisonment rates for ‘African, Caribbean, and Black’ and for ‘Other’ ethnic groups were considerably higher at 8.7 and 8.5 per 1,000.⁹⁷

Workforce data for seven criminal justice agencies in Scotland⁹⁸ and solicitors regulated by the Law Society of Scotland demonstrates the proportion of minority ethnic (excluding white minority) staff in justice organisations varies from less than 0.5 per cent up to 3.4 per cent,⁹⁹ a significant under-representation when compared with the 2024 census demographic data.

In our submission to the List of Themes, the Commission expressed regret that more had not been done to address gaps in data relating to how people from racialised backgrounds experience all aspects of the criminal justice system. Data that would

²¹ CERD/C/GBR/CO/21-23/29

enable a more thorough analysis of the treatment of prisoners from minority ethnic communities is not routinely published by the Scottish Prison Service.

Forthcoming research from the SHRC¹⁰⁰ has found evidence that certain groups, including those from racialised backgrounds, experience increased vulnerability in prison, but are less likely to complain.¹⁰¹ Data from 2017 to 2020 showed that a third of ethnic minority and foreign national prisoners reported experiencing discrimination (including bullying) due to race.¹⁰² As part of work assessing human rights in places of detention,²² and access to justice in prisons, the Commission has examined complaints data in Scottish prisons from 2020-2023, provided to us on request by the Scottish Prison Service (SPS).

These show that complaints categorised as 'bullying,' 'religion,' 'victimisation,' 'protection' and 'race issues' have relatively low number of complaints compared with other complaint themes.²³ This trend appears less true when narrowed to complaints against staff.²⁴

'Race issues' complaints are relatively low when compared with other complaint themes,²⁵ but this cannot be construed as an absence of racism. SPS has acknowledged that despite known incidents of discrimination and bullying, prisoners are unlikely to make equality and diversity or hate related complaints because of fear of being labelled a 'grass' or lack of confidence that it would lead to an improvement in their situation.¹⁰³ It has subsequently made a commitment as part of its Equality

²² In our List of Themes report we indicated that this publication was anticipated in June 2024. This has been delayed as the Commission observes the pre-election period, in line with our role as a public body.

²³ This is based on complaints data provided to SHRC by SPS for three consecutive years- 2021-22; 2022-23 and 2023-24. For the three years in question, there were 176 complaints for bullying, 145 complaints related to religion, 48 complaints on race issues, 134 complaints about protection and 224 relating to victimisation. By comparison, the most complained about issue- property- received 4,977 complaints. Data on complaints is not routinely published by SPS.

²⁴ This is based on complaints data provided to SHRC by SPS for three consecutive years- 2021-22; 2022-23 and 2023-24. For the three years in question, there were 3,107 complaints against staff. Data on complaints is not routinely published by SPS.

²⁵ There were 48 complaints on 'race issues' for the 3-year period between 2021 and 2024, based on data provided to SHRC by SPS. By comparison, the most complained about issue during the same period- property- received 4,977 complaints.

Outcomes to increase staff skill and knowledge in responding appropriately to such incidents and raise awareness of complaints processes.

The Commission's review of prison inspection reports since 2020 reveals inconsistent and inadequate handling of equality and diversity (E&D) complaints, noting issues such as E&D forms not being readily available, lack of staff knowledge or training around E&D processes, lack of clarity in how E&D complaints differed in process outcome from other complaints and failure to identify and review systemic issues.¹⁰⁴

Young people in conflict with the justice system are predominantly dealt with through the children's hearing system, though can be brought before a court in serious cases. New sentencing guidelines for young people were published in 2022 and the policy direction is generally to promote diversion from detention for less serious crimes.¹⁰⁵ In May 2024, the Children, Care and Justice Bill was passed by the Scottish Parliament, will, when entered into force, end the placement of under-18s in Young Offenders Institutions. Currently the number of children and young people held in the YOI is low and precludes an analysis by ethnicity. However, a 2023 research report by the Children and Young People's Centre for Justice found that the Black and minority ethnic group population in secure care¹⁰⁶ exceeds the UK average.¹⁰⁷

The Commission recommends the Scottish Government and other agencies involved in prison management take all measures necessary to ensure that the prison estate and its management conform to international standards. This must include measures to reduce the disproportionate sentencing of people from minority ethnic communities and to institute effective complaints mechanisms.

Policing (LOT §13; LOT §14)

In 2023, the outgoing head of Scottish policing, the Chief Constable of Police Scotland Iain Livingstone, publicly acknowledged that institutional racism, sexism, misogyny, and discrimination exist within Police Scotland.¹⁰⁸ The incoming Chief Constable, Jo Farrell, subsequently offered her support to these comments and recommitted to work on anti-racism and non-discrimination, commenting that "I agree Police Scotland is institutionally discriminatory. People with different backgrounds or experiences, including our officers and staff, have not always received the service that is their right."

Police Scotland has since launched 'Policing Together,' a series of principles to promote "becoming an anti-racist, anti-sexist and anti-discriminatory Service."¹⁰⁹

However, the language of ‘institutional racism’ has not been universally welcomed; the Scottish Police Federation responded that Livingstone’s remarks had:

“damaged the reputation of our officers and staff as a direct consequence. To ‘become’ an anti-racist service presupposes that it is currently a racist service. To make these comments during a high-profile public enquiry where race is being queried as a factor has the potential to adversely affect the outcome.”¹¹⁰

The comments refer to the public inquiry into the death of Sheku Bayoh, who died after being restrained in police custody. The remit of the inquiry includes examining whether race was a factor in his death.¹¹¹ The Inquiry is not expected to finish hearing evidence before the end of 2024.¹¹² A Race and Policing Review prepared ahead of June 2024 Inquiry hearings focused on race highlights:¹¹³

- The Mental Welfare Commission’s findings that data on restraint by health board cannot be explored by ethnicity in Scotland
- The Independent Review of Complaints, Handling, Investigations and Misconduct Issues in Relation to Policing 2020 (the “Angiolini Complaints Review”) found that Police Scotland did not capture ethnicity in complaints data. The Review underlined that “it is vital that Police Scotland have demographic information. They also need to recognise that racism is not always overt and can be subtle.”
- The Complaints Review also found evidence that officers from minority ethnic communities were leaving because of the culture of the police and the way they were treated. Diversity training provided by Police Scotland had been described to the Angiolini Complaints Review as superficial.
- NGO the Runnymede Trust had remarked in 2020 that there was a “pressing sense that while police authorities elsewhere in the UK have made attempts to recognise institutional racism, Police Scotland has not.”¹¹⁴

The evidence shared in the Race and Policing Review from other parts of the UK is likely to be of relevance in the Scottish Context.

There is broader evidence that Police ‘use of force’ appears disproportionately higher against ‘African, Caribbean or Black’ groups.¹¹⁵ All incidents²⁶ should be reported by the officer using a Use of Force Form, which includes ethnicity data. Statistics are published quarterly; between April 2023 and December 2023 4.8 per cent of completed forms had a subject from black and minority ethnic communities, compared to 3.6 per cent of the population.¹¹⁶

The Commission acknowledges that Police Scotland has begun to publicly acknowledge institutional racism and discrimination within policing in Scotland, and that it is too early to assess the impact of measures such as Policing Together in addressing aspects of bias. The Commission recommends that Police Scotland undertakes significant work to build relationships with trusted community representatives and individuals affected by racial discrimination, especially as the findings of the Sheku Bayoh Inquiry come to light. The impact of Policing Together and data on community sentiment towards the police should be publicly measured over time, with domestic accountability bodies, including the Scottish Human Rights Commission, playing an active role in scrutinising Police Scotland’s efforts to address institutional and structural racism.

Terrorism Legislation (LOT §15)

Terrorism is a reserved matter.²⁷ However policing and the prosecution of terrorism legislation may be undertaken by Scottish officials. In response to a 2019 recommendation from Independent Reviewer of Terrorism Legislation that COPFS publish a Code of Practice on the detention of individuals detained under section 41 and Schedule 9 of the Terrorism Act 2000, the Lord Advocate has published guidelines for the Police about the detention, treatment and questioning of those suspected of terrorism offences.¹¹⁷ These require the Custody Sergeant and security team to “take account” of apparent or declared diversity and equality factors, including race, colour, nationality (including citizenship), or ethnic or national origins, and religion or, in the case of a social or cultural group, perceived religious affiliation.

²⁶ ‘Use of Force’ in Scotland covers general police measures: handcuffs, extendable batons, and PAVA irritant spray, empty hand control and restraint techniques.

²⁷ CERD/C/GBR/CO/21-23/19

Figures on detention and prosecution offences under the Terrorism Act by ethnicity are not supplied for Scotland, however UK figures demonstrate that Asian (26 per cent of total detainees) and Chinese (25 per cent) people are significantly more likely to be detained than white people (14 per cent).¹¹⁸ The Scottish Government has developed its own research into the delivery of the Prevent strategy in Scotland, which indicates that there is tentative reason to believe that terrorist activity and extremism may look different in Scotland, including different prevalence levels and risk types.¹¹⁹

The Lord Advocate should commit to undertaking a review of guidelines relating to terrorism to ensure that that it is proactively eliminating any discriminatory and disproportionate impact on racial, ethnic, and religious minorities.

Hate Crime LOT §8; LOT §9)

Race-related hate crime is the most commonly recorded type of hate crime in Scotland (60 per cent).¹²⁰ Changes to the data collection and analysis obligations for hate crimes were introduced to support the implementation of the Hate Crime and Public Order Act. Previously, data was categorised by aggravator (e.g. 'race' and 'religion') without necessarily recording which group was targeted.²⁸

In 2023, the Justice Analytical Services, Scottish Government published an analysis of sampled police recorded crimes in 2020-21,¹²¹ which showed that:

- 5,738 charges containing at least one element of hate crime were recorded by the Procurator Fiscal in 2022-23.¹²²
- This included 3,145 charges relating to race crime, the most commonly reported type of hate crime, although a decrease of 2 per cent compared to 2021-22.
- 36 per cent of race-related offences demonstrated prejudice towards Black people. A further 2 per cent of offences were recorded as showing anti-African prejudice.

²⁸ CERD/C/GBR/CO/21-23/16

- This was followed by 27 per cent demonstrating prejudice towards Pakistani people.
- 9 per cent of race aggravations were related to anti-Polish hostility.
- 3 per cent of race aggravations demonstrated anti-Chinese prejudice.
- 18 per cent demonstrated 'general xenophobia'
- 6 per cent of race offences were recorded as demonstrating prejudice towards English people. 2 per cent were recorded as demonstrating prejudice towards White people.
- 47 per cent of religiously aggravated hate crime recorded in 2020-21 demonstrated prejudice towards the Catholic community while 16 per cent of religiously aggravated hate crime recorded in 2020-21 demonstrated prejudice towards the Protestant community.
- 16 per cent of religious hate crimes showed anti-Islamic prejudice in 2020-21, which has fallen as a proportion from 26 per cent reported in the previous 'deep-dive' in 2018-19
- 9 per cent of religious offences demonstrated anti-Jewish prejudice.¹²³

Evidence from our engagement sessions demonstrates clearly that there are low levels of awareness of third-party reporting centres.²⁹ Participants generally shared a view that reporting hate crime to the police would be ineffective and, in some instances, even add to their lack of safety and exclusion. Awareness of changes to hate crime laws and the new Hate Crime Strategy was extremely limited, and most participants had not heard of third party reporting, including participants who attended an event held in a community space that was registered as a third party reporting centre.¹²⁴ Many participants spoke of particular risks when using public transport and in schools what had lead them to change their own behaviours in order to keep safe.

²⁹ CERD/C/GBR/CO/21-23/16

The Hate Crime Strategy³⁰ published in March 2023 draws from the international human rights framework (including ICERD) and commits to applying a human rights-based approach to policy and practice relating to hate crime. Key elements of a human-rights based approach are participation and empowerment.

The Commission recommends that the Scottish Government work with communities to improve confidence in the reporting of hate offences. Funding for community-based capacity building, tools and education materials should be prioritised to ensure that efforts to target hate crime are meeting the needs of people who are most at risk. This means focusing on areas of risk or which are avoided, such as public transport and schools.

(b) Security of the Person, Protection from Violence and Bodily Harm

Specified public authorities in Scotland are obliged to notify the Home Office about all potential victims of human trafficking and slavery through the National Referral Mechanism (NRM).¹²⁵ There has been widespread criticism¹²⁶ about the NRM, both in terms of time taken to process referrals and flaws in the decision making. In 2020, the median time taken from referral to a Conclusive Grounds decision was 339 days (while it should be done no later than 45 days).¹²⁷ A 2021 Freedom of Information Request from After Exploitation revealed that 255 out of 325 negative decisions were reversed.¹²⁸

179 adult referrals from Scotland were made to the in the first quarter of 2024.¹²⁹ Of these, the highest proportion (62) were Vietnamese. In the same period there were sixty-seven child referrals from Scotland, the biggest proportion of which were also from Vietnam (22).

Under the Human Trafficking (Scotland) Act, the Lord Advocate has issued Guidelines which make clear that there is unlikely to be public interest in prosecuting victims of human trafficking accused of criminal activity carried out as a consequence of trafficking or exploitation.¹³⁰ Non-prosecution of trafficking victims is legislated for under Section 8 of the Human Trafficking and Exploitation (Scotland) Act 2015,¹³¹ however victims of trafficking have continued to face criminal charges in

³⁰ The Commission has served as an Observer to the Strategic Partnership Group since 2022, enabling us to comment on the human rights content of the draft strategy.

Scotland. Between 2016 and 2020, 155 potential trafficking survivors faced criminal charges (predominantly linked to drug offences), 21 of whom were children.¹³² In 2021, the Children and Young People’s Commissioner raised concern about trafficked children being prosecuted in the adult justice system.¹³³

The Scottish Government has also introduced guidance for businesses to identify and prevent human trafficking and exploitation across their operations¹³⁴ and has recently consulted on extending obligations to Scottish public bodies for the publication of modern slavery statements as part of work to improve transparency in supply chains.¹³⁵

Significant concerns have been raised by UN experts¹³⁶, as well as UK human rights organisations, about unaccompanied asylum seeking children going missing from hotels.¹³⁷ ECPAT notes that 4600 children have been accommodated in hotels since July 2021, with 440 missing episodes and 200 children who have never been found.¹³⁸ The Commission has been unable to identify any disaggregated data to quantify the scale of this issue in Scotland.

The Commission recommends that the Scottish Government and Crown Office and Procurator Fiscal Service take all steps necessary to end the prosecution of adults and children who have experienced human trafficking.

Removal or deportation in line with immigration rules is a reserved matter, and individuals with a ‘failed’ asylum claim or those without legal migration status may be housed in immigration detention centres pending their removal. The Commission reiterates¹³⁹ that there remains no statutory time limit on detention for immigration purposes.³¹

Dungavel Immigration Removal Centre is currently the only immigration detention centre in Scotland. It is operated by the UK Government and overseen by the HM Inspectorate of Prisons for England and Wales. During the last inspection (2021), it was reported *that* “Many detainees had been held for lengthy periods with little prospect of being removed within a reasonable time.” This was acknowledged as having a significant effect on mental health, with some individuals assessed as level 3 adults at risk (the highest risk level.)¹⁴⁰ 41 per cent of people felt unsafe.

³¹ CERD/C/GBR/CO/21-23/39

Examples of concerning practices included males with a history of violence towards women being detained alongside women, meaning women had to be escorted around the site. As the last inspection took place 3 years ago, this may not fully reflect the current situation.

Dungavel previously housed under-18s, but since 2010 only adult asylum seekers should be housed in immigration detention. However, figures obtained by the BBC¹⁴¹ show that children being placed in Dungavel after 2010 and there are outstanding concerns about age disputed young people.

The Commission recommends that a statutory time limit for immigration detention is introduced, with access to judicial oversight, and that access to healthcare and other forms of support for people detained in removal centres is ensured for the full duration of their detention. In addition, the state should take urgent steps to ensure no vulnerable adult is put at further risk by the nature of their detention.

Violence Against Women (LOT §25)

The Race Equality Framework 2016- 2030 says that it will “link closely with several key strategies” including Equally Safe, Scotland’s national violence against women strategy. No further information on how this will be done or in what areas is given. However, the framework does highlight that racism and sexism may give rise to intersecting or compounding discrimination for women of colour.

In December 2023, Equally Safe was refreshed with a new priority commitment to:

“promote an intersectional approach to preventing, recognising, and responding to the compounding inequalities and risks that some women, children, and young people may experience as a result of their ethnicity, race, disability, age, sexual orientation, gender identity, and/or immigration status.”¹⁴²

This marks the first-time a specific action to respond to racism has been included in the violence against women framework.

While this is a positive step, Equally Safe does not include measurable actions. The Scottish Government has indicated that new action plan will be published in 2024. The previous delivery plan included a commitment from Public Health Scotland to “consider how the intersections of race, class, disability and gender challenge and contribute to our understanding of violence against women.”¹⁴³

There is a dearth of research exploring BME women’s experiences of gender-based violence in Scotland. ‘Honour-based’ abuse has traditionally had a perceived

association with racial and cultural minorities in Scotland, however there is no evidence that violence against women, children, and young people is higher in minority ethnic communities.

Small-scale research with women of colour carried out on behalf of Rape Crisis Scotland shows some concern among participants about whether “generic” or “standard” services would understand their cultural or language needs and concern about whether organisations would have a competent enough understanding of the intersection of sexism and racism. Most participants had not engaged with services but among the small number who had they “did not feel that this was a space that would understand them beyond initial contact or signposting.”¹⁴⁴

Women of colour also report low trust in police and there is evidence that Black women’s trust in the police is especially low and is falling.¹⁴⁵ For Black and minority ethnic women, low trust in police includes a fear or expectation that they will encounter racism and prejudicial attitudes.¹⁴⁶

There is a need to enhance intersectionality through greater attention on violence against women girls in strategies to address racism, including anticipated targeted strategies including the any successor to the race equality strategy, A Fairer Scotland For All: Race Equality Action Plan. Equally Safe does acknowledge the needs of further marginalised women, but this could go much further and include more specific actions. Funding and resourcing for more specialist services should follow.

(c) Political Rights (LOT §12)

Official diversity data for MSPs is not published, however in 2021, more MSPs with from minority ethnic communities were elected, including for the first time two women of colour. Since 2016, two leaders of parties represented in the Scottish Parliament have been Muslim men of Pakistani backgrounds, one of whom was the first Scotland First Minister from a minority ethnic background.

A campaign for equal representation in Scottish Politics receives funding to develop toolkits to support political parties to collect candidate diversity data and to take action to support under-represented groups.¹⁴⁷ The Scottish Government has also piloted improved diversity data recording for elections,¹⁴⁸ although the candidate survey collected at the local government elections in 2022 was voluntary and does not provide an analysis those elected. 92 per cent of candidates in the 2022 local elections identified as white.¹⁴⁹

A survey of councillors elected between 2017 and 2022 found that 0.4 per cent of all respondents were from minority ethnic groups.¹⁵⁰ It has not been possible to determine the extent to which the 2022 elections had an impact.

Voter ID laws introduced by the UK Parliament apply to UK General Elections, including in Scotland, and the forthcoming General Election will be the first election in Scotland to require photo-ID. The Electoral Commission's interim findings from the 2023 local elections in England and Wales reports that it is not possible to capture reliable demographic data on people who were not able to vote because of the ID requirement. However, awareness of voter-ID requirement was lower for Black and minority ethnic voters (82 per cent compared with 87 per cent for all people in England). Previous evidence, including from voter-ID pilots, shows some correlation between ethnicity and being turned away from voting.¹⁵¹ An inquiry undertaken by the UK Parliament All Party Parliamentary Group on Democracy found that factors such as lower success rate at matching faces to pictures when attempting to compare faces and pictures of individuals of different ethnicities and failing to make reasonable accommodations such as a private space to remove religious dress negatively impacted on voter turnout for from minority ethnic communities.¹⁵² There have so far been no moves in Scotland to introduce photo-ID requirements in devolved elections.

The Commission recognises the important of a sustainable civil society voice unconstrained by unnecessary restrictions to the public sphere. The Scottish Government contributes financial resource to the race equality sector through the Equality and Human Rights Fund (EHRF), both via dedicated funding to dedicate race equality organisations (£5.5 million of £21 million for 2021-2024) and through grant-related mainstreaming requirement.

The Commission has heard concerns of community organisations that this funding is insufficient and too often out of reach for grassroots projects. This input from some of the community organisations¹⁵³ indicated that they felt that they had limited access to decision makers while being relied on to support people in positions of acute vulnerability, often with limited and decreasing resources. While the Scottish Government currently funds fourteen race equality projects through the £8 million per year Equality and Human Rights Fund,¹⁵⁴ this is largely concentrated with national level organisations and available alternative funding streams are limited.¹⁵⁵

The Scottish Government should enhance the data monitoring process from voluntary to mandatory for Scottish elections and follow up with evidence on the success at election of candidates from minority ethnic communities.

The Scottish Government should ensure that sustainable funding is available at national and community level to support effective space civil society across the race sector, including effective, robust, and transparent access to policymakers.

(d) Other Civil Rights

(i) Freedom of Movement, (ii) Freedom to Leave and Remain in any Country and (iii) Nationality Rights (LOT §23; LOT §24; LOT §25)

While immigration law is reserved to the UK Parliament, many aspects of policy related to the treatment of migrants and refugees in Scotland are devolved, for example education, health, housing. Visa requirements are set out by the Home Office in line with UK-wide legislation. Accommodation is offered to asylum seekers on a no-choice basis and any asylum seeker who refuses accommodation may have their government support withdrawn. Asylum seekers are eligible for cash support to the value of £1.27 per day.³²

As outlined [above](#), the Commission is concerned about legislation reforming the immigration system in the Illegal Migration Act and the Safety of Rwanda Act. The UK Government argues that the changes to the asylum system mean that the UK can better support those in genuine need of asylum through safe and legal routes.¹⁵⁶ However, the extremely significant shortage³³ of such routes into the UK¹⁵⁷ essentially means that there are no practical routes to refugee status in the UK from the vast majority of the globe.

The Illegal Migration Act interacts with devolved obligations to protect children and victims of human trafficking. This includes restricting access to Scottish Government

³² £7.03 per day if housed in the community (i.e. if meals are not provided.): [Asylum support: What you'll get - GOV.UK \(www.gov.uk\)](#)

³³ The Home Office identifies three country specific schemes (Afghan Citizens Resettlement Scheme (ACRS) and the Afghan Relocations and Assistance Policy (ARAP), the Hong Kong British Nationals (Overseas) (BNO) and the Ukraine Family Scheme, Homes for Ukraine Scheme, and Ukraine Extension Scheme), the Ukraine Family Scheme, the Global UNHCR schemes, which do not enable individual application, the Family reunion scheme and the Displaced Talent Mobility Pilot. In addition, the Home Secretary (now James Cleverly) must create regulations specifying the maximum number of people who can enter the UK via these schemes. A 'cap' figure is expected to be presented to Parliament and be applied to all arrivals under the above 'safe and legal' routes in 2025. See further information at: [Home Office – Report on Safe and Legal Routes – Illegal Migration Act 2023 \(Section 61\) \(publishing.service.gov.uk\)](#)

funded services that implement positive obligations under the UN CAT, the ECHR, and Refugee Convention, in addition to international and domestic law on protection of child rights.¹⁵⁸

While it has no powers to grant asylum, the Scottish Government published the New Scots Refugee Integration Strategy,¹⁵⁹ the second national strategy for refugee integration, supported by the New Scots Refugee Integration Delivery Project. Funding for the Delivery Project was provided by the EU's Asylum, Migration, and Integration Fund up to December 2022.

An evaluation of the New Scots Refugee Strategy 2018-2022 reported that the strategy had led to greater collaboration and coordination between local authorities, the third sector and partners. However, measuring the direct impact of the Strategy was often difficult and while progress towards the outcomes was acknowledged, some stakeholders were ambivalent as to whether these outcomes would have happened without the Strategy.¹⁶⁰ An updated strategy was published in March 2024, which reports that a delivery plan with more measurable actions will be forthcoming.¹⁶¹

The Scottish Government has also acted as 'super sponsor' through the UK Government's Homes for Ukraine scheme for individuals seeking international protection in the ongoing conflict. The Scottish Government temporarily paused the scheme in July 2022 due to pressure on the availability of both temporary and longer-term accommodation. As a result, Ukrainian refugees were offered temporary accommodation in hotels and on two chartered ships docked in Glasgow and Edinburgh. At the peak in November 2021, 3,810 rooms and cabins were provided by the Scottish Government's welcome accommodation.¹⁶² All refugees have now been offered more suitable accommodation.¹⁶³

The Scottish Government has also recently (March 2024) developed a Migration Service,¹⁶⁴ which offers information to people who have recently moved Scotland, with advice matters such as visa, housing, and work. More tailored advice for individuals and for businesses is also available,¹⁶⁵ including referral to a Citizen's Advice Scotland advisor.¹⁶⁶

The Commission recommends that the Scottish Government conduct a full 'lessons learned' review of the 'super sponsor' scheme to identify where lessons could be learned to support all current and future refugees within the devolved context.

The Commission strongly recommends that the UK, at every level of government, desists with all policy activities which restrict or undermine the level of protection of

human rights as set out in the ICCPR, the UN Refugee Convention, CERD, CAT and the ECHR.

The Scottish Government's New Scots Delivery Plan should provide measurable steps to promote and protect the human rights of all refugees residing in Scotland.

(d)(ix) Freedom of Peaceful Assembly and Association (LOT §13) (viii) Freedom of Thought, Conscience and Religion(vii) Freedom of Opinion and Expression (LOT §13)

In response to the COVID-19 pandemic, the Scottish Parliament passed emergency legislation¹⁶⁷ implementing criminal sanctions for failure to comply with social distancing and other public health rules.

Analysis by researchers at the University of Edinburgh has suggested that people from African, Black, or Caribbean ethnic groups had the highest estimated rate per capita of Fixed Penalty Notices (fines) issued under Covid rules per 10,000 people. This is an estimated disparity rate of 1.8. The estimated disparity in rates was also higher for those from Asian (1.3) and Other/Mixed/Multiple (1.2) ethnic groups compared to those from White (including White minorities) groups.¹⁶⁸ This supports evidence from other parts of the UK that people from minority ethnic communities (excluding White minorities) were more likely to be subject to enforcement for gathering.¹⁶⁹

(e) Other Economic, Social and Cultural Rights

(e) (i) Employment, work, and workplace conditions (LOT §17)

According to the Office for National Statistics,¹⁷⁰ the employment rate for 'white' ethnic groups aged 16-64 in January-March 2024 was 75.9 per cent compared to 68 per cent for all other ethnic groups combined.¹⁷¹ ³⁴ The lowest employment rate provided was for the Chinese group, at 56.6 per cent.

Comparing unemployment rates (16+) (i.e., excluding people economically inactive) even more significant inequalities can be observed, with the 'white' unemployment

³⁴ CERD/C/GBR/CO/21-23/33

rate at 3.6 per cent compared to 7.9 per cent for all other ethnic groups combined. The highest unemployment rate is 10.8 per cent for the Pakistani group, followed by 8.6 per cent for the 'Black/African/Caribbean/Black British' group.¹⁷²

This recent data is not provided at Scottish level, but there is little reason to assume the broad trends are likely to be different. In 2022, the Scottish Government produced an analysis of the Annual Population Survey Labour Market Statistics for Scotland by Ethnicity.¹⁷³ This research found that minority ethnic groups in Scotland had a lower employment rate and 62.1 per cent compared to 73.9 per cent white groups. the unemployment rate was also higher for minority ethnic groups at 6.5 per cent compared to 3.8 per cent white groups. Sample sizes are significantly smaller than the UK data.

The 2022 report also showed that people from minority ethnic groups had a significantly higher economic inactivity rate at 33.5 per cent when compared to white groups (23.2 per cent.) Other research has shown that workers from minority ethnic communities are around twice as likely as white workers to have insecure contracts and less likely to get the hours they want.¹⁷⁴

While employment law is reserved, Scotland has a range of legal and policy powers to promote employability and skills training.¹⁷⁵ A Fairer Scotland for All: An Anti-Racist Employment Strategy, was published in 2022. The Strategy focuses on tackling institutional racism by working with employers to build anti-racist practices internally.

General programmes to support people into work do not appear to be reaching people from minority ethnic communities – research by the EHRC found that less than 2 per cent of all apprenticeships in Scotland are taken by people from minority ethnic communities.¹⁷⁶ Fair Start Scotland,³⁵ the Scottish Government's flagship employability programme, had around 6 per cent of starts from minority ethnic backgrounds, however around 20 per cent of starts had no ethnicity data recorded and data is not disaggregated by community or ethnic group.¹⁷⁷

³⁵ Fair Start Scotland closed to new referrals in March 2024. [Fair Start Scotland | Employability in Scotland](#); will be replaced over time by [No One Left Behind | Employability in Scotland](#). As a result, data for 2023 combines the two programmes:

The Scottish Parliament's then Equalities and Human Rights Committee published an inquiry report examining Race Equality, Employment and Skills: Making Progress in 2020, which was critical of the lack of progress on race equality outcomes in the workplace.¹⁷⁸ The Scottish Government has accepted and pledged to implement the findings through its Fairer Scotland for All: An Anti-Racist Employment Strategy.¹⁷⁹ The Race Equality Framework for Scotland notes that unemployment and underemployment are relatively high for minority ethnic groups, including for minority ethnic graduates.¹⁸⁰

The Scottish Government should prioritise work with public bodies to improve the recruitment and internal policies to support employees and potential employees from minority ethnic communities including setting standards for interview panels and processes.

(e) (iii) Housing (LOT §18)

People from minority ethnic communities in Scotland are overrepresented in the private rented sector, where housing costs are higher¹⁸¹ and risk of homelessness is more acute for some minority ethnic groups.¹⁸² There is evidence that overcrowding is more prevalent in households¹⁸³ where the highest earner comes from a minority ethnic community.³⁶ Poorer housing conditions have been identified as a trend across the private rented sector in Scotland, suggesting that people from minority ethnic communities are at a greater risk of exposure to poorer conditions because of their lower access to other housing sectors.

The Scottish Government has identified through a literature review that discrimination by landlords or agents and a lack of affordable accommodation restricts access to private renting for people from minority ethnic backgrounds.¹⁸⁴ Racial discrimination and harassment were also reported by some minority ethnic households in the social rent sector. This research also identified that minority ethnic women and older people face particular challenges in accessing and securing housing.

People from minority ethnic communities are over-represented in homelessness applications.¹⁸⁵ Scotland has generally progressive housing policies which include

³⁶ 'Minority ethnic highest income householder'

legal obligations on local authorities to provide help to people who are homeless or at risk of becoming homeless.¹⁸⁶ Local Authorities must provide more targeted help to certain groups of people in positions of vulnerability.¹⁸⁷ However gaps remain between policy and practice.¹⁸⁸ There is a significant shortage of social housing at national level and some of the stock falls below acceptable standards, including culturally-relevant factors such as size and location.

Accommodation for asylum seekers is provided by the UK Government on a no choice basis.¹⁸⁹ This frequently includes hotel accommodation, though the policy intention is to reduce their use. The British Red Cross has told the Scottish Parliament that there has been a 900 per cent growth relating to hotel accommodation between 2021-22 and 2022-23.¹⁹⁰ The Scottish Refugee Council estimated that in March 2024 there were 1,400 people in 17 hotels across Scotland.¹⁹¹ There are instances where local resistance to hotel provision has generated protest directly outside of the buildings.¹⁹²

Hotel accommodation has significant negative impacts on the mental wellbeing of asylum seekers, as well as physical and social impacts associated with conditions.¹⁹³ Mental health among asylum seekers is already known to be generally poor.¹⁹⁴

An Independent Commission of Inquiry into Asylum Provision in Scotland carried out in 2022 examined the impacts of asylum policy through the lens of emergency measures adopted in the pandemic after highly publicised incidents including two deaths and multiple stabbings following the move of 321 people seeking asylum from their accommodation into hotel accommodation at the beginning of the pandemic.¹⁹⁵ The Independent Inquiry found that the rationale for the move – vaguely aligned to ‘public health’ – was unclear. The Inquiry heard unrebutted evidence of poor conditions, issues with nutrition and dietary requirements, with access to health provision, support with translation, digital connection, access to basic essentials including sanitary products and medicines that had been deteriorating since 2020, despite the clear evidence of mental distress.¹⁹⁶ The Scottish Government has set out a response to the findings, noting areas of devolved competence.¹⁹⁷

Access to culturally appropriate accommodation for Gypsy / Traveller Communities is variable in Scotland. A literature review carried out by the Scottish Government in 2020 found that while there was no significant unmet need, there was evidence of demand for more land for private sites to accommodate family groups.¹⁹⁸ There are two Scottish Social Housing Charter Indicators specifically relating to official Gypsy/Traveller sites, namely weekly pitch rents and service user satisfaction with the landlord’s management of the site. In 2022/23, the average weekly rent per pitch

was £75.31 and site satisfaction averaged at 75.6 per cent.³⁷ While this was an improvement from the previous year (70.5 per cent), this masks a wide spectrum with the lowest reported satisfaction level just 33.3 per cent.¹⁹⁹

The Commission has regularly heard directly from members of Gypsy / Traveller communities about the quality and acceptability of their accommodation.²⁰⁰ Members of the Commission have themselves witnessed²⁰¹ examples of degraded accommodation, including but not limited to mould and dampness, dilapidation and insufficient access to phone and internet connection.²⁰² Other examples provided to the Commission include council provided temporary accommodation which is close to out-of-service septic tanks, no access to play facilities for children and issues with overhanging trees causing danger to residents.

The Scottish Government has provided funding to Councils for improvements to culturally appropriate housing for Gypsy / Travellers through the £20 million Gypsy / Traveller Accommodation Fund 2021-2026.²⁰³ However, people on the sites themselves report that they lack information regarding timescales for upgrades. Residents from one site recently told the Commission that they have been waiting for developments to their site since 2019 and that they were told in June 2024 that there would be further delays in work starting until September. Since June 2023 residents have been moved to a temporary base with some being placed in settled accommodation which is culturally inappropriate and resulting in significant impacts on both their physical and mental health.

Information published by the Scottish Government in February 2022 response to a Freedom of Information Request showed that no funding had been spent,²⁰⁴ though the Scottish Government subsequently confirmed that Aberdeen City Council, Clackmannanshire Council and Fife Council have received funding to develop sites as demonstration projects in 2021-22 and 2022-23 and demonstration projects will progress in 2023-24 and 2024-25 in Highland Council, Perth & Kinross Council and South Lanarkshire Council.²⁰⁵ Improvements are based on Interim Site Design Guide for Gypsy/Traveller sites, developed in conjunction with local authorities and with input from members of Gypsy/Traveller communities.²⁰⁶

³⁷ Data from Scottish Housing Regulator Charter indicators and data by outcomes and standards, indicators 31 and 32. Available to download from [Statistical information | Scottish Housing Regulator](#)

The Scottish Government's work to improve conditions and security in the private rented sector should consider the affordability of quality housing for people from minority ethnic households. National housebuilding programmes in receipt of state funding, including the social housing mix, should include affordable housing which is culturally competent, including those for larger families.

The Scottish Government should conduct an audit of planned and unplanned upgrades to culturally appropriate accommodation for Gypsy / Travellers, co-designed with residents, to ensure that it meets human rights standards, including habitability, cultural appropriateness, and affordability.

(e)(iv) Health (LOT §19, LOT §20) social security and social work

As the Committee previously indicated,³⁸ there is a need to address the over-representation of Black people subject to mental health related practices such as disproportionate use of restraint, seclusion and medication and compulsory treatment. In 2021, the Mental Welfare Commission for Scotland (MWCS)³⁹ published a comprehensive report examining racism in mental health care in Scotland.²⁰⁷ The MWCS report shows that between 2010-11 and 2020-21:

- Patient ethnicity had been recorded for 84.7 per cent of detentions under the Mental Health Act,
- Compared to the general population there is a slightly higher representation of individuals of White Other, Black, Mixed, and Other ethnic groups among people who were detained. The combined percentage of the four non-white groups was 5.0 per cent, compared to 4.0 per cent in the general population.
- Black people and mixed-race people were more likely to be seen as a greater risk to 'self and others' than to themselves, compared to all other ethnicities where people are more likely to be seen as a risk to self rather than to 'self and others,' especially for women.

³⁸ CERD/C/GBR/CO/21-23/31

³⁹ The Mental Welfare Commission has a statutory duty to report on the use of the Mental Health Act and to promote best practice in its use.

While the MWCS report provides clear evidence that bias and racial discrimination plays a part in how people from minority ethnic populations, especially Black individuals (notably Black women) are perceived when they interact with mental healthcare, it is not clear that there has been any subsequent action to address the causes and effects of poor mental wellbeing.

We previously indicated that the Mental Wellbeing Delivery Plan 2023 included no actions or analysis by ethnicity. However, we were subsequently made aware that the Delivery Plan includes an Inequality Action Table which identifies actions that are likely to have stronger impacts for people from minority ethnic groups, for example, “Strategic Action 2.2: We will expand the range of digital therapies and resources available, providing free access to trustworthy mental health support at any time” is considered to most impact “minority ethnic groups, disabled people, women and girls, children and young people and trans people.” This conclusion is based on the Scottish Government’s Mental Health Equality Evidence Report 2023, a literature review.²⁰⁸ A specific commitment in Action 2.1.1. also exists, to developing further lived experience content for the Mind-to-Mind mental wellbeing website.

Although the framework analysis is a positive step, it is not user friendly and still unclear how impacts for people from minority ethnic groups are being prioritised or measured.

Data on reported mental wellbeing and other indicators is not routinely disaggregated by ethnicity.²⁰⁹ This includes mental wellbeing studies over the course of the pandemic.²¹⁰ Limited community research has shown particular inequalities, such as high suicide rates for Polish men living in Scotland, both compared with Scottish men and Polish men living in Poland;²¹¹ research with Ukrainian Refugees found that over 55 per cent experience clinically significant stress and anxiety, with nearly 10 per cent having suicidal thoughts;²¹² women from minority ethnic communities describe “daily” and “expected” acts of racial discrimination that impact on their health.²¹³

The pandemic also highlighted deeply rooted racialised health inequalities across public and individual physical health.²¹⁴ Deaths among people of Chinese ethnicity and people of Indian ethnicity were almost twice as likely to involve COVID-19 than deaths of people of White Scottish ethnicity.²¹⁵ On 23 June 2020 the Interim NHS Scotland Chief Executive issued correspondence to all Health Boards highlighting the need for action on action ethnicity data and risk assessments for staff from minority ethnic communities.

Existing inequalities were magnified, such as difficulties in accessing GPs and other essential medical care because of procedural barriers such as shortages of

translators²¹⁶ or challenges in registration for asylum seekers.²¹⁷ Covid-related health outcomes appear to be linked to broader socio-economic inequalities, for example people in deprived areas were more likely to seek help with COVID-19 symptoms, be admitted to hospital and 2.3 times more likely to die.²¹⁸

An Expert Reference Group on COVID-19 and Ethnicity (ERG) was established as these impacts for racialised groups from Scotland, the UK and global became apparent.²¹⁹ The ERG acknowledged that:

“Data on ethnicity has been recorded in many NHS Scotland administrative systems for some time, but levels of recording and data quality have often been too poor to allow meaningful analysis.”

Recommendations from the ERG included making ethnicity a mandatory field for health databases, coordinated action, reporting on data by ethnicity and accountability and governance oversight ([see above](#)).

Public Health Scotland initiated a programme of data improvement initially to monitor the trends that emerged from the COVID-19 pandemic,²²⁰ although they have subsequently expanded²²¹ to broader outcomes reflecting recommendation thirteen of the ERG.⁴⁰

There have been concerns about inequitable vaccine uptake affecting certain minority groups. The participants in the evidence gathering events for this report shared mixed perspectives on efforts to promote vaccine uptake in their communities, although most people who were aware of targeted steps felt that the programme had been successful.²²² Monitoring up to 2022 shows that uptake of Winter 2022 vaccinations was highest in White ethnic groups and lowest in African ethnic groups, with a difference of 35.1 percentage points for the COVID-19 vaccine.²²³ The evaluation of the vaccine programme in Scotland notes that take-up varied significantly and for a range of common and culturally specific reasons.²²⁴ Polish, Other African, and Gypsy/Traveller groups were a third as likely to take up

⁴⁰ 'The COVID-19 pandemic has highlighted the need for ongoing monitoring of health (and other) data by ethnicity. The lack of reporting of datasets that are available by ethnicity can serve to make ethnic health inequalities in health hidden and threatens the case for maintaining data quality. It is therefore crucial that data when available and robust enough for analysis are published and disseminated to policymakers, practitioners and communities.'

one or more vaccine doses compared with the White Scottish population. A range of measures to promote uptake with particular groups were pursued by the Scottish Government.²²⁵

Public Health Scotland's 2023 report on Racialised Health Inequalities further examines inequality in maternity and early years,²²⁶ based on the evidence on the importance of the early years for public health and the evidence from UK-wide monitoring that maternal and infant mortality is higher for racialised groups,²²⁷ especially for Black women. Public Health Scotland highlights improvement to data collection processes since 2021. Scotland specific data shows that engagement with antenatal care at 12 weeks is lower for all minority ethnic groups compared to those from the White ethnic group (94 per cent), with the lowest percentage (70 per cent) for those of African ethnicity. The proportion of caesarean births in women in African (46 per cent) and Caribbean or Black (48 per cent) ethnic groups was also higher than the overall Scotland proportion of 38 per cent. The proportions of assisted births⁴¹ in African (6 per cent) and Caribbean or Black (5.5 per cent) ethnic groups are lower when compared with the overall Scotland proportion of 12 per cent.²²⁸

Measures to improve women's health outlined in the Women's Health Plan commit to building an evidence base on women's specific health inequalities, including the impact of racism and other forms of discrimination, and acknowledging and responding to the ways women's health is impacted by social factors. The plan further commits to public health messaging which takes into account different language and accessibility needs.²²⁹ Despite these commitments, an interim progress report from August 2023 indicates limited action to address racialised inequalities.²³⁰

Gypsy / Travellers experience significantly worse health outcomes and excess mortality,²³¹ with life expectancy estimated to be as low as 55 years.²³² As Public Health Scotland reports indicate, evidence from Scotland and wider shows a significant range of factors including higher poverty and social exclusion, poorer quality housing, the impact of hate crime and discrimination and lower engagement with preventative health services, including antenatal and postnatal care and

⁴¹ Also known as an instrumental delivery, an assisted birth refers to the use of forceps or a ventouse suction in childbirth.

childhood development assessments.²³³ Scotland-specific evidence of many of these trends is presented throughout this submission.

The Data Strategy for Health and Social Care published in February 2023, commits to improving the quality and consistency including ethnicity data to ensure that equitable care is provided for everyone in Scotland requiring it. The Anti-Racism Observatory's role in developing research and evidence may support a better understanding of how interventions are successfully improving both outcomes and the treatment people from racialised communities receive when they engage with healthcare. However, data collection is just one necessary step to designing policy interventions that respond and prevent the inequalities from manifesting.

While acknowledging the positives of increased awareness of the impact of racialisation on physical and mental health inequalities across the public healthcare sector, the Commission recommends that the Scottish Government outline steps it has and will take to reduce inequalities between health outcomes for minority ethnic communities, including women from minority ethnic communities, and which are capable of regular progress monitoring through improved data collection, use and publication.

Since 2016, Scotland has used powers devolved by the Scotland Act 2016²³⁴ to establish a new Social Security Scotland agency, which delivers 14 payments specific to people in Scotland.²³⁵ The Act included a series of principles to underpin the new system, including that “social security is itself a human right and essential to the realisation of other human rights.”²³⁶ Although the majority of payments are reserved to Westminster, including the main out of work and low income benefit, Universal Credit, Scotland has powers to replace some benefits and to create new entitlements, essentially ‘topping up’ eligibility or income from the devolved budget.

An accurate assessment of interventions to reduce poverty is undermined by a lack of disaggregated data across the UK and Scottish policy systems, including in the social security system.²³⁷ Around 6 per cent of people in receipt of devolved benefits identify as being from a minority ethnic background, slightly above the general population estimate, but not necessarily reflecting higher poverty rates. There is an 8 per cent gap in approval rates between White applicants (81 per cent) and Asian (73 per cent) and African (73 per cent) applicants to Social Security Scotland.²³⁸

Poverty is mainly measured at household level in Scotland. Data based on the highest earner²³⁹ shows that between 2018-23, the poverty rate after housing costs was:

- 50 per cent for Asian or Asian British' ethnic groups in Scotland;

- 51 per cent for ‘Mixed, Black, or Black British and Other’ ethnic groups
- And 22 per cent and 18 per cent for “White: Other” and “White: British” respectively.

As many as half of children from minority ethnic communities live in poverty.²⁴⁰ The Scottish Parliament has passed legislation - the Child Poverty (Scotland) Act 2017 – which requires Scottish Ministers to meet statutory child poverty reduction targets.²⁴¹ The Scottish Government has outlined its approach to meeting the targets through its Child Poverty Delivery Strategy 2022-26.²⁴² The strategy focusses on six priority family types, including minority ethnic families. The Scottish Government’s annual progress assessment however shows that there has been little progress in reduction of absolute poverty for children in minority ethnic families (35 per cent between 2011 and 2014 to 34 per cent between 2019 and 2022) and a rise in the percentage of children from minority ethnic families in relative poverty (33 per cent to 39 per cent over the same data period.)²⁴³

Evidence from the lived experience sessions emphasis a strong view that social security was not ‘for’ participants, especially where the participants came from migrant backgrounds. Participants had very limited experiences of applying for Scottish social security payments and very few recognised the various entitlements. A sense of stigma in relying on state support was apparent for some participants, which has also been seen in other research with people from minority ethnic communities.²⁴⁴

The Scottish Government should develop targeted toolkits to inform people from minority ethnic communities of their rights to social security in line with the Social Security Principles and commitments in the Child Poverty Delivery Strategy.

In 2020, the Independent Care Review published a final report (The Promise) following four years of ‘root and branch’ review of the care system which was warmly welcomed across the political and public sector and a public body was established to oversee implementation of the Promise’s findings. However, the Promise includes no analysis of specific experiences with the care and social work system of children from minority ethnic families. It does consider the specific needs of unaccompanied asylum-seeking children and highlights that they should have access to legal support, advice, and advocacy and that they must have access to everything that would be expected of other care-experienced children. A specific need for support to understand religious and cultural context is noted, but not considered more broadly for other minority ethnic children in the care system.

According to official Annual Social Work Statistics, 82 per cent of looked after children at July 2023 were white, compared with 95 per cent of the general population of children in Scotland. However, 12 per cent of all children in the care system had no ethnicity recorded, which limits an analysis of trends for children from minority ethnic backgrounds given the small numbers and percentages involved – 2 per cent of looked after children were from mixed or multiple backgrounds (compared with 1 per cent of the general child population), 1 per cent Asian, Asian Scottish or Asian British (compared to 3 per cent) and 1 per cent from African Caribbean or Black backgrounds (1 per cent). 2 per cent were recorded as Other Ethnic background.²⁴⁵

The Scottish Children's Reporter Administration⁴² conducted research in 2017 in response to an identified gap in the Scotland on the involvement and experience of minority ethnic communities with child protection services in Scotland.²⁴⁶ The report engaged with both professionals and families and identified:

- Language and communication barriers and linked to this concerns about confidentiality and poor quality of translation.
- Fear and distrust of services, and likelihood that services may underestimate the extent that people from minority ethnic communities members fear them.
- Lack of knowledge of services and child protection, and that this may have wider implications for minority communities' integration and participation in Scottish society.
- Culture-specific parenting in terms of lack of understanding of abuse and neglect, and differences in concepts of good parenting and protecting their child.
- That child welfare is the concern of the family rather than the state, and lack of understanding of children's (and adults) rights.

⁴² The SCRA is the body which administers and supports the Children's hearing system, considering referrals for children and young people who are believed to require compulsory measures of supervision.

- The perception that services are racist or culturally insensitive was the barrier rated lowest, although it was acknowledged to exist. The more significant barrier to services intervening to protect a child were difficulties in finding out when a child was at risk due to the insular nature of some communities

The SCRA does not appear to publish data by ethnicity.²⁴⁷ Much of the material looking at discriminatory decision-making in child protection systems does not cite Scotland specific research. One piece of guidance for social care workforce working with African Diaspora Families notes that in Scotland there is a challenge around the way data is collected which makes it difficult to know the ethnicity of children in the care system.²⁴⁸

A report from Scottish Association of Social Work, the largest professional association for social workers in Scotland, published in 2021 found that racism exists within social work in Scotland and is experienced in many settings from many actors.²⁴⁹ The impact was rarely acknowledged and rarely dealt with satisfactorily.

Examples of good practice in support for children and families can be found across the third sector, especially trauma informed support children and families with refugee status.²⁵⁰ However, funding concerns, [noted above](#), pose ongoing challenges to access.

The Scottish Government should improve data collection and transparency across the social work and child protection system.

The Scottish Government should expand targeted family support for families from racialised and minority ethnic communities.

(e)(v) Education (LOT §21; LOT §28)

The ways in which racist behaviour is recognised, addressed and recorded in schools can lead to low confidence in reporting incidents.²⁵¹ Findings from widescale survey and engagement work by the Children and Young people's Commission for Scotland indicates that children and young people are worried about racism in

schools.⁴³ Since 2016, efforts have been made to institute a central recording framework for racist incidents in schools.⁴⁴ From 2019, a national system and guidance for reporting bullying incidents has been rolled out in all schools.²⁵² SeeMis allows 'Bullying and Equalities (BEM)' incidents to be logged with characteristics including race and religion.

In 2023, a national thematic review by the Chief Inspector of Education found that its use was not yet consistent across all schools and that most senior leaders did not consider BEM to be the most effective recording system for incidents of bullying.²⁵³ Both system navigation and insufficient flexibility in responding to incidents were highlighted. Headteachers were concerned about the impact of recording incidents on the records of young people and labelling pupils as 'victims' or 'perpetrators,' welcoming more generic language in SeeMis. There were also challenges in agreeing definitions with individual school stakeholders.

It is not clear from the report to what extent these attitudes undermine the ultimate consistency of reporting via SeeMis, but the Chief Inspector noted that nearly half of schools have created their own parallel system and that only around two-third of schools use the Bullying and Equalities Module to record incidents of bullying. Only half of those schools used it to identify specific issues, trends, and other relevant patterns.

The Scottish Government has committed, in line with the Committee's recommendation in 2016, to "Ensure that the school curricula across its jurisdiction contain a balanced account of the history of the British Empire and colonialism, including of slavery and other grave human rights violations."⁴⁵ There have been growing calls for, and commitments made to, decolonising the curriculum in both schools and universities,²⁵⁴ with new resources being developed.²⁵⁵

The Scottish Government established an Anti-Racism in Education programme in 2021, focused on four key areas of curriculum reform:

⁴³ Evidence shared directly by the CYPCS gathered through internal survey analysis to inform the CYPCS's 2024-2028 Strategic Plan.

⁴⁴ CERD/C/GBR/CO/21-23/35

⁴⁵ CERD/C/GBR/CO/21-23/35

- education leadership and professional learning – focussed on ensuring that every educator in Scotland is racially literate and not race evasive
- diversity in the teaching profession and education workforce – taking forward work to increase diversity within the education workforce in Scotland to ensure that it is representative of the population that it serves
- curriculum reform – focussed on how to articulate and embed anti-racism within a diverse and culturally-responsive curriculum
- racism and racist incidents– focussed on ensuring that racism in schools is properly identified and addressed.²⁵⁶

The Commission has heard from stakeholders that there remains a lack of support for pupils with low English language skills in school, while children from some minority ethnic communities experience higher levels of exclusion and disproportionate barriers to attainment.²⁵⁷ The reverse also appears to be true, with examples provided to the commission of children from migrant families being unnecessarily and presumptively streamed into English-as-A-Second-Language qualifications instead of more appropriate exams, with consequences for their future studies, relationships with peers and feelings of being part of the community.²⁵⁸

Gypsy/Traveller children and young people have the lowest attendance and highest exclusion record of any ethnic group. Transition to senior school is also low.²⁵⁹ The Scottish Government has produced guidance for local authorities, schools, early learning, and childcare settings to help support children, young people, and their families to engage in education.²⁶⁰

Migrants with communication and language barriers can also struggle to access information about entitlement and supports available for further and higher education, with residency requirements excluding some migrant young people.²⁶¹ Higher Education fees in Scotland are paid by the state for Scottish domiciled students at Scottish Universities.⁴⁶ Following a successful judicial review of the policy,²⁶² the Scottish Government was required to extend funding to reduce the

⁴⁶ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 66

period of residency in Scotland to 3 years to prevent discrimination against on the basis of immigration status under the Human Rights Act.²⁶³

The Scottish Government should intensify efforts to promote a national understanding of and commitment to the recording of incidents of racist bullying. Further engagement with children and young people is required to understand the barriers to anti-racist practice in schools.

(e)(vi) Equal participation in cultural activities

Evidence suggests that people from minority ethnic communities are under-represented in the arts and culture sector, however, there is a chronic lack of data to support a rigorous analysis of exclusion in cultural output and commissioning.²⁶⁴ Gypsy / Travellers in Scotland are significantly under-represented in cultural institutional output and, where they are included, continue to be subject to largely negative social representations.²⁶⁵ Cultural attendance⁴⁷ measured under the National Performance Framework is not provided by ethnicity.²⁶⁶

In 2022, the Empire, Slavery & Scotland's Museums independent Steering Group recommended that "museums should ensure anti-racism is embedded in their workplaces and public spaces."²⁶⁷ This was accepted by the Scottish Government, who however noted that much of the detail of this recommendation is for Museums Galleries Scotland and individual museums to deliver.²⁶⁸

While many individual cultural institutions have made public commitments to diversity and anti-racism, it has also been noted that budget cuts and precarity across the creative have further undermined access creative opportunities for people without existing platforms or resources.²⁶⁹ The precarity of arts funding as well as difficulties experienced by existing platforms in hosting artists from overseas due to visa difficulties and high costs⁴⁸ has systematically undermined commitments to diversifying output and programming. For example, in 2020, the Scottish Government and the arts body Creative Scotland criticised the Edinburgh

⁴⁷ The NPF indicator measures the percentage of adults who have attended or visited a cultural event or place in the last 12 months as reported to the Scottish Household Survey. [Attendance at Cultural Events | National Performance Framework](#)

⁴⁸ While permit waivers are available, these are limited in number.

International Arts Festival for a lack of diversity in its programme.²⁷⁰ Creative Scotland has set a strategic equality ambition to improve diversity in its funding, with a report on progress due in 2024.²⁷¹

(f) Access to Services (LOT §25)

The lived experience engagement events highlighted a persistent issue with access to public transportation due to the propensity of racist incidents perpetrated by fellow passengers and, at times, staff. A survey published by Amina Muslim Women's Resource Centre found that a majority of Muslim women have experienced an Islamophobic incident, and 21 per cent said this occurred on the public transport system.²⁷²

There remains significant prejudice in Scotland that characterises Gypsy / Traveller communities as othered, violent, or untrustworthy, as evidenced by, for example, the EHRC investigation into Pontins holiday parks.²⁷³ 'Gypsy / Traveller communities also report significant distrust in public authorities given the legacy of historic and ongoing discrimination, meaning they are less likely to seek out the services they need. Research co-designed with Gypsy/Travellers provides examples which include not being served in restaurants, entertainment complexes and a lack of respect, and dignity when people were interacting with public authority staff.²⁷⁴

The understanding of issues affecting access to social care services by race and ethnicity is limited. The Scottish Government notes that although the majority of people receiving social care in Scotland are white, ethnicity is not recorded for a large proportion (27 per cent) of social care users.²⁷⁵ Research from the Health and Social Care Alliance and Self Directed Support Scotland showed a number of general issues which create barriers for some Black and minority ethnic people in exercising control over how their social care budget is spent, including access to information and advice; and cultural awareness and understanding.²⁷⁶ It has been noted that demographic trends suggest that the older the Scottish population is, the less diverse it typically is. As social care users are typically, but not exclusively older, the demographics are relatively understudied and underacknowledged, although one report from 2019 found that people from minority ethnic communities residing in Scottish care homes felt more isolated.²⁷⁷

'No Recourse to Public Funds' (NRPF) is a condition that may be applied to an individual's leave to enter or remain in the UK. Migrants with NRPF conditions cannot access services provided and/or funded by the government listed in the Immigration and Asylum Act 1999 and the Immigration Rules.²⁷⁸ Funds not listed may be accessed, for example Scottish Legal Aid Board-funded legal aid, free school lunches, early learning childcare support, or access to some NHS services.

However, given the vast number of prohibited funds and perceived complexity many eligible applicants may be dissuaded or require significant support to apply.

The use of NRPF conditions for those with temporary migration status causes particular risk of poverty and destitution for some migrants.²⁷⁹ They were ineligible for most coronavirus financial support and cannot access Universal Credit and other income-related benefits.²⁸⁰ Women with NRPF and their children with immigration status contingent on an abusive partner are unable to access support necessary to ensure their safety. Evidence from the Commission's engagement with people affected by racism reinforces the significant practical and psychological impact of NRPF for individuals, including for their safety.²⁸¹

The Scottish Government and Local Authorities (COSLA) have developed an "Ending Destitution Together Strategy" to provide some support for people in Scotland with NRPF conditions.²⁸² The strategy draws from human rights standards and encourages Scottish public bodies to make decisions to protect human rights. The Commission has made it clear that the Scottish Government must do what it can therefore within the areas of devolved competence to ensure the rights of migrants in Scotland are protected.²⁸³ The pandemic demonstrated clearly that there is more room for collaboration between the Scottish Government, third sector and local authority partners to minimise risk of homelessness and destitution, even where immigration status presents a challenge.

The Commission recommends that all Scottish Public Bodies work together to ensure that the maximum support possible is available to individuals subject to NRPF, who are in acute situations of vulnerability, while working with the UK Government end the use of the condition. No Scottish budget measures under devolved powers should be added to the list of proscribed funds, except where the Scottish Government has asked for this.

Article 6: Access to Remedies (LOT §24; LOT §26)

The Commission has severe and persistent concerns about access to justice in Scotland.⁴⁹ Scotland's legal aid budget for 2023-24 is £156.1 million plus £3 million to strengthen access to justice for deprived communities and vulnerable groups.²⁸⁴ Scottish Legal Aid Board (SLAB)'s annual report showed that costs rose to £135 million in 2022/23, in part due to a fee rate increase.²⁸⁵ In January 2023, the Scottish Government announced £11 million package to increase fees for legal aid lawyers.²⁸⁶ The Law Society and Scottish Solicitors Bar Association welcomed the agreement as a "step forward" but called for a long-term solution to underfunding and establishment of a sustainable fee review mechanism.²⁸⁷ No proposals have yet been brought forward.

The Legal Aid (Scotland) Act 1986 is widely considered to be outdated and an independent review commissioned by the Scottish Government found wide-ranging issues with the current system.²⁸⁸

Legal aid is available for immigration cases in Scotland. Solicitors register for each category of law in which they want to do legal aid work. According to SLAB, in 2022-23 22 per cent (£10.5 million) of the total civil legal aid budget (£47.5 million) was spent on immigration and asylum cases.²⁸⁹

Access to legal advice for immigration and asylum claims in Scotland is limited by a shortage of practitioners. Representation is heavily concentrated in Glasgow.²⁹⁰ A report from Refugee Action undertook regional analysis of the legal aid schemes in the UK in 2022. This suggest that the availability of legal aid can be over-assumed as "firms appear on finder tools as being technically able to provide immigration legal aid work, but do not in fact do so (or do only very little)."²⁹¹ The number of practitioners willing to take on cases has been falling and the Refugee Action report suggests that while fees have increased slightly, they remain too low to ensure equality of arms.

While people detained in Dungavel Immigration Centre⁵⁰ can access legal aid representation, people in Scotland subject to immigration control will often be moved

⁴⁹ CERD/C/GBR/CO/21-23/21

⁵⁰ CERD/C/GBR/CO/21-23/39

to England ahead of imminent removal.²⁹² According to Freedom of Information Request obtained by Bail for Immigration Detainees 4,467 transfers from Scotland to England took place between January 2015 and June 2019.²⁹³ This can create barriers to legal advice as they generally require new representation when moved between the legal jurisdictions. The grounds for accessing legal aid for asylum seekers are significantly more limited than in Scotland.

The Commission recommends that the Scottish Government set out how it intends to reform the legal aid system in Scotland to ensure access to justice for all, in both the short and long term.

Article 7: Public Education in Combatting Prejudice (LOT §27)

Many of the participants in the Commission's engagement work highlighted the personal and systemic impact of anti-immigrant rhetoric such as that associated with the UK Government's commitment to 'Stop the Boats.' There was significant concern that such political rhetoric was already contributing to public attitudes towards immigration and the hostility people from minority ethnic communities experience more broadly. There was a common perception that the public were not aware of the realities of immigration, such as the NHS contribution, the high cost of visas and very limited access to state support all while paying the same taxes as people born in the UK.²⁹⁴ Several participants expressed fear that the upcoming General Election campaign would exacerbate anti-immigrant sentiments.

It has been observed that there is a disconnect between stated ambitions and effective change, even as Scottish Government and other public bodies have made commitments to adopting and embedding anti-racist approaches. An example can be identified in the current Scottish Government's generally pro-immigration stance. Despite policy intent, migrants and minority communities continue to report that they encounter racist and discriminatory treatment at similar levels to the rest of the UK. Research has suggested the disconnect between rhetoric and experience contributes to racism being more easily discounted or under-reported in Scotland.²⁹⁵ The Runnymede Trust's report into Racism in Scotland in 2020 described the ways in which "Lack of knowledge also leads to a lack of confidence, and one of the consequences is that race issues become downplayed. 'It does not happen here' becomes a more comfortable narrative to operate within."²⁹⁶

An Empire, Slavery and Scotland's Museums project has proposed recommendations for how Scotland's involvement in empire, colonialism, and historic slavery can be addressed using museum collections and museum spaces.²⁹⁷ These were fully accepted in January 2024, although with a significantly smaller budget allocated than suggested by the project group.²⁹⁸

The Scottish Government should develop and publish guidance for all public bodies which defines the essential features of an Anti-Racist approach in Scotland, developed in partnership with communities and experts.

The Durban Declaration and Programme of Action (LOT §10)

The Commission highlights recent activity to respond to ‘sectarian’ harms in Scotland.⁵¹ Intra-Christian hostility between Catholic and Protestant communities, especially but not exclusively in Glasgow and the West of Scotland, is tied to the legacy of migration, colonialism and settlement between Scotland and Ireland and the national, religious and cultural identities that formed in response to the associated socio-economic challenges.²⁹⁹ While ‘sectarianism’ is often used in policy to describe these, evidence from attendees at our engagement events highlighted that this could be used to “mask anti-Catholicism and its links with anti-Irish racism.”³⁰⁰

The Advisory Group on Tackling Sectarianism (AGOTS) was established to define and examine the consequences of sectarianism in Scotland. The Final Report made thirty recommendations calling for clearer responsibility-taking and action in all social settings associated with sectarianism. This covered specific aspects of research to be developed and sector-specific recommendations.³⁰¹ The Scottish Government has accepted the definition of intra-Christian sectarianism which was set out by The Advisory Group on Tackling Sectarianism in Scotland, and reports that it has invested “over £15.5 million since 2012 to tackle sectarianism” through “the broadest and most comprehensive set of activities in response to this issue that there has ever been.”³⁰²

Much of the political attention in recent years has been directed at violence at football matches.³⁰³ The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 was repealed in 2018 after research suggested that the law was unfairly targeted and did not adequately protect human rights.⁵² Immediately following the repeal, the then-Chair of the Scottish Policing Federation cautioned that some people had felt legitimised to engage in violence.³⁰⁴

⁵¹ CERD/C/GBR/CO/21-23/37

⁵² In 2011, when the Bill was being debated, the SHRC warned that Bill was “drafted too broadly, lacking legal precision as to the scope of the new offences such that it may not be considered to comply with the principle of legal certainty and the requirement of lawfulness under the European

The Hate Crime and Public Order (Scotland) Act³⁰⁵ process included consideration of whether hate crime law should extend to sectarianism and whether there was a need for a particular measure replacing the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

The Scottish Parliament Justice Committee led parliamentary scrutiny of the Bill. In its stage 1 report, the Committee noted that the Scottish Government had “found that there was no clear consensus on the benefits, or otherwise of including specific protections for sectarianism” and that engagement with witnesses around the Bill were broadly in agreement.³⁰⁶ Although most witnesses seem to have agreed that racial and religious prejudice provisions were sufficiently flexible to respond to the types of issues associated with sectarianism in Scotland, the Law Society of Scotland argued that “that the issue of sectarianism has not been addressed clearly.”³⁰⁷

To support implementation of the new legislation, the Scottish Government launched³⁰⁸ a refreshed Hate Crime Strategy in March 2023.³⁰⁹ This was followed by a Delivery Plan in November 2023³¹⁰ which commits to “supporting seven anti-sectarian projects to engage with children and adults across our communities to build understanding of the consequences of sectarianism, as well as preventing and tackling attitudes that underpin sectarian behaviour.”

Beyond the intersectionality between race and religion, the Durban Declaration emphasises the intersection of discrimination on the grounds of race with other forms of minoritisation, including gender and disability. As reported in our submission to the List of Themes, the noted shortcomings with the data analysis and publication too often limits further understanding of the experiences of further marginalised groups. Some examples of efforts to meet the needs of groups that experience multiple and intersecting discrimination have been highlighted in this report, such as women’s healthcare and violence against women.

Further examples from Scotland include:

Convention on Human Rights (the Convention). See: [shrc-offensive-behaviour-at-football.doc \(live.com\)](#). We repeated these concerns in 2018 during the repeal process: https://webarchive.nrscotland.gov.uk/3/archive2021.parliament.scot/S5_JusticeCommittee/Inquiries/OBR227-SHRC.pdf

- While disability is statistically lower among minority ethnic populations than recorded among the 'White: British' population, this masks a wide spectrum, with Gypsy/Travellers twice as likely to report a long-lasting health condition or disability.³¹¹
- That there appears to be no recent evidence relating into the experiences of LGBTI+ people from minority ethnic communities in Scotland.
- Experiences of loneliness and isolation for older people from minority ethnic communities seems to be more acute and requiring targeted solutions that are not routinely in place.³¹²

Evidence that certain groups within minority ethnic communities experience intersectional and multiplied discrimination from beyond Scotland include:

- Black women and women from other minority groups face higher rates of mortality and morbidity associated with pregnancy and maternity.³¹³
- A higher proportion of children from minority ethnic communities being identified as having learning disabilities or diagnosed as having more profound and multiple learning disabilities.³¹⁴
- LGBTI+ people from minority ethnic communities describe experiencing racism and stereotyping within LGBTI+ spaces.³¹⁵

The participation events surfaced many examples of intersectional discrimination in Scotland, including violence abuse and harassment on the basis of being a lack transgender woman and feeling double exclusion as an LGBTI+ person from a minority ethnic community; access to childcare and family support, the primary impact of poverty and exclusion from social assistance programmes non-migrant households can access and bullying in schools when young girls began wearing the hijab.³¹⁶ Discussion with the office of the Children and Young People's Commissioner for Scotland (CYPCS) has also highlighted examples of children receiving racist comments comparing them with terrorists and girls being bullied by peers for wearing the hijab. At least once incident was highlighted of girls being unable to enter schools while wearing the hijab.

The role of the Durban Declaration and Programme of Action, is not explicitly considered in existing Scottish Government materials relating to anti-racism and race equality, as recommended in the Committee's past Concluding Observations

towards the UK⁵³ and General Recommendation No. 33.³¹⁷ However, it is welcome that the Anti-Racism Progress Review³¹⁸ in 2023 made several commitments to intersectional approaches, largely focused on improving evidence and data but also examples of areas of focus for people from further marginalised identities. These included the Fair Work Action Plan,³¹⁹ which specifies that where possible the Scottish Government will pursue targeted approaches “to address compounded inequality that is already well-evidenced for particular intersects, such as racially minoritised women or young disabled people”, the development of resources for NHS employers and other key partners on intersectional racism, including islamophobia, and prejudice affecting specific groups such as minority ethnic women, asylum seekers and refugees.³²⁰

The Scottish Government should ensure that existing and future strategies consider opportunities for mutual reinforcement and intersectional goals, such as attention to the specific needs of women of colour, disabled, LGBTI+ and older people from minority ethnic communities.

The Scottish Government should explore opportunities to promote the Durban Declaration and Programme of Action.

The Scottish Government should conduct further research and community engagement to better articulate the real and perceived nature of intra-Christian and anti-Irish and anti-Catholic sentiment, including data on hate crime analysed by location, victim, and time of year.

⁵³ CERD/C/GBR/CO/21-23/47

Recommendations

The Commission recommends that pathways to consultation and engagement between people affected by racism, their intermediaries and the Scottish Government are developed specifically focused on CERD and that there is a commitment to work with communities in the response and implementation of Concluding Observations.

The Commission recommends that the Scottish Government consider tools to support a focus on implementation and accountability for existing policy which is intended to improve the human rights of people at risk of racial discrimination. This should include resource and driving of SNAP 2 priorities, a human rights tracker tool and accountability frameworks with a focus on direct and indirect racial discrimination.

The Scottish Government should take concrete steps to improve the collection of racial disparity data across the public sector, in partnership with communities and experts. This data should be capable of analysis by ethnicity and capable of further disaggregation to understand the needs of further marginalised groups.

The Commission recommends that Scottish Government responds to concerns of stakeholders, set out the role and purpose of the AROS and wider framework for complementary activities.

The Scottish Government should undertake specific scoping of how the AROS will work alongside existing bodies, including the NHRI, to improve accountability for human rights of people affected by racial discrimination.

The Scottish Government should develop a race equality strategy which clearly articulates how it will progress the Race Equality Framework 2016-2030.

The Commission recommends the Scottish Government use devolved flexibilities to enhance equality and non-discrimination across all rights in the Covenant and to inform the approach to the forthcoming Scottish Human Rights Bill.

The Commission recommends that the Scottish Government improve the accountability for human rights compliance through the most maximalist incorporation of human rights possible within the competence of the Scottish Parliament, especially given proposed new duties for public bodies.

The Commission recommends that the UK, at every level of government, desists from and seeks to remedy all policy activities which restrict or undermine the level

of protection for civil and political rights as set out in the present Convention and the ECHR.

The Commission recommends that the Scottish Government and the Scottish Parliament consider whether the mandate, powers, and resourcing of the NHRI are sufficient to protect the human rights of all people in Scotland.

The Commission recommends that the Scottish Government take steps to support the Gypsy/Traveller communities in Scotland to realise their rights and to build trust with communities, including working with them to consider a reconciliation process for past harms.

The Scottish Government should support the development of voluntary guidelines for media outlets and promote standards for the responsible reporting of issues which relate to matters such as immigration and ethnicity.

The Scottish Government should provide reassurance to communities that stirring up offences are taken seriously. It may wish to consider the role of the Rabat Plan of Action in providing reassurance to the general public that freedom of expression is not undermined by the existing of stirring up offences.

The Commission recommends the Scottish Government and other agencies involved in prison management take all measures necessary to ensure that the prison estate and its management conform to international standards. This must include measures to reduce the disproportionate sentencing of people from minority ethnic communities and to institute effective complaints mechanisms.

The Commission acknowledges that Police Scotland has begun to publicly acknowledge institutional racism and discrimination within policing in Scotland, and that it is too early to assess the impact of measures such as Policing Together in addressing aspects of bias. The Commission recommends that Police Scotland undertakes significant work to build relationships with trusted community representatives and individuals affected by racial discrimination, especially as the findings of the Sheku Bayoh Inquiry come to light. The impact of Policing Together and data on community sentiment towards the police should be publicly measured over time, with domestic accountability bodies, including the Scottish Human Rights Commission, playing an active role in scrutinising Police Scotland's efforts to address institutional and structural racism.

The Lord Advocate should commit to undertaking a review of guidelines relating to terrorism to ensure that that it is proactively eliminating any discriminatory and disproportionate impact on racial, ethnic, and religious minorities.

The Commission recommends that the Scottish Government work with communities to improve confidence in the reporting of hate offences. Funding for community-based capacity building, tools and education materials should be prioritised to ensure that efforts to target hate crime are meeting the needs of people who are most at risk. This means focusing on areas of risk or which are avoided, such as public transport and schools.

The Commission recommends that the Scottish Government and Crown Office and Procurator Fiscal Service take all steps necessary to end the prosecution of adults and children who have experienced human trafficking.

The Commission recommends that a statutory time limit for immigration detention is introduced, with access to judicial oversight, and that access to healthcare and other forms of support for people detained in removal centres is ensured for the full duration of their detention. In addition, the state should take urgent steps to ensure no vulnerable adult is put at further risk by the nature of their detention.

There is a need to enhance intersectionality through greater attention on violence against women girls in strategies including anticipated targeted strategies including the any successor to the race equality strategy, A Fairer Scotland For All: Race Equality Action Plan. Equally Safe does acknowledge the needs of further marginalised women, but this could go much further and include more specific actions. Funding and resourcing for more specialist services should follow.

The Scottish Government should enhance the data monitoring process from voluntary to mandatory for Scottish elections and follow up with evidence on the success at election of candidates from minority ethnic communities.

The Scottish Government should ensure that sustainable funding is available and national and community level to support effective space civil society across the race sector, including effective, robust, and transparent access to policymakers.

The Commission recommends that the Scottish Government conduct a full 'lessons learned' review of the 'super sponsor' scheme to identify where lessons could be learned to support all current and future refugees within the devolved context.

The Commission strongly recommends that the UK, at every level of government, desists with all policy activities which restrict or undermine the level of protection of human rights as set out in the ICCPR, the UN Refugee Convention, CERD, CAT and the ECHR.

The Scottish Government's New Scots Delivery Plan should provide measurable steps to promote and protect the human rights of all refugees residing in Scotland.

The Scottish Government should prioritise work with public bodies to improve the recruitment and internal policies to support employees and potential employees from minority ethnic communities including setting standards for interview panels and processes.

The Scottish Government's work to improve conditions and security of the private rented sector should consider the affordability of quality housing for people from minority ethnic households. National housebuilding programmes in receipt of state funding, including the social housing mix, should include affordable housing which is culturally competent, including those for larger families.

The Scottish Government should conduct an audit of planned and unplanned upgrades to culturally appropriate accommodation for Gypsy / Travellers, co-designed with residents, to ensure that it meets human rights standards, including habitability, cultural appropriateness, and affordability.

While acknowledging the positives of increased awareness of the impact of racialisation on physical and mental health inequalities across the public healthcare sector, the Commission recommends that the Scottish Government outline steps it has and will take to reduce inequalities between health outcomes for minority ethnic communities, including women from minority ethnic communities, and which are capable of regular progress monitoring through improved data collection, use and publication.

The Scottish Government should prioritise work with public bodies to improve the recruitment and internal policies to support employees and potential employees from minority ethnic communities including setting standards for interview panels and processes.

The Scottish Government should develop targeted toolkits to inform people from minority ethnic communities of their rights to social security in line with the Social Security Principles and commitments in the Child Poverty Delivery Strategy.

The Scottish Government should improve data collection and transparency across the social work and child protection system.

The Scottish Government should expand targeted family support for families from racialised and minority ethnic communities.

The Scottish Government should intensify efforts to promote a national understanding of and commitment to the recording of incidents of racist bullying. Further engagement with children and young people is required to understand the barriers to anti-racist practice in schools.

The Commission recommends that all Scottish Public Bodies work together to ensure that the maximum support possible is available to individuals subject to NRPF, who are in acute situations of vulnerability, while working with the UK Government end the use of the condition. No Scottish budget measures under devolved powers should be added to the list of proscribed funds, except where the Scottish Government has asked for this.

The Commission recommends that the Scottish Government set out how it intends to reform the legal aid system in Scotland to ensure access to justice for all, in both the short and long term.

The Scottish Government should develop and publish guidance for all public bodies which defines the essential features of an Anti-Racist approach in Scotland, developed in partnership with communities and experts.

The Scottish Government should ensure that existing and future strategies consider opportunities for mutual reinforcement and intersectional goals, such as attention to the specific needs of women of colour, disabled, LGBTI+ and older people from minority ethnic communities.

The Scottish Government should explore opportunities to promote the Durban Declaration and Programme of Action.

The Scottish Government should conduct further research and community engagement to better articulate the real and perceived nature of intra-Christian and anti-Irish and anti-Catholic sentiment, including data on hate crime analysed by location, victim, and time of year.

Annex A

The UK's unwritten constitution leaves some matters open to political, legal, and academic debate. In simple terms, The UK Parliament maintains legislative sovereignty, and in principle retains the power to legislate on any matter of its choosing. However, the status of the Scottish Parliament is recognised as constitutionally significant. The Parliament was created by the Scotland Act 1998, which was amended in 2016 to provide a clause recognising the permanence of the institution.³²¹

The Scottish Parliament has power to create primary legislation in the form of Acts of the Scottish Parliament. The scope of the Scottish Parliament's legal powers – known as devolved powers or competence – is provided on a general basis³²² subject to three main limits:³²³

- Legislation must not be incompatible with the European Convention on Human Rights;
- The Scottish Parliament cannot modify “protected statutes,” and
- Legislation that “relates to” matters reserved to the UK Parliament is incompetent, and therefore “not law.”

Reserved matters are listed in schedule 5 of the Scotland Act 1998.

Identifying the limits of devolved competence is not always simple.³²⁴ While the whole policy area is reserved, many areas are subject to exceptions and sometimes the phrasing of such exceptions is subject to interpretation. Schedule 4 lists “protected statutes” that cannot be modified by Scottish law – whether expressly or in substance – even if the Scottish Parliament has power to legislate in that area. The Human Rights Act 1998 is a protected statute.

“Observing and implementing international obligations,” is an exception to the general reservation of international relations.³²⁵ Scotland may choose how to implement and protect international human rights obligations to which the UK is a party but cannot accept formal legal obligations as a separate party (The Scottish Government has made several voluntary commitments with international and regional bodies).

The Scottish Parliament has elected to legislate for domestic incorporation of the UN Convention on the Rights of the Child, and while the legislation was successfully

challenged for relating to reserved matters, the majority of the provisions of the Bill were found to be in the scope of devolved competence.³²⁶

The Scottish Parliament has established the Scottish Human Rights Commission as a National Human Rights Institution with power to promote and protect human rights in devolved areas of law and policy. The Equality and Human Rights Commission is established by the UK Parliament and has a mandate to regulate equality law in England, Wales and Scotland and operate as NHRI in respect of reserved areas in Scotland.

Scotland has a number of standalone state institutions, many of which pre-date the establishment of the Parliament in 1998. These include a separate legal system and judiciary, education system, health service and property and land registration system.

Summary of reserved and devolved area

Devolved areas:

- agriculture, forestry, and fisheries
- benefits (some aspects)
- consumer advocacy and advice
- economic development
- education and training
- agriculture, forestry, and fisheries
- benefits (some aspects)
- consumer advocacy and advice
- economic development
- education and training
- elections to the Scottish Parliament and local government
- energy (some aspects)
- environment

- equality legislation (some aspects)
- fire services
- freedom of information
- health and social services
- housing
- justice and policing
- local government
- planning
- sport and the arts
- taxation (some aspects)
- tourism
- transport (some aspects)

Reserved areas:

- benefits (some aspects)
- betting and gambling
- broadcasting
- constitution (some aspects)
- consumer protection policy
- currency
- data protection
- defence and national security
- equality legislation (most aspects)
- energy (most aspects)

- elections to the UK Parliament
- employment law and industrial relations
- financial services
- foreign affairs
- immigration, asylum, and visas
- nationality and citizenship
- postal services
- taxation (some aspects)
- telecommunications
- trade and industry
- transport (some aspects)

Endnotes

- ¹ [Thematic Concerns regarding implementation of the UN Convention on the Elimination of All Forms of Racial Discrimination \(UN CERD\) in Scotland \(scottishhumanrights.com\)](#)
- ² [Committee on the Elimination of Racial Discrimination: 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 Note by the Country Rapporteur CERD/C/GBR/Q/24-26.](#)
- ³ [Scottish Commission for Human Rights Act 2006 \(legislation.gov.uk\)](#)
- ⁴ [Scotland's Census 2022 - Ethnic group, national identity, language and religion | Scotland's Census \(scotlandscensus.gov.uk\)](#)
- ⁵ Attributed to Jon Wroth-Smith, Director of Census Statistics, National Records of Scotland, [Scotland's Census 2022 - Ethnic group, national identity, language and religion | Scotland's Census \(scotlandscensus.gov.uk\)](#)
- ⁶ [Scotland's Census 2022 - Ethnic group, national identity, language and religion | Scotland's Census \(scotlandscensus.gov.uk\)](#)
- ⁷ [CERD/C/GBR/CO/21-23 UN Committee on the Elimination of Racial Discrimination \(CERD\), Concluding observations on the combined twenty-first to twenty-third periodic reports of the United Kingdom of Great Britain and Northern Ireland, 3 October 2016,](#)
- ⁸ [Thematic Concerns regarding implementation of the UN Convention on the Elimination of All Forms of Racial Discrimination \(UN CERD\) in Scotland \(scottishhumanrights.com\)](#)
- ⁹ SHRC research and reports are available at [publications \(scottishhumanrights.com\)](#)
- ¹⁰ [SHRC \(2022\) Universal Periodic Review Submission to the UN Human Rights Council NHRI Report on the United Kingdom's 4th Cycle Universal Periodic Review](#)
- ¹¹ [Istanbul Convention Report \(scottishhumanrights.com\)](#)
- ¹² [ICCPR Parallel Report UK Examination \(scottishhumanrights.com\)](#)
- ¹³ [CERD/C/GBR/24-26 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](#)
- ¹⁴ [Hate Crime and Public Order \(Scotland\) Act 2021 \(legislation.gov.uk\)](#)
- ¹⁵ [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024 \(legislation.gov.uk\)](#)
- ¹⁶ [Equality Evidence Finder](#)
- ¹⁷ [Improving the lives of Gypsy/Travellers: 2019-2021 - gov.scot \(www.gov.scot\)](#)

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- 18 [Anti-Racism in Education Programme - gov.scot \(www.gov.scot\)](https://www.gov.scot)
- 19 [Promoting race equality and anti-racist education | Resources | National Improvement Hub](#)
- 20 [How SNAP 2 was developed – SNAP 2 \(snaprights.info\)](https://snaprights.info)
- 21 [SNAP Leadership Panel – SNAP 2 \(snaprights.info\)](https://snaprights.info)
- 22 [Scotland's second National Human Rights Action Plan – SNAP 2 \(snaprights.info\)](https://snaprights.info)
- 23 [SNAP 1 Evaluation of Scotland's National Action Plan 2013-2017](#)
- 24 [202401-letter-to-minister-emma-roddick-msp-on-scotlands-national-action-plan-for-human-rights.pdf \(scottishhumanrights.com\)](https://scottishhumanrights.com)
- 25 [ICCPR Parallel Report UK Examination \(scottishhumanrights.com\)](https://scottishhumanrights.com)
- 26 [The Scottish Human Rights Commission Submission to the United Nations Human Rights Committee \(The Committee\): NHRI report on the United Kingdom's 7th periodic report under the International Covenant on Civil and Political Rights \(ICCPR\)](#)
- 27 [Istanbul Convention Report \(scottishhumanrights.com\)](https://scottishhumanrights.com)
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- 246 [Research - An exploration of ethnic minority communities - SCRA](#)
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- 248 [Passion4Fusion and IRISS \(2024\) Working with African Diaspora Families](#)
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- 250 Examples include:
- [Supporting child refugees and their families :: Celcis](#)
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- 251 [Race Equality and Anti-Racism in Education Programme Scottish Government, Stakeholder Network Group minutes June 2021: racist incidents and racist bullying workstream](#)
- 252 [Racism and racist incidents – Promoting Anti-Racist Education in Scotland \(glowscotland.org.uk\)](#)
- 253 [Approaches to recording and monitoring incidents of bullying in schools \(education.gov.scot\)](#)
- 254 For examples:
- [University of Glasgow - MyGlasgow - MyGlasgow News - Decolonising the Curriculum reading list now live](#)
 - [Decolonising the Curriculum in HE: Event Recordings | The University of Edinburgh](#); [Anti-Racism in Education Programme - gov.scot \(www.gov.scot\)](#);
 - [Libby Brooks, the Guardian \(2021\) Teachers in Scotland given guidance on decolonising the curriculum](#)
- 255 [Addressing inclusion - Effectively challenging racism in schools | Learning resources | National Improvement Hub](#)
- 256 [Anti-Racism in Education Programme](#)
- 257 [Human Rights Consortium Scotland \(2022\) Summary of points raised in Scotland's Human Rights Report Card: Universal Periodic Review civil society workshops in November -December 2021](#)
- 258 Forthcoming: SHRC (2024) Combined twenty-fourth to twenty-sixth periodic reports submitted by the United Kingdom of Great Britain and Northern Ireland (UK)

under Article 9 of the Convention on the Elimination of All Forms of Racial Discrimination: The Views of People in Scotland

²⁵⁹ See:

- [Scottish Government \(2020\) Scotland and the sustainable development goals: a national review to drive action](#)
- [Scottish Government \(2015\) Gypsy/Travellers in Scotland - A Comprehensive Analysis of the 2011 Census](#)

²⁶⁰ [Section 1: Introduction - Improving educational outcomes for children and young people from travelling cultures: guidance - gov.scot \(www.gov.scot\)](#)

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²⁶² [Petitioner for Judicial Review of a decision of the Student Awards Agency Scotland, on behalf of the Scottish Ministers, dated 9 December 2021](#)

²⁶³ [6. Scottish Government response - Further and higher education - residency criteria for access to financial support: consultation analysis - gov.scot \(www.gov.scot\)](#)

²⁶⁴ One survey from 2017 with a sample of 1,558 suggests that BME, disabled and LGBTI+ people are slightly more represented in the arts than the population as a whole, however this was not analysed by seniority or financial investment. [Creative Scotland \(2017\) Understanding Diversity in the Arts Survey](#)

²⁶⁵ [EHRC \(2013\) Gypsy Travellers In Scotland A resource for the media](#)

²⁶⁶ [Scottish Household Survey Data Explorer \(shinyapps.io\) Table 3 Housing](#)

²⁶⁷ [Empire, Slavery & Scotland's Museums - Museums Galleries Scotland](#)

²⁶⁸ [Empire, Slavery and Scotland's Museums steering group recommendations: Scottish Government Response \(www.gov.scot\)](#)

²⁶⁹ [People of Colour and the Creative Industries in Scotland: A Post-2020 Reflection – Bella Caledonia](#)

²⁷⁰ [Edinburgh International Festival ordered to improve diversity in its programming \(scotsman.com\)](#)

²⁷¹ [Scottish Women's Budget Group \(2021\) Spring Budget 2021 Pre-Budget Briefings](#)

[Covid-19 and economic challenges for disabled women](#)

²⁷² [Nearly two-thirds of Muslim women witness hate crime in Scotland – survey | ITV News](#)

²⁷³ [Report: Investigation into Pontins holiday parks | EHRC \(equalityhumanrights.com\)](#)

²⁷⁴ [Making Rights Real \(2023\) Our Human Rights Matter](#)

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- 275 [9. Race - National Care Service - adult social care: equality evidence review - gov.scot \(www.gov.scot\)](#)
- 276 [My Support My Choice: People's Experiences of Self-directed Support and Social Care in Scotland- National Report, October 2020 \(alliance-scotland.org.uk\)](#)
- 277 [Scottish Care \(2019\) Keeping Body And Soul Together: A Care Cameo October 2019](#)
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- 279 [Scottish Government \(2021\) Ending destitution together: strategy](#)
- 280 [Scottish Women's Budget Group \(2021\) Spring Budget 2021 Pre-Budget Briefings](#)
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- 281 Forthcoming: SHRC (2024) Combined twenty-fourth to twenty-sixth periodic reports submitted by the United Kingdom of Great Britain and Northern Ireland (UK) under Article 9 of the Convention on the Elimination of All Forms of Racial Discrimination: The Views of People in Scotland
- 282 [Ending Destitution Together: A Strategy to Improve Support for People with No Recourse to Public Funds Living in Scotland 2021-2024 \(www.gov.scot\)](#)
- 283 [Commission opposes UK government's Illegal Migration Bill \(scottishhumanrights.com\)](#)
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under Article 9 of the Convention on the Elimination of All Forms of Racial Discrimination: The Views of People in Scotland

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under Article 9 of the Convention on the Elimination of All Forms of Racial Discrimination: The Views of People in Scotland

³¹⁷ [CERD/C/GC/33 International Convention on the Elimination of all Forms of Racial Discrimination General recommendation No. 33](#)

³¹⁸ [Anti-Racism in Scotland - Progress Review 2023: The Race Equality Framework and the Immediate Priorities Plan \(www.gov.scot\)](#)

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³²¹ [Scotland Act 2016](#)

³²² Scotland Act 1998 s.28(1)

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³²⁴ “Relates to” requires more than a merely loose, incidental or consequential connection with a reserved matter (*Martin v Most* [2010] UKSC 10; *Imperial Tobacco v Lord Advocate* [2012] UKSC 61)

³²⁵ Sch.5, Pt1, para 7(2)(a)

³²⁶ [Reference by the Attorney General and the Advocate General for Scotland - United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill - The Supreme Court](#)