

A Joint Submission by:



BIRMINGHAM CITY
University
Centre for Human Rights



THE UPR PROJECT AT BCU

Submitted to:

The United Kingdom of Great Britain and Northern Ireland's Universal Periodic Review
Fourth Cycle
41st Session of the UPR Working Group
Oct-Nov 2022

About the UPR Project at BCU:

The School of Law at Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. We seek to achieve this through world leading research, education, and consultancy. We submit expert reports to international human rights regions, provide advisory services to governments and nongovernmental organisations, draft legal opinions and file legal briefs in domestic courts and in international human rights courts.

The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in providing support to the UPR pre-sessions, capacity building for stakeholders and National Human Rights Institutions, and file stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the

safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights.

Our Partner:

For this submission the UPR Project at BCU partners with 4 King's Bench Walk (4KBW), a leading barristers' chambers located within the Inner Temple, London. 4KBW specialises in advocacy and advisory services offering expertise in a range of practice areas of the common law including: crime, family, personal injury, employment, property and immigration. The range of legal knowledge of members of chambers enables 4KBW to provide the requisite advice for all levels of expertise, including to governments and international organisations. 4KBW Contact: Ms Jyoti Wood, email: clerks@4kbw.co.uk. Web address: <https://www.4kbw.co.uk>

Compiled by:

Lead Authors: Professor Jon Yorke, Ms Jyoti Wood, and Mr Michael Lane. **Contributing Authors:** Dr. Alice Storey and Dr Amna Nazir. Thank you to BCU LLB student Miss Rebekah Lynch (2019-2022) for her research assistance.

Contact:

Professor Jon Yorke (Director of the BCU School of Law's Centre for Human Rights) Email: Jon.Yorke@bcu.ac.uk Address: Birmingham City University, School of Law, Curzon Building, 4 Cardigan Street, Birmingham, B4 7BD, UK.

INTRODUCTION

1. The United Kingdom of Great Britain and Northern Ireland (UK) is party to seven of the nine core international human rights treaties.¹ It has yet to sign or ratify the Convention for the Protection of All Persons from Enforced Disappearance (CED) or the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). Of the nine individual complaints procedures, the UK has only ratified two: Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,² and the Optional protocol to the Convention on the Rights of Persons with Disabilities.³ At its last UPR in 2017, the UK received 234 recommendations,⁴ supporting 96 (41%) and noting 138 (59%).⁵
2. This Stakeholder Report focuses upon three themes:
 - a. the rights of migrants, asylum seekers, and refugees
 - b. detention and imprisonment
 - c. racism
3. Recommendations concerning the status of the UN's nine core treaties focus upon:
 - a. the ratification of CED and CMW
 - b. to revoke the interpretive declaration concerning CERD article 4 and allow for the domestic application of the convention
 - c. to accept the provision for the individual complaints procedures of CED, CMW, CAT and CERD.
4. Further recommendations under the report's three themes are provided concerning the strengthening of the human rights standards and protective mechanisms.

RIGHTS OF MIGRANTS, ASYLUM SEEKERS, AND REFUGEES

A. United Kingdom and International Law on the Rights of Migrants, Asylum Seekers, and Refugees

5. Beyond the core UN treaties, other international instruments to which the UK is party have implications for the rights of migrants, asylum seekers, and refugees. Most notable are the Convention Relating to the Status of Refugees (Refugee Convention), along with its 1967 Protocol, and the European Convention on Human Rights (ECHR). The former places various international obligations on the UK with respect to the treatment of refugees, including the requirement to grant asylum to those who satisfy the definition of a refugee.⁶
6. The ECHR is incorporated into domestic law by the Human Rights Act 1998 (HRA). This prevents public bodies, which includes Government departments, from acting in a way that is incompatible with the ECHR.⁷ As a consequence, those wishing to claim asylum may not be returned to their country of origin if, for instance, this would result in a breach of their Article 3 right to be free from torture or inhuman or degrading treatment or punishment.
7. Owing to the UK's exit from the EU on 31st December 2020, free movement under the Schengen Agreement between the UK and the EU ended.⁸ Changes have since been made to the UK Home Office Immigration Rules, including a 'points-based immigration system' and a new visa application process.⁹ However, some areas, previously regulated by EU treaties, have been maintained. Significant is the principle of 'humanitarian protection' which remains domestic law

in the UK, and allows for asylum seekers, who fail to meet the definition of a refugee, to nevertheless stay in the UK under some circumstances.¹⁰

8. The UK's immigration policies have been the subject of criticism from various domestic and international bodies. The Equality and Human Rights Commission, one of three National Human Rights Institutions in the UK, claims that immigrants are seeing a regression in the enjoyment of human rights.¹¹ This appears, in part, to be the result of proposed reforms to immigration laws. These are argued by the UN High Commissioner for Refugees (UNHCR) to be 'at odds with the Government's avowed commitment to upholding the United Kingdom's international obligations under the Refugee Convention'.¹²
9. The issue of immigration has also been a recurrent area of concern at the UK's UPRs. Of the 406 recommendations it has received to date, those concerning migrants, asylum seekers, and refugees account for 66 (16%), making it the third most common theme of recommendation.¹³ At its last review in 2017, 27 (12%) recommendations received by the UK related to these issues,¹⁴ 21 of which were noted and 6 were supported. This report considers the extent to which these recommendations have been implemented.

B. Implementation of Recommendations from the Third Cycle

Ratification of the CMW

10. Twelve of these recommendations, made by **Chile** (para 134.10), **Bangladesh** (134.30), **Guatemala** (134.23), **Kyrgyzstan** (134.24), **Philippines** (ibid), **Algeria** (ibid), **Egypt** (ibid), **Nigeria** (134.25), **Sri Lanka** (134.26), **Syria** (134.27), **Turkey** (134.28), and **Uruguay** (134.29), were to sign or ratify the CMW, or to consider doing so. The UK noted all of these, suggesting that as the rights of migrant workers are 'already protected' under the HRA and employment law, the benefits of ratifying the CMW are 'unclear'.¹⁵ A mid-term report, submitted by the UK in 2020, maintained this reasoning.¹⁶ The UK has since not signed or ratified the CMW, so **these recommendations have not been implemented.**
11. It is correct that various rights set out in the CMW are already protected in the UK. However, this does not mean that there are no benefits to ratification. Becoming party to the Convention would send a strong message to the UK's peers that it takes the protection of migrant workers' rights seriously. There are also benefits for the wider international human rights movement. The UK would, for instance, be strengthening the 'claims of the universality of human rights' and contributing to the 'development of a common language of human rights, allowing for broad international consensus and collaboration'.¹⁷ Ratification would, therefore, be consistent with the principles of universality and cooperation. These are both fundamental in the UPR process¹⁸ to which the UK has signalled its repeated commitment.
12. Furthermore, given that domestic law is already largely consistent with the CMW, ratification could be done without expending excessive parliamentary time. With these points in mind, the UK should further consider its position on ratifying the CMW.

Immigration Detention

13. Four recommendations by **Brazil** (134.215), **Germany** (134.217), **Mexico** (134.218), and **Bangladesh** (134.219) related to the introduction of a time limit for immigration detention. These reflect the fact that the UK remains the only country in Europe without a statutory limit. They also echo the ICCPR's concluding observations on the UK in 2015¹⁹ and is in line with the UNHCR detention guidelines.²⁰ The UK noted these recommendations claiming that, although no statutory

time limit is presently in place, ‘it is not lawfully possible to detain persons indefinitely’.²¹ In its 2020 mid-term report, the UK further explained how it was ‘maximising the use of alternatives to detention’.²²

14. Despite these recommendations being noted, progress toward implementation was attempted. An amendment to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 would have introduced a 28-day limit on immigration detention for those from Switzerland or the European Economic Area.²³ This amendment, however, was rejected by the Government. No further attempts have been made to impose a time limit on immigration detention. Therefore, **these recommendations have not been implemented.**
15. Contrary to the UK’s assertions in 2020, there is a risk that immigration detention will be used more often in coming years, and for longer periods, as a result of the proposed Nationality and Borders Bill.²⁴ For instance, the UK Parliament Joint Committee on Human Rights has highlighted that the clauses concerning bail may, if passed, ‘increase the risk that immigration detention will be used, and prolonged, where it is not necessary or proportionate’.²⁵ Similar concerns have been echoed by the UNHCR.²⁶
16. Therefore, progress on implementing these recommendations is potentially at risk of regression. The UK should reflect on the UNHCR guidance, along with the practices of its peers, and introduce a statutory time limit on immigration detention. It must ensure that reforms to the immigration system remain in line with the UK’s international obligations under the Refugee Convention.

Hate Crime and Social Integration and Inclusion

17. Four recommendations by **Iran** (134.82), **Guatemala** (134.99), **China** (134.121), and **Lebanon** (134.214) concerned the issues of hate crime against migrants, asylum seekers, or refugees, and the importance of social integration and inclusion. **Three of these were supported.**
18. **Some progress has been made implementing these recommendations.** The UK’s Hate Crime Action Plan, launched in 2016 and reviewed in 2018, sets out five key areas of focus: preventing hate crime, responding to hate crime, increasing reporting, improving support, and building understanding of hate crime.²⁷ The Action Plan, along with its review, recognised the particular concerns of asylum seekers.²⁸ An online campaign, raising awareness of hate crime, was also established in 2018.²⁹ As a possible result of these measures, attitudes toward migrants in the UK have ‘shifted from mostly negative to mostly positive, with a notable drop in negative attitudes’.³⁰
19. However, in the year ending March 2021, there had been a 9% increase in the number of hate crimes recorded by the police.³¹ Furthermore, racially motivated hate crimes, which includes those committed against asylum seekers and migrants, made up 74% of those recorded.³² Though the UK Home Office suggests increases in these statistics are driven by ‘improvements in crime recording’, they too recognise ‘genuine rises in hate crime following certain trigger events’ such as the 2016 EU referendum, and the 2020 Black Lives Matter protests.³³ Furthermore, a 2019 report by the British Red Cross identified ‘significant barriers’ that prevent victims from reporting hate crime. These include ‘fear of authority/police based on experiences in country of origin, lack of confidence to express oneself and fear of negative repercussions of reporting hate crime on their immigration status or asylum claim’.³⁴
20. More must therefore be done to make further progress on the issue of hate crime. Given that the last review of the Hate Action Plan was in 2018, the UK Government should either review and revise this further, or develop a new action plan which recognises the particular issues and barriers that affect migrants.

C. Recommendations

21. We recommend the Government of the United Kingdom:
 - i. Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
 - ii. Introduce a statutory time limit on immigration detention, in line with UNHCR guidance and the practice of other states in its region.
 - iii. Ensure that reforms to the immigration legislation do not renege on the UK's obligations under the Convention Relating to the Status of Refugees.
 - iv. Review and revise the 2016 Hate Crime Action Plan, ensuring that it recognises the particular issues and barriers that affect migrants.

DETENTION AND IMPRISONMENT

A. United Kingdom and International Law on Detention and Imprisonment

22. Most international human rights instruments have implications for the rights of detainees and prisoners. The Universal Declaration of Human Rights (UDHR) Articles 5, 7 and 9, and the HRA Article 3 lay the foundation for prisoners' rights under international law. The UN Standard Minimum Rules for the Treatment of Prisoners³⁵ sets out guiding principles for states to follow to ensure that the rights of those deprived of their liberty are respected and protected.
23. In addition, the Convention on the Rights of the Child (CRC) deals comprehensively with children's rights within a signatory state's justice system. While the Convention was ratified by the UK in 1991 it is not directly applicable in courts in England and Wales as the UK have not signed the third optional protocol on a communications procedure (OPIC). Similarly, while the UK ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), it has not made a declaration under Article 22 to enable individuals to petition the UN in relation to any UK breaches of CAT. This seriously limits avenues of redress for prisoners or detainees in the UK, including minors, who suffer cruel, inhuman or degrading treatment in prison or detention.
24. Issues of the appalling condition of many UK prisons, overcrowding and longstanding concerns over prisoner welfare have been broadly neglected by the UK Government. The welfare of prisoners and immigration detainees is not a politically advantageous concern.³⁶
25. There has been serious criticism of the current UK prison estate in prison inspection reports,³⁷ troubling suicide and self-harm rates in prisons, and the UK is out of step with international standards on the treatment of minors in the justice system which raises serious concerns at the intersection of race, detention and children's rights issues.

B. Implementation of Recommendations from the Third Cycle

Children in the justice system

26. In the Third Cycle of the UPR the UK received **17 recommendations** concerned with the way the UK treats minors in its criminal justice system, prisoners' rights and immigration detention. **5 were supported and 12 were noted.**

27. Recommendations from **Paraguay** (134.203), **Greece** (134.204) and **Albania** (134.204) invite the UK to consider abolishing mandatory life sentences for minors. The UK has noted these recommendations. The UK has since made no changes affecting the imposition of mandatory life sentences on those under 18 so **these recommendations have not been implemented. The number of under 18s made the subject of mandatory life sentences has increased year on year since these recommendations were made.**³⁸
28. The recommendations from **Albania** (134.205), **Peru** (134.206), **Belarus** (134.207) and **Bulgaria** (134.208) all invite the UK to consider raising the age of criminal responsibility. The UK has since made it clear it has no intention of raising the age of criminal responsibility. **It therefore noted these recommendations and they have not been implemented.**

Conditions of detention

29. Five recommendations from **Serbia** (134.158), the **USA** (134.159), **Canada** (134.160), **Japan** (134.162) and **Egypt** (134.137) invite the UK government to commit to reducing the UK prison population, improving prisoner safety, tackling self-harm and improving prison conditions. The UK supported these recommendations. None of the suggested changes have yet been implemented, but in December 2021 the UK released the Prisons Strategy White Paper which sets out some proposed changes to the prison estate. **These recommendations have not been implemented.**

Prisoner's voting rights

30. 1 recommendation from **Czechia** (134.161) proposes a revocation of the blanket ban on prisoners' right to vote. This was noted. **Prisoners in custody are still ineligible to vote.**

C. Further points for the United Kingdom to consider

Children in the justice system—life sentences for minors

31. In 2019 the UN Committee on the Rights of the Child (UNCRC) provided guidance stating the clear objective of ending life sentences for children.³⁹ The UK failing to action, or even support the recommendations to abolish mandatory life sentences for minors shows the Government falling far short of international obligations.
32. The Justice Gap⁴⁰ analysis of MOJ figures show that in the 10 years between 2006 and 2016 197 children received life sentences (known as detention at Her Majesty's pleasure when relating to minors) in England and Wales.⁴¹
33. The 2015 report from the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment found that life imprisonment and lengthy sentences are 'grossly disproportionate and therefore cruel, inhuman or degrading when imposed on a child' and that 'mandatory sentences for children are incompatible with the State's obligation regarding children in conflict with the law and the prohibition of cruel, inhuman or degrading punishment'.⁴²
34. The mandatory sentence of 'detention at Her Majesty's pleasure' for minors convicted of certain offences removes any judicial discretion to consider the child in question or the context of the offence. It also stands in opposition to UNCRC.

Children in the justice system—age of criminal responsibility

35. As of 2019 the UNCRC guidance suggests that the minimum age of criminal responsibility be at least 14. The committee urges states to move towards an age higher than the minimum.

36. The age of criminal responsibility in the UK is 10, which is the lowest in Europe. The most common minimum age of criminal responsibility internationally is 14.⁴³ The Council of Europe has found the UK to be in breach of obligations to children and young people as a result.⁴⁴ Changes are needed to bring the UK in line with international standards for children’s human rights.
37. In 2019-2020 22% of youths who received a criminal caution or sentence were 10-14 years old.⁴⁵ That translates to 4,180 10–14-year-olds receiving a caution or sentence in a single year.
38. The UK age of criminal responsibility is disproportionately affecting non-white children with approximately 50% of children in custody being from black, Asian or minority ethnic backgrounds.⁴⁶ Intersections with the UK obligations to address racism and racial discrimination are clear.
39. A Justice Committee report into young people in custody published in 2020 recommended that the MOJ review the age of criminal responsibility along with the implications of raising the age in England and Wales to 12 and to 14.⁴⁷ This has not taken place.
40. The same report recommends that ‘the Ministry of Justice provide an explanation of why the levels of BAME children being remanded to custody are disproportionately high.... The ministry should also set out the steps it is taking to prevent unconscious bias in decision making.’⁴⁸

Conditions of detention

41. In December 2021 the Government published the Prison Strategy White Paper which sets out plans for changes to the prison system, and pledged to create 18,000 permanent (and 2,000 temporary) new prison places ‘to protect the public through punishment and incapacitation of offenders’.⁴⁹ The improvements are welcome, particularly in the field of education and drug treatment, but do not go far enough, or address the route of systemic problems within the prison system or the rising prison population.
42. The recommendations in the Third Cycle included ‘[t]ake concrete measures to reduce the current and future prison population, as well as to improve prisoner safety’ (**Serbia** 134.158) which the Government supported. However, MOJ projections expect the prison population to rise to around 100,000 people by June 2026.⁵⁰ The White Paper does not propose any measures to address or reduce the rising prison population.
43. There is increasingly hard-line political rhetoric around sentencing, and new sentencing guidelines published in May 2021 increase suggested custodial tariffs for many offences including attempted murder, assaults on emergency workers and common assault. The changes to sentencing guidelines limit judicial discretion and will lead to increased sentences for those convicted, as the guidelines themselves recognise.
44. In addition, the Government’s proposed increase to Magistrates’ sentencing powers from 6 months to 1 year in 2022 will inevitably increase the number of short custodial sentences being handed down. It is of additional concern given that 45% of appeals against Magistrate Court sentences are successful at the Crown Court.⁵¹
45. The UK also supported the **Canadian recommendation** to ‘consider developing an action plan to address...overcrowding in prisons in the UK’ (134.160) while **Egypt** (134.137) and the **USA**

(134.59) recommend the UK addresses ‘deteriorating conditions in UK prisons’ and ‘conditions of detention’.

46. As of September 2021 47% of UK prisons are overcrowded. This means that 47% of prisons exceed the prison service’s own measure of the capacity needed to provide a decent standard of accommodation to prisoners.⁵²
47. A report into HMP Wandsworth (published in January 2022) described it as a ‘crumbling, overcrowded, vermin-infested prison’ and was highly critical of the education provider, observing that the education block had sat unused since March 2020. There had been 9 ‘self-inflicted deaths’ since the previous inspection in 2018. The report details inmates being locked up for at least 22 hours per day and sometimes going weeks without time in the open air.⁵³
48. The Prisons Strategy White Paper⁵⁴ does address the need for new prisons but does not lay out concrete proposals for renovation of the current prison estate. The report states that the Government will prioritise spending on projects that ensure fire safety compliance for 1/3 of the prison estate and ‘will also begin work on a new strategy for the maintenance and renewal of the prison estate.’
49. The Third Cycle recommendations call for steps to ‘improve prisoner safety’ (**Serbia** 134.158) and ‘address increases in self-harm and suicide’ (**Canada** 134.160).
50. Self-inflicted deaths are 6.2 times more likely in prison than in the general population.⁵⁵
51. The Government’s White Paper promises to recruit and train staff to support women who self-harm in prison. This is welcome but plainly does not address causative factors.
52. Self-harm in the youth estate is at the highest level for 5 years.⁵⁶ The Justice Committee recommends that the MOJ and Youth Custody Service should set out what they have put in place specifically to address self-harm. This has not been actioned.

Prisoner’s voting rights

53. For 12 years the UK refused to make changes to its blanket ban on giving prisoners the right to vote, in direct contravention of the ECtHR judgement in *Hirst v UK*⁵⁷. In 2018 the UK made a modest change to the ban to allow prisoners released on temporary license the right to vote. This change will affect approximately 0.13% of the prison population.
54. The Prison Reform Trust, quoted by the ECtHR at paragraph 53 of *Hirst*, made clear that social exclusion is a major cause of crime and reoffending, and the ban on voting was antithetical to ideas of rehabilitation and civil responsibility.⁵⁸ Further, preventing prisoners from voting does not act as a deterrent or as punishment.
55. The UK’s position on prisoner enfranchisement remains out of step with most European countries. Further changes to bring the UK in line with the spirit, as well as the letter of *Hirst* would be welcomed.

D. Recommendations

56. We recommend the Government of the United Kingdom:

- i. Make a declaration under CAT Article 22 for the acceptance of individual petitions.
- ii. Sign the Third Optional Protocol to CRC.
- iii. Raise the minimum age of criminal responsibility to 14.
- iv. Remove or review the mandatory imposition of life sentences for minors.
- v. Conduct a consultation on self-harm and suicide in the prison and youth secure estate to identify causes with a commitment to action recommendations made.
- vi. Address prison overcrowding by implementing the steps set out in the Prisons Strategy White Paper.

RACISM

A. United Kingdom and the International Law on the Elimination of Racism

57. The prohibition of discrimination in the form of racism is enumerated in the Universal Declaration of Human Rights (UDHR) Article 2,⁵⁹ the International Covenant on Civil and Political Rights (ICCPR) Articles 2(1) and 26,⁶⁰ and the International Covenant on Economic and Social Rights (ICESCR) Article 2(2).⁶¹ A definition of ‘racial discrimination’ is provided in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) Article 1.⁶² Applying ICERD Article 4 ratifying states should, ‘undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination,’ with subparagraphs (a)-(c) mandating the establishing of domestic law prohibiting racism and providing appropriate punishment of perpetrators.⁶³
58. Regarding the UK’s international commitments, in 1969 it ratified ICERD but submitted a reservation recording an interpretative declaration on Article 4. It stated the Convention is not self-executing in UK law and thus to be enforceable under domestic jurisdiction requires incorporating legislation.⁶⁴ This reservation has had a significant impact upon victims’ abilities to effectively protect their rights and seek reparations.⁶⁵
59. In the periodic review report to the Committee on the Elimination of Racial Discrimination, the UK stated it is, ‘confident that [ICERD] is fully respected and, where necessary, conscientiously enforced in the UK through our comprehensive race discrimination legislation.’⁶⁶ Hence, the UK maintains that human rights are sufficiently protected under the Equality Act 2010, with chapter 1, s. 9 defining ‘race.’ The Crime and Disorder Act 1998 ss. 28-32 establishes racially aggravated offences and s. 66 (1)(a) of the Sentencing Act 2020 requires the sentencing judge to consider the presence of ‘racial hostility’ when providing punishment.
60. In the Government’s Interim Report before the UPR Fourth Cycle filed on 26 July 2018 it identified tackling racial discrimination as one of the five ‘thematic areas.’⁶⁷ However, as was affirmed in the mid-term report in 2020, the Government’s engagement with this review continues under the sustaining of the domestic legal framework separate from the incorporation of ICERD Article 4.⁶⁸
61. In July 2021 the Runnymede Trust,⁶⁹ the Secretariat of the Race and Community All-Party Parliamentary Group (APPG),⁷⁰ conducted a review of civil society stakeholders and identified resultant human rights violations⁷¹ which called into question whether the UK’s domestic legal framework alone provides practical and effective promotion of racial equality and sufficient protection against racial violence. Consistent with the Runnymede Trust’s observations, in the 2021 Report on the Follow-up to the Durban Declaration and the Programme of Action, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related

intolerance, affirmed that in the context of the COVID-19 pandemic the UK had not safeguarded racial equality.⁷²

Periodic Reporting to the Committee on the Elimination of Racial Discrimination

62. A year before the Government's UPR Third Cycle in 2016, it filed its periodic review report to the Committee on the Elimination of Racial Discrimination.⁷³ Even though the UK has made efforts to safeguard rights, the Committee's Concluding Observations, 'express[ed] concern at reports that persons of African descent face institutional racism,'⁷⁴ and recommended the full legal adoption of ICERD into domestic law,⁷⁵ for the UK to protect victims from dual or multiple forms of discrimination,⁷⁶ and ensure that the UK's NHRI's⁷⁷ have full capacity and independence in accordance with the Paris Principles.⁷⁸
63. The Concluding Comments affirmed the need for the Government to systematically collect data and develop meaningful participation of civil society to help ensure a reduction of hate crimes and racial discrimination.⁷⁹ There was a continued need to review the impact of 'stop and search' and investigate the over-representation of black people and people belonging to ethnic minority groups at all stages of the criminal justice system and to take concrete measures to address racial prejudice and bias.⁸⁰

Mutual Commitments under the Universal Periodic Review and the Sustainable Development Goals

64. On 26 March 2021 the UNESCO conference '#FightRacism & #FulfillTheDream: UNESCO calls for strong action against racism and discrimination'⁸¹ highlighted the importance of the Sustainable Development Goals (SDG)⁸² to achieve the aims under UNESCO's Global Call Against Racism.⁸³
65. The United Kingdom's commitments to protecting racial equality through the UPR can also be realised through the SDGs.⁸⁴ In the Voluntary National Review of Progress Towards the Sustainable Development Goals, the Government affirmed that the SDG strategy, 'Leave No One Behind,'⁸⁵ includes 'each and every...race.'⁸⁶ The UK's data on the SDGs are compiled by the Office for National Statistics⁸⁷ and the Government created the Race Disparity Audit⁸⁸ which it has utilised to aid in its assessment of the SDGs.⁸⁹

B. Implementation of Recommendations from the Third Cycle

66. In the Third Cycle the United Kingdom received **30 recommendations** on the themes of combatting racism, promoting racial equality, and tackling associated hate crimes. **21 were supported and 9 were noted.**

The Domestic Implementation of ICERD

67. Seven states made specific reference to the UK's domestic implementation of ICERD.⁹⁰ **Libya** (134.5) recommended the UK, 'lift the reservation on article 4 [of ICERD]' with **Kyrgyzstan** (134.64) calling for the Convention to be 'directly and fully applicable under domestic law in all territories.' Further recommendations called for the domestic adoption of the Convention by **Greece** (134.58), **Uganda** (134.61) and **China** (134.88), with **Uzbekistan** (134.178) and **Iraq** (134.56) calling for the applicability of the principles and doctrines of ICERD. **The UK supported 1 and noted 6.**

Hate Crimes Motivated by Racism

68. Nine states highlighted the need to combat hate crimes and to prosecute perpetrators. **Lebanon** (134.116) encouraged 'redoubling efforts' and **Tunisia** (134.112) affirmed, '[c]ontinue efforts

towards combatting racism and hate speech against foreigners.’ The review of hate crimes and counter-terrorism measures were recommended by **Malaysia** (134.128) with **Singapore** (134.11) calling for the UK to, ‘[c]ontinue to refine its policies to counter hate crimes in the communities,’ and the **USA** (134.114) made similar recommendations, with **Maldives** (134.103) stating ‘take appropriate measures against the sharp increase in all hate related violent crimes especially involving young people.’ **Pakistan** (134.106) affirmed the need to ‘prosecute perpetrators’ with **Romania** (134.108) stating the need to ‘monitor hate crimes,’ and **Turkey** (134.113) recommended ‘preparing a report on the Hate Crime Action Plan.’ **The UK supported 9 and noted 0.**

Practical Protection Against Racism

69. Nine states provided recommendations for the Government to formulate more practical and effective institutional safeguards against racism. **Ecuador** (134.122) stated, ‘[a]dopt measures aimed at combating racism and hate crimes, in addition to strengthening and ensuring access to fair and effective mechanisms for reparations for victims of such violence.’ Further recommendations called for the strengthening of internal systems to protect the vulnerable against discrimination, including **Palestine** (134.131), **Kazakhstan** (134.95), **Iran** (134.82), **USA** (134.87) and **Russian Federation** (134.97), with **Bangladesh** (134.118) widening the focus to, ‘[a]ddress racial discrimination, xenophobia and hate crimes by further strengthening effective legislative and judicial measures.’ **Maldives** (134.104), stated, ‘improve the system of identification of potential targets and vulnerable communities,’ and **Bahrain** (134.117) to, ‘[c]ontinue working to improve the services given to the victims of discrimination and hatred.’ **The UK supported 8 and noted 1.**

Resources and Societal Education

70. Five governments made recommendations calling for more effective data collection mechanisms and a cross-sectional engagement to provide effective civil society dialogues for combating racism and hate crimes. The **Netherlands** (134.105) recommended, ‘continue to strengthen data collection to better understand the scale and severity of hate crimes,’ this data could then be discussed at the multi-stakeholder levels as **Thailand** (134.111) advised, ‘[t]hat the United Kingdom government, parliamentarians, human rights institutions and civil society organisations continue to work closely together to ensure that vulnerable groups’ are protected. **Kyrgyzstan** (134.102) emphasised taking additional measures to, ‘eliminate race enmity on the ground,’ and this should include reviewing the role of the media, as the **Republic of Korea** (134.107) advised, ‘[t]ake steps to curb incitement of hatred by some British tabloid newspapers in line with the country’s obligations under national and international law.’ **Sierra Leone** (134.93) recommended, ‘develop an action plan to implement the Decade of People of African Descent.’ **The UK supported 3 and noted 2.**

C. Further Points for the United Kingdom to Consider

The Commission on Race and Ethnic Disparities

71. Following the Black Lives Matter protests in 2020 the Government appointed the Commission on Race and Ethnic Disparities (CRED) to review inequality in the UK.⁹¹ On 31 March 2021 it published its report which found that institutional racism was not the determinative contribution to the plight of victims as a central conclusion revealed that:

geography, family influence, socio-economic background, culture and religion have more significant impact on life chances than the existence of racism. That said, we take the reality of racism seriously and we do not deny that it is a real force in the UK.⁹²

72. There has been widespread criticism of the CRED report's methodology and findings which have been interpreted to minimise the country's experience of institutional racism within *inter alia*: the criminal justice system,⁹³ access to education and employment,⁹⁴ healthcare,⁹⁵ and access to housing.⁹⁶
73. Written Questions in the UK Parliament called for the Government to reject the CRED report,⁹⁷ however the Government has refused to do so.⁹⁸
74. The Chair of the EHRC, Baroness Kishwer Faulkner, provided a cautious response concerning the value of CRED to promoting racial equality.⁹⁹
75. The UN's Working Group of Experts on People of African Descent authored a damning statement on the CRED report,¹⁰⁰ in which the experts, 'categorically reject[ed] and condemn[ed] the analysis and findings.'¹⁰¹ Compounding the report's unreasonable methodology and selectivity of the issues, the experts note it omitted any meaningful engagement with the international human rights mechanisms which have reviewed racial discrimination and hate crimes in the UK, including:
- a) UN Working Group of Experts on People of African Descent's country visit to the UK in 2012.¹⁰²
 - b) Concluding Observations of the Committee on the Elimination of Racial Discrimination in 2016.¹⁰³
 - c) Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance in the UK in 2018.¹⁰⁴
76. The experts state that:
- institutional racism, structural invisibility, and longstanding inequalities have disproportionately impacted people of African descent living in the UK. Therefore, the suggestions that family structure, rather than institutionalized and structural discriminatory practices are the central features of the Black experience is a tone-deaf attempt at rejecting the lived realities of people of African descent and other ethnic minorities in the UK.¹⁰⁵
77. In conclusion, the experts echo the calls in the UK Parliament to, 'urge the British government to categorically reject the findings of the report.'¹⁰⁶
78. Furthermore, the Runnymede Trust and the Institute of Race Relations¹⁰⁷ have stated that the Government has not effectively implemented the recommendations of past domestic reviews of the prevalence of racism and discrimination.¹⁰⁸ This points to a serious omission by the Government and compounds the criticisms concerning the CRED report. There is now clear evidence demonstrating a pattern in the executive's non-implementation of the review's recommendations. There appears to be a politically motivated thwarting of identified enhanced protective mechanisms promoting racial equality and safeguarding against racial violence.

D. Recommendations

79. We recommend the Government of the United Kingdom:
- i. Withdraw the reservation on ICERD Article 4 and fully incorporate the Convention into domestic law.
 - ii. Incorporate the individual complaints procedure under the ICERD.¹⁰⁹

- iii. Implement new data collection on race and ethnicity in the UK and provide independent peer review oversight which can be used to properly inform on promoting racial equality and safeguarding against racism in *inter alia* the:
 - a) criminal justice system
 - b) education
 - c) employment
 - d) housing
 - e) healthcare
- iv. Adopt the Third Cycle recommendations as a demonstration of mutual support of the UPR and of commitments under the SDGs. Improving racial equality and strengthening the safeguards against racial violence would help satisfy the Government's commitments to both of these UN mechanisms.
- v. Provide appropriate funding and powers to the three NHRIs in the UK to promote racial equality.

ENDNOTES

¹ It is a party to the following: International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Rights of the Child (CRC); and the Convention on the Rights of Persons with Disabilities (CRPD).

² Date of acceptance 17 December 2004.

³ Date of acceptance 7 August 2009.

⁴ UN Human Rights Council, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2017) UN Doc A/HRC/36/9 (UK Third Cycle Working Group Report).

⁵ UN Human Rights Council, 'Report of the Human Rights Council on Its Thirty-Sixth Session' (2018) UN Doc A/HRC/36/2.

⁶ Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, art 1(A)(2).

⁷ Human Rights Act 1998, s 6.

⁸ Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020.

⁹ UK Home Office, 'New immigration system: what you need to know' <<https://www.gov.uk/guidance/new-immigration-system-what-you-need-to-know>> accessed 10 March 2022.

¹⁰ By virtue of the European Union (Withdrawal Act) 2018, s 3(1). Humanitarian protection is also laid out in the Home Office Immigration Rules at para 339C <<https://www.gov.uk/guidance/immigration-rules>> assessed 10 March 2022.

¹¹ Equality and Human Rights Commission, 'Immigration – UK Government assessment' <<https://humanrightstracker.com/en/progress-assessment/immigration-uk-government-assessment/>> accessed 10 March 2022.

¹² UNHCR, 'UNHCR Updated Observations on the Nationality and Borders Bill, as amended' <<https://www.unhcr.org/61e7f9b44>> accessed 10 March 2022.

¹³ This is according to UPR Info's recommendation database <<https://upr-info-database.uwazi.io/>> accessed 10 March 2022.

¹⁴ UN Human Rights Council, UK Third Cycle Working Group Report (n 4), paras 134.10, 134.22, 134.22-134.30, 134.82, 134.99, 134.121, 134.163, 134.169, 134.214-134.219, 134.221-134.223.

¹⁵ UK Ministry of Justice, 'Annex to Addendum to the Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' <http://lib.ohchr.org/HRBodies/UPR/Documents/Session27/GB/A_HRC_36_9_Add.1_UK%20-%20Annex.doc> accessed 10 March 2022 (UK Third Cycle Detailed Responses to Recommendations).

¹⁶ UK Ministry of Justice, 'Third Universal Periodic Review: UK's Mid-term report on recommendations' <<https://www.gov.uk/government/publications/third-universal-periodic-review-uks-mid-term-report-on-recommendations>> accessed 10 March 2022 (UK Third Cycle Mid-Term Report).

¹⁷ Natalie Baird, 'To Ratify or Not to Ratify? An Assessment of the Case for Ratification of International Human Rights Treaties in the Pacific' (2011) 12 Melbourne Journal of International Law 249, 261.

¹⁸ UN Human Rights Council, 'Annex to Resolution 5/1 Adopted by the Human Rights Council: Institution-Building of the United Nations Human Rights Council' (2007) UN Doc A/HRC/5/1, paras 3(a) & (b).

¹⁹ UN Human Rights Committee, 'Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland' (2015) UN Doc CCPR/C/GBR/CO/7, para 21.

²⁰ UNHCR, 'Detention Guidelines' <<https://www.unhcr.org/uk/publications/legal/505b10ee9/unhcr-detention-guidelines.html>> accessed 10 March 2022.

²¹ UK Ministry of Justice, 'UK Third Cycle Detailed Responses to Recommendations' (n 15).

²² UK Ministry of Justice, 'UK Third Cycle Mid-Term Report' (n 16).

²³ UK Parliament, 'Baroness Hamwee's amendment After Clause 4 (20): Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020' <<https://bills.parliament.uk/bills/2714/stages/12356/amendments/54171>> accessed 10 March 2022.

²⁴ Nationality and Borders Bill HL Bill (2021-22) 82. See UK Parliament, 'Nationality and Borders Bill: Government Bill' <<https://bills.parliament.uk/bills/3023>> accessed 10 March 2022.

²⁵ UK Joint Committee on Human Rights, *Legislative Scrutiny: Nationality and Borders Bill (Part 3) – Immigration offences* (2021-22, HC 885, HL112) para 190 <<https://committees.parliament.uk/publications/8021/documents/83303/default/>> accessed 10 March 2022.

²⁶ UNHCR (n 12).

- ²⁷ UK Home Office, ‘Action Against Hate: The UK Government’s plan for tackling hate crime’ <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/927673/2016_Hate_Crime_Action_Plan.pdf> accessed 10 March 2022.
- ²⁸ *ibid* para 90; UK Home Office, ‘Action Against Hate: The UK Government’s plan for tackling hate crime – ‘two years on’, 18 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748175/Hate_crime_refresh_2018_FINAL_WEB.PDF> accessed 10 March 2022.
- ²⁹ UK Home Office, ‘Hate Crime - Nationwide Campaign’ (31 October 2018) <<https://youtu.be/tdUUD7jcMV8>> accessed 10 March 2022.
- ³⁰ Overseas Development Institute, ‘Public narratives and attitudes towards refugees and other migrants UK country profile – second edition’ <<https://cdn.odi.org/media/documents/ODI-JR-CountyProfile-UK-Oct21-Proof04.pdf>> accessed 10 March 2022.
- ³¹ UK Home Office, ‘Official Statistics: Hate crime, England and Wales, 2020 to 2021’ <<https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2020-to-2021/hate-crime-england-and-wales-2020-to-2021>> accessed 10 March 2022.
- ³² *Ibid*.
- ³³ *Ibid*.
- ³⁴ British Red Cross, ‘Hate crime experiences of Refugees and Asylum Seekers: August 2019’ <https://portsmouth.cityofsanctuary.org/wp-content/uploads/sites/123/2019/11/Final-Report-Hate-Crime-experiences-of-refugees-and-asylum-seekers_August-2019v4.pdf> accessed 10 March 2022.
- ³⁵ United Nations Office on Drugs and Crime, The United Nations Standard Minimum Rules for the Treatment of Prisoners (2015) <https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf> accessed on 15th March 2022
- ³⁶ Indeed the opposite approach has been enthusiastically embraced by all main political parties since the 1980s, pursuing increasingly punitive policies and a ‘prison works’ agenda, exemplified by minimum sentences for repeat burglars and possession of firearms, ‘two strikes’ sentencing for class A drugs offences, and increasing the life term minimum tariff starting point for murders involving knives from 15 years to 25 years. An election manifesto is no longer complete without a commitment to expand the prison estate and to create further new criminal offences. At a time of declining volumes of criminal prosecutions the absolute number of those serving prison sentences has remained stable and high, which is the result of average sentences increasing significantly during the same period.
- ³⁷ HM Inspectorate of Prisons, Inspection Reports (2022) <<https://www.justiceinspectorates.gov.uk/hmiprisons/inspections/>> accessed 15th March 2022.
- ³⁸ Channel 4, Exclusive: Number of teenagers convicted of murder more than doubles in 5 years (2021) <<https://www.channel4.com/news/exclusive-number-of-teenagers-convicted-of-murder-more-than-doubles-in-5-years>> accessed on 15th March 2022.
- ³⁹ Convention on the Rights of the Child General Comment 24, (2019) on children’s rights in the child justice system, p.2 pp.6
- ⁴⁰ David Scott, When prison means life: Child lifers and the pains of imprisonment <www.thejusticegap.com/prison-means-life-child-lifers-pains-imprisonment/> accessed on 15 March 2022.
- ⁴¹ Life sentences imposed annually for those aged 19 or under have doubled since then, increasing from 26 in 2016 to 56 in 2020.
- ⁴² Juan E. Méndez, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2015) UN Doc A/HRC/28/68, para 74.
- ⁴³ UN Committee on the Rights of the Child, General Comment No. 24 (2019) on Children’s Rights in the Justice System (2019) UN Doc CRC/C/GC/24, para 21.
- ⁴⁴ <https://www.thejusticegap.com/council-of-europe-criticises-uks-low-of-age-of-criminal-responsibility/>
- ⁴⁵ Ministry of Justice, Youth Justice Statistics 2019-2020 (2021) <<https://www.gov.uk/government/statistics/youth-justice-statistics-2019-to-2020>> (accessed 15 March 2022).
- ⁴⁶ *Ibid*.
- ⁴⁷ UK Parliament Justice Select Committee, Children and Young People in Custody: Entry into the youth justice system’ (2020) <<https://publications.parliament.uk/pa/cm5801/cmselect/cmjust/306/30602.htm>> accessed (10 March 2022).
- ⁴⁸ *Ibid*.
- ⁴⁹ Foreword to Ministry of Justice, Prison Strategy White Paper (2021) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1038765/prisons-strategy-white-paper.pdf> accessed (15 March 2022).

⁵⁰ Ministry of Justice, Prison Population Projections 2020-2026, England and Wales (2020) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938571/Prison_Population_Projections_2020_to_2026.pdf> (accessed 8 March 2022).

⁵¹ Jessica Jacobson, Transform Justice, 'By mistakes we learn? A review of criminal appeals against sentence' (Transform Justice, 2020) <<https://core.ac.uk/download/pdf/156876026.pdf>> accessed 12th March 2022.

⁵² Georgina Sturge, House of Commons Library research briefing on UK Prison Population Statistics (2021) 15 <<https://researchbriefings.files.parliament.uk/documents/SN04334/SN04334.pdf>> accessed 15 March 2022.

⁵³ HM Inspectorate of Prisons, Report of an unannounced inspection of HMP Wandsworth by HM Chief Inspector of Prisons (2021) para 1.30 <<https://www.justiceinspectores.gov.uk/hmiprison/wp-content/uploads/sites/4/2022/01/Wandsworth-web-2021.pdf>> accessed 15 March 2022.

⁵⁴ Ministry of Justice, Prison Strategy White Paper (2021) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1038765/prison-strategy-white-paper.pdf> accessed 15 March 2022.

⁵⁵ Prison Reform Trust, Prison: the facts Summer 2019 (2019) 4 <<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Prison%20the%20facts%20Summer%202019.pdf>> accessed 15 March 2022.

⁵⁶ UK Parliament Justice Select Committee, Children and young people in custody: the youth secure estate and resettlement (2021) <<https://committees.parliament.uk/publications/5479/documents/54646/default/>> accessed 15 March 2022.

⁵⁷ *Hirst v UK* [2005] ECCHR 681.

⁵⁸ *Ibid.*

⁵⁹ Universal Declaration of Human Rights, (10 December 1948), Article 2 'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour...'

⁶⁰ ICCPR, Article 2(1) 'Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour...', and Article 26 'All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour...'

⁶¹ ICESCR, Article 2(2) 'The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour...'

⁶² ICERD, Article 1 'In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.'

⁶³ ICERD Article 4 (a) 'Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof; (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law; (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.'

⁶⁴ The Declaration of the United Kingdom of Great Britain and Northern Ireland on ICERD Article 4 states, 'It interprets article 4 as requiring a party to the Convention to adopt further legislative measures in the fields covered by sub-paragraphs (a), (b) and (c) of that article only in so far as it may consider with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention (in particular the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association) that some legislative addition to or variation of existing law and practice in those fields is necessary for the attainment of the end specified in the earlier part of article 4, <<https://indicators.ohchr.org/>> accessed 10 March 2022.

⁶⁵ It has thwarted the implementation of the enhanced protections outline within the Committee on the Elimination of Racial Discrimination's 'general recommendations.' These provide clarity on state policies for implementing the Convention. Guidelines on the elaboration of general recommendations, CERD/C/504, 10 September 2021, p. 1. So far there have been 36 general recommendations. For example, No 25 (2000) on gender-related dimensions of racial discrimination; No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system; No. 34 (2011) on racial discrimination against people of African descent;⁶⁵ No. 35 (2013) combatting hate speech, see

<https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=6&DocTypeID=11> (accessed 10 March 2022).

⁶⁶ United Kingdom of Great Britain and Northern Ireland, State Periodic Review Report, CERD/C/GBR/21-23, 16 July 2015, p. 3. <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/159/15/PDF/G1515915.pdf?OpenElement>> (accessed 10 March 2022).

⁶⁷ United Kingdom of Great Britain and Northern Ireland, Update, Universal Periodic Review, 26 July 2018 p. 4. It identified the 2017 findings of the Race Disparity Audit, the response to the Lammy Review (into racial minorities in the criminal justice system), and the consultation under the Integrated Communities Strategy Green Paper. p. 10. The strategies developed in Northern Ireland, Scotland, and Wales were detailed in pp. 10-12. See National Mid-Term Report on the country page, <<https://www.ohchr.org/EN/HRBodies/UPR/Pages/GBIndex.aspx>> (accessed 10 March 2022).

⁶⁸ United Kingdom, British Overseas Territories and Crown Dependencies, Universal Periodic Review – Mid Term Report 2020. In the response to Libya (134. 5 (withdrawing ICERD reservation), the rationale in 2017 was:

The UK maintains its interpretation of Article 4. Domestic law prohibits the incitement to racial hatred; the law applies to online and offline media as well as to individuals. But the UK also has a long tradition of freedom of speech which allows individuals to hold and express views which may well be contrary to those of the majority of the population, and which many may find distasteful or even offensive. The UK Government believes that it strikes the right balance between maintaining the right to freedom of speech and protecting individuals from violence and hatred.

The rationale in 2020 was:

The UK maintains its interpretation of Article 4. Journalists and media are subject to the same hate crime legislation as other citizens. There are several actions in the Hate Crime Action Plan that seek to work with the media industry to reduce the harm caused by hate speech whilst respecting the right to free speech and the importance of a free media as an integral part of a democratic society. Examples of the actions we have taken include working with the Society of Editors, the Media Trust and the Independent Press Standards Organisation to improve journalists’ understanding of minority groups, this work includes working with the Independent Press Standards Organisation to devise training to help journalists develop better understanding of Islam.

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/953430/uk-mid-term-report.pdf> (accessed 10 March 2022).

⁶⁹ Runnymede Perspectives, England Civil Society Submission to the United Nations Committee on the Elimination of Racial Discrimination, The Runnymede Trust July 2021, see <<https://www.runnymedetrust.org/publications/civil-society-report-to-united-nations-cerd>> (accessed 10 March 2022).

⁷⁰ Race and Community All-Party Parliamentary Group, <<https://www.parallelparliament.co.uk/APPG/race-and-community>> (accessed 10 February 2022).

⁷¹ The report considers the human rights violations and implications under the political, civil, economic, social and cultural rights (pp. 7-49), and the necessity for protection and remedy (pp. 50-51), see, Runnymede Perspectives (n 69).

⁷² Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action, A/76/434, 21 October, 2021, [i]n the United Kingdom, women of African descent and men of African descent were respectively 4.3 and 4.2 times more likely to die of COVID-19 than white people, the largest disparity of any ethnic group’ p. 3. <<https://www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/IndexSRRacism.aspx>> accessed 10 March 2022.

⁷³ See, Consideration of reports: United Kingdom of Great Britain and Northern Ireland CERD/C/GBR/21-23, 16 July 2015 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/174/49/PDF/G1617449.pdf?OpenElement>> accessed 10 March 2022.

⁷⁴ Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-first to twenty-third periodic reports of the United Kingdom of Great Britain and Northern Ireland, CERD/C/GBR/CO/21-23, 3 October 2016, p. 6

⁷⁵ Ibid., p. 2

⁷⁶ Ibid. Following the Committee’s general recommendation No. 25 (2000) on general-related dimensions of racial discrimination, ensure gender equality in legislation and protect victims against dual or multiple form of discrimination, p. 3.

⁷⁷ The Equality and Human Rights Commission, <<https://www.equalityhumanrights.com/en>> (accessed 10 March 2022); the Scottish Human Rights Commission <<https://www.scottishhumanrights.com/>> (accessed 10 March 2022), and the Northern Ireland Human Rights Commission <<https://nihrc.org/>> (accessed 10 March 2022).

⁷⁸ The Paris Principles are detailed in, Principles relating to the Status of National Institutions (The Paris Principles) Adopted by General Assembly resolution 48/134 of 20 December 1993, <<https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>> (accessed 10 March 2022).

⁷⁹ Concluding Observations, (n 74) p. 4-5.

⁸⁰ Ibid, p. 5-7.

⁸¹ #FightRacism & #FulfillTheDream: UNESCO calls for strong action against racism and discrimination, <<https://en.unesco.org/news/fightracism-fulfillthedream-unesco-calls-strong-action-against-racism-and-discrimination>> (accessed 10 March 2022).

⁸² These included: (SDG) 10 (Reduced Inequalities), 11 (Sustainable Cities and Communities), and 16 (Peace, Justice and Strong Institutions), see generally for the UN Sustainable Development Goals, <<https://sdgs.un.org/goals>> (accessed 10 March 2022).

⁸³ Global call against Racism, UNESCO, 14 December 2020, <<https://en.unesco.org/news/global-call-against-racism>> (accessed 10 March 2020).

⁸⁴ Gov.uk, Implementing the Sustainable Development Goals, <<https://www.gov.uk/government/publications/implementing-the-sustainable-development-goals/implementing-the-sustainable-development-goals--2>> (accessed 10 March 2020).

⁸⁵ What does it mean to leave no one behind? United Nations Development Programme, 9 August 2018, <<https://www.undp.org/publications/what-does-it-mean-leave-no-one-behind>> (accessed 10 March 2022).

⁸⁶ Voluntary National Review of progress towards the Sustainable Development Goals, HM Government of the United Kingdom of Great Britain and Northern Ireland, 2019, stating ‘[t]his commitment to Leave No One Behind reflects the value placed on each and every individual across the world, irrespective of sex, disability, age, race, religion or belief, or sexual orientation,’ p. 26. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/818212/UK_VNR-web-accessible1.pdf> (accessed 10 March 2022). What does it mean to leave no one behind? United Nations Development Programme, 9 August 2018, <<https://www.undp.org/publications/what-does-it-mean-leave-no-one-behind>> (accessed 10 March 2022).

⁸⁷ Sustainable Development Goals data update, UK: December 2021, Office for National Statistics, 3 December 2021,

<<https://www.ons.gov.uk/economy/environmentalaccounts/articles/sustainabledevelopmentgoalstakingstockprogressandpossibilities/december2021>> (accessed 10 March 2022).

⁸⁸ Race Disparity Audit: Summary of Findings from the Ethnicity Facts and Figures website, October 2017, <<https://www.ethnicity-facts-figures.service.gov.uk/static/racedisparity-audit-summary-findings.pdf>> (accessed 10 March 2022).

⁸⁹ Ibid. The Race Disparity Audit includes an assessment of the UK’s SDG targets, <<https://blog.ons.gov.uk/2018/10/25/leaving-no-one-behind-a-blueprint-for-tackling-inequalities/>> For the Race Disparity Unit’s assessment of the SDG targets see, <<https://www.gov.uk/government/publications/sustainable-development-goals-reporting-on-progress-by-ethnicity/sustainable-development-goals-progress-indicators-and-relevant-ethnicity-data>> (assessed 10 March 2022).

⁹⁰ Further states recommended on the general ratification of the international human rights treaties, including: **Uganda** (134.3) ‘Consider ratifying those international human rights instruments that the United Kingdom of Great Britain and Northern Ireland has not yet ratified’; **Belarus** (134.4) ‘Step up the process of reviewing the reservations made to the international human rights treaties’; **Côte d’Ivoire** (134.54) ‘Pursue cooperation with the international human rights mechanisms’; **Serbia** (134.63) ‘Continue to be engaged in open and inclusive public debates on ensuring the most effective domestic implementation of international and regional human rights standards, with full account of universally guaranteed rights and freedoms’, see, Report of the Working Group on the Universal Periodic Review, United Kingdom of Great Britain and Northern Ireland, A/HRC/36/9, 14 July 2017.

⁹¹ For the Commission on Race and Ethnic Disparities, Terms of Reference see, <<https://www.gov.uk/government/publications/terms-of-reference-commission-on-race-and-ethnic-disparities/terms-of-reference-commission-on-race-and-ethnic-disparities>> (accessed 10 March 2022).

⁹² Committee on Race and Ethnic Disparities, The Report, 31 March 2021, p. 8. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974507/2021_0331_-_CRED_Report_-_FINAL_-_Web_Accessible.pdf> (accessed 10 March 2022).

⁹³ Peter Dawson, Director of the Prison Reform Trust, stated, ‘[f]or all its claimed emphasis on following the evidence, this complacent report turns a blind eye to the grossly disproportionate outcomes for Black people both

in prison and on their journey to it,' PRT comment: Commission on Race and Ethnic Disparities, <<http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/1004>> (accessed 10 March 2022).

⁹⁴ Elena Doldor *et al.*, CRED blog series: The Sewell report: A flawed understanding of racial inequalities in employment, Centre for Research in Equality and Diversity, Queen Mary University of London, 6 May 2021, stating:

The recent report by the Commission on Race and Ethnic Disparities (also known as 'the Sewell report') has been widely criticised for denying the significance of systemic, structural and institutional racism and for its misinterpretation of academic research and data across a number of areas including health and education. The Centre for Research in Equality and Diversity of Queen Mary University of London, have provided a review of the methodology and findings of the CRED report in which they 'take issue with the report's faulty and selective interpretation of its own evidence base,' that it included 'misrepresentation of academic research,' as there is 'extensive research on race and ethnicity at work that does not support the reports recommendations.'

<<https://www.qmul.ac.uk/busman/newsandevents/general/items/cred-blog-series-the-sewell-report-a-flawed-understanding-of-racial-inequalities-in-employment-.html>> (accessed 10 March 2022).

⁹⁵ British Medical Association, A missed opportunity BMA response to the Race Report, June 2021, <<https://www.bma.org.uk/media/4276/bma-analysis-of-the-race-report-from-the-commission-on-race-and-ethnic-disparities-june-2021.pdf>> (accessed 10 March 2022).

⁹⁶ Shelter, The Sewell Report: an example of institutional racism, 7 April 2021, <<https://blog.shelter.org.uk/2021/04/the-sewell-report-an-example-of-institutional-racism/>> (accessed 10 March 2022).

⁹⁷ In the Parliamentary debate on the report of the Commission on Race and Ethnic Disparities, Marsha De Cordova (MP for Battersea, Balham and Wandsworth) stated:

Following the Black Lives Matter movement, the commission had an opportunity meaningfully to engage with structural racism in the UK. Instead, it published incoherent, divisive and offensive materials that appear to glorify slavery, downplay the role of institutional and structural racism, and blame ethnic minorities for their own disadvantage. If left unchallenged, the report will undo decades of progress made towards race equality in the UK. Since publication, the report has completely unravelled. Far from bad-faith actors, this report has been discredited by experts, including the British Medical Association, Professor Michael Marmot, trade unions representing over 5 million workers, human rights experts at the UN and Baroness Lawrence, who said it gives a "green light to racists". Its cherry-picking of data is misleading and incoherent, and its conclusions are ideologically motivated and divisive.

Commission on Race and Ethnic Disparities, Hansard, Volume 692: debated on Tuesday 20 April 2021, <<https://hansard.parliament.uk/commons/2021-04-20/debates/1502466F-D06B-402A-B7C0-03452FFB1DA9/CommissionOnRaceAndEthnicDisparities>> (accessed 10 March 2022).

Written Question: Racial Discrimination: UIN 185502, tabled on 21 April 2021 Asked by: Feryal Clark (MP for Enfield North), Question:

To ask the Minister for Women and Equalities, if she will make it her policy to (a) reject the report from the Commission on Race and Ethnic Disparities published on 31 March 2021 and (b) implement the recommendations on race equality included in the (i) 2019 Timpson review of school exclusions, (ii) 2017 McGregor-Smith review of race in the workplace, (iii) 2018 Windrush lessons learned review, (iv) 2017 Angoloni independent review into serious incidents and deaths in custody, (v) 2017 Lammy review on discrimination in the criminal justice system and (vi) 2020 Joint Committee on Human Rights report on Black people, racism and human rights.

<<https://questions-statements.parliament.uk/written-questions/detail/2021-04-21/185502>> (accessed 10 March 2022).

⁹⁸ Answered by Kemi Badenoch, Minister of State (Foreign, Commonwealth and Development Office) (jointly with Department for Levelling Up, Housing and Communities):

The Government will not be rejecting the Commission on Race and Ethnic Disparities' report. The Prime Minister has established a new Inter-Ministerial Group to review the recommendations, and it is now right that the Government considers the report in detail and assesses the implications for future government policy. The Government has responded to previous reviews and a significant number of the recommendations have been implemented; others are underway. The independent Commission's report built on previous reviews in the scope of its work. It makes an important contribution to both the national conversation about race, and our efforts to level up and unite the whole country.

Commission on Race and Ethnic Disparities, Hansard, Volume 692: debated on Tuesday 20 April 2021, <<https://hansard.parliament.uk/commons/2021-04-20/debates/1502466F-D06B-402A-B7C0-03452FFB1DA9/CommissionOnRaceAndEthnicDisparities>> (accessed 10 March 2022).

⁹⁹ EHRC Chair responds to report from Commission on Race and Ethnic Disparities, 31 March 2021, stating, ‘While Britain has made great progress towards race equality in the last 50 years, there is still much more to do. As the report says, we need to find a way to take our successes, learn from them, and apply them to where we need to make further improvements,’ <<https://www.equalityhumanrights.com/en/our-work/news/ehrc-chair-responds-report-commission-race-and-ethnic-disparities>> (accessed 10 March 2022).

¹⁰⁰ UN Experts Condemn UK Commission on Race and Ethnic Disparities Report, Working Group of Experts of People of African Descent, 19 April 2021, <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27004&LangID=E>> (accessed 10 March 2022).

¹⁰¹ Ibid. The experts questioned the CRED reports’ blame for racism in society aimed at single parents and that racism was the product of ‘the imagination of people of African descent,’ and that the reasons for any incidents of racism were located within ‘pessimism,’ ‘linguistic inflation,’ and ‘emotion.’

¹⁰² Report of the Working Group of Experts on People of African Descent on its twelfth session, Mission to the United Kingdom of Great Britain and Northern Ireland, A/HRC/24/52/Add.1, 5 August 2013.

¹⁰³ Concluding Observations (n 74).

¹⁰⁴ Visit to the United Kingdom of Great Britain and Northern Ireland Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, A/HRC/41/54/Add.2, 27 May 2019.

¹⁰⁵ UN Experts Condemn UK Commission on Race and Ethnic Disparities Report (n 100). In rejection of the CRED methodology adopted to produce its findings (which have been affirmed *supra* by the Centre for Research in Equality and Diversity in the area of employment):

In 2021, it is stunning to read a report on race and ethnicity that repackages racist tropes and stereotypes into fact, twisting data and misapplying statistics and studies into conclusory findings and ad hominem attacks on people of African descent.

¹⁰⁶ Ibid.

¹⁰⁷ Jenny Bourne, Sewell: a report for neoliberal times, Institute of Race Relations, 20 April 2021, <<https://irr.org.uk/article/sewell-a-report-for-neoliberal-times/>> (accessed 10 March 2022).

¹⁰⁸ The Runnymede Trust stated, ‘[w]here reviews and reports have highlighted evidence of racism and discrimination in public institutions, the government has been frustratingly slow to implement their recommendations. This includes the Angiolini Review into police deaths in custody (2017), the McGregor-Smith Review into race in the workplace (2017), the Lammy Review on the treatment and outcomes of BME individuals in the criminal justice system (2017), the Windrush Lessons Learned Review in the aftermath of the Windrush scandal (2020) and the Race Disparity Audit (2017) highlighting how BME groups are treated in public services,’ (n 69) p. 3.

¹⁰⁹ See OHCHR Country page, United Kingdom of Great Britain and Northern Ireland, CERD, Art.14 - Individual complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination, <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=185> (accessed 10 March 2022).