

**England Civil Society Submission  
to the United Nations Committee  
on the Elimination of Racial  
Discrimination**

# Runnymede: Intelligence for a Multi-ethnic Britain

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## Acknowledgements

We would like to thank all of those who have contributed to this report. This includes the individuals and organisations who engaged with our written call for evidence and roundtables in England. We consulted over 100 organisations and individuals across England in our roundtables, and over 50 organisations and individuals provided written evidence. Their invaluable contributions informed the content of this report.

We would also like to recognise the support of the Equality and Human Rights Commission for providing the funding to make this report possible.

The Runnymede Trust would like to acknowledge the work of the project co-ordinator and lead author of the report, **Alba Kapoor, Senior Policy Officer at the Runnymede Trust**. We would also like to thank **Halima Begum, Director of the Runnymede Trust**, and other members of the team: **John Page, Nick Treloar, Ishan Alam, Linsey Bholah, Sisanda Myataza** and **Christina Oredoko**. We would also like to give special thanks to **Barbara Cohen**, an independent consultant on this report.

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In writing this report every effort has been made to be as accurate as possible up to 1 May 2021.

ISBN: 978-1-909546-38-7

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# PREFACE

This report provides a civil society perspective to the United Nations Committee on the Elimination of Racial Discrimination (CERD) by examining the situation of race and racism in England. It has been drafted by the Runnymede Trust, following consultation with over 150 civil society organisations (CSOs) working to promote race equality and human rights. We received over 50 written submissions from institutions, CSOs, academics and other individuals in response to the call for evidence for this report.

The Black Lives Matter protests in 2020 demonstrated the urgent need to address glaring racial disparities in the enjoyment of economic, civil and political rights. In England, these protests were set against the backdrop of the Windrush scandal in 2018 and came in the midst of the COVID-19 crisis, which disproportionately impacted BME groups. These urgent developments in racial equality have all arisen over the past five years since the last UK periodic report to CERD.

Our report shows that racism is systemic in England and impacts BME groups' enjoyment of rights. Legislation, institutional practices and society's customs continue to combine to harm BME groups.<sup>1</sup> As a result, in England, BME groups are consistently more likely to live in poverty, to be in low-paid precarious work and to die of COVID-19. Disparities facing BME groups in England are sustained across the areas of health, housing, the criminal justice system, education, employment, immigration and political participation.

We are concerned that the government has failed to address many of CERD's 2016 recommendations since the last periodic review. Over the past five years the situation facing BME communities in England has worsened. Of particular note is the deteriorating health outcomes for BME groups, brought to the fore by the COVID-19 pandemic, as well as increasing disparities in parts of the criminal justice system. We believe that the government's new approach to equalities, as outlined by the Minister for Women and Equalities in December 2020,<sup>2</sup> will fail to improve these outcomes for BME communities and may in fact worsen them. This approach was demonstrated in the government's Commission on Race and Ethnic Disparities, which concluded that Britain was not 'deliberately rigged' against BME people.<sup>3</sup> This conclusion misrepresents the scale and complexity of the issues and stands in stark contrast to the evidence that we have received from CSOs and race equality organisations about the experiences facing BME people in England today, as detailed in this report.

Where 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 deaths in police 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.

We are particularly alarmed by upcoming pieces of legislation, including the upcoming Electoral Integrity Bill, the Police, Crime, Sentencing and Courts Bill, and the government's New Immigration Plan, which we believe pose a threat to the rights of BME groups. Throughout this report, we have urged the government to pay heed to the potentially discriminatory outcomes of this proposed legislation for BME communities.

This report finds the government in breach of numerous articles of the International Convention on the Elimination of Racial Discrimination (ICERD) and that the government has failed to uphold and protect BME communities' enjoyment of economic, civil, social and political rights. Our report offers important recommendations for the government to demonstrate commitment to fulfilling its equality and human rights obligations to BME groups in England, which we hope CERD will endorse.

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<sup>1</sup> Lingayah, S. (2021), [It takes a system](#).

<sup>2</sup> Equality Hub, Government Equalities Office, Social Mobility Commission, Race Disparity Unit and Disability Unit (2020), '[Fight For Fairness](#)' speech to set out government's new approach to equality.

<sup>3</sup> Commission on Race and Ethnic Disparities (2021), [The report of the Commission on Race and Ethnic Disparities](#).

## A note on terminology

Throughout this report we have used the term BME or 'Black and minority ethnic'. However, there are clear deficiencies to this term, in that it fails to recognise the different experiences of specific groups and the inequalities that they face. Where possible, we have ensured that the report refers to specific groups directly impacted in different areas.

# ARTICLE 1: DEFINITION OF DISCRIMINATION

The government's new approach to tackling inequalities was outlined in December 2020 by the Minister for Women and Equalities. It includes a proposal to go 'beyond the narrow focus of protected characteristics as set out in the Equality Act 2010, focusing instead on socio-economic situation and geographic inequalities'.<sup>4</sup> A new Equality Data Programme will support the new approach. Using data to determine where inequality lies and where people are held back, it will seek 'to ensure real inequalities are addressed'.<sup>5</sup>

Leading CSO and race equality organisations have expressed concern that the government's announcement signals a de-prioritisation of racial inequality, and have warned the government not to use this approach to diminish action to tackle structural and institutional racism throughout society.<sup>6</sup>

We argue that a policy approach to equality which deliberately chooses not to focus on elements of the racial discrimination experienced daily by BME people but rather on 'broader inequalities' may well prevent the UK government from complying with its commitments and obligations as a State Party to ICERD under Article 2, in relation to racial discrimination as defined in Article 1(1).<sup>7</sup>

The Government's Commission on Race and Ethnic Disparities demonstrated this new approach to equalities. The Commission was established by the Prime Minister in response to Black Lives Matter protests in 2020, in which people across England joined in public demonstrations against racial injustice.<sup>8</sup> The Commission's report was published in March 2021. A theme promoted throughout the report is that institutional racism is no longer a valid or useful explanation for the various forms of inequality, discrimination, disproportionate disadvantage, restriction or exclusion experienced daily by BME groups. The report selects alternative explanations, including geography and socioeconomic status, but also culture, language and family issues, to obviate the need to consider institutional racism as the underlying cause.

That the Commission has adopted this approach is very worrying in the light of the government's acknowledgement of the existence of institutional racism in its report to CERD in 2016, CERD's own findings, and the work of important government-commissioned reports and reviews on issues of racial equality.<sup>9</sup> The UN Working Group of Experts on People of African Descent released a statement shortly after the Commission published its findings, stating: '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'.<sup>10</sup> The government has not rejected the findings of this Commission, despite calls to do so from leading CSOs as well as from the UN Working Group of Experts on People of African Descent.<sup>11</sup> It has instead signalled its intention to build on its research.<sup>12</sup>

Despite the introduction of the government's Race Disparity Unit in 2017 to publish data on how different BME people are treated in public services, as well as the welcome work of the Ethnicity Facts and Figures website,

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<sup>4</sup> Equality Hub, Government Equalities Office, Social Mobility Commission, Race Disparity Unit and Disability Unit (2020), '[Fight For Fairness](#)' speech to set out government's new approach to equality.

<sup>5</sup> Equality Hub, Government Equalities Office, Social Mobility Commission, Race Disparity Unit and Disability Unit (2020), '[New large-scale data project will get to the heart of disparities](#)'.

<sup>6</sup> Coalition of Race Equality Organisations (2020), '[Letter to the Prime Minister](#)'.

<sup>7</sup> ICERD, Article 1(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.'

<sup>8</sup> Commission on Race and Ethnic Disparities (2021), '[The report of the Commission on Race and Ethnic Disparities](#)'.

<sup>9</sup> Independent experts of the Special Procedures of the United Nations Human Rights Council (2021), '[UN experts condemn UK Commission on Race and Ethnic Disparities report](#)'.

<sup>10</sup> Ibid.

<sup>11</sup> Siddique, H. (2021), '[Boris Johnson urged to reject disingenuous UK race disparities report](#)'.

<sup>12</sup> Minister for Equalities (2021, April 20), '[Commission on Race and Ethnic Disparities](#)'.

there are still glaring gaps in data broken down by race and ethnicity. As highlighted throughout this report, the paucity of available evidence is hindering meaningful policy interventions in the areas of health, education, criminal justice and employment. This includes comprehensive and systematic data collection disaggregated by race and ethnicity on:

- the use of Tasers by the police on both adults and children
- the use of force and restraint by police in custody and deaths in state detention
- bullying in schools on the grounds of race
- BME groups' use of mental health services
- traffic stops made by the police under Section 163 of the Road Traffic Act

### **Recommendations**

- **The UK government must urgently review its approach to equalities and ensure that its laws and policies fully comply with the definition of discrimination under ICERD Article 1.**
- **The UK government must urgently develop and implement a strategy to eliminate racial discrimination and advance race equality across all policy areas based on wide, open-ended, comprehensive consultation with CSOs and communities.**

# ARTICLE 2: DE JURE AND DE FACTO EQUALITY

The Equality Act (2010) consolidated pre-existing anti-discrimination legislation to provide a robust framework for addressing discrimination and promoting equality. The Act protects the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. It echoes ICERD's definition of discrimination under Article 1, by forbidding treatment that has a discriminatory impact even if it is done without intention.

Despite the strength of this legislation on paper, the Equality Act has been weakened by successive governments' failure to bring important provisions into force and deletion of others.<sup>13</sup> In its 2016 Concluding Observations, CERD recommended that the government 'provide effective protections to victims of dual or multiple discrimination' by bringing into legal effect Section 14 of the Equality Act on dual discrimination.<sup>14</sup> Section 14 provides protection for a person who is discriminated against 'because of a combination of two relevant protected characteristics', but it has still not been brought into force. This means that individuals are unable to bring cases of intersectional discrimination to the courts or tribunals, and employers, service providers and public bodies can continue to ignore the complex harm such discrimination causes.<sup>15</sup> Throughout this report, we seek to evidence the impact of intersectional discrimination in BME communities in different contexts. For example, we highlight that disabled BME students face particular barriers in education, especially in relation to school exclusions, and that BME women face specific obstacles in the criminal justice system.

Successive governments have also failed to bring into effect Section 1 of the Equality Act, the public sector duty regarding socioeconomic inequalities. This would require public bodies,<sup>16</sup> including government departments, strategic health authorities, local authorities and police forces, when making strategic decisions about their functions, to 'have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage'.<sup>17</sup>

This socioeconomic duty was commenced in Scotland in 2018 and Wales in March 2021, but it has yet to be brought into effect for people in England. Given the racialised nature of socioeconomic inequalities in England, as a result of which BME people are more likely to live in poverty, we argue that enforcing this duty is vital to eradicating inequalities in accessing public services.

The government has also failed to implement CERD's 2016 recommendation to comply 'without further delay' with Section 9(5) of the Equality Act 2010 to make caste an aspect of race, thereby ensuring that caste-based discrimination is explicitly prohibited under law.<sup>18</sup> In 2017, the government carried out a public consultation after the employment appeal tribunal allowed a woman claiming caste discrimination to proceed on the basis of discrimination because of her ethnic origin. In its consultation the government asked whether legal protection against caste discrimination is better ensured by making it an aspect of race discrimination or by relying on emerging case law; it then chose the case law option.<sup>19</sup> In response to the government's conclusions, the Equality and Human Rights Commission (EHRC) stated that 'the government has missed a crucial opportunity to improve legal clarity and has taken a step back by looking to repeal the duty to include caste as an aspect of race in the

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<sup>13</sup> Equality Act, Section 40(2)–(4), third party harassment; Section 138, obtaining information to bring discrimination claim; deleted by Enterprise and Regulatory Reform Act 2013.

<sup>14</sup> CERD (2016), [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#), paragraph 8b.

<sup>15</sup> Intersectional discrimination is where 'the discrimination involves more than one protected characteristic and it is the unique combination of characteristics that results in discrimination, in such a way that they are completely inseparable'. See Solanke, I. (2011), [Infusing the silos in the Equality Act 2010 with synergy](#).

<sup>16</sup> Listed in Equality Act 2010, Section 1(3).

<sup>17</sup> Equality Act 2010, Section 1(1).

<sup>18</sup> CERD (2016) [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#), paragraph 8a.

<sup>19</sup> Government Equalities Office (2018), [Caste in Great Britain and equality law: A public consultation. Government consultation response](#).

Equality Act 2010'.<sup>20</sup> We share the views of the EHRC; we would emphasise the educational value of explicit statutory coverage for potential victims and perpetrators of caste discrimination – the former to know their rights, the latter their obligations.

## Recommendations

- As recommended in 2016 in the NGOs' Shadow Report and by the Committee in its Concluding Observations, the UK government should proceed without further delay to comply with Section 9(5) of the Equality Act 2010 and make caste an aspect of race under Section 9(1) of that Act, and thereby provide the legal clarity that is needed on this issue.
- The UK government should bring fully into force Section 1 of the Equality Act 2010 – the public sector duty regarding socioeconomic inequalities.
- The UK government should proceed without further delay to bring into force Section 14 of the Equality Act 2010 to provide effective protections to victims of multiple forms of discrimination.

## The public sector equality duty (PSED)

The PSED (Equality Act 2010, Section 149) requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations in the exercise of its functions.<sup>21</sup> The duty applies to a long list of public authorities.<sup>22</sup> This means that public bodies, including government ministers, local councils, governing bodies of schools and universities, NHS hospitals, and the police, must consider the needs of BME groups when carrying out their various functions and developing policies. The PSED also applies to any body that 'exercises public functions',<sup>23</sup> including private or voluntary sector contractors of public authorities – for example, a company contracted to run a prison.

Despite the importance of the PSED in tackling racial inequality and racism within all public sector functions, there have been issues affecting its implementation in England. We are concerned by central government's weak compliance, as well as weak enforcement of the PSED.

The Equality Act was introduced under a Labour government in 2010; it then fell to the Coalition government to use its powers under Section 153 to impose specific duties on bodies subject to the PSED. Section 153 of the Equality Act gives ministers, Welsh ministers and Scottish ministers a power to impose specific duties on a public authority 'for the purpose of enabling the better performance by the authority of the duty imposed by s.149'.<sup>24</sup> In line with the Coalition government's broader deregulation agenda, in the form of its Red Tape Challenge,<sup>25</sup> PSED regulations for central government, national public authorities and local public authorities in England were implemented minimally. In contrast, ministers in Scotland and Wales adopted more rigorous specific duties for their public authorities under Section 153.

This has resulted in weak compliance with the PSED across central government, national public authorities and English local authorities. Notably, the EHRC found that the Home Office had failed to comply with the PSED in its implementation of 'hostile-environment' immigration policies which led to the Windrush scandal in 2018, in which hundreds of Commonwealth citizens who were mostly Black were denied their legal rights by the Home Office.<sup>26</sup>

<sup>20</sup> EHRC (2018), *Caste consultation: Our response to the government statement*.

<sup>21</sup> Equality Act 2010, Section 149.

<sup>22</sup> Equality Act 2010 Schedule 19.

<sup>23</sup> *Ibid.*

<sup>24</sup> Equality Act 2010, Section 153

<sup>25</sup> The Coalition Government included the PSED in its 'Red Tape Challenge' to reduce regulation.

<sup>26</sup> Williams, W. (2020), *Windrush lessons learned review*.

People who had lived and worked in Britain for all or most of their lives were deprived of their livelihoods, made homeless, denied healthcare, detained and deported. The EHRC, in its assessment of whether the Home Office had complied with the PSED in delivering these policies, found that 'equality legislation, designed to prevent an unfair or disproportionate impact on people from ethnic minorities and other groups, was effectively ignored in the creation and delivery of policies that had such profound implications for so many people's lives'.<sup>27</sup> It is extremely concerning that a department at the heart of central government felt no obligation or pressure to comply with its equality duty and therefore proceeded to perpetuate such injustices.

There are no built-in enforcement measures for the PSED. The main form of PSED enforcement has been by applications to the High Court for judicial review brought by individuals or groups affected by proposed or current policies of a public authority which failed to comply with the duty that have, or are likely to have, adverse impact on particular protected groups. While the EHRC can take enforcement action against public authorities that have failed to comply with the PSED, little use has been made of these powers. Between October 2007 and March 2011, the EHRC issued a total of seven compliance notices, all carried over from pre-2010 race and gender equality duties, and conducted nine formal assessments, followed by seven years with no record of either form of PSED enforcement action.<sup>28</sup> This stands in contrast to the Prevent duty, under Part 5 of the Counter-Terrorism and Security Act 2015, which enables the Home Secretary to give directions enforceable by court order to an authority failing to comply with that duty. There is also no statutory code of practice that public authorities would be expected to follow.

## Recommendations

- The UK government should take all appropriate steps to encourage the EHRC to use its powers to secure greater compliance with the PSED.
- As a means to increase compliance with the PSED across local and national public authorities, the UK government should amend the Equality Act 2010 to make it a responsibility of every regulatory body with a duty to inspect and monitor the performance of a public authority, or of a person carrying out public functions under contractual or similar arrangements with a public authority, to inspect and monitor the performance of their duties under Section 149, the PSED.<sup>29</sup>
- The UK government should use its powers under Section 153 of the Equality Act 2010 to impose a specific duty on English local authorities and national public authorities to assess the impact or likely impact on race equality of proposed policies, and to publish the results of such assessments and actions taken in response, including any justification for adopting a policy despite it having been assessed as potentially racially discriminatory.

## Incorporating ICERD into law

In 2016, CERD requested that the 'State party reconsider its position so that the Convention can be more readily invoked in the domestic courts'.<sup>30</sup> ICERD is still not incorporated into English domestic law nor does a right of individual petition arise from any breach of the Convention. While English courts will consider ICERD, there is no statutory requirement to do so.

<sup>27</sup> EHRC (2020), [Home Office failed to comply with equality law when implementing 'hostile environment' measures](#).

<sup>28</sup> Response by EHRC to Freedom of Information request, 25/10/2013; the EHRC did not serve a compliance notice on the Home Office despite finding breach of the PSED (see above) but instead recommended entering into an agreement to implement an action plan.

<sup>29</sup> The regulatory bodies to which this would apply include the National Audit Office, OFSTED, the Care Quality Commission, HM Inspectorate of Prisons and HM Inspectorate of Police and Fire & Rescue Services.

<sup>30</sup> CERD (2016) [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#), paragraph 10.

NGOs again recommend, as we did in our 2016 Shadow Report, that the government should introduce legislation requiring courts to consider provisions of ICERD whenever such provisions may be relevant to any questions arising in proceedings.

## Independent Human Rights Act Review (IHRAR)

The Conservative Party pledged to ‘update the Human Rights Act’ in its 2019 manifesto,<sup>31</sup> and in December 2020 it launched the Independent Human Rights Act Review (IHRAR). The IHRAR will examine the framework of the Human Rights Act (HRA), including the ‘relationship between domestic courts and the European Court of Human Rights (ECtHR)’, and ‘the impact of the HRA on the relationship between the judiciary, the executive and the legislature’.<sup>32</sup> Since its enactment in 1998, the HRA has given domestic effect to the rights guaranteed under the European Convention on Human Rights (ECHR), allowing individuals to assert their rights directly in UK courts. The HRA has had an important role in progressing racial equality by guaranteeing that human rights and fundamental freedoms are protected and applied without discrimination. The Act provides important protections for asylum seekers and refugees, who are particularly vulnerable to human rights violations. We echo the concerns of CSOs that the IHRAR does not seek evidence of the positive impact of the HRA, its value and its importance.<sup>33</sup> Instead, it focuses on evidence about technical aspects of the HRA.

### Recommendation

- The UK government should use its review of the Human Rights Act to affirm the Act’s importance and value, and to maintain fully the Human Rights Act guarantee of ECHR rights in the UK and the role of UK courts in upholding those rights.

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<sup>31</sup> Conservatives (2019), *Our plan: Conservative manifesto 2019*.

<sup>32</sup> Ministry of Justice (2020), *Independent Human Rights Act review*.

<sup>33</sup> INQUEST (2021), *INQUEST highlight the crucial role of the Human Rights Act in investigating deaths and achieving justice*.

# ARTICLE 4: RACISM IN THE MEDIA AND ONLINE

CERD's Concluding Observations (2016) expressed concern about 'negative portrayal of ethnic or ethno-religious minority communities, immigrants, asylum seekers and refugees by the media in the [UK]' and that Gypsy Roma and Traveller communities are 'subject to negative stereotypes and stigmatisation in the media'.<sup>34</sup> Media coverage and portrayal of BME groups, migrants and refugees has not improved since the last periodical examination and remains a cause for serious concern.

## Media and incitement to racial hatred

There is a continued concern about the media's role in producing Islamophobic content.<sup>35</sup> Almost three-quarters of respondents to a 2019 survey by the Muslim Council of Britain identified the media's portrayal of Muslims as the most important factor driving Islamophobia.<sup>36</sup> In 2019 the outgoing chair of the Independent Press Standards Organisation (IPSO), the regulator of most of the UK's newspapers and magazines, Sir Alan Moses, admitted that the portrayal of Islam and Muslims has been 'the most difficult issue' facing the press watchdog over the previous five years.<sup>37</sup>

In a study of media coverage of Muslims in 2018, an analysis of over 200,000 newspaper articles mentioning Islam or Muslims found 'Islam' and 'terror' mentioned together in more than one-third.<sup>38</sup> Conversely, when reporting extremist acts committed by terrorists who are not Muslim, the media more often invokes their experience of trauma such as mental illness and substance abuse.

The continued inflammatory language used in relation to BME communities has a disturbing role in legitimising the prejudice and hate of perpetrators of racist violence. In the context of rising hate crime against Muslims over the past five years,<sup>39</sup> we are concerned that misrepresentative reporting of Muslims and Islam has embedded far-right tropes and conspiracy theories in the public consciousness. For example:

- over half of the public (56 per cent) agree that 'Islam poses a serious threat to Western civilisation'<sup>40</sup>
- 32 per cent believe that there are 'no-go areas in Britain where Sharia law dominates and non-Muslims cannot enter'<sup>41</sup>
- 35 per cent of people think 'Islam is generally a threat to the British way of life'<sup>42</sup>

Alongside this, Gypsy, Roma and Traveller communities receive persistent negative portrayals and hostile coverage by the media in England. These portrayals impact the treatment of Gypsy, Roma and Traveller groups by wider society and can incite racial hatred. A recent programme, 'Dispatches: The Truth about Traveller Crime', aired by Channel 4 in 2020, resulted in a spike in online hate speech.<sup>43</sup> The programme led to over a thousand complaints to broadcast regulator Ofcom, which has not disclosed the outcome of its investigation.<sup>44</sup>

<sup>34</sup> CERD (2016) Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland, paragraphs 15 and 24.

<sup>35</sup> Waterson, J. (2019), Most UK news coverage of Muslims is negative, major study finds.

<sup>36</sup> Centre for Media Monitoring (2020), Submission of evidence to the Lords Select Committee on the Future of Journalism.

<sup>37</sup> The Financial Times (2019), Muslims treated differently by newspapers, says press watchdog.

<sup>38</sup> Centre for Media Monitoring (2018), How the British media reports on terrorism.

<sup>39</sup> Home Office (2020) Hate crime, England and Wales, 2019 to 2020.

<sup>40</sup> Ipsos (2018), A review of survey research on Muslims in Britain.

<sup>41</sup> Dearden, L. (2018), Third of British people wrongly believe there are Muslim 'no-go areas' in UK governed by sharia law.

<sup>42</sup> Perraudin, F. (2019), Third of Britons believe Islam threatens British way of life, says report.

<sup>43</sup> Greenfields, M. and Rogers, C. (2020), Hate: 'As regular as rain'. A pilot research project into the psychological effects of hate crime on Gypsy, Traveller and Roma (GTR) communities.

<sup>44</sup> Travellers Times (2020), Pressure mounts on Ch4 after Truth about Traveller Crime complaints set to be investigated by Ofcom.

CERD's 2016 Concluding Observations noted that the 'State Party' should 'take effective measures to combat racist media coverage ... and ensure that such cases are thoroughly investigated and, where appropriate, sanctions are imposed'.<sup>45</sup> Despite this, no system has been put in place to combat racist media coverage, and the print media continues to self-regulate through IPSO. The IPSO Editor's Code of Practice does not cover complaints against a group of people:<sup>46</sup> Clause 12 declares that the press 'must avoid prejudicial or pejorative reference to an individual's race, colour, religions, sex, gender identity', but this does not cover generalised remarks about groups of people.<sup>47</sup>

## Recommendations

- The UK government should ensure that there are effective sources of support and advice easily available for anyone who experiences racial discrimination or harassment or racial hatred from any section of the media.
- The UK government, with the EHRC, should open discussions with representatives of the print, broadcasting and digital media about the harm caused to an individual by negative or hostile media comment or portrayal of a racial or religious group of which that individual is, or is perceived to be, a member, with a view to agreeing measures for media organisations to adopt to prevent such harm.

## Ethnic diversity in journalism

A study conducted by the City University in 2016 found that 94 per cent of journalists in the UK are white.<sup>48</sup> Moreover, British Muslims are significantly under-represented in journalism; only 0.4 per cent of journalists are Muslim, compared with nearly 5 per cent of the population.<sup>49</sup> We are concerned that the under-representation of BME groups in journalism will feed into inaccurate reporting about minority groups.<sup>50</sup>

## Online hate speech

BME people are far more likely to be targeted by, and exposed to, online abuse than white and Asian people.<sup>51</sup> A 2019 study carried out by the Alan Turing Institute found that 41 per cent of Black people had received obscene or abusive emails in the UK. This contrasts with just 8 per cent of white people.<sup>52</sup>

Protection against racism extends to the online domain, and incitement to racial and religious hatred is illegal regardless of the medium through which it is expressed. This means that online hate speech can be prosecuted under existing hate crime legislation (mainly the Public Order Act 1986). However, this is inadequate to prosecute those who perpetrate hate through social media platforms, because the legislation was adopted before the mainstream use social media.<sup>53</sup> Social media can provide platforms for hate speech and incitement to hatred and has been used extensively by far-right groups to propagate racist ideas.<sup>54</sup> Work is therefore needed in collaboration with such social media companies as well as the government to reduce online hate.

<sup>45</sup> CERD (2016), *Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland*, paragraph 16.

<sup>46</sup> IPSO (2021), *Editors' Code of Practice*.

<sup>47</sup> *Ibid.*

<sup>48</sup> Thurman, N., Cornia, A. and Kunert J. (2016), *Journalists in the UK*.

<sup>49</sup> Spilsbury, M. (2017), *Diversity in journalism*.

<sup>50</sup> Cobb, J. (2018), *When newsrooms are dominated by white people, they miss crucial facts*.

<sup>51</sup> Alan Turing Institute (2019), *How much online abuse is there?*

<sup>52</sup> *Ibid.*

<sup>53</sup> Home Affairs Select Committee (2017), *Hate and abuse on social media*.

<sup>54</sup> Alan Turing Institute (2021), *Understanding online hate: VSP regulation and the broader context*.

## Recommendation

- The UK government should engage directly with social media platforms to develop tools and agree on a strategy to tackle the incitement of racial hatred online.

# ARTICLE 5: POLITICAL, CIVIL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS

## Hate crime

In its Concluding Observations in 2016, CERD ‘remained concerned that despite the recent increase in the reporting of hate crimes, the problem of underreporting persists, and the gap between reported cases and successful prosecution remains significant’.<sup>55</sup>

In 2016, the government introduced its Hate Crime Action Plan for England and Wales, a four-year programme.<sup>56</sup> The plan pledged to respond to hate crime where it is happening most in our communities, as well as to tackle the gap between reported cases and prosecutions.<sup>57</sup> However, between 2013 and 2019 the number of police-recorded hate crimes in England and Wales more than doubled.<sup>58</sup> The police recorded over 76,000 racial hate crimes in the year ending March 2020 – a 6 per cent increase from the previous year.<sup>59</sup> Research by NSPCC found a rise in race hate crime against children since 2015/16, with over 10,500 such crimes in 2017?18 and reports of children whitening their skin to avoid bullying and racial abuse in school.<sup>60</sup> Alongside this, there is evidence that hate crime is significantly under-reported to the police, and that there is a widening gap between reported cases and prosecutions. Less than 1 in 10 hate crimes in England and Wales were prosecuted in 2018/19, with the prosecution rate having fallen since 2013.<sup>61</sup>

We are particularly concerned that from 2017 to 2020, Muslims were consistently the victims of half or nearly half of all religiously motivated hate crimes in England and Wales.<sup>62</sup> The risk of being a victim of personal hate crime in 2017–2020, as estimated by the Crime Survey for England and Wales, was highest for those of Muslim religion, affecting 0.7 per cent of Muslims compared with 0.1 per cent of Christian respondents.<sup>63</sup>

Police forces in England and Wales continue to fail to record data about hate crime victims accurately and comprehensively.<sup>64</sup> This means that despite recommendations from the Committee to do so, police data recorded in relation to hate crimes is not being disaggregated by protected characteristics. Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) has raised concern that this ‘has serious implications for forces in terms of their ability to understand hate crime and how it affects victims and their communities, and then respond appropriately’.<sup>65</sup> Indeed, the inspectorate found that of 7,796 religiously motivated crimes recorded, the religion of the victim had been recorded as ‘unknown’ on almost a third (29 per cent) of occasions.<sup>66</sup>

### Recommendations

- **The UK government should prosecute and punish perpetrators of hate crime and ensure that sentences reflect the gravity of the offences.**

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<sup>55</sup> CERD (2016), *Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland*, paragraph 16.

<sup>56</sup> Home Office, Ministry of Housing, Communities and Local Government and Ministry of Justice (2016), *Hate crime action plan 2016 to 2020*.

<sup>57</sup> *Ibid.*

<sup>58</sup> Home Office (2020), *Hate crime, England and Wales, 2019 to 2020*.

<sup>59</sup> *Ibid.*

<sup>60</sup> NSPCC (2019), *Race hate crimes against children reach 3 year high*.

<sup>61</sup> Dearden, L. (2019), *Less than one in 10 hate crimes prosecuted despite record attacks*.

<sup>62</sup> Home Office (2020), *Hate crime, England and Wales, 2019 to 2020*.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> HMICFRS (2018), *Understanding the difference: the initial police response to hate crime*.

<sup>66</sup> *Ibid.*

- The UK government should ensure that there is a robust reporting system in place to deal with the evident rising levels of religious and race hate crime against minority individuals and groups.
- The UK government should ensure that anyone reporting hate crimes feels safe doing so and able to trust that their experience will be taken seriously by officials and the police.
- The UK government should ensure that intersectional data on victims of hate crime is systematically collected.

## Rise in hate crime following the Brexit referendum

There has been a steady rise in hate crime against BME groups since the 2016 United Kingdom European Union membership referendum. The number of racially or religiously aggravated offences in England and Wales was 41 per cent more in the month following the referendum result than in the same month the previous year.<sup>67</sup> The failure to address social fractures in the wake of the referendum has had a damaging impact on BME communities.<sup>68</sup>

In the academic year following the EU referendum, hate crimes in and around schools and colleges increased dramatically. A study led by the University of Strathclyde found that 77 per cent of Eastern European pupils had experienced increased racism, bullying and xenophobia, and 49 per cent of these pupils reported that attacks had become more frequent since the EU referendum.<sup>69</sup>

## Antisemitism

There has been a disturbing rise in antisemitic hate crime in the UK since 2016. The Community Security Trust recorded 1,668 antisemitic incidents in 2020, the third-highest total that it has ever recorded in a single year in the UK.<sup>70</sup> Of these incidents, 72 were of damage to Jewish property.<sup>71</sup> Recent instances include antisemitic graffiti on a prominent synagogue and shops in London.<sup>72</sup>

Despite the increase in recorded attacks, more than three-quarters of British Jews believe that politicians do not do enough to protect the UK's Jewish community.<sup>73</sup> Following an attack on a rabbi in North London, the chairman of Shomrim, a neighbourhood watch group that monitors antisemitic hate crime, criticised the lack of 'appropriate action' against antisemitism.<sup>74</sup>

The continued prevalence of antisemitic views among UK adults is deeply concerning. A poll released in 2021 found that more than half of people in the UK hold antisemitic views, and 11 per cent of respondents believed that Jews 'have too much power in the media'.<sup>75</sup> As a result of the threat of antisemitism, half of British Jews will not display public signs of Judaism, such as a kippah – the highest figure since 2016.<sup>76</sup>

## Recommendation

- The UK government should include robust measures in its next Hate Crime Action Plan to tackle the rise of antisemitic hate crime in the UK.

<sup>67</sup> BBC News (2016), [Race and religious hate crimes rose 41 per cent after EU vote](#).

<sup>68</sup> Protection Approaches (2021), written submission.

<sup>69</sup> Weale, S. (2019), [Xenophobic bullying souring lives of eastern European pupils in UK](#).

<sup>70</sup> Community Security Trust (2021), [Antisemitic incidents: Report 2020](#).

<sup>71</sup> Ibid.

<sup>72</sup> Stubbley, P. (2021), ['Sickening' antisemitic graffiti on synagogue and shops in London investigated by the police](#).

<sup>73</sup> Ibid.

<sup>74</sup> Weaver, M. (2019), [Police criticised over response to attack on rabbi in North London](#).

<sup>75</sup> Campaign Against Antisemitism (2021), [Antisemitism barometer 2020](#).

<sup>76</sup> Ibid.

## COVID-19 and hate crime towards East and South-East Asian communities

There has been a rise in incidents of hate crimes against British Chinese and East and South-East Asian (ESEA)<sup>77</sup> communities during the COVID-19 pandemic. At the beginning of the pandemic, Ipsos Mori found that one in seven people in the UK intentionally avoided 'people of Chinese origin or appearance'.<sup>78</sup> At that time, the UN Special Rapporteur on minority issues raised concerns about the role of politicians in exploiting fears surrounding COVID-19 to scapegoat communities, particularly Chinese and other ESEA communities, leading to a rise in violence against them.<sup>79</sup> Data from the London Metropolitan Police also shows that hate crimes towards ESEA communities tripled in the first quarter of 2020 and doubled in the second quarter compared with previous years.<sup>80</sup>

### Recommendation

- The UK government should undertake an inquiry into the response of the police to hate crime against Chinese, East and South-East Asian communities in England and Wales, including investigation of the offences involved, prosecutions and outcomes of prosecutions, quality of support for victims, and effectiveness of any preventative measures undertaken.

## Hate crime facing Gypsies, Roma and Travellers

Gypsies, Roma and Travellers experience high levels of discrimination. A survey conducted by the Traveller Movement in 2017 of over 200 community members in the UK found that more than three-quarters of Gypsies, Roma and Travellers had experienced a hate crime, but only one in five sought help.<sup>81</sup> The report cites widespread mistrust of the police as well as the pervasiveness of racism that they face as underlying reasons why hate crime remains so under-reported among Gypsies, Roma and Travellers. The EHRC's report on prejudice and discrimination in Britain found that almost half of people it surveyed expressed openly negative feelings towards Gypsies, Roma and Travellers.<sup>82</sup>

Furthermore, politicians are frequently the source of discriminatory or racist abuse against Gypsy, Roma and Traveller communities. There have been disturbing instances of politicians referring to Gypsies, Roma and Travellers in the House of Commons as an 'invasion' or like 'a disease'.<sup>83</sup> This rhetoric serves to dehumanise and create a hostile environment for Gypsies, Roma and Travellers.<sup>84</sup>

### Recommendations

- The UK government should include robust measures in its next Hate Crime Action Plan to prevent hate crimes against Gypsy, Roma and Traveller communities and to provide appropriate support for victims of such crimes.
- The UK government should include a definition of anti-Gypsyism in its next Hate Crime Action Plan.

<sup>77</sup> Ng, K. (2021), *How British east and southeast Asians are fighting racism during the pandemic*.

<sup>78</sup> Ipsos MORI (2020), *One in seven people would avoid people of Chinese origin or appearance*.

<sup>79</sup> UN Special Rapporteur on minority issues (2020), *COVID-19 fears should not be exploited to attack and exclude minorities – UN expert*.

<sup>80</sup> London Metropolitan Police (2020), *COVID-19 dashboard*.

<sup>81</sup> The Traveller Movement (2017), *The last acceptable form of racism? The pervasive discrimination and prejudice experienced by Gypsy, Roma and Traveller communities*.

<sup>82</sup> Abrams, D., Swift, H. and Houston, D. (2018), *Developing a national barometer of prejudice and discrimination in Britain*.

<sup>83</sup> Mohdin, A. (2019), *UK politicians accused of racist rhetoric against Travellers*.

<sup>84</sup> The Traveller Movement (2019), *Written evidence from the Traveller Movement*.

## Criminal justice

BME groups continue to be over-represented at every level of the criminal justice system, except in enforcement, including targeting by the police, prison numbers and the youth secure estate. A recent survey conducted by the Parliamentary Joint Committee on Human Rights found that 85 per cent of Black people in the UK do not believe that they would be treated the same as a white person by the police.<sup>85</sup> Of particular concern is the over-representation of BME groups in the youth criminal justice system and the government's proposed Police, Crime, Sentencing and Courts Bill.

The government commissioned the Lammy Review in 2017 to explore the treatment of, and outcomes for, BME groups in the criminal justice system. Its key findings included that BME men and women made up 25 per cent of prisoners, while over 40 per cent of young people in custody were from BME backgrounds despite making up only 14 per cent of the population.<sup>86</sup> The review highlights that 'there is greater disproportionality in the number of Black people in prisons here [across England and Wales] than in the United States'.<sup>87</sup>

## Stop and Search under the Police and Criminal Evidence Act (PACE)

Calls to address racial disparities in the exercise of police stop and search powers have been made as part of the Stephen Lawrence Inquiry (1999) and the Lammy Review (2017) and by the EHRC. CERD, in its 2016 Concluding Observations, expressed concern that "'stop and search" powers continue to have a disproportionate impact on persons belonging to ethnic minorities, especially young men'. This echoed similar concerns expressed in CERD's Concluding Observations in 2011 and 2003. In 2016, CERD recommended that the government 'regularly review the impact of stop and search powers on persons belonging to visible ethnic minority groups, and take effective measures to ensure that such powers are used in a lawful, non-arbitrary and non-discriminatory manner on the basis of reasonable suspicion, with rigorous monitoring and review mechanisms'.<sup>88</sup>

Home Office figures for 2019/20 reveal that the use of stop and search in England and Wales had increased for a second consecutive year from a low in 2017/18.<sup>89</sup> Members of BME groups were more than four times more likely to be stopped than members of a white ethnic group.<sup>90</sup> Disproportionality was particularly acute for Black people, who remain nine times more likely to be stopped and searched than their white counterparts.<sup>91</sup> Over three-quarters of searches in 2019/20 resulted in no further action – 3 per cent more than in 2018/19.<sup>92</sup> HMICFRS commented that the persistent disproportionality of stop and search is seen as discriminatory and undermines trust in the police force among BME communities, as well as policing legitimacy.<sup>93</sup>

Notably, almost two-thirds of all searches carried out in 2019/20 were for drugs. This is an important part of the reason for the disproportionality in stop and search, given that drug laws are often 'imposed most harshly against ethnic minority communities, despite prevalence rates among these groups being no higher than among the white population'.<sup>94</sup> Recent analysis shows that Black people are 12 times more likely than white to be prosecuted for cannabis possession in England and Wales.<sup>95</sup>

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<sup>85</sup> Joint Committee on Human Rights (2020), [Black people, racism and human rights: Eleventh report of session 2019–21](#).

<sup>86</sup> Lammy, D. (2017), [The Lammy Review](#).

<sup>87</sup> *Ibid.*

<sup>88</sup> CERD (2016), [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#), paragraph 27.

<sup>89</sup> Home Office (2020), [Police powers and procedures, England and Wales](#).

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

<sup>93</sup> HMICFRS (2021), [Disproportionate use of police powers: A spotlight on stop and search and the use of force](#).

<sup>94</sup> Eastwood, N., Fox, E. and Rosmarin, A. (2016), [A quiet revolution: Drug decriminalisation across the globe](#).

<sup>95</sup> White, N. (2021), [Black people 12 times more likely to be prosecuted for cannabis, new analysis shows](#).

## Stop and search under Section 60

Under Section 60 of the Criminal Justice and Public Order Act (CJPO) 1994, the police are given a wide power to search any person or vehicle for offensive weapons within an authorised area and specified time period without any grounds for suspicion. Black people are around 18 times more likely to be searched under Section 60 than their white counterparts.<sup>96</sup> In 2019/ 20 there were 18,081 Section 60 searches, with only 3.7 per cent succeeding in finding offensive weapons.<sup>97</sup> These glaring racial disparities, coupled with the extremely low success rate of searches, highlights the discriminatory impact of blunt and ineffective Section 60 powers.

In 2014 the government introduced the voluntary Best Use of Stop and Search Scheme (BUSSS), which aimed to reduce the number of Section 60 stops and searches by setting more rigorous conditions than required under Section 60, as well as to increase the transparency and accountability of Section 60 searches.<sup>98</sup> While arrest rates following Section 60 searches halved for white people, they remained the same for Black people, highlighting that efforts to reform stop and search do not on their own address racial disparities.<sup>99</sup>

In August 2019 the Home Office, wanting to boost the number of Section 60 searches, relaxed the more rigorous BUSSS requirements for authorisations.<sup>100</sup> In its own equality impact assessment, the Home Office confirmed that this would have an adverse impact on BME communities and would 'pose the risk of magnifying any residual levels of discrimination in the use of this power'.<sup>101</sup> Nevertheless, the relaxing of these controls went ahead, without public consultation or publication of the evaluation of the initial pilot stage.

### Recommendations

- In light of the very low 'success' rate of stop and search under Section 60, weighed against the negative impact on community trust in the police of the extreme disproportionality in its use against Black people, the UK government should repeal Section 60 of the Criminal Justice and Public Order Act 1994.
- Until Section 60 is repealed, the UK government should ensure that use of Section 60 powers should be subject to consistent enforcement of legal standards and regular inspection.

## Data collection on use of stop and search

There is a persistent lack of accurate and consistent data collection broken down by ethnicity in relation to the use of stop and search powers in England. HMICFRS highlights that 'a failure to record ethnicity data in an increasing proportion of records is hiding the true disproportionality rate. This means that some forces are not able to see the full picture.'<sup>102</sup>

Of particular concern is the absence of any requirement to monitor traffic stops by the police under Section 163 of the Road Traffic Act (1988), in which the ethnicity of the driver is rarely recorded.

### Recommendation

- The UK government must urgently act to ensure that traffic stops under Section 163 are monitored and recorded in the same way as the use of other stop and search powers.

<sup>96</sup> Home Office (2020), *Police powers and procedures, England and Wales*.

<sup>97</sup> Ibid.

<sup>98</sup> House of Commons Library (2021), *Stop-and-search powers: Extension of 'no-suspicion' searches*.

<sup>99</sup> Shiner, M., Carre, Z., Delsol, R. and Eastwood, N. (2018), *The colour of injustice: Race, drugs and law enforcement in England and Wales*.

<sup>100</sup> House of Commons Library (2021), *Stop-and-search powers: Extension of 'no-suspicion' searches*.

<sup>101</sup> Home Office (2019), *Equality impact assessment: Relaxation of Section 60 conditions in the Best Use of Stop and Search Scheme*.

<sup>102</sup> HMICFRS (2021), *Disproportionate use of police powers: A spotlight on stop and search and the use of force*.

## Serious Violence Reduction Orders: A new stop and search power

As part of the Police, Crime, Sentencing and Courts Bill introduced to parliament in March 2021, the government proposes a new stop and search power which has profoundly worrying implications for BME groups. A Serious Violence Reduction Order (SVRO) is a civil order by a judge empowering the police to stop and search a person who has previously been sentenced for an offence of violence involving a weapon, once they have been released. During the period of the order (six months up to two years) the police can, without any grounds for suspicion, stop and search the ex-offender for a knife or other weapon at any time or place using reasonable force. It will be an offence if the ex-offender fails to provide required information or obstructs the stop and search, punishable by up to two years' imprisonment.

In its own consultation document, the government acknowledged that Black people are more likely to be sentenced for knife or weapon offences, and the racial disparities under existing stop and search powers.<sup>103</sup> Not surprisingly, we expect that these measures will create new, even wider racial disparities and further undermine BME communities' trust in the police. What SVROs will involve in practice is an extension of punishment based on offending history that will operate disproportionately against BME people, adding a period during which, on any day, without any reason, they can be stopped and searched by the police.

The Bill specifies that SVROs should come into force in one pilot area only. This should provide an opportunity to scrutinise the impact on basic requirements of justice and on BME groups.

### Recommendations

- The UK government should ensure that all agencies in the criminal justice system monitor and record ethnicity consistent with the categories included in the 2021 Census.
- The UK government should remove provisions for SVROs from the Police, Crime, Sentencing and Courts Bill.
- The UK government should ensure mandatory recording of all encounters with members of Gypsy, Roma and Traveller communities by all English police forces and other criminal justice agencies, in order to take effective action to reduce the disparate treatment these communities receive.

## Police powers under coronavirus legislation

Increased police powers introduced via COVID-19 regulations since March 2020 have had a disproportionate impact on BME groups and Black young men in particular.<sup>104</sup> The main police power is to issue a fine for breach of current regulations in the form of a fixed penalty notice (FPN). FPNs have been issued for failing to stay at home without a reasonable excuse, meeting with someone socially, taking part in a gathering or organising a gathering of more than 30 people, not wearing a face mask on public transport or in shops, or breaching a requirement to quarantine for a fixed period.

Between 27 March 2020 and 14 February 2021, police issued 68,952 FPNs in England and Wales (63,201 in England, 5751 in Wales).<sup>105</sup> After a slow start, the National Police Chiefs Council began to produce data on the ethnicities of people being fined. A basic flaw in the police data is that ethnicity was not recorded in up to a quarter of all fines. Nevertheless, it was clear in relation to all fines for breach of all types of rules that BME people across England were disproportionately more likely to be fined than white people, with wide local variations

<sup>103</sup>Home Office (2021), [Summary of consultation responses and conclusion](#).

<sup>104</sup>These regulations include Schedule 21 of the Coronavirus Act (2020), which gives police the power to assist in the prevention of the spread of coronavirus by enforcing that potentially infectious persons must attend or remain in designated places, and powers under the long and changing list of regulations giving legal force to the Government's rules, made under the Public Health (Control of Disease) Act of 1984.

<sup>105</sup>NSPCC (2021), [Update on coronavirus FPNs issues by police](#).

reflecting both different police responses to COVID-19 and different-sized BME populations.<sup>106</sup> We are disturbed to see entrenched disproportionalities in the criminal justice system playing out in enforcement of emergency COVID-19 legislation.

### Recommendation

- **The government must immediately introduce an urgent review of COVID-19-related fixed penalty notices, given the disproportionality facing BME groups.**

## Use of Tasers

Tasers continue to be rolled out to more officers in the country, and their use is becoming more common. The use of Tasers by police forces across England and Wales has increased by more than 500 per cent over the last decade, up from 3573 incidents in 2009/10 to 23,451 in 2018/19.<sup>107</sup> In 2018/19, Black people were subject to the use of Tasers by police in England and Wales at almost eight times the rate of white people.<sup>108</sup> The failure to address this racial disparity prompted representatives of several human rights groups – including Liberty, INQUEST, StopWatch and the Open Society – to announce their resignation from the National Taser Stakeholder Advisory Group (NTSAG) in March 2020.<sup>109</sup>

The use of Tasers on children was raised as a particular concern by the UN Committee on the Rights of the Child,<sup>110</sup> which stated that it must be prohibited because of the impact on their physical and mental health. Between January and October 2019, there were 1009 uses of Tasers on children by the Metropolitan Police Service, with nearly 74 per cent used against BME children.<sup>111</sup> These statistics urgently need more scrutiny and in-depth consideration, but the Home Office has so far failed to provide data on Taser use against children and adults broken down by ethnicity, age and reason for use.

Despite evidence of the harm caused by the disproportionate use of Tasers against BME groups, in 2019 the government announced plans to provide a £10 million Taser uplift for officers, aiming to ‘significantly increase the number of officers carrying the devices in England and Wales’.<sup>112</sup> The extra funding enables 10,000 more officers to carry Tasers.<sup>113</sup>

### Recommendations

- **The UK government should prohibit all use of harmful devices, including the use of Tasers, on children.**
- **To give members of the public an accurate picture of police forces’ use of Tasers, the UK government should require data on their use to be published, both nationally and by police force, disaggregated by ethnicity, age, and reason for use and outcome.**
- **The UK government should ensure that the Independent Office for Police Conduct increases its oversight of the use of Tasers, and that mayors and Police and Crime Commissioners more thoroughly scrutinise the use of Tasers locally, drawing attention to any disproportionate use against BME groups and people with mental health issues.**

<sup>106</sup> Ibid.

<sup>107</sup> Home Office (2019), *Police use of force statistics, England and Wales, April 2018 to March 2019*.

<sup>108</sup> Ibid.

<sup>109</sup> Busby, M. (2020), *Rights groups quit police body over stun gun use against BAME people*.

<sup>110</sup> UN Committee on the Rights of the Child (2016), *Convention on the rights of the child*, paragraph 40.

<sup>111</sup> Children’s Rights Alliance for England (2020), *Tasers and children’s rights*.

<sup>112</sup> Home Office (2019), *Home Office announces £10 million for Taser uplift*.

<sup>113</sup> Ibid.

## Deaths and use of force in custody

Analysis by the charity INQUEST, which monitors state-related deaths, shows that BME people die disproportionately as a result of use of restraint or force by police, raising important questions about the role of racism and discrimination in relation to their deaths. Indeed, the number of BME deaths in custody where use of force is a feature is two times greater than that of other deaths in custody where force was used.<sup>114</sup> Alongside this, not one police officer in England and Wales has been found guilty of murder or manslaughter following a death in custody or after police contact since INQUEST started recording in 1990.<sup>115</sup>

In 2018, a group of UN human rights experts expressed serious concerns about the death in custody in the UK of a disproportionate number of people of African descent as a result of excessive force by state security, stating that this disproportionality 'reinforce[s] the experiences of structural racism, over-policing and criminalisation of people of African descent and other minorities in the UK'.<sup>116</sup> They emphasised that 'people of African descent with psychosocial disabilities and those experiencing severe mental or emotional distress reportedly face multiple forms of discrimination and are particularly affected by excessive use of force'.<sup>117</sup>

This echoes findings that the number of BME deaths in custody where mental health-related issues are a feature is nearly two times greater than that of other deaths in custody involving mental health issues,<sup>118</sup> and analysis of the INQUEST's cases which shows that Black people, in particular, in mental distress are subject to negative imagery and stereotyping. Urgent attention must be paid to the double discrimination facing BME people, and Black people in particular, with mental distress in relation to deaths in custody.

Dame Angiolini published her Independent Review of Deaths and Serious Incidents in Police Custody in 2017. The review stated that 'deaths of people from BAME communities, in particular young Black men, resonate with the Black community's experience of systemic racism, and reflect wider concerns about discriminatory over-policing, stop and search, and criminalisation'.<sup>119</sup> The review called on the government to implement several important recommendations to reduce the disparities, many of which are yet to be implemented.

The review specifically recommended that the IPCC (now replaced by the IOPC, the Independent Office for Police Conduct) must monitor correlations between (1) ethnicity and restraint-related deaths and (2) the use of force and ethnicity and mental health, and that data on these variables must be collected consistently across all police forces. It concluded that only in this way 'can police forces have more confidence that their use of force and restraint is proportionate and necessary ... [or] formally ascertain if force is used disproportionately on BAME people, and those suffering from mental illness'.<sup>120</sup> Drawing on this data, the Home Office must devise national strategies to address discrimination issues.

### Recommendation

- The UK government must not delay further in implementing the recommendations relating to ethnicity and race discrimination in the Angiolini Review of Deaths and Serious Incidents in Police Custody (2017).

<sup>114</sup>Ibid.

<sup>115</sup>Angiolini, E. (2017), *Report of the Independent Review of Deaths and Serious Incidents in Police Custody*.

<sup>116</sup>UN human rights experts (2018), *UN human rights experts says deaths in custody reinforce concerns about 'structural racism' in UK*.

<sup>117</sup>Ibid.

<sup>118</sup>INQUEST (2020), *BAME deaths in police custody*.

<sup>119</sup>Angiolini, E. (2017), *Report of the Independent Review of Deaths and Serious Incidents in Police Custody*.

<sup>120</sup>Ibid.

## The youth secure estate

The over-representation of BME young people in the youth secure estate (including secure children's homes, Secure Training Centres and Young Offender Institutions) continues to be particularly glaring. BME children make up over half of the child population in prison (28 per cent are Black),<sup>121</sup> an increase of 15 per cent over the past decade. Despite making up just 1 per cent of the population in England and Wales, Gypsy, Roma and Traveller children make up 8 per cent of children in Young Offender Institutions (YOIs) and 15 per cent of those in Secure Training Centres (STCs).<sup>122</sup> These racial disparities are worsening, and while the total number of children and young people in the youth secure estate fell over the last decade, the number of Black children who were arrested, prosecuted, remanded or sentenced to custody rose.<sup>123</sup> Moreover, BME young people in the youth justice system are more likely to experience excessive use of force, isolation and restraint. Research highlights that BME children in prison are subject to isolation at three times the rate of their white counterparts<sup>124</sup> and more likely to be subject to physical restraint.<sup>125</sup>

The Lammy Review (2017) made numerous important recommendations for change to address these disparities in the youth justice system.<sup>126</sup> Many of these recommendations have not yet been implemented.<sup>127</sup>

### Recommendations

- The UK government should ensure that full and consistent data, broken down by protected characteristic, is collected and published on the use of force and restraint by the police and in all places of state detention.
- The UK government should urgently implement all of the recommendations of the Lammy Review to reduce the disproportionately high numbers of BME children involved in the criminal justice system and the disproportionate use of isolation, force and restraint which BME children experience in STCs and YOIs.

## Violence against women and girls

BME women are disproportionately impacted by domestic abuse. Instances of domestic abuse and violence against women continue to be under-reported to the police, with just 37 per cent of women who experience violence making a formal report.<sup>128</sup> CSOs highlight high levels of distrust towards the police and the criminal justice system as key factors that underpin these low reporting figures.<sup>129</sup>

Specialist refuges and services for BME women facing violence are chronically under-resourced and have been disproportionately impacted by funding cuts.<sup>130</sup> These services can face particular difficulty in accessing funding from local authorities, as they are unable to compete with larger organisations in competitive tendering, as well as being sidelined in the preference for awarding contracts to generic, non-specialist organisations, such as housing associations.<sup>131</sup>

Rates of domestic abuse have significantly increased during the COVID-19 pandemic and lockdowns.<sup>132</sup> While the government did provide ring-fenced funding for frontline domestic violence services following a legal

<sup>121</sup> Ministry of Justice (2020), [Youth justice statistics](#).

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

<sup>124</sup> The Children's Commissioner (2015), [Unlocking potential](#).

<sup>125</sup> HM Inspectorate of Prisons (2021) [Children in custody 2019–20](#).

<sup>126</sup> Lammy, D. (2017), [The Lammy Review](#).

<sup>127</sup> Aitken, A. and Butcher, B. (2020), [Black Lives Matter: Have racial equality reviews led to action?](#)

<sup>128</sup> Sisters for Change (2017), [Improving UK government responses to violence against BME women](#).

<sup>129</sup> Women's Resource Centre (2021), written submission.

<sup>130</sup> Samuel, M. (2020), [Fragile funding landscape: The extent of local authority commissioning in the domestic abuse refuge sector in England 2020](#).

<sup>131</sup> Women's Resource Centre (2021), written submission.

<sup>132</sup> Stripe, N. (2020), [Domestic abuse during the coronavirus \(COVID-19\) pandemic, England and Wales: November 2020](#).

challenge,<sup>133</sup> there was initially no funding support provided for migrant women, or women with no recourse to public funds (NRPF). The extra funding that was released was criticised for failing to meet actual need.<sup>134</sup>

## Recommendations

- The government should itself provide dedicated funds and/or encourage local authorities to make or increase funding for BME specialist women's services and refuges, to ensure that they can meet the urgent needs of BME women subjected to domestic violence, abuse and exploitation in the context of marriage, employment or trafficking.
- The government should exempt refuges, at least on a temporary basis, from the no recourse to public funds restriction to enable migrant women victims of domestic violence and abuse to be accommodated in suitable safe spaces.

## Political rights

### Voter registration and turnout

Eligible BME citizens continue to be less likely to vote than their white counterparts. The Electoral Commission found that 84 per cent of people from a white ethnic background in Britain were registered to vote, while 62 per cent of people from 'other' ethnic minority backgrounds were registered.<sup>135</sup> Voter registration among Black and Asian groups sat at 76 per cent and 75 per cent, respectively, and 69 per cent of those from mixed heritage backgrounds were registered.<sup>136</sup>

Public opinion polling highlights that BME groups are significantly less likely to be satisfied with the voter registration system than white people, and are less likely to find information on how to register to vote than their white counterparts.<sup>137</sup> BME people in the UK are younger than the rest of the population and have on average a lower income – factors that mean they are statistically more likely to be under-registered.<sup>138</sup>

The Joint Committee on Human Rights recommended that the government 'consult on the implementation of automatic voter registration as means of democratic participation among Black people'.<sup>139</sup> This follows evidence from CSOs that automatically enrolling voters using existing public data would benefit BME groups.<sup>140</sup>

#### Recommendation

- The UK government must consult on positive proposals to introduce automatic voter registration of all British citizens (in the British Isles and abroad) once they reach the age of 18, as well as all eligible foreign nationals residing in the UK.

### The Electoral Integrity Bill

Plans were formally announced in the 2021 Queen's Speech to introduce an Electoral Integrity Bill which would require voters to show proof of ID before being issued a ballot paper at polling stations in local elections and nationwide parliamentary elections. The bill will be introduced in the 2021 parliamentary session, with the intention of implementing these requirements in 2023.<sup>141</sup>

We are extremely concerned that this bill will serve to marginalise those groups which already face barriers to voting and are less likely to possess a form of voter ID. While over three-quarters of white people hold a full driving licence, 38 per cent of Asian people and 48 per cent of Black people do not.<sup>142</sup> The government has argued that this legislation is necessary to prevent voter fraud. However, the recorded number of cases of ballot fraud in the 2019 general election was extremely low.<sup>143</sup>

#### Recommendation

- The UK government must immediately halt proposals in the Electoral Integrity Bill that would require voter ID at polling stations for every national and local election.

<sup>133</sup> Jeraj, S. (2020), *Domestic violence funding legal challenge launched*.

<sup>134</sup> Women's Resource Centre (2021), written submission.

<sup>135</sup> The Electoral Commission., (2019), *Completeness in Great Britain*.

<sup>136</sup> *Ibid.*

<sup>137</sup> The Electoral Commission (2020), *Joint Committee on human rights inquiry into black people, racism and human rights: Electoral Commission response*.

<sup>138</sup> *Ibid.*

<sup>139</sup> Joint Committee on Human Rights (2020), *Black people, racism and human rights*.

<sup>140</sup> *Ibid.*

<sup>141</sup> House of Commons Library (2020), *Voter ID*.

<sup>142</sup> Ethnicity Facts and Figures (2020), *Driving licenses*.

<sup>143</sup> Merrick, R. (2021), *Matt Hancock admits only 6 voter fraud cases at last election, as protests grow over 'photo ID' crackdown*.

## The Police, Crime, Sentencing and Courts Bill

The government's wide-ranging Police, Crime, Sentencing and Courts Bill, introduced in March 2021, has profound implications for the right to protest. It includes legislation to increase the maximum sentence for damaging a memorial or statue and create a 'no protest zone' around the Houses of Parliament, and amendments to existing laws to extend police powers in relation to public protests and demonstrations.

Clause 46 of the bill would introduce legislation removing consideration of monetary value from 'any offence committed by destroying or damaging a memorial', making it possible for someone to receive a ten-year sentence for causing minor damage to a statue, for example of a slave owner. Civil Rights group Liberty has highlighted that this provision is a 'clear response to the Black Lives Matter protests over Summer 2020 and the toppling of the statue of slave trader Edward Colston into Bristol Harbour, among other instances of civil disobedience'.<sup>144</sup>

### Recommendation

- The UK government should remove Part 3 of its Police, Crime, Sentencing and Courts Bill, which would provide the police with significantly enhanced powers to control or prevent any form of public demonstration or protest.

<sup>144</sup>Liberty UK (2021), [Liberty's briefing on the Police, Crime, Sentencing and Courts Bill for second reading in the House of Commons](#).

## Civil rights

We believe that the government's immigration measures stand in clear breach of ICERD. This includes General Recommendation 30 on discrimination against non-citizens, which requires measures to 'ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin'.<sup>145</sup> There is clear evidence that the immigration control policies and measures discussed below have a discriminatory impact on BME communities in England.

### The EU Settlement Scheme (EUSS)

Following the government's introduction of the EUSS in 2017, EEA+ citizens who wish to continue to live and work in the UK post-Brexit must apply to this scheme by 30 June 2021. If they fail to do so, they will be in the UK unlawfully, falling within the hostile-environment policies, which could put their employment, their housing and their access to healthcare at risk. Despite the process being largely straightforward, there is evidence that some BME groups are at risk of failing to apply with sufficient evidence before 30 June.<sup>146</sup>

Of particular concern is the impact of the scheme on Roma groups, who face significant barriers due to high rates of insecure housing, digital exclusion and social isolation.<sup>147</sup> Research by Salford University demonstrates that the vast majority of Roma people in the UK are EU citizens.<sup>148</sup> According to the Roma Support Group, the 'vast majority' of Roma people know about Brexit but don't know how to apply for the EUSS as a result of barriers to accessing the scheme.<sup>149</sup> Its report highlights not just the barriers Roma people face now in securing their status, but the continued discrimination they and many other EEA+ citizens are likely to face after the cut-off point due to issues with digital systems and a lack of physical documentation.

#### Recommendation

- **The UK government must extend the EU Settlement Scheme deadline of 30 June 2021 with immediate effect. It must also guarantee in writing to anyone who submits an application by the extended deadline that they will continue to have full legal rights to remain in the UK until they receive the decision on their application, or any subsequent decision in the case of an appeal.**

### Impact of the Minimum Income Requirement (MIR)

The government introduced the MIR in 2012, imposing an income threshold on British citizens and settled residents when they want to be joined in the UK by a non-EEA partner. We are concerned that this policy further entrenches existing racial inequalities and particularly impacts those from BME backgrounds.

The MIR is set at a level above the minimum wage and is above the earnings of almost 40 per cent of British citizens working in part-time or full-time employment.<sup>150</sup> It means that anyone earning less than £18,600 a year may not sponsor the visa of a partner from outside the EEA, rising to £22,400 a year for those sponsoring a non-EEA-national child, with an additional £2,400 for each additional child. Given the over-representation of BME workers in precarious and low-paid work, these policies are likely to have a discriminatory impact on BME groups. Black African and Bangladeshi households in the UK have 10 times less wealth than their white counterparts.<sup>151</sup> In

<sup>145</sup> ICERD 2005, General Recommendation 30.

<sup>146</sup> This scheme should also be used to apply for settled status by a non-UK parent who is the primary carer of a UK citizen child who would have to leave the UK if the parent could not remain (known as a 'Zambrano right to reside', referring to the European Court of Justice case in which this right was decided).

<sup>147</sup> Unlock (2019), *EU nationals, settled status and criminal records*.

<sup>148</sup> Brown, P., Allen, D., Czureja, S., Dinu, L., Glowacki, S., Heck, G.C.O., Ingmire, I., Martin, P.B., Orsos, O., Palmal, M. and Rostas, T. (2016), *Supporting Roma voices*.

<sup>149</sup> Roma Support Group (2020), *EU Settlement Scheme and the Roma communities in the UK*.

<sup>150</sup> The Migration Observatory (2016), *The Minimum Income Requirement for non-EEA family members In the UK*.

<sup>151</sup> Khan, O. (2020), *The colour of money: How racial inequalities obstruct a fair and resilient economy*.

2017 the Supreme Court acknowledged this discriminatory impact, highlighting that ‘sponsors from certain ethnic groups whose earnings tend to be lower’ were disproportionately affected by the MIR.<sup>152</sup>

Many of those unable to meet the MIR include key workers. Indeed, 225,000 NHS staff in England currently earn below the threshold.<sup>153</sup> During the COVID-19 crisis the effects of this were felt particularly acutely, with many BME workers with non-EEA partners compelled to continue to work even when it was unsafe to do so.

### Recommendation

- The UK government must act to scrap the Minimum Income Requirement, which imposes a de facto income bar to family reunion, impacting disproportionately on certain BME people, and should return to pre-2012 rules.

## Race disparities in immigration detention

CERD’s Concluding Recommendations in 2016 recommended that the government take action to limit time in immigration detention, expressing ‘concern at the use of no statutory time limit, and that children continue to be held in immigration detention facilities’.<sup>154</sup> Evidence demonstrates that BME groups continue to be at greater risk of being detained and being detained for long periods. Data analysis released by Detention Action<sup>155</sup> found that in 2019, 90 per cent of Australian nationals were released before spending 28 days in detention compared with 40 per cent of Jamaican nationals and 60 per cent of Nigerian nationals. However, it is difficult to ascertain the extent of discrimination in immigration detention, as the Home Office does not collect or publish data relating to the protected characteristics of people detained.

### Recommendations

- The UK government must collect and publish data relating to the ethnicity and other protected characteristics of people held in immigration detention facilities, including the total period of their detention.
- The UK government should urgently establish a statutory time limit on immigration detention.
- The UK government should release everyone detained under immigration powers to reduce the risk of COVID-19 entering the detention estate and causing avoidable harm.

## No recourse to public funds (NRPF)

The NRPF condition bars most people applying to enter or remain in the UK from accessing public funds, including most mainstream social security support such as child benefit, tax credits and Universal Credit. Research published by Citizens Advice and the Migration Observatory suggests that nearly 1.4 million people in the UK have NRPF, and that the ‘burden of restrictions fall’ on BME groups.<sup>156</sup> Of the NRPF cases seen by Citizens Advice in 2019, 82 per cent were BME.<sup>157</sup>

<sup>152</sup> MM (Lebanon) v SSHD (2017), [Supreme Court judgement](#).

<sup>153</sup> Joint Council for the Welfare of Immigrants (2020), [The MIR: Report stage briefing](#).

<sup>154</sup> CERD (2016), [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#).

<sup>155</sup> Townsend, M. (2020), [Home Office ‘uses racial bias’ when detaining immigrants](#).

<sup>156</sup> Citizens Advice Bureau (2020), [Citizens Advice reveals nearly 1.4m have no access to welfare safety net](#).

<sup>157</sup> *Ibid.*

During the COVID-19 crisis, those with no recourse to public funds had no access to a safety net and many have faced destitution as a result.<sup>158</sup> Recent research by the Joint Council of Welfare for Immigrants (JCWI) found that people with NRPF have been just as prone to losing their jobs as British citizens during the pandemic,<sup>159</sup> and likely to be concentrated in the hardest-hit hospitality sector, but cannot rely on state support. Furthermore, surveyed migrants with NRPF were more likely to be living in shared accommodation where it would be impossible to isolate adequately, more likely to be afraid of going to the doctor, and more likely to have gone into debt than their peers who are entitled to social security.<sup>160</sup> Despite this, during the pandemic the government has restated its intention to keep the NRPF policies in place.<sup>161</sup>

### Recommendation

- The UK government should suspend the no recourse to public funds condition with immediate effect.

## New immigration reforms

On 24 March 2021, the Home Secretary announced plans to introduce ‘the most significant overhaul of our asylum system in decades’, as part of the government’s New Plan for Immigration.<sup>162</sup> The reforms comprise over 40 suggested changes to the UK asylum system, including plans to introduce a two-tiered approach to claiming asylum, separating those who arrive through ‘safe and legal’ pathways from those who arrive through irregular routes. Those who have arrived through irregular routes or have already passed through a ‘safe’ country will face ‘every effort to remove’ them.<sup>163</sup> We are extremely concerned about the discriminatory impact of this two-tiered approach, and we echo the concerns of the UN High Commissioner for Refugees that the proposals will undermine international cooperation to support refugees and risk breaching international rights commitments.<sup>164</sup>

### Recommendation

- The UK government should immediately discontinue its current plans for reform of the asylum system and start again following meaningful consultation with refugee and asylum organisations and immigration law practitioners in order to develop an asylum system that fully meets the aims and obligations to which the UK is committed under the 1951 Refugee Convention.

## Prevent

In its Concluding Observations (2016), CERD stated its concern that the Prevent duty had ‘created an atmosphere of suspicion towards members of Muslim communities’. The Committee urged the government ‘to review the implementation and evaluate the impact of ... the “Prevent duty” in order to ensure there are effective monitoring mechanisms and sufficient safeguards against abuse’.<sup>165</sup>

Home Office data from 2018–20 shows more balance in referrals for Islamist extremism and far-right extremists, with referrals for Islamist radicalism decreasing since 2015.<sup>166</sup> However, we are extremely concerned by the fact that Muslims are still eight times more likely to be referred to Prevent than non-Muslims.<sup>167</sup>

<sup>158</sup> JCWI (2021), *No Recourse To Public Funds is a public health risk and causes destitution*.

<sup>159</sup> *Ibid.*

<sup>160</sup> *Ibid.*

<sup>161</sup> Langford, E. (2020), *Priti Patel rejects calls to ditch migrant welfare curbs during coronavirus after Boris Johnson review hint*.

<sup>162</sup> Home Office (2021), *Home Secretary’s statement on the New Plan for Immigration*.

<sup>163</sup> *Ibid.*

<sup>164</sup> Wright, R. (2021), *UK immigration plans risk breaching international duties. UN body warns*.

<sup>165</sup> CERD (2016), *Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland*, paragraph 18.

<sup>166</sup> Home Office (2020), *Individuals referred to and supported through the Prevent Programme, April 2019 to March 2020*.

<sup>167</sup> *Ibid.*

The education sector made almost a third of referrals to Prevent in the year ending March 2020, with over half of referrals relating to people aged 20 or under.<sup>168</sup> In the year ending in March 2020, people under 30 made up almost three-quarters of Islamist radicalisation referrals;<sup>169</sup> 351 Muslim children under 15 were referred to Prevent, and each will have had their personal details entered on police databases accessible by the police and other state agencies for the next six years.<sup>170</sup> Following a referral to Prevent, large numbers of children subsequently experience a breakdown in trust with their schools and other institutions which are meant to safeguard them.

We continue to be extremely concerned that the Prevent duty's guidance and training lacks clarity and enables prejudice and racial profiling among public sector staff. Indeed, many staff report feeling pressured into making decisions regarding referral to Prevent, with statutory guidance stating that they must 'trust their instincts', which could include individual prejudices.<sup>171</sup>

Prevent training materials such as Extremism Risk Guidance 22+ (ERGG22+)<sup>172</sup> use Islam and Muslims in key examples of instances of terrorism, ensuring that Islam is an ever-present fixture in learning about the application of the duty. Beyond this, terminology in the statutory guidance on the Prevent duty remains unclear and open to discrimination in its application. This includes the use of the term 'extremism', which has been described as 'broad and ill-defined' by the former reviewer of terrorism legislation, David Anderson.<sup>173</sup> In 2018–19 the Home Office replaced this with 'radicalisation', a term which has also been challenged by academics.<sup>174</sup>

As a result, everyday normative practices of the Islamic faith (for example, wearing the hijab or going on Hajj) have been taken as signs of radicalisation by those enforcing the duty. Indeed, a 2018 study into counter-terrorism in the NHS found that 70 per cent of respondents were likely to make a referral to Prevent if a patient or staff member possessed a book about Islamic or anarchist philosophy. Of those surveyed, 99 per cent felt confident in identifying these books.<sup>175</sup> This was in spite of the fact that WRAP (Workshop to Raise Awareness of Prevent) makes no mention of philosophy books as indicators of concern.<sup>176</sup>

Consistently, the vast majority of people referred to Prevent are assessed as not needing Channel support – an intervention programme for those deemed at risk of radicalisation – and receive no further action or are referred to other agencies to meet their particular needs.<sup>177</sup> This means that they are 'false positives' and their cases are either discarded entirely or referred to a different social agency. This leaves many with the stigma of Prevent referral, often with lasting personal damage as well as entry onto a national police database. This reinforces the question of the usefulness of Prevent as a counter-terrorism measure, particularly in relation to the discriminatory nature of its application. Rights Watch UK gives numerous examples of 'false positive' referrals, including an eight-year-old boy referred for two incidents. The first was for wearing a t-shirt referencing Abu-Bakr, the first caliph of the faith after the death of the Prophet Muhammad, and the second for saying his father had a 'secret job'. It later transpired that his father sold nail polish online.<sup>178</sup>

There is also evidence that those involved in making referrals to Prevent are more accurate in making referrals about far-right extremists than about Muslims. The rate at which right-wing extremists referred to Prevent receive Channel support is 60 per cent higher than for Islamist referrals.<sup>179</sup>

<sup>168</sup> Ibid.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Ibid.

<sup>172</sup> Ministry of Justice (2019), *The structural properties of the Extremism Risk guidelines (ERG22+): A structured formulation tool for extremist offenders*.

<sup>173</sup> Dixon, H. (2019), *Extremism definition fails Clarkson test*.

<sup>174</sup> Medact (2020) *False positives: the Prevent counter-extremism policy in healthcare*.

<sup>175</sup> Heath-Kelly, C. and Strausz, E. (2017), *Counter-terrorism in the NHS: Evaluating Prevent duty safeguarding in the NHS*.

<sup>176</sup> Ibid.

<sup>177</sup> Home Office (2020), *Individuals referred to and supported through the Prevent Programme, April 2019 to March 2020*.

<sup>178</sup> Rights Watch (2016), *Preventing education? Human rights and uk counter-terrorism policy in schools*

<sup>179</sup> Busher, J., Choudhury, T. and Thomas, P. (forthcoming) Surveillance and preventing violent extremism: the evidence from schools and further education colleges in England, in *Routledge Handbook of Race and Surveillance*.

## Independent review of Prevent

Since 2016 there have been calls from a growing number of CSOs and public officials for an independent review into Prevent. This includes calls from the former Independent Reviewer of Terror Legislation, the Joint Committee on Human Rights and the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, who highlights how the implementation of Prevent has led to ‘crude racial, ideological, cultural and religious profiling’.<sup>180</sup>

In 2019, the government announced that an independent review of the Prevent duty would be set up by 12 August 2019.<sup>181</sup> The report and recommendations of the review and government’s response were meant to be tabled in parliament by 12 August 2020. However, two years after parliament instructed the government to establish a fully independent review, we believe no progress has been made. The government’s failure here must raise questions as to whether it has any real intention to launch a balanced and fair review of the duty.

A timeline of the events shows that:

- a) On 12 August 2019, the Home Secretary announced the appointment of Lord Carlile of Berriew QC CBE,<sup>182</sup> a known supporter of Prevent,<sup>183</sup> as the Independent reviewer. NGOs objected to Lord Carlile’s lack of independence, and Rights Watch UK brought legal proceedings to challenge his appointment.<sup>184</sup>
- b) In December 2019, the Home Office announced the termination of Lord Carlile’s appointment, confirming it was no longer defending itself against legal proceedings.<sup>185</sup> In May 2020, the government drafted a new bill including a clause deleting the statutory timetable for the review.<sup>186</sup>
- c) In January 2021, the Home Secretary announced the appointment of William Shawcross as the independent reviewer.<sup>187</sup> This appointment caused controversy, as Shawcross is known to have said publicly ‘Europe and Islam is one of the greatest, most terrifying problems of our future’.<sup>188</sup>
- d) In February 2021, a coalition of 17 human rights and community groups informed the Home Secretary that they intended to boycott the Government’s review of Prevent. They referred to Shawcross’s previous statements on Islam, which, following Carlile’s appointment, ‘brings into question the good faith of the government in establishing the review and fundamentally undermines its credibility’.<sup>189</sup>
- e) In March 2021, more than 550 Muslim scholars, community leaders, CSOs, mosque councils, and national and regional bodies issued a call to boycott the Shawcross-led review of Prevent. The signatories condemned Prevent as ‘making the Muslim community “a suspect community”’ and rejected the appointment of Shawcross due to his ‘long and proven track record of hostility towards Islam and Muslims’.<sup>190</sup>

### Recommendations

- **The UK government should implement a truly independent review of the Prevent duty as an urgent priority; without seeking to restrict the scope of the review, this should, as a minimum, include:**
  - **investigating the extent of any racial bias in Prevent training materials**

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<sup>180</sup> UN Special Rapporteur (2016), [Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the United Kingdom](#).

<sup>181</sup> Home Office (2019), [Letter to the HASC confirming appointment of the independent reviewer of Prevent](#).

<sup>182</sup> Hansard (2018, 17 December), [Volume 794: Counter-Terrorism and Border Security Bill](#).

<sup>183</sup> Leigh Day (2019), [Rights Watch \(UK\) launches its challenge to Government’s independent review of Prevent](#).

<sup>184</sup> Boycott, O. (2019), [Lord Carlile removed from Prevent review after legal challenge](#).

<sup>185</sup> Beard, J. and Dawson, J. (2020), [Counter-Terrorism and Sentencing Bill 2019–21](#).

<sup>186</sup> Home Office (2021), [William Shawcross to lead independent review of Prevent](#).

<sup>187</sup> Liberty (2021), [Rights groups boycott Prevent review](#).

<sup>188</sup> Civil Society (2014), [Commission unfairly targets Muslim charities, says thinktank](#).

<sup>189</sup> Liberty (2021), [Rights groups boycott Prevent review](#).

<sup>190</sup> [Call to boycott the Shawcross Review of Prevent, \(2021\)](#).

- investigating other factors influencing Prevent referrals by public sector staff instructed to implement the duty, such as influence of media portrayals, institutional or personal bias, racial or religious discrimination, and pressure to make referrals
- identifying the impacts of false-positive Prevent referrals, especially on minority group children and young people
- identifying the impacts of Prevent referrals on the physical and mental health of minority group children and adults
- investigating the extent to which Prevent referrals have been without 'informed consent' and how this has infringed the duty of confidentiality which all medical professionals have to their patients
- The UK government should conduct a full equality impact assessment of the procedures carried out under each stage of the Prevent duty in relation to the characteristics of race, religion or belief, age, sex, and disability protected under the Equality Act 2010.
- The UK government should evaluate compliance with the public sector equality duty (Section 149, Equality Act 2010) of the specified public authorities in the measures they have been expected to take to comply with the Prevent duty.
- The UK government should urgently commission research to identify the factors which have caused the marked increase in far-right activity in England, and on the basis of the findings develop a clear strategy to prevent further growth.

## Employment

In its 2016 Concluding Observations (2016), CERD expressed its concern at the higher rates of unemployment among BME groups, the concentration of people from BME backgrounds in insecure, low-paid work and the discriminatory recruitment practices of employers.<sup>191</sup>

Data from the Labour Force Survey has demonstrated that since at least the 1980s there have been persistent and 'significant ethnic inequalities in the labour market' in Britain.<sup>192</sup> From time to time, governments have given some consideration to the need to understand the underlying factors and take some remedial action, but there has been little progress to tackle the structural inequalities that keep BME groups in precarious work or in low-pay sectors.

In 2016, the government commissioned the McGregor-Smith Review of Race in the Workplace, published in 2017.<sup>193</sup> Dame McGregor-Smith found:

*There is discrimination and bias at every stage of an individual's career, and even before it begins. From networks to recruitment and then in the workforce, it is there. BME people are faced with a distinct lack of role models, they are more likely to perceive the workplace as hostile, they are less likely to apply for and be given promotions and they are more likely to be disciplined or judged harshly.<sup>194</sup>*

McGregor-Smith proposed 26 recommendations for employers and the government. In response to the report, the government stated that it did not think it necessary to legislate for any of these measures and it believed 'reasonable employers in the UK will rise to the challenges'.<sup>195</sup> In 2018, an update to the review was published which included a survey of businesses and employees across the country. It found an increase in mentoring schemes engaging BME workers, but that little else had changed.<sup>196</sup>

Disparities in pay, employment and unemployment can be understood against a backdrop of rising levels of poverty and inequality in the country. According to the Economic Observatory, there has been little change over the past 25 years in the disparities in pay, employment and unemployment among different ethnic groups in the UK. Indeed, for Black, Pakistani and Bangladeshi men and women, pay gaps with white men and women have widened.<sup>197</sup> Data from the Runnymede Trust in 2020 showed that BME groups were more likely to have low incomes due to lower wages, higher unemployment rates, higher rates of part-time working and receiving relatively low levels of benefits, particularly following the introduction of the 'benefit cap' in 2010.<sup>198</sup>

## Impact of COVID-19

The COVID-19 pandemic exacerbated pre-existing economic inequalities facing BME communities in the labour market. In a poll in 2020, over two in five people from BME communities (45 per cent) said that their personal finances had suffered as a result of the pandemic, compared with a third of white people (34 per cent).<sup>199</sup>

BME workers have been more likely to work in shut-down sectors during lockdown. This has particularly affected Bangladeshi and Pakistani workers, who are more likely to hold jobs in restaurants, as taxi drivers or in non-essential retail.<sup>200</sup> Workers in shut-down sectors are the lowest paid in the workforce, their pay being less than half that of those who have been able to work from home.<sup>201</sup> The House of Commons Library estimated that

<sup>191</sup> CERD (2016), [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#), paragraph 32.

<sup>192</sup> Khan, O. (2020), [The Colour of Money: How racial inequalities obstruct a fair and resilient economy](#).

<sup>193</sup> McGregor-Smith, Baroness (2017), [Race in the workplace: The McGregor-Smith Review](#).

<sup>194</sup> Ibid.

<sup>195</sup> Department for Business, Energy and Industrial Strategy (2017), [Race in the workplace: The McGregor-Smith Review – government response](#).

<sup>196</sup> Business in the Community, YouGov and Department for Business, Energy and Industrial Strategy (2018), [The scorecard report 2018: Race at work 2018](#).

<sup>197</sup> The Economic Observatory (2021) [Ethnic minorities and the UK labour market: Are things getting better?](#)

<sup>198</sup> Khan, O. (2020), [The Colour of Money: How racial inequalities obstruct a fair and resilient economy](#).

<sup>199</sup> Nolsoe, E. and Wheatland, H. (2020), [Pandemic particularly impacts personal finances of Brits from BAME backgrounds](#).

<sup>200</sup> Joyce, R. and Xu, X. (2020), [Sector shutdowns during the coronavirus crisis: Which workers are most exposed?](#)

<sup>201</sup> Resolution Foundation (2020), [Risky business: Economic impacts of the coronavirus on different groups of workers](#).

in April 2020, 15 per cent of workers in shut-down sectors were from BME backgrounds, compared with 12 per cent in the wider labour market.<sup>202</sup> These were jobs that could not be done at home, meaning that these workers incurred a loss of income during the pandemic. Many in these sectors continue to face significant risk of losing their jobs: 188,685 retail jobs were lost between March 2020 and March 2021,<sup>203</sup> and in 2020 there were 660,000 job losses across the hospitality sector, while recruitment in this industry ‘remains at a standstill’.<sup>204</sup>

The pandemic also highlighted the large number of BME people employed in insecure or precarious jobs, as workers in the gig economy. This section of the economy involves working under zero-hours or agency contracts, and also includes forms of low-paid self-employment. Workers have little or no control over either their hours or their place of work, and, as they are not legally classed as an ‘employee’, lose many mandatory employment rights. Workers in this sector also receive low and unpredictable take-home pay. Including both employed and self-employed workers, one in six BME men and one in seven BME women are in this form of insecure work, compared with one in ten white workers.<sup>205</sup>

## Unemployment

Unemployment in England has increased for all groups, especially during the COVID-19 pandemic. However, the increase has been significantly faster for BME groups. Comparing rates for the final quarter of 2019 and the same period in 2020 reveals that BME unemployment increased from 5.8 per cent to 9.5 per cent, an increase of nearly two-thirds and more than double the rate of white unemployment, which increased from 3.4 per cent to 4.5 per cent. The unemployment rate for Black African and Caribbean workers rose to 13.8 per cent, more than three times the rate of white unemployment. Over this period, 1 in 10 BME women became unemployed, compared with 1 in 25 white women.<sup>206</sup>

## The ethnicity pay gap

Marked gaps persist between the pay of ethnic minority workers and that of white British workers who hold the same qualifications and are employed in the same occupations. In 2019, the Office for National Statistics (ONS) reported that most members of minority ethnic groups were earning less on average than white British people. Indian and Chinese people were reported as earning more than their white counterparts.<sup>207</sup> However, when adjusted for factors such as age, qualification level and geography, the data shows that these differences in earnings are overstated. When adjusted, Indian workers born in the UK see a 22 per cent reduction in pay gap, resulting in a positive pay gap of 2 per cent. Chinese workers born in the UK see a reduction of 17 per cent, resulting in a –1 per cent pay gap.

The results are starker for the workers within these demographics who were not born in the UK. Non-UK-born Indian workers have a reduction in pay gap from +11 per cent to –7 per cent and Chinese workers have a reduction from +31 per cent to –7 per cent. When examining non-UK-born workers, the data consistently shows that ethnicity is a factor in economic inequality. Black Caribbean people experience median hourly pay gaps of –9 per cent and Pakistani and Bangladeshi people have pay gaps of –16 per cent and –21 per cent respectively. UK-born members of these demographics have pay gaps of –6 per cent for Black Caribbean, –3 per cent for Pakistani and –8 per cent for Bangladeshi.<sup>208</sup>

The Resolution Foundation has identified a list of factors which it considers may be relevant to a person’s pay and has applied these in order to calculate an ‘ethnic pay penalty’<sup>209</sup> – that is, the pay difference adjusted for the influence of age, occupation, qualifications, region, place of birth, time since leaving education, working full time or part-time, industry, public or private sector, length of employment, and permanent or temporary contract.

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<sup>202</sup> Ibid.

<sup>203</sup> The Guardian (2021), [Almost 190,000 UK retail job losses since first COVID lockdown](#).

<sup>204</sup> McAllister, J. (2021), [Hospitality sees 660,000 job losses in 2020](#).

<sup>205</sup> TUC (2020), [BME women and work](#).

<sup>206</sup> TUC (2021), [BME Unemployment is rising twice as fast as white workers during the pandemic](#).

<sup>207</sup> ONS (2020), [Ethnicity pay gaps: 2019](#).

<sup>208</sup> Ibid.

<sup>209</sup> Resolution Foundation (2018), [Opportunities knocked? Exploring pay penalties among the UK’s ethnic minorities](#).

Accounting for these factors leaves the ‘raw’ pay gaps experienced in the labour market, and ethnic pay penalties are very sizeable in many cases. After accounting for background and ethnic pay penalty, the gap in pay between Black and white male graduates is 17 per cent, or £7,000 per year if working full time. The pay penalty for Black female graduates relative to white female graduates is 9 per cent, or more than £3,000 per year if working full time. The pay penalty between Pakistani/Bangladeshi and white male non-graduates is 14 per cent.<sup>210</sup>

## Discrimination in the labour market

Evidence shows that discriminatory attitudes are at the heart of higher rates of unemployment and are a significant barrier facing BME groups entering the labour market. The McGregor-Smith Review concluded that ‘discrimination featured prominently as an obstacle faced by ethnic minority communities’ in accessing the labour market. This is underscored by evidence from curriculum vitae (CV) studies, which continue to illustrate an ‘ethnic penalty’ for job applicants who, despite their educational attainment, have names which suggest that they are not white British.<sup>211</sup> As a consequence, individuals from BME backgrounds had to submit on average 80 per cent more applications to receive a positive response from an employer than a white Briton.<sup>212</sup>

### Recommendation

- The UK government should use its powers under Section 153 of the Equality Act 2010 to impose a specific duty on all English local authorities and national public authorities to gather data on their workforce by ethnicity and by pay and grade, and to use this data to address any wage gaps and discrepancies between experience and qualifications on the one hand and salary and seniority on the other, publishing this data and details of the measures taken every two years.

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<sup>210</sup> Ibid.

<sup>211</sup> Khan, O. (2020), *The Colour of Money: How racial inequalities obstruct a fair and resilient economy*.

<sup>212</sup> Centre for Social Investigation (2019), *Are employers in Britain discriminating against ethnic minorities?*

# Education

## Teachers and teaching

The teaching workforce in England's schools and colleges does not reflect the diversity of the student population. Just 14.3 per cent of teachers are from a BME group,<sup>213</sup> and over 96 per cent of male and female headteachers are white.<sup>214</sup> The under-representation of BME teachers is more acute in senior and management roles,<sup>215</sup> and those BME teachers that do make it to a senior leadership position consistently face more scrutiny than their white counterparts.<sup>216</sup>

There are currently no formal requirements within Initial Teacher Education (ITE) for trainee teachers to conduct work on racial discrimination in schools, and the current Teachers' Standards contain no reference to race, racism or ethnicity.<sup>217</sup> The Department for Education's Newly Qualified Teachers Survey, published in 2018, found that almost half of respondents did not feel that their ITE course prepared them to teach 'across all ethnic backgrounds' and only 39 per cent felt prepared to 'teach EAL (English as an Additional Language) pupils'.<sup>218</sup>

The Department for Education announced funding of nationwide 'equality and diversity hubs' in 2014 'to support schools to develop local solutions and projects' that help 'teachers covered by at least one of the protected characteristics'.<sup>219</sup> This was a welcome approach, which signalled the government's focus on this priority issue. However, in 2020 funding for these hubs was stopped without any announcement on whether it would be reinstated.<sup>220</sup>

### Recommendations

- **The UK government must review Initial Teacher Education and make whatever changes are necessary so that it prepares trainee teachers to teach in multiracial settings with an appreciation of issues of race and racism.**
- **The UK government must consult with community groups, schools and teaching unions to develop and implement a strategy to increase the number of BME entrants to the teaching profession and to attract, encourage and support more BME educators into senior positions. Full use should be made of the positive action provisions in the Equality Act 2010 Sections 158 and 159.**

## School exclusions

In its 2016 Concluding Observations, CERD expressed its continuing concern about the disproportionate rate of school exclusions of pupils from Gypsy, Roma and Traveller and African Caribbean communities.<sup>221</sup>

The total number of exclusions has increased slightly since 2016, with wide variations between local authorities in both total numbers of exclusions and the disparity in rates of exclusion between Black Caribbean and Gypsy, Roma and Traveller pupils and white pupils. Government data for 2018/19 shows that in some areas of England, the rates for exclusion of Black Caribbean pupils were five or six times greater than for white pupils, and similar rates occurred for pupils of mixed white/Black Caribbean heritage.<sup>222</sup> Gypsy, Roma and Traveller pupils were also excluded at much higher rates – in some areas they were nine times more likely than other pupils to be excluded.<sup>223</sup>

<sup>213</sup> Department for Education (2021), [School teacher workforce](#).

<sup>214</sup> *Ibid.*

<sup>215</sup> The Runnymede Trust, NASWT and Act for Racial Justice (2017), [Visible minorities, invisible teachers: BME teachers in the education system in England](#).

<sup>216</sup> Vieler-Porter, C.G. (2021), *The under-representation of Black and minority ethnic educators in education: Chance, coincidence or design?* Abingdon: Routledge.

<sup>217</sup> Centre for Research in Race and Education (CRRE), University of Birmingham (2021), written submission

<sup>218</sup> Department for Education (2018), [Newly qualified teachers: Annual survey](#).

<sup>219</sup> Department for Education (2020) [Equality and diversity fund: For school-led projects](#).

<sup>220</sup> *Ibid.*

<sup>221</sup> CERD (2016), [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland, paragraph 34](#).

<sup>222</sup> McIntyre, N., Parveen, N. and Thomas, T. (2021) [Exclusion rates five times higher for black Caribbean pupils in parts of England](#).

<sup>223</sup> *Ibid.*

In 2018, the Prime Minister set up the Timpson Review of School Exclusion, which was to look at why some children are more likely to be excluded than others, including disproportionate rates of exclusion for certain racial groups. The Timpson Review found that more than three-quarters of permanent exclusions went to 'pupils who either had Special Educational Needs, were classified as in need or were eligible for free school meals'.<sup>224</sup> Evidence indicates a link between poverty and school exclusion, and BME children, including many Gypsy, Roma and Traveller children, are significantly more likely to live in poverty. BME disabled pupils also face particular barriers in relation to school exclusions.

Urgent attention must be drawn to racial inequities in school exclusions. As many leading race equality organisations have pointed out, the Timpson Review, which never once mentioned 'racism', was a lost opportunity to expose the underlying institutional racism, the reliance on racial stereotypes and the racial injustices within the stark inequalities in rates of school exclusions.<sup>225</sup> Alongside this, the review has been criticised for adopting a statistical methodology that downplayed the role of racism and reduced the apparent scale of race inequities.<sup>226</sup>

Young people excluded from school are at greater risk of mental health crises, poor physical health, unemployment, low educational attainment, homelessness and involvement in crime. A report by the Institute of Race Relations warned of a 'pipeline' from Pupil Referral Units (schools that mainly teach excluded pupils), or alternative provision for excluded pupils, to prisons for young people, highlighting that in 2017/18, 89 per cent of children in prison had reported being excluded from school.<sup>227</sup> The National Crime Agency lists placement in Pupil Referral Units as a 'risk factor to child criminal exploitation'.<sup>228</sup> Similar correlations have been posited in the case of 'off-rolling', when children are unlawfully removed from their school, often uncontested by their parent, without any formal procedure or record. Thus, exclusions entrench race disproportionality in the youth criminal justice system.

The Equality Act 2010 prohibits discrimination in school exclusions.<sup>229</sup> The First Tier Tribunal (Special Educational Needs and Disabilities) hears parents' claims of disability discrimination in relation to any act by their child's school, including exclusion. However, a claim by parents of discrimination on any other grounds must be brought in the county court. In the county court, parents or guardians of a pupil claiming that race discrimination was involved in their child's exclusion would incur considerable expense and face a more complex adversarial procedure and long delay.

## Recommendations

- The UK government should commit to urgently implementing a strategy, in consultation with BME children and young people and their parents or guardians, to address and eliminate disproportionality on the basis of race in school exclusions.
- The UK government should introduce new protections against exclusion for victims of criminal exploitation and additional protections for those whose behaviour has been affected by experiencing racism in school.
- The UK government should consult on an amendment to the Equality Act to enable the First Tier Tribunal to hear claims of discrimination by a school on grounds of a pupil's race, sex or any other protected characteristic.
- The UK government should urgently address the discrimination faced by BME children, especially in relation to bullying and school exclusions.

<sup>224</sup>Timpson, E. (2019), *The Timpson Review*.

<sup>225</sup>The Guardian (2019), *Address the injustice of racial inequalities in school exclusions*.

<sup>226</sup>Centre for Research in Race and Education (CRRE), University of Birmingham (2021), written submission

<sup>227</sup>Perera, J. (2020), *How black working class youth are criminalised in the English school system*.

<sup>228</sup>National Crime Agency (2018), *County lines drug supply, vulnerability and harm 2018*.

<sup>229</sup>The Equality Act, Section 85(2)(e).

## Representation in the curriculum

In its 2016 Concluding Observations, CERD recommended that the UK government 'ensure that the school curricula across its jurisdiction contain a balanced account of the history of the British Empire and colonialism, including slavery and other grave human rights violations'.<sup>230</sup> Key independent reports, reviews and inquiries commissioned by the government on racial inequality in the UK have called for urgent curriculum reform to include more teaching of race, migration and empire.<sup>231</sup> The Windrush Lessons Learned Review (2020), found that the Windrush scandal in 2018 was able to happen in part due to a 'poor understanding of Britain's colonial history, the history of inward and outward migration, and the history of Black Britons'.<sup>232</sup> Today, public attitudes in the UK support teaching that explicitly addresses racial injustice and Black history.<sup>233</sup> However the Chief Inspector of Schools,<sup>234</sup> the Secretary of State for Education<sup>235</sup> and the Schools Minister<sup>236</sup> have rejected calls for change.

Government curriculum reforms in 2014–16 narrowed opportunities to teach diverse and flexible options in History and English in particular, opting for more 'traditional' resources. BME pupils currently make up over 30 per cent of school pupils in primary and secondary schools in England.<sup>237</sup> Despite this, a 2020 study noted that the biggest exam board in England, which accounts for 'almost 80 per cent of GCSE English literature entries, does not feature a single book by a Black author, and just two books by BME authors'.<sup>238</sup>

### Recommendation

- The UK government must immediately implement CERD's 2016 recommendation to 'ensure that the school curricula contain a balanced account of the history of the British Empire and colonialism, including slavery and other grave human rights violations'

## Attainment gap and COVID-19

The continuing disparities in educational attainment between some BME groups, particularly Gypsy, Roma and Traveller and Black Caribbean pupils, and their white counterparts are deeply concerning. By the end of secondary school, Gypsy, Roma and Traveller pupils are almost three years behind their white counterparts, and Black Caribbean students are 11 months behind their white British counterparts.<sup>239</sup>

Despite glaring inequalities in educational outcomes for Gypsy, Roma and Traveller groups, the number of Traveller Education Services – set up to reduce attainment gaps for Gypsy, Roma and Traveller students – in local authorities has been dramatically reduced due to funding cuts.<sup>240</sup>

These gaps in attainment have been exacerbated by the disruption to normal schooling during the COVID-19 crisis, with significant learning loss for some BME pupils. A survey on the impact of the first COVID-19 lockdown, when schools were closed except for the children of 'key workers', found teachers estimating that 44 per cent of their pupils needed intensive catch-up support, with much higher estimates in the most deprived schools and in schools serving the highest proportion of pupils from BME backgrounds.<sup>241</sup> It also found that teachers in the

<sup>230</sup> CERD (2016), *Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland*, paragraph 35(c).

<sup>231</sup> Including Swann, M. (1985), *The Swann Report*, Macpherson, W. (1999), *Stephen Lawrence Inquiry*.

<sup>232</sup> Williams, W. (2021), *Windrush lessons learned review*.

<sup>233</sup> In a nationally representative poll of British adults published in 2020 concerning the teaching of racial injustice and Black history in schools, the proportion of people in all ethnic groups who advocated for more attention to both of these issues significantly outnumbered those who wanted less; see University of Birmingham (2021), submission.

<sup>234</sup> Weale, S. (2020), *Ofsted chief resists calls to make England school curriculum more diverse*.

<sup>235</sup> Duffy, N., (2020) *Gavin Williamson rejects calls to 'decolonise' history curriculum, saying Britons should be 'proud of our history'*.

<sup>236</sup> Merrick, R. (2021), *Schools minister rejects lessons about colonialism and slave trade in case they 'lower standards'*.

<sup>237</sup> Department of Education (2020), *Schools, pupils and their characteristics: January 2020*.

<sup>238</sup> Sundorph, E. (2020), *Missing pages: Increasing racial diversity in the literature we teach*.

<sup>239</sup> Education Policy Institute (2020) *Education in England: Annual report*, figure 4.1.

<sup>240</sup> Whittaker, F. (2018), *Funding cuts and bullying hitting Gypsy, Roma and Traveller pupils, MPs told*.

<sup>241</sup> National Foundation for Educational Research (2020), *Schools' responses to COVID-19: The challenges facing schools and pupils*.

most deprived areas, where BME pupils are concentrated, are three times more likely to report that their pupils are months behind their learning than teachers in the least deprived schools.<sup>242</sup> BME pupils are less likely to have regular access to suitable digital devices to enable them to study remotely<sup>243</sup> and may face further disruptions to their learning as their communities are disproportionately impacted by COVID-19.<sup>244</sup>

Following examination cancellations for the second year in a row due to the COVID-19 crisis, the government announced that teacher assessments would be used to award pupils' summer examination grades in 2021.<sup>245</sup> BME pupils are among those most likely to be impacted by a system of predicted grades brought in as a result of the cancellation of GCSE and A level examinations. There is significant evidence that students with lower socioeconomic status are at a particular disadvantage because their grades are more likely to be under-predicted.<sup>246</sup> Research by Ofqual, England's exam regulator, found that the replacement of exams with teacher assessments is biased against disadvantaged students.<sup>247</sup>

## Recommendations

- The UK government should address the underlying, structural causes of disparities in educational attainment among BME children, particularly in light of school closures due to COVID, and reintroduce ring-fenced funding for Traveller Education Services.
- The UK government should also address the adverse impact on BME pupils of school closures and other education-related measures taken in response to COVID-19.

## Racist bullying in schools

CERD's 2016 Concluding Observations raised concerns about 'continued reports of racist bullying and harassment in schools',<sup>248</sup> recommending that schools be required to collect data on bullying and school exclusions on the grounds of race. There is still no legal obligation for schools in England to record instances of bullying,<sup>249</sup> or to inform local authorities of incidents of racism.<sup>250</sup>

Analysis of Freedom of Information requests to local councils collected by the Guardian newspaper found 60,000 recorded incidents of racist bullying in schools over the past five years in the UK.<sup>251</sup> While these stark statistics go some of the way to illustrating racism in schools, experts have highlighted that they are the 'tip of the iceberg', as data is not systematically collected in England.<sup>252</sup>

The NSPCC has reported an increase in racist hate crime and racist bullying schools towards BME children since 2015/16.<sup>253</sup> A 2019 poll found that 32 per cent of children had heard someone being racist in school and half of parents felt that racism was a problem in school.<sup>254</sup> For Gypsy, Roma and Traveller groups, school bullying has been highlighted as one of the most common forms of hate speech.<sup>255</sup> It is clear that school-wide policies on racist bullying are far from universal, leaving many teachers without guidance on tackling racist abuse.<sup>256</sup>

<sup>242</sup> Ibid.

<sup>243</sup> National Education Union (2021), written submission.

<sup>244</sup> Ibid.

<sup>245</sup> Ofqual (2021), [Submission of teacher assessed grades, summer 2021: Info for teachers](#).

<sup>246</sup> Wyness, G., Dilnot, C., Macmillan, L., Anders, J. (2020), [Grade expectations: How well can we predict future grades based on past performance?](#)

<sup>247</sup> Ofqual (2021), [Systematic divergence between teacher and test-based assessment](#).

<sup>248</sup> CERD (2016), [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#), paragraph 23.

<sup>249</sup> Department for Education (2017), [Preventing and tackling bullying](#).

<sup>250</sup> Batty, D. and Parveen, N. (2021), [UK schools record more than 60,000 racist incidents in five years](#).

<sup>251</sup> Ibid.

<sup>252</sup> Ibid.

<sup>253</sup> NSPCC (2019), [Race hate crimes against children reach 3 year high](#).

<sup>254</sup> The Diana Award and Nationwide Building Society (2019).

<sup>255</sup> Greenfields, M. and Rogers, C. (2020), [Hate: 'As regular as rain' A pilot research project into the psychological effects of hate crime on Gypsy, Traveller and Roma \(GTR\) communities](#).

## Recommendation

- The UK government should ensure that there is a national policy on racist incident reporting to ensure a consistent approach to prevention, action, monitoring, assessment, evaluation, staff training and enforcement, to effectively challenge racism and racist bullying and support BME children in schools.

## Higher education

The numbers of BME people in universities in England continues to increase. At current levels, British-born BME people aged 18 to 30 have better qualifications at university level than their white counterparts. Despite this, BME graduates, particularly Black, Pakistani and Bangladeshi students, are less likely to attend higher-status, more selective Russell Group universities or to be awarded higher degree classifications (first or 2:1).<sup>257</sup> Black students are also the least likely to continue into a second year of study in higher education in both STEM and non-STEM subjects.<sup>258</sup>

Limited diversity at a staff level is a factor likely to influence both the attainment gap and high dropout rates for BME students.<sup>259</sup> A study by the Social Market Foundation in 2018 found that Black students were likely to have problems initially making contact with staff, and that this led to a profound lack of confidence in the institutions they studied in. Currently, 10 per cent of university professors are BME, and 6.9 per cent of other senior academic staff. Black professors make up just 0.6 per cent of professors and 0.7 per cent of senior academic staff.<sup>260</sup>

An EHRC inquiry found that one in four students have experienced racial harassment at university.<sup>261</sup> Without effective redress mechanisms, the EHRC found that 1 in 20 students and 3 in 20 staff members left universities because of racial harassment.<sup>262</sup>

BME students who have lived in the England for most of their lives but are undocumented or have limited leave to remain continue to face prohibitively high fees and are locked out of grants or student loans to attend university.<sup>263</sup> As highlighted in our 2016 report, young people must prove that they have had continuous leave to remain in the UK for three years at the start of their course to be eligible for student finance support.<sup>264</sup>

## Recommendations

- The UK government should require the Office for Students to review regulatory frameworks in English higher education institutions to ensure that they are taking necessary steps to safeguard students and staff from racial harassment.
- The UK government must amend eligibility criteria to ensure equal access to student finance regardless of immigration status.

<sup>256</sup> Joseph-Salisbury, R. (2020), *Race and racism in English secondary schools*.

<sup>257</sup> Khan O., (2020) *The Colour of Money: How racial inequalities obstruct a fair and resilient economy*.

<sup>258</sup> Office for Students (2020), *Access and continuation data by ethnicity, provider tariff group and subject group*.

<sup>259</sup> Universities UK (2019) *Black, Asian and minority ethnic student attainment at uk universities: #closingthegap*.

<sup>260</sup> *Ibid*.

<sup>261</sup> EHRC (2019) *Tackling Racial harassment: Universities challenged*.

<sup>262</sup> *Ibid*.

<sup>263</sup> Let us Learn, Just for Kids Law and We Belong (2019), *Normality is a luxury: How 'limited leave to remain' is blighting young lives*.

<sup>264</sup> Runnymede Trust (2016), UK NGOs' *Alternative Report: Submission to the UN Committee on the Elimination of Racial Discrimination with regard to the UK Government's 21st to 23rd Periodic Reports*.

## Police in schools

As of March 2021, there were 683 police officers working in British schools, known as ‘safer schools officers’ (SSOs).<sup>265</sup> Two police forces are reviewing the role of SSOs following legal challenges that police officers in schools could have a disproportionately negative impact on BME pupils – in breach of the PSED. In both cases, uniformed SSOs were brought into minor school incidents involving BME boys, in effect criminalising them; one case was based on an allegation that turned out to be false.<sup>266</sup>

The results of a survey of 554 young people, parents, teachers and community members in Greater Manchester highlighted the racialised context of police in schools.<sup>267</sup> First, because the police use measures of disadvantage, like entitlement to free school meals, SSOs are likely to be placed in schools with higher numbers of BME pupils. Second, by bringing the criminal justice system into schools, the placement of SSOs can facilitate the school-to-prison pipeline for too many BME young people.<sup>268</sup> A broad cross-section of respondents felt that a regular police presence would stigmatise a school and affect the wellbeing of students. We are concerned that without consultation and without assessing the likely race equality impact, the government has endorsed and expanded a programme that could permanently mark BME pupils’ school experience and future life.

### Recommendation

- The UK government should require all SSOs to be withdrawn from schools in England and require all police forces in England to discontinue any further participation in Safer Schools Partnerships.

<sup>265</sup> Parveen, N., McIntyre, N. and Thomas, T. (2021), *UK police forces deploy 683 officers in schools with some poorer areas targeted*.

<sup>266</sup> *Ibid.*

<sup>267</sup> Legane, R. and Joseph-Salisbury, R. (2020) *Decriminalise the classroom: A community response to police in Manchester’s schools*.

<sup>268</sup> See ‘School exclusions’ above.

## Health

When CERD considered issues of race equality in the UK in its Concluding Observations in 2016, healthcare was identified as a matter of concern: 'The State Party should take effective measures to ensure the accessibility, availability and quality of health care services to persons belonging to ethnic minorities throughout its jurisdiction.'<sup>269</sup>

The depth and breadth of race inequalities in health outcomes, brought to the fore by the COVID-19 pandemic, is of grave concern. Study after study has exposed that BME people in the UK are 'more likely to have underlying health conditions because of their disadvantaged backgrounds, but they were also more likely to have shorter life expectancies as a result of their socio-economic status'.<sup>270</sup>

The following trends have been identified among BME communities, which illustrate the stark extent of health inequality in England and the UK, and which pre-date the COVID-19 pandemic:

- There is a consistently higher rate of heart disease among Bangladeshi, Pakistani and other South Asian groups than their white counterparts.<sup>271</sup>
- BME people with learning disabilities die younger than their white counterparts. There is a 26-year difference in life expectancy between white and BME people with profound and multiple learning disabilities.<sup>272</sup>
- Black Caribbean and Black African people have higher rates of admission to psychiatric hospitals with a diagnosis of severe mental distress.<sup>273</sup>
- Black women are four times and Asian women twice as likely to die in pregnancy or childbirth as white women.<sup>274</sup>
- The health of white British women in their 80s is equivalent to that of Black Caribbean and Indian women in their 70s and Pakistani and Bangladeshi women in their 50s.<sup>275</sup>

The disproportionality of outcomes between white and Black women in childbirth continues to increase. While the causes of these disparities are not fully clear,<sup>276</sup> experts have pointed to the impact of socioeconomic inequalities, poor housing conditions and occupational risk as contributing factors.<sup>277</sup> The government has failed to commit to a target to end this disparity as recommended by the Parliamentary Joint Committee on Human Rights,<sup>278</sup> instead emphasising the steps that it is taking to work with 'maternal health practitioners and ethnic minority women to drive positive actions and interventions in this area'.<sup>279</sup>

Of particular concern are the barriers facing Gypsy, Roma and Traveller communities in accessing healthcare and the extremely poor health outcomes that they experience. In 2016, CERD expressed concern about the lack of evidence that measures adopted to address health inequalities had led to improvements for Gypsy, Roma and Traveller groups.<sup>280</sup> Data shows that 42 per cent of members of Gypsy, Roma and Traveller groups in the UK are affected by a long-term health condition, in contrast to 18 per cent of the general population.<sup>281</sup>

<sup>269</sup> CERD (2016), Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland, paragraph 31.

<sup>270</sup> Independent SAGE (2021), Disparities in the impact of COVID-19 in black and minority ethnic populations.

<sup>271</sup> Holmes, J. and Raleigh, V. (2021), The health of people from ethnic minority groups in England.

<sup>272</sup> University of Bristol Norah Fry Centre for Disability Studies (2019), The Learning Disability Mortality Review (LeDeR) Programme: Annual report.

<sup>273</sup> Bignall, T., Jeraj, S., Helsby, E. and Butt, J. (2019) Racial disparities in mental health, Literature and evidence review.

<sup>274</sup> MBRRACE-UK (2021) Saving lives, improving mothers' care.

<sup>275</sup> Centre for Aging Better (2021), written submission.

<sup>276</sup> Race Equality Foundation (2018) Taking action to improve the health and wellbeing of BAME pregnant women.

<sup>277</sup> The Government (2021), Black people, racism and human rights: Government response to the Committee's eleventh report of session 2019–21.

<sup>278</sup> *Ibid.*

<sup>279</sup> *Ibid.*

<sup>280</sup> CERD (2016), Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland, paragraph 31.

<sup>281</sup> Royal College of General Practitioners (2013), Improving access to health care for Gypsies and Travellers, homeless people and sex workers.

The life expectancy of Gypsy, Roma and Traveller people is 10–12 years lower than that of the general population, while in some local areas the difference can be as much as 25 years.<sup>282</sup> There is also evidence that Gypsy, Roma and Traveller groups have a higher infant mortality rate, as well as extremely high rates of anxiety, depression and suicide.<sup>283</sup>

Nomadic Gypsy Roma and Traveller groups often face challenges in accessing primary healthcare services and registering for a GP practice,<sup>284</sup> and almost a third of members of Gypsy, Roma and Traveller groups report discrimination within the healthcare system. Despite these widespread inequalities, there is not enough disaggregated data on the health outcomes of Gypsy, Roma and Traveller groups. Gypsies, Roma and Travellers are still not included in the NHS Data Dictionary,<sup>285</sup> meaning that NHS England is not able to collect nationally representative data to address their health needs.<sup>286</sup>

## Recommendations

- The UK government should develop a fully funded cross-governmental strategy to reduce health inequalities.
- The UK government should require that the Health and Social Care Information Centre issue a notice to require NHS England's National Data Dictionary to include Gypsy, Roma and Traveller groups.
- The UK government must introduce a target to tackle disproportionate maternity deaths of BME women.

## Racial discrimination, health and COVID-19

The uneven impact of COVID-19 on BME people has been well documented throughout the pandemic. BME groups have been not only more likely to catch the virus, but also more likely to become seriously ill and die from it.<sup>287</sup> During the first wave of COVID-19, it was estimated that the death rate was 3.3 times higher for Black men and 2.4 times higher for Black women compared with white men and women.<sup>288</sup> The Runnymede Trust and the Institute of Public Policy Research estimated that between March and May 2020, had the white population experienced the same risk of death from COVID-19 as Black groups, 58,000 additional deaths would have occurred.<sup>289</sup>

In response to the disparities in the outcomes of COVID-19 for BME groups during the first wave, the Government's Race Disparity Unit announced its Community Champions scheme, a £25 million fund to reach the most-at-risk groups to improve public health messaging, alongside two new advisors on COVID-19.<sup>290</sup> While there were some improvements to the death rate for Black people between the first and second wave of the pandemic in 2020, analysis of ONS data shows that rates remained high for Bangladeshi and Pakistani groups.<sup>291</sup>

Evidence illustrates that higher levels of deprivation, lower socioeconomic status and experiences of racial discrimination are all likely to contribute to these disparities.<sup>292</sup> BME groups have been disproportionately likely

<sup>282</sup> Friends, Families and Travellers (2021), written submission.

<sup>283</sup> Ibid.

<sup>284</sup> Women and Equalities Committee (2019), [Tackling inequalities faced by Gypsy, Roma and Traveller communities](#).

<sup>285</sup> Ibid.

<sup>286</sup> Lane, P., Spencer, S. and Jones A. (2014), [Gypsy Traveller and Roma: Experts by experience](#).

<sup>287</sup> Patel, P., Kapoor, A. and Treloar, N. (2020), [Ethnic inequalities in COVID-19 are playing out again: How can we stop them?](#)

<sup>288</sup> Ibid.

<sup>289</sup> Ibid.

<sup>290</sup> Ibid.

<sup>291</sup> Nafilyan, V., Islam, N., Mathur, R., Ayoubkhani, D., Banerjee, A., Glickman, M., Humberstone, M., Diamond, I. and Khunti K. (2021), [Ethnic differences in COVID-19 mortality during the first two waves of the coronavirus pandemic: A nationwide cohort study of 29 million adults in England](#); Government Equalities Office and Ministry of Housing (2020), [Minister for Equalities sets out government action to tackle covid disparities](#).

<sup>292</sup> Nazroo, J. and Bécaries, L. (2021) [Ethnic inequalities in COVID-19 mortality: A consequence of persistent racism](#).

to be working outside of the home during the pandemic, and more likely to be in insecure and low-paid work, be classed as key workers, and live in overcrowded housing – all factors making them particularly at risk from COVID-19.<sup>293</sup> The University of Manchester and the Runnymede Trust highlight: ‘structural and institutional racism shape the inequalities faced by BME people by leading to their disproportionate representation in insecure and low-paid employment, overcrowded housing, and deprived neighbourhoods’.<sup>294</sup>

Of particular concern is the disproportionately low COVID-19 vaccine uptake for BME groups. A survey released in January 2021 found that 72 per cent of Black people are unlikely to receive the jab, and 42 per cent of Bangladeshi and Pakistani people.<sup>295</sup> CSOs have highlighted how experiences of institutional and structural racism in public institutions influence ‘trust in a particular vaccine being perceived as appropriate and safe’.<sup>296</sup> Government campaigns to overcome vaccine hesitancy have improved outcomes for some groups. However, by the end of May 2021 almost one in four Black people over 70 were not vaccinated, while the take-up rate for white people over 70 was 97 per cent.<sup>297</sup>

The lack of reporting of disaggregated ethnicity data has frustrated efforts to support BME groups during the COVID-19 pandemic.<sup>298</sup> The non-recording of ethnicity on death certificates in England makes it difficult to understand the full scale of the crisis facing BME groups. In October 2020, the government agreed that it should be mandatory to record ethnicity data on death certificates.<sup>299</sup> However, there appear to be legal, digital and methodological issues to be resolved before this comes into force, and in the meantime significant gaps remain in data on ethnicity and death.

## Access to healthcare for migrants

The 2014 Immigration Act changed the definition of ‘ordinary residence’ in the UK, so that non-EEA temporary migrants would have to pay a mandatory immigration health surcharge (IHS) alongside a visa application fee.<sup>300</sup> The cost is currently set at £624 per person per year, following a rise in October 2020. Since 2015, NHS regulations have required NHS bodies to charge all non-EEA temporary migrants who have not paid the IHS for non-urgent healthcare (excluding primary healthcare).<sup>301</sup>

In 2017, the government extended the statutory duty to charge temporary migrants to all bodies that provide NHS services, denying access to treatment until the estimated full cost of it is secured upfront, unless this would prevent or delay immediately necessary or urgent treatment.<sup>302</sup> NHS charges are part of the government’s hostile-environment policies, to make life as difficult as possible for migrants without leave to remain. The demand for full payment before treatment can be provided has been heavily criticised by campaign groups, CSOs, politicians, doctors and NHS staff.<sup>303</sup> It creates a climate of fear for migrant groups, threatening the health of seriously ill patients as well as public health at large.

According to the JCWI’s research, almost half of healthcare workers are ‘unaware of how charging regulations operate within their hospitals’ due to the complex nature of NHS charging regulations.<sup>304</sup> This lack of clarity leaves patients open to discriminatory treatment by NHS staff, with BME patients facing more questioning about their immigration status than their white counterparts.<sup>305</sup>

<sup>293</sup>Treloar, N., Bécares, L. and Haque, Z. (2020), [Over-exposed and under-protected: The devastating impact of COVID-19 on Black and ethnic minority communities in Great Britain](#).

<sup>294</sup>Nazroo, J. and Bécares L. (2021) [Ethnic inequalities in COVID-19 mortality: A consequence of persistent racism](#).

<sup>295</sup>Geddes, L. (2021), [72 per cent of black people unlikely to have jab, UK survey finds](#).

<sup>296</sup>Ibid.

<sup>297</sup>Mohdin, A. and Barr, C. (2021), [One in four elderly black people in England still not vaccinated](#).

<sup>298</sup>British Medical Association (BMA) (2021), written submission.

<sup>299</sup>Downey, A. (2020), [COVID-19: Recording of ethnicity data to be mandatory on death certificates](#).

<sup>300</sup>House of Commons Library (2020), [NHS charges for overseas visitors](#).

<sup>301</sup>The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2015.

<sup>302</sup>Ibid.

<sup>303</sup>In 2019, 500 delegates from the MA, a leading professional body for doctors in the UK, backed a motion stating that asking foreign patients to pay made medical staff ‘complicit in racism’, stating that the regulations turned doctors into ‘border guards’ by asking them to check the immigration status of their patients; Parker, C. (2019), [Making tourists pay to use the NHS is racist, say doctors](#).

<sup>304</sup>YouGov poll commissioned by JCWI.

<sup>305</sup>Ibid.

NHS upfront charging policies have had a detrimental impact on migrants' access to coronavirus treatment, testing and vaccines. The government amended NHS charging regulations to ensure that there were no charges for migrants accessing treatment or testing for COVID-19.<sup>306</sup> However, there is evidence that migrants are not aware of the coronavirus exemption and continue to avoid seeking healthcare because of fears about sharing data with the Home Office;<sup>307</sup> 57 per cent of migrants surveyed by Medact, the New Economics Foundation and Migrants Organise 'avoided seeking healthcare because of ... migration enforcement concerns'.<sup>308</sup>

High-profile cases of the impact of NHS upfront charging regulations were well publicised as part of the Windrush scandal in 2018, where it emerged that British Commonwealth citizens were being wrongfully denied their legal rights and access to public services and were being detained and deported.<sup>309</sup> Albert Thompson, a member of the Windrush generation, was asked to pay £54,000 for cancer treatment under NHS charging regulations, despite having lived in Britain lawfully for 44 years.<sup>310</sup>

## Recommendations

- The UK government should initiate a thorough review of the NHS charging regime to assess:
  - the total costs involved in its implementation compared with any savings for the NHS
  - the impact on the physical and mental health of migrants of the requirement for full upfront payment before they can access NHS healthcare
  - the risks to public health of large numbers of migrants subject to NHS charging declining to take-up free treatment and/or testing for COVID-19 and other highly contagious illnesses such as TB due to their fears of immigration enforcement
  - The risks to their health and that of their babies of pregnant women subject to NHS charging delaying seeking antenatal care for months.
- The UK government should launch and maintain a public information campaign to ensure that everyone is aware of the government's exemption from charging for COVID-19 healthcare treatment.

## Mental health and BME communities

In its 2016 Concluding Observations, CERD stressed the 'importance of adopting measures to effectively address the overrepresentation of persons of African Caribbean descent treated in psychiatric institutions and the disproportionate use of restraint, seclusion and medications'.<sup>311</sup>

To date, the government has made little progress on these important matters. BME groups are at higher risk of severe mental distress, are more likely to struggle to access mental health services and are more likely to receive compulsory mental health treatment.<sup>312</sup> Evidence also illustrates that BME groups are less likely to access primary care services than their white counterparts, and more likely to be placed in crisis care.<sup>313</sup> In 2020, Black people were four times more likely to be detained under the Mental Health Act,<sup>314</sup> and 10 times more likely to be placed under a community treatment order, than their white counterparts.

<sup>306</sup> Department of Health and Social Care (2015), [Visitor and migrant cost recovery programme](#).

<sup>307</sup> MedAct(2020), [Migrants access to care during coronavirus](#).

<sup>308</sup> MedAct(2020), [Migrants' access to healthcare during the coronavirus crisis](#).

<sup>309</sup> JCWI (2018), [Windrush scandal explained](#).

<sup>310</sup> Gentleman, A. (2018), [Theresa May refuses to intervene over man's £54,000 NHS cancer bill](#).

<sup>311</sup> CERD (2016), [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#), paragraph 31.

<sup>312</sup> Byrne, B., Alexander, C., Khan, O., Nazroo, J. and Shankley, W. (2020), [Ethnicity, race and inequality in the UK](#).

<sup>313</sup> Butt, J., Helsby, E., Jeraj, S. and Bignall, T. (2019), [Race disparities in mental health: Literature and evidence review](#).

<sup>314</sup> Department of Health and Social Care (2021), [Detentions under the Mental Health Act](#).

However, the government has now committed to a parity of esteem for mental and physical health and recently introduced plans for reform to mental health provision.

An independent review in 2018 proposed broad changes to restore patients' dignity and give them a greater role in decisions about their mental health care and treatment.<sup>315</sup> The government's subsequent 2021 White Paper, *Reforming the Mental Health Act*,<sup>316</sup> includes key proposals aiming to reduce disparities for BME groups in detention and in outcomes of treatment. It proposes reformed criteria for detention which focus on 'therapeutic benefit', better data collection for BME groups, fewer Community Treatment Orders and reduced length of detention. While these proposals are welcome, race equality organisations have highlighted that further measures are still needed to address deep-rooted race inequalities in mental health provision, including promoting access to services and tackling wider determinants of mental distress.<sup>317</sup>

## Recommendations

- The UK government should act now to achieve better data collection on different BME groups' use of mental health services to enable specific research to address barriers to accessing services
- The UK government and NHS providers, having due regard to the PSED, should secure equal access for BME young people and adults to suitable community mental health services and appropriate therapies, and should provide appropriate community-based mental health support for Black people to reduce disproportionate Mental Health Act detentions.
- The UK government should introduce legislation to give full effect to the reforms to mental health care in England and Wales outlined in its 2021 White Paper, particularly the proposed reforms intended to prevent less favourable care and treatment of BME patients and service users.

<sup>315</sup>Department of Health and Social Care (2018), *Modernising the Mental Health Act: Final report from the independent review*.

<sup>316</sup>Department of Health and Social Care (2021), *Reforming the Mental Health Act*.

<sup>317</sup>Race Equality Foundation (2021), written submission.

## Housing

### BME over-representation in poor housing and homelessness

BME groups are disproportionately likely to face homelessness, poor housing conditions and overcrowded accommodation. A recent survey indicated that 56 per cent of Black people and 49 per cent of Asian people were living in unfit, unsafe or unaffordable privately rented housing compared with 33 per cent of white people.<sup>318</sup> The inequalities in housing conditions are likely to arise from income and wealth disparities between white and some BME groups, as well as significantly higher levels of unemployment and experiences of discrimination when accessing accommodation. Black and Asian people are 'almost five times more likely to experience discrimination when looking for a safe, secure and affordable home'.<sup>319</sup>

The Grenfell Tower tragedy (2017), in which the victims were disproportionately likely to be BME,<sup>320</sup> exposed profound inequalities in housing conditions for BME people and migrants. Specifically, it brought to light systematic failures by local authorities to maintain decent housing conditions in the social rented sector, as well as the devastating consequences of disparities facing BME groups in accessing decent housing.

We are concerned by continuing disparities in housing conditions, with some BME communities particularly vulnerable to long-standing disrepair and health hazards, including damp. In the two years to March 2019, 3 per cent of English households had damp in more than one room. That figure rose to 10 per cent for Bangladeshi households, and 13 per cent for Mixed White and Black Caribbean people.<sup>321</sup> These problems are particularly acute in the social rented sector, where almost half of Black groups in the UK live.<sup>322</sup>

Alongside this, there are stark disparities in rates of overcrowded housing for some BME groups. Almost a quarter of Bangladeshi households in England have fewer bedrooms than needed, in comparison with just 2 per cent of white households.<sup>323</sup> Similarly, 18 per cent of Pakistani households are overcrowded and 16 per cent of Black African households.<sup>324</sup> During the COVID-19 crisis, overcrowded households were particularly vulnerable to the virus as it was difficult to effectively isolate from others.

Homelessness has continued to rise among BME groups since the last periodic report. In England, Black groups are disproportionately likely to be homeless, with 14 per cent of all statutory homeless households Black in 2017/18.<sup>325</sup> Shelter UK has found that Black people in England were three times more likely to experience homelessness before the pandemic than their white counterparts.<sup>326</sup> We expect the situation to have worsened during the COVID-19 crisis.

### Recommendations

- The UK government should immediately take action to tackle the disproportionate number of BME communities impacted by overcrowding.
- The UK government should ensure that the Local Housing Allowance rate, which calculates the rate of housing benefit for tenants with private landlords, reflects real market rents and enable tenants to afford safe, secure housing suitable to their needs.
- The UK government should act to meet the urgent need for safe, secure, affordable housing and to cut social housing waiting lists by building social housing.

<sup>318</sup> Butler, P. (2021), [Black, Asian and disabled tenants 'more likely to face housing discrimination'](#).

<sup>319</sup> *Ibid.*

<sup>320</sup> Rice-Oxley, M. (2018), [Grenfell: the 72 victims, their lives, loves and losses](#).

<sup>321</sup> Ethnicity Facts and Figures (2020), [Housing with damp problems](#).

<sup>322</sup> Shankley, W. and Finley, N. (2020), [Ethnic minorities and housing in Britain](#).

<sup>323</sup> Ethnicity Facts and Figures (2020), [Overcrowded households](#).

<sup>324</sup> *Ibid.*

<sup>325</sup> Ethnicity Facts and Figures (2020), [Statutory homelessness](#).

<sup>326</sup> Shelter UK (2020), [Black people are more than three times as likely to experience homelessness](#).

## Right to rent

Under the Immigration Act 2014, landlords are prohibited from renting to any person who does not have a 'right to rent'. Section 22 of the Act prohibits private landlords from renting to anyone whose immigration status does not permit them to reside in the UK. A landlord who fails to carry out specified checks on whether a potential tenant is legally permitted to rent could face a penalty of up to £3000. Introduced alongside other hostile-environment policies, this legislation was intended to encourage undocumented migrants to leave the UK by making it increasingly difficult to remain here. The reality, however, is that those without the 'right to rent' are often forced into dangerous and exploitative accommodation.

Both the High Court and the Court of Appeal have now found that the right to rent scheme could result in discrimination by landlords against prospective tenants on the basis of their 'actual or perceived' nationality.<sup>327</sup> CSOs continue to highlight the discriminatory impact of the right to rent scheme now in force, which asks landlords or their agents to determine the immigration status of people wanting to rent somewhere to live.<sup>328</sup> The government's own data shows that 25 per cent of landlords would not let to non-British passport holders as a result of the scheme, while surveys by Shelter, JCWI and the Residential Landlords Association have consistently shown that around 40 per cent of landlords prefer British passport holders as a result of the scheme.<sup>329</sup> Of particular concern is evidence that the scheme leads landlords to discriminate against those with 'foreign-sounding' names or a 'foreign accent' as the easiest way to avoid a penalty. The scheme compounds existing inequalities in housing for BME communities, who are already more likely to be living in overcrowded and poor housing conditions,<sup>330</sup> by placing additional barriers to rent a property.

### Recommendation

- The UK government should repeal Chapter 1, Part 3, Immigration Act 2014 and related secondary legislation, the statutory framework for its discriminatory right to rent scheme.

## Accommodation for Gypsies, Roma and Travellers

CERD, in its 2016 Concluding Observations, recommended that the UK government 'ensure the provision of adequate and culturally appropriate accommodation and stopping sites as a matter of priority throughout the State Party and regularly publish the net increase of pitches for Gypsies, Roma and Travellers created through the Traveller Pitch Fund'.<sup>331</sup>

Despite the introduction of the Planning Policy for Traveller Sites (2015), designed to address the need for accommodation among Gypsies, Roma and Travellers, there is still a profound shortage of culturally appropriate accommodation for Gypsies, Roma and Travellers. The majority of local authorities do not comply with their duties to provide sites for Gypsies and Travellers, and a survey by Friends, Families and Travellers shows that there were 1696 households on the waiting list for pitches on Traveller sites in England in 2020.<sup>332</sup>

'Unauthorised encampments' are very often the result of the chronic shortage of culturally appropriate accommodation for Gypsies and Travellers.<sup>333</sup> Despite this, the government's Police, Crimes, Sentencing and Courts Bill includes plans to criminalise 'unauthorised encampments' and makes 'established trespass' a criminal offence. Clause 61 of the Bill includes provisions to create a new offence 'to reside or intend to reside

<sup>327</sup> R (Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department [2019] EWHC 452 (Admin); Secretary of State for the Home Department v R (Joint Council for The Welfare of Immigrants) [2020] EWCA Civ 542.

<sup>328</sup> JCWI (2021), written submission.

<sup>329</sup> Shelter (2016), [Research report: Survey of private landlords](#); JCWI (2017), [Passport please: The impact of right to rent checks on migrants and ethnic minorities in England](#).

<sup>330</sup> Ministry of Housing, Communities and Local Government (2021), [English housing survey](#).

<sup>331</sup> CERD (2016), [Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland](#), paragraph 25.

<sup>332</sup> Friends Families and Travellers (2021), [Last on the list: An overview of unmet need for pitches on Traveller sites in England](#).

<sup>333</sup> Liberty (2021), [Liberty's briefing on the Police, Crime, Sentencing and Courts Bill](#).

on land without consent in or with a vehicle', giving police the power to seize a vehicle and fine or imprison those who do not comply with the law. These measures plainly disproportionately target Gypsy, Roma and Traveller communities and thus are discriminatory and potentially unlawful under the Equality Act 2010 and the Human Rights Act 1998.<sup>334</sup>

## Recommendations

- The UK government should take immediate action to ensure that adequate, culturally appropriate accommodation is provided for Gypsy and Traveller communities.
- The UK government should urgently remove from the Police, Crime, Sentencing and Courts Bill any provisions which could result in the criminalisation of unauthorised encampments.
- The UK government should implement a national strategy to improve outcomes for Gypsy, Roma and Traveller communities.

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<sup>334</sup> Ibid.

# ARTICLE 6: SEEKING JUSTICE

## Access to justice and legal aid

Under Article 6 of ICERD, the government must ensure that everyone within the UK jurisdiction can seek legal redress if their right to protection from racial discrimination is violated.<sup>335</sup>

Two elements are necessary if BME groups are to have the access to justice against perpetrators of discrimination guaranteed under Article 6:

- a) national legislation prohibiting discrimination and providing judicial or other procedures for enforcement against perpetrators of unlawful discrimination
- b) Members of BME groups are fully able to access these procedures on equal terms.

In England the Equality Act 2010 satisfies (a); it provides comprehensive measures defining clearly what constitutes unlawful discrimination, harassment and victimisation and specifies the tribunals or courts designated to consider such cases.

It is (b) – the ability of a BME person in England to challenge discriminatory treatment and secure redress – that has become increasingly uncertain, due to government decisions to drastically reduce the scope of legal aid and the eligibility and remuneration of legal aid practitioners under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. This is coupled with a decade of austerity measures that have severely limited the capacity of local authorities to provide funding for advice agencies. Few local advice agencies still open can advise on discrimination, and for most people vital access to early advice is closed. Baroness Kennedy stated in 2021 that ‘Legal aid has been removed from huge areas of law that affect poor people. It has been cut to the bone.’<sup>336</sup>

The number of solicitors still able to take legal aid cases continues to fall. From April 2020 to February 2021, 70 offices closed, leaving 37 fewer legal aid providers.<sup>337</sup> The impact of this on BME and other marginalised communities is acute. Few solicitors do discrimination law, and the tests each case must pass for legal aid to be granted tend to exclude discrimination claims. There are now only eight law firms in England providing advice and assistance on school exclusions under legal aid contracts.<sup>338</sup>

This is a picture of a slide into a system of justice available only to those with private means, denuded of lawyers committed to challenging inequality and injustice, leaving BME victims of discrimination without the protection and remedies the UN Convention requires the UK government to guarantee. In 2019, the EHRC found that very few victims of discrimination were ‘getting the representation they need in courts or tribunals’. Its inquiry into the availability of legal aid found that ‘between 2013/14 and 2017/18 no workplace discrimination cases received legal aid funding for representation in the employment tribunal, and only 1 in 200 cases taken on by discrimination specialists received funding for representation in court’.<sup>339</sup> In response to the EHRC inquiry report, the Ministry of Justice made minor adjustments to support victims of discrimination.<sup>340</sup> But there is little evidence that those changes have made a difference to BME people seeking justice.

In June 2020, new rules came into force that further limited access to legal aid for immigration and asylum cases by making it financially impossible for lawyers to take on complex cases.<sup>341</sup> Victims of trafficking and LGBT+

<sup>335</sup> ICERD, Article 6: ‘States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.’

<sup>336</sup> Law Society Gazette (2021), ‘Shocked’ Helena Kennedy QC praises advice service at risk of closure.

<sup>337</sup> Legal Action (2021), ‘Thirty-seven and rising: The number of legal aid providers lost since the early days of the pandemic’.

<sup>338</sup> Ibid.

<sup>339</sup> EHRC (2019), *Access to legal aid for discrimination cases*.

<sup>340</sup> Ministry of Justice (2019), *Legal support: The way ahead. An action plan to deliver better support to people experiencing legal problems*.

<sup>341</sup> Young Legal Aid Lawyers (2020), *New legal aid rules threaten access to justice for asylum seekers and vulnerable migrants, young lawyers warn*.

asylum seekers will be the worst affected. These rules came in before a full consultation had taken place, and without a full equality impact assessment being carried out.<sup>342</sup>

In 2016, CERD was alerted to the limited access to justice for members of BME groups as a result of the legal aid reforms and the imposition of employment tribunal fees. It recommended that the UK ‘undertake a thorough assessment of the impact of the reforms to the legal aid system to ensure that individuals belonging to ethnic minorities are not disproportionately affected’.<sup>343</sup> A Supreme Court ruling in July 2017 found that the introduction of employment tribunal fees was unlawful in UK constitutional law, stressing the right to access courts. We welcome the fact that these fees have now been abandoned. The Supreme Court also ruled that fees previously paid should be refunded.<sup>344</sup> However, reports suggest that the government is planning to reinstate employment tribunal fees through primary legislation, thus avoiding the scrutiny of the courts.<sup>345</sup>

### Recommendations

- The UK government must undertake and publish a comprehensive review of the current civil legal aid scheme, focusing on the ability of BME people to enforce their race equality rights in the UK as guaranteed under the International Convention on the Elimination of Racial Discrimination.
- The UK government must urgently reinstate the pre-2012 funding levels and scope of the Legal Aid Scheme.

## The role of the EHRC

In a recent report, the Parliamentary Joint Committee on Human Rights highlighted the limited capacity of the EHRC to promote and protect Black people’s human rights compared with that of the Commission for Racial Equality (CRE) that preceded it.<sup>346</sup> The report notes that ‘In 2006 the CRE had a budget of £90 million just for race issues; the EHRC currently has a budget of £17.1 million for all the work it is required to do across all the protected characteristics.’<sup>347</sup> In 2012, the EHRC’s workforce was halved, and it was subjected to increased oversight by the government Equalities Office (GEO).<sup>348</sup>

The EHRC has powers under Section 28 of the Equality Act 2006 to assist a person to bring a claim of discrimination, harassment or victimisation under the Equality Act 2010 by providing legal advice, legal representation and facilities for settling a dispute or other assistance. However, the number of cases in which the EHRC assists remains low: an average of 22 per year between October 2007 and March 2018, with 32 cases in 2018/19 and 34 in 2019/20.

### Recommendation

- The UK government should, in consultation with the EHRC, CSOs and discrimination and human rights law practitioners and having due regard to the Paris Principles, identify what steps it could most usefully take to ensure that the EHRC can use its powers effectively to combat the racism and race discrimination outlined in this report, and take those steps.

<sup>342</sup> Civil Legal Aid (Remuneration) (Amendment) (Coronavirus) Regulations 2020; even before this, migrant BME women who are subjected to VAWG were expected to continue to face barriers to legal support, with a 56% drop in the number of asylum and immigration legal aid providers since 2005; Refugee Action and NACCOM, (2018), *Tipping the scales: Access to justice in the asylum system*.

<sup>343</sup> CERD (2016), *Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland*, paragraph 21.

<sup>344</sup> *Stammering Law* (2017), *Employment tribunal fees no longer payable*.

<sup>345</sup> Farragher, J. (2020), *Government could bring back tribunal fees, reports suggest*.

<sup>346</sup> Joint Committee on Human Rights (2020), *Black people, racism and human rights: Eleventh report of session 2019–21*.

<sup>347</sup> *Ibid*.

<sup>348</sup> Ramesh, R. (2012), *Equality and Human Rights Commission has workforce halved*.

## ARTICLE 9: REPORTING TO CERD

We are concerned that the government did not submit its periodic report in 2020, citing delays due to COVID-19, and has not submitted it as of June 2021. As a result, race equality organisations and CSOs have had no state report to consult in the creation of our report. We encourage the Committee to remind the State Party of its reporting obligations under ICERD.

### Recommendation

- The UK government should affirm its commitment to ICERD and submit its 24th to 26th periodic reports to CERD without further delay

# ABBREVIATIONS

BME	Black and minority ethnic
BUSSS	Best Use of Stop and Search Scheme
CERD	Committee on the Elimination of Racial Discrimination
CJPO	Criminal Justice and Public Order Act
CSO	civil society organisation
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EEA	European Economic Area
EHRC	Equality and Human Rights Commission
ESEA	East and South-East Asian
EUSS	EU Settlement Scheme
FPN	fixed penalty notice
HMICFRS	Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services
HRA	Human Rights Act
ICERD	International Convention on the Elimination of Racial Discrimination
IHRAR	Independent Human Rights Act Review
JCWI	Joint Council for the Welfare of Immigrants
MIR	Minimum Income Requirement
NGO	non-governmental organisation
NHS	National Health Service
NRPF	no recourse to public funds
NSPCC	National Society for the Prevention of Cruelty to Children
ONS	Office for National Statistics
PSED	public sector equality duty
SSO	safer schools officer
STC	Secure Training Centres
SVRO	Serious Violence Reduction Order
YOI	Young Offender Institution

# APPENDIX: SIGNATORIES TO THE REPORT

This submission has been endorsed by 79 civil society organisations. Not all of the organisations work across all the areas addressed or support all of the content or recommendations.

ACH

African Peoples Advocacy

Ahmed Iqbal Ullah Race Relations Archive

Anna Kennedy Online

Anti-Caste Discrimination Alliance

Anti-Tribalism Movement

Bangladesh Welfare Association

Barrow Cadbury Trust

Blaksox

British Association of Social Workers (BASW)

CARISMA Services

Catholic Association for Racial Justice (CARJ)

Centre for Research in Equality and Diversity, Queen Mary, University of London

Children's Rights Alliance for England, part of Just for Kids Law

Criminal Justice Alliance

Discrimination Law Association

Dorset Race Equality Council

End the Virus of Racism

ENTRAIDE (MUTUAL AID)

Equality Act Review

Equally Ours

Europa

Faith Belief Forum

Friends, Families and Travellers

Gipsil

Greater Manchester BAME Network

Harm Reduction International (HRI)

I Have a Voice

JCWI

Kashmir Youth Project

Lancashire BME Network

Legacy WM

London Gypsies and Travellers

M Prez

Making Education a Priority (MEaP)

Manchester BME Network CIC

Medact

MEND

Meri Yaadain CiC

Migrants Organise

Migrants Rights Network

NHS BME Network

NICRE

Olmec

Pakistan Association Huddersfield

People in Harmony

Polish Expats Association

Positive Action in Housing

Protection Approaches

Race Equality Committee

Race Equality First

Race Equality Foundation

Race Equality Network

Race on the Agenda (ROTA)

Release

Rene Cassin

RJ Working CIC

Sandwell African Caribbean Mental Health Foundation

Scottish Independent Advocacy Alliance

Somerset African Caribbean Network

South Asian Health Action

Sported

Staying Put

Sub-Saharan Advisory Panel

The Children's Society

The Runnymede Trust

The Traveller Movement

UNISON

UNJUST

USDAW

Wellsprings Together

Women's Resource Centre

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