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Human Rights Council and Treaty Mechanisms Division
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3rd May 2024

Dear Mr. Chair,

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

The Scottish Human Rights Commission (the Commission) welcomes the opportunity to provide an initial input to support the development of the List of Themes ahead of the UK's examination at the 113th Session in August 2024.

We note and respond to the issues addressed in the [UK's State Report](#) and the [Concluding observations on the combined twenty-first to twenty-third periodic reports of the United Kingdom of Great Britain and Northern Ireland](#).

As the National Human Rights Institution for Scotland, we highlight that the UK's constitutional make up is complex. We warmly welcome the Committee's past sensitivity to the nature and role of devolution. Scotland has primary legal responsibility for the implementation of the Convention in most areas, and in order for the Convention to be properly realised in Scotland, it is essential to evaluate the Scottish Government and other devolved duty-bearers efforts to eradicate racial discrimination as per the Convention.

Established by an Act of the Scottish Parliament, the Commission's mandate covers all policy and practice within devolved competence. The Equality and Human Rights

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Commission is the NHRI for Great Britain and considers human rights in reserved areas. Our roles are distinct; the SHRC has the sole remit in respect of human rights in devolved areas, as noted in the State report (paragraphs 89-93). This is further elaborated through a Memorandum of Understanding between our organisations.

The SHRC however remains disappointed that we have not had our powers revisited since we were established in 2006. This leaves people in Scotland with their rights significantly less protected than counterparts in Northern Ireland and in England and Wales.

The Scottish Government has made bold commitments to increase protection and realisation of human rights. This must be appropriately tested through both international and domestic scrutiny. The evidence supplied by us and NGO's aims to support the Committee – and of course, other interested parties – to do so effectively.

Accordingly, the Commission requests the following:

- Participation in the private briefing session ahead of the state dialogue
- To participate in the examination, with the consent of the state party

These requests and our full detailed submission ahead of the review demonstrate our commitment to supporting the Committee's vital work to realise the full implementation of the Convention.

Please do not hesitate to contact us for further information about the Commission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Shelley Gray', with a long horizontal stroke extending to the right.

Shelley Gray
Commissioner

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Thematic Concerns regarding implementation of the UN Convention on the Elimination of All Forms of Racial Discrimination (UN CERD) in Scotland

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1. General information

1.1. Constitutional Arrangements

Under the UK's Devolution Settlement, Scotland has primary legal responsibility for compliance with treaties to which the UK is a party in areas devolved under the Scotland Act 2016. This includes justice, education, health and some aspect of social security. Employment, equality law and immigration are examples of matters reserved to the UK.

Census results for Scotland on race and ethnicity are not expected until later in 2024.¹ Data from 2011 remains the most commonly cited national level demographic figures, and these show that:

- 91.8%, of people identified as 'White: Scottish' or 'White: Other British'.
- 4.2% identified as belonging to a white minority ethnic group, such as Polish, Irish, Gypsy/Traveller or 'White: Other'.
- 4% of the population identified as, Asian, African, Caribbean or Black, Mixed, or Other ethnic group.

Increases in the populations identifying as other than 'White: Scottish' or 'White: Other British' are anticipated in the next Census results.

1.2. Terminology (Article 1)

The Commission recognises the range of preferred terms and contested descriptors used to discuss racialised and ethnic communities globally and within Scotland. We acknowledge that some terms used throughout this paper will not resonate with or feel appropriate for some readers.

The Scottish Government does not currently have a single approach to writing about race and ethnicity. Increasingly, they have used the term 'racialised' to mean "the process by which groups of people are given racial identities and placed within the hierarchy based on their presumed superiority or inferiority to one another."² In the main, we use both the terms 'racialised' and 'people from minority ethnic

communities'^a in this report unless using another term to maintain consistency with one used in an original source.

Where we speak specifically to the needs or circumstances of an identified group we aim to be as specific as the original source enables – for example 'black'^b; 'Asian', 'Pakistani'.

We recognise that this means that a range of terms are used throughout this document, often with imprecise definitions, reflecting the lack of universal consensus and preferences.

Everyone has the right to define themselves and to use terminology that best aligns with their sense of (community) identity,³ as per the Committee's analysis in General Recommendation 21⁴ and the principle of internal self-determination.

2. Areas of concern

The following thematic issues will be supplemented through further research and analysis for the examination and should not be considered exhaustive.

2.1. Legal and Policy Framework

The Commission welcomes that the UK Government has dropped plans to repeal and replace the Human Rights Act with a British Bill of Rights, but continues to have serious concerns about moves to restrict application of European Human Rights standards domestically, including in migration and asylum cases. Concerns about

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

^b We note that some sources use 'Black' to mean 'political Blackness', a concept that arose in the UK in the 1970s trade union movement to mean all people who were not considered white and who were likely to experience racism. While still sometimes used in this way, some black people of African and Caribbean descent have increasingly expressed concern that the concept hides or appropriates the black experience and minimises anti-blackness from other people of colour. See discussion by [The Anti-Racist Educator: Political Blackness](#).

the exclusion of human rights considerations from migration have also been shared by the UN Human Rights Committee,⁵ the UN Human Rights Commissioner and the UN Refugee Agency.⁶

The Scottish Government has committed to incorporation of CERD into Scots Law to the maximum extent possible within the devolution settlement. We note that in the State report, the Scottish Government suggests that this will have the “practical effect of ensuring that the rights set out in the Convention are justiciable in the Scottish courts as a matter of Scots law.”^c Despite this laudable intention, there is scant detail on how and to what extent CERD will be meaningfully justiciable, as the Scottish Government intends to apply a procedural duty rather than a compliance duty.⁷

The Scottish Government has set out medium-term visions and goals in its Race Equality Framework 2016-30. This is intended to be realised through a series of action plans, the first being A Fairer Scotland for All: Race Equality Action Plan 2017-2021.⁸ This was followed by an ‘Immediate Priorities Plan’ in 2022.⁹

Following the clear disparities laid bare by the impact of COVID-19^d on people of different ethnicities and from the Black Lives Matter movement around the globe, the Scottish Government established an Anti-Racism Interim Governance Group (AIGG) to develop National Anti-Racism Infrastructure. This was in direct response to recommendations of the Expert Reference Group on Covid-19 and Ethnicity.¹⁰

The AIGG aimed to provide a format for a new, multi-year anti-racist approach from 2023.¹¹ However, as of 1 May 2024, no conclusions have yet been published and no update or replacement Race Equality Action Plan produced.

Measuring the impact of these frameworks or indeed undertaking any analysis of outcomes by ethnic group is undermined by the long noted¹² and pervasive lack of data collection, analysis, disaggregation and publication.¹³

The Evidence Finder and Equality Data Improvement Programme both aim to address some of these data challenges, although stakeholders have encouraged the Scottish Government to be more committal on the use of data to inform policy.¹⁴ As

^c State report paragraph 93

^d See also the work of the [Expert Reference Group for COVID-19 and Ethnicity](#),

part of the AIGG's work, it is considering how to establish a permanent external oversight and governance body, which is to include an Observatory bringing together quantitative and qualitative data on ethnic and racial inequalities.¹⁵

More generally, the Commission has also raised issues relating to the alignment of international human rights standards to support implementation and monitoring of treaty obligations.¹⁶ The Scottish Government has not progressed its commitments to a Human Rights Tracker.^e

2.1. Hate Crime and Community Cohesion / Sectarianism

Race-related hate crime is the most commonly recorded type of hate crime (accounting for 3,145 of 5,738 charges in 2022-23).¹⁷ The Hate Crime and Public Order (Scotland) Act¹⁸ was passed by the Scottish Parliament in 2021, following a review which recommended changes to legislation to consolidate and modernise existing law and expand the use of 'stirring up offences'. The Act is in force as of 1 April 2024.¹⁹

To support implementation, the Scottish Government launched^f a refreshed Hate Crime Strategy in March 2023.²⁰ This was followed by a Delivery Plan in November 2023.²¹

Though it is too early to assess the impact of the Act, media and public commentary has been highly critical of the perceived impacts on freedom of expression and the policing of 'non-hate crime incidents.' There is also a considerable degree of misinformation and misunderstanding about offences in the Act.²² Changes to the law relating to race hate offences are minimal, but the Commission is concerned about the impact of negative media commentary on reporting and public confidence.⁹ Reports of additional pressures on the police to respond to increased volume of complaints via the Act, and an apparent lack of operational guidance for the police

^e A Commitment restated in the State Report at paragraph 104-105.

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

⁹ The Commission notes with disappointment the UK's continued support for the interpretative declaration in relation to Article 4, however reflects that the Hate Crime and Public Order Act 2021 complies with the spirit of the provision through maintenance of the stirring up of racial hatred offence while providing protection for Freedom of Expression through reference to the European Convention on Human Rights.

on how to manage this, are also undermining public confidence in the Act and its provisions.

A 2021 public inquiry by the Scottish Parliament Cross Party Group on Islamophobia found that 75% of Muslim people in Scotland report that Islamophobia is a regular or everyday occurrence in Scotland and 83% had experienced Islamophobia directly.²³ 78% of Muslim respondents believed Islamophobia in Scotland was getting worse.

UK-wide data on anti-semitic incidents suggest that the proportion that occur in Scotland are relatively small,²⁴ but doubled in the last year.^h Reports from Jewish people in Scotland suggest that this increase accelerated following events in Gaza.²⁵

The Commission has sought to remind public bodies, including Police Scotland, of their responsibilities to facilitate freedom of expression and protect people from harm and hatred.²⁶

Religious sectarianism has a long history in Scotland, though there is no legal definition or single charge associated, making it difficult to determine the scale and impact of the issue.²⁷ 47% of religiously aggravated hate crime in 2020-21 demonstrated prejudice towards the Catholic community.²⁸

Much of the policy attention on sectarianism has been directed at violence at football matches.²⁹ The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 was repealed in 2018 after research suggested that the law was unfairly targeted and did not adequately protect human rights.ⁱ Immediately following the repeal, the then-Chair of the Scottish Policing Federation cautioned that some people felt legitimised to engage in violence.³⁰

^h The Community Security Trust recorded 34 incidents in 2022 compared to 68 in 2023.

ⁱ In 2011, when the Bill was being debated, the SHRC warned that Bill was “drafted too broadly, lacking legal precision as to the scope of the new offences such that it may not be considered to comply with the principle of legal certainty and the requirement of lawfulness under the European Convention on Human Rights (the Convention). See: [shrc-offensive-behaviour-at-football.doc \(live.com\)](https://www.scottishhumanrights.com/files/2011/09/shrc-offensive-behaviour-at-football.doc). We repeated these concerns in 2018 during the repeal process: https://webarchive.nrsotland.gov.uk/3/archive2021.parliament.scot/S5_JusticeCommittee/Inquiries/OBR227-SHRC.pdf

2.2. Public Affairs and Freedom of Expression

People from minority ethnic communities are under-represented in all avenues of public life, however employee data publication is inconsistent and frequently not adequately disclosed.³¹ The Scottish Government has published an analysis of the legal workforce which found that staff from minority ethnic communities in justice organisations varies from less than 0.5% up to 3.4%.³² The diversity of MSPs is not captured by official data, however in 2021, more MSPs from minority ethnic communities were elected.³³

Controls on freedom of expression and peaceful assembly in the UK Public Order Act 2023 do not apply in Scotland,³⁴ however the Commission is concerned about individuals who travel to England and Wales to join protest activity.

2.3. Justice and Policing

Annual prison statistics show that in Scotland, between 2022-23, the rate of imprisonment for the 'White' ethnic groups was 3.2 per 1,000, 2.6 per 1,000 for 'Asian' ethnic groups, and 4.5 per 1,000 for 'Mixed or Multiple' ethnic groups. Imprisonment rates for 'African, Caribbean, and Black' and for 'Other' ethnic groups were considerably higher at 8.7 and 8.5 per 1,000.³⁵

The Commission's own work on human rights in places of detention has identified a serious shortage of evidence to assess progress on human rights-based recommendations and racial disparities. Our findings will be published in June 2024. Data that would enable a more thorough analysis of the treatment of prisoners from minority ethnic communities is not routinely published by the Scottish Prison Service.

In 2020, the Scottish Government compiled an audit of research relating to 'Race and the justice system' over the preceding decade.³⁶ This confirms a significant shortage of information about how people from racialised backgrounds experience all aspects of the criminal justice system. It is disappointing that more has not been done in the past few years to identify specific trends.

Scottish Government summaries continue to report that most measurable outcomes in the justice system occur among 'White:British' groups, however given that these groups represent the vast majority of the general population this is entirely unsurprising.³⁷

The Commission is particularly concerned that:

- Police ‘use of force’ appears disproportionately higher against ‘African, Caribbean or Black’ groups.³⁸
- Between 2017-18 and 2021-22, the proportion of stop and searches being carried out on minority ethnic individuals has remained at around 5-10%.³⁹
- A third of ethnic minority and foreign national prisoners report experiencing discrimination (including bullying) due to their race.⁴⁰

In 2022, the outgoing Chief Inspector of Police Scotland publicly acknowledged that institutional racism, sexism, misogyny, and discrimination exist within Police Scotland.⁴¹ A public inquiry into the death of Sheku Bayoh, who died after being restrained in police custody, will examine whether race was a factor in his death.⁴²

2.4. Human Trafficking

Scotland has its own human trafficking legislation (the Human Trafficking and Exploitation (Scotland) Act 2015⁴³), and a national Trafficking and Exploitation Strategy,⁴⁴ although specified public authorities in Scotland are obliged to notify the Home Office about all potential victims.⁴⁵ 220 Scottish trafficking cases were referred between October and December 2023, 96 of which involved a child aged 17 or under.⁴⁶ Figures are given for nationality of each report, which show that of the 220 reports the highest proportion (68) were Vietnamese.

The non-prosecution of trafficking victims is legislated for under Section 8 of the Human Trafficking and Exploitation (Scotland) Act 2015,⁴⁷ however victims of trafficking have continued to face criminal charges in Scotland.⁴⁸ Meanwhile, conviction rates relating to human trafficking remain low.⁴⁹

Lawyers have warned that obligations on public bodies to support victims under Scottish human trafficking legislation the UNCRC (Scotland) Act create conflict with the Illegal Migration Act.⁵⁰

2.5. Socio-economic status

Poverty is mainly measured at household level in Scotland. Data based on the highest earner⁵¹ shows that between 2018-23, the poverty rate after housing costs was:

- 50% for Asian or Asian British’ ethnic groups in Scotland;

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- 51% for 'Mixed, Black or Black British and Other' ethnic groups
- And 22% and 18% for "White: Other" and "White: British" respectively.

Poverty levels in general have been rising and high inflation is compounding income inequalities. People from minority ethnic communities experience a three-times-higher rate of in-work poverty than white workers.⁵² Workers from minority ethnic communities were around twice as likely as white workers to have insecure contracts and less likely to get the hours they wanted.⁵³ The minority ethnic unemployment rate is more than double that of the white unemployment rate.

An accurate assessment of interventions to reduce poverty is undermined by a lack of disaggregated data across the UK and Scottish policy systems, including in the social security system.⁵⁴ Around 6% of people in receipt of devolved benefits identify as being from a minority ethnic background, slightly above the general population estimate, but not necessarily reflecting higher poverty rates. There is an 8% gap in approval rates between White applicants (81%) and Asian (73%) and African (73%) applicants to Social Security Scotland.⁵⁵

As many as half of children from minority ethnic communities live in poverty.⁵⁶ The Scottish Parliament has passed legislation - the Child Poverty (Scotland) Act 2017 – which requires Scottish Ministers to meet statutory child poverty reduction targets.⁵⁷ The Scottish Government has outlined its approach through its Child Poverty Delivery Strategy 2022-26.⁵⁸ The strategy focusses on six priority family types, including minority ethnic families. The Scottish Government's annual progress assessment however shows that there has been little progress in reduction of absolute poverty for children in minority ethnic families (35% between 2011 and 2014 to 34% between 2019 and 2022) and a rise in the percentage of children from minority ethnic families in relative poverty (33% to 39% over the same data period.)⁵⁹

People from minority ethnic communities in Scotland are overrepresented in the private rented sector, where housing costs are higher⁶⁰ and risk of homelessness is more acute for some ethnic groups.⁶¹

2.6. Health and Wellbeing

Health and wellbeing outcomes, including public health indicators, are consistently reported as being poorer among racialised communities in Scotland. Following the emergence of deep demographic in over the pandemic and as a result of steps taken

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to protect public health, there has been increased awareness across the wider policy landscape of racialised health inequalities.⁶² Examples of these inequalities include:

- Scottish Gypsy/Travellers life expectancy is estimated to be as low as 55 years.⁶³
- Deaths among people of Chinese ethnicity and people of Indian ethnicity were almost twice as likely to involve COVID-19 than deaths of people of White Scottish ethnicity⁶⁴
- Difficulties in accessing GPs and other essential medical care due to lack of support available for asylum seekers,⁶⁵ including but not only shortages of translators.⁶⁶

The Mental Welfare Commission has found that there are differences in how the Mental Health Act is applied across communities in Scotland and a “constant drip of micro-aggressions... impacted on [participant’s] mental health and their sense of belonging in Scotland.”⁶⁷

However, data on reported mental wellbeing and other indicators is not disaggregated by ethnicity.⁶⁸ While we note the Scottish Government’s increased spending on mental health in recent years,^j The Mental Health Strategy 2017-27⁶⁹ was criticised as too general⁷⁰ and the Mental Health and Wellbeing Strategy 2023 includes no substantive actions or analysis by race and ethnicity.⁷¹

2.7. Gypsy / Travellers

Research continues to show that Gypsy/Traveller communities are reluctant to engage with public agencies. Data and evidence directly from the communities is subject to significant gaps.⁷² The 2011 census suggests that 4,200 people identified themselves as 'White: Gypsy/Traveller'. This is significantly lower than estimates from community leaders and organisations who work closely with communities.

While we welcomed the Gypsy/Traveller Action Plan 2019-21,⁷³ this lacked an impact evaluation with meaningful participation from Gypsy/Travellers’ Communities. Due to COVID-19, the Action Plan was subsequently expanded and extended to 2023 but has not been replaced or further extended.⁷⁴

Gypsy/Traveller communities experience significant barriers to culturally appropriate housing,⁷⁵ including due to stigma and discrimination.⁷⁶ Gypsy/Traveller children and

^j State Report paragraph 54

young people have the lowest attendance and highest exclusion record of any ethnic group. Transition to senior school is also low.⁷⁷

The legacy of forced sedentarisation of Gypsy/Travellers into often inappropriate and sub-standard housing – known as the ‘Tinker Experiment’^k has not been adequately addressed by the Scottish Government. Members of the communities campaign for a public apology. While the Scottish Government has begun research to better understand this process, victims have expressed concerns including directly to the Commission, about how their experiences are being reflected or understood.

2.8. Migrants and refugees

The Commission is deeply concerned about the impact of law and policy changes across migration, and notes the recent Concluding Observations of the Human Rights Committee regarding the Illegal Migration Act and the Safety of Rwanda Bill.⁷⁸ In practice, there is now nearly no means to seek refugee status in the UK. Legal migration is continually subject to increasing income requirements that undermine safety and rights.

Migrant workers⁷⁹ continue to face a hostile environment and particular difficulties in accessing work and fair conditions of work.⁸⁰ People seeking asylum in the UK are not allowed to work or claim social security benefits⁸¹ and are provided with just £8.86 per day subsistence.⁸²

Asylum accommodation is offered on a no-choice basis and failures to meet basic housing standards have been identified by inspection bodies.⁸³ Hotel accommodation is used, despite being considered inappropriate for families or children. There are reports of unaccompanied children going missing from UK hotels.⁸⁴

There is no statutory time limit on detention following a ‘failed’ asylum claim. Individuals may be housed in immigration detention centres, of which one- Dungavel Immigration Removal Centre- is operated in Scotland. Inspection reports have

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

highlighted concerns about men with a history of violence towards women being detained alongside women^l and many detainees had having been held for lengthy periods without prospect of timely removal.⁸⁵

The current Scottish Government generally articulates a generally pro-immigration stance,^m although this is not universally reflective of migrants and minority communities' experience, who describe racist and discriminatory treatment at similar levels to those in the rest of the UK.⁸⁶

The Commission has repeatedly raised concerns about the impact of the No Recourse to Public Funds (NRPF), a UK visa condition, which excludes access to most services provided and/or funded by the government,⁸⁷ Given the vast number of prohibited funds and perceived complexity, applicants may be dissuaded from applying or require significant assistance to apply for support they are entitled to. The impacts 'acute' risk of suffering destitution, including for women and children who experience domestic abuse.⁸⁸

The Scottish Government and local authorities have developed an "Ending Destitution Together Strategy" to provide some support for people in Scotland with NRPF conditions.⁸⁹ The pandemic demonstrated clearly that there is more room for collaboration between the Scottish Government, third sector and local authority partners to minimise risk of homelessness and destitution even where immigration status presents a challenge.

2.9. Employability, Education and Cultural rights

The Scottish Parliament's then Equalities and Human Rights Committee published an inquiry report examining Race Equality, Employment and Skills: Making Progress in 2020, which was critical of the lack of progress on race equality outcomes in the workplace.⁹⁰ The Scottish Government has accepted and pledged to implement the findings.⁹¹ The Race Equality Framework for Scotland notes that unemployment and underemployment are relatively high for minority ethnic groups, including for minority ethnic graduates.⁹²

^l Low staff morale and understaffing, the deteriorating physical environment and lack of work opportunities were also cited as concerns in the inspection report.

^m See, for example the Migration Service: [Scotland's Migration Service | Scotland.org](https://www.scotland.org/migration-service)

Employability and training are devolved, and Employability Scotland has launched a Minority Ethnic Recruitment Toolkit for employers.⁹³ Programmes to support people into work do not appear to be reaching people from ethnic minorities – research by the EHRC found that less than 2% of all apprenticeships in Scotland are taken by people from ethnic minorities.⁹⁴ Fair Start Scotland,ⁿ the Scottish Government’s flagship employability programme, had around 6% of starts from minority ethnic backgrounds, however around 20% of starts had no ethnicity data recorded and data is not disaggregated by community or ethnic group.⁹⁵

A Fairer Scotland for All: An Anti-Racist Employment Strategy, was published in 2022. The Strategy focuses on tackling institutional racism by working with employers to build anti-racist practices internally.

The Scottish Government has also established an Anti-Racism in Education programme, focused on four key areas of curriculum reform- racism and racist incidents in schools, diversity in the teaching profession and educational leadership and professional learning.⁹⁶ The Commission has heard from stakeholders that there remains a lack of support for pupils with low English language skills in school, while children from some ethnic minority groups experience higher levels of exclusion and disproportionate barriers to attainment.⁹⁷ Migrants with communication and language barriers can also struggle to access information about entitlement and supports available for further and higher education, with residency requirements excluding some migrant young people.⁹⁸

The ways in which racist behaviour is recognised, addressed and recorded in schools can lead to low confidence in reporting incidents.⁹⁹ There have been growing calls for, and commitments made to, decolonising the curriculum in both schools and universities¹⁰⁰, with new resources being developed.¹⁰¹ An Empire, Slavery and Scotland’s Museums project has proposed recommendations for how Scotland’s involvement in empire, colonialism, and historic slavery can be addressed using museum collections and museum spaces.¹⁰² These were fully accepted in January 2024, although with a significantly smaller budget allocated than suggested by the project group.¹⁰³

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

People from minority ethnic communities are under-represented in the arts and cultural outputs, however, there is a chronic lack of data to support a rigorous analysis of exclusion in cultural output and commissioning.¹⁰⁴ Gypsy / Travellers in Scotland are significantly under-represented in cultural institutional output and where they are included continue to be subject to largely negative social representations.¹⁰⁵

2.10. Further marginalised groups – women, children, disabled people and LGBTI+ people from ethnic minority communities

Given the noted shortcomings with the data analysis and publication by race and ethnicity, further disaggregation to understand the experiences of groups who experience multiple and intersecting forms of marginalisation is too rarely available.

However, from the best available data and published research in Scotland, the Commission notes that:

- Outcomes for women from ethnic minority communities appear to generally be worse than those for white women.¹⁰⁶
- Our work on the Istanbul Convention found a dearth of research exploring women from minority ethnic communities experiences of gender-based violence in Scotland.¹⁰⁷ Women of colour^o have questioned whether violence against women services will be sufficiently culturally competent to provide them with support.¹⁰⁸
- While disability is statistically lower among minority ethnic populations than recorded among the ‘White: British’ population, this masks a wide spectrum, with Gypsy/Travellers twice as likely to report a long-lasting health condition or disability.¹⁰⁹
- That there appears to be no recent evidence relating to the experiences of LGBTI+ people from ethnic minority communities in Scotland.
- Experiences of loneliness and isolation for older people from minority ethnic communities seems to be more acute and requiring targeted solutions that are not routinely in place.¹¹⁰

^o The term ‘women of colour’ that emerged out of feminist advocacy in the US in the 1970s and is commonly used to describe shared experiences of racialised women in the UK, including many Scottish women’s sector organisations.

The lack of Scottish specific data in no way suggests that UK-wide trends are not replicated across Scotland. Evidence that certain groups within minority ethnic communities experience intersectional and multiplied discrimination include:

- Black women and women from other minority groups face higher rates of mortality and morbidity associated with pregnancy and maternity.¹¹¹
- A higher proportion of children from minority ethnic communities being identified as having learning disabilities or diagnosed as having more profound and multiple learning disabilities.¹¹²
- LGBTI+ people from minority ethnic communities describe experiencing racism and stereotyping within LGBTI+ spaces.¹¹³

3. List of Themes

The Commission encourages the Committee to establish a List of Themes that drives appropriate scrutiny in Scotland, as part of the UK examination. We recommend that this includes questions pertaining to:

1. How the success of policies to improve health and wellbeing outcomes for people from minority ethnic communities across Scotland is being measured.
2. How the Scottish Government intends to build trust with and realise the human rights of Gypsy/Traveller communities.
3. Whether the Scottish Government has considered all measures to maximise support for people with NRPf and ensure the safety and dignity of asylum seekers, refugees and migrant workers.
4. What measures are being undertaken to improve the quality of data and its use in measuring human rights outcomes by race and ethnicity, and for further marginalised communities including women, LGBTI+ and disabled from minority ethnic communities.
5. How Scottish Government legal and policy frameworks such as the Human Rights Bill and the Anti-Racism Interim Governance Group will drive meaningful improvements to race equality and human rights.
6. What Scottish Government is doing to ensure that its anti-poverty and housing affordability measures are appropriately targeted, culturally competent and accessible to people from minority ethnic communities.
7. How the Scottish Government plans to tackle the level of racist hate crime and racist bullying in schools and other settings.
8. How the Scottish Government and other public bodies intends to address structural racism and improve relationships with communities who have experienced historic or ongoing harmful treatment in the public sector.
9. What measures the Scottish Government will take to increase the diversity of institutions, including cultural institutions, in Scotland.

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

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4. End Notes

- ¹ [Scotland's Census \(2022\) Rounded population estimates](#)
- ² [Scottish Government,\(2023\) Anti-racism in Scotland: progress review 2023](#)
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Implementation of the European Social Charter

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