



## **Release's List of Themes Submission to assist the UN Committee on the Elimination of Racial Discrimination Review**

**Submitted 3<sup>rd</sup> May 2024**

Release is the national centre of expertise on drugs and drugs law in the UK. The organisation, founded in 1967, is an independent and registered charity. Release provides free non-judgmental, specialist advice and information to the public and professionals on issues related to drug use and to drug laws. The organisation campaigns directly on issues that impact on our clients - it is their experiences that drive the policy work that Release does and why Release advocates for evidence-based drug policies that are founded on principles of public health rather than a criminal justice approach. Release believes in a just and fair society where drug policies should reduce the harms associated with drugs, and where those who use drugs are treated based on principles of human rights, dignity and equality. Release is a NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

Contact: Aminah Chowdhury, [aminah@release.org.uk](mailto:aminah@release.org.uk)

# Release List of Themes Submission to the UN Committee on the Elimination of Racial Discrimination

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## **Introduction**

Drug law enforcement disproportionately targets ethnic minority communities, including people of African and Asian descent. As noted by the Office of the UN High Commissioner for Human Rights (OCHR) in the 2023 report “Human rights challenges in addressing and countering all aspects of the world drug problem”:

*“the ‘war on drugs’ has been more effective as a system of racial control than as a tool to reduce drug markets. Policing interventions based on racial profiling remain widespread, while access to evidence-based treatment and harm reduction for people of African descent remains critically low.”<sup>1</sup>*

Evidence from the UK confirms that this reflects the experience of Black people and other racialised communities in Britain. This report focuses on racism and discrimination in the context of drug law enforcement in the UK. This submission provides evidence of the role of drug laws and policies as a driver of discriminatory policing and incarceration, and of how this leads to the violation of the right to be free from racial discrimination. We urge the UN CERD to recognise explicitly that the UK government has the obligation to reform criminal laws, policies, and practices with racially discriminatory outcomes - including drug-related laws, policies, and practices.

## **Racial discrimination spearheaded by drugs policing**

**Disproportionate use of Stop & search-** It is well established that drugs policing is a key factor behind the ethnic disparities within the criminal justice system in England and Wales. In fact, stop and search is an integral cog in a racially disproportionate criminal justice system <sup>2</sup>. Black people in England and Wales are almost 6 times more likely to be stopped and searched for drugs <sup>3</sup>, despite using drugs at a lower rate than the White population.<sup>4</sup> Drugs stop and searches

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<https://documents.un.org/doc/undoc/gen/g23/156/03/pdf/g2315603.pdf?token=oiLWFrgZMUdGb5EOhL&fe=true>

<sup>2</sup> The Colour of Injustice: ‘Race’, drugs and law enforcement in England and Wales

<https://www.release.org.uk/publications/ColourOfInjustice>

<sup>3</sup> Home Office: Stop & Search Summary Data Tables (Table 40)-

<https://assets.publishing.service.gov.uk/media/65ef2cd562ff4898bf87b2e3/stop-search-data-tables-summary-mar23-second-edition.ods>

<sup>4</sup> Office for National Statistics- All data related to Drug misuse in England and Wales: year ending March 2023 (Table 3.01)

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/drugmisuseinenglandandwales/yearendingmarch2023/relateddata>

account for 61 per cent of all police stop and searches<sup>5</sup>, with the majority searches carried out for suspected possession of cannabis. In some parts of the country, including in London, searches for drugs account for over 70 per cent of all searches. Police often use the smell of cannabis as a pretext for a stop and search, with such searches concentrated in areas of deprivation.<sup>6</sup>

**The use of strip search on racialised children-** Another policing tactic of concern is the use of strip searches. This is a highly intrusive and traumatic procedure in which a police officer may conduct a search on a person and may involve the exposure of intimate body parts as part of an extended stop and search. Release has been collecting data from police forces on the use of strip search, which is currently unpublished. Of the 7,852 strip searches carried out as part of stop and search interventions, 90% were for drugs. In this dataset, Black people were 15 times more likely to be strip searched compared to white people; nothing was found in over half of the searches<sup>7</sup>.

Children are also subjected to this invasive policing tool; 2,847 children were strip-searched under stop and search between 2018 and mid-2022<sup>8</sup>. These children were aged between 8 to 17 years old. In the past three years, two-thirds of children who were strip-searched by the Metropolitan Police were of minority ethnicities. Moreover, out of the 78 girls who were strip-searched in London police stations last year, 32 of them were Black/mixed race<sup>9</sup>. Again, the “smell of cannabis” is often used as a justification to carry out searches, including strip searches. This was the case with Child Q in December 2020, a 14-year-old Black girl falsely accused by her teachers of being in possession of drugs because she smelt of cannabis, which led to her being stripped searched at school by two police officers without an appropriate adult present<sup>10</sup>. The occurrence of strip-searching children, particularly that of Black children, clearly demonstrates how Black people face over-criminalisation and bear the brunt of institutional racism right from the beginning even as children.

### **Inequitable criminal justice outcomes**

**Cannabis prohibition- a key driver in introducing racialised communities to the criminal justice system-** Cannabis is a class B controlled drug under the UK’s Misuse of Drugs Act 1971 and is illegal to possess, supply or produce. Cannabis prohibition is indeed the key driver of drug law enforcement inequity and the resulting overrepresentation of Black and other ethnic minority individuals in our criminal justice system. Furthermore, it is low-level cannabis possession offences driving this disparity, with an estimated one in three of all police searches thought to be for cannabis possession alone<sup>11</sup>. Black and Asian people are convicted of cannabis possession at 11.8 and 2.4 times the rate of White people respectively, despite lower

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<sup>5</sup> Home Office: Stop & Search Summary Data Tables- <https://assets.publishing.service.gov.uk/media/65ef2cd562ff4898bf87b2e3/stop-search-data-tables-summary-mar23-second-edition.ods>

<sup>6</sup> The Colour of Injustice: ‘Race’, drugs and law enforcement in England and Wales- <https://www.release.org.uk/publications/ColourOfInjustice>

<sup>7</sup> <https://www.childrenscommissioner.gov.uk/resource/strip-search-of-children-in-england-and-wales>

<sup>8</sup> [Around 50 children strip searched by the police every week – and most are black – The Justice Gap.](#)

<sup>9</sup> [Around 50 children strip searched by the police every week – and most are black – The Justice Gap.](#)

<sup>10</sup> [Local Child Safeguarding Practice Review – Child Q | chscp](#)

<sup>11</sup> Regulating Right, Repairing Wrongs: Exploring Equity and Social Justice Initiatives within UK Cannabis Reform- <https://www.release.org.uk/publications/cannabis-regulating-right>

rates of self-reported use, and more Black people are prosecuted for simple cannabis possession than for the supply of Class A and B drugs combined, it is the reverse for White people<sup>12</sup>. Anyone who is prosecuted for possession could face severe consequences including, a maximum sentence of five years' imprisonment and an unlimited fine. Cannabis possession offences are a gateway into the criminal legal system for young people, particularly young people from racialised communities. Prosecution for this offence increases the likelihood of reoffending and reduces young people's life opportunities through the stain of criminal records, it also does nothing to make communities safer.

**Arrests & Out of court disposals-** when caught in possession of drugs police can choose to give a person an out of court disposal, such as a warning or a community resolution (a type of warning where conditions may be attached) or they can arrest someone. Black people caught in possession of drugs are less likely to be given an out of court disposal, and more likely to be arrested as a result of stop and search than white people.<sup>13</sup> The heightened arrest rate for Black people results in Black people being more likely to face prosecution, and therefore, push them deeper into the criminal justice system. Once one enters the criminal justice system, it is hard to get out as those who were formerly incarcerated often face social stigma and face difficulties in getting educational and economic opportunities.

**Sentencing-** Striking ethnic disparities are identified throughout the process of drug law enforcement, with people from black and minority ethnic groups being over-represented from initial point of contact through to sentencing. Release's report, 'The Colour of Injustice Report' found that Black people were sentenced to immediate custody for drug offences at 9.1 times the rate of white people<sup>14</sup>. Moreover, the 'Lammy Review', found that Black and minority ethnic defendants at Crown Court are more likely to receive prison sentences for drug offences than white defendants<sup>15</sup>. Lammy found that "For every 100 white women handed custodial sentences at Crown Courts for drug offences, 227 black women were sentenced to custody".<sup>16</sup>

**Police narrative around drugs -** Discussion of 'County Lines' by the police and in the media has ushered in a new moral panic around 'gangs and youth violence' in the public's imagination. County Lines is used to describe the movement of drugs from urban areas to more rural areas, often using phone lines. The narrative has been heavily racialised, and focuses on the exploitation of children within the drugs market, However, this submission refutes the idea that this is a new phenomenon but rather reflects the already deeply entrenched racism and classism within the criminal justice system<sup>17</sup>. This idea of 'county lines' has helped push for policies which only serve to increase the surveillance and criminalisation of racialised communities. Initiatives such as the county - lines narrative are used to legitimise and focus a disproportionate amount of enforcement power onto young people without considering how to support them and where alternative, more effective strategies could exist. Young people who

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<sup>12</sup> Regulating Right, Repairing Wrongs: Exploring Equity and Social Justice Initiatives within UK Cannabis Reform- <https://www.release.org.uk/publications/cannabis-regulating-right>

<sup>13</sup> The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales- <https://www.release.org.uk/publications/ColourOfInjustice>

<sup>14</sup>The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales- <https://www.release.org.uk/publications/ColourOfInjustice>

<sup>15</sup> The Lammy Review- <https://www.gov.uk/government/publications/lammy-review-final-report>

<sup>16</sup> The Lammy Review- <https://www.gov.uk/government/publications/lammy-review-final-report>

<sup>17</sup> Koch, I., Williams, P., & Wroe, L. (2024). 'County lines': racism, safeguarding and statecraft in Britain. *Race & Class*, 65(3), 3-26. <https://doi.org/10.1177/03063968231201325>

are deemed exploited by the State and are used to contribute to moral panics around drugs, are simultaneously criminalised.

**Questions to pose to UK government:**

- 1. Why do police stop and searches disproportionately impact people from Black and racialised communities?**
- 2. What work is being done to reduce racial disparities in drugs policing?**
- 3. The UK Government is reviewing the guidelines for strip searching however such powers would still be allowed to be used where someone, including a child, is in possession of a drug? Can it be explained how this is a proportionate response?**
- 4. What work is being done to reduce the racial disparities in the use of strip search?**
- 5. “Smell of cannabis” has been identified by the UK’s police watching, HMICFRS, as being abused by police officers to carry out groundless searches, guidance now says that there must be one additional factor but this again is often based on subjective reasoning. What safeguards are the Government putting in place to prevent the unlawful use of stop search powers?**
- 6. The differing outcomes experienced by different ethnicities within the criminal legal system is laid bare by how Black people are treated more harshly when caught in possession of drugs. What work is being done to reduce the harsher of penalties for this group?**
- 7. Can the Government provide data on how many under 18s were both referred to the National Referral Mechanism in relation to concerns about exploitation and, simultaneously, prosecuted for a drugs offence?**
- 8. Are specific measures allocated to address the institutional racism within the criminal justice system in the UK?**