

**Submission to the United Nations Committee on the Elimination
of Racial Discrimination- CERD's 113th session of the United
Nations Committee on the Elimination of all Forms of
Discrimination, August 2024**



Submitting Organisations and Contacts:

Amnesty International: Amnesty International is a global movement of more than 10 million people who campaign for a world where human rights are enjoyed by all. For an overview of Amnesty Internationals' concerns beyond the specific aspects of drug policies reflected in this submission, please see the submission prepared by Amnesty International and Runnymede Trust to the Committee. Contact: Daniel Joloy, daniel.joloy@amnesty.org

Harm reduction International: Harm Reduction International uses data and advocacy to promote harm reduction and drug policy reform. HRI is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations. Contact: Ajeng Larasati, ajeng.larasati@hri.global

International Drug Policy Consortium: IDPC is a global network of over 190 NGOs, including community-led networks, grassroots groups, advocacy NGOs, as well as major international organisations, that come together to promote drug policies that advance social justice and human rights. Contact: Marie Nougier, mnougier@idpc.net

Release: Release is the UK national centre of expertise on drugs and drugs law. Release is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations. Contact: Niresha Umaichelvam, niresha@release.org.uk

UNJUST: UNJUST C.I.C is a not-for-profit organisation specialising in challenging discriminatory culture, policies, and practices within policing and the Criminal Legal System. Contact: Téah Kennedy, teah@unjust.org.uk

Introduction

1. The submitting organisations are grateful to provide this shadow report to the [UN Committee on the Elimination of Racial Discrimination's](#) as part of their examination of the state racial disparity within the context of drug policy and its enforcement within England and Wales.
2. This submission focusses on and provides evidence of the role of drug laws and policies as a driver of discriminatory policing and incarceration; exploring how this leads to violations of human rights, including the rights to liberty and to be free from racial discrimination in the enjoyment of the right to health. As recently noted by the UN Special Rapporteur on the right to health, **contact with the criminal legal system is a social determinant of health and therefore States have the obligation to reform criminal laws, policies, and practices with racially discriminatory outcomes - including drug-related laws, policies, and practices.**¹ Drug law enforcement disproportionately targets racialised communities, including people of African and Asian descent². This report focuses on the discriminatory application of drug law enforcement in England and Wales for children and adults alike, highlighting not only the experiences of those who are brought into contact with the criminal legal system but how discriminatory practices are playing out within educational and health settings. Research indicates that decriminalisation of use, possession, cultivation and acquisition of drugs for personal use can reduce contact between police and Black communities.³
3. We urge the Committee to reiterate the call for the decriminalisation of the use, possession, cultivation and acquisition of drugs for personal use, as has been done by multiple human rights mechanisms, including the Office of the High Commissioner on Human Rights (OHCHR),⁴ the Special Rapporteur on Health alongside 20 additional Special Procedure Mandates⁵, the Working Group on Arbitrary Detention (WGAD)⁶, the Committee on Economic, Social and Cultural Rights⁷, and in line with the broader position of the Chief Executives Board of the United Nations⁸.
4. This report will address issues pertaining to: the disproportionate impact of punitive drug policy on Black communities, including over-policing; inequitable criminal justice outcomes; the conflation between drug trafficking and exploitation of children; health inequalities experienced by Black and minority communities accessing drug treatment and housing; and recommendations. Our recommendations include proposals addressing the inherently racist

¹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 30 April 2024, UN Doc. A/HRC/56/52

² <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-ohchrs-report-human-rights-challenges-addressing-and-counterung>

³ Sheehan BE, Grucza RA, Plunk AD. Association of Racial Disparity of Cannabis Possession Arrests Among Adults and Youths With Statewide Cannabis Decriminalization and Legalization. *JAMA Health Forum*. 2021 Oct 29;2(10):e213435. doi: 10.1001/jamahealthforum.2021.3435.

⁴ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(a)

⁵ <https://www.ohchr.org/sites/default/files/documents/hrbodies/special-procedures/activities/2024-06-26-stm-World-Day-against-Drugs.pdf>

⁶ <https://documents.un.org/doc/undoc/gen/g21/109/65/pdf/g2110965.pdf?token=47ukferQJW38ZWc5bd&fe=true>

⁷ Committee on Economic, Social and Cultural Rights, Concluding Observations: Philippines, 7 October 2016, UN Doc.

E/C.12/PHL/CO/5-6, para. 54; Committee on Economic, Social and Cultural Rights, Concluding Observations: Benin, 27 March 2020,

UN Doc. E/C.12/BEN/CO/3, para. 42; Committee on Economic, Social and Cultural Rights, Concluding Observations: Serbia, 6 April

2022 UN Doc. E/C.12/SRB/CO/3, para.63.

⁸ <https://www.unodc.org/unodc/en/un-common-position-drugs/index.html>

nature of punitive drug policies through full decriminalisation, decarceration, divestment and redirection of resources away from policing and towards health and social support.

Disproportionate impact of punitive drug policy on Black communities

5. Drug law enforcement and prioritisation of low-level drug offences by the police are a key factor in the overrepresentation of racialised communities within the criminal legal system. This has been recognised, among others, by the Office of the High Commissioner for Human Rights⁹, WGAD¹⁰, and the Working Group on People of African Descent¹¹.
6. Racial profiling in England and Wales disproportionately targets Black communities in all phases of the enforcement of drug laws and policies, from stops and searches to arrests, prosecutions and incarceration. This is despite data from the Office of National Statistics, once again confirming that last year use of illicit drugs was higher amongst white people than Black people.¹²
7. Systemic racial discrimination in the use of police powers has driven the disproportionate targeting of Black individuals and other minority communities by drug law enforcement, demonstrated by the way in which stop and search is used by police forces across England and Wales. In 2023, 61% of all searches in England and Wales were carried out for drugs¹³, reflecting a trend in stop and search figures from previous years¹⁴. According to Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS), a body that examines police efficacy, "drug searches influence the disproportionality rate more than other types of search"¹⁵.

Stop and search

8. In 2023, there were 21.18 drug stop and searches for every 1,000 Black people, compared with 4.17 for every 1,000 white people, meaning Black people are 5 times more likely to be stopped and searched for drugs.¹⁶
9. The 'find' rate for drugs is lower for Black people than white, suggesting that drug searches on Black people could be based on weaker grounds for suspicion compared to white people. HMICFRS has found that drug searches on Black people, particularly possession-only drug searches, had a higher rate of weak recorded grounds than equivalent searches on white people, and fewer drug searches of Black people resulted in drugs being found¹⁷.

⁹ A/HRC/54/53; A/HRC/47/53 and A/HRC/47/CRP.1

¹⁰ A/HRC/47/40.

¹¹ <https://www.ohchr.org/en/news/2019/03/fight-against-world-drug-problem-must-address-unjust-impact-people-african-descent-say>

¹²

<https://www.ons.gov.uk/file?uri=/peoplepopulationandcommunity/crimeandjustice/datasets/drugmisuseinenglandandwalesappendixtable/yearendingmarch2023/drugsmisusecombinedtables2223final.xlsx>

¹³ [https://www.gov.uk/government/statistics/stop-and-search-and-arrests-year-ending-march-2023/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2023#:~:text=As%20in%20previous%20years%2C%20the,65%25\)%20\(table%20.1\)](https://www.gov.uk/government/statistics/stop-and-search-and-arrests-year-ending-march-2023/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2023#:~:text=As%20in%20previous%20years%2C%20the,65%25)%20(table%20.1)).

¹⁴ <https://researchbriefings.files.parliament.uk/documents/CBP-9039/CBP-9039.pdf>

¹⁵ <https://hmicfrs.justiceinspectorates.gov.uk/publications/state-of-policing-the-annual-assessment-of-policing-in-england-and-wales-2021/>

¹⁶ <https://assets.publishing.service.gov.uk/media/65ef2cd562ff4898bf87b2e3/stop-search-data-tables-summary-mar23-second-edition.ods>

¹⁷ <https://hmicfrs.justiceinspectorates.gov.uk/wp-content/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf>

10. “Smell of cannabis” is often used as the basis for a stop and search, despite police guidance stating that this on its own is insufficient to provide reasonable grounds for a search¹⁸. However, people continue to report being stopped and searched on the basis of the smell of cannabis, notably the recent case in 2020 of Bianca Williams and Ricardo Dos Santos, two Black athletes who were travelling with their infant; who were searched by police who alleged they could smell cannabis coming from their car. Both were handcuffed and searched on suspicion of having drugs and weapons, yet nothing was found on them. This apparent breach of the police’s own policy led to a misconduct hearing of the police officer involved where it was found that the police officer’s suspicions against the individuals fell below the professional standards required of the Police.
11. A 2023 Independent Office for Police Conduct (IOPC) report raised concerns that in cases where individuals are searched on the smell of cannabis but no cannabis is then found on the individual – and where there were otherwise weak or vague grounds for the search - it reinforces the perception that the smell of cannabis is being used as an excuse for a stop and search on certain individuals.¹⁹ This amounts to the apparent over-policing of Black communities and a breakdown in trust for racialised communities.
12. In March 2023, Baroness Casey’s Review examined the standards of behaviour and internal culture of the Metropolitan police,²⁰ which highlighted findings of institutional racism, homophobia and sexism within the police force. The Casey Review found Black Londoners remained "over-policed and under-protected", stating “there is a very long history linking British policing with mistreatment of, and prejudice against, Black and ethnic minority communities”²¹.

Use of force

13. Home Office statistics show Black people are five times more likely to be subjected to the use of force than white people during drug related stop and searches²². Testimonies from Black people experiencing these encounters – particularly stop and search – describe them as confrontational, stigmatising and humiliating²³, again emphasising the racial targeting and State violence that Black people are subjected to in comparison to other communities.
14. A 2021 report from HMICFRS found Black people were almost six times more likely to have force used on them by law enforcement than white people. The data shows that officers were more than nine times as likely to have drawn Tasers (but not discharged them) on Black people than on white people. The HMICFRS also found that Black people were more likely to face prolonged use lasting over five seconds²⁴. The HMICFRS in the 2021 report added that “it feeds perceptions

¹⁸

<https://www.college.police.uk/support-forces/practices/drug-diversion-following-stop-and-search-and-custody-divert-programme>

¹⁹ <https://www.policeconduct.gov.uk/sites/default/files/documents/IOPC-public-perceptions-tracker-report-2022-23.pdf>

²⁰ <https://www.met.police.uk/SysSiteAssets/media/downloads/met/about-us/baroness-casey-review/update-march-2023/baroness-casey-review-march-2023a.pdf>

²¹ <https://www.met.police.uk/SysSiteAssets/media/downloads/met/about-us/baroness-casey-review/update-march-2023/baroness-casey-review-march-2023a.pdf>

²² Police use of force statistics, England and Wales: April 2020 to March 2021.

²³ Keeling P. (2017). No Respect: Young BAME men, the police and stop and search, [internet]. Criminal Justice Alliance

²⁴ <https://www.theguardian.com/uk-news/-iopc>

among the public and police about Black people and crime, and may also influence how the police allocate and deploy resources”²⁵.

Use of ‘more thorough searches’ and ‘strip search’ for drugs

15. UK law allows for ‘more thorough searches’ and ‘strip searches’ as a continuation of stop and search, when nothing has been found but a police officer deems it “necessary”. A ‘more thorough search’ (MTS) involves removal of a jumper or t-shirt²⁶, while a ‘strip search’ or Exposure of Intimate Parts searches (EIPs) involves removal of all clothing and the spreading of buttocks. An MTS can take place in the back of a police van or somewhere out of public view; while a strip-search can only take place in a police station or designated area such as police tent. Strip searches and MTS are allowed on adults and children (aged 10+) as a continuation of stop and searches, where a constable determines them “necessary”²⁷. For youth aged 17 and under, an appropriate adult should be present. The overwhelming majority of strip searches are carried out on the suspicion of possession of drugs.
16. Research confirms that the use of MTS and strip searches, like stop and search, disproportionately impacts racialised communities²⁸. A February 2023 report²⁹ found that over a three-month period, Black people accounted for 46% of strip searches carried out by the Metropolitan police (the police force for Greater London), despite Black people only accounting for 13.5% of London’s population. White people accounted for 31% of strip searches (share of population 54%); while Asians comprised 16% of such searches (share of population 20.7%)³⁰.
17. Unpublished research³¹ conducted by Release through freedom of information (FOI) requests reveal that in 2019/20, 14,017 MTS were conducted across 25 reporting police forces, and an additional 8,615 strip searches. 78% of MTS and 87% of strip searches were specifically conducted for drug offences; the rate of MTS was 13.5 times higher among Black people than among white people across 22 reporting police force areas, and 15 times higher for strip searches. At least 60% of MTS and 58% of strip searches resulted in nothing being found.

Stop and search and strip search on children

18. The FOI data obtained by Release showed that in 2021 5% of strip searches in 28 police forces involved children³². In 2021, the Metropolitan Police carried out 269 strip searches on children. The Children’s Commissioner has found that some strip searches of children were conducted at a location where members of the public could view the search³³. A 2022 Home Office report found

²⁵ <https://assets-hmicfrs.justiceinspectorates.gov.uk/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf>

<https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/disproportionate-use-of-police-powers-spotlight-on-stop-search-and-use-of-force.pdf>,

²⁶ <https://www.college.police.uk/app/stop-and-search/legal/legal-application>

²⁷ <https://www.gov.uk/government/news/greater-protections-for-child-strip-search>

²⁸ <https://www.college.police.uk/app/stop-and-search/legal/legal-application>

²⁹ <https://www.swlondoner.co.uk/news/24022023-is-disproportionate-use-of-stop-and-search-in-racialised-communities-changing>

³⁰ <https://www.swlondoner.co.uk/news/24022023-is-disproportionate-use-of-stop-and-search-in-racialised-communities-changing>

³¹ The raw data is available on request.

³² <https://www.independent.co.uk/news/uk/police-home-office-child-q-north-wales-british-b2227114.html>

³³ Children’s Commissioner, ‘Child Q and the use of strip searching: progress so far’, 2023,

<https://www.childrenscommissioner.gov.uk/news/child-q-and-the-use-of-strip-searching-progress-so-far/>

that of 3,000 children strip-searched in that year, just over one-third (1,096) were Black making Black children up to 11 times more likely to be strip-searched by police than white children.³⁴

19. In 2019/20, official data collected by Release through freedom of information requests³⁵ found that a total 711 MTS searches by police forces were conducted on children, and a further 358 strip searches. Of this data, the Metropolitan police were responsible for the highest proportion of strip searches on children, accounting for 42% with Black and minority community children comprising over half (170) of all strip searches carried out for suspected drug possession.
20. According to Liberty, Black girls are nearly three times more likely to be subjected to invasive strip-searches. Black female children were 2.7 times more likely than their white counterparts to be subjected to strip-searches in 2023³⁶. From 2017 to 2022, 110 female children and teenagers were strip-searched by the Metropolitan police with intimate parts exposed. Fifty-two them (47%) were Black - London's population of Black females up to 19 years old stands at 17.5%³⁷. This racial disparity is particularly stark in the Metropolitan's stop-and-searches of both adults and children recorded by the force as female. Between 2017-2022, 28% of more than 90,000 searches of females of any age, including strip-searches, were Black females. The disproportionality worsens for strip-searches, particularly of female children and teens³⁸. The Runnymede Trust's 2022 report found that a total of 979 police officers are operating within schools, most often in schools in areas with higher numbers of pupils eligible for free school meals, correlating with higher numbers of black and minority ethnic students³⁹.
21. Concerns on the excessive use of strip searches on Black children came under scrutiny following the case of Child Q⁴⁰, where a 15-year-old-Black female student was strip-searched by police officers in 2020 at her school, as her school called the police due to allegations that she smelt of cannabis. This case led to concerns that Black children were subjected to 'adultification'. Child Q herself stated: "Someone walked into the school, where I was supposed to feel safe, took me away from the people who were supposed to protect me and stripped me naked, while on my period...I feel like I'm locked in a box, and no-one can see or cares that I just want to go back to feeling safe again, my box is collapsing around me, and no-one wants to help"⁴¹.

Out of court disposals

22. If someone is found in possession of drugs after being stopped and searched, they will either receive an out of court disposal (OOCd) on the street or they will be arrested and taken to the police station. If arrested, they will be interviewed under caution by the police, where they can then be charged; discharged with 'no further action'; released by the police under investigation or given an OOCd.

³⁴ <https://www.childrenscommissioner.gov.uk/resource/strip-search-of-children-in-england-and-wales/>

³⁵ Freedom of Information request to Metropolitan Police

³⁶ <https://libertyinvestigates.org.uk/articles/black-girls-nearly-three-times-more-likely-to-be-subjected-to-most-invasive-strip-search/>

³⁷ <https://libertyinvestigates.org.uk/articles/black-girls-nearly-three-times-more-likely-to-be-subjected-to-most-invasive-strip-search/>

³⁸ <https://libertyinvestigates.org.uk/articles/black-girls-nearly-three-times-more-likely-to-be-subjected-to-most-invasive-strip-search/>

³⁹ <https://www.runnymedetrust.org/media/over-policed-and-under-protected-the-road-to-safer-schools>

⁴⁰ <https://irr.org.uk/article/child-q-a-defining-moment-for-schools/>

⁴¹ <https://chscp.org.uk/wp-content/uploads/2022/03/Child-Q-PUBLISHED-14-March-22.pdf>

23. In 2022, the OOCs available to the police and Crown Prosecution Service (CPS) included: simple and conditional cautions; cannabis and khat warnings; penalty notices for disorder (PNDs); and community resolutions⁴².
24. Police officers have discretion when it comes to the use of OOCs and can decide who gets these when an offence has been committed and a person admits to that offence. Research has repeatedly shown that there is an inequity in the use of OOCs with Black people and those from other racialised communities less likely to receive these sanctions, with the exception of PNDs which are only available for cannabis and khat possession.⁴³
25. In 2022, possession of cannabis accounted for the highest proportion of PNDs issued to defendants from Asian (65%), Black (67%) and mixed (59%) ethnic groups⁴⁴. People from racialised communities may be more willing to accept a PND because – unlike other out of court disposals – it does not require an admission of guilt. Moreso, statistics show that Black defendants consistently have the highest proportion of fines for late payment each year, at 54%⁴⁵.
26. Stop and search also distributes OOCs unevenly. The Lammy review noted that many out of court disposals are open only to those who admit guilt, working against Black and minority communities since they are less likely to enter guilty pleas even though this means risking court and potentially lengthier sentences. The review concluded that Black and Asian men were more than 1.5 times more likely to enter a ‘not guilty’ plea than white men. Mixed ethnic men were also more likely to plead not guilty⁴⁶. The review attributed reluctance to admit offences to a lack of trust in the system. If suspects refuse to admit an offence, they foreclose the possibility of an OOC (except PNDs). Under these circumstances, there is an increased risk that a person will be arrested and charged.
27. Cautions usually occur after arrest and create a criminal record. A higher proportion of Black defendants received either a simple or conditional youth caution (15%) when compared to other minority groups (5-9%). For adult cautions, Black defendants received a higher proportion of conditional caution at 71% compared to white people who were more likely to receive simple cautions⁴⁷, evidencing that Black people are more likely to enter the criminal legal system and remain therein. Release found that in 2009/10, 78% of Black people caught in possession of cocaine by the Metropolitan Police were charged and only 22% received cautions. In comparison, 44% of white people were charged and 56% received cautions⁴⁸.
28. Youth cautions have decreased over the last decade. However, data reveals there was a smaller decrease for Black children when compared to other ethnic groups, leading to an increase in the proportion of youth cautions. Black children remain over-represented, accounting for 11% in

⁴² <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022/statistics-on-ethnicity-and-the-criminal-justice-system-2022-html#:~:text=Asian%20defendants%20were%20among%20those,the%20highest%2C%20at%2054%25.&text=The%20volume%20of%20cautions%20issued,30%25%20to%2044%2C400%20in%202022>.

⁴³ Colour of Injustice - <https://www.release.org.uk/publications/ColourOfInjustice>

⁴⁴ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022/statistics-on-ethnicity-and-the-criminal-justice-system-2022-html>

⁴⁵ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022>

⁴⁶ <https://assets.publishing.service.gov.uk/media/5a82009040f0b62305b91f49/lammy-review-final-report.pdf>

⁴⁷ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022>

⁴⁸ <https://www.release.org.uk/press-release-racial-disparities-drug-policing>

2022/23 of all children cautioned or sentenced while they represent 6% of the 10 to 17 population⁴⁹.

29. Legislative changes to OOCs brought in 2022, but yet to be enacted, will introduce a more stringent two-tier framework of community resolutions or conditional cautions, ‘where rehabilitative, reparative, or punitive conditions are attached to each disposal’. This system is likely to result in an overly rigid ‘two strikes and you’re out’ approach, which leads to greater use of prosecution for drug possession offences. Without procedural adjustments, ethnic disparities and the potential for discrimination will likely remain⁵⁰.

Arrests

30. In 2022/23, 37,911 arrests were made in England and Wales for drug offences⁵¹. Government data for 2022/23 highlights that drugs were the most common reason for stop and searches that resulted in arrests⁵². Black individuals had the highest proportion of arrests that resulted from stop and search, accounting to 17% of total arrests in comparison to 7-13% of other arrests for all other ethnic groups⁵³. Specifically for drugs, 16% of Black people were arrested following searches compared to 11% of white people⁵⁴. Ethnic disparities were particularly concerning in London, where 30% of all stop and searches in 2022/23 were conducted. Of these, 31% were Black people despite making up only 13.5% of the population⁵⁵.
31. Since 2019/20, the proportion of stop and searches that resulted in no further action has decreased across all ethnic groups, while arrests increased. Since 2019/20, individuals from black and mixed ethnic groups have had among the highest arrest rate each year, at 17% and 16% in 2022/23, respectively⁵⁶. According to Colour of Injustice, Black people were less likely to receive an out of court disposal for a drugs offence resulting from stop and search, and less likely to be arrested, than white people. As a result, Black people are more likely to be prosecuted for an offence.⁵⁷

Prosecutions and sentencing

32. More than 40,427 people were prosecuted for drug offences in 2022/3, 58% for possession of drugs for personal use⁵⁸. Black and ethnic minorities were over-represented in these

⁴⁹ <https://www.gov.uk/government/statistics/youth-justice-statistics-2022-to-2023/youth-justice-statistics-2022-to-2023-accessible-version>

⁵⁰ <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-equality-statements/reforms-to-the-adult-out-of-court-disposals-framework-in-the-police-crime-sentencing-courts-bill-equalities-impact-assessment>
<https://npcc.police.uk/Publication/Charging%20and%20Out%20of%20Court%20Disposals%20A%20National%20Strategy.pdf>

⁵¹ <https://www.gov.uk/government/statistics/stop-and-search-and-arrests-year-ending-march-2023/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2023>

⁵² <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022/statistics-on-ethnicity-and-the-criminal-justice-system-2022.html>

⁵³ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022>

⁵⁴ <https://www.gov.uk/government/statistics/stop-and-search-and-arrests-year-ending-march-2023/police-powers-and-procedures-stop-and-search-and-arrests-england-and-wales-year-ending-31-march-2023>

⁵⁵ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022/statistics-on-ethnicity-and-the-criminal-justice-system-2022.html#victims>

⁵⁶ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022/statistics-on-ethnicity-and-the-criminal-justice-system-2022.html#victims>

⁵⁷ Colour of Injustice <https://www.release.org.uk/publications/ColourOfInjustice>

⁵⁸ <https://assets.publishing.service.gov.uk/media/6646118dbd01f5ed32793d44/outcomes-by-offence-2023.xlsx>

prosecutions at 39%⁵⁹. Over the past five years, 1,200 Black people with no previous drug convictions were jailed for possession of drugs, showing that Black people are ten times more likely than white people to be sent to prison for a first-time drug offence.⁶⁰ Nearly 700 of these were sentenced for possession of cannabis or other less-serious drugs. Figures obtained through freedom of information also showed that one in every four first-time drug offenders sent to prison were Black, even though Black people represent only one in 30 of the population⁶¹.

33. White defendants have had consistently lower average custodial sentence length (ASCL) for indictable offences compared to all other ethnic groups combined. ACSL for drug offences increased by 1.5 months in 2022 for drug offences⁶². In 2022, white offenders had an ACSL of 21.2 months in comparison to 30.5 months for Asian offenders, 27.9 months for Black offenders, 25.2 months for mixed offenders and 22.9 months for the 'other' ethnic group⁶³. In 2022, convictions for drug offences accounted for the largest proportion of convictions for all ethnic groups combined (save white), amounting to 36% of drug offences turning into convictions for Black offenders; whereas for white defendants, it was for violence against person offences at 25%⁶⁴.
34. According to official data, Black and mixed ethnicity people have increased odds of receiving a custodial sentence compared to the white people, particularly for drug offences⁶⁵. Moreover, Black offenders were less likely to receive suspended sentences in 2022 than white offenders, and Black defendants were 4% more likely to be sentenced to immediate custody than white defendants. Black offenders are also significantly more likely to receive a custodial sentence for drug offences than white offenders⁶⁶.
35. The Sentencing Council's analysis of sentences imposed at the Crown Court for supply, possession with intent to supply, and conspiracy to supply a controlled drug found that an offender's ethnicity was associated with a significant difference in the likelihood of receiving an immediate custodial sentence, even after controlling for other factors associated with the offence(s)⁶⁷. Ministry of Justice statistics confirm the overall custody rates for those drug offences included in the Sentencing Council's analysis are higher for Black and other ethnic minority offenders than for white offenders⁶⁸.
36. In their 2024 report, the UN Special Rapporteur on the right to health recognised the intersecting layers of vulnerability and discrimination by those disproportionately impacted by punitive drug policies, especially in relation to gender, age, class and ethnicity⁶⁹. The UK is emblematic of this. The lack of measures to address disproportionality in drug law enforcement, and criminal legal outcomes for drug offences, is seen to particularly impact Black women. This is evidenced by the

⁵⁹ <https://commonslibrary.parliament.uk/ethnicity-and-the-criminal-justice-system-what-does-recent-data-say/>

⁶⁰ <https://www.thetimes.com/uk/law/article/racial-bias-in-jailing-of-drug-offenders-vn3j0773k>

⁶¹ <https://www.thetimes.com/uk/law/article/racial-bias-in-jailing-of-drug-offenders-vn3j0773k>

⁶² <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2023/criminal-justice-statistics-quarterly-december-2023-html>

⁶³ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022>

⁶⁴ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022>

⁶⁵ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022>

⁶⁶ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022>

⁶⁷ <https://www.sentencingcouncil.org.uk/investigating-the-association-between-an-offenders-sex-and-ethnicity-and-the-sentence-imposed-at-the-crown-court-for-drug/>

⁶⁸ <https://www.gov.uk/government/statistics/ethnicity-and-the-criminal-justice-system-2022/statistics-on-ethnicity-and-the-criminal-justice-system-2022-html>

⁶⁹ <https://www.ohchr.org/en/documents/thematic-reports/ahrc5652-drug-use-harm-reduction-and-right-health-report-special>

disproportionate incarceration of Black women are particularly disproportionately incarcerated for drug offences compared to their white, female counterparts. An analysis of Crown Court sentences for drug offences in 2014 revealed that Black women were about 25% more likely than white women to be sentenced to custody at Crown Court⁷⁰. Black women are also more likely than other women to be remanded or sentenced to custody and are more likely to be single parents, so their imprisonment has severe implications for their children⁷¹.

37. Ethnic disparities are more pronounced for drug offences than for other crimes. Release found in 2017 that Black people were prosecuted for drug offences at 8.6 times the rate of white people, whereas for all offences it was 3.7 times the rate. For those who identified as 'mixed' race, the rate was 3.1 times for drug offences when compared to white people, compared to 1.4 times for all offences⁷². Asian people were prosecuted at a very similar rate to white people for all offences, but at almost twice the rate for drug offences.

Cannabis prohibition - a key driver in introducing racialised communities into the criminal legal system

38. Cannabis policing drives much of the harms identified. The majority of drug possession offences recorded in 2022/23 related to cannabis (99,389 compared to around 30,953 offences of all other drug types)⁷³. In 2023, there were 10,745 convictions for possession of cannabis for personal use, 6.5% of those convicted were under 17 years old and 41% were under 24 years old.
39. In 2020, there were a total of 14,894 prosecutions for possession of cannabis. Black people faced 148.4 prosecutions per 100,000 people for cannabis possession, compared to 12.2 per 100,000 for white people. Black people are 12 times more likely to be prosecuted for cannabis possession than white people⁷⁴ despite representing only 4.2% of the population in England and Wales⁷⁵.
40. Data from 2017 found that more Black people were prosecuted for cannabis possession than supply of Class A or B substances combined. For white people the balance was reversed.⁷⁶
41. Whilst it is rare for people to be imprisoned for possession of cannabis for personal use, in the last decade nearly 222,000 people have been prosecuted for this offence in England and Wales,⁷⁷ and hundreds of thousands more will have received a police caution. Tens of thousands of others will have been convicted for supplying cannabis, with the majority of people involved in these types of offences being low-level suppliers who are generally driven to participate in the market because of their economic circumstances and lack of opportunities.

⁷⁰ <https://assets.publishing.service.gov.uk/media/5a75928440f0b6360e475224/bame-disproportionality-in-the-cjs.pdf>

⁷¹ https://prisonreformtrust.org.uk/wp-content/uploads/old_files/Documents/Counted%20Out.pdf

⁷² <https://www.release.org.uk/publications/ColourOfInjustice>

⁷³ <https://www.gov.uk/government/statistics/crime-outcomes-in-england-and-wales-2022-to-2023/crime-outcomes-in-england-and-wales-2022-to-2023>

⁷⁴ <https://www.independent.co.uk/news/uk/politics/black-people-cannabis-prosecutions-b1853669.html>

⁷⁵

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/bulletins/ethnicgroupenglandandwales/census2021>

⁷⁶ <https://www.release.org.uk/publications/ColourOfInjustice>

⁷⁷ https://www.release.org.uk/sites/default/files/pdf/publications/Regulating-Right-Repairing-Wrongs-UK-Cannabis-Reform_Release.pdf

42. For nearly a century, the wealthy, the White, and the politically powerful have used cannabis with relative impunity while demonising entire communities for the very same practice⁷⁸. Through racialised systems of oppression and social control, the skewed enforcement of drug laws has exacerbated racial profiling and the hyper-criminalisation of ethnic minority individuals. It has also unfavourably impacted those who are socioeconomically deprived, and of other disadvantaged groups⁷⁹ - thereby creating a population that is denied basic human rights.
43. Possession of cannabis and its current criminalisation has been debated at the House of Lords, where Brian Paddick, the former police chief warned that the focus on cannabis possession for personal use is “a waste of police and court time” and “undermines trust and confidence in the police among Black communities”⁸⁰.

Inequitable criminal legal outcomes

44. As noted by the WGAD, “the war on drugs may be understood to a significant extent as a war on people. Its impact is often greatest on those who are poor, but also frequently overlaps with discrimination in law enforcement directed at vulnerable groups”⁸¹, including people of African descent. This is in line with findings by the OHCHR⁸², the Working Group on People of African Descent⁸³, the Special Rapporteur on the right to health,⁸⁴ and the Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement (EMREL)⁸⁵. The latter identified abusive policing practices, including stop and search and drug law enforcement, as practices that manifest and perpetuate systemic racism.⁸⁶ Similarly, 16 UN Special Procedure mandate holders concluded in 2023 that: ‘In various countries, 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’⁸⁷. In this sense, the disproportionate drug policing, prosecution, and sentencing along racial lines not only results in higher incarceration rates, but also produces significant secondary harms. The experience of imprisonment has itself been repeatedly shown to increase the likelihood of drug use and drug dependency.⁸⁸ Reform found that the proportion of people reporting a drug problem in prison in England and Wales rose 8.4% to almost 15% between 2013/14 and 2018/19⁸⁹.
45. Drug law enforcement and the prioritisation of low-level drug offences by the police are a key factor in the overrepresentation of minority communities in the criminal legal system. The

⁷⁸ https://www.release.org.uk/sites/default/files/pdf/publications/Regulating-Right-Repairing-Wrongs-UK-Cannabis-Reform_Release.pdf

⁷⁹ https://www.release.org.uk/sites/default/files/pdf/publications/Regulating-Right-Repairing-Wrongs-UK-Cannabis-Reform_Release.pdf

⁸⁰ <https://www.independent.co.uk/news/uk/politics/black-people-cannabis-prosecutions-b1853669.html>

⁸¹ <https://www.ohchr.org/en/documents/thematic-reports/ahrc4740-arbitrary-detention-relating-drug-policies-study-working-group>

⁸² A/HRC/54/53 and A/HRC/47/53

⁸³ <https://www.ohchr.org/en/news/2019/03/fight-against-world-drug-problem-must-address-unjust-impact-people-african-descent-say>

⁸⁴ A/HRC/56/52

⁸⁵ A/HRC/54/CRP.7,

⁸⁶ A/hrc/54/69

⁸⁷ <https://www.ohchr.org/en/press-releases/2023/06/un-experts-call-end-global-war-drugs>

⁸⁸ https://www.researchgate.net/publication/237776662_Tackling_Prison_Drug_Markets_An_Exploratory_Qualitative_Study

⁸⁹ <https://reform.uk/wp-content/uploads/2020/01/The-prison-system-final-version.pdf>

damage caused by this disparity spreads to greater disruption to education, interpersonal relationships, and future employment opportunities.⁹⁰

46. Possession for personal use drives criminalisation and dominates the criminal legal system in relation to drug-related crime, often at the expense of human rights, respect for autonomy, and public health - and at great financial cost⁹¹. Criminalisation, and its collateral consequences, have triggered wide-ranging “legal, social and economic debilities” which infringe on all areas of an individual’s life, including housing security, healthcare access, immigration, property rights, parental and reproductive rights, and employment and educational inclusion. Criminalisation also aggravates health, social, and economic harms among people who use drugs⁹².
47. Drug law enforcement is pushing people, especially Black people, further into the criminal legal system, with possession of drugs being a gateway offence.

The conflation between drug trafficking and exploitation of children

48. The ‘County Lines’ narrative issued by the government presents an evolved approach to criminalising Black young men under the guise of safeguarding vulnerable members of society. In practice, the county lines narrative reinforces, and is driven by, familiar tropes of Black criminality, White victimhood and ‘Black on Black’ violence⁹³. This narrative has been produced within the framework of white supremacist policing culture that play on images of crisis, exceptionalism and newness.
49. Drug policing strategies to identify those ‘at risk’ of involvement in ‘county lines’ have again targeted young Black men⁹⁴. According to media reports, police intelligence reports produced by the London Metropolitan Police revealed that by 2020, 3,290 individuals were suspected of ‘having a link or suspected link’ to county lines and, of these, 83% belonged to racially minoritised groups, 92% of whom were male⁹⁵ – this is a reflection of police activity rather than the actual situation.
50. The government’s Serious Youth Violence Strategy of 2018 proposed a multi-agency approach combining policing and safeguarding action to render ‘the county lines operating model inoperable and unattractive’⁹⁶. This strategy has turned avenues of support for young people into avenues of police surveillance leading to criminalisation.
51. Since the adoption of modern slavery legislation aimed at protecting victims of human trafficking, particularly women trafficked to Britain for sexual exploitation, police have used this bill to prosecute drug dealers with ‘human trafficking’ charges on the assumption that such charges carried greater moral stigma and harsher penalties⁹⁷. In 2019, an official cross-party review of the modern slavery act concluded that ‘the highest proportion of potential victims’ were England and

⁹⁰ <https://hmicfrs.justiceinspectorates.gov.uk/publication-html/inspection-of-race-disparity-in-police-criminal-justice-decision-making/>

⁹¹ <https://committees.parliament.uk/writtenevidence/107437/pdf/>

⁹² <https://committees.parliament.uk/writtenevidence/107437/pdf/>

⁹³ P. Williams, ‘Criminalising the Other: challenging the race-gang nexus’, *Race & Class*, 2015, Volume 56 Issue 3, p.g. 25

⁹⁴ I. Koch, P. Williams and L. Wroe, ‘County lines’: racism, safeguarding and statecraft in Britain, *Race & Class*, 2024, Volume 65 issue 3, pg. 9

⁹⁵ https://www.london.gov.uk/sites/default/files/rescue_recovery_year_2_sa_-_sept_2020.pdf

⁹⁶ HM Government, ‘Serious violence strategy’, p. 49. (Cited in I. Koch, P. Williams and L. Wroe, 2024)

⁹⁷ I. Koch, P. Williams and L. Wroe, ‘County lines’: racism, safeguarding and statecraft in Britain, *Race & Class*, 2024, Volume 65 issue 3,

Wales nationals and emphasised county lines as playing a large role in the growth of British children identified as slaves⁹⁸. This establishes an underlying tone of white victimhood and sets the foundational thinking behind who is identified as needing support.

52. When the NRM has identified a young person as a ‘modern slave’, the positive impact of such an identification remains limited. Research has found that young people who had been found to have been ‘exploited’ and ‘trafficked’ did not have any meaningful social or material support extended to them often for lack of resources and funding, both at least partially the result of austerity politics and cuts. Where support was extended, it was often only piecemeal or short-sighted⁹⁹. Support provided for the identified ‘victims’ of county lines has been flawed, bringing into question the integrity of the state’s intention to safeguard and protect victims.
53. While article 33 of the Convention on the Rights of the Child provides that States must take all appropriate measures to protect children from the illicit use of drugs and to prevent the use of children in the illicit production and trafficking of drugs, this must be read in conjunction with other protections afforded by the Convention and other human rights obligations. This must include the need to implement preventive and treatment programmes accessible for children, including harm reduction¹⁰⁰ as well as the production and dissemination of accurate and objective information with regards to the use of drugs¹⁰¹. The Committee on the Rights of the Child has highlighted that the deprivation of liberty of children for the purpose of drug treatment is forbidden, and recommended States to put in place confidential and child-friendly complaint mechanisms in places providing drug treatment services for children¹⁰².

Health inequalities experienced by Black and minority communities accessing harm reduction and drug dependence treatment

54. Access to harm reduction and other evidence-based health responses to drug use is essential for the protection of the right to health of people who use drugs¹⁰³. Punitive drug policies have been justified for decades as a means to protect ‘the health and welfare’ of humankind. However, there is undeniable evidence that the enforcement of punitive drug laws and policies has been a tool of racial discrimination in the criminal legal system, and that this has had a discriminatory impact on the right to health of people of African descent, Indigenous peoples, and other ethnic minorities¹⁰⁴.
55. Racial discrimination and structural inequalities have hindered access to harm reduction services for Black, Brown, and Indigenous people who use drugs; including on access to opioid

⁹⁸ I. Koch, P. Williams and L. Wroe, ‘County lines’: racism, safeguarding and statecraft in Britain, *Race & Class*, 2024, Volume 65 issue 3,

⁹⁹ I. Koch, P. Williams and L. Wroe, ‘County lines’: racism, safeguarding and statecraft in Britain, *Race & Class*, 2024, Volume 65 issue 3,

¹⁰⁰ Committee on the Rights of the Child, General Comment 20 on the implementation of the right of the child during adolescence, 6 December 2016, UN Doc. CRC/C/GC/20, para. 64; Committee on the Rights of the Child, General Comment 15: The Right of the Child to the Highest Attainable Standard of Health, UN Doc. CRC/C/GC/15, para 66; Committee on the Rights of the Child, General Comment 3: HIV/AIDS and the rights of the child, UN Doc. CRC/GC/2003/3, para 39; Committee on the Rights of the Child, Concluding Observations: sixth periodic review of the United Kingdom, 2023, UN Doc. CRC/C/GBR/CO/6-7, para. 44.

¹⁰¹ CRC, Concluding Observations: third periodic review of Andorra, 2023, UN Doc. CRC/C/AND/CO/3-5, para. 33 (d); CRC, Concluding Observations: fifth periodic review of Kyrgyzstan, UN Doc. CRC/C/KGZ/CO/5-6, para. 37 (d).

¹⁰² CRC, Concluding Observations: fifth periodic review of Viet Nam, 2022, UN Doc. CRC/C/VNM/CO/5-6.

¹⁰³ <https://www.ohchr.org/en/documents/thematic-reports/ahrc5652-drug-use-harm-reduction-and-right-health-report-special>

¹⁰⁴ <https://www.ohchr.org/en/documents/thematic-reports/ahrc5652-drug-use-harm-reduction-and-right-health-report-special>

agonist therapy, needle and syringe programmes, and viral hepatitis treatment¹⁰⁵. The heavy focus on drug prohibition has ultimately prevented people from seeking help if needed. Owing to the current framework, drug-related deaths in England and Wales in 2021 were found to have consistently been above the European Union's average (23.7 per million), at 84.4 per million¹⁰⁶. While England and Wales maintains a policy of criminalisation, we cannot expect to see different outcomes in terms of treatment uptake and quality of life improvements for those who use drugs. Government data for 2017/18 revealed that under 1% of the total number of people being treated for drug alcohol addiction in England and Wales are Black¹⁰⁷.

Barriers to housing

56. The criminalisation of drug use and possession for personal use is also a driver of other harmful policies that impact the health of minority communities, for instance by restricting access to housing. As noted by the Special Rapporteur on the right to health, criminalising drug use and possession of drugs for personal use can pose threats to health and well-being, and once an individual has a conviction for drug-related offences, they may face considerable obstacles in obtaining employment, housing, welfare benefits, food and other support¹⁰⁸.
57. In England and Wales, social housing will often contain restrictions on illegal activities leading to eviction if people use drugs in their homes. For example, the Anti-social Behaviour, Crime and Policing Act 2014¹⁰⁹ allows for the closure of premises, including residential housing, where there is "nuisance behaviour". These orders can last from three to six months and require the tenant to leave the property and find somewhere else to live. Returning to the property is a criminal offence, and during this period their landlord will often seek possession orders with the aim of evicting the resident. "Nuisance behaviour" includes drug use and these powers originated from 2001 legislation (now repealed) which allowed for closure orders only in respect of Class A drug use, often referred to as the "crack house closure order"¹¹⁰. The 2014 Act also allows for the mandatory eviction of "any tenant, or a person residing in or visiting the dwelling-house, has been convicted of a serious offence" - a serious offence includes drug supply¹¹¹.
58. For youth, accommodation rights for those accessing drugs can often be denied, many having to start treatment before offered long term accommodation, leading to homelessness. Government data for 2023/2024 indicates that the most common vulnerability amongst youth was early onset of substance use (80%), finding that some youth start using substances before the age of 15¹¹².
59. The housing needs of people who use drugs experiencing homelessness are unique, complex and require an approach that is integrated, person-centred and firmly grounded in evidence-based

¹⁰⁵ <https://hri.global/publications/joint-submission-to-the-un-committee-on-the-elimination-of-racial-discrimination/>

¹⁰⁶

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsrelatedtodrugpoisoninginenglandandwales/2022registrations>

¹⁰⁷ <https://www.ethnicity-facts-figures.service.gov.uk/health/alcohol-smoking-and-drug-use/illicit-drug-use-among-adults/latest/#by-ethnicity-and-sex>

¹⁰⁸ A/HRC/56/52

¹⁰⁹ <https://www.legislation.gov.uk/ukpga/2014/12/contents>

¹¹⁰ <https://www.legislation.gov.uk/ukpga/2014/12/notes/contents>

¹¹¹ <https://www.legislation.gov.uk/ukpga/2014/12/contents>

¹¹² <https://www.gov.uk/government/statistics/substance-misuse-treatment-for-young-people-2022-to-2023/young-peoples-substance-misuse-treatment-statistics-2022-to-2023-report>

harm reduction principles. These principles include respecting the rights of people who use drugs, a commitment to evidence and social justice, and the avoidance of stigma¹¹³.

Conclusion & Recommendations

The implementation of drug laws and drug enforcement operations has produced profoundly unequal outcomes across marginalised communities, even when rates of drug use and sales are broadly similar across groups. As recently underscored by the OHCHR¹¹⁴, repressive drug policies can directly undermine human rights, which is extremely telling of the current situation within England and Wales.

We therefore ask that the Committee reiterates the need to end the criminalisation of people who use drugs as a mechanism to reduce/eliminate the policing of adults and children, particularly of Black and other minority communities. Camouflaging cracks and racial disparities within the criminal legal system through criminalising those who use drugs only exemplifies that current drug law enforcement is a tool of racial and social control by the State, not for compassion of its people.

In particular, we respectfully suggest the following recommendations that are currently affecting the drug law enforcement framework within England and Wales (and arguably the UK as a whole) and impinging racialised communities, as follows:

- a. Decriminalise the use, possession, cultivation and purchase of all drugs for personal use and ensure the expansion of health and other social services to address the risks related to drug use; which is reflective of the position of the UN itself.
- b. End the disproportionate impact of discriminatory law enforcement and sentencing policies on Black people and other minorities, including over-policing, stop and search, sentencing and arrests.
- c. Repeal the 2022 legislative changes on out of court disposals and ensure that the two-tier framework of community resolutions or conditional cautions are not enacted.
- d. Reverse the policy of allowing the presence of police officers in schools to conduct drug searches that has disproportionately targeted racialised communities.
- e. Refrain from using “smell of cannabis” as a justification to carry out searches, in particular in the case of strip searches and the occurrence of strip-searching children, particularly Black children.
- f. Regularly collect and monitor disaggregated data on relevant law enforcement practices, including the implementation of more stringent data collection to track progress in addressing the harmful social inequalities through the uneven application of the criminal sanctions.

¹¹³ https://hri.global/wp-content/uploads/2022/10/Written_comments_on_draft_Guidelines_for_the_implementation_of_the_right_to_adequate_housing_HRI_LNPUD_2019-1.pdf

¹¹⁴ <https://www.ohchr.org/en/hr-bodies/hrc/world-drug-problem>

- g. Increase access to harm reduction and treatment services and make them widely available, adequately and sustainably funded, and aimed at responding to the specific needs and risks of Black people and other minority communities.
- h. Review the relevant laws and policies that hinder access to housing for people who use drugs, safeguarding their right to adequate housing and to be protected from eviction and homelessness.
- i. Revoke policies that require enrolment into drug treatment services as a bargaining tactic to withhold housing assistance. Instead, implement key health and harm reduction measures to uphold the rights of people who use drugs.