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议程项目 9

种族主义、种族歧视、仇外心理和相关的不容忍现象：

《德班宣言和行动纲领》的后续行动和执行情况

非洲人后裔问题专家工作组第十二届会议报告

增编

对大不列颠及北爱尔兰联合王国的访问

概要

本报告载述非洲人后裔问题专家工作组对大不列颠及北爱尔兰联合王国进行访问的调查结果。访问期间，工作组调研了保护非洲人后裔人权的问题。报告中介绍了与非洲人后裔人权相关的法律框架，强调现行法律的执行存在一些漏洞，并指出采用注重人权的方针应可对某些政策有助益。报告综述了工作组访问该国期间收到的信息，着重指出了主要趋势、挑战和良好做法，并提出了建议。

## Annex

*[English only]*

**Report of the Working Group of Experts on People of African Descent on its mission to United Kingdom of Great Britain and Northern Ireland (1 to 5 October 2012)**

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## **I. Introduction**

1. At the invitation of the Government of the United Kingdom of Great Britain and Northern Ireland, the Working Group of Experts on People of African Descent undertook a visit to that country from 1 to 5 October 2012. The members of the delegation were experts Mireille Fanon-Mendes France, Mirjana Najcevska and Verene Shepherd.

2. The Working Group met with representatives from several government departments and offices, including the Department for Communities and Local Government, the Department for Education, the Home Office, the Government Equalities Office, the Ministry of Justice, the Department for Work and Pensions, the Department of Health, the Department for Culture, Media and Sport, the National Offender Management Service, the Attorney General's Office, the Crown Prosecution Service, the Metropolitan Police, and the Foreign and Commonwealth Office. The Working Group also met with academics, civil society and non-governmental representatives, including those of African descent, working on a wide range of human rights issues. During their visit, the experts visited London and Liverpool, Her Majesty's Prison (HMP) Canterbury, and Her Majesty's Young Offender Institution (HMYOI) Cookham Wood.

3. In Liverpool the Working Group met with representatives from the Local City Council, including the Youth Offending Service, Community Cohesion, local councillors, the police, community safety, neighbourhoods, education (schools and higher education) and employment services as well as numerous civil society representatives. The Working Group also visited a school and community centre in Toxteth, a multi-ethnic area with a large population of African descent and visited the International Slavery Museum, a resource for understanding the historical and contemporary issues affecting black communities in Liverpool.

4. The experts wish to thank the Government for its invitation and for its assistance before, during and after the visit, in particular the coordination efforts of the Department for Communities and Local Government. They would also like to thank academics and non-governmental organizations (NGOs), including those of African descent, with whom they met during their visit.

## **II. Overview**

### **A. Brief history of people of African descent in the United Kingdom**

5. The African presence in the United Kingdom has a long history, dating back to the Roman Empire and continuing with the participation of England/Britain in the transatlantic trade in Africans and the system of African enslavement, especially in the Caribbean. From the 17th to the early 19th centuries, wealthy enslavers began to bring enslaved people to the United Kingdom to work in their homes as domestics. As the participation of Britain in the transatlantic trade in Africans and in plantation slavery in the Americas grew, with merchants, particularly from Bristol, London, Liverpool and Glasgow, increasing their trade, the number of Africans in the United Kingdom also increased. By 1770 there were approximately 14,000 black people living in England.

6. The official banning of trading in enslaved people in the British Empire under the Slave Trade Act in 1807 and the eventual passing of the Slavery Abolition Act in 1833 temporarily halted the numbers of Africans arriving in the United Kingdom, while European immigration began to increase.

7. During the two world wars in the first part of the 20th century however, hundreds of thousands of men from all over the British Empire, including Africa and the Caribbean, fought for Britain and numerous African-American soldiers were also stationed in the United Kingdom. Women of African descent, some from the Caribbean, also supported the war effort in the United Kingdom in a variety of non-combatant occupations.

8. The post-war period saw the first major waves of economic migration of people of African descent to the United Kingdom as labour shortages led the Government to call on economic migrants. On 22 June 1948, the *Empire Windrush* ship arrived in London, bringing hundreds of men and women from the Caribbean, and this marked the beginning of economic immigration by Africans and people of African descent to the United Kingdom. The 1950s and 1960s saw many Caribbean women entering Britain to work as domestic workers, while men worked in the transportation industries. About 83,000 immigrants from the Commonwealth settled in the United Kingdom between 1968 and 1975. Towards the end of the 20th century a growth in asylum seeker applications to the United Kingdom brought new groups of immigrants and between 1998 and 2000, 45,000 people arrived from Africa and almost 12,000 from the Americas, many of whom were people of African descent from the Caribbean and Latin America.

## **B. The current picture**

9. This varied history means that people of African descent in the United Kingdom are a diverse and heterogeneous group. Some communities, for example in Liverpool, date back to the 1700s. Others are second or third generation immigrants descended from the Windrush generation of economic migrants and others are more recent groups who have migrated from Africa, the Americas and other parts of Europe for a variety of social, economic and political reasons.

10. According to the figures from the latest census, taken in 2011, 3.3 per cent of the population of England and Wales are Black – African/Black Caribbean or Black British, which is an increase from the 2001 figure of 2.2 per cent. Another 2.2 per cent identified as mixed origin with African descent, an increase on the 0.7 per cent identifying as such in 2001.

11. The majority of people of African descent live in urban areas of England and Wales. London has an above average population of people of African descent, with 13.3 per cent Black African, Black Caribbean or Black British. That means that London accounts for 59 per cent of people of African descent in the United Kingdom, not counting those of mixed ethnic background.

## **III. Legal framework, mechanisms, policies and practices**

### **A. International level**

12. The United Kingdom has ratified seven of the core human rights instruments, many of which are particularly relevant for the rights of people of African descent living in the country. The United Kingdom is yet to ratify the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families.

13. The United Kingdom has not accepted the competence of the Committee on the Elimination of Racial Discrimination to receive complaints as outlined in article 14 of the International Convention on the Elimination of Racial Discrimination. It has also made an interpretive statement on article 4 of the Convention, which prohibits racist propaganda and

organizations. The State's interpretive statement, which aims to balance freedom of expression with prohibition of incitement to racial hatred and violence, means that in practice it does not outlaw organizations that express views that may be regarded as racist, although it is a criminal offence under domestic legislation to incite violence or hatred against racial groups. The Committee on the Elimination of Racial Discrimination has called upon the United Kingdom to reconsider this statement in its concluding observations in both 2003 and 2011. The issue was also raised in the universal periodic review in 2010.

14. The Committee on the Elimination of Racial Discrimination expressed continuing concern that domestic courts may not give full legal effect to the provisions of the Convention unless it is expressly incorporated into its domestic law or the State party adopts necessary provisions in its legislation. The United Kingdom is also yet to ratify the Optional Protocol to the International Covenant on Civil and Political Rights.

## **B. National level**

15. The principal domestic legislation against racial discrimination in Great Britain is the Equality Act of 2010. The Act has its roots in the Race Relations Act, first adopted in 1965 to ban direct discrimination on the basis of colour, race or ethnic origin, which established the Race Relations Board. The subsequent Race Relations Act passed in 1976 created the Commission for Racial Equality, which has since merged with other equality bodies to form the Equality and Human Rights Commission (EHRC). The Race Relations Amendment Act was adopted in 2000 following the landmark Macpherson Report in 1999, which concerned the racist murder of teenager Stephen Lawrence and made extensive recommendations on institutional racism.

16. According to the Government, the Equality Act (2010) simplifies and harmonizes legislation by replacing previous anti-discrimination laws on race, sex, sexual orientation, religion or belief, age and disability. It covers direct and indirect discrimination, harassment, victimization and failure to make reasonable adjustments for persons with disabilities. The Act provides for equal opportunities in the workplace and in the wider society, prohibiting unfair treatment in the workplace, in the provision of goods, facilities and services, when exercising public functions, in the disposal and management of premises, in education and in associations.

17. The Equality Act contains specific requirements for public sector service providers through the Equality Duty, which came into force on 5 April 2011, requiring public bodies to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people from different groups.

18. Positive action provisions relating specifically to recruitment and promotion in employment came into force on 6 April 2011.

## **C. Policy and practices**

19. The Working Group is concerned that if targets are considered good practice but are not enshrined in law, there is no obligation on public bodies to use them. Members of civil society informed the Working Group that the Civil Service has a target to ensure that 3 per cent of senior civil service staff are people of African descent but that it has not met this and that currently only 0.4 per cent are of African descent. There is a further concern that recent cuts to public sector jobs are particularly affecting people of African descent, who are predominantly present in lower level public sector roles. During meetings with the Department for Communities and Local Governments (DCLG) the Working Group learned of the Localism Act, which aims to strengthen decision-making processes at the local level.

It provides for support systems for communities and volunteers and emphasizes integration and diversity.

20. The Working Group met with the Equality and Human Rights Commission, a national human rights institution set up under the Equality Act 2006 (covering England and Wales), which analyses the impact of legislation on equality and human rights. It has powers to carry out general enquiries, initiate legal proceedings in its own name and apply for judicial review, but cannot sue. It can apply for injunctions to prevent discrimination; for example, it sought an injunction against a far-right party – the British National Party (BNP) – against its discriminatory rule on membership. It has produced statutory codes of practice on employment and on goods, services, public functions and membership associations to be used in disputes before courts/tribunals as well as for guidance to employers and service providers, workers and unions.

21. The Working Group however received mixed opinions about present-day evidence in Britain that the State has come to terms with its role in the transatlantic slave trade (now well-established and documented). Admittedly, several cities (as opposed to the State), have made official apologies for their role in the trade. However the Working Group is concerned that these have not translated into action. The formal apology made by Liverpool City Council in 2000 held out several promises for policy change but some civil society representatives with whom we spoke felt these have not been realized and people of African descent felt that they are still invisible. In 2004, the City Council reaffirmed its commitment to remembering slavery, its effects and its abolition, and its determination to ensure that slavery will never again be allowed to happen. It committed, through its “lifelong learning” policies and practices, to, *inter alia*:

(a) Raise awareness and understanding of the Slave Trade as a continuing issue for all people;

(b) Highlight the values of a tolerant and diverse society which appreciates the contributions of all members of the community;

(c) Provide schools with resources to enable all children to learn the lessons of the Slave Trade and its abolition; and, in partnership with National Museums Liverpool, develop slavery remembrance projects;

(d) Support an annual event of remembrance in the city each 23 August in collaboration with the International Slavery Museum, opened in August 2007.

22. More recently, Liverpool, like other cities in the United Kingdom, has increasingly observed Black History Month in October, funded and supported African culture, and spoken out against racism in sports, especially in football.

23. The Mayor of Liverpool’s Fairness Commission recommended that the city and its partners tackle the continuing levels of disadvantage and discrimination within the local labour market by proactively promoting fairness in employment opportunities, especially for disadvantaged communities, including Black and minority ethnic (BME) communities. However, complaints of discrimination in the securing of jobs and high unemployment persist among the Black population in Liverpool.

#### **D. Data collection**

24. The Working Group welcomes the proactive approach that the Government has taken in the collection of disaggregated data, including by ethnicity. Despite trends in Europe, the United Kingdom has not abolished the collection of disaggregated data. The United Kingdom Census 1991 was its first to ask a question on ethnicity. The 2011 Census

enabled individuals to define their ethnicity themselves, either choosing one of the options provided or writing in their own category. The existence of disaggregated data on ethnicity is to enable private and public organizations to monitor equal opportunities/anti-discrimination policies, and for resource allocation and service provision.

25. The Working Group learned from the State that to comply with the public sector Equality Duty in the Equality Act 2010 public bodies may need to review such disaggregated data and evidence to better inform their decision-making. Such data may also be necessary to inform the Government as to whether community programmes are reaching all groups and in revealing the patterns of exclusion and discrimination that people of African descent face, in order to enable it to adopt practical public policies.

26. However the Working Group was told by civil society and NGOs that ethnic-specific data are at times used for negative policing/monitoring purposes rather than for positive action.

## **IV. Equality and non-discrimination**

### **A. Employment and poverty**

27. The Department for Work and Pensions (DWP) mainstreams the issue of equality across its work and functions. It evaluates and monitors the experiences of different groups with protected characteristics under the Equality Act in terms of poverty and in the labour market.

28. The Working Group was informed by several NGOs with which it met that people of African descent experience disproportionate rates of poverty. While child poverty rates decreased in the United Kingdom between 2001 and 2007, poverty rates for Caribbean children are 26 per cent and for black African children over 35 per cent, compared with a national average of 20 per cent.

29. The rate of unemployment for ethnic minorities in general is 11.7 per cent above the national average. The global economic crisis has seriously affected employment in the United Kingdom, particularly among young people. According to the latest available figures for 2011, 50.1 per cent of black or black British young people not in full-time education and 43.5 per cent of mixed ethnic background young people not in full-time education are out of work.

30. The Government currently provides a range of financial benefits for the unemployed, the data for which provide a good indication of poverty rates. As of November 2011, of the total number of people claiming Jobseekers Allowance, 0.93 per cent were mixed white and black Caribbean, 0.27 per cent were mixed white and black African, 3.03 per cent were black British/Caribbean, 3.07 per cent were black British/African and 0.74 per cent were black British other, totalling 8.05 per cent of the total Jobseekers Allowance claimants. Likewise, of the total population of lone parents seeking income support, 1.23 per cent were mixed white and black Caribbean, 0.3 per cent were mixed white and black African, 2.66 per cent were black British/Caribbean, 4.3 per cent were black British/African and 0.7 per cent were black British/other, totalling 9.2 per cent of the total number of lone parents claiming income support.

31. The Government is launching a new benefits system with a single payment for people who are looking for work or are on a low income. Universal Credit, to be piloted in April 2013 and launched nationally in October 2013, will replace the existing income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Child Tax Credits, Working Tax Credits and housing benefit. The Government

claims it will help claimants and their families to become more independent and will simplify the benefits system by bringing together a range of working-age benefits into a single streamlined payment. However, civil society has expressed concerns that many people will lose out in this new system.

32. The Government's mainstreaming approach to equality means that, while there are training programmes and initiatives to enable people to access employment, there are no specific programmes for people of African descent. The Working Group met with the Ethnic Minority Employment Stakeholder Group (EMESG), an external stakeholder membership group which gives a voice to the ethnic minority voluntary sector in government, working closely with the Department for Work and Pensions.

33. The EMESG supported the Department for Work and Pensions in 2009 research into racial discrimination in recruitment practices, providing evidence that people with ethnic minority names are twice as likely not to get interviewed. The EMESG developed a five-point framework for public and private sector employers to enable them to recognize and address any biased recruitment practices they may have experienced, encouraging them to monitor their recruitment practices, employee experiences and adjust policy and practice accordingly.

34. Other key achievements of the EMESG include increasing diversity and equality in public procurement, and producing a free online data portal pulling together sources of ethnic minority data, together with guides for local government professionals on how to use the data to be informed of employment levels in their area. The Working Group welcomes the coordinated work between the Department for Work and Pensions and the EMESG.

35. The Working Group also met with a representative of the Trades Union Congress (TUC). As part of its work the TUC campaigns for race equality in the workplace. The representative from the TUC reported that access to certain sectors of the labour market is different for different ethnic groups. The majority of people of African descent work in public services such as the health system and the transport system. As such the public service cuts which the Government is implementing as part of the response to the economic crisis will have a particular impact on the employment rates for people of African descent, especially women of African descent. The representative claimed that racial discrimination is institutionalized. Beyond the barriers faced by people of African descent in recruitment processes, once working in organizations, they often experience limited access to training, racist bullying and disproportionate disciplinary action.

## **B. Education**

36. The Department for Education (DfE) has five key aims for raising education standards in the United Kingdom: closing the achievement gap between rich and poor, reforming the school system, supporting all children and young people, particularly those who are disadvantaged, and improving the effectiveness and efficiency of the department. These aims are intended to benefit all children, irrespective of their background, and the Department stresses that it will monitor the impact of these aims on different groups, in accordance with the Equality Act.

37. There have been several past government initiatives in the United Kingdom to promote the inclusion of children and youth of African descent in education, including the Every Child Matters programme for universal education. During the visit to Liverpool, the Working Group met representatives of the Ethnic Minority and Traveller Achievement Service (EMTAS), an initiative run by several local governments across the country, including Liverpool City Council. Liverpool EMTAS works with pupils, schools families and communities to improve the chances of children from ethnic minority groups through



language support, homework support, parental support and support to schools to promote quality education for all.

38. Until April 2011 the Government ran the Ethnic Minorities Achievement Grant, which was set up to narrow the achievement gaps of children from ethnic minorities at risk of underachieving in education. However, in line with many of the changes brought in concerning equality and diversity, this grant has now been mainstreamed along with several other grants into the dedicated schools grant.

39. While achievement gaps between black British/African/Caribbean children and other groups have narrowed in previous years at some levels, the Working Group remains concerned about the continued differences, particularly at secondary school level. In England, the national percentage of school students achieving five or more A\*-C Grade GCSEs including mathematics and English was 58.2 per cent (54.6 per cent of boys and 61.5 per cent of girls). 49.1 per cent of mixed white and black Caribbean children, 57.6 per cent of mixed white and black African children, 48.6 per cent of black Caribbean children, 57.9 per cent of black African and 52.6 per cent of black other gained five A\*-C grade GCSEs and when broken down by gender these differences are significantly higher for boys. Only 42.3 per cent of black Caribbean boys and 44.5 per cent of mixed white and black Caribbean boys gained five A\*-C Grade GCSEs.

40. The Working Group met members of civil society in London and Liverpool, who raised concerns about the underachievement of children of African descent, particularly Caribbean boys. According to the Department of Education in November 2011, of all teachers in publicly funded schools, 0.2 per cent are mixed white and Caribbean, 0.1 per cent are white and black African, 0.9 per cent are black Caribbean, 0.7 per cent are black African and 0.2 per cent are black other, totalling 2.2 per cent of the total. However, relatively few of these are in senior positions, with black Caribbean teachers and black African teachers making up only 0.6 per cent and 0.1 per cent of all Head teachers in publicly funded schools. Conversely there is higher representation of teachers of African descent working as support staff. For example of all male teaching assistants 4.2 per cent are black Caribbean men and 2.1 per cent are black African men. While the Working Group welcomes the efforts made by the Department of Education to provide greater support for black Caribbean boys in education, it is concerned that staff members may face barriers in achieving more senior roles.

41. The low numbers of teachers of African descent are of concern, as many children are not exposed to positive role models of people of African descent through their education. Many people of African descent who do enter the teaching profession enter at low levels and face barriers in progression.

42. The academics and civil society representatives who met with the Working Group felt that there was insufficient equality and diversity training for teachers, particularly those not of African descent working in schools with large African descended student populations. Concerns were also raised that education is not culturally relevant for children and young people of African descent and was lacking in the history, culture and identity of Africa and the African diaspora, especially the Caribbean. The Working Group was concerned that the content of education did not empower people of African descent, who are not exposed enough to the idea that their history did not begin with the slave trade and that their ancestors contributed to the industrialization and development of the United Kingdom, facts that are supported by the conclusions of the compensation claims study revealed at a forum at University College London, which scholars and activists are using to bolster reparation claims. While the Working Group welcomes efforts to improve the cultural relevance of the national curriculum, many representatives of civil society told the Working Group that they believed that teachers were underprepared to cover these issues.

43. The Working Group welcomes community-led initiatives providing supplementary schools during evenings and weekends. These schools are run by volunteers from the community with the aim of enhancing the educational experience of children of African descent. Volunteers teach children about African and Caribbean history and its entwinement with the history of the United Kingdom, and promote positive self-identity as well as providing support with their mainstream education such as mathematics and English homework support.

44. During the visit to Liverpool the Working Group learned how local government was supporting the supplementary schools initiatives. However the Working Group is concerned that such initiatives are generally voluntary, with little support from the Government. While it is recognized that the Government cannot provide State education to cater for the languages and cultures of all students in the country, it feels that more support should be provided to support community-led initiatives. However, the Working Group welcomes the work that Liverpool City Council's EMTAS is doing in this area and the achievements of the young people.

45. Another concern is that of racist bullying in schools. EMTAS has collected evidence on racist incidents in Liverpool schools showing that racist incidents fell from 110 in the academic year 2004-2005 to 35 in 2006-2007 but that by 2009-2010 they had risen again to 97. The majority of racist incidents recorded involved name calling and verbal abuse with much smaller numbers of incidents involving violence and physical abuse. In the year 2009/10, 53 per cent of victims of the racist incidents recorded were of African descent, including black British, mixed heritage and Black African.

46. Another concern raised by civil society was about the high exclusion rates of black children. For example, pupils of Black Caribbean ethnic origin are nearly three times more likely to be permanently excluded than the school populations as a whole, and are twice as likely to receive fixed period exclusions. The vast majority of these exclusions were for boys, with 0.36 per cent of black Caribbean boys facing exclusion. Additionally the Working Group notes that, while making up 6.9 per cent of primary and secondary school children, black Caribbean, African and mixed-race children represent 7.7 per cent of children in special schools and 9 per cent of children in alternative provision.

47. The Working Group welcomes local council initiatives such as EMTAS, which runs a Black Achievement project supporting British children of African descent. The project provides curriculum and pastoral support for black and mixed-race pupils.

48. Youth of African descent also continue to be underrepresented in higher education. This is linked to underachievement in secondary education but also to the disproportionate rates of poverty that people of African descent face, which discourage them from entering the higher education system, where they will incur financial debts. The Working Group, in its meeting with academics at the University of London, also heard of dissatisfaction at the slow progression and low numbers of Black professors at tertiary level institutions.

## **C. Health**

49. During the Working Group's meeting with the Department of Health (DH) it learned of the health inequalities affecting people of African descent, which included higher rates of diabetes and stroke among African Caribbean people, higher admission rates as mental health in-patients among people of African descent and high rates of HIV among Africans in the United Kingdom. A leading NGO has found that people of African descent in the United Kingdom are up to three times more likely than the general population to have Type 2 Diabetes. The Working Group welcomes the Government's good use of disaggregated data to identify specific needs of different ethnic and racial groups in the country, including

African-descended groups, and such data have been used to inform policy and practice. Civil society representatives suggested that health inequalities are caused by a combination of structural factors (such as limited access to health services and access to appropriate information and advice); social factors (such as immigration status, social capital, peer support); economic factors (poverty, housing, employment); culture and beliefs (faith, beliefs about health, symptom recognition and comprehension); and individual factors (such as priorities, preferences and psychological factors).

50. The Working Group appreciates the steps taken to promote equality in health, including the Health and Social Care Act 2012, which created a new National Health System (NHS) Commissioning Board with an explicit duty to promote and tackle inequalities in access to health care; the NHS Equality and Diversity Council, which aims to improve the equality performance of the NHS for both patients and staff; the NHS Equality Delivery System, which is an equality assurance framework; the voluntary agreement between the DH and the Equality and Human Rights Commission; the DH Equality Objectives, which have an Action Plan for 2012-2016, and the creation of a Ministerial Working Group working on equality in mental health. The DH has carried out targeted public health campaigns, for example, specific culturally relevant information and advice on its Black Health website addressing issues such as HIV, female genital mutilation (FGM), diabetes, sickle cell anaemia and mental health.

51. Representatives from civil society raised particular concerns that Afro-Caribbean men are more likely to be institutionalized under the Mental Health Act than the majority of the population. Inequality in mental health is linked to discrimination within the criminal justice system and it was pointed out that men of African descent are more likely to end up in the mental health care system following contact with the police or courts than via a general medical practitioner. They are also more likely to be diagnosed with psychotic illnesses and to receive medical treatment rather than counselling.

52. Members of civil society felt that the unequal treatment of men of African descent within the justice and mental health care system has led to their overrepresentation in mental health institutions and long-term psychological damage. Many have also experienced disproportionate use of force, which in many cases has led to death in custody, with very few of these cases having had official inquests. The need for an independent inquiry into discrimination and inequality in the mental health care system was highlighted several times.

## **D. Administration of justice**

### **1. Access to justice**

53. The Working Group learned that people of African descent who are victims of discrimination may seek recourse to justice through the Equality Act. For example, in work situations, they may make a claim to an employment tribunal. Also in the case of racially aggravated crimes, they may seek justice through the criminal justice system. The Crown Prosecution Service (CPS) is the main public prosecution service for England and Wales and decides whether and how to charge a person suspected of a criminal offence on the basis of evidence. The CPS defines racially and religiously aggravated crimes as “any criminal offence which is perceived to be motivated by hostility towards a person’s race or religion or perceived race or religion, of the victim or any other person.”

54. The Working Group learned that in the United Kingdom there are a number of specific offences where, if the CPS is able to prove an element of racial or religious aggravation, the accused person is liable to receive a higher sentence if found guilty. The

CPS also deals with offences involving incitement to racial or religious hatred and provides Witness Care Units to support victims. In addition, the number of reported and successfully prosecuted cases has increased steadily since 2005 when the CPS began reporting on racist and religiously aggravated hate crime. In 2010/2011 the number of race crime defendants referred to the CPS for a charging decision by the police rose by almost 3 per cent to 13,038. Of the cases prosecuted in 2010/2011, 83.1 per cent were successful.

55. Since the racist murder of teenager Stephen Lawrence in 1993 the CPS has documented a total of 100 racially motivated murders. The Macpherson enquiry launched into matters arising from the murder of Stephen Lawrence made many recommendations and there have been changes in how the police and judiciary handle these cases. The CPS informed the Working Group that the police are now treating crimes as racially motivated where relevant, but when cases move to court the element of racial motivation often gets lost due to lack of evidence.

56. The Government has been working with the Association of Chief Police Officers to develop True Vision, an online service which offers materials and information for victims of hate crimes as well as support groups and professionals. It facilitates online reporting of hate crimes, with the option of anonymity. The site had 112,000 visits in its first 18 months and has received around 2,400 hate crime incident reports. The Government has also produced a hate crime app for mobile phones and tablets for information and links to an online reporting facility. In early 2012 the Government also published a three-year cross-Government plan to tackle hate crime "Challenge it, Report it, Stop it." The Working Group, however, realizes that Black communities are still haunted by the Stephen Lawrence murder and other incidents of racially motivated crimes, and believe that there is still under-reporting and under-prosecution of such crimes.

## **2. Persons in conflict with the law**

57. During the Working Group's meeting with civil society the issue of disproportionate use of stop and search powers by the police on young males of African descent was repeatedly raised as a concern. Following riots which took place in Brixton in the south of London in 1981, 900 people were stopped and searched in four days. This event led to a report by Lord Scarman, which was followed by the 1984 Police and Criminal Evidence Act (PACE) requiring police to record the ethnicity of all people stopped and searched. However, under the Act police are only required to issue a report if a suspect is searched, not if they are only stopped.

58. Stops and searches of young men of African descent had become a particular concern according to civil society following the riots which took place in some English cities in August 2011. The 2011 riots started in North London following the death of Mark Duggan and subsequently spread to some other English cities. Community and local responses to the riots were positive in some areas, such as Liverpool, where initiatives were set up to promote community/police engagement.

59. Evidence based on self-identification from the Ministry of Justice shows that, per 1,000 of the population, "black persons" were stopped and searched seven times more than white people in 2009/10, compared to six times more in 2006/07. However, the Working Group welcomes the efforts made by the police to research into the issue of stop and search by police. A leading think tank on race also found that contact with police in a given year is a predictor of entering the criminal justice system the following year. Stop and search can therefore be seen as undermining crime prevention and is potentially damaging for individuals, communities and society in general.

60. Arrest rates for people of African descent are also disproportionately high. While there has been a decrease of around 3 per cent over the last five years in the overall number

of arrests, and a decrease in arrests of white people, arrests of “black persons” increased by 5 per cent. In 2010 “black persons” were arrested 3.3 times more than white people, and those from the mixed ethnic group 2.3 times more.

61. At sentencing stage “black persons” on average receive longer sentences than other groups. In 2010, the highest average custodial sentence length for those given determinate sentences for indictable offences was 20.8 months for the “black ethnic group” but 14.9 months for the white population.

62. The Working Group is concerned that people of African descent represent a disproportionate percentage of the prison population and offenders on probation in England and Wales. In 2010, 13.7 per cent of the prison population were “black”. The Working Group visited Canterbury Prison for foreign national prisoners, which was of particular interest since, while in 2010 Black and minority ethnic (BME) prisoners represented 20 per cent of British nationals in prison in England and Wales, they made up 63 per cent of foreign nationals in the prison population.

63. The Working Group found that there are also disproportionate numbers of young people of African descent in young offenders’ institutions. The age of criminal responsibility in the United Kingdom is 10 years old, which is not in conformity with international standards. The Working Group visited Cookham Wood Young Offender Institution and held discussions with a group of young people of African descent and staff. The Working Group discovered that many of the young people blame themselves for their situation although they also complained about the differential treatment they received from the police. The Working Group is uncertain whether the presence of a prison official at the meeting constrained the young offenders.

64. Significant steps have been taken to adopt policies to tackle racism such as reporting processes, the creation of the Race Equality Action Group and a Race Relations Action Plan in 2003, and prison service instruction PSI 2011-32 “Ensuring Equality”. All new prison policies must undergo a race equality impact assessment prior to implementation. Prisons now have Race Equality Action Teams, Race Equality Officers and key performance targets for service delivery and staff. Data on race and key areas of the prison service are collected regularly in each prison and aggregated on a quarterly basis to provide a national picture of the situation. However, in practice unconscious bias and differential treatment of prisoners by staff, particularly in the use of discretionary powers, is still commonplace. The prison service has developed a policy framework entitled “Ensuring Equality”, which, in line with the Equality Act, addresses all equality issues, building on the lessons learned from race equality experience. The role of prisoner race representatives will be expanded to cover all equality issues.

### **3. People of African descent working in the administration of justice system**

65. There are significantly low numbers of people of African descent working as employees in the United Kingdom administration of justice system. In 2011 2.6 per cent of staff working at the Headquarters of the National Offender Management Service and 2.5 per cent of staff in Her Majesty’s (HM) Prison Service were “black”

66. The Working Group notes the efforts made to increase the number of people of African descent working across the justice system, particularly within the police service; however, more needs to be done. The National Black Police Association stressed that special measures to ensure that people of African descent are employed in the system are essential. While there have been outreach programmes to increase the numbers, in practice people of African descent tend to be concentrated in low levels of the system and continue to face internal discrimination and barriers to promotion. In 2011, 1 per cent of police officers were “black” and 1.3 per cent were of mixed ethnic origin; but at the senior level

those figures drop to just 0.7 per cent “black” and 1 per cent of mixed ethnic origin. Many police officers of African descent resign prematurely and there is a need for recruitment at different levels.

## **E. Political participation**

67. People of African descent have historically been underrepresented in British politics both as political figures and as active participants in political processes. The first people of African descent to be elected as Members of Parliament (MPs) were Bernie Grant, Paul Boateng and current MP Dianne Abbott, all elected in 1987. In the 2010 elections there were 27 Members of Parliament of African and Asian descent elected. The Working Group welcomes initiatives taken to increase the number of people of African descent within national and local government. The NGO Operation Black Vote (OBV) has been working with local governments to promote participation of people of African descent in political processes. As a result of OBV activities in Liverpool, that city now has three local councillors of African descent. Particular political actors have made a significant impact on children and education through the London School’s Black Child Initiative and the Every Child Matters initiative.

## **F. Multiple discrimination**

### **1. Women and girls**

68. Women of African descent in the United Kingdom as in many countries suffer compounded discrimination based on racial or ethnic origin, socioeconomic status and gender. Poverty has a gendered nature. For example 97 per cent of the lone parents on income support in 2011 were women. Although figures are constantly changing, in early 2012, 34 per cent of young women were jobless, compared with 31 per cent of young men, and 15 per cent of female pensioners are poor compared with 13 per cent of male pensioners. As a large proportion of the people of African descent (both black African and black Caribbean) work in the public sector, particularly the NHS and care system, cuts to public services and benefits will have a particular impact on women of African descent.

69. Women and girls of African descent are also vulnerable to particular health risks. Hypertension is particularly prevalent in women of African descent in the United Kingdom. Rates of HIV/AIDS are highest in African groups in the United Kingdom; twice as many African women as men are diagnosed with HIV/AIDS every year. Although women are more likely to access services, they are also likely to experience gender-based violence if they disclose their health status to their partner. Civil society representatives mentioned that while there was much discussion of men of African descent in the mental health system, there are also concerns about women’s experiences of the system.

70. Some girls and young women of African descent are at risk of FGM. The Government estimates that 24,000 girls under the age of 15 are at risk of FGM in the United Kingdom and is particularly concerned about girls being taken abroad to have the procedure carried out during summer holidays from school. The United Kingdom Female Genital Mutilation Act, which was introduced in 2003 and came into effect in March 2004, made it illegal to practise FGM in the country, illegal to take girls who are British nationals or permanent residents of the United Kingdom abroad for FGM whether or not it is lawful in that country, illegal to aid, abet, counsel or procure the carrying out of FGM abroad, with a penalty of up to 14 years in prison and/or a fine.

71. Trafficking in persons and sexual exploitation are also manifestations of multiple discrimination that women and girls of African descent may face.

## 2. Migrants, asylum seekers and refugees

72. The Working Group expressed its concern about the human rights of migrants. Civil society claimed that irregular migrants are more likely to face discrimination, exclusion and abuse, because of their particularly vulnerable situation. They may work in informal and exploitative conditions for which they cannot seek protection. The Working Group heard allegations from migrants in irregular situations of being prevented from having access to adequate health care, or from renting decent accommodation. Migrants can be detained without having committed a recognizably criminal offence. Yet the association of irregular migration with criminality promotes the stigmatization of migrants and encourages a climate of xenophobia and hostility against them. The Working Group is of the view that human rights should be at the forefront of any discussion on migration in the country.

73. Owing to a combination of language barriers and discrimination, migrants, asylum seekers and refugees may all face barriers in accessing information about services, particularly concerning health, education and employment, and have limited access to health care and other protection systems.

## V. Racism and xenophobia

### A. Hate crimes

74. Laws exist to prosecute racial and religious hate crimes, but people of African descent continue to be the victims of such crimes. The most common types of racist or religious hate crimes recorded by the CPS in 2010/2011 were offences against the person (44.2 per cent) and public order offences (37.6 per cent). The majority of defendants were white British men between 25 and 59 years of age.

75. The majority of victims of racist and religious hate crime were men (58.3 per cent – 15 per cent of cases had no recorded gender so this figure could be higher) and most victims were between 25 and 59 years old. Such attacks particularly impact asylum seekers, many of whom are people of African descent, but there is underreporting of attacks against this group. According to the CPS, people working in the night time economy such as taxi drivers and fast food shop workers are often immigrants or people belonging to minority groups and are often victims of hate crime. There is a lack of data available on the ethnicity of the victims and as such the Working Group was unable to determine how many of the victims of racist hate crime were people of African descent.

### B. Racism in the media

76. Racism in the media continues to be a problem affecting people of African descent, particularly migrant and asylum seekers. OFCOM, the independent regulator and competition authority for communications industries in the United Kingdom, makes general requirements for non-discrimination in the media. During a meeting with the Government Department for Culture, Media and Sport (DCMS), the Working Group learned that the main concern regarding racism in the media is negative stereotyping of particular groups. The United Kingdom has a Press Complaints Commission which receives complaints about press coverage and looks at these in light of the Editors' Code of Practice, which is an ethical code for the press to follow in the gathering and reporting of the news.

77. Another concern is about diversity, particularly on television. The British Broadcasting Corporation (BBC) has policies in place to ensure that the people in television programmes are representative of the wider viewing society. The BBC diversity strategy, which was developed in 2011 following research, looks internally at the diversity of employees as well as at diversity in programming.

78. The DCMS suggested that while there used to be much more negative stereotyping of people of African descent in the media, particularly following the riots of the 1980s, since the terrorist attacks of 11 September 2001 and international concerns about terrorism, the media has shifted focus to the Muslim community in Britain, which is still unacceptable.

#### C. Racism on the Internet

79. During a meeting with the CPS the issue of Internet hate crime was raised. This type of crime is particularly difficult to investigate owing to difficulties in establishing jurisdiction. The Working Group notes with satisfaction that British courts have accepted that the Internet is a public space for the purposes of the Public Order Act and that any offence is committed where the material is posted rather than where it is hosted.

80. The CPS informed the Working Group of a case in which a student was jailed for 56 days for posting offensive comments on Twitter about the on-pitch collapse of an African football player in March 2012.

#### D. Racism in sports

81. Racism in sports is also an ongoing concern in the United Kingdom. The Working Group welcomes the initiatives by the Government to address this issue. The DCMS has been working on two issues in particular concerning people of African descent: equal access to sports and eliminating racism, discrimination and hate speech within sports. Racism in football has been a particular issue of concern. The Government believed that much had been done to tackle this through the anti-racism campaign “Kick It Out” and a summit held by the Football Association in 2011. It considered that the situation had improved since the 1970s and 1980s; however there were a number of high-profile incidents in 2012 which have put the issue back on the agenda.

82. A House of Commons select committee produced a report on racism in football and the Football Association is now taking a tougher stance on the issue: the suspension of a former England captain is evidence of this. The Football Association has also been working with the International Federation of Association Football (FIFA) and the Union of European Football Associations (UEFA) to set standards at the national level.

83. The Government is also providing funding to the Football Association to improve the national training process to get more BME people into roles as coaches and managers as well as on boards; there are currently only four BME football managers in the four English professional leagues. The Government’s approach to the issue is about changing attitudes at all levels.

## VI. Conclusions and recommendations

84. **Diversity is valued in the British model of society. The United Kingdom has an impressive legislative framework and has invested considerable resources in anti-discrimination initiatives, including the positive obligations on public authorities to promote equality of opportunity on grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation; the Equality Act 2010 and the establishment of the Equality and Human Rights Commission (EHRC), an independent body with powers to take legal proceedings or other enforcement action. Despite all these achievements, people of African descent consulted believe that the Government has not adequately implemented the impressive legislative and policy framework that exists, and has failed in several aspects to respond adequately to their problems or to devise meaningful and enforceable solutions, leaving them and their communities in a neglected situation.**



85. Achieving a truly inclusive society requires constant vigilance. Tackling racism and discrimination requires a holistic approach, touching all levels of society. The particular history and context of people of African descent should be taken into account and reflected in a comprehensive action agenda of legislation and policies, including special measures to overcome persistent and structural disparities affecting people of African descent. Action should also include preventive and awareness-raising measures and monitoring of compliance mechanisms. The correction of the situation requires special measures, and, especially, affirmative action measures to promote effective equality of people of African descent. The aim of guaranteeing real equality of Afro-descendants is in itself a legitimate and necessary objective.

#### Recognition

86. The United Kingdom and people of African descent have a unique relationship, including the colonial past, long-standing historical, economic and political relations with several African and Caribbean countries and new waves of immigration. The Government and society should acknowledge the legacy of slavery, the influence of the British colonial past and the specific role played by people of African descent during this period and in the construction and development of the country.

87. The Working Group welcomes the moves of the Government to place more focus on equality and non-discrimination. However, a more holistic and general approach against discrimination risks overshadowing the inequalities faced by people of African descent and may not reflect their diversity of experiences and needs. Specific policies directly targeting nationals or migrants of African descent and tailored to the specific situation should be adopted. All policies and programmes should mainstream a gender perspective, taking into account the specific needs and realities of women and girls of African descent.

#### Education and awareness-raising

88. The national curriculum should be reviewed in order to ensure that education is culturally relevant for children and youth of African descent and includes the history of Africa before, during and after European contact. People of African descent must not be taught about slavery as if their history started there, but education should stress their rich culture, identity and contribution to the development of British society, so as to raise awareness as regards the still-existing historical debt with people of African descent, but without incurring re-victimization mechanisms. African-descendant communities should be involved in the design of the school curriculum. Specific action should be taken to increase the number of teachers of African descent working across the education system, particularly in senior positions. Teachers should receive training on human rights, including equality, non-discrimination and multiculturalism, so that they are able to provide inclusive education and challenge discrimination in multicultural contexts.

89. Community members living in suburbs of London and Liverpool, areas affected by the riots in 2011, expressed concerns that the particular problems faced by young people of African descent remain and are direct consequences of the racism, structural discrimination and lack of opportunities that they face in their daily lives.

90. With regard to the problems faced by young people of African descent, the experts received the following information:

- (a) Low access to quality education, low indexes of schooling, high dropout rates and underachievement;
- (b) Situations of de facto racial discrimination at schools;

- (c) Underrepresentation of African descendants able to enter and/or complete higher education or university studies;
- (d) Overrepresentation of African descendants in special classes;
- (e) Disproportionate rates of disciplinary actions for African descendants;
- (f) Racial harassment; and
- (g) Economic difficulties in affording education costs. Poor social mobility contributes to perpetuating inequality. Racial discrimination “absorbs” educational achievements, and better trained African descendants fail to get jobs, as a result of employers’ preferences based on racial prejudice. These elements take their toll on overcoming intergenerational poverty.

91. The problems should be addressed through targeted policies to address the problems faced by children and young people of African descent. To reverse the situation, the implementation of special measures – including affirmative action – is necessary to ensure their full exercise of equal access to quality education at all levels, including higher education.

#### **Political participation**

92. More must be done to empower people of African descent to be represented in political structures such as parliament. Attention must be given by all political parties to improving the representation of people of African descent and to analyse their political representation at all levels. People of African descent should also be proactive in their engagement and participation in political processes. Participation of people of African descent in projects that affect them, including appropriate forums to consult them regarding their views and needs should be ensured.

#### **Disaggregated data**

93. Data disaggregated along ethnic lines is essential to reveal hidden inequalities and to provide a key resource for informed policy responses. The United Kingdom has done excellent work in the field of data collection and analysis, which allowed the Working Group to obtain access to detailed information on people of African descent, but it noted that the existence of the data did not seem to have led to targeted positive measures towards people of African descent.

#### **Poverty elimination policies**

94. Poverty is a problem disproportionately faced by people of African descent in the United Kingdom. Income levels generally are significantly lower for them, unemployment rates are higher and people of African descent are disproportionately living in the poorest neighbourhoods and in social housing with relatively poor access to services.

95. Rather than specifically targeting communities of African descent, the Government uses geographical targeting to ensure that all poor people receive the help and support they need, and taking such an approach may mask the specific experiences of people of African descent. Their particular historical circumstances should be considered during planning. Policy responses and specific anti-poverty measures should be holistic and must recognize the complex causes of poverty, which include racial discrimination. Consequently, poverty alleviation programmes must be targeted towards groups in vulnerable situations.

96. Austerity measures adopted in response to the current economic crisis could threaten the achievements of the United Kingdom in the promotion of equality and

multiculturalism. The responses to the crisis must not lead to a situation which would potentially give rise to more discrimination against people of African descent and exacerbate their already precarious economic conditions. As people of African descent disproportionately access some of the social benefits, new measures would impact negatively on this group. While welcoming the role of the EHRC, the Working Group expressed concern at the proposed budget cuts to the EHRC, which may have negative effects on the execution of the Commission's mandate.

#### Employment

97. The United Kingdom has useful legislation and policies in the field of employment equity. However, there is a substantial implementation gap. Standards and requirements must be better enforced and penalties must be imposed to ensure that the United Kingdom's workplaces, both public and private, truly reflect the diversity present in society. The adoption of special measures to achieve appropriate representation of people of African descent in public sector employment, especially in the judiciary, police, army and other branches of the civil service, needs to be examined. Employment in the higher ranks of the civil service should reflect the diversity in the United Kingdom. Special measures should also be encouraged for people of African descent to enter the private labour market.

#### Administration of justice

98. People of African descent raised serious issues regarding racial disproportionality in all aspects of the administration and functioning of the justice system. This situation cannot be justified; it damages trust and confidence in the justice system and has a serious impact on individuals of African descent, communities and the wider society.

99. Concerns were raised regarding policing, including racial profiling as a systemic practice, bias, and allegations of excessive use of force leading to deaths, particularly of young African descent males. Young people of African descent are entering the criminal justice institutions extremely early, leading to early and rapid criminalization.

100. Concerns were also raised about the disproportionate numbers of people of African descent in prisons and young offenders' institutions. All necessary steps should be taken to prevent racial profiling, including action to modify institutionalized stereotypes concerning people of African descent.

101. Requirements for reasonable suspicion should be established for all police stops. Statistics should be collected and publicly reported which anonymously identify the ethnicity of the subject each time an officer stops a person, noting the nature and justification for the action. Data should be retained to assess what percentage of those stops has resulted in grounds for arrest and convictions. Disaggregated data should be required throughout the criminal justice system and publicly reported annually, as a measure to enforce bans on racial profiling. The legal framework for stop and search should be amended in order to abolish stop-and-search powers without reasonable suspicion.

102. Perceptions persist that the police act with impunity in some localities and that investigations are not conducted by independent authorities. Initiatives by police authorities to strengthen community relations and enforce internal non-discrimination measures are welcome, but must be enhanced. Oversight mechanisms should be strengthened with respect to scrutiny of the necessity and proportionality in the use of force by a police officer in every case. Methods of scrutiny should allow a comparison between the frequency and severity of force used in situations involving

people of African descent as opposed to members of the majority community. Independent public inquiries into the deaths of people of African descent in custody and institutions should be commissioned.

103. Steps should be taken to increase the number of people of African descent in the law enforcement and justice system, including the police forces. Research into the experiences of people of African descent working in this sector should be carried out to identify the barriers to recruitment, retention and promotion.

104. Violence, acts of torture, cruel, inhuman or degrading treatment and all violations of human rights affecting people of African descent which are committed by State officials should be prevented, or investigated and punished.

105. Anti-racist human rights training for public officials, including personnel in the administration of justice, particularly law enforcement, correctional and security services, as well as health-care, education and migration officials, should be undertaken to counter stigmatization and to ensure that people of African descent are treated equally.

106. Access to justice for people of African descent who are victims of racism should be facilitated by supplying the requisite legal information on their rights and taking measures to significantly increase the confidence of the population in the judicial system, shortening the judicial procedures where possible and allowing victims to access legal remedies.

#### **Health**

107. Quality health services should be available and accessible without any ethnic discrimination, in a range of relevant languages. Information provided by civil society to the Working Group indicates that people of African descent are disproportionately institutionalized under the Mental Health Act and experience differential treatment throughout the mental health care system. Training and sensitization initiatives with health service providers should be promoted to ensure that people of African descent do not experience racism or discrimination when seeking services and that those services are provided in a manner appropriate to their culture.

#### **Media**

108. The Government should work with the media in order to emphasize the richness of diversity; build an open, balanced and depoliticized migration discourse to avoid minorities and migrant scapegoating and support balanced and accurate media reporting based on available evidence. The media should avoid statements and remarks which tend to foster fear of minorities and foreigners and lead to incidents of racism and xenophobia. Media professionals should be provided with training and sensitization to promote more positive and inclusive images of people of African descent and increase their visibility and contribution to the economy, culture and development of the United Kingdom.

109. The Working Group believes that if these recommendations are accepted and there is political will to implement them, the United Kingdom will move towards being a more racially harmonious society. It will be seen to be responding to the calls in the society for it to acknowledge the historic reasons for the current situation of people of African descent and moving to address them, including through an apology for colonial wrongs and reparation.