End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia, and Related Intolerance at the Conclusion of Her Mission to the United Kingdom of Great Britain and Northern Ireland

**Introduction**

1. I would like to express my deep appreciation to the UK Government for its invitation to my mandate to conduct an official visit. My predecessor in this role as Special Rapporteur initially requested a visit in early 2017, to which the government responded positively in November 2017. The dates of my visit were planned many months ago, but have unexpectedly coincided with fraught political and public debates pertinent to my mandate. A clear example was the resignation of Home Secretary Amber Rudd on the first day of my visit. This resignation came amidst the still-unfolding scandal of the gross human rights violations and indignities that Afro-Caribbean British citizens popularly referred to as the “Windrush Generation” have had to endure as a result of the so-called “hostile environment” policy that Prime Minister Theresa May introduced during her tenure as Home Secretary.
2. The terms of reference of my visit, which were established by the United Nations Human Rights Council—a body in which the UK is a vital participant—were to assess the situation of racism, racial discrimination, xenophobia, and related intolerance in the UK. I met with UK Government representatives, as well as parliamentarians and government representatives from the devolved nations of Northern Ireland, Scotland, and Wales. I also visited two detention facilities. Unfortunately, despite my best efforts, I was unable to meet representatives of the British Police authorities, the English and Wales judiciary, or the magistrates and thus was not able to benefit from their input. I welcome submissions from these authorities on issues relevant to my mandate, in advance of the finalization of my report.
3. I met with civil society actors, as well as racial, ethnic, and religious minority community representatives, including women, young people, and children in London, Bristol, Birmingham, Cardiff, Edinburgh, Glasgow, and Belfast. I regrettably received almost no input from LGBTIQ community representatives. I encourage gender and sexually diverse persons who experience racial, ethnic, or religious intolerance to make submissions to my mandate in advance of the finalization of my report.
4. I wish to extend my deep gratitude to all of the individuals who made the time to meet with me, and to provide the rich input that informs my analysis.
5. I must stress that this statement contains only my *preliminary* observations, and highlights key issues without purporting to be a comprehensive summary of my findings. I will submit my final report to the June 2019 session of the United Nations Human Rights Council, and will continue to accept submissions until November 2018.
6. **The Law and Policy Directly Governing Racial Equality**
7. In its national legal framework, the UK has embraced a substantive vision of racial equality, and explicitly prohibited both direct and indirect forms of racial discrimination.[[1]](#footnote-1) As such, the UK has rightly made a commitment to racial equality that goes beyond a concern only with explicit prejudice or racial animus. Instead, its legal commitment extends to include prohibition of policies, practices, and institutions that result in differential or disparate effects on the basis of race, ethnicity, national origin, gender, and other protected categories, even in the absence of prejudice. UK law directly governing racial equality thus provides a firm basis for tackling structural and institutional forms of racism. I must note, however, that the legal framework governing racial equality in Northern Ireland contains serious gaps and requires urgent reform to bring it in line with international human rights standards.
8. In addition to a number of domestic laws directly applicable to racial equality, the UK (including its devolved nations) has adopted innovative legal and policy frameworks applicable to hate crimes.
9. In my consultations, it emerged clearly that most stakeholders largely have a positive view of the formal UK legal framework governing equality and hate crimes. There are some exceptional concerns, however, including: the UK Government’s decision not to bring into effect the Equality Act 2010’s provisions regarding socio-economic inequalities and intersectional discrimination; and concerns regarding the legal status of caste-based discrimination.
10. With respect to hate crimes, community groups communicated concerns with the difference in legal standard applicable to racially- and religiously-motivated hate crimes. Whereas racially-motivated hate crimes, for example, require no showing of racist intent, the same is not true of religiously-motivated hate crimes. Commendably, UK law has designated Jews and Sikhs as racial groups, thereby providing them with important protections from discrimination and intolerance. However, for Muslims in the UK, who experience high levels of hate crimes and hate speech, and who belong to a multiplicity of ethnic groups, I learned in consultations that accountability for hate crimes can prove more complex. Muslim community groups reported that the difference in legal standard for religiously-motivated hate crimes undermined their ability to take full advantage of available legal protections. Where individuals are targeted for “looking” or “behaving” Muslim, and where perpetrators conflate religion with race in complex ways as is often the case in the UK, this difference in legal standard seems to introduce evidentiary and other ambiguity that diminishes victims’ capacities to vindicate their claims. In Northern Ireland, racial and ethnic minority groups were critical of persisting challenges in securing convictions for hate crimes, and I will address this issue at greater length in my report.
11. With respect to policy frameworks in place to implement equality legislation, many groups expressed serious concern with the current state of affairs. Central to this concern was the UK Government’s decision in 2012 to reject equality impact assessments.[[2]](#footnote-2) For example, reports show that the 2010 Emergency Budget and the 2017 Budget contained no equality impact assessments, although both budgets contained austerity measures that have been shown disproportionately to affect Black and Minority Ethnic (BME) communities (and women among them especially).[[3]](#footnote-3)
12. I share civil society and racial and ethnic minority community concerns relating to equality impact assessments. The non-mandatory nature of these assessments in the UK undermines pursuit of racial equality in too many sectors of British life. The intent of legislators, policy makers, and those tasked with implementation cannot on its own be relied upon to ensure that formal commitments to racial equality are upheld. As mentioned above, well-meaning law and policy can have racially discriminatory *effects*.The foreseeable racially disparate impact of policy and its implementation requires independent analysis and review even prior to the adoption of any such policy. **I recommend** that the UK Government adopt mandatory equality impact assessments in acknowledgment of this fact.
13. The Race Disparity Audit (RDA) commissioned by Prime Minister Theresa May in August 2016 is a remarkable step towards transforming formal commitments to racial equality into reality, especially for those who experience the highest levels of exclusion, subordination, and discrimination on the basis of their race or ethnicity. An initiative such as the RDA, and its attached public database (which provides an official, government-led picture of how race and ethnicity in the UK fundamentally affect life, death, health, education, and employment, among others), is vital. [[4]](#footnote-4) The RDA and its database are worthy of emulation by governments all over the world. I strongly commend this initiative.
14. Although the RDA is highly commendable, it must, as mentioned above, be understood as an important step in a much longer journey, rather than as a final destination. Many of the groups with which I met underscored the absence of a comprehensive, inter-governmental policy co-authored with civil society and racial and ethnic minority communities to ensure that the grave disparities documented in the RDA are fully addressed. Indeed, a unified UK-level policy that lays out a comprehensive strategy and benchmarks for systemic and systematic elimination of unlawful racial disparities is vital, and **I recommend** that that government prioritize enacting such policy. **I further recommend** that the creation, implementation, and oversight of such policy must meaningfully include racial and ethnic minority communities in decision-making roles. In my consultations with UK Government officials, they mentioned the existence of a Race Disparity Inter-Ministerial Group with some responsibility for coordinating a comprehensive strategy to address the Audit findings. The creation of this group may be a good step, but more information is required to assess the potential of such a body.
15. I want to be clear in my commendation of the RDA as a powerful tool for combatting racial inequality and discrimination. But I want to be equally clear in my assessment that the genuineness of the government’s commitment to combatting racial disparities will ultimately be determined by how seriously the government takes the task of making the necessary structural and institutional changes necessary to address these disparities.
16. Concerns regarding the RDA are not limited to the arena of implementation. My consultations revealed fundamental gaps in the current scope of the audit, as well as serious concerns regarding the quality of the data collected by departments. With respect to the current limitations in scope, the audit fails to capture racial disparities rooted in immigration law and policy, and in counter-extremism and counter-terrorism law and policy. In light of the implications of both of these frameworks for racial equality, the government’s failure to include these frameworks within the ambit of the RDA fundamentally and foreseeably undermines the government’s stated commitment to racial equality. I return to these concerns further below, and **I strongly recommend** that the government include assessment of the racially disparate impact of immigration and counterterrorism law and policy on British society.
17. For sectors covered by the RDA, communities and civil society actors expressed concerns about the audit’s use of disparate definitions of ethnic groupings relied upon across local and regional authorities. For example, Gypsy, Roma, and Traveller (GRT) communities, who have historically and systematically been rendered invisible by government data collection omissions, expressed deep concern with how these omissions risk under-representing the extent of their marginalization. These concerns are valid. Government authorities assured me that they take these concerns seriously, and I strongly urge them to honor their obligations to guarantee the substantive equality of GRT communities.
18. First Secretary of State and Minister for the Cabinet Office Damian Green announced at the launch of the Racial Disparity Audit that the UK Government’s approach would be to take action to change any racial disparities that cannot be explained by a sound evidence base.[[5]](#footnote-5) This commitment is vital, as it has the potential to diminish the persisting scourge of structural forms of racism that persist.
19. It has been evident to me in consultations with the Black, Asian, and Minority Ethnic (BAME) communities, who live the realities that cannot fully be encapsulated in statistics, that these communities have a sophisticated understanding and account of the causes and drivers of racial disparities in the UK. They also have very concrete recommendations regarding the measures necessary to address these disparities. For these reasons, it is vital that the government do more than merely consult with these groups on policy and strategy to eliminate unlawful racial disparities. **I strongly recommend** that the government include representatives of racial and ethnic minority communities in formal decision-making, review, and oversight processes intended to eliminate unlawful racial disparities that cannot be explained using evidence-based analysis.
20. **Racial Equality in the United Kingdom: Lived Experiences**
21. The structural socio-economic exclusion of racial and ethnic communities in the UK is striking. The government’s RDA confirms what these communities, their advocates, and others fighting for racial equality in this country have long known and argued. Notwithstanding the racial equality legal framework described above, the harsh reality is that race, ethnicity, religion, gender, disability status, and related categories all continue to determine the life chances and well-being of people in Britain in ways that are unacceptable, and in many cases, unlawful.
22. According to the RDA, Black and Asian minority households are twice as likely to be in persistent poverty as white households. Asian (1 out of 4) and Black (1 out of 5) children are much more likely to be in persistent poverty compared to British white (1 out of 10) children. The unemployment rate for Blacks is twice as high as the national average of 5%. The unemployment rate for Asians is 7%, but there are important variations: Pakistani and Bangladeshi experience an 11% unemployment rate, whereas the figure for Whites is 4%.
23. With respect to education, the situation is analogously grim. Race and ethnicity continue to have a significant impact on success. The circumstances confronting GRT are especially dire where educational outcomes (progress and attainment) are concerned. In 2015/2016, pupils from the Traveller of Irish Heritage and Gypsy/Roma ethnic groups had the highest rates of both fixed period and permanent exclusions. In secondary schools, over half of Traveller of Irish Heritage and Gypsy/Roma pupils received temporary (“fixed period”) exclusions; while in special schools, 32.01% of Black Caribbean pupils received temporary exclusions, the next highest rate after Irish Travellers.[[6]](#footnote-6)
24. In my consultations with GRT communities in England and Scotland, a number of disturbing trends emerged as central to helping explain the statistics above. For example, these communities noted the dearth of GRT teachers in schools across the UK. They also noted the predominance of stereotypes inside and outside the classroom that GRT children are incapable of educational advancement and thus not worthy of the investment in educational resources that characterize the experiences of other children. I heard a testimonial from a bright, 15-year-old advocate for GRT children who aspires to be an oncologist. Despite her strong academic performance, she recounted pervasive bullying on the basis of her ethnicity. She also explained how her school curriculum contains virtually no representation of her culture, which further compounded her sense of alienation. Others corroborated this testimony and provided examples of practices and attitudes towards GRT children that together achieve the informal but effective exclusion of these children from schools across the country. **I recommend** that all countries of the UK must take steps to address both formal and informal exclusion of GRT children and youth from schools.
25. Representatives of other racial and ethnic minority communities were similarly concerned with formal and informal school exclusions, and with good reason. Afro-Caribbean children are over three times more likely to be permanently excluded than White British pupils.[[7]](#footnote-7) I was made aware that in some instances, schools refuse to implement appeal decisions calling for the readmission of wrongly excluded racial and ethnic minority children. Parents of racial and ethnic minority children highlighted racially motivated bullying in schools, and an accompanying failure of teachers openly to condemn such acts as unacceptable. They also decried the underrepresentation of teachers from racial and ethnic minority communities, and the lack of sufficient inclusion in school curricula of the histories of these communities and their fundamental contributions to the prosperity of the UK over multiple generations.
26. In light of these circumstances, I welcome the government review into school exclusion.[[8]](#footnote-8) **I recommend** that the outcome of this review be made public. **I further recommend that** racial and ethnic minority parents and children be given a central role in shaping strategies to eliminate exclusions based on ethnic or racial factors, whether these factors involve explicit prejudice or structural factors that disparately impact these groups on account of their race or ethnicity.
27. With regard to higher education, concern was expressed about the lower admissions rates of racial and ethnic minority students despite equivalent A-level results. In addition, racial and ethnic minority students register less favourable outcomes. In 2015/2016, racial and ethnic minority students in England were 15.6% less likely to receive a first or 2:1 compared to white British students.[[9]](#footnote-9) In my consultations with racial and ethnic minority student representatives, they expressed frustration with the lack of minority representation among university faculty. They further noted that this lack of representation, as well as the paucity of curricular options reflecting their histories and lived experiences as members of communities that have been a part of Britain since the colonial era, negatively affected their academic integration and success.
28. Racial disparities are also prevalent in the healthcare context. For example, the area of maternal and infant mortality is of grave concern. Austerity measures and the cuts in social benefits for the most precarious segment of society, usually minority ethnic women, have further affected their health outcomes. According to the information I received in consultations, some immigrant women, including refugees, are too afraid to give birth in hospitals for fear of immigration enforcement. Instead, they are forced to give birth at home. This is the case even for some women with legal status or entitlement to legal status, because many fear that the hostile environment will nonetheless result in harm to them or their loved ones.
29. In this regard, I welcome the government’s decision to terminate data-sharing between the NHS and the Home Office. **I strongly urge** the government to eliminate all aspects of the formal and informal arrangements that have essentially transformed healthcare providers into border enforcement agents. **I also strongly urge the government** to invest the necessary resources into restoring the trust of migrants, refugees, and racial and ethnic minorities in healthcare provision and to inform such groups that it has terminated its data-sharing policy.
	1. Racial Impact of Austerity
30. Since at least 2010, the UK has adopted sweeping austerity measures that have dramatically cut public sector funding and services and public benefits, including changes to tax policy that have welfare consequences for racial and ethnic minority communities. Reliable reporting has shown that these austerity measures have been disproportionately detrimental to racial and ethnic minority communities. For example, the Equality and Human Rights Commission estimates that by the 2021/2022 tax year, the racially disparate impact of austerity measures adopted by the government between 2010 and 2017 will result in a 5% loss of income for black households, which is double the loss for white households. Similarly, cash losses to black families as a result of tax, welfare, and wage reforms will be the largest for black households (about £1600 average) and the smallest for white households (about £950 average).[[10]](#footnote-10) These statistics were corroborated by testimonies from racial and ethnic minority community representatives and civil society actors with whom I consulted.
31. Unsurprisingly, austerity has had especially pronounced intersectional consequences. As a background matter, women in the UK earn and own less, and bear a greater responsibility for unpaid work than men.[[11]](#footnote-11) Reliable reports show that BME women are the worst affected by austerity, and that within this group there is variation along ethnic lines regarding who the most vulnerable have been. Even holding qualifications constant, BME women are the worst hit by benefit cuts and tax policy changes, and they are also less likely than white women to find employment.[[12]](#footnote-12)
32. Austerity measures have also severely undercut small and medium-sized organizations in the third sector,[[13]](#footnote-13) organizations that play a vital role in advocacy to promote and protect racial equality. In almost all of my consultations with civil society and community representatives, they most commonly cited the devastating impact of austerity and funding cuts as undermining their capacity to advocate for racial equality and fight discrimination.
33. I received submissions underscoring the racialized impact that generic austerity measures affecting prisons and police have had on racial and ethnic minority communities. Community members, civil society organizations, and civil servants with whom I met believed that the staffing shortages that have resulted from these cuts have also played an important role in worsening policing and incarceration conditions, in ways that harm racial and ethnic minorities, who are disproportionately represented in the criminal justice system.
34. Austerity measures today appear to function inadvertently as a prime instrument of racial subordination. One measure that would mitigate this dynamic would be to subject all proposed fiscal policy to properly designed and implemented equality impact assessments that may reveal the projected racially disparate impact effects of such policy on BAME communities. Such assessments should be available to the public and must result in meaningful changes to policy proposals in ways that ensure that these proposals do not predictably, even if inadvertently, exacerbate racial disparities.
35. Racial Impact of Immigration Law and Policy
36. In 2012, then-Home Secretary May adopted a policy that explicitly sought to create “a really hostile environment” in the UK for irregular immigrants.[[14]](#footnote-14) This hostile environment was characterized by a web of policies—many of which remain in place today. It included high profile enforcement campaigns, which saw controversial vans printed with the slogan “Go Home or Face Arrest,” as well as legislation restricting access to basic services for a range of categories of foreign nationals and criminalizing those who find themselves without status. These policies appear to be at the center of the government’s engagement with the Windrush scandal, but the hostile environment that prevails in the UK is rooted in a much larger legal and policy framework, including beyond the narrow confines of immigration law. Furthermore, this hostile environment applies not only to irregular immigrants, but to racial and ethnic minority individuals with regular status, and many who are British citizens and have been entitled to this citizenship as far back as the colonial era.

1. In consultations with racial and ethnic minority communities and civil society representatives, it has become clear that the rotten core of the hostile environment resides to a great extent in the 2014 and 2016 Immigration Acts, although the 2006 Immigration, Asylum and Nationality Act is also a part of this picture. These laws have created an immigration enforcement framework that deputizes immigration enforcement to private citizens and civil servants in a range of arenas. In a national context that is deeply polarized, including on issues of race and ethnicity, and that is characterized by the demonization of ethnic minorities on racial and religious bases, it is no surprise that a policy that ostensibly seeks to target only irregular immigrants is destroying the lives and livelihoods of racial and ethnic minority communities more broadly, including many that have been instrumental to the prosperity of this nation for decades, and are rightful claimants of citizenship status.
2. A study by Warwick University on the Home Office’s “Go Home or Face Arrest” campaign found that many members of the wider public have difficulty understanding the distinctions between legal and irregular immigrants (for example, among refugees, asylum seekers, residents, and workers, and between immigrants and ethnic minority British-born people). It also found that “many people reported harassment for being ‘illegal immigrants’ when they held settled status, or were British citizens.”[[15]](#footnote-15)
3. Consider the racialized impact of the Right to Rent requirement, through which the government requires landlords and agents to check the immigration status of all potential tenants, and to deny tenancy to certain categories of immigrants, or risk civil and criminal penalties.[[16]](#footnote-16) Research shows that “BME households are more likely than White households to be in private rented accommodation.”[[17]](#footnote-17) These communities are therefore more likely to be required to produce immigration documentation than their white counterparts. A survey found that 51% of landlords said the scheme would make them less likely to let to foreign nationals, while 48% stated that the fine made them less likely to rent to someone without a British passport.[[18]](#footnote-18) The survey also found that racial and ethnic minority citizens may be subject to increased racial profiling as a result of the scheme, as landlords stated it made them less likely to rent to individuals with “foreign accents or names.”[[19]](#footnote-19) Of great concern, asylum seekers or trafficking victims do not have a Right to Rent and must gain “permission to rent” from the Home Office, which can further deter landlords from renting to these groups.[[20]](#footnote-20)
4. The government’s underlying immigration enforcement strategy relies on private citizens and civil servants to do frontline immigration enforcement, effectively transforming places like hospitals, banks, and private residences into border checkpoints. This strategy must crucially be evaluated in the context of national economic and security anxiety, in which racial and ethnic minorities, refugees, and migrants have been the popular scapegoats for a wide range of societal ills. Under such conditions, racial and religious profiling in the exercise of immigration enforcement by private citizens and civil servants is a predictable and arguably incentivized outcome. To be clear, international law and even international human rights law protect national sovereignty, including in the area of immigration enforcement. However, where the strategy for immigration enforcement is so overbroad, and foreseeably results in the exclusion, discrimination, and subordination of groups and individuals on the basis of their race, ethnicity or related status, such a strategy violates international human rights law, and the UK Government’s stated commitments to racial equality.
5. The hostile environment described above will remain in place for as long as the legal and policy frameworks rooted in the 2014 and 2016 Immigration Acts remain in place. Shifting from the rhetoric of a hostile environment to one of a compliance environment will have little effect if the underlying legislative framework remains intact. Efforts such as eliminating deportation targets can achieve only slight cosmetic changes to an immigration enforcement regime that has permeated almost all aspects of social life in the UK. I wish to underscore that a hostile environment ostensibly created for, and formally restricted to, irregular immigrants is, in effect, a hostile environment for *all* racial and ethnic communities and individuals in the UK. This is because ethnicity continues to be deployed in the public and private sector as a proxy for legal immigration status. Even where private individuals and civil servants may wish to distinguish among different immigration statuses, many likely are confused among the various categories and thus err on the side of excluding all but those who can easily and immediately prove their Britishness, or whose white ethnicity confer upon them presumed Britishness. And finally, both unconscious bias and even conscious racial prejudice remain alive and well and will further compound the physical, socio-economic, and political expulsion of racial and ethnic minority communities and individuals from the British nation.
6. As a start, **I strongly recommend** that the government repeal the aspects of its immigration law and policy framework that deputize immigration enforcement to private citizens and civil servants responsible for vital public and social services.
7. Racial Impact of Counterterrorism Law and Policy
8. I received submissions documenting a sustained and pervasive discourse vilifying Islam and Muslims in the British media, and even among political leadership. Islamophobia, which includes the false belief or presumption that Islam and Muslims are inherently violent, has taken firm root in the UK. The report of my predecessor in 1996 highlighted the prevalence of Islamophobia in the UK at the time of his visit,[[21]](#footnote-21) underscoring the point that although the more recent counterterrorism law and policy discussed below has vastly exacerbated Islamophobic sentiment, policy, and action, these problems have historical precedents.
9. In recent years, a series of terrorist attacks by individuals purporting to act in the name Islam have served as triggers for national panic regarding Britain’s security. This panic has been exacerbated by, and provided rich fodder for outrageous and deeply offensive portrayals in the media, and even by leading politicians that cast Muslims as inherently dangerous, inherently opposed to Britain’s prosperity, and inherently foreign. This presumption of foreignness is widely peddled in public and political discourse that belies the deep, historical ties many British Muslims have to this country. I received further submissions highlighting the large role that mainstream political responses have played in amplifying and legitimating anti-Muslim panic, and even Islamophobia through rhetoric and policy rooted in the national framework for countering non-violent extremism.
10. There is an extensive literature decrying the human rights impacts of the UK Government’s *Prevent* programme, which is aimed at non-violent extremism. *Prevent* targets individuals and groups who “vocal[ly] or active[ly] oppos[e] fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs,” on the theory that such individuals and groups are predisposed to terrorist ideology and violence. [[22]](#footnote-22)

1. Leading concerns with *Prevent* include the lack of clear, workable definitions of “extremism” and “British values” and the horrific consequences this lack of clarity entails in the widespread enforcement of the *Prevent* duty by the teachers, professors, nurses, and doctors whom the UK Government has made the frontline agents of countering extremism. Further concerns relate to the criteria used to refer individuals considered at risk of radicalization. I do not here engage in extensive analysis and review of the legal and policy dimensions of *Prevent* from a human rights perspective. Instead, I incorporate by reference the findings of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association from his mission to the United Kingdom of Great Britain and Northern Ireland in 2016. He concurred with civil society that *Prevent* is “inherently flawed,”[[23]](#footnote-23) and I received no information from my consultations with the government to suggest that it has yet addressed the very serious human rights concerns he raised.
2. Of all those referred through *Prevent*, 36% left the process requiring no further action and 45% were signposted to alternative services, figures that appear to support concern from Muslim groups that they are being unfairly targeted.The biggest number of referrals (one third) came from the education sector.[[24]](#footnote-24)
3. To my knowledge, there has been no evidence that *Prevent* actually prevents extremism, or that the causal link between extremism and terrorism is empirically sound. My understanding is that no government review of, or findings regarding, the human rights impact of *Prevent* has been made public, and that no government review of, or findings regarding, the impact of *Prevent* on racial equality in the UK has ever been made public. This state of affairs is untenable given the widespread evidence that enforcement of the *Prevent* duty is fueling distrust among racial and ethnic minority communities, especially Muslim communities. This distrust is of public institutions such as hospitals, schools, universities, and even police,– institutions through which the work of national integration should otherwise be achieved. Formal integration policy risks being no match for the “dis-integration” and political and social exclusion currently being achieved, at the behest of the government, through the robust and pervasive *Prevent* programme and its accompanying *Prevent* duty.
4. I want to be clear here that my concern and condemnation is not of the right and duty that governments the world over have to protect their populations from threats including terrorism. The concern my present analysis speaks to is the policy choice embodied in the *Prevent* programme, which mandates civil servants, social workers, care-givers, educators, and others to make life-altering judgments on the basis of vague criteria in a climate of national anxieties that scapegoat entire religious, racial, and ethnic groups as the presumptive enemy.
5. Government officials explained to me that *Prevent* seeks to target not only extremist ideology relating to Islam, but also that rooted in right-wing extremism such as neo-Nazism. A formal commitment in policy to targeting a more diverse universe of ideological extremism will not cure the fundamental ills identified above, which include the combination of: the vague definitions of fundamental concepts (e.g. extremism); overbroad referral or diagnostic criteria; and the deputization of counter-extremism policy enforcement to civil servants and private citizens operating in a racially and politically fraught national environment. The *Prevent* duty is inherently flawed, and expansion of a flawed program to cover more groups is by no means curative.
6. **I recommend** that the government at the very least suspend the *Prevent* duty and implement a comprehensive audit of its impact on racial equality and on the political, social, and economic exclusion of racial and ethnic minorities, especially within Muslim communities. This audit must be made public and must form the basis of future counterterrorism policy.
7. Racial Impact of Criminal Justice Law and Policy
8. Many of the communities and organizations with whom I consulted communicated the devastating racial impact of criminal justice law and policy in the UK. The *Lammy Review*, an independent review commissioned by the UK Government, captures the national picture in this regard, providing an overview of how at every stage in the criminal justice process—from stops and searches to sentencing—racial and ethnic minority communities are the disproportionate target. It also highlights the complex picture of differential disparity within racial and ethnic minority communities. For example, Blacks make up 3% of the UK population but in 2015/2016 accounted for 12% of the adult prison population and more than 20% of children in custody. Other racial and ethnic minority groups were also overrepresented but to a lesser degree. The *Lammy Review* also highlights the overrepresentation of GRT children in Secure Training Centers, and a striking increase in Muslim prisoners across different ethnicities from about 8900 to 13,200 over the last decade. Muslims, who are about 5% of the UK population, now make up about 15% of the prison population, and this dramatic rise is *not* associated with terrorism offences, according to the *Lammy Review*.
9. Data on GRT in the criminal justice system is sorely lacking, making it difficult to ascertain the extent of the disparate impact of this system on these communities. This problem requires urgent rectification, not least because estimates point to serious overrepresentation of these communities in the prison system.
10. The *Lammy Review* highlights that many causes of racial and ethnic minority community overrepresentation fall outside the criminal justice system. For example, Blacks are more than twice as likely as Whites to live in poverty. It nonetheless highlights deeply disturbing racial disparities in arrest, conviction, and sentencing of racial and ethnic minority individuals. Where children are concerned, for example, in the 2006-2016 decade, the racial and ethnic minority proportion of youth prisoners rose from 25% to 41%. The review highlights that particularly with respect to the differential treatment of racial and ethnic minorities in the criminal justice system, “there is currently no evidence-based explanation for these disparities.”[[25]](#footnote-25)
11. Notwithstanding shifts in the UK stop and search trends, the picture for racial and ethnic minorities, especially black boys, remains grim and has actually worsened. Ethnic minorities are three times more likely to be stopped and searched than Whites, and Blacks are over six times more likely to be stopped and searched than Whites. Despite the welcome fall in overall numbers of arrested children, racial and ethnic minority children accounted for 26% of all child arrests in England and Wales in 2016.
12. These racially disparate figures should not be assumed by any means to reflect proven disparate levels of criminality among racial and ethnic minorities. For example, Whites are more likely to have drugs found on their person during stops and searches, but Blacks are eight times more likely to be subject to such stops. There can be no question that a pervasive and officially tolerated culture of racial profiling is at work in certain police forces, and that racial and ethnic minority children and youth are among the most vulnerable. In some parts of the UK, such as Glasgow, GRT children and youth are on the front lines of racial and ethnic profiling. In consultations, racial and ethnic minority communities reported the prevalence of racial and gender stereotypes, as a result of which black and brown children—especially boys—are presumptively treated as full grown adults of an inherently dangerous and violent nature. Given the disproportionate use of police violence against black and brown boys, even where the evidence suggests higher rates of criminal charging for white boys, the concerns of racial and ethnic minority communities offer the most persuasive explanation for the disparities.
13. Racial and ethnic minority offenders are overrepresented in both the adult (25%) and youth (40%) prison estates. While there has been a reduction in the overall number of children entering the youth justice system for the first time, not all children have benefitted equally from this reduction. Among First Time Entrants (FTEs) from March 2006 to March 2016, the number of racial and ethnic minority children entering the youth justice system fell by 72%, compared with an 86% drop for white children.[[26]](#footnote-26) Overrepresentation is more acute among black, Muslim, and GRT youth.[[27]](#footnote-27) As of March 2017, racial and ethnic minority children accounted for 45% (397) of imprisoned youth, while racial and ethnic minority children accounted for 18% of the overall national youth population.[[28]](#footnote-28)
14. In my consultations, racial and ethnic minority community representatives and civil society actors repeatedly highlighted the racialized and ruinous impact that gang-related surveillance databases across the country have had and continue to have on these communities.[[29]](#footnote-29) A Manchester Metropolitan University study found significant racial disparities in the number of people prosecuted and imprisoned under the theory of “joint enterprise.”[[30]](#footnote-30) More than 75% of BME individuals imprisoned for joint enterprise found that gang and neighborhood narratives were used in their prosecution, compared to only about 40% of Whites. The Manchester study found that “89% of those on the Manchester Police gang list (Xcalibre) were black and minority ethnic. Yet only 23% of those convicted of serious youth violence were black and minority ethnic people. In London, “87% of those on the Metropolitan Police ‘gang matrix’ (Trident) were black and minority ethnic. By contrast, only half of those convicted of serious youth violence were black and minority ethnic people.”[[31]](#footnote-31)
15. As a start, **I recommend** the full implementation of the *Lammy Review* recommendations, and the substantive participation of racial and ethnic minority communities in this implementation process.
16. Brexit and Racial Equality in the United Kingdom
17. My report to the UN Human Rights Council will include a more comprehensive analysis of my findings on the impact of Brexit on racial equality in the UK. The present statement only highlights some of the key issues that emerged from my consultations. It is important to note that the context that frames the UK’s exit from the European Union far exceeds the scope of my mandate, and similarly the ramifications of this exit affect a much larger set of issues than only those related to racial equality. In addition, it is a mistake to construe my assessment as either pro- or anti-Brexit. My remit is to assess the impact that the Brexit referendum has had or may have on racial equality in the UK, which is an entirely different enterprise.
18. The discourses on racial equality before, during, and after the 2016 referendum, as well as the policies and practices upon which the Brexit debate has conferred legitimacy, raise serious issues at the core of my mandate. Many with whom I consulted highlighted the growth in volume and acceptability of xenophobic discourses on migration, and on foreign nationals including refugees in social and print media. In the days following the EU referendum, the government reported a spike in the number of hate crimes in England and Wales, recording 80,393 offences for the period 2016-2017. This figure represents a 29% increase from the previous year and the highest increase in proportion since 2011. Home Office data on hate crimes showed that in the aftermath of the Brexit vote, 78% of recorded hate crimes were racially motivated and 7% religiously motivated. [[32]](#footnote-32)
19. It is also important to draw attention to the increase in anti-Semitic hate speech and violence that accompanied and followed the referendum. In 2017, anti-Semitic incidents reached a record level in the UK, with 1,382 anti-Semitic incidents recorded nationwide by the Community Security Trust. This figure represents a 3% increase compared to 2016, and was the highest annual total that the organisation recorded since it began gathering such data in 1984. The number of violent anti-Semitic assaults increased by 34% compared to the previous year. The data showed that 50% of incidents were attributed to the far right. Our consultations brought to light the gendered nature of vulnerability to anti-Semitic threats. Online, hate campaigns tended notably to target high profile political personalities, especially women. In terms of direct physical violence, visibly orthodox men were more vulnerable to attacks, especially on the Sabbath while going to or returning from synagogues.
20. Jewish organizations with which I consulted commended the government’s efforts to address anti-Semitic hate speech and extreme-right wing parties glorifying Nazism. Community representatives noted that they have been able to build strong partnerships with various branches of government on account of the trust these communities have been able to build with government actors over many generations. I commend the strong commitment the UK Government has shown to supporting Jewish communities. **I also recommend** that the government work harder to forge similar relationships of trust with other racial and ethnic communities vulnerable to intolerance, especially Muslims, including by heeding the deep concerns that many in these communities have with the government’s approach to engagement with them.
21. Tell MAMA is a commendable independent and confidential third-party hate crime reporting service for those who have experienced anti-Muslim hate incidents and crimes. In 2016, the organization received a total of 1,223 reports of street-based offline and online anti-Muslim incidents. Caseworkers verified 953 of these reports as anti-Muslim in nature and as having occurred in the UK in 2016.
22. Another Brexit-related trend that threatens racial equality in the UK has been the growth in the acceptability of explicit racial, ethnic, and religious intolerance, in ways that that the different stakeholders I consulted believed marked a notable shift. On the one hand, for example, extreme right-wing parties have not enjoyed political success in the UK in ways analogous to other parts of Europe. But on the other hand, various stakeholders raised the concern that extreme views—on both the right and left ends of the political spectrum—have gained ground in mainstream political parties in parliaments across the UK. Stakeholders raised serious concerns about the failure of political leaders on the left and the right to consistently and unequivocally condemn anti-Semitism and Islamophobia perpetrated in the media, in public spaces, and even by members of the UK parliament.
23. Even in parts of the UK such as the devolved nations and in areas where immigrants remain fundamental to the economic prosperity and success of British communities, the groups with which I consulted reported high levels of anxiety among immigrants regarding their status following the UK’s departure from the EU. In Northern Ireland, groups expressed concerns that even a policy that committed to no routine passport checks in the Common Travel Area might result in non-routine checks due to racial profiling of transiting minorities. **I recommend** that the UK adopt immigration policies in advance of and following its exit from the EU that shield EU and non-EU migrants from the threat of racial and ethnic discrimination.
24. Conclusion
25. As I mentioned at the beginning of this statement, the UK Government has shown some leadership in key areas regarding the achievement of racial equality, especially within the legislative framework that prohibits racial discrimination and intolerance. The Racial Disparity Audit also represents a stellar achievement that has the potential to move the UK forward in fulfilling its legal obligations to substantive racial equality under international and domestic law.
26. Notwithstanding recognition of these achievements, the UK Government has much to do, especially in the arena of addressing structural forms of racial discrimination and inequality. In many of my consultations, racial and ethnic minority communities and their representatives expressed the belief that one of the fundamental challenges that exists in the UK is the prevalence of the belief or attitude that racial inequality and racial discrimination are solely or largely problems involving explicit racial prejudice, hatred, or intent. In other words, the view is that racism only exists where one can identify racial hatred or an intent to harm someone on the basis of one’s race. Yet this is only part of the picture. Firmly entrenched in UK law, and in international human rights law, is an understanding of racial inequality and racial discrimination that operates structurally or indirectly, even in the absence of discernable racial hatred. Policies and practices that have the *effect* of disadvantaging individuals or groups on the basis of their race, ethnicity, national origin, or religion are discriminatory, and legally prohibited.
27. This legally mandated understanding of racial discrimination must permeate UK Government law and policy, including law and policy on austerity, immigration, counterterrorism, and criminal justice for the reasons highlighted above. All of these areas centrally implicate racial equality in the UK today, and the UK Government’s ultimate commitment to combatting racial discrimination must be evaluated according to whether it will take seriously the impact that this range of law and policy has on its people.
28. I want to conclude with a celebration of the resilience of racial and ethnic minority communities, including those among them who, notwithstanding the overwhelming challenges and oppression they face, continue to fight for racial equality in the UK. I also wish to celebrate members of the broader population of British people inside and outside of institutions of governance who, despite not being racial or ethnic minorities themselves, are committed to achieving a Britain that is inclusive and representative of all, irrespective of race, ethnicity, or creed.
1. Equality Act 2010, c. 15 §13 and 19, <http://www.legislation.gov.uk/ukpga/2010/15/contents>. [↑](#footnote-ref-1)
2. *See Cameron “Calls Time” on Labour’s Equality Impact Assessments*, BBC News (Nov. 19, 2012), <http://www.bbc.co.uk/news/uk-politics-20400747>. [↑](#footnote-ref-2)
3. Sarah-Marie Hall et al., *Intersecting Inequalities: The Impact of Austerity on Black and Minority Ethnic Women in the UK*, Women’s Budget Group & Runnymede Trust (2017), at 7, <https://www.intersecting-inequalities.com/copy-of-report>. [↑](#footnote-ref-3)
4. The database is currently in beta mode and is available at https://www.ethnicity-facts-figures.service.gov.uk/. [↑](#footnote-ref-4)
5. *See* 629 Parl Deb HC (6th Ser.) (2017) col. 189 (UK), <https://hansard.parliament.uk/commons/2017-10-10/debates/4BB04020-2D72-4BAB-BE01-B9424C4DA6F4/RaceDisparityAudit>. [↑](#footnote-ref-5)
6. Department for Education, *Ethnicity Facts and Figures* (Oct. 10, 2017), <https://www.ethnicity-facts-figures.service.gov.uk/education-skills-and-training/absence-and-exclusions/pupil-exclusions/latest>. [↑](#footnote-ref-6)
7. *Id*. [↑](#footnote-ref-7)
8. *See* Department for Education, *School Exclusions Review: Call for Evidence* (Mar. 16, 2018),<https://www.gov.uk/government/consultations/school-exclusions-review-call-for-evidence>. [↑](#footnote-ref-8)
9. *Degree Attainment Gaps*, Equality Challenge Unit, <https://www.ecu.ac.uk/guidance-resources/student-recruitment-retention-attainment/student-attainment/degree-attainment-gaps/> (last visited June 15, 2018). [↑](#footnote-ref-9)
10. *Distributional Results for the Impact of Tax and Welfare Reforms Between 2010-2017, Modelled in the 2021/2022 Tax Year*, Equality & Human Rights Commission (2017), at 3, 7,<https://www.equalityhumanrights.com/sites/default/files/impact-of-tax-and-welfare-reforms-2010-2017-interim-report_0.pdf>. [↑](#footnote-ref-10)
11. *How Fair is Britain? Equality, Human Rights and Good Relations in 2010*, Equality & Human Rights Commission (2011), <https://www.equalityhumanrights.com/sites/default/files/how-fair-is-britain.pdf>. [↑](#footnote-ref-11)
12. Sarah-Marie Hall et al., *Intersecting Inequalities: The Impact of Austerity on Black and Minority Ethnic Women in the UK*, Women’s Budget Group & Runnymede Trust (2017), at 7, <https://www.intersecting-inequalities.com/copy-of-report> [↑](#footnote-ref-12)
13. *Small and Medium-Sized Charities After the Crash: What Happened and Why It Matters*, Lloyds Bank Foundation, <https://www.lloydsbankfoundation.org.uk/assets/uploads/LBF_Smallest%20Charities%20Hardest%20Hit_Executive_Summary_final.pdf> (last visited June 15, 2018). [↑](#footnote-ref-13)
14. *See* Amelia Hill, *“Hostile Environment”: The Hardline Home Office Policy Tearing Families Apart*, Guardian (Nov. 28, 2017), <https://www.theguardian.com/uk-news/2017/nov/28/hostile-environment-the-hardline-home-office-policy-tearing-families-apart>. [↑](#footnote-ref-14)
15. *Go Home: Mapping the Unfolding Controversy of Home Office Immigration Campaigns*, University of Warwick (2015), at 3, <https://mappingimmigrationcontroversy.files.wordpress.com/2014/03/end-of-project-findings-leaflet-final.pdf>. [↑](#footnote-ref-15)
16. *Right to Rent Document Checks: A User Guide*, Home Office (Dec. 2016), <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/573057/6_1193_HO_NH_Right-to-Rent-Guidance.pdf>. [↑](#footnote-ref-16)
17. Sarah-Marie Hall et al., *Intersecting Inequalities: The Impact of Austerity on Black and Minority Ethnic Women in the UK*, Women’s Budget Group & Runnymede Trust (2017), at 11, <https://www.intersecting-inequalities.com/copy-of-report>. [↑](#footnote-ref-17)
18. *Passport Please: The Impact of the Right to Rent Checks on Migrants and Ethnic Minorities in England*, Joint Council for the Welfare of Immigrants (Feb. 2017), at 7, <http://www.jcwi.org.uk/sites/default/files/2017-02/2017_02_13_JCWI%20Report_Passport%20Please.pdf>. [↑](#footnote-ref-18)
19. Id. at 5, 31. [↑](#footnote-ref-19)
20. *Id*. at 71. [↑](#footnote-ref-20)
21. Maurice Glélé-Ahanhanzo (Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance), *Report Submitted Pursuant to Commission on Human Rights Resolutions 1993/20 and 1995/12*, U.N. Doc. E/CN.4/1996/72/Add.4 (November 28, 1996), at 6 para. 24, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G96/142/50/pdf/G9614250.pdf?OpenElement>. [↑](#footnote-ref-21)
22. HM Government, *Revised* Prevent *Duty Guidance: For England and Wales* (July 16, 2015), at 2 para. 7, [www.gov.uk/government/uploads/system/uploads/attachment\_data/file/445977/3799\_Revised\_Prevent\_Duty\_Guidance\_\_England\_Wales\_V2-Interactive.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445977/3799_Revised_Prevent_Duty_Guidance__England_Wales_V2-Interactive.pdf). [↑](#footnote-ref-22)
23. Maina Kiai (Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association), *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association on His Follow-Up Mission to the United Kingdom of Great Britain and Northern Ireland,* U.N. Doc. A/HRC/35/28/Add.1 (June 8, 2017), at 4 para. 10, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/158/29/PDF/G1715829.pdf?OpenElement>. [↑](#footnote-ref-23)
24. *Individuals Referred to and Supported Through the* Prevent *Programme,- April 2016 to March 2017*, Statistical Bulletin (Home Office, UK), (June 2018), at 4 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694002/individuals-referred-supported-prevent-programme-apr2016-mar2017.pdf>. [↑](#footnote-ref-24)
25. *The Lammy Review: An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System* (Sep. 2017), at 5, <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf>. [↑](#footnote-ref-25)
26. Youth Justice Board, *Youth Justice Statistics for England and Wales 2015/16,* Statistics Bulletin (Ministry of Justice, UK) (Jan. 26, 2017), at 27 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/585897/youth-justice-statistics-2015-2016.pdf>. [↑](#footnote-ref-26)
27. *The Lammy Review: An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System* (Sep. 2017), at 12, <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf>. [↑](#footnote-ref-27)
28. See Youth Justice Board/Ministry of Justice, Youth Justice Statistics 2016/17 England and Wales, (2018), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/676072/youth\_justice\_statistics\_2016-17.pdf [↑](#footnote-ref-28)
29. *Trapped in the Matrix: Secrecy, Stigma, and Bias in the Met’s Gangs Database*, Amnesty International (May 2018), at 1, <https://www.amnesty.org.uk/files/2018-05/Inside%20the%20matrix.pdf?x_Q7G4ar5uHbWLAklmQ9NSuLFMzrwSyq>. [↑](#footnote-ref-29)
30. *See* Patrick Williams and Becky Clark, *Dangerous Associations: Joint Enterprise, Gangs, and Racism*, Centre for Crime & Justice Studies (Jan. 2016), <http://www2.mmu.ac.uk/news-and-events/news/story/?id=4088> and <https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/KEY%20FINDINGS%20Dangerous%20Associations%20Joint%20Enterprise%2C%20gangs%20and%20racism.pdf>. [↑](#footnote-ref-30)
31. Ibid [↑](#footnote-ref-31)
32. Aoife O’Neill, *Hate Crime, England and Wales, 2016/17*, Statistical Bulletin (Home Office, UK) (Oct. 17, 2017), at 1, <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652136/hate-crime-1617-hosb1717.pdf>. [↑](#footnote-ref-32)