

**United Nations Independent Expert on protection against violence and discrimination
based on sexual orientation and gender identity**

**Country visit to the United Kingdom of Great Britain and Northern Ireland (24 April – 5
May 2023)**

End of mission statement

1. The United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity visited the United Kingdom of Great Britain and Northern Ireland from 24 April to 5 May 2023. This end of mission statement reflects the findings during the visit and will be complemented by a report to the Government and the United Nations Human Rights Council. The Independent Expert takes full responsibility for all information and data included in these preliminary observations.
2. According to the most recent official information available, around 1.7 million lesbian, gay, bisexual, pansexual, asexual, and queer persons live in the United Kingdom; it is estimated that between 250,000 and 500,000 persons are gender diverse. While the human rights of these more than 2 million persons are of direct concern to the mandate of the Independent Expert, concentric circles around them extend to all who love them, respect them, depend on them and in many other ways benefit from recognizing and respecting their right to exist in this world.
3. Apart from the violence and discrimination directed toward LGBT persons (or those who are perceived as such), stigma and prejudice against them has historically been instrumentalized around the world to pursue socially irredeemable objectives. The wide definition of the mandate requires the analysis of such forms of instrumentalization and their impact on human rights, social peace, and democratic rule of law.
4. The Independent Expert thanks the Government for its invitation and for its extraordinary cooperation and coordination during the visit. State representation was led by the Minister for Equality and senior officials from across the devolved Governments of Wales and Scotland, and the Civil Service of Northern Ireland. The Independent Expert also met with numerous members of Parliament and political party leaders in the four nations of the UK, and representatives of the three leading national human rights institutions (NHRIs) created with a mission to protect those in need and hold the Government to account in relation to its human rights, as well as civil servants; during the visit, over 100 public servants supported the visit. The Independent Expert warmly thanks all of these Government officials who, without exception, generously shared presentations, references, reports, and other materials during this visit.
5. While this is the first visit by the mandate to the UK, throughout the last six years the Independent Expert has actively followed recent relevant developments of law, policy and practice in the country, issuing advice to the UK Parliament in relation to practices of conversion, and to the Scottish Parliament on the standard of self-identification for legal recognition of gender identity (June and December 2022); the Independent Expert has also engaged the State in relation to the Scottish Gender Recognition Reform Bill.

6. The process of preparation for the country visit included a comprehensive desk review, 37 written submissions from individuals, academic experts, and civil society organizations from England, Northern Ireland, Scotland, and Wales, and continued dialogue with State authorities. The Independent Expert thanks all LGBT persons, communities and populations, human rights defenders, women's organizations and women groups, academics and others who contributed those inputs; he is especially grateful to the more than 167 representatives of civil society who met with him.

7. During the country visit and pursuant to HRC resolutions 32/2, 41/18 and 50/10, the Independent Expert sought to gather evidence on the manner in which discrimination and violence manifest and/or are perpetrated against lesbian, gay, bisexual, and trans and gender diverse persons in the UK, the measures adopted by the State to address them, and the views of a wide range of stakeholders on their impact, effectiveness and, when relevant, their shortcomings. The visit included stops in London and Manchester, Cardiff, Belfast, and Edinburgh.

8. The views expressed in this statement are of a preliminary nature, and are intended to be indicative and illustrative, rather than exhaustive based on the voluminous information presented to the mandate over the last two weeks. The final report on the visit will be presented to the United Nations Human Rights Council by latest in June 2024, after a process of dialogue with the State.

A robust human rights protection framework

9. In March 2023, during its most recent Universal Periodic Review before the UN Human Rights Council, the Government and civil society representatives outlined that the UK has benefited from a robust framework of domestic and international legal protections from violence and discrimination on the basis of sexual orientation and gender identity – including protections under the UN core human rights treaties and the European Convention on Human Rights (ECHR), which have been translated into domestic laws, policies, and practices.

10. In relation to the human rights of LGBT persons, this is a state of affairs that has evolved through radical change. National, imperial, and colonial histories of the United Kingdom include leading roles in criminalization, pathologization and actual or attempted erasure of gender diversity. At the national level, as recently as 1979, the use of homophobic and biphobic attitudes, and their instrumentalization through the media, led to the enactment of a series of guidelines within the school curricula that aimed at prohibiting comprehensive sexuality education; they also led to the enactment of Section 28, an infamous piece of public policy that created lasting damage on LGBT persons and institutions.

11. As a result of distinct areas of devolution of responsibilities to national authorities in relation to some of the key human rights issues analyzed by the Independent Expert – including in the education, employment, health and housing sectors – there is at once both a robust comparative framework of good practices for UK and national-level authorities to draw upon and exchange, and also unique localized challenges that have resulted from lack of central guidance in some cases, or regionalized resistance to central-level UK policy initiatives in other cases.

12. The legal framework most prominently includes the Human Rights Act 1998, which made most provisions of the ECHR directly enforceable in UK courts. It did so by requiring all legislation to be interpreted and given effect in accordance with rights provided by the ECHR, as elaborated by the

jurisprudence of the European Court of Human Rights, and by making it unlawful for public authorities to act in a manner incompatible with those rights. Under the Scotland Act 1998, Northern Ireland Act 1998 and the Government of Wales Act 2006, the devolved administrations likewise cannot act or legislate in breach of the ECHR, including in relation to devolved matters of social protection.

13. The Equality Act 2010 legally protects persons in Great Britain from social and workplace discrimination in relation to nine characteristics, including based on sex, sexual orientation, and gender reassignment, among other categories. The related Equality Framework comprises 116 separate pieces of legislation. The Public Order Act 1986 also criminalizes offenses of intentionally stirring up hatred on the grounds of sexual orientation.

14. The Gender Recognition Act (GRA) 2004 enabled trans persons in the UK to have their acquired gender legally recognized without requiring surgery or hormone treatment. In September 2020, the Government released long-awaited results of a consultation on the GRA, covering England and Wales, according to which a majority of the population supported the removal of medical requirements. While removing some administrative barriers and lowering costs, the Government nonetheless retained a system that requires a psychiatric diagnostic that no longer exists in the International Classification of Diseases of the World Health Organization, as well as proof of life in the affirmed gender for two years, and evaluation by an external committee composed of legal and medical professionals.

Political tides in relation to human rights protections

15. The Bill of Rights Bill, first proposed in the UK Parliament in June 2022, would repeal and replace the Human Rights Act 1998 and alter the enforcement of judgments of the European Court of Human Rights by the UK. In presenting and summarizing for the Independent Expert the potential legal effects of the Bill, the Government said that the Human Rights Act 1998 is the guiding light of human rights protection in the UK, which would still follow ECHR standards, and that the UK would remain a party to the ECHR even if the Bill of Rights Bill were adopted. The UK Government suggested that it would aim to work within the parameters of the “margin of appreciation” doctrine of the European Court of Human Rights, yet in line with a UK understanding of the needs of the people.

16. To the wider public, however, the Bill of Rights Bill was promoted under a different light: in the words of a top State representative, it is legislation that would enable UK judges to determine how and whether to accept European judgments on policies such as the removal of migrants to claim asylum in Rwanda, injecting a “healthy dose” of common sense into the system and enable the UK to “push back” against European Court Judgements. The Bill has been criticized by many, including the Law Society and the Joint Committee on Human Rights, for its potential to undermine access to justice and damage the rule of law. The Independent Expert is equally concerned about the Bill’s potential to impact detrimentally existing human rights protections against violence and discrimination based on sexual orientation and gender identity.

17. The devolved government for Scotland has voiced its intention to introduce legislation to incorporate into the Scottish legal framework several core UN human rights treaties to which the UK is party, in order to make them justiciable in Scots law, within the limits of devolved competence. The crosscutting obligation of nondiscrimination based on any status in relation to all human rights provided by those treaties – including based on sexual orientation and gender identity – would be applicable directly

through the national legal system.

18. This illustration of distinct contrasts between human rights legal and policy directions of the UK Government and devolved administrations was further underscored by the UK Government's recent blocking of Scottish legislation to adopt new legislation on legal recognition through self-identification.

19. In December 2022, the Scottish Parliament passed the Gender Recognition Reform Bill with overwhelming support across political parties. In doing so, Scotland followed international good practice recommended by a vast majority of United Nations human rights bodies, including the High Commissioner for Human Rights. However, the UK Government in January 2023 made an order under Section 35 of the Scotland Act 1998 to prevent the Bill from being submitted for Royal Assent and being enacted into law. The Scottish Government are contesting that order in court. As noted above, the Independent Expert previously testified twice before the Scottish Parliament in June and December 2022 in support of the Bill and, although he takes no stance in relation to the legal dispute between the UK and Scottish Governments, which relates to matters that are primarily constitutional in nature, he laments that this action has *de facto* deprived trans persons in Scotland of the benefits of a simplified process by which to obtain Gender Recognition Certificates. The Independent Expert heard direct testimony from over a dozen trans and gender diverse persons who were waiting for the simplified process, some of them because - out of principle and a perception of their own dignity - they reject the pathologization of their lives.

20. The Independent Expert has already expressed concern at the levels of misinformation feeding political, social, and legislative debates around legal recognition of gender identity. A system of self-identification is one that gives pre-eminence to the person's sense of self, eliminating pathologizing approaches that erroneously claim that they are mentally ill, and recognizing that their dignity is inextricably linked to self-determination. Like any administrative decision, legal recognition of gender identity can be challenged in cases that are suspected to misuse the system.

21. The Independent Expert was particularly alarmed by a 3 April 2023 letter from the Equalities and Human Rights Commission (EHRC) to the Minister for Equalities, by which it advised that defining the term "sex" as "biological sex" under the Equality Act would "bring greater legal clarity" to the implementation of the Act. In contrast, the Scotland Committee of the EHRC had itself on 28 February 2023 expressed concerns it did "not consider sufficient evidence has been presented to justify amending the definition of legal sex in the EqA [Equality Act] 2010 to biological sex at this time", noting that "the Board should consider the risk to our perceived political independence if we are perceived to be aligning with Government in the absence of robust evidence. This is a potential existential risk that such a perception could risk the Commission's existence going forward." Additionally, the committee indicated there had been no clear demonstration of a legal need or legitimate aim, even though "changing the definition of sex could diminish trans people's rights; for example, legal colleagues advised that, if the proposed change were implemented, obtaining a Gender Recognition Certificate would no longer change a person's sex in discrimination law. The Committee considered the Commission should be advancing the rights of minorities and not potentially diminishing rights for some groups."

22. In a meeting with the EHRC on 4 May 2023, the Independent Expert was shocked to hear that the EHRC offered that advice without itself having any definition of 'biological sex'; UK law provides no such definition either. The EHRC however specifically conceded that, in the context of the letter, the intended meaning of the term "biological sex" is to define women as "women who are not trans." As one

Commissioner elaborated: “under the Equality Act, [...] a trans woman who does have a GRC is a woman under the current case law. [...] if the government decides to make the amendment, they don’t need to define biological sex, they can do it by way of exclusion of the GRA.” It then follows that the objective of the EHRC was to offer the Government a formula through which it could carry out discriminatory distinctions currently unlawful under UK law, and that will remain so under international human rights law. The Independent Expert is of the opinion that this action of the EHRC is wholly unbecoming of an institution created to “stand up for *those in need of protection* and *hold governments to account* for their human rights obligations” (mission statement, EHRC webpage; emphasis added).

Widespread concerns over toxic political discourse

23. As a result of these processes and initiatives, in meetings with authorities in Wales, Northern Ireland and Scotland, national authorities and civil society representatives expressed concerns regarding where the UK government stood on the protection of human rights of LGBT persons in line with international standards. Following the unprecedented use of the Section 35 order *vis à vis* Scotland, they also raised questions over the detrimental social ramifications of the high-profile blocking of legal protections of trans persons’ human rights in particular. Deep concern for the instrumentalization of prejudice in the context of the upcoming national election was a constant observation throughout most of the meetings held during the country visit.

24. Bolstered by strong protections of freedom of information in the UK, news media and social media are instruments for advocacy and visualizing violations of the human rights of LGBT persons. On the other hand, government authorities and civil society representatives in the UK informed the Independent Expert that those media channels are also spreading anti-trans discourse and stereotypical imagery of LGBT persons as dangerous, often employing homophobic and transphobic rhetoric.

25. Across the UK, civil society and public officials informed the Independent Expert that such abusive rhetoric by politicians is trickling down and facilitating increasingly abusive and hateful speech in the social media, which in turn seems to be spurring rapid increases in the frequency of bias-motivated incidents of harassment, threats, and violence, including rampant surges in hate crimes. Human Rights defenders voiced consistent and concerning accounts of experiencing substantial amounts of abuse both online and offline, in response to their efforts to increase protections of the human rights of LGBT persons in law, policy and practice.

26. “I have never seen so much unadulterated hatred as currently directed toward the trans community,” said an elected officer in Belfast; an MP said in London: “there is more fear in the streets than there used to be.” A Welsh civil society representative remarked the negative environment created by the frequent posting of messages on Twitter by a prominent politician that appeared to be opposed to LGBT persons’ equal enjoyment of human rights, alongside similar political messages critical of human rights protections for migrants.

27. In Edinburgh, a 68-year-old trans man told the Independent Expert that the hateful and hurtful public political discourse has caused profound and wide-ranging damage to the mental health of trans people in Scotland: “trans persons have always been here. We are just as we are. It feels like there is an attempt to erase us legally. [...] It seems that Westminster is trying to terrorize us.” That man noted one trans friend had become suicidal in the current political climate, while another had seen their mental health

spiral downward as a result of the toxic public discourse. “I can’t emphasize how vulnerable I and other trans people feel at the moment right now. I know so many trans people who feel so scared that they do not leave their homes.” Back in London, a prominent trans legal professional shared with the Independent Expert her plans for self-exile “not *if*, but *when*” the legal recognition of her gender, which she has enjoyed for over 30 years, would be revoked by the Government.

28. Scottish officials echoed those concerns, relaying that they had received direct testimony from trans persons of the harmful health impacts of toxic political and media discourse about their human rights.

29. The Independent Expert heard that the acrimonious nature of the discussion impacts persons holding very different points of view, and accusations of silencing and “cancellation” are also made by those who hold the point of view that gender identity is an ideology, or that systems of self-identification in legal recognition of gender identity raise unacceptable risks for others. Abundant work of the mandate has addressed those concerns. At the same time, the Independent Expert is thankful that some of those persons, including gay men and lesbians as well as other women, accepted invitations to hold conversations with the mandate and to present evidence, in sessions held in a respectful, constructive, and professional key. He remains committed to examine all submissions made to him, in the understanding that his mandate is to determine whether claims fall within the framework of international human rights law or not, under the guiding principle of evidence-based approaches.

30. Democracies benefit from healthy debate; that includes the protection of free speech and accountability for hate speech. The Rabat Plan of Action articulates a test for defining restrictions on freedom of expression, incitement to hatred, and for the application of article 20 of the ICCPR. It outlines a six-part threshold test: (1) the social and political context, (2) status of the speaker, (3) intent to incite the audience against a target group, (4) content and form of the speech, (5) extent of its dissemination, and (6) likelihood of harm, including imminence. During the visit, the Independent Expert received information about thousands of articles spreading misinformation (criterion 5) and witnessed first-hand the casual appropriation by top-level political actors (criterion 2) of rhetoric deeply associated with the questioning of legal protections on the basis of gender reassignment. A key example: “what is a woman?” a question that, in the social and political context (criterion 1), is commonly asked by “gender-critical” actors to challenge the legal recognition of trans women under UK law.

Public policymaking on human rights protection

31. The Independent Expert recalls that universal enjoyment of human rights should not be a partisan matter, and rather should be implemented by all parties in good faith and in accordance with State responsibilities, including based on strong data and evidence of human rights protection needs through remedial measures that are appropriate to address them.

32. In addition to specific substantive human rights obligations for Government authorities to respect human rights in the conduct of State actors, and to protect human rights from violation by third-party non-State actors, there are also process requirements in relation to the fulfillment of all human rights without discrimination, including on the basis of sexual orientation and gender identity. In practice, this means that there is an obligation of conduct to ensure a principled policy-making process. As part of that process, the allocation of resources by government authorities must reflect the prioritization of human rights protection without discrimination, and the use of resources must be optimized to achieve those ends. Even

in times of severe austerity, there is a heightened obligation to protect vulnerable members of society from discrimination and exclusion based on any social status or group characteristics, such as through low-cost targeted programs based on comprehensive needs assessments and data gathering. As part of the design of national strategies, national authorities are obligated to measure progress through indicators and benchmarks, the realization of minimum standards, and the provision of judicial guarantees to enforce legal guarantees of human rights.

33. In this regard, the Independent Expert identified numerous good practices and commendable efforts by public authorities in the drafting of LGBT+ human rights strategies. Those strategies and other policy measures aimed to fully guarantee already-existing national and international legal guarantees of all persons' human rights – without discrimination on the basis of sexual orientation and gender identity, or any other status – based on broad public consultations, and the identification of necessary measures to advance universal social inclusion for all. As noted below, data gathering remains a work in progress for all of the UK governance structures, in order fully to realize related human rights policy objectives, where they do exist.

34. As an example of good practice in human rights policymaking, the Welsh Government published in February 2023 an ambitious LGBTQ+ Action Plan, prepared in partnership with CSO stakeholders and through a consultation that received over 1,300 inputs, with a view of making Wales “the most LGBTQ+ friendly nation in Europe.” While some civil society organizations criticized a lack of dedicated structures and staff for implementation, authorities confirmed their commitment to adopt the measures necessary to ensure the sustainability of the plan. Additionally, authorities indicated that they had already allocated funding and oversight mechanisms for implementation among departmental director structures.

35. Indeed, best practice seems to emerge from partnership approaches. All stakeholders with whom the Independent Expert met in Manchester agreed that the key to all the city's remarkable success in a series of health, education, housing, and employment outcomes had been their design, implementation, and evaluation in partnership with civil society organizations, which in turn consider the participation of populations and communities as a fundamental part of their business model.

36. In Belfast, however, the Northern Ireland Civil Service observed that no new policy development could occur at the moment without a functioning devolved government administration, amidst considerable budget pressures that have recently resulted in numerous cuts that could imperil social services for more marginalized groups, including LGBT persons. Even without an executive government in place for a third of the last 25 years, the civil service has been resilient in holding together social protection structures, yet the absence of an Executive has resulted in the failure to deliver on the ambitious LGBT human rights strategy that was drafted and committed to by the last functioning government administration, including based on significant public consultation outreach.

37. Scottish Government authorities have also engaged in notable public consultations and outreach to solicit inputs on the development of public policy measures that meet the needs of individuals excluded from equal access to public services on the basis of their sexual orientation and gender identity. Authorities informed the Independent Expert they are now in the process of finalizing a comprehensive Equality Action Plan based in part on achieving the implementation of recommendations derived from an extensive public consultation process. Similarly, in the development of the Gender Recognition Reform Bill – now on hold amidst legal disputes with the UK Government – the Government of Scotland reported receiving

over 30,000 responses to public consultations in relation to the proposed reforms. Scotland’s Cabinet Secretary also informed the Independent Expert that Scottish authorities are the first of the four nations to initiate the development of a Nonbinary Equality Action Plan, based on consultations of constituents who faced challenges, including accessing health and other social services based on their nonbinary gender identities. LGBT human rights organizations in Scotland noted also that the Scottish government had gathered significant good data – including through civil society consultations – in order to inform policies on LGBT human rights issues. Strategies undertaken by the Scottish government on mental health, suicide prevention, and other forms of self-harm were reported to have been inclusive and successful at gathering good qualitative data on LGBT persons’ lived experiences.

Comprehensive data necessary to protect human rights without discrimination

38. Executive actions to respect, protect and fulfill the full spectrum of human rights of LGBT persons can and must be taken in parallel with legislative efforts. The critical obligation in relation to principled policy making processes is ensuring that appropriate implementation frameworks are in place, which include at their core all necessary data collection mechanisms to engage in a robust and comprehensive evidence-driven process to assess the needs of current and future service beneficiaries. The importance of data gathering to advance human rights law and policy decisions cannot be overstated – and is a central component of the immediate human rights obligation to come up with strategies and action plans that address identified human rights protection gaps, utilizing indicators and benchmarks to measure and advance progress.

39. The country visit confirmed the mandate’s view that the UK is a global leader in data collection, particularly through its periodic census research. The 2021 iteration of the Census for England and Wales included questions on sexual orientation and gender identity for the first time. Those questions were voluntary for persons aged 16 or over. for the purposes of planning inclusive social services that reach and meet the needs of all persons without discrimination on the basis of sexual orientation and gender identity. The UK Office of National Statistics developed the questions through focus groups, cognitive interviews, and experimental testing, which included participants of diverse sexual orientations and gender identities.

40. The 2021 Census data on LGBT populations in England and Wales will help improve the planning of inclusive social services that reach and meet the needs of all persons without discrimination on the basis of sexual orientation and gender identity. The Census estimates that in 2021, 3.2% of the adult population in England and Wales identified as LGB+ (comprising those who identify as “gay or lesbian”, “bisexual” or “other sexual orientation”). This equates to 1.5 million people. In total, 0.5% of the adult population in England and Wales reported that the gender they identify with was not the same as their sex registered at birth. This equates to 262,000 people. Of those who responded 48,000 (0.1%) identified as a trans man, 48,000 (0.1%) identified as a trans woman, and 30,000 (0.06%) identified as non-binary. However, the largest group of people who reported that their gender identity did not match their sex registered at birth, comprising 118,000 people (0.24%) provided no further details about their gender identity. A further 18,000 (0.04%) wrote in a different gender identity. Overall, 5% of adults chose not to respond to the sexual orientation question, and 6% of adults chose not to respond to the question on gender identity. Following recent criticism by some academics, the ONS is currently reviewing the quality of the census gender identity data.

41. Scotland has also not yet released its data on gender identity, following a delay in the conducting of the census until 2022 due to the COVID-19 pandemic. The Northern Ireland Statistics and Research Agency (NISRA) undertook a 2015/2016 consultation that found there was very limited need for a gender identity question. That conclusion would seem to conflict with the fact that over 700 persons in Northern Ireland are currently on official waitlists for those seeking gender-affirming healthcare, with a clear statistical significance corresponding to the presence of an uncounted trans community.

42. NISRA's ability to move forward with considerations of new questions, which are approved by ministers, may also have been undermined by the "start-stop" nature of government in Northern Ireland, which is not currently functioning as a devolved executive administration. With regard to sexual orientation, NISRA in March 2023 published data from the 2021 census indicating that only about 3% of the Northern Ireland population self-identified as lesbian, gay or bisexual. However, the Equality Commission for Northern Ireland informed the Independent Expert that it believed that to be an undercount, since it was the first time the question had been asked. NISRA sits under the guidance of the UK Office of National Statistics yet has its own data-gathering processes. In relation to the gathering of statistics on all LGBT persons, the Equality Commission also observed that Northern Ireland's official service providers are implicitly already required to gather data to guide implementation of their services through beneficiary engagement at access points for their services.

43. As an example of the importance of robust data gathering, the total official UK estimate of up to 500,000 persons who identify as transgender is vital information for planning inclusive access to services and protection of human rights.

44. In contrast, only 7,111 persons have been granted Gender Recognition Certificates as of December 2022, since the Gender Recognition Act entered into force in 2005. In the last one-year period in 2021/2022, there was a 72% increase in the annual total number of applications received by the UK's Gender Recognition Panel, following an application fee reduction in May 2021, and the UK authorities expect the increase in applications to continue following the digitization of the process since June 2022. While Gender Recognition Certificates are not necessary to access most services, the discrepancy between the number issued and the number of people self-identifying as trans in census data provides vital public policymaking information to plan and provide for the needs of trans service beneficiaries.

45. The considerable strengths and good practices of the UK in terms of data collection and the census accomplishments place the UK in a privileged position to carry out intersectional data analysis on the social determinants of health, education, housing and employment – including based on race in relation to sexual orientation and gender identity. The UK Office of National Statistics indicated it had the capacity to collect and evaluate the interplay of intersectional data, and the Independent Expert encourages that this work be undertaken as soon as possible: it will prove vital to better inform the public discussion to the benefit of all.

Overview of human rights concerns regarding violence and discrimination based on sexual orientation and gender identity in the UK

Bias-motivated violence and hate speech

46. The Independent Expert received consistent and concerning accounts of significant increases in

the frequency of bias-motivated violence and hate speech directed at LGBT persons across all four nations of the UK. Official data on increases in rates – however dramatic in their rise – did not seem fully reliable, based on the high variability of those rates year-on-year, with large increases and decreases across rates of hate crimes based on various group characteristics. For instance, in England and Wales, hate crime data is published annually in October (with most recent statistics from 2022, up until March 2022). That data indicated a 56% increase in crimes targeting trans persons, and large rises also based on sexual orientation (41%), disability (43%), religion (37%), and race (19%). However, in past years, those rates rose and fell in a fashion that indicated other factors – such as inconsistency in data gathering techniques – could undermine reliability of the figures.

47. In contrast, a leading nongovernmental organization that gathers data on LGBT populations in the UK informed the Independent Expert that it found even higher increases in hate crimes targeting LGBT persons over the last 18 months, which had been climbing consistently higher over the last six years since it started collecting hate crimes statistics in the UK in 2015, with apparently reliable trends based on consistent community outreach-based data gathering. Those data indicated a 76% increase in hate crimes targeting trans persons just over the last three months alone.

48. In response to widely reported increases in hate crimes targeting the LGBT population in Wales (by approximately 33% in 2022, according to authorities and civil society representatives), the Welsh government launched a revised and updated version of the campaign called Hate Hurts Wales, focused on safety and freedom from discrimination, as well as increasing diversity among law enforcement personnel.

49. In Northern Ireland and Scotland, hate crime legislation is devolved to national institutions. Representatives of political parties in Northern Ireland, including the previous Justice Minister, indicated that the last administration had been working on a hate crime bill alongside the LGBTIQ+ strategy, progress on both of which has been halted for more than a year due to the lack of a functioning devolved government. A human rights defender in Northern Ireland noted the lack of accurate data on bias-motivated violence against LGBT persons, suggesting considerable undercounting, yet the Police Service of Northern Ireland (PSNI) statistics issued in March 2022 nonetheless indicated the highest rates of homophobic and transphobic bias-motivated crimes ever recorded since hate motivations began being tracked in 2004/05. In Scotland, a nongovernmental organization reported documenting a 68% rise in hate crimes against trans persons was recorded in 2022, with a three-fold increase in hate crime against trans persons over the last seven years. Official data released by the Scottish Government’s Justice Analytical Services in January 2023 indicated that hate crime incidents against LGBT people in Scotland had increased by 75 percent over the preceding eight years.

Right to education

50. The UK’s Equality and Human Rights Commission and the Northern Ireland Human Rights Commission both informed the Independent Expert of significant concerns about shortcomings across the UK regarding the lack of LGBT-inclusive relationships and sex education (RSE) and health education. The NHRIs’ concerns followed up on a 2020 EHRC submission to the UN Committee on the Rights of the Child that documented UK Government failures to protect trans children in schools, and negative mental health consequences for children from toxic discourse.

51. That lack of adequately comprehensive and inclusive RSE and health education puts UK children

at an increased risk of bullying, mental health issues, and self-harm, according to civil society organizations with whom the Independent Expert met across the UK. While schools are subject to the Equality Act of 2010, so cannot legally discriminate based on sexual orientation and gender identity where it applies, education is also a devolved matter. Devolution of education means that even if the UK were to present guidance on RSE, the devolved administrations would have the choice to implement it or not.

52. “Schools can essentially choose to teach absolutely nothing in relation to RSE,” one political party representative told the Independent Expert while visiting Northern Ireland: “young children and teenagers are growing up in total ignorance.”

53. A leading organization working with LGBT youth in the UK expressed alarm that the UK Government was considering publishing education guidelines that could include advice to report trans children’s gender identities to their parents. The organization highlighted specific concerns that such advice may not be guided by the human rights legal requirement of the best interests of the child, if suggesting to forcibly reveal their gender identities to their parents, in light of high rates of transphobic abuse in family environments. Additional efforts to exclude transgender children from so-called “single-sex spaces”, from sports activities, and potentially from physical education programs in schools were also flagged as potentially damaging to trans children in particular.

54. One trans youth in London informed the Independent Expert that they had to leave school because of transphobic bullying, after school officials declined to intervene meaningfully when requested to do so, which made the youth feel they were being pushed out of education. In some communities, LGBT rights organizations also informed the Independent Expert of LGBT children being pulled out of schools by parents who objected to RSE and health education lessons. One nonbinary trans young woman in Cardiff informed the Independent Expert, “I got pulled out of sexuality classes that teach people about the existence of queer persons, so it was hard to get an education or have other people understand the issues that visibly queer and trans people face.” A trans rights activist in Northern Ireland likewise informed the Independent Expert that LGBT youth are frequently self-excluding from school and leaving school earlier with fewer skills and less access to further education or employability, compounding their exclusion from society.

55. The Independent Expert, along with other Special Procedures mandate holders, recently published a compendium of international standards on comprehensive sexuality education, which one NHRI in the UK informed the Independent Expert during his visit was very helpful to detoxify discourse in relation to RSE and health education in UK schools, which are self-governing on these issues.

56. In Scotland, the Cabinet Secretary informed the Independent Expert that LGBT-inclusive education is considered a great success, a statement with which most civil society agreed. Presenting good practices, Scottish government policy officials informed the Independent Expert about their successful rollout of extensive resources for LGBT-inclusive education through LGBTeducation.scot, including modules drafted, developed, and shared with educational professionals to help teachers to deliver LGBT-inclusive messages. Those authorities indicated that additional education reform was upcoming, including to accommodate a public desire for parental input into the process, for example, by ensuring that parents know that inclusive education is age-appropriate and factual, contrary to what the officials described as inaccurate fearmongering in public rhetoric.

57. In Wales, the Independent Expert was also presented with good practices of public policymaking intended to improve the LGBT-inclusivity of RSE and health education available to children, in order to protect LGBT youth from bullying and negative health consequences from discrimination in educational institutions. The Welsh Government informed the Independent Expert that it was working with the Minister of Education to develop school guidance for trans students. Based in part on challenges faced by the Scottish Government in its own positive efforts, the Welsh government is conducting broad consultations with religious organizations, parents, practitioners, experts, children and young people, and the broader public, which will be presented for public comment likely in the months ahead, so that the guidance could potentially be rolled out in 2023 or early 2024.

58. Those human rights-based public policymaking efforts are part of the comprehensive and inclusive RSE and health education platform in the LGBTQ+ Action Plan and the HIV Action Plan of the Welsh Government, which it presented to the Independent Expert as good practice. Welsh authorities indicated that some groups opposed to LGBT-inclusive RSE in certain localities had spread misinformation about RSE campaigns – aimed at creating anxiety in the public – such that the Ministry of Education was redoubling its efforts to produce strong educational campaign materials to counter that misinformation and correct the record on constructive efforts to discuss healthy relationships.

Right to health

59. The UK Government's LGBT health leads informed the Independent Expert that in the 2018 UK survey of LGBT persons, healthcare was identified as one of the key areas of protection gaps and protection needs, especially in relation to mental health and sexual health, including HIV prevention and protection. Within the UK, the Department of Health and Social Care presented as a good practice that its treatment facilities were often collocated with prevention services, as a key facet of the implementation of its HIV Action Plan in partnership with the National Health Service, local authorities, the UK Health and Security Agency and civil society organizations. It also highlighted the progress made in early HIV diagnosis, with an estimated 4,500 persons living in England with undiagnosed HIV. The UK Government also highlighted that quality of care received by people living with HIV remained very high, having met the UNAIDS 95-95-95 targets met for the second time in 2021, with 95% of people living with HIV being diagnosed, 99% of those diagnosed being on treatment, and 98% of those on treatment having an undetectable viral load. The authorities nonetheless informed the Independent Expert that those sexual health services had been most utilized by men who have sex with men (MSM), whereas the need for improved services and cervical screenings for lesbian and bisexual women, and expanded provision of gender-affirming care for trans persons had not been equally funded or as successful across the UK.

60. Gender identity services are specialized services that are commissioned nationally. There has been a sustained increase in the number of referrals in recent years, despite only limited clinical capacity, resulting in increasingly long waiting lists. With only a small pool of specialists in this area, authorities in England tried to increase capacity through funding, yet still faced a shortage of specialists. With clinical staff seeing patients waiting since 2019, waitlists are currently four years or more, yet the current waitlist lengths depend on the respective clinic. Since 2020, NHS has rolled out four pilot clinics, with a fifth scheduled to open in 2023.

61. Across the UK, the Independent Expert received information from a variety of actors about the difficulties and delays that trans persons face in seeking gender-affirming care, with negative

consequences for their mental health and ability to move on with their lives. One LGBT human rights organization put it in blunt terms: “kids are killing themselves in response to lack of care and horrendous waitlists of young persons looking for gender-affirming care.”

62. The Northern Ireland Civil Service informed the Independent Expert that gender-affirming healthcare is provided to trans persons through the Regional Gender Identity Service, including through GP referrals to transition care. Yet current pathways for young persons are lacking, and compounded by long waitlists also for adult pathways. The current waitlist for adult gender-affirming care was reportedly five years and four months, with 638 persons on the waitlist. For persons under 18, the waitlist for the “Know Our Identity” service was almost two years (91 weeks), with 51 individuals on the waitlist. In contrast, only 75 persons in Northern Ireland have been granted Gender Recognition Certificates, illustrating how far official statistics have to catch up with provision of funding and services for gender-affirming care.

63. Political party representatives in Northern Ireland informed the Independent Expert that rates of “self-medication” by trans residents are very high due to the difficulty of accessing gender-affirming care through official channels. As a result, they reported that most trans persons they knew chose to self-fund or crowdfund to finance trips to countries as far away as Armenia to get access to surgery or other forms of gender-affirming care. The dearth of gender-affirming care was also resulting in a mental health crisis among young trans persons, compelling many young trans persons to leave Northern Ireland as well, seeing no future in being able to live openly in their gender.

64. In Wales, the Government highlighted its Welsh Gender Service Clinic for adults as good practice for all of the UK, in terms of its provision of support to young trans persons in gender-affirming care. A care provider with the clinic noted the vital importance of timely intervention into young persons’ health needs – without which, medical professionals know what happens, since they see those youths again in awful shape by the time they reach the age of 18. In asking for an evidence basis for policy decisions on the denial of adequate resources for gender-affirming care, she noted, “we are asking for something wholly legal and wholly achievable” – an evidence-based policy framework that prioritizes the best interests of young people.

Right to housing

65. The UK Government informed the Independent Expert that there were significant data gaps in relation to the number of LGBT persons experiencing homelessness in the UK, which was one of the main challenges in adopting effective policies in this area. For instance, only 3% of people accessing services for homeless persons were recorded as self-reporting to be lesbian, gay or bisexual, whereas 22.6% reportedly preferred not to say their sexual orientations in survey data. Authorities noted that the lack of clarity in the data could also represent service providers being unwilling to ask service recipients about their sexual orientations and recording the data inaccurately as a result.

66. The Government indicated that no data would be available on the gender identity of persons experiencing homelessness until after April 2023. However, some relevant data existed to consider in the future for intersectional purposes, for instance, noting that Black persons are particularly more likely to experience homelessness than others. One civil society organization assisting homeless LGBT youth reported that 24% of homeless young people identify as LGBT; and 77% of those persons believed that

coming out to their parents was the main factor in their being homeless.

67. Another organization supporting LGBT persons experiencing homelessness noted that it is particularly difficult to find safe accommodations for trans and nonbinary persons in England and Wales. Compounding those challenges are the lack of conjoined services available to provide for mental health, physical healthcare, and associated needs. The organization indicated that, among its beneficiaries, trans women in particular lacked recourse to public funds for shelter in the UK, especially trans women of color or those without regular migration status. The more vulnerable one is, the more at risk they are, they said, with no properties or funding being provided to meet the needs of LGBT persons experiencing homelessness with unique safety concerns. As one coordinator elaborated, “There are lots of helplines, lots of research, but there is nowhere for people to actually step in the door and be housed for that evening. We are given a pacifier amount of support.”

68. One trans man survivor of conversion practices in Wales informed the Independent Expert about his experience helping LGBT persons experiencing homelessness, after having been rendered homeless himself: “we saw the same thing over and over again: that trans people do not feel safe going to homeless services in the first place and would rather sleep on a sofa or the street. There’s such a crisis of homelessness for LGBT people, including in Cardiff where housing prices have skyrocketed. We are seeing more and more trans people among LGBT people, and especially LGBT persons of color.”

69. In Scotland, a women’s rights organizations examined the performance of 173 social housing providers, 73 of which agreed to implement gender-inclusive approaches in housing that included trans women. Yet only a few years later, the organization informed the Independent Expert that just 9 of those providers were gender-inclusive on paper, and only 6 or 7 remain so in practice. That organization also indicated that data collection was a major problem, which needed likewise to be reconciled with training standards for service providers in order to gather accurate and useful data at service access points.

Older persons

70. All over the world, LGBT people are less likely to have networks of support that can support them in older age. The Independent Expert is encouraged to have received information about important initiatives that specifically aim at understanding and acting in relation to this population. An example is the development of one of the UK’s first purpose-built LGBTQ+ majority older persons’ housing schemes by the Manchester City Council in partnership with businesses and civil society. Fulfilling the right to housing for older LGBT persons through such programs creates a safe and secure environment where older lesbian, gay, bisexual, and transgender persons can receive inclusive care and support based on their needs and age in dignity. Older persons are experiencing the negative effects of social and political discourse as well, which increases their feeling of vulnerability, loneliness, and isolation.

71. The Independent Expert was informed that LGBT older persons in the UK have worse experiences in accessing public healthcare services than their peers and face discrimination on the basis of sexual orientation and gender identity by their health providers. This often leads to delayed treatment and the lack of timely screening, resulting in overall worse health outcomes. An additional issue for older LGBT people is the access to mental health services. For example, only 12% of older LGBT persons in Manchester reported they had never experienced a mental health issue. As a 55-year-old community member from Manchester informed the Independent Expert: “I have a strong number of friends around me, but as I get

older, they too will die and I may be left isolated.”

72. The prospect of being compelled to return to non-accepting families and communities, or of having their chosen relationships denied was cited by many stakeholders as a pressing existential concern. Those concerns are exacerbated for older LGBT persons of color.

Prisons

73. According to one NGO submission, approximately 5% of men and 31% of women in prison identify as either homosexual or bisexual. Official statistics on transgender prisoners in England and Wales as of 2022 indicated that 230 out of a total of 78,058 prisoners identified and officially disclosed themselves as transgender, including 187 trans women and 43 trans men. Approximately 10% of that officially recognized transgender prison population in England and Wales self-identified as Black, Asian or another “Minority Ethnic” background.

74. UK authorities informed the Independent Expert that there have been previous incidents of suicides by trans women held in men’s prisons. In February 2023, the Government prohibited trans women charged or convicted of a sexual or violent offense, or retaining male genitalia, from being held in women’s prisons, unless an exemption was granted by a minister. The excluding criterion of presence of male genitalia is new, and significantly increased the challenges for trans women to be held in the women’s estate – whereas previously it existed as a criterion in the risk assessment prior to admission to women’s prisons, but was not automatically an excluding criterion.

75. Representatives of political parties in Northern Ireland informed the Independent Expert that the detention of trans persons (especially trans women) has been one of the most complex issues in public discussions about trans persons’ rights. Yet they also observed that if trans persons are actually consulted on what is best for them, on a case-by-case basis, then risk can be adequately assessed for that individual. One of the political representatives informed the Independent Expert: “that kind of rationality seems to have evaporated. Yet obviously in detention no one is being set loose to harm others without supervision.”

76. The Northern Ireland Human Rights Commission indicated that, in its most recent meeting with prison services, they felt they were prepared to handle the particular situations of trans persons, yet it did not appear that there were any trans prisoners in the Northern Ireland penitentiary system.

77. In Scotland, the Cabinet Secretary for Social Justice estimated that with fewer than 10 trans persons in the women’s estate, the conversation currently occupies a disproportionate space in public discourse but confirmed the Scottish Government’s duty of care to those in custody.

78. The Scottish Government informed the Independent Expert that, out of about 7,500 incarcerated individuals in Scotland, there were 15 trans individuals as of December 2022. Under the Scottish Prison Service’s gender identity and gender reassignment policy of 2014, there is no assumption that a trans woman would pose a risk toward other prisoners in custody. The policy is underpinned by risk assessment to identify whether an individual (in a case-by-case analysis) would pose a risk to other inmates, to staff, or to themselves. With such a small number of trans persons in custody, there was concern about the potentially harmful consequences of those individuals’ identities having been exposed and debated so publicly in the media and in the Parliament. Even in cases of individuals who had been convicted but not

yet sentenced, an official noted that privacy concerns had not stopped UK politicians from naming some of those individuals, which also resulted in the public airing and sharing of views that were not completely accurate in relation to their cases.

Asylum

79. The UK's Home Office presented current and envisaged asylum policies of the UK to the Independent Expert, including provisions on the inadmissibility of claims that could effectually amount to an asylum ban, contrary to international refugee law standards to which the UK has agreed to be legally bound. In this instance, notwithstanding the autonomy of the Independent Expert under his mandate, he is in full agreement with the UN High Commissioner on Refugees in his recent statements and interventions in relation to the current and proposed legislation restricting access to asylum procedures in a fashion that would be contrary to refugee law. LGBT persons could be specifically affected by any such ban, and for instance forced to return to countries that criminalize persons on the basis of their sexual orientation and gender identity, or in which there are extremely hostile environments in relation to sexual orientation and gender identity.

80. In England, the Independent Expert met with LGBT asylum seekers and organizations providing support services to them once they arrived in the UK. One of those organizations shared information in relation to 10 cases of alleged abuses against LGBT asylum seekers in accommodations for asylum seekers and refugees (including in hotels, houses, and barracks), patterns that were also consistent with the lived experiences shared by asylum seekers in testimony with the Independent Expert.

81. In Wales, another organization supporting LGBT asylum seekers noted that their beneficiaries in some cases had not been asked about their sexual orientation and gender identity, indicating a need to improve and sensitize the language of reception agencies in order to be more accessible and clear to help LGBT people self-identify as such. Without dedicated housing for LGBT asylum seekers, trans asylum seekers were also being housed with persons of different genders, which exposed them to increased risk of sexual violence and other abuses.

Conversion practices

82. A trans woman survivor in Wales recounted a traumatic experience with the Independent Expert about being taken out of the UK for the purposes of conversion practices: "Something not talked about is that conversion therapy starts at home – where punitive measures like sending parents to jail are not going to work. There needs to be some education available on these matters. There is not enough understanding that one can be kidnapped essentially for conversion therapy. And since I have been back, there has been no support for people who have experienced conversion therapy, for instance it took me seven years to get treatment for PTSD, which I just started last week. [...] I attempted suicide while in my parents' custody. [...] All that I could find even now is a phone line for conversion therapy. And a phone line isn't enough; there is not enough dedicated support to help people understand. It took a long time before I even realized what had happened to me."

83. In October 2022, the UK Government launched a Victim Support Service for anyone affected by or at risk of conversion practices, regardless of their sexual orientation or gender. The service comprises a helpline, instant messaging service and website, and signposts appropriate support such as counselling,

options for making a report to the police, and other public services such as advice about emergency housing.

84. A trans man survivor of conversion practices in Wales also reported failures by law enforcement authorities to identify, halt, and prevent repetition of human rights violations resulting from such practices: “It was a corrective rape kind of situation with my brother. He literally fled the country, and they [the police] did nothing. My family are also very religious, and they were very against the police being involved. [...] I was terrified and I knew that if I went to a women’s shelter the same would happen to me.”

85. A nongovernmental organization indicated that official UK statistics on the frequency of conversion practices are overly narrow and less extensive than national statistics gathered by civil society. The latter show that 20% of LGBT persons have reported being subjected to conversion practices in the UK. An estimated 25% of sexual assaults against LGBT persons were also reportedly intended to punish or change someone’s sexual orientation or gender identity – including through heinous sexual violence (so-called “corrective rape”), forced marriage, and other abuses. LGBT young persons under 25 years old were most likely to be subjected to such violations.

86. Police reportedly returned victims of conversion practices to their abusers in some cases, particularly when those abusers were family members. In this regard, one of the main reported failures of UK authorities has been to recognize when conversion practices have happened (as opposed to encouraging survivors simply to recognize that the perpetrators are homophobic or transphobic).

87. A ban on conversion practices enjoys significant support in the UK Parliament, and therefore the Independent Expert finds perplexing the political vicissitudes of repeatedly promised legislation. The Government first pledged to ban conversion practices in 2018. The ban was then abandoned entirely, re-pledged without protection for trans people, and then delayed several times.

88. In this regard, the Independent Expert recalled in several meetings his global call to end practices of conversion. The UK Government informed the Independent Expert that it had finalized consultations in relation to draft legislation for England and Wales, and that it is committed to publish the draft legislation for pre-legislation scrutiny in the current Parliamentary session (ending in autumn 2023). The Independent Expert indicated his readiness to provide technical advice on any such Bill, if desired by the UK Government.

89. The Government of Wales indicated concerns about the UK Government having repeatedly done 180-degree turns in relation to promises to ban conversion practices, which previously left all of the devolved administrations waiting for updates without operational solutions to ongoing human rights violations resulting from conversion practices. The Welsh government indicated it was anyhow proceeding with the rollout of support services for survivors through a program to be launched in September 2023 – noting correctly that Government authorities can proceed with meaningful policy measures, even while the UK government finalizes the legislation for England and Wales.

90. In Northern Ireland, political party representatives noted that efforts to ban conversion practices, as with all LGBT human rights issues, have been highly polarizing and have not made progress due to possible political costs. Nonetheless, they noted that approximately one quarter of LGBT persons

experience domestic abuse, which is another reason for domestic abuse legislation to be utilized to address conversion practices in the home, rather than waiting to do so under the auspices of standalone legislation. In that regard, there are already new coercive control laws in force in Northern Ireland that pertain to domestic abuse (and not just by partners, but also family members). Accordingly, law enforcement authorities already have the power under existing legislation to address ill-treatment in the context of conversion practices, if they are willing to do so.

91. The Northern Ireland Human Rights Commission noted that the Independent Expert's past analysis and definition of conversion practices have already been factored into the draft LGBTIQ+ Strategy in Northern Ireland, although its implementation remains stalled amidst the current political deadlock.

92. The Scottish Government highlighted its own approach to legislation on ending conversion practices, which included both protective measures and prohibitions. The government now intends to publish a public consultation on its proposals before bringing forward legislation to parliament.

A final note

93. At the end of the visit, the Independent Expert stands in awe of the courage, resilience, resourcefulness and joy that he witnessed in his exchanges with lesbian, gay, bisexual, trans and gender diverse persons, LGBT-led and LGBT-serving organizations, all of whom carry out their lives and their work in the United Kingdom under the extreme pressure and hostility of a public debate which, today, questions rights that are directly connected with their dignity and, in some cases, their very existence.

94. It is telling that, during the visit, the current environment was uniformly described as toxic by stakeholders across the board, without exception, all of those who he met declared themselves unable to suggest a winning formula for making inroads in a situation that has been driven to a state of such acrimony. Yet, it is the very British people who have for decades inspired the world to know what to do in such situations of confusion: keep calm. Examine the evidence. The evidence shows that there is nothing to fear in the existence of LGBT persons, and much to celebrate in the diversity that they bring to our common humanity. Keep calm. Examine the evidence. Respect Diversity.

London, 5 May 2023