**“Dissertation submitted for the degree of Master of Arts in Human Rights**

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**•** Dissertation title: What are the structural barriers in making universal human rights accessible to people of African descent? An Auto-ethnography of activism against Afrophobia and other forms of xenophobia in modern times.

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ABSTRACT

The aim of my dissertation will be to define and critically analyse structural barriers which prevent people of African descent globally from fulfilling their universal human rights. The preamble of the Universal Declaration of Human Rights 1948 explicitly states that human rights should be enjoyed equally by all individuals; and prohibits racial discrimination in their respect, promotion, protection and fulfilment. International and regional treaties including the International Convention on the Elimination of Racial Discrimination, 1966 and the European Convention on Human Rights 1950/53 also champion the cause of race equality. My thesis argues that the codification of anti-discrimination legislation has not equated with accessibility to universal human rights for people of African descent in practice, e.g. as a result of governments realising state obligations equally.

The justification for this research includes the celebration of the civil rights movement; and recent rise in xenophobia and anti-immigrant abuse within the European Union, realises the need to address “Afrophobia” as a human rights issue. It therefore remains imperative that the international community remains alert to systemic racism, including structural discrimination and other forms of xenophobia, which persist despite the codification of international human rights treaties. In addition, this research shows sub-cultural minorities e.g. LGBT Africans, do not enjoy equal access to universal human rights, and to the benefits of sustainable development.

The scope of this research will be global, general and universal illustrating agreement with the indivisibility, interdependence and inter-relatedness of universal human rights proclaimed by the Vienna Convention of the United Nations twenty years ago. In this respect, the writer’s role as auto-ethnographer will rely on self-regarding and other-regarding humanistic research which highlights inequalities experienced by members of the African diaspora. The primary focus of my research will therefore be to illustrate the relationships between causal factors of structural discrimination including history, politics, etc.; and the realisation of correlative state obligations which respect, protect and fulfil universal human rights.

The focus of my research is the accessibility of universal human rights for people of African descent, with reference to UN Millennium Development Goals; and progress made in achieving these standards, e.g. in poverty alleviation. I will argue that this remains adversely affected by structural discrimination, and include historical references of both a legislative and literary nature to argue my thesis. Moreover, I will critically analyse targets of the Post 2015 Development Agenda, in relation to migration and social inclusion of Black people. To conclude, I will state that despite increased codification of anti-discrimination laws globally, internationally and nationally inequality still persists.

LIST OF CONTENTS Page Number

ACKNOWLEDGEMENTS 4

1. INTRODUCTION 5
2. METHODOLOGY 7
3. *Pedlars of Hate: the Violent Impact of the European Far Right* 8
4. Human Rights Law and ethnic minorities in the UK 12
5. The role of state interests in implementing human rights 16
6. The realisation of Human Rights in Practice 28
7. Five Transformative Shifts required of the UN Post 2015 Development Agenda 30
8. CONCLUSION 38

APPENDICES 45-60

BIBLIOGRAPHY

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1. INTRODUCTION

Resolution 21/33 of the United Nations Human Rights Council adopted the term “Afrophobia”, requiring, “an active and systematic follow-up (…) of discrimination faced by people of African descent (…) to address the stigmatization and prejudice against ethnic, religious and other vulnerable groups”, (Shepherd: 2013, p.13). With this in mind, my dissertation will begin with a critical analysis of the implementation of contemporary universal human rights in the European Union (EU), through a literary review of *Pedlars of Hate* which was published by the Institute of Race Relations (IRR) in 2011. This will illustrate international human rights law enforced by EU member states, including the Universal Declaration of Human Rights (UDHR) 1948, and the International Convention on the Elimination of Racial Discrimination (ICERD) 1965, which outlaws racial discrimination. For example, Black Europeans fail to realise their universal human rights e.g. to education and employment, despite the focus of the UN on “the interdependence of the right to development, democracy and other fundamental human rights” (Mahoney: 2007, p.57). Notably, the year 2013 was celebrated throughout the EU as the Year of the European Citizen; I therefore propose to highlight examples where the European Convention on Human Rights (ECHR) 1950/53, has failed to protect the human rights of individuals belonging to the African diaspora.

Secondly, my dissertation will discuss linkages between state interests and fundamental needs of individuals by arguing that state interests can contribute to the failure of UDHR 1948’s mission to implement and enforce the human rights of individuals equally, generally and universally. Importantly, 2013 has also been celebrated by the United Nations (UN) as the twentieth anniversary of the Vienna Conference 1993, which declared the indivisibility, interdependence and interrelatedness of universal human rights. The Vienna Declaration recognizes and affirms” that human rights derive from the dignity and worth inherent in the human person (…) the central subject of human rights (…) should participate in the realization of these rights and freedoms”, (Mahoney: 2007, p.57). the writer therefore proposes to critically analyse empirical evidence of structural discrimination in the enforcement of universal human rights drawing on my academic, personal and professional experiences. With this in mind, I will discuss historical, political, economic, social, cultural, psychological and institutional causal factors of systemic racism and structural discrimination experienced by people belonging to the African diaspora globally. This hinders poverty alleviation and sustainable development, e.g. where state interests conflict with individuals’ needs. In addition, this auto-ethnographic research will highlight structural discrimination experienced by sub cultural minorities, e.g. in African Union member states which have refused to decriminalise same sex relations between consenting adults.

Thirdly, the findings of this auto-ethnography will highlight the achievement of UN Millennium Development Goals (MDGs); and Post 2015 Development Agenda targets in relation to people of African descent. Notably, Goal 1 proposes the eradication of poverty, but the empirical evidence shows socioeconomic inequality has increased in western democracies as well as developing nations in recent years. For example, the empirical evidence shows EU fiscal policies, such as the impact of UK government’s fiscal austerity measures which contribute to socioeconomic marginalisation of Black Europeans. This inadequately addresses poverty alleviation, and also hinders the achievement of Goal 8, the right to development for ethnic minorities. In addition, my dissertation will critically analyse targets for the Post 2015 Development Agenda, e.g. by highlighting the work of the UN and civil society, as a means of achieving dignity, equality and social justice for people of African descent. In this respect, the role played by non-governmental organisations in monitoring human rights violations, and through reparative work globally will be illustrated through humanistic research data taken from online newsfeeds, blogs and interviews.

To conclude, the thesis of my dissertation asserts Afrophobia and other forms of xenophobia create structural barriers which inhibit the accessibility of universal human rights for people of African descent. The empirical evidence highlights structural discrimination occurs in the progressive realisation of MDGs, e.g. where state interests conflict with the human rights of sub cultural minorities, such as Lesbian Gay Bisexual and Transgender (LGBT) Africans. The codification of international human rights legislation is therefore imperative to ensure that governments are held accountable for correlative state obligations to respect, fulfil, and protect human rights of individuals, in accordance with the Vienna Declaration 1993. In this respect, the work of the UN and members of international civil society remains vital in eliminating the conflict between institutionalised rights enforced by governments, and human rights claimed by global movements such as women, LGBT and people living with disabilities. Furthermore greater accountability and monitoring of governments is necessary for the progressive realisation of the Post 2015 Development Agenda targets e.g. the elimination of poverty and sustainable development for the benefit of all. In this respect governments should realise state obligations despite the challenges of causal factors which significantly contribute to structural discrimination and systemic racism, in the promotion and protection of universal human rights.

1. METHODOLOGY

This dissertation is primarily concerned with Afrophobia, i.e. systemic racism and structural discrimination experienced by members of the African diaspora; and other forms of xenophobia which occur in modern times, which I propose to critically analyse in an auto-ethnography. The argument made by my dissertation illustrates the existence of structural barriers which make universal human rights less accessible to people of African descent. In this respect, accessibility, implementation and enforcement of universal human rights, in addition to the realisation of correlative state obligations will be used as a test of equality, (van den Anker & van Liempt: 2012). The main focus of my dissertation will therefore be to highlight empirical evidence supporting this thesis; and state imperative goals which reflect my personal, professional and academic experience of universal human rights, in the social context of the African diaspora. With this in mind, this dissertation will primarily rely on qualitative research concerned with the practice of universal human rights, which will be interpreted with the writer in the role of participant observer. For this reason, the writer’s ethnic identity as a Black European may blur some distinctions in the role as auto-ethnographer, because of shared social and cultural ideologies with the field of research which will primarily be people of African descent ( Khosravi: 2010). For this reason, I have chosen *Pedlars of Hate* for literary review, because of the urgency needed to tackle human rights violations experienced by ethnic minorities in Europe, highlighted in the report. As a Friend of the European Network Against Racism, in my opinion the author, Liz Fekete as Executive Director of the Institute of Race Relations, is well placed to comment on structural discrimination experienced by Black Europeans. My discussion and findings will rely on: micro-level qualitative data from blogs, newsfeeds and interviews as primary sources which highlight fundamental needs and ethical claims of African communities; and macro-level qualitative data e.g. academic literature and other secondary sources, which focus on the theory of human rights. In addition, my research will include reference to resolutions, concluding observations as well as other recommendations of UN organs and other human rights bodies, in the critical analysis of my thesis throughout my research, and in making my conclusion. Furthermore, quantitative research data such as the results of surveys will be included to illustrate empirical evidence of human rights violations.

1. LITERATURE REVIEW: *- Pedlars of Hate: the Violent Impact of the European Far Right*

The Year of the European Citizen, 2013 was marked by events and initiatives which have been promoted by the institutions of the European Union (EU) and European civil society. However, the tragic loss of hundreds of migrant lives off the coast of Lampedusa in 2013, highlights structural barriers to immigration, and socioeconomic marginalisation of Black Europeans in the EU. In 2011 the Institute of Race Relations(IRR) published *Pedlars of Hate* which reveals the extent to which migrant communities experience human rights abuse throughout EU member states. Fekete asserts “new forces (…) want to ensure that the more openly nationalistic climate that has recently emerged across Europe (…) works to the far Right’s benefit”, (Fekete:2011, p. 4). This shift towards liberal nationalism from multiculturalism which flourished in some global cities such as New York and London during the latter part of the 20th century, is argued to be a response to the terrorist attacks of 2001 and 2007. Whereas multiculturalism celebrated the diversity of cultural identity, liberal nationalism is assimilationist and integrationist; as a result, Black Europeans who do not conform to historical social bonds of citizenship, e.g. race and religion, have become increasingly vulnerable. Notably, “the French government has begun an investigation into allegations of racism, after a far-right magazine compared the country’s Black Justice minister Christiane Taubira to a monkey on its cover”, (I- Care 2013). The implications of strengthening European nationalism and populism for human rights, race equality organisations, and for migrant communities including people of African descent are therefore significant. For example, Black Europeans are increasingly targeted by the anti-immigrant invective of European nationalism, which is anathema to ethical claims and moral duties of race equality asserted in the UDHR 1948, (Fekete: 2011, p.6). This contributes to homelessness and socioeconomic exclusion of Black Europeans, and the creation of ghettos where poverty, social conflict and criminal activity flourish as a result of systemic and institutionalised racisms. In addition, the ideology of ‘reverse racism or white victimhood’ is sometimes used to criminalize and prosecute Black people, in an attempt by extremists to silence the more critical of their opponents in minority communities, (Fekete: 2011, p.11).

The UDHR 1948 is a list of civil, political, economic, social, and cultural rights. Examples of universal human rights listed in the UDHR 1948 include fundamental freedoms e.g. the right to life, and not to be enslaved or tortured; and subsistence claims to adequate access to health, food and shelter. Art. 2 UDHR 1948 asserts countries that have ratified the Declaration should endeavour not to discriminate against racial, ethnic and religious minorities. In this respect, the doctrine of indivisibility declared by the General Assembly of UN World Conference held in Vienna in 1993, asserts all human rights listed in the UDHR 1948 should be enforced universally, generally and equally. Moreover collective rights of peoples found in the UN Charter, e.g. rights to self-determination and development which historically focused on obligations between states were also accorded equal status with human rights listed in the UDHR 1948, Nowak in (Smith & van den Anker: 2005,p.317). However, European governments are failing to meet correlative state obligations to allow non-citizens freedom of movement and residence; and asylum from persecution within their border, which contravenes Articles 13 & 14, UDHR 1948. Charter based UN mechanisms for intervention where large scale human rights violations occur include the UN Commission on Human Rights (Smith & van den Anker: 2005,p.265). However, charter based resolutions and communications are not legally binding, but rather instrumental as ethical statements of moral duties or statements of policy i.e. state obligations, which can evolve into binding customary and domestic human rights legislation. For example, the IRR’s report alleges large scale human rights violations of migrant communities in various EU member states, e.g. racist attacks against documented and undocumented workers in Spain, Italy and Greece, (Fekete: 2011, p.5). Moreover, immigrant living facilities violate human dignity and human rights e.g.“Lampedusa holding center (…) is unworthy of a civilized country (…) these people survived the tragic October shipwrecks (in which more than 300 refugees perished at sea)'', (I-Care: 2013). In this respect, the Human Rights Committee (HRC) is a subsidiary body of the UN General Assembly which was established in 2005, to monitor human rights violations through universal periodic reviews of UN member states, as well as its complaints and special procedures mechanisms (de Schutter: 2010). For example, the 18th session of the HRC held in 2011 passed a number of resolutions which reaffirmed the doctrine of indivisibility, and stressed the importance of UN member states progressively realising universal human rights equally, generally and globally (Isakova: 2011). Moreover, the UN has intervened where governments fail to tackle poverty and social conflict in poor neighbourhoods populated by migrant communities, e.g. Athens (Fekete: 2011, p.30). Despite this, governments can exercise reservations by derogating correlative state obligations e.g. to respect, fulfil and protect the universal human rights of non-citizens such as asylum seekers.

Importantly, Resolution 18/15 of the HRC, “stresses the need to implement fully the obligations under the ICERD as the principal convention in the fight against racism”, (Isakova: 2011). The ICERD 1965 which has been ratified by EU member states, lists universal human rights which governments are obliged to realise without distinction based on race or ethnicity. This international treaty expounds the principle of racial equality asserted in the International Bill of Rights, i.e. the UDHR, the International Covenant on Civil and Political Rights (ICCPR) 1966 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966. In this respect the ICERD remains one of the most important treaty based mechanisms for monitoring and enforcing human rights (Smith & van den Anker: 2005,p.265). Article 1 (1) of the ICERD defines racial discrimination as “any distinction (…) based on race (…) which has the purpose or effect of nullifying or impairing (…) exercise, on an equal footing, of human rights and fundamental freedoms”, (Smith &van den Anker:2005, p.60). In this respect, the Committee for the Elimination of Racial Discrimination (CERD) makes recommendations to member states based on periodic reviews of reports on monitoring, implementation and enforcement mechanisms. Importantly, Article 2 (1)ICERD also requires governments implement non-discriminatory laws to ensure social inclusion and economic development of ethnic minorities, such as people of African descent; positive discrimination is also promoted in Article 2(2), (Smith & van den Anker: 2005, p. 62). However, signatory states can choose to retain autonomy by imposing limitations or derogating from state obligations to particular groups. For example, despite recommendations from the CERD, the UK government has derogated its obligation to fulfil Article 14 of the ICERD which would allow Black Britons to make individual communications of human rights violations, e.g. of the right to education. Furthermore, the misuse of newspapers, the internet and other forms of media to incite racial hatred and anti-immigrant sentiment highlights empirical evidence of human rights violations by European nationalist political movements, (Fekete: 2011, p. 11). In this respect, the CERD has recommended the UK government ‘withdraw its interpretative declaration on Art. 4 of the ICERD’, which prohibits the “dissemination of ideas of racial superiority” (CERD: 2011); for which there are a significant number of reservations from signatory states, relying on the right to freedom of expression, (Smith & van den Anker: 2005, p. 62). For example, a British parliamentarian was found guilty of ‘breaching provisions of the Representation of the People Act’, after using misleading anti-immigration propaganda for campaign purposes, and subsequently lost his parliamentary seat (Fekete: 2011, p.31). Moreover by stating limitations in ratifying international and regional human rights treaties, populist European governments can avoid enforcing universal human rights equally, generally and globally, by arguing their national sovereignty is threatened.

The ECHR, 1950/53 is the oldest of the three existing regional human rights treaties; and has been ratified by all EU member states. It is seen as exemplary because of the efficiency and size of the bureaucracy of its’ corresponding human rights treaty body, the Council of Europe which, (Mahoney: 2007). Article 14 of the ECHR prohibits discrimination in the enjoyment of those rights listed including Article 1, Protocol 12 of the ECHR which prohibits statutory bodies from discrimination in service provision and is therefore an important anti-racist legal instrument, (de Schutter:2010, p.571). However, the IRR’s report asserts the ideology of ‘reverse racism’ is used destructively by populist mainstream European parties to challenge the validity of anti-discrimination legislation, e.g. ‘by rewriting the history (…) to silence the most vocal critics of colonialism’, (Fekete: 2011, p.11). In this respect, although the UK became the first country to ratify the ECHR, in 1951;successive governments have neither signed or ratified Protocol 12, ECHR, despite recommendations to do so(ECRI: 2010, p.11). The UK government asserts its existing domestic legislation, e.g. the UK Equality Act 2010 suffices the needs of its citizens, despite empirical evidence to the contrary of human rights violations e.g. of structural discrimination in education and employment.

The European Commission Against Racism and Intolerance (ECRI) is the Council of Europe’s specialist monitoring body in relation to racism and xenophobia. It carries out its work through country-by-country monitoring; general policy recommendations; and information and communication activities with civil society, ECRI (2009:p.3). However, ECRI has made no general policy recommendation specifically related to human rights violations experienced by people of African descent. In this respect, the role played by members of civil society in the protection and promotion of universal human rights has increased following the Vienna Conference 1993, in which non-governmental organisations played an advisory role. For example, the European Network Against Racism (ENAR) recognises “Afrophobia as a specific form of racism”, and has been at the forefront in the fight against racism in Europe (ENAR: 2013). ENAR has a membership of over 75 organisations throughout the EU including the Runnymede Trust in the UK; and identifies the need for systemic racisms experienced by Black Europeans to be better addressed by European institutions (ENAR:2013). During my tenure as Executive Trustee and Chairman of Wiltshire Racial Equality Council between 2011 and 2013, I also encouraged the organisation to join the network, and remain a Friend of ENAR in recognition of its efforts to promote and protect the universal human rights of Black Europeans. In 2012 and 2013, the writer attended meetings of ENAR held in Brussels, which highlighted the significance of human rights in promoting the socioeconomic inclusion of marginalised European ethnic minorities. Furthermore, in assessing non-governmental organisations for ENAR awards, I gained an understanding of different approaches taken by different types of organisations throughout the EU in advancing anti-racist discrimination policy. For example, whilst Wiltshire Racial Equality Council provides advice and support to BME clients in Wiltshire, the Runnymede Trust is the UK’s leading race equality think tank, and I-care provides an online newsfeed on race hate crime throughout the EU.

1. HUMAN RIGHTS LAW AND ETHNIC MINORITIES IN THE UK

*Pedlars of Hate* links the political activities of western European parliamentarians to an increase in racist hate speech and provocation fuelled by far right nationalist ideology. With this in mind, the growing political power of European populist and extremist parties significantly threatens accessibility to human rights for migrant communities in the EU and in the UK. For example, nationalism and anti-immigrant sentiment by the British political establishment and media, significantly inhibits the practice of human rights, and discredits the UK Human Rights Act (HRA) 1998; which ‘allows people to enforce their rights under the European Convention in a British courts’, Blair in (Mahoney: 2007, p.64). Moreover, Article 14, ECHR states individuals should not be discriminated against in relation to any of the rights contained in the Convention; however both the HRA and the ECHR are unpopular with populist right wing British politicians. Furthermore the enforcement of non-discriminatory laws affirmed in Article 2 (1), ICERD; and positive discrimination to ensure socioeconomic development of ethnic minorities, Article 2(2) ICERD, is threatened by British nationalism. With this in mind, political participation and representation of Black Britons, remains disproportionately low, despite the provisions of Art. 21, UDHR 1948 which asserts ethnic minorities should be encouraged to participate in political processes. This illustrates systemic racism in the UK and violates the provisions of Article 1 (1), ICERD in the “enjoyment or exercise (…) of human rights and fundamental freedoms”, (Smith and van den Anker: 2005, p.60).

Nationalist political parties such as the United Kingdom Independence Party (UKIP) have gained popularity in rural Counties with relatively low BME populations such as Wiltshire (Rae:2013, p.4). UKIP which is the official opposition in two English Counties, has grown in political strength from 40 to 240 local government councillors over the past year, and is represented in Europe by 10 MEPs. According to the anti-racist group Unite Against Fascism, a majority of UKIP voters believe immigrants are the main cause of crime in the UK, and that white Britons suffer unfair discrimination, (UCU: 2013). In this respect, Article 8 of the UDHR 1948 asserts the right to legal remedies when individuals have experienced human rights violations, however domestic legislation e.g. the Equality Act 2010 has not entailed a greater measure of protection to ethnic minorities. Recent changes in legal aid funding of discrimination in employment cases disproportionately affects “ethnic minorities who currently represent about one quarter (…) economically active population”, (ECRI: 2012, p.5). Nonetheless, the UK government continues to exercise limitations in respect of Article 14, ICERD which “recognizes the competence of the Committee to receive and consider (…) victims of a violation (…) in this Convention”; despite being recommended to do so (ECRI: 2010, p.12). With this in mind, there appears to be little commitment to “developing a national government strategy to improve race equality in the United Kingdom, despite the recent enactment of the Equalities Act 2010”, (Schmitz: 2012, p.6).

*Pedlars of Hate* also highlights the significant presence of individuals belonging to far right British nationalist organisations and political bodies such as the English Defence League, National Front and British National Party in public sector bodies, e.g. the armed forces and Police, (Fekete:2011, p.21). This provides opportunities for institutionalised racism and structural discrimination against ethnic minorities in recruitment and employment which violate the right to employment, Article 21(2) UDHR 1948. For example, in 2012 the UN International Year for People of African Descent, “Black communities experience considerably lower outcomes across the majority of equality indicators in comparison to the general population(…) and very high unemployment rates in comparison both to the white population and other ethnic groups”, (Schmitz: 2012, p.11). A recent survey by a leading race equality organisation highlighted, 60% of respondents belonging to an ethnic minority believed they would be racially discriminated against in seeking business, employment and educational opportunities (Runnymede: 2013). The survey also highlights over 40% of Black respondents believed they were discriminated against in employment; in comparison with 3% of white British respondents,(Runnymede: 2013). In this respect, Black Britons have been disproportionately affected by job losses to statutory bodies resulting from fiscal policy; partly because a large proportion of this ethnic minority are employed in the public sector (Schmitz: 2012, p.11). This illustrates the failure of the state party to progressively realise correlative state obligations to respect, protect and fulfil the universal human rights of people of African descent in the UK.

“High unemployment, low educational achievement, low rates of home ownership, poor health outcomes and over-representation in the criminal justice system are all factors which affect members of black communities in the UK”, (Schmitz: 2012, p.3). In this respect, my voluntary work with Wiltshire Racial Equality Council (Wiltshire REC) between 2010 and 2013 revealed to me the extent to which institutionalised racism and race hate crime is present in rural England. Black people in Wiltshire are often faced with similar issues of discrimination affecting larger communities elsewhere, although the African diaspora in the County represent less than 1% of its population (Rae:2013, p.4). Wiltshire REC plays a role in the emancipatory politics for universal human rights, by addressing the needs of BME individuals living in Wiltshire, including allegations of structural discrimination. For example 326 racist incidents in Wiltshire schools were recorded in 2009, a significant number of which were for derogatory name calling; this is particularly significant given the low numbers of students from ethnic minorities in the County. Black youth are disproportionately excluded from British schools which violates the right to education asserted in Article 2, Protocol 1, ECHR; “the rate of school exclusion of Black pupils (…) is still disproportionately high”, (CERD: 2011, p.6). With this in mind, Wiltshire REC responds to the needs of BME individuals in the County primarily through its Advice and Support services, e.g. through mediation where BME children have been excluded from Wiltshire schools. The writer represented the organisation as Chairman between 2012 and 2013, by participating in policymaking, outreach and campaign activities locally, nationally and at meeting of ENAR.

Article 3, ECHR 1950/53 asserts the right not to be treated in a degrading or inhumane way; however domestic legislation such as the Equality Act 2010 does not adequately protect immigrants to the UK from human rights abuses. In this respect, migrant communities in rural Counties sparsely populated by BME individuals, and urban conurbations with sizable migrant communities, have both been affected by the government’s apparent disregard for the needs of African diaspora communities. For example, the Plymouth Fairness Commission has identified a “distressing level of racism” in major survey of Plymouthians; and proposes to make recommendations for more statutory funding to tackle unfairness and injustice in the region, (I-Care: 2013). Fiscal austerity cuts e.g. for legal aid for discrimination cases in employment and housing, have left migrant communities more vulnerable to human rights abuse, despite recommendations that the UK take active steps to integrate non-citizens including those unable to work due to ill-health or family commitments, (ECRI: 2013, p.15). In addition, public sector funding cuts to race equality organisations has led to the closure of many, including the Swindon Race Equality Council, Somerset Race Equality Council, and most recently Equalities South West. Those which have survived such as Wiltshire Racial Equality Council, have done so mainly by relying on the work of volunteers. This inhibits both the quality and quantity of service provision; and has been further exacerbated by downsizing of the Equality and Human Rights Commission; and the closure of the Immigration Advisory Service. It is therefore the writer’s assertion that the UK’s government’s policy of fiscal austerity fails to promote and protect universal human rights, and breaches correlative state obligations to both citizens and non-citizens of African descent.

In addition, although Art. 8, ECHR asserts the “right to respect for private and family life, home and correspondence”, in its efforts to discourage foreign immigration, the UK government has implemented ‘restrictive amendments’ to immigration rules which affect adversely families on low incomes, Manning in (Student Law Review: 2013,p.44). The government therefore does not realise its state obligation to respect correlative human rights of African immigrants by deporting them after they have begun a family life in the UK, (Student Law Review: 2013,pp.47-49). Moreover, structural discrimination experienced by people of African descent in the UK also includes the failure of police to adequately address racially-motivated crimes, (Fekete: 2011, p.15). In this respect, the writer received inadequate support from statutory bodies following a premeditated physical assault against my person which I reported to the Metropolitan Police in August 2008. However I was subsequently being arrested, charged and convicted with false allegations of ‘reverse racism’ made by my White British assailant and his partner. This illustrates a breach of correlative state obligations to respect, protect and fulfil Article 14 ECHR which prohibits discrimination in the enjoyment of the rights contained in the ECHR. The writer therefore maintains that people of African descent are not treated equally, fairly or justly before the law in the UK because violations of Arts.7-10, UDHR 1948 occur in practice; therefore structural inequalities occur in the enforcement of the law.

The UK government’s decision not to enact the socioeconomic duty as a part of the Equality Act 2010, and the adverse effects of fiscal austerity on vulnerable people e.g. the elderly, people with disabilities and other marginalised communities contribute to growing socioeconomic inequality. The empirical evidence shows state obligations to reduce poverty and enable social inclusion of ethnic minorities are not realised, in line with headline targets for the Europe 2020 Strategy, (Kate: 2010). Furthermore, the empirical evidence also highlights significant shortcomings in the enforcement of international human rights law, despite recommendations from human rights bodies, e.g. ECRI “encourages the UK authorities (…) against racism and racial discrimination”, (ECRI: 2010, p.13). By refusing to sign or ratify Protocol 12, ECHR the state has derogated correlative state obligations to respect, protect and fulfil human rights of ethnic minorities, including Black youth and other vulnerable groups in the UK covered by this important ant-racism legal instrument. In addition, the UK government has not accepted Article 14 ICERD allowing submissions to the CERD on behalf of individual victims of racism in the UK, despite the apparent inadequacies of existing domestic legislation. The writer therefore argues that people of African descent in the UK remain vulnerable to structural discrimination in the enforcement and realisation of their universal human rights which is prohibited in theory, and inhibits race equality in practice.

5. THE ROLE OF STATE INTERESTS IN IMPLEMENTING UNIVERSAL HUMAN RIGHTS

The question I raise in this chapter is the role played by state interests in the failure of the UDHR’s mission to address the needs of the African diaspora. Afrophobia may be defined in terms of contemporary human rights theory as all forms of systemic racism which inhibit equality in human dignity and rights; i.e. the failure of governments to respect, fulfil and protect correlative state obligations which realise the universal human rights of Black people. Article 1, UDHR 1948 states, “all human beings are born free and equal in dignity and rights”, (Mahoney: 2007, p.145). Human dignity cannot flourish where governments do not realise correlative state obligations for fundamental needs, ethical claims or collective rights equally, e.g. EU migrant communities experienced violations of these human rights in 2013 the Year of the European Citizen. In this respect, human rights legal instruments such as the ECHR 1950/53 include anti-discrimination clauses which in theory should protect the human rights of individuals belonging to ethnic minorities. Other regional human rights treaties including the African Charter on Human and Peoples Rights and the American Convention on Human Rights also do so; but fundamental needs and civil liberties of Black people are disproportionately violated globally. For example, “millions of people of African descent still face severe injustice and discrimination in Europe as well as the United States”, according to ENAR Vice Chair Jallow Momodu in (ENAR: 2013). This clearly violates Article 2 UDHR 1948, which prohibits discrimination on the grounds of race, nationality or ethnicity. The empirical evidence therefore highlights people of African descent experience systemic racism in the realisation of their universal human rights despite the codification of anti-discrimination domestic legislation e.g. the Equality Act in the UK.

Prior to the Vienna Convention 1993, liberal western economies were more concerned with promoting civil and political rights; whereas socialist states prioritised group rights e.g. fundamental claims to education, food and shelter over the civil liberties of their citizens. However, the doctrine of the indivisibility of human rights which was adopted by the Vienna Conference 1993, promotes civil and political liberties equally with other categories of rights, such as group rights and collective rights. In this respect, the Vienna Declaration asserts governments have correlative state obligations to respect, fulfil and protect all universal human rights through their progressive realisation equally, generally and globally, (Nowak in Smith and van den Anker: 2005, p.179). For example, the right to self-determination refers: to ‘people’s right to exercise sovereignty over their own territory’, (Smith & van den Anker: 2005, p.317). This historically represented statements of autonomy by former colonies e.g. British Commonwealth countries, wishing to break from colonial political and economic manipulation. However, this universal human right has been used as an excuse by governments not to realise the state obligations of minorities such as LGBT Africans. In most African Union countries, people with same sex orientation are vulnerable to abuse, imprisonment and even death; individuals living with HIV/AIDS are particularly vulnerable as a result of associated stigma (UNFE: 2013).

The UN therefore plays an important role in monitoring racist and xenophobic attacks on ethnic minorities and other vulnerable communities, e.g. by monitoring EU member states and making recommendations where violations of UDHR 1948 and ICERD 1965 occur. In response to interview questions the writer posed to him, Mr William Ejalu, a representative of UNHCR agreed the human rights of people of African descent are inadequately addressed; and conflict exists between the rights claimed by individuals and institutionalised rights in some respects, Appendix 1. Notable causal factors of the conflict between institutionalised rights enforced by governments and human rights claimed by movements include political factors e.g. the shift from multiculturalism towards nationalism in EU states such as the UK. Conflict between institutionalised human rights i.e. legal rights, and moral rights i.e. ethical claims made for religious or humanitarian reasons made by marginalised minorities, is sometimes used to justify structural discrimination. In this respect, governments can derogate state obligations in the interest of national sovereignty; and impose reservations and limitations when ratifying international human rights treaties. For example, despite ratifying the ICERD, the UK government has not accepted Article 14 of the treaty allowing individual communications to be made to the UN. Moreover, the UK’s interpretive statement on Article 4 of the ICERD which prohibits racist propaganda and organizations; ‘aims to balance freedom of expression with prohibition of incitement (…) does not outlaw organizations that express views that may be regarded as racist, in practice’, (A/HRC/24/52/Add.1: 2013,pp.4&5). Legal rights can therefore be defined as those “ conceded and enforced by the law of the realm”; whereas moral rights are ethical claims which civil society strives to legislate, (Mahoney: 2007, p.72).This fuels systemic racism because ethical claims of ethnic minorities are not respected, fulfilled or protected. The writer therefore asserts the following causal factors illustrate theoretical, empirical and normative justification for my thesis, that structural discrimination hinders the accessibility of universal human rights to the African diaspora.

Historical Factors

Afrophobia is by no means a new phenomenon, as clearly illustrated by the reference to race equality and prohibition of racial discrimination stated in the UDHR 1948. Art. 4, UDHR 1948 prohibits slavery. This has been violated at alarming rates globally in recent years, with the growth of human trafficking and slavery related practices such as forced labour, debt bondage and sexual exploitation (Brysk: 2010, p.1). It is now estimated that more people are enslaved than ever before, including during the Transatlantic Slave Trade which saw millions of Africans forcibly transported from Africa to work as chattel labour in Europe and the Americas, e.g. Brazil. Notably, the Working Group of Experts on People of African descent has urged member states “to revise current curricula and teaching materials and develop ones which respect and recognize the history of people of African descent, including material on the transatlantic slave trade”, (A/HRC/24/52:2013,p.1).

The abolition of slavery by most European countries in the 19th Century was followed by European colonial rule in the Americas, Asia and Africa; subsequently former colonies gained independence. During the period of colonialism both my parents were privileged enough to exercise Art. 26, UDHR 1948, and study for their respective professions in the UK when their countries were still British colonies. Likewise, I have exercised my right to education as a European citizen, but remain conscious that slavery, colonial rule and neo-colonialism are still used to reinforce racist white supremacist ideology of the inferiority of other races. For example, ‘Afro-Brazilians who represent more than half of the Brazilian population, face hurdles in accessing state services e.g. education, the courts, health care, basic sanitation; in contrast with Brazil's rapid economic growth’, according to UN representatives (I-Care-2013). In this respect, the UN has urged member states “to promote and protect the culture, identity, tangible and intangible heritage of the continent of Africa and people of African descent in keeping with the Durban Declaration and Programme of Action”,(A/HRC/24/52:2013,p.1). With this in mind, the historical development of the Pan African movement, and the contribution made by its leaders including Marcus Garvey in the early part of the 20th century are commendable. Through his leadership of a global movement of the African diaspora, Garvey inspired: activism in Africa, Europe and the Americas; Pan African awareness; and human dignity at a time when legislation provided little protection for the rights of Black people. Garvey’s legacy through the reparative work of Pan African grass roots organisations is exemplary e.g. through self-empowerment of Black people which contributed to the fall of South Africa’s apartheid regime in the 1990s.

The UN Working Group of Experts on People of African descent has highlighted “people of African descent were historically marginalized (…) and would seek to address racism, xenophobia and racial intolerance in its deliberations”, (A/HRC/24/52:2013, p.4). The writer’s past involvement in the Pan African and anti-apartheid movements, increased my awareness of systemic racism experienced by the African diaspora in western democracies and their former colonies. This also motivated my activism subsequently as a trade union representative and work with marginalised communities in London, Wiltshire and Bristol, e.g. as a member of the Central Executive Committee of the Nigerian National Union (NNU) UK & Eire, at the turn of the century. Importantly, in its concluding observations to the UK government, the CERD stated ‘groups vulnerable to racial discrimination should be involved in the design, implementation and monitoring of procedures to address racial discrimination at the local level’, (CERD: 2011, p.3). It therefore remains imperative that grass roots organisations such as Pan African groups, as well as international civil society continue reparative work promoting race equality, e.g. by ensuring human rights are enforced equally, generally and universally.

Psychological Factors

The UN Working Group of Experts on People of African descent has stated racism is “not about objective characteristics, but about relationships of domination and subordination, which created stigmatization and violence, and perpetuating (…) inequalities and exploitation”, Fanon Mendes-France in (A/HRC/24/52:2013, p.4). For example, structural discrimination was used to psychologically degrade Africans during the era of European colonialism. In this respect, the ideology of racist white supremacy is psychologically oppressive and destructive, in stereotyping black people as being subordinate to whites. The notable Pan African civil rights activist Frantz Fanon explored the psychology of ‘black consciousness’ through self-affirmation, (Macey: 2000). His contribution to the ideology of Pan Africanism; and inspired independence movements in francophone colonies, as well as the language of the Black Consciousness movement. Structural discrimination in neoliberal western states fails to realise correlative obligations for universal human rights of people of African descent in employment, immigration, access to justice and fundamental needs, e.g. education, food and shelter. For example, the decline in affordable housing in both the USA and the UK is alleged to contribute to a rise in homeless Black people on low incomes or welfare which adversely affects psychological health and wellbeing. In this respect, the empirical evidence highlighted by the IRR’s report also indicates systemic racism contributes to disproportionate numbers of Black people living in socioeconomically marginalised communities. This illustrates the failure of western governments to realise the right to living standards adequate for health and wellbeing, i.e. Art.25, UDHR 1948. Fanon’s contribution to the civil rights movement therefore continues to be celebrated through the reparative work done by Pan African activists with modern day victims of racism.

The writer’s work with clients of Wiltshire Racial Equality Council identified examples of structural discrimination by British statutory bodies in service provision, which have been alluded to in reports made by ECRI, the CERD and the UN Working Group of Experts on People of African descent. For example, psychological factors e.g. distrust and stereotyping alluded to in Fanon’s work, contribute to disproportionate numbers of Black people being stopped and searched, as criminal suspects by the Police in the UK and USA. Black people in the UK are eight times more likely to be stopped and searched by the Police than white people, according to the Runnymede Trust. In its Concluding Observations to the UK the CERD recommended a ‘review of the impact of stop and search powers on ethnic minority groups under various pieces of domestic legislation’, (CERD: 2013, p.4). Significantly, the IRR report also highlights the significant role played by “euro fascists” and nationalist street movements, such as the EDL in the Police and armed forces of EU states. Moreover, new forms of psychological abuse include the internet as a medium for online death threats and persecution of ethnic minorities. For example, an online group of the English Defence league was alleged to have had 842 members in the British armed forces in 2010; leading to a Ministry of Defence investigation this violation of Article 23, UDHR 1948 (Fekete: 2011, p.21). With this in mind, a recent survey by the European Union Agency for Fundamental Rights highlighted 55% of respondents from ethnic and migrant communities in the EU did not report racist abuses to the police because of lack of trust, (I-Care: 2013). Understandably, ‘differential treatment and bias’ by the Police in their treatment of individuals belonging to migrant communities, has contributed to only marginal increases in the recruitment of Black Britons in the UK’s security forces. Moreover, the Metropolitan Police have acknowledged that it needs to be do more to build trust with Black British communities, Sir Bernard Hogan-Howe in (Press TV: 2014).

Political Factors

Political factors are highlighted in the IRR report as playing a significant role in structural discrimination experienced by individuals belonging to the African diaspora living in European countries. This includes breaches of civil and political rights enshrined in the UDHR 1948 and ICCPR 1966, such as Art.2, UDHR 1948 which prohibits racial discrimination. For example, the IRR’s report links the growing presence of populist political parties in local government, national parliament and in the European Parliament to increased hate speech and other forms of abuse by EU citizens,(Fekete: 2011). In this respect, the empirical evidence shows the growth of British nationalism has been accompanied by provocative anti-immigration political campaigning by mainstream political parties, (UCU: 2013). This contributes to Black Britons remaining under-represented as political candidates and active participants in the British electoral process, (A/HRC/24/52/Add.1: 2013,p.14). Despite this the UK government argues “it is a mistake to see inequalities only in terms of race (…) a deliberate shift (…) towards increasing the impact of mainstream policies and programmes for disadvantaged communities, in disadvantaged areas”,(A/HRC/24/52/Add.3:2013,p.4). Moreover, in its response the state party also asserted the Working Group work on Afrophobia is of little relevance to the challenges it faces.

Much of the reparative work done to protect the human rights of Black Europeans, e.g. anti-discrimination legislation, is therefore threatened by the increasing influence of populist political parties in western European countries including the UK, (Fekete: 2011, p.11). Neo-colonialism creates structural barriers which make universal human rights less accessible to the African diaspora e.g. by politically inhibiting Black peoples’ right to development. As a graduate student in London, I attended Pan African events addressed by Rev. Al Sharpton and Rev. Jesse Jackson, which further inspired my interest in the American civil rights movement. Much progress has been made since the 1960s in promoting and protecting civil and political rights of African Americans, which led to the election of the first African American President of the USA in 2008. In this respect, structural inequalities between blacks and whites in the USA are addressed by the continued work of civil rights organisations. This also assists in the progressive realisation of correlative state obligations to respect, protect and fulfil economic rights, e.g. Article 25 UDHR 1948. For example, Rainbow Push which is led by Reverend Jackson, trains African Americans about the benefits of the Affordable Health Care Act in realising the right to health for the socioeconomically marginalised. With this in mind, the writer endorses “calls for a Joint US-European Plan to develop transatlantic solutions to combat racial discrimination and promote racial equality in Europe”, including collaborative partnerships which promote social inclusion of Black Europeans (ENAR: 2013).

Economic Factors

Violations of the right to development, economically disempowers Black people when governments fail to progressively realise universal human rights equally, generally and globally. With this in mind, the leading economist and Nobel Laureate Amartya Sen asserted development should improve individuals’ lives and generate greater freedoms universally, i.e. ‘civil rights and political freedoms’ equally to securing economic needs in adopting a human rights based approach to development, (Sen: 1999, pp.14-16). However, neoliberalism has contributed to making universal human rights less accessible to the African diaspora, e.g. through capitalistic overexploitation of Africa’s capital, labour, land and entrepreneurial skills. Notably, the CERD has recommended that the UK government “take appropriate legislative and administrative measures to ensure that acts of transnational corporations (…) comply with the provisions of the Convention 2, (CERD: 2011, p.7). In this respect, the SERAC case illustrates breaches of correlative statutory obligations to respect, fulfil and protect Nigerian citizens’ human rights, as a result of environmental pollution of the Niger Delta by transnational oil companies, (ACHPR: 2001).The African Commission held that the Nigerian government failed to realise correlative state obligations for Nigerians’ rights to an adequate standard of living including health, food and shelter, as stated in Art.25, UDHR 1948. The legal precedent highlighted by the Commission’s communication in this landmark case is that corresponding human rights e.g. Article 16 of the African Charter, the right to the best attainable mental and physical health had been violated, (ACHPR: 2001).

Developed western nations as well as emerging economies rely on immigrant labour, which contributes to human trafficking and exploitation of economic migrants who risk their lives seeking a better life outside of the African continent (Widdows: 2011, p. 126). Despite there being less justification for distinctions between citizens and non-citizens in the contemporary globalized world’, (Cole 2013); African immigrants have become the victims of populism and fiscal austerity. This leads to breaches of correlative state obligations to protect the universal human rights of vulnerable immigrants in western democracies, e.g. by fulfilling fundamental needs such as food, shelter and healthcare, as highlighted by Lampedusa. In this respect, (Cole: 2013) argues “the challenge of immigration controls is not what goes on outside the border, but justification of the border; where non-citizens contribute more to the national cake than citizens, immigration controls are less justified in a global economy”. However, ‘ethnicity is used as a means of exclusion, domination and control by certain groups within a state’, (A/HRC/24/52:2013, p.4); e.g. economic factors play a role in the socioeconomic exclusion of immigrants despite the provisions of Articles 13 & 14 UDHR 1948. The rise in anti-immigrant sentiment in the EU has fortified structural barriers in enforcing correlative statutory obligations to protect economic rights of vulnerable African immigrants, e.g. to health, adequate food and shelter, asserted in the ECHR and other legal instruments.

For example, in some EU states immigrant detention centres, e.g. "conditions are so bad that they fail to respect the immigrants' basic human rights"; and led to nine North African immigrants stitching their lips together in protest against their inhumane treatment at Lampedusa, (I-care:2013). In the UK, fiscal austerity measures forced the closure of the Immigration Advisory Service, despite the UN stating, “notwithstanding the economic downturn (...) do not exacerbate the problem of racial discrimination and inequality”, (CERD: 2011, p.3). Moreover, domestic legislation such as the Equality Act 2010 fails to adequately protect vulnerable African immigrants; thereby violating the ethical moral principle of equality elucidated by the doctrine of indivisibility, (Cole: 2013). Notably the UK government has raised the minimum income threshold for immigrants, as a part of its amendments to family immigration, rules despite this being contrary to the progressive realisation of correlative state obligations to respect, protect and fulfil the right to immigration, Article 8 ECHR, (Student Law Review: 2013, p.49). Recent media reports state that the UK government proposes immigrants should pay for health care costs; to reduce the deficit resulting from increased demand. This potentially excludes vulnerable individuals from adequate healthcare.

Social Factors

Article 18 UDHR 1948 as well as Art. 9, ECHR 1950/53 asserts the right to freedom of religion, (van den Anker: 2005, p.113); however religious persecution of European religious minorities including Moslems of African descent is cause for concern. In this respect, social factors inhibit the progressive realisation of the doctrine of indivisibility for people of African descent, e.g. structural discrimination of religious minorities in allowing them to realise their universal human rights. Importantly, the rise of nationalist fervour in Europe and the USA as a result of the ‘war on terror’, has fuelled religious persecution and discrimination, (Fekete: 2011, p.4). This has also strengthened structural discrimination by western governments in progressively realising correlative obligations to other rights e.g. immigration, as a result of negative stereotyping and distrust. Notably, the frequency of racist violence by fascists through cruel and criminal attacks against migrant communities living in poor neighbourhoods of Athens prompted the UNHCR and Human Rights Watch to protest to the Greek government for not fulfilling its state obligations, (Fekete: 2005, p.11). The CERD has also expressed concern at the UK government’s ‘policy responses to anti-austerity riots including reported plans (…) to evict families of those involved in the riots from social housing, (CERD: 2011, p.2).

African immigrants also experience systemic racism in Saudi Arabia and Israel it is alleged universal human rights are being violated. For example, the Israeli government has enacted legislation allowing non documented African immigrants in Israel to be arrested and detained for a year without charge(Al Jazeera: 2013). This has led to large scale demonstrations by African immigrant, as well as the intervention of the UN and members of civil society to protect their universal human rights. Moreover, structural discrimination as a result of social factors also contributes to human rights violations by African states, such as allegations of growing persecution of Christian minorities in some Islamic states (I-Care:2013). Furthermore, human rights organisations including Human Rights Watch and Amnesty International have expressed alarm at human rights violations committed by both sides, in the armed conflict between the Nigerian military and the extremist Islamic militant group, Boko Haram, (I-care: 2013). In this respect, members of international civil society have alleged disproportionate judicial killings, detention of suspects and the burning of civilian homes by the military, in retaliation by attacks made by the militant group in some northern states of Nigeria. These breaches of correlative state obligations to respect, fulfil and protect universal human rights, are further empirical evidence of structural discrimination e.g. as a result of religious intolerance, experienced by Africans living in AU states during armed conflicts.

Cultural Factors

Art. 27, UDHR 1948 asserts the right to practice cultural traditions; this is sometimes cited as an excuse by populist governments to avoid correlative state obligations in realising universal human rights of ethnic minorities. For example, recent posts on the traditional Dutch characters of “Sinterklaas” and “Zwarte Piet” in the anti-racist I-Care online newsfeed highlight the sensitivity of cultural factors as structural barriers in the respect of universal human rights, (I-care: 2013). Controversially, Sinterklaas and Zwarte Piet are reputed to be traditional Dutch characterisations of Santa Claus and his ‘black helper’. Opponents of the tradition contend it harps back to the days of slavery, and therefore the observance of the tradition by Dutch statutory bodies breaches correlative obligations to realise the human rights of Black Europeans. Notably, in an online article by Dutch News.NL , Verena Shepherd, the Head of the UN’s Human Rights Committee alludes to Zwarte Piet as a ‘throwback to slavery’ to which she objects,(I-Care:2013). Offensive representations of Black people being stereotyped as subservient, lazy and stupid are violations of Article 1 UDHR 1948 which states that “all human beings (…) are equal in dignity and rights”. Nonetheless, members of the African diaspora are sometimes faced with caricatures which traditionally have been used to (mis)represent them in European culture, e.g. golliwogs are still sold in some shops in the UK.

Some African cultural traditions including slavery related practices and female genital mutilation also create structural barriers in enforcing human rights equally, generally and universally throughout the African diaspora despite state obligations to protect. For example, despite the prohibition on slavery and slavery related practices clearly stated in the UDHR, 1948, there are approximately 30 million enslaved individuals globally today (FTS:2013). Ironically, Haiti which was the first country to liberate itself from European slavery and imperialism in the Caribbean following a rebellion led by former enslaved Africans; has the second highest number of enslaved people in the world today, (FTS:2013). The writer also asserts it is disputable whether inequalities experienced by Black people in western democracies of the EU and USA are not also representative of slavery related practices, e.g. the use of convicted felons as a source of profit for privately owned and managed prisons. I have also participated in the preservation of cultural traditions as a member of the Nigerian National Union, as a form of reparative work with members of the Nigerian diaspora in the UK. For example, in 2001 traditional rulers were hosted by diaspora communities in London, at events which were held to promote and protect Nigerian cultural traditions through music, attire, food, etc.

Institutional Factors

“Multicultural and anti-racist teacher training and inclusive classroom pedagogy with culturally relevant curricula, ” is recommended in order to address low levels of academic attainment amongst Black pupils one of the markers of the lack of “multicultural success”, (A/HRC/24/52:2013, p.7). The empirical evidence highlighted in the case study of systemic racism in the UK indicates Black Britons are vulnerable to institutionalised racism in the enjoyment of their human rights, e.g. to education, employment, housing and access to legal remedies. Despite concerns raised by the CERD and ECRI in their recommendations to the UK, systemic racism inhibits the achievement of Black youth in fulfilling their right to education, as a result of being excluded and bullied in educational institutions(A/HRC/24/52/Add.1: 2013). Afro-Caribbean pupils are three times more likely to be permanently excluded than the general school population; and Black university students are much less likely to attend a prestigious university than their white counterparts,(Schmitz:2011,p.11). Despite recommendations made by human rights bodies to the UK government, Black youth remain disproportionately excluded from British schools,(CERD: 2011,p.6).

In addition, the UK government’s“ mainstreaming approach to equality means that, while there are training programmes and initiatives to enable people to access employment, there are no specific programmes for people of African descent”,(A/HRC/24/52/Add.1: 2013, p.8). This further contributes to cross generational socioeconomic exclusion of Black people such as disproportionately higher levels of unemployment amongst Black youth; and Black people are underrepresented in senior management roles. For example, the empirical evidence highlighted by the Runnymede Trust and the Institute for Race Relations shows Britons, do not have free choice of employment because of institutionalised racism which violates Article 23(1) UDHR 1948. Similarly in 2013, the USA unemployment rate was 7.4%, in comparison with 12.6% for African Americans, (Black Blue.Dog.com: 2013). These differentials in employment e.g. high unemployment rates, occupational segregation, low pay, and discrimination in recruitment and selection are ‘manifestations’ of systemic racism and structural discrimination, (Schmitz:2011, p.16). In its concluding observations to the government of the UK, the CERD recommended “the State party prepare a detailed delivery plan of how it will further narrow the ethnic minority employment gap in all areas and at all levels of employment”, (CERD: 2011, p.6).

Article 7, UDHR 1948 asserts equality before the law. However, Black people are more vulnerable to structural discrimination by law enforcement agencies; “when whites victimize Black people, our law enforcement agencies do not move as expeditiously or as vigorously as they do when White citizens are victimized by Blacks”, (Black Blue Dog: 2013). For this reason, Black Britons are disproportionately imprisoned in the UK; we are ‘over-represented in every stage of the criminal justice system in the UK’, and on average are five times more likely to be imprisoned than whites (Schmitz: 2011, p.12). Moreover, “while in 2010 Black and minority ethnic (BME) prisoners represented 20 per cent of British nationals in prison in England and Wales, they made up 63 per cent of foreign nationals in the prison population”, (A/HRC/24/52/Add.1: 2013, p.13). My experiences of institutionalised racism after reporting hate crimes include verbal, psychological and physical abuse in the UK; and being criminalised and made homeless, based on allegations of reverse racism made by racist white Britons. Furthermore, it is the writer’s personal experience, where statutory bodies fail to respect, protect and fulfil universal human rights, as asserted in Article 8, UDHR 1948; Article 14, ECHR does not adequately empower people Black Europeans to realise effective legal remedies. Similarly, in the USA, “a black male born in 2001 has a 32% chance of spending some portion of his life in prison. A white male born the same year has just a 6% chance”, (Black Blue Dog.com: 15/07/13). Black people are also subjected to further human rights violations as a result, such as African American prisoners being used, “to make money for corporations fuelling the system of neo-slavery that defines our prison system,” (Black Blue Dog: 29/07/13). This violates universal human rights prohibiting slavery and slavery related practices. These examples of structural inequalities are empirical evidence of institutionalised racism and the failure of governments to realise state obligations which occurs in developed as well as emerging economies such as Brazil.

Legal Factors

My experiences of discrimination and abuse are empirical evidence that the provisions of Art. 7, UDHR 1948, are not guaranteed even in western nations such the UK and USA. In 2007, the Yogyakarta Principles on the Application of International Human Rights Law affirmed the enjoyment of universal human rights for all people regardless of sexual orientation, (Widdows: 2011, p.146). Nonetheless, homophobic discrimination and physical violence against LGBT individuals, including violations of Article 12, UDHR 1948 which asserts the right to privacy, still occur even in developed nations where milestones in LGBT rights have since been achieved. This highlights structural inequalities in the progressive realisation of the Vienna Declaration by member states of the United Nations, because LGBTI individuals do not have equal, general and global access to universal human rights. For example, Article 5, UDHR 1948 states ‘no one shall be subjected to torture (…) or punishment’; however, LGBT members of the African diaspora can be killed according to the sharia laws in some Islamic states. Efforts made by the UN to protect the rights of LGBT individuals globally, have been rejected by most AU nations, and same sex orientation can lead to the death sentence in Mauritania, Nigeria and Sudan (I-care:2013).

Article 3 of the African Charter stipulates “everyone shall be equal before the law”; however, “internationally protected rights such as those to privacy, non-discrimination, and expression”, are not realised for LGBT minorities in many AU states by the enforcement of the AU Charter (Murray: 2007). In this respect, this illustrates the distinction between legal rights enforced by law, and moral rights which have no legal obligations. Despite efforts to promote and protect the rights of LGBT Africans; Art.3, UDHR 1948, the right to live in freedom and safety, remains only a moral right for LGBT individuals in AU countries where they are vulnerable to imprisonment and persecution. “This is the reality of what it means to be gay in Ethiopia (…) they could be expelled, beaten up, fired, disowned, or jailed”; sexual activity between LGBT individuals constitutes a criminal offence in 38 AU nations including Nigeria and Ethiopia, (I-Care: 2013). Theoretically, equality therefore does not exist between LGBT individuals living in those parts of the World where consensual same sex relations between adults remains a criminal offence, and those in countries where it is not. However, LGBT minorities remain vulnerable to abuse and structural discrimination e.g. in employment, even in countries which have decriminalised homosexuality such as South Africa, the UK and the USA,.

In this respect, human rights violations including arbitrary attacks on the honour and dignity of LGBT individuals are further exacerbated by the lack of legal remedies to even the most violent assaults, as a result of the failure of governments to realise state obligations. The UNHCR categorically states, “laws criminalizing homosexuality violate rights to privacy and non-discrimination in breach of States” legal obligations under the ICCPR, as illustrated in Toonen vs. Australia, (UNFE: 2013). However, the BBC aired a programme on November 8, 2013 highlighting Jamaica’s homophobic “Buggery Laws” which explicitly criminalises same sex relations, and date back to 1864 when that country was still a British colony (BBC:2013). The programme aired arguments made by activists that: the law should be limited so that consenting adults cannot be prosecuted; and religious intolerance is a major obstacle to the inclusion of LGBT individuals in Jamaican society. Xenophobic intolerance towards LGBT minorities also occurs in other parts of the World, including Islamic states and countries of the former Soviet Republic. Moreover, “the U.S., U.K. and other governments give huge amounts of aid to Ethiopia while remaining tight-lipped about the extensive violations of human rights happening throughout the country,” Amnesty International in (I-Care: 2013).

1. THE REALISATION OF UNIVERSAL HUMAN RIGHTS IN PRACTICE

The UN Secretary General has asserted that the Post 2015 Development Agenda “needs to be rights-based, with particular emphasis on (...) marginalised groups. And it must eradicate poverty, address inequality (…) what sustainable development is about”, Ban Ki Moon in (Media Network Blog: 2013). The writer interviewed representatives of the UNHCR, British civil society, statutory bodies and the private sector on the subject of “Human Rights In Practice”, who expressed a shared vision that human rights directly or indirectly remained vital to their work with ethnic minorities, App.1-8. The majority of respondents asserted that the existence of persistent inequalities in the realisation of human rights by ethnic minorities, justified the enforcement of domestic legislation e.g. the UK Human Rights Act 1998 and Equality Act 2010. However, Migrant Rights Centre Bristol (MRCB) highlighted areas where structural discrimination adversely affects immigrants in access to legal remedies. In this respect the writer has participated in one of MRCBs successful campaigns to prevent asylum seekers from being deported from the UK, and has also made successful referrals regarding Article 8, ECHR which reflects the importance of reparative work done by civil society. Individuals belonging to ethnic minorities in the UK are also adversely affected by changes in the funding of legal aid for discrimination cases. With this in mind, although areas exist where identifiable conflict between institutionalised rights and rights claimed by movements exists, most respondents agreed there is room for collaboration and debate. Statutory bodies such as UWE and WFRS have also highlighted the importance of collaborations for the promotion and protection of universal human rights in the UK. For example, in 2011 I participated in the Launch of Bristol as a City of Sanctuary; an example of the public, private and voluntary sector forming partnerships to assist vulnerable groups, e.g. immigrants realise their universal human rights. Collaborative work between members of civil society and statutory bodies in Wiltshire is proposed to keep human rights on the local agenda through the adoption of a Public Sector Equality and Human Rights Charter for the County. With this in mind, the following critical analysis of human rights in practice relies on qualitative data gathered from blogs, interviews, academic seminars and Conferences; and addresses concerns of the African diaspora in relation to MDGs and the UN Post 2015 Development Agenda.

In 2000, member states of the United Nations declared their commitment to the achievement of eight Millennium Development Goals (MDGs) by the year 2015, including poverty alleviation, education for all children, protection of the environment, and the establishment of a global partnership for development.‘94% of Africans live in a country that has experienced overall governance improvement since 2000’, (IIAG: 14/10/13). Moreover, MDG targets for halting the spread of global pandemics and the empowerment of women have been marginally achieved, despite a significant continental decline for AU states recorded in the sub-category of human rights, (IIAG: 14/10/13). However, systemic racism in the form of Afrophobia significantly contributes to disproportionate levels of poverty affecting the African diaspora globally, as a result of neoliberal capitalistic exploitation of African capital, land and labour. Notably, the African Commission cited violations of the ICERD 1965 in its communication to the Nigerian government regarding environmental pollution in the SERAC case; this has set a legal precedent for accountability of governments, and monitoring of the activities of transnational corporations, (ACHPR: 2001). Although Millennium Development Goals are not human rights but achievable targets, they should encompass fundamental liberties and human needs as well as collective rights such as the right to development, in keeping with the Vienna Declaration. The UN Working Group of Experts on People of African Descent have therefore highlighted the importance of making the MDGs and the post-2015 agenda more inclusive of people of African descent, (A/HRC/24/52: 2013).

Notably, a resolution calling for recognition of people of African descent including Black Europeans was submitted to the 113th Congress of the US House of Representatives in November 2013, stating; “the persistence of racism and discrimination in Europe (…) necessitates congressional action to raise awareness and promote public and private sector initiatives to stem this trend”, Hastings (2013).With this in mind, ENAR has initiated a transatlantic alliance with US civil rights organisations, academia and the government of the USA to “access resources and advance progressive initiatives in combatting Afrophobia in Europe”, (ENAR:2013). Generally, systemic racism and structural discrimination excludes Black people in European society; and fails to realise correlative state obligations, which contributes to cross generational socioeconomic marginalisation. For this reason, the EU has reiterated to the Working Group of Experts on People of African Descent of the UN, that the ICERD remains “the fundamental legal basis of the international community to fight discrimination”, (Shepherd: 2013, p.11). In this respect, British activists discontented with the adverse effects of the neoliberal agenda argue that the equalities discourse has moved from race to community cohesion and diversity management in the workplace, which creates social conflict to the detriment of ethnic minorities, (UCU: 2013). It is therefore imperative that the UN Post 2015 Development Agenda addresses causal factors of structural discrimination to achieve realistic targets in poverty alleviation and sustainable development of the African diaspora.

1. FIVE TRANSFORMATIVE SHIFTS REQUIRED OF THE POST 2015 DEVELOPMENT AGENDA

* “Leave no one behind – regardless of ethnicity, gender, geography, disability, race or other status”, should be denied universal human rights and basic economic opportunities (High Level Panel: 2013, p.29).

In this respect, Goal 1 of the Millennium Development Goals proposes the eradication of global poverty; however structural discrimination contributes significantly to socioeconomic marginalisation of people of African descent in both the developed world and developing countries. Notably fiscal policy in neoliberal western economies including the UK and USA contributes to abuses of the universal human rights of immigrants from African countries. For example, African immigrants are often forced to live in inhumane conditions as highlighted by the IRR’s report; “poorer communities are the most vulnerable in access to housing and other public services”, (UCU: 2013). With this in mind, the UK government has been advised “bearing in mind the indivisibility of all human rights (…) consider ratifying (…) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)”, (CERD: 2011, p.8). However, more extreme measures have been taken recently by the UK government to cap immigration numbers, e.g. the use of electronic fingerprinting of foreign students of African descent, (UCU: 2013). Similarly, despite the Obama Administration funding global initiatives combatting human trafficking, empowering women and girls, and decriminalising LGBT people (Office of the Press Secretary: 2013); asylum seekers in the USA are restricted from seeking employment or claiming any welfare benefits, which can force them to beg in order to pay for food and shelter, (Human Rights Watch: 2013).

Resolution 18/21 of the Human Rights Council therefore expresses concern, “legislation and measures adopted by some States may restrict the human rights and fundamental freedoms of migrants (...) States have the duty to comply with their obligations (…)ensure full respect for the human rights of migrants, (Isakova: 2011).With this in mind, the role of the United Nations High Commissioner for Refugees has been pivotal in highlighting unacceptable living conditions in migrant detention centres such as Lampedusa. "The constant overcrowding is unsustainable and creates a situation in which treatment is provided that is below the minimum standards, despite the best efforts of humanitarian workers," UNHCR in (I-care:2013). In this respect the work of non-governmental organisations such as MRCB realises the universal human rights of immigrants in the UK where statutory obligations are not being adequately addressed, see Appendix 4. MRCB asserts conflict exists between specific statutory obligations such as the correlative rights to a family life and the right to legal representation; and domestic legislation and regulations, e.g. Equality Act 2010 which does not adequately address the rights of the immigrants in the UK. The writer has made successful referrals to MRCB, where correlative state obligations to respect, fulfil and protect correlative universal human rights such as the right to a family life are not realised for immigrant families. The work of MRCB, e.g. in campaigning for non-discriminatory practices in the provision and better access to healthcare also illustrates the importance of civil society in achieving this fundamental transformative shift at the local level. This illustrates conflict where fiscal policy fails to realise state obligations e.g. to provide immigrants with access to healthcare.

Notably, the European Parliament has “expressed concern at increasing state violence against LGBTI persons in several sub-Saharan countries (…) condemning “the adoption of ever more repressive laws” e.g. Nigeria and Uganda, (Intergroup on LGBT Rights: 2013). LGBT Africans continue to be marginalised globally despite recent scientific advances made in the treatment and spread of HIV/AIDS, in accordance with Goal 6 of the MDGs. For example, access to healthcare is inhibited for LGBT Africans who cannot disclose same sex orientation for fear of imprisonment or violence in AU countries, including South Africa which remain amongst those with the highest incidence of HIV/AIDS globally. “The struggle for equity in HIV services is likely to be inseparably linked to (…) in many countries, a civil rights one”, Tutu in (Black Blue Dog: 27/07/12); as argued in the Toonen case "by driving underground many of these people at risk of infection", (Murray: 2007). Notably, the EU advocates for the rights of LGBT minorities in former colonies such as the British Commonwealth; consensual same sex relations remain a criminal offence in forty Commonwealth countries globally. “Criminalization of consensual same-sex conduct violates rights to privacy and to freedom from discrimination (…) and places States in material breach of their obligation to protect the human rights of all people, regardless of sexual orientation or gender identity”, (UNFE:2013). However, efforts made by the UN, EU and civil society have received adverse reaction from AU governments. Citing the right to self-determination and religious beliefs, Gambia withdrew its membership of the Commonwealth in 2013, and Uganda has since enforced more repressive domestic legislation. In response to allegations of the poor human rights record of some of its members, the Commonwealth has stated, “despite the evident necessity for a Commonwealth Commissioner for Human Rights (…) focus on development rather than human rights”, (CHRI:2013, p.2). This reflects challenges faced in the attainment of this transformative shift, for the realisation of universal human rights equally, generally and globally, including vulnerable groups such as immigrants, the disabled and LGBT Africans.

* “Put sustainable development at the core- with developed countries in the lead. We must act now to slow the alarming pace of climate change and environmental degradation, which pose unprecedented threats to humanity.” (High Level Panel: 2013, p.29 ).

Socioeconomic marginalisation, exploitation and exclusion of Black people in the EU and USA, as a result of systemic racism illustrates poor leadership in promoting sustainable development i.e. a rights based approach to development. Notably, the USA did not vote for Res. 18/6 which requests, “human rights treaty bodies, the OHCHR (…) pay due attention, within their respective mandates, to the present resolution and to make contributions to its implementation”, (Isakova: 2011). In this respect, Goal 3 of the MDGs sets targets for gender equality e.g. in education, employment and political participation of women; developed countries have failed to take the lead in this perquisite for sustainable development. Despite, the most improved indicators of African governance including Women in Parliament, (IIAG: 14/10/13); women do not have equality with men in employment and political participation globally. For example, in the UK, minority ethnic women are under-represented in Parliament and local government; less than 1% of the 20,000 local councillors in England are minority ethnic women, who constitute more than 5% of the general population, (Schmitz: 2012). Moreover, in the USA gender inequality contributes to poverty in African American households headed by single women; African American women also earn less on average than white women, Garrett Stodghill in (the Grio: 2013). This leads to cross generational socioeconomic marginalisation of Black families and social conflict in poorer communities. With this in mind the HRC recommends, “ proactive measures to eliminate all barriers in law and in practice that hinder women, minorities, and persons in vulnerable situations, from fully and effectively participating in political and public affairs; and promote political participation of these groups, (A/HRC/24/L.18:2013).

Resolution 18/11, HRC ‘requests the development by a Special Rapporteur in consultation with relevant stakeholders (...) a set of best practices with regard to (…) disposal of hazardous substances and wastes’, (Isakova; 2011). For example, Goal 7 of the MDGs sets targets for improving the lives of slum dwellers and halving the numbers of people affected by poor access to drinking water and sanitation. In this respect, the progress made by civil society in highlighting environmental exploitation, e.g. in the Niger Delta supports the assertion that “sustainable development” must be adopted by emerging economies and developing nations. However, it is imperative that developed countries including the USA play a more active role in the reduction of carbon emissions and other hazardous wastes which contribute to global climate change and other forms of environmental degradation. In addition, developed nations should be held to account for dumping hazardous waste in areas populated by people of African descent; and environmental degradation of populated areas must be addressed, for the achievement of Goal 7. Structural discrimination therefore hinders the attainment: of MDGs, such as gender equality and sustainable development. The transformative shift sought by the Post 2015 Agenda should therefore include “an equivalent to the neoliberal narrative”, which fulfils and protects the human rights of Black people, (UCU, 2013). In this respect, it is imperative that the monitoring of human rights violations and the progressive realisation of state obligations is used to enhance cooperation and motivate progress for the attainment of sustainable patterns of consumption and production.

* “Transform economies for jobs and inclusive growth - A profound economic transformation can end extreme poverty and promote sustainable development (…) especially for young people, and foster respect for the environment”, (High Level Panel: 2013, p.29).

The challenge of meeting this target is illustrated by organisational change and conflict in public sector organisations which adversely affects the African diaspora, e.g. educational institutions. In this respect, the writer agrees that the role played by academia should be paramount in promoting sustainable development and social inclusion of people of African descent, e.g. by ‘creating awareness of the rights and responsibilities of individuals’, see Appendix 5. For example, Article 23 of the UDHR 1948 asserts the right of individuals to join trade unions; however British trade unions have declined in membership and political power with the growth of neoliberalism over the last thirty years, which has contributed to socioeconomic inequality in the UK, UCU: 2013). The writer first became involved in the British trade union movement, as a branch and national union representative of the National Association of Local Government Officers between 1989 and 1990. As part of this research, I attended the Equalities Conference of the University and Colleges Union held on November 15, 2013 in London as an observer from the University of the West of England. Importantly, the Black Members Conference highlighted concerns that increasing casualization in the employment of Black staff across the public sector as a result of the government’s neoliberal political agenda, was leading to less job security.

The commercialization of public services, contributes to socioeconomic marginalization and exploitation of Black people in the workplace, e.g. in education (UCU: 2013). Andrew Maclean of UWE stated in interview, ‘performance indicators and activities used to retain BME staff and students in accordance with existing domestic human rights legislation are not always sufficient to address the needs of marginalised individuals’, Appendix 4. In addition, statutory cuts to legal aid inhibits accessibility to legal remedies where the human rights of individuals from migrant communities have been violated e.g. anti-discrimination employment cases in the UK have an extremely low (3%) success rate (UCU, 2013). Moreover, as highlighted earlier, Black students in both the USA and the UK are disproportionately expelled and suspended from academic institutions in comparison with their white counterparts, which further contributes to cross-generational destitution. Existing “inequalities mean we must have a debate about where education is going”; to widen the debate about the future in order to include institutionalised racism, (UCU: 2013) .

Resolution 48/141 of 20 December 1993, decided that the responsibility of the UNHCHR included, “to promote and protect the realization of the right to development and to enhance support from relevant bodies of the United Nations system for this purpose”, (Isakova:2011).In this respect, fiscal policy in the UK hinders progressive realisation of correlative state obligations to respect, fulfil and protect universal human rights including the right to development for people of African descent .For example, the current UK government argues there are no specific issues around ethnicity to be addressed and therefore no need for government strategy to address the same, according to the Runnymede Trust, Appendix 2. However, the empirical evidence highlights systemic racism contributes to socioeconomic marginalisation of Black people from educational and employment opportunities. In order to achieve more socially inclusive societies it is therefore imperative that statutory bodies are monitored and held more accountable for meeting equality targets in service provision, as well as in the employment of ethnic minorities. Furthermore, collaborative work between academia, civil society and the United Nations is vital in ensuring correlative state obligations realise universal human rights for the African diaspora including Black youth.

Significantly, all AU countries record improved human development in addressing fundamental needs of welfare, health and education, despite indicators of governance in some African countries including Nigeria highlighting a decline in human rights performance since 2000, (IIAG: 14/10/13). In this respect, the principle of progressive realisation is sometimes used as an excuse to delay realising correlative state obligations to fulfil fundamental needs, such as the right to water for food and sanitation. For example, favourable levels of economic development in some African countries which have attracted European investment, labour and entrepreneurial skills, do not always equate with the realisation of sustainable development for Africans. Notably although economic migrants to Europe have been less welcome in times of fiscal austerity; large numbers of economic migrants from Europe have migrated to African countries such as Angola during the recent global recession. Moreover, capitalistic exploitation of the African continent has contributed to ongoing non international armed conflicts in AU states such as the Central African Republic and the Congo. This indicates universal human rights are not enforced equally, generally and universally in accordance with the Vienna Declaration.

* “Build Peace and Effective, Open and Accountable Institutions for All. Freedom from violence, conflict, and oppression is essential to human existence (…) We are calling for a fundamental shift -to recognise peace and good governance as a core element of wellbeing, not an optional extra” (High Level Panel: 2013).

Resolution 18/6 of the HRC recognises “democracy, respect for all human rights, including the right to development, transparent and accountable governance (…) effective participation by civil society are an essential (…) for the realization of social and people-centred sustainable development”, (Isakova:2011). However, structural discrimination significantly contributes to social conflict and injustice particularly where corrupt governments are not held accountable for not realising their correlative human rights obligations; this can inhibit peace and good governance. Notably, the Commonwealth group of nations has failed, ‘to hold member states to their collective core human rights commitments (…) it does not use the mechanisms it has to optimum effect’, (CHRI: 2013, p.2 For example, where Commonwealth governments continue to play a significant role in human rights violations affecting the African diaspora globally. This includes alleged breaches of the Geneva Conventions on both sides, in the ongoing Nigerian armed conflict between the government and armed insurgents. As a result, there has been a marked decrease in Nigeria’s ranking for human rights since 2010, which is lower than regional and continental averages, despite the nation securing a temporary seat on the United Nations Security Council for a fifth term;, (IIAG:14/10/13).

“There remains an alarming difference between promise and practice” in the Commonwealth’s promotion and protection realisation of human rights, (CHRI: 2013, p. 5). For example, the current anti-immigrant invective of mainstream British political parties, is not exemplar of good leadership by Britain, in promoting ‘a rights based approach to development’ in the Post 2015 Agenda. The UK government’s approach to equality ‘repudiates the concept of institutionalised racism’, (Weston: 2013, p.5), and the politics of identity which fuels multiculturalism in urban centres such as London and Bristol. Moreover, other Commonwealth nations including South Africa have showed poor leadership in the treatment of African immigrants, who have been subjected to xenophobic attacks which highlights their failure in realising correlative state obligations to protect the vulnerable. Good governance through sustainable development requires greater accountability by all governments to ensure that universal human rights are enforced equally, generally and globally. The empirical evidence highlights that this is lacking because structural inequalities fail to progressively realise universal human rights globally. In order to achieve ‘peace and good governance as a core element of wellbeing’; international institutions such as the Commonwealth must play a more exemplary role by holding their member states accountable for enforcing universal human rights in practice.

* “Forge a New Global Partnership. A new spirit of solidarity, cooperation, and mutual accountability must underpin the post-2015 agenda (…) based on mutual respect and mutual benefit”, (High Level Panel: 2013, p.29).

Goal 8 of the MDGs requires the achievement of global partnership for development e.g. through the use of the internet as a medium for promoting universal human rights. With this in mind, Res. 18/6 underlines “that it is imperative for the international community to ensure that globalization becomes a positive force for all the world’s people (…) based on our common humanity in all its diversity,”(Isakova:2011). However, realistic challenges including the causal factors of structural discrimination and systemic racism will need to be overcome in order to achieve the Post 2015 Development Agenda. For example, European governments, civil society and the private sector, are being urged to draft and implement “antidiscrimination, special measures (…) noting the recommendations of the CERD”, through consultation with Black European communities, Hastings (2013). In this respect, collaborative work between ENAR and the government of the USA in advancing empowerment, equality and social inclusion of Black Europeans is commendable, because the African diaspora on both sides of the Atlantic share similar experiences of structural discrimination. Global partnerships and alliances e.g. between academia, the private sector, national governments and civil society can play an instrumental role in defining “ a concise new set of goals (…) which will mobilise the world”, Ban Ki Moon in (Media Network Blog 2013).

The United Nations has also launched the website UN Free and Equal in 2013, as a part of its commitment to progressively realise the universal human rights of LGBT individuals globally. This illustrates global collaborative action between the UN and international civil society, “for the (…) protection of the rights of the LGBT members of the human family”, Ban Ki Moon in (Media Network Blog 2013). In this respect, the Yogyakarta Principles have achieved ‘respectable visibility’ through endorsement by the UNHCHR, the European Parliament, and Latin American states, Griffin in (Widdows: 2013, p.148). For example, Resolution 17/19 addresses the UN’s “grave concern at violence and discrimination against individuals based on their sexual orientation (…) and the measures needed to address them”, (UNFE: 2013). In this respect, the EU has played a role in the protection and promotion of universal human rights of LGBT Africans. In 2013 a legal precedent was set for LGBT Africans to be granted asylum in the EU on the grounds of persecution and imprisonment in their countries of origin (Intergroup on LGBT Rights: 2013). The European Parliament also called “on supportive states to follow up on the 2011 HRC resolution on Human rights, sexual orientation and gender identity,”(Intergroup on LGBT Rights: 2013).

The writer therefore recommends, examples of good practice in the promotion and protection of the universal human rights of vulnerable groups, e.g. immigrants and LGBT Africans are included in future reports made by the HRC which outline the role of public service in good governance. It is imperative that the failure of developing as well as developed nations including the UK to realise correlative state obligations which respect, protect and fulfil the universal human rights of vulnerable groups is addressed. Members of international civil society and other parties must be able to access human rights resources more easily, and therefore can play a participatory role in achieving the Post 2015 Development Agenda, for the benefit of vulnerable African communities. . Online activism through the internet therefore can serve as an important medium for forging global partnerships in the promotion and protection of universal human rights. For example, a growing number of anti-racism non-governmental organisations including members of ENAR such as I-Care have responded to the threat of xenophobia and online hate crimes through reparative work, including the removal of sites and entries which violate universal human rights. In this respect, I contribute to the anti-racist/anti-discrimination I-care newsfeed; and also subscribe to anti-discrimination online resources including ENAR and UNFE updates.

1. CONCLUSION

To conclude the codification of various international human rights treaties including the UDHR 1948 and ICERD 1965 has not realised universal human rights, equally, generally and globally for people of African descent in accordance with the Vienna Declaration. Many Black people throughout the World, remain in poverty as a result of governments failing to adequately addressing inequalities in the realisation of universal human rights. Notably, systemic racism in developed western democracies such as the USA and the UK contributes to socioeconomic inequality between Black and White citizens as a result of structural discrimination, e.g. in education, employment, justice and immigration. For example, although the UK has ratified international and regional human rights treaties prohibiting racial discrimination; correlative state obligations to respect, fulfil and protect universal human rights of are not equally realised by statutory bodies, e.g. in education and employment. Moreover the universal human rights of vulnerable groups such as immigrants and Black youth are inadequately enforced in developed western economies, as well as emerging economies and developing countries such as AU states. In this respect, it is imperative that the promotion and protection of universal human rights by the UN Working Group of Experts on People of African Descent through reparative work is completed, to empower vulnerable groups such as Black youth, women and other victims of racist discrimination .

Secondly, structural discrimination in the implementation of human rights legislation as a result of political, institutional, legal, economic, and other causal factors, significantly contributes to socioeconomic exclusion of individuals belonging to the African diaspora globally. The empirical evidence highlights this persists despite codification of domestic legislation. For example, the UK Equalities Act 2010 fails to address the universal human rights of African immigrants; correlative state obligations including the provision of affordable healthcare to vulnerable individuals are not realised. Moreover by exercising limitations and reservations, western governments of EU states and the USA exhibit poor leadership in promoting and protecting the universal human rights of migrant communities. Furthermore, the enforcement of regional human rights treaties such as the African Charter have not realised correlative state obligations to protect vulnerable groups such as women, LGBT minorities and the disabled. The empirical evidence of human rights violations in both developed and developing nations therefore shows that greater accountability and monitoring is required to realise universal human rights for people of African descent. In this respect, members of civil society and the UN play an important role: in monitoring human rights violations and holding countries accountable for their correlative state obligations; and in the promotion and protection of universal human rights.

Thirdly, greater accountability and monitoring of national as well as international institutions is imperative to implement and realise MDG targets for socioeconomically marginalised African communities. Notably, UN Secretary General Ban Ki Moon has asserted the need for greater emphasis to be made in achieving MDG targets for poverty alleviation and sustainable development globally. The empirical evidence illustrates that this can generate opportunities where socioeconomically marginalised communities are empowered to fulfil their universal human rights. In this respect, examples of good practice in the monitoring of human rights violations globally, e.g. periodic reviews by CERD should be continued. However, governments and international institutions should be held more accountable where they fail to progressively realise state obligations, particularly where recommendations have been made by regional and international treaty bodies. For example, the failure of Commonwealth as an international institution to successfully appoint a human rights commissioner highlights obstacles in achieving the transformative shifts required by the UN Post 2015 Development Agenda, e.g. political, economic, and social causal factors. Moreover various members of the Commonwealth and the AU do not progressively realise state obligations e.g. to respect, fulfil and protect the universal human rights of LGBT individuals, despite the intervention of the UN and international civil society.

Lastly, the empirical evidence highlighted by this humanistic auto-ethnography reinforces my thesis, that structural discrimination inhibits the accessibility of universal human rights for people of African descent globally; and this contributes to socioeconomic inequality and poverty. This has been illustrated in reports made by the UN as well as by members of civil society including ENAR, the IRR and the Runnymede Trust; and further re-iterated in online blogs, newsfeeds and interviews. In addition, I have argued that governments in developed, emerging and developing economies have been slow to progressively realise correlative state obligations to respect, fulfil and protect universal human rights of vulnerable groups including African immigrants. It is imperative that partnerships and collaboration to achieve sustainable development as a target of the Post 2015 Development Agenda, monitor and address Afrophobia and structural discrimination. For example, a human rights based approach to sustainable development can be realised globally through greater collaboration between academia, members of civil society, statutory bodies and the UN. However, it is imperative that universal human rights are enforced equally, generally and globally without bias or discrimination in accordance with the Vienna Declaration 1993. In this respect, global partnerships and collaborative work should include accessibility to universal human rights for all members of the African diaspora, without sacrificing social justice at the altar of neoliberalism, bigotry or intolerance.

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BIBLIOGRAPHY

Academic sources

Brysk, A. & Choi-Fitzpatrick, A. (2012) *From human trafficking to human rights: reframing contemporary slavery* : University of Pennsylvania Press

Fekete, L. (2011) *Pedlars of hate: the violent impact of the European Far Right,* <http://www.irr.org.uk/wp-content/uploads/2012/06/PedlarsofHate.pdf> : Institute of Race Relations [accessed on 18/10/13]

Kate, M. (2010) *Target setting for improving socio-economic situation of migrants and ethnic minorities in Europe: Monitoring the situation of migrants and ethnic minorities*

Khosravi, S. (2010) *Illegal traveller: an auto-ethnography of borders* : Palgrave Macmillan

Macey, D. (2000) *Frantz Fanon: a life:* Granta Books

Mahoney, J. (2007) *The Challenge of Human Rights.* Oxford: Blackwell

Murray, R. & Viljoen, F. (2007) *Towards Non-Discrimination on the Basis of Sexual Orientation: The Normative Basis and Procedural Possibilities before the African Commission on Human and Peoples' Rights and the African Union*  <http://heinonline.org/HOL/Page?handle=hein.journals/hurq29&id=88&collection=journals&index=journals/hurq#88> :29 Hum. Rts. Q. 86 2007

Schutter, O. d. (2010) *International human rights law: cases, materials, commentary* : Cambridge University Press

Smith, R. & van den Anker (2005) *The Essentials of Human Rights.* New York: Hodder Arnold

UK Government Equalities Office (2012) *Equality Act Progress Report*: Crown copyright

van den Anker, C. & van Liempt, I. (2012) *Human rights and migration: Trafficking for forced labour* : Palgrave Macmillan

Ed. Widdows, H. & Smith, N. (2011) *Global Social Justice* USA: Routledge

Academic Conferences and Seminars

Universities and Colleges Union (2013) *Equalities and Black Members Conferences*, held on 15 November 2013

Cole, P. (2013) *Seminar on* ‘*Immigration Controls and the Failure of Liberal Theory’*, held on 30 October 2013

Online sources

A/HRC/24/52/Add.1 (2013) 24th session of the Human Rights Council: Reports, <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Pages/ListReports.aspx> : OHCHR [accessed 29/12/13]

A/HRC/24/52/Add.3 (2013) 24th session of the Human Rights Council: Reports, <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Pages/ListReports.aspx> : OHCHR [accessed 29/12/13]

ACHPR (2001)*Communication*<http://www.serac.org/> : Social and Economic Rights Action Center [accessed on 18/12/13]

Sheen, D. (2014) *The plight of African migrants in Israel* <http://www.aljazeera.com/> : Al Jazeera [accessed 10/01/14]

BBC (2013) *Across Jamaica’s Gay Divide* <http://www.bbc.co.uk/programmes/p01ksh8f> : BBC [accessed 9/11/13]

Committee on the Elimination of Racial Discrimination (2011) *CERD/C/GBR/CO/18-20* <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.GBR.CO.18-20.pdf> : CERD [accessed on 27/12/12]

High Level Panel (2013) *A NEW GLOBAL PARTNERSHIP: ERADICATE POVERTY AND TRANSFORM ECONOMIES THROUGH SUSTAINABLE DEVELOPMENT The Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda* <http://www.post2015hlp.org/the-report/> : United Nations [accessed on 25/06/13]

Ibrahim Index of African Governance (2013) <http://www.moibrahimfoundation.org/interact/> : IIAG [accessed on 14/10/13].

Davidi, A (2013) *Ban Ki-moon: why partnerships are key to fulfilling millennium goals* <http://www.theguardian.com/media-network/media-network-blog/2013/nov/15/ban-ki-moon-millennium-development> : Media Network Blog [accessed on 19/11/13]

ECRI Secretariat (2009) ECRI in Brief <http://www.coe.int/t/dghl/monitoring/ecri/activities/Ecri_inbrief_en.pdf> : Council of Europe [accessed 17/10/13]

ECRI Secretariat (2010) ECRI Report on the United Kingdom (Fourth Cycle) <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/united_kingdom/GBR-CbC-IV-2010-004-ENG.pdf> : Council of Europe [accessed 17/10/13]

ENAR aisbl (2013) *ENAR Press Release: Advancing empowerment and inclusion of Black Europeans: ENAR concludes study tour to the United States* <http://cms.horus.be/files/99935/MediaArchive/2013-11-28%20ENAR%20study%20tour.pdf>: ENAR [accessed on 01/12/13]

Hastings, A (2013) 113TH CONGRESS 1ST SESSION H. RES. Recognizing people of African Descent and Black Europeans, <http://alceehastings.house.gov/uploadedfiles/resolution_recognizing_people_of_african_descent_and_black_europeans.pdf>: House of Representatives [accessed 30/11/13]

Intergroup on LGBT Rights (2013) Human rights in the world: Parliament’s annual report points to serious abuses for LGBTI people <http://www.lgbt-ep.eu/press-releases/human-rights-in-the-world-parliaments-annual-report-points-to-serious-abuse-for-lgbti-people/#.UqnMbMbdwBo.facebook> :European Parliament [accessed 14/12/13]

Iskakova, G. (2011) *Report of the Human Rights Council on its eighteenth session*<http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A.HRC.18.2.pdf> : Human Rights Council [accessed on 17/12/13]

Media Network Blog (2013)*Ban Ki-moon: why partnerships are key to fulfilling millennium goals* <http://www.theguardian.com/media-network/media-network-blog/2013/nov/15/ban-ki-moon-millennium-development> : The Guardian [accessed 11/11/15]

Mulvaney, E. et al (2013) *Using Legal Strategies to Enforce Undocumented Migrants’ Human Rights: Workshop Report* <http://picum.org/picum.org/uploads/publication/Using%20Legal%20Strategies%20to%20Enforce%20Undocumented%20Migrants%E2%80%99Human%20Rights.pdf>: Platform for International Cooperation on Undocumented Migrants [accessed 21/12/13]

OHCHR (1965) *International Convention on the Elimination of All Forms of Racial Discrimination*<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx> : [accessed on 26/11/13]

OHCHR (2013) *Database Summary: On practical means to combat racism, racial discrimination, xenophobia and related intolerance,*<http://adsdatabase.ohchr.org/SitePages/Anti-discrimination%20database.aspx> : United Nations

Office of The Press Secretary (2013) Fact Sheet: Obama Administration Leadership on International Human Rights, <http://m.whitehouse.gov/the-press-office/2013/12/04/fact-sheet-obama-administration-leadership-international-human-rights>: The White House [accessed on 07/12/13]

Press TV (2014) <http://www.presstv.ir/detail/2014/01/09/344585/duggan-death-reduces-trust-in-uk-police/> : [accessed on 9/01/14]

Rae, M. (2011) *Wiltshire’s diverse communities: Results from the Census 2011*<http://www.intelligencenetwork.org.uk/community/?opentab=2>: Wiltshire Intelligence Network [accessed on 16/12/13]

Runnymede Trust (2013) *Attitudes to Racism,*<http://www.end-racism.org/attitudes-racism-new-survey/> : Runnymede Trust [accessed on 10/10/13]

Schmitz, K. (2012) *ENAR Shadow Report: Racism and related discriminatory practices in the UK,*<http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/26.%20UK.pdf> : ENAR [accessed 17/12/13]

Shepherd, V. (2013) Report of the Working Group of Experts on People of African Descent on its twelfth session, <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A-HRC-24-52_en.pdf>: Human Rights Council [ accessed 29/12/13]

United Nations (1948) *The Universal Declaration of Human Rights*, <http://www.un.org/en/documents/udhr/> : United Nations [accessed 10/12/13]

UNFE (2013) *Fact sheet: International Human Rights Law and Sexual Orientation & Gender Identity*<https://unfe-uploads-production.s3.amazonaws.com/unfe-6-UN_Fact_Sheets_v6_-_International_Human_Rights_Law__and_Sexual_Orientation___Gender_Identity.pdf>: OHCHR [accessed on 10/12/13]

HUMAN RIGHTS IN PRACTICE

NAME OF INTERVIEWEE:

ORGANISATION:

DATE OF INTERVIEW:

QUESTIONS

1. Does your organisation play a role in the respect, promotion, protection and fulfilment of universal human rights ?

2. If so, in your opinion are the needs of ethnic minorities including individuals of African descent adequately addressed as a matter of government policy ?

3. Does structural discrimination justify existing human rights legislation ?

4. If not, do you believe there is a conflict between enforcing institutionalised human rights, and implementing the rights claimed by individuals, e.g. the rights of ethnic minorities?

5. What are your ideas does for promoting better social inclusion of people of African descent, and other marginalised groups ?

6. Please use this space for your additional comments relating to human rights .

Appendix 1

HUMAN RIGHTS IN PRACTICE - UNHCR

1. Yes, my organization does so.

2. Not adequately addressed.

3. No

4. As a matter of fact, there is a conflict in certain aspects.

5. A redefinition of ethnic minority, adapting a more inclusive one.

6.

Appendix 2

HUMAN RIGHTS IN PRACTICE-RUNNYMEDE TRUST

1. Does your organisation play a role in the respect, promotion, protection and fulfilment of universal human rights? Yes - we are a values-led think tank with a mission to improve public understanding of the barriers to racial justice and solutions to persistent racial inequalities. We believe racism is a fundamental barrier to the fulfilment of universal human rights

2. If so, in your opinion are the needs of ethnic minorities including individuals of African descent adequately addressed as a matter of government policy? The current government does not have a strategy to address the needs of people from minority ethnic backgrounds - arguing that there are no specific issues that need to be addressed - or at least that these issues are not based on ethnicity. They are firmly in a liberal post racial mind-set. We have argued strongly that the patterns of persistent racial inequalities and injustices require specific and targeted action. See http://www.youtube.com/watch?v=KzyjoSsGt1w

3. Does structural discrimination justify existing human rights legislation? Not sure what you mean here - we would need human rights legislation even if there was no structural discrimination; the existence of persistent inequalities, discrimination and injustices only makes legislation more important

4. If not, do you believe there is a conflict between enforcing institutionalised human rights, and implementing the rights claimed by individuals, e.g. the rights of ethnic minorities? No, no conflict between efforts to address specific needs and forms of discrimination and human rights - they are complementary. We will be launching collaboration with human rights organisations on the 19th November in order to highlight this relationship. The challenge is that human rights attach to individuals and action to address -isms are often collective in form - hence different approaches (judicial and political respectively)

5. What are your ideas for promoting better social inclusion of people of African descent, and other marginalised groups? I don't think that my views have changed radically from this - http://www.runnymedetrust.org/projects-and-publications/projects/past-projects/meb.html

Appendix 3

HUMAN RIGHTS IN PRACTICE-SCAR

NAME OF INTERVIEWEE: Rex Webb. Chair of SCAR

ORGANISATION: SCAR Salisbury Coalition against Racism

DATE OF INTERVIEW: 25/10/13

QUESTIONS

1. Does your organisation play a role in the respect, promotion, protection and fulfilment of universal human rights? If so, what, where, why, when and how do you achieve this? The organisations main aims are to promote good community relations, raise awareness of racism. We believe that by raising awareness and highlighting issues and bringing people together we are doing something positive towards a fair and equal society. In doing this we are aware of the fundamental human rights of all members of the community.

SCAR is also committed to supporting individuals to challenge and report race hate crime.

Annually we are trying to raise awareness at a number of public events. These include some form of annual Cultural event, Holocaust Memorial Day event, Salisbury Carnival and any other public event we can attend.

2. In your opinion, are the needs of ethnic minorities including individuals of African descent adequately addressed as a matter of government policy? We believe that the government’s approach is to move away from concentrating on individual single issue groups? Race and ethnicity seem to have dropped off the equality agenda. It would appear they are taking the approach that Race and ethnicity are no longer an issue. We believe this is not the case and that anecdotal evidence tells us that there are still issues of Racism within the community which needs to be targeted.

3. Is this justified by existing human rights legislation including the Human Rights Act?

As mentioned above we believe that Race should still be on the equality agenda to eliminate racism and discrimination.

4. The Equality Act 2010 prohibits structural discrimination on the grounds of race, gender, sexual orientation, disability and other protected characteristics. What role does your organisation play in ensuring that the public sector equality duty is enforced, and that the needs of socioeconomically marginalised minorities are met?

SCAR has not been directly involved in challenging public sector organisations regarding the Public Sector Equality Duty. However, a number of public sector organisations have signed up to support the aims of SCAR. By doing this SCAR has a small influence on those organisations as they receive regular updates about our organisation and its activities.

5. What evidence is there that current fiscal policy addresses the needs of vulnerable and marginalised minorities? SCAR does not have any direct evidence. However, because of the current fiscal situation SCAR and other similar organisations are finding it increasingly difficult to obtain funding to continue their work. This will have a negative effect on addressing the needs of vulnerable and marginalised minorities.

6. Do you believe there is a conflict between enforcing institutionalised human rights, e.g. the European Convention on Human Rights, and implementing the rights claimed by individuals belonging to minorities represented by your organisation ?We do not believe that there is any conflict as mentioned above. If human rights are enforced as they should be then individual rights will be protected and this will in turn influence the wider human rights.

7. What ideas does your organisation have for achieving Europe 2020 goals, e.g. promoting social inclusion of ethnic minorities and other marginalised groups ?SCAR will continue organising events to bring different cultural groups together to promote good community relations and encourage people from minority groups to become fully involved in the wider community. We also want to encourage people from minority groups to become more involved in public life and empower them to influence positive change.

8. Please use this time to make any additional comments relating to human rights.

As mentioned SCAR has made contact with the BIHR (British Institute of Human Rights) and as Chair I recently attended the Human a Rights tour which they arranged earlier this year. We will be increasingly looking at how we can incorporate a Human Rights approach. We will be working towards arranging a project, hopefully including BIHR to celebrate the 500 year anniversary of the Magna Carter in 2015.

Appendix 4

HUMAN RIGHTS IN PRACTICE: QUESTIONS FOR INTERVIEW

NAME OF INTERVIEWEE: SIMWINJI ZEKO

ORGANISATION: MIGRANT RIGHTS CENTRE – BRISTOL (MRCB)

DATE OF INTERVIEW: MONDAY 02 DECEMBER 2013

QUESTIONS

1. Does your organisation play a role in the respect, promotion, protection and fulfilment of universal human rights? If so, what, where, why, when and how do you achieve this?

• MRCB exists to assist, campaign and provide support to migrants at risk of exclusion, marginalisation, discrimination and other forms of oppression due to their migrant persona/status. This support is effected practically via a regular one stop drop-in session once a week through provision of relevant generalist information and signposting to other agencies tasked with services that will/should progress a migrants particular issues. MRCB also gives holistic support and a buddying service such as a space where a person can be listened to, help with contacting third parties and/or escorting them to places as support; e.g. law offices, council offices, advice centres, police stations

The aspect of ‘fulfilment’ of universal human rights is problematic where a person has complex needs or is in a complex situation. The MRCB approach, by virtue of its small size, is to incrementally progress situations and maintain contact with service users and keep an ‘open door’ policy. Eventually, for example, someone getting access to some health care is a pathway to fulfilling an aspect of a universal human right. However, other just as relevant primary and secondary rights may be constrained or denied just as another is being effected.

2. In your opinion, are the needs of ethnic minorities including individuals of African descent adequately addressed as a matter of government policy ?

• ‘Adequately addressed’ is the key element here, if the needs referred to include educational, social inclusion factors (access to housing, mental health services, employment and the like), then in my considered opinion as a matter of government policy they are being addressed, but not adequately. Ethnic minorities including African descent individuals are disproportionately represented in studies and surveys conducted on issues such as percentage of prison or detention populations, Police stop and search rates, and mandatory police station reporting requirements on immigrants.

3. Is this justified by existing human rights legislation including the Human Rights Act?

• The Human Rights Act 1998 brought into domestic law, with a few derogations (that is, provisions from the original instrument that were not included), the European Convention of Human Rights 1950. Interestingly, current government policy seems to be a reluctance to abide by certain provisions of the HRA1998 because they do not suit the governments objectives (terrorist suspects, evidence procured under torture, detention powers, arrest powers, containing popular protest, deportation powers, extra-judicial renditions and complicity). The government may have existing human rights legislation which upholds fundamental rights, but it has a habit of chipping away and subverting that very legislation by enacting other legislation that contradicts or weakens elements of the human rights legislation. A case in point could be when a Secretary of State is given wide ranging powers (on paper) through secondary legislation to make further regulations to meet a pressing issue. Deaths in Police custody of ethnic minority individuals has been an ongoing issue of how government policy has not adequately addressed the needs of such individuals.

4. The Equality Act 2010 prohibits structural discrimination on the grounds of race, gender, sexual orientation, disability and other protected characteristics. What role does your organisation play in ensuring that the public sector equality duty is enforced, and that the needs of socioeconomically marginalised minorities are met?

• The Equality Act 2010 may prohibit structural discrimination on specific grounds, but it does not prevent discrimination based on the immigration status of a migrant. That discrimination is embedded in other legislation such as The Asylum and Immigration Act 1996 and The Immigration Act 1971 (refer to previous question and answer). One way the MRCB ensures the public sector equality duty is enforced is through targeted campaigns. GP surgery offices were surveyed over their particular procedures for registering new patients. Some surgeries operated discriminatory procedures and they were accordingly informed of this.

The MRCB, as stated earlier, employs an information and signposting provision to help meet the needs of migrants who tend to be from socio-economically marginalised minority groups.

5. What evidence is there that current fiscal policy addresses the needs of vulnerable and marginalised minorities?

• Am afraid I cannot adequately respond to this question as current fiscal policy is outside my knowledge remit and, consequent to this, notions of evidential requirements that address minorities needs are beyond my scope of giving a meaningful response.

6. Do you believe there is a conflict between enforcing institutionalised human rights, e.g. the European Convention on Human Rights, and implementing the rights claimed by individuals belonging to minorities represented by your organisation ?

• Yes, I believe there is a conflict in specific areas such as the right to legal representation or the right to a family life, and even degrading treatment or forced labour. This question goes to the heart of the points made in question 4. Implementing the rights claimed (especially in immigration cases) by an individual is subverted and stymied by the matrix of domestic legislation and regulations.

7. What ideas does your organisation have for achieving Europe 2020 goals, e.g. promoting social inclusion of ethnic minorities and other marginalised groups ?

• The organisation is in a process of refocus, regenerate, re-evaluate, regrowth, realise new and old goals. It is looking at other ways of fostering and promoting social inclusion of ethnic minorities and marginalised groups through partner agency collaborations, training initiatives and community events that bring people together in positive and meaningful ways.

8. Please use this time to make any additional comments relating to human rights .

Appendix 5

HUMAN RIGHTS IN PRACTICE-UWE

NAME OF INTERVIEWEE: Andrew Mclean

ORGANISATION: UWE

DATE OF INTERVIEW: 22/11/13

QUESTIONS

1. Does your organisation play a role in the respect, promotion, protection and fulfilment of universal human rights? As an organisation the University, follows, promotes and utilises many of the principles that underpin Human Rights. For example, UWE has a Dignity at Work policy and Equalities Policy. These policies are back up with processes and procedures to ensure their implementation for students and staff. As such UWE does respect and promote the concept of universal human rights.

Is this explicit? No. It is embedded in the work of our more general policies and practices.

2. If so, in your opinion are the needs of ethnic minorities including individuals of African descent adequately addressed as a matter of government policy? No. we have some work that looks at the needs of minority ethnic students. This is embedded in the University’s Single Equalities Scheme. There are specific activities to address BME student attainment, withdrawal and general satisfaction levels. However, this work does not reflect the diversity of the BME student body.

In terms of staff – this work is does not exist. Yes, the University has performance indicators for the recruitment and attraction of BME staff but it does nothing in terms of the experiences and general needs of staff. Yes, the University resource a staff network. However, this work is limited. This will hopefully change into the future, as we gather more data and information on the small numbers of BME University staff.

3. Does structural discrimination justify existing human rights legislation? Yes and no. yes because it provides the evidence for continued legislation. Although it would be interesting to see how the Human Rights Act of the nineties have safeguarded against endemic structural discrimination.

No, because the absence of discrimination does not undermine the need for human rights or any other legislation designed to safeguard an individual’s quality of life.

4. If not, do you believe there is a conflict between enforcing institutionalised human rights, and implementing the rights claimed by individuals, e.g. the rights of ethnic minorities? If no, is there is a conflict? I’m not sure there is a conflict. The reality is that institutions/organisations constantly use a range of measures to work with groups and individuals. In my experience they rarely use a one approach above another. On a day to day basis they are usually unaware of what approach they are adhering to! I believe there is scope and room for flexibility.

5. What are your ideas does for promoting better social inclusion of people of African descent, and other marginalised groups? Actions and ideas will differ if we are talking about in friend and family contexts, or the workplace, or in learning environments or in wider society. For me the starting point is friends/family, because that then influences wider society and scenarios such as schools, colleges, universities, workplaces etc.

The role of institutions is paramount. They have an effect on most people’s lives – education, workplaces, housing developments/support etc….

I believe that public & private bodies need to be held to account for the breaching of equalities and human rights. I don’t believe that happens now to necessary levels. I don’t necessarily mean to the extent where cases have to be taken to court for a judicial ruling but I mean more accountability of where they are not carrying out their duties to the full effect.

I also believe individuals need to be made more aware of their rights and the responsibilities, so that they can effectively challenge and scrutinise.

6. Please use this space for your additional comments relating to human rights.

Appendix 6

HUMAN RIGHTS IN PRACTICE: QUESTIONS FOR INTERVIEW

NAME OF INTERVIEWEE: Rex Webb. Equality & Diversity Advisor

ORGANISATION: Wiltshire Fire & Rescue Service

DATE OF INTERVIEW: 30/10/13

QUESTIONS

1. Does your organisation play a role in the respect, promotion, protection and fulfilment of universal human rights? If so, what, where, why, when and how do you achieve this? The Core function of the Fire & Rescue Service within Wiltshire and Swindon is to provide an emergency service to the public. In doing this it has a number of legal duties one under the Human Rights Act and the Public Sector Equality Duty under the Equality Act 2010.

This means that the Fire & Rescue Service has a responsibility to have due regard to people from minority groups when it is developing policy and processes with the following aims:

• Eliminate unlawful discrimination, harassment and victimisation and other

Conduct prohibited by the Act

• Advance equality of opportunity between people who share a protected

Characteristic and those who do not

• Foster good relations between people who share a protected characteristic

And those who do not

Wiltshire FRS also acknowledges it obligations and duties under the Human Rights Act. These duties have been built into our Single equality Scheme and the development of an Equality & Human Rights Charter for Wiltshire and Swindon public Services.

2. In your opinion, are the needs of ethnic minorities including individuals of African descent adequately addressed as a matter of government policy? Wiltshire FRS believes that by looking at the issues on an individual basis it will ensure a fair treatment of people with different protected characteristics, including people from ethnic minorities.

Wiltshire FRS is using its legal duties under the Human Rights Act and the Equality Act 2010 to move this process forward.

3. Is this justified by existing human rights legislation including the Human Rights Act? The approach taken by Wiltshire FRS is very much based on the Human Rights Act.

4. The Equality Act 2010 prohibits structural discrimination on the grounds of race, gender, sexual orientation, disability and other protected characteristics. What role does your organisation play in ensuring that the public sector equality duty is enforced, and that the needs of socioeconomically marginalised minorities are met? Wiltshire FRS has an Equality & Diversity Steering Group which is responsible for ensuring that the Public sector Equality Duty is met and complied with. The service has recently updated its Impact assessment process and is currently rolling this out across the whole service and other public sector organisations in Wiltshire and Swindon. The Steering group is chaired by the Chief Fire Officer and attended by brigade managers, directors and representatives of the various unions working within the Fire & rescue service.

5. What evidence is there that current fiscal policy addresses the needs of vulnerable and marginalised minorities? In this difficult financial situation any decisions to change the way services are funded are put through rigorous People Impact assessments to ensure the minimum possible negative impact upon people with protected characteristics.

6. Do you believe there is a conflict between enforcing institutionalised human rights, e.g. the European Convention on Human Rights, and implementing the rights claimed by individuals belonging to minorities represented by your organisation? Wiltshire FRS believes that by concentrating on individual Human Rights there is a beneficial effect on organisational culture and in defeating institutional discrimination.

7. What ideas does your organisation have for achieving Europe 2020 goals, e.g. promoting social inclusion of ethnic minorities and other marginalised groups? Wiltshire Fire & Rescue Service is committed to working with people from all background to promote good community relation and an equal opportunity for people to succeed.

8. Please use this time to make any additional comments relating to human rights. The work that has been undertaken by Wiltshire FRS and other public sector organisations across Wiltshire & Swindon to develop a Public Sector Equality & Human Rights Charter is keeping equality & human rights on the public sector agenda. Our next step will be to work with groups from other sectors to take this work forward.

Appendix 7

HUMAN RIGHTS IN PRACTICE- Avon & Somerset Probation Trust

Greetings Ade,

Due to the nature of The Probation Service and the uncertainty of its future, my line manager has advised that on this instance it is not recommended that I take part in this survey.

I have no immediate concerns about the service the policy of the Probation is to strive to treat everyone equally. From my point of view race is now been eroded and replaced with diversity (apparently we are all the some), it’s a shame as it appears there is no place as a group of visible darker skinned people we are all placed in the diversity box.

I'm all for celebrating differences but my difference comes first !!!

Kwesi Ngozi

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**Appendix 8**

HUMAN RIGHTS IN PRACTICE

Name of Interviewee: Ike Nnabugwu

Organisation: Hospitality Industry (Guest House proprietor)

Date of Interview: 2 January 2014

Questions

1. The interviewee does not directly realise universal human rights in his profession; but indirectly does so in his voluntary work.

2. Interviewee did not believe the needs of ethnic minorities are adequately addressed as a matter of government policy.

3. Interviewee held the existence of structural discrimination ‘cannot be proved; therefore human rights legislation cannot help’

4. No conflict between institutionalised human rights and rights claimed by ethnic minorities

5. Interviewee held Black people are in the minority (in the UK); and are disadvantaged by historical and psychological factors such as slavery and colonial history.

6. Interviewee felt Black youth need good role models to motivate and encourage them; we need to establish trust between ourselves; and emancipate ourselves.

Appendix 9

**RESEARCHER’S SUMMARY OF INTERVIEWS: HUMAN RIGHTS IN PRACTICE**

Ques. 1

Most organisations who replied believed that human rights directly or indirectly was a vital element in their work.

Ques. 2

Most respondents did not feel the needs of individuals belonging to the African diaspora and other ethnic minorities were adequately addressed as a matter of government policy. In this respect SCAR, Wiltshire Fire Service and the Runnymede Trust have highlighted active steps taken to pursue this goal, e.g. Wiltshire Fire Service as a statutory body uses its legal duties to move this process forward.

Ques. 3

UNHCR did not feel structural discrimination justifies existing human rights legislation

It was felt by a majority of respondents that structural discrimination e.g. the existence of persistent inequalities justified enforcement of domestic human rights legislation such as the Human Rights Act 1998 in the UK.

Ques. 4.

UNHCR –felt there is conflict between institutionalised rights and those claimed by groups in certain areas

A) Runnymede and UWE: scope and room for flexibility; as well as collaboration

B) The Equality Act 2010 does not address non-citizen status of an immigrant; MRCB ensures public sector equality duty is enforced through targeted campaigns, e.g. GP surgeries have been found to operating discriminatory practices and duly informed.

Ques. 5

UNHCR : adapting a more inclusive redefinition of ethnic minority

A) UWE: individuals need to be more aware of their rights and responsibilities so they can effectively challenge and scrutinise; Statutory bodies need to be more accountable: role of institutions is paramount e.g. in education

B) WFRS rigorous impact assessments put in place to minimise negative effects on individuals belonging to protected characteristics; SCAR and others adversely affected by austerity measures in service provision

6) MRCB: there is conflict in meeting specific statutory obligations such as the correlative rights to a family life, prohibition from degrading treatment and forced labour, and the right to legal representation… domestic legislation and regulations ‘subverts and stymies’ individual rights particularly in immigration cases : SCAR if human rights were enforced as they should there would be no conflict: WFRS by concentrating on individual human rights institutional discrimination can be defeated which benefits organisational culture

7) Europe 2020 goals for social inclusion: WFRS striving to achieve good community relations and equal opportunities for all irrespective of ethnic backgrounds; SCAR proposes to continue to organise events to bring people from different cultural groups together and encourage individuals from different ethnicities to become more involved in public life whilst empowering them to make a positive change in the wider community; MRCB is in a process of refocus, regenerate, regrowth and realise old and new goals, e.g. promoting and fostering social inclusion of ethnic minorities and marginalised groups through partner agency collaborations, training initiatives and community events.

8) WFRS and other public sector organisations in Wiltshire propose to keep equality and human rights on the agenda through the development of a Public Sector Equality and Human Rights Charter for Wiltshire and Swindon; and propose to work with organisations from other sectors in this respect

SCAR proposes to increasingly incorporate a Human Rights Approach to their work with a view to a collaborative project with BIHR in 2015 to celebrate the 500th anniversary of the Magna Carta, and recently participated in BIHR tour with this in mind.

Avon and Somerset Probation Trust … declined to participate officially in the survey but echoed sentiment of other people of African descent that race was being replace by diversity and community cohesion on the equalities agenda, to the detriment of marginalised minorities.