

## Submission by NIHRC to the UN Human Rights Council's Universal Periodic Review of the UK

### **National human rights institutions** (2<sup>nd</sup> cycle: 110.36, 110.37)

1. The NIHRC is concerned at the reduction in its budget from the NI Office.
2. The GANHRI Sub-Committee on Accreditation has deferred consideration of the NIHRC's accreditation until 2022, highlighting the serious and time sensitive funding position and recommending that "an improved and sustainable position is reached within this deferral period."<sup>1</sup>
3. **The NIHRC recommends the UK Government provide adequate and secure funding to enable the NIHRC to fulfil its statutory functions.**

### **Constitutional framework for implementation** (2<sup>nd</sup> cycle: 110.32, 110.44; 3<sup>rd</sup> cycle: 134.57, 134.67, and 134.62<sup>2</sup>)

4. Following an independent review, the UK Government is consulting on its plans to replace the Human Rights Act 1998 with a Bill of Rights.<sup>3</sup> The NIHRC is concerned that the proposals do not adequately consider the Belfast (Good Friday) Agreement, Protocol Article 2 and the integral role of ECHR in NI.<sup>4</sup> This is of particular concern given NI remains without its own Bill of Rights.<sup>5</sup>
5. **The NIHRC opposes any reduction in the current legal protections of human rights in the UK.**
6. **The NIHRC recommends the UK Government implements its commitment to legislate for a Bill of Rights for NI.**
7. The EU (Withdrawal) Act 2018 repealed legislation which gave effect to EU law in the UK, however, retained EU law continues to be recognised and available in UK law on and after 1 January 2021.<sup>6</sup> Care should be taken when repealing or amending retained EU law to ensure it does not result in a diminution of rights contrary to Protocol Article 2. In 2021, the UK Government announced a planned review of retained EU law.<sup>7</sup>
8. **The NIHRC recommends the UK Government, when making changes to retained EU law impacting human rights or equality, should progress changes by primary legislation, rather than secondary legislation or other 'accelerated**

**process' and an assessment for compliance with Protocol Article 2 is undertaken.**

**Treaty ratification and interpretation** (1<sup>st</sup> Cycle:12,15,21,22,23,24; 2<sup>nd</sup> Cycle:110.1,110.4,110.5,110.6,110.8,110.10,110.11,110.12,110.14,110.15,110.16,110.17,110.18,110.20,110.21,110.22,110.23,110.24,110.26,110.30,110.31,110.32,110.34,110.39,110.103; 3<sup>rd</sup> Cycle: 134.54<sup>8</sup>)

9. The UK has signed seven of the core UN Treaties, which are not incorporated into domestic law.<sup>9</sup> It retains reservations in respect of Articles 24(2)(a) and (b)<sup>10</sup> and Article 27 of CRPD<sup>11</sup> and does not accept the right to individual petition for ICCPR, ICESCR, CAT,<sup>12</sup> CERD<sup>13</sup> and CRC.
- 10. The NIHRC recommends the UK ratify the outstanding UN Treaties (ICRMW, ICPPED, OP-ICCPR, OP-ICESCR and OP-CRC-COM) and issue the required declarations under Article 22, CAT and Article 14, CERD.**
- 11. The NIHRC recommends that the UK commit to raising awareness of the availability of the right of individual petition for nationals under OP-CEDAW<sup>14</sup> and OP-CRPD.<sup>15</sup>**

**Single Equality Legislation** (3rd Cycle: 134.81<sup>16</sup>)

12. In 2016, the ICESCR Committee stated its regret that its recommendation to extend comprehensive anti-discrimination legislation to NI had not been implemented.<sup>17</sup> Existing equality protections in NI have not been consolidated into a single legislative instrument to ensure a similar level of protection across the State Party.
- 13. The NIHRC recommends that current equality provisions be simplified, enhanced and consolidated into a single equality act.**

**Dealing with the past** (1st Cycle: 12; 2nd Cycle: 110.92; 3rd Cycle: 134.156, 134.57<sup>18</sup>)

14. In 2019, the CAT Committee recommended the UK Government "refrain from enacting amnesties or statutes of limitations for torture or ill-treatment".<sup>19</sup>

15. In 2021, the Secretary of State for NI published proposals to address the legacy of the past, including an end to current and future civil cases and inquests<sup>20</sup> and a statute of limitations that would end criminal investigations and prosecutions.<sup>21</sup>
- 16. The NIHRC recommends that the UK Government does not impose a statute of limitations restricting the investigation and prosecution of alleged unlawful killings and serious injuries.**
17. In 2019, the Department of Justice NI established a new Legacy Inquest Unit. The Unit was to complete its work by 2023, however, COVID-19 restrictions have caused delays.
18. Treaty bodies continue to call for the resourcing of legacy inquests and inquiries in NI.<sup>22</sup> The CAT Committee<sup>23</sup> and Human Rights Committee<sup>24</sup> have called for an inquiry into the killing of Patrick Finucane.
- 19. The NIHRC recommends the UK Government conducts effective investigations into deaths during the conflict in NI. In particular, that an Article 2 ECHR compliant inquiry is conducted into the death of Patrick Finucane.**

**Physical punishment of children** (1st Cycle: 3, 4, 5; 2nd Cycle: 110.78, 110.79, 110.80; 3rd Cycle: 134.193, 134.194, 134.195, 134.196, 134.197, 134.198, 134.199<sup>25</sup>)

20. The Law Reform (Miscellaneous Provisions) (NI) Order 2006 continues to allow the defence of reasonable punishment of a child regarding a charge of common assault tried summarily.

**21. The NIHRC recommends the NI Executive introduces legislation to repeal the defence of reasonable chastisement of a child.**

**Child early and forced marriage** (3<sup>rd</sup> cycle 134.204<sup>26</sup>)

22. The Marriage (NI) Order 2003 permits the marriage of a child aged 16 or 17 years with the consent of their parents or legal guardians. In 2018, there were 35 girls married in NI, which increased to 54 girls in 2019.<sup>27</sup> There were 14 boys married in 2018 and 2019.<sup>28</sup> In 2020, there were 24 girls and 7 boys married in NI, these decreases are primarily attributed to COVID-19 restrictions.<sup>29</sup>

**23. The NIHRC recommends the UK Government repeals all legal provisions permitting the marriage of children in NI and increase the minimum age for marriage to 18 years.**

**Child sexual exploitation** (3rd Cycle 134.201<sup>30</sup>)

24. Despite recommendations from the CRC and CEDAW Committees,<sup>31</sup> in cases of child sexual exploitation, the burden is on the prosecution to prove that a purchaser did not reasonably believe a child that was paid for sexual services was an adult.

**25. The NIHRC recommends the UK Government introduce legislation to reverse the burden of proof from the prosecution to the purchaser of sexual services.**

26. The NIHRC remains concerned at the number of children reported as having gone missing from care,<sup>32</sup> and a “particular link” with child sexual exploitation.<sup>33</sup>

**27. The NIHRC recommends the UK Government take action to determine the steps needed to protect children and monitor the effectiveness of these measures.**

**Children and criminal justice** (1st Cycle: 2, 7, 9; 2nd Cycle: 110.81, 110.87, 110.94, 110.95; 3rd Cycle: 134.205, 134.206, 134.207, 134.208<sup>34</sup>)

28. The age of criminal responsibility remains at ten years old in NI.

**29. In line with the CRC Committee’s General Comment No 24,<sup>35</sup> the NIHRC recommends the UK Government introduce legislation to raise the minimum age of criminal responsibility to 14 years old.**

30. The NIHRC notes the continuing high number of children held in pre-trial detention in NI.<sup>36</sup>

**31. The NIHRC recommends legislation enshrining the principle that detention for a child is a measure of last resort.**

**Shared education** (1st Cycle: 15; 2nd Cycle: 110.103, 110.106; 3rd Cycle: 134.174<sup>37</sup>)

32. The Shared Education Act (NI) 2016 places an obligation on the Department of Education to promote ‘shared education.’<sup>38</sup> EU Peace IV funding for Shared Education programmes is due to cease in June

2022.<sup>39</sup> Future funding is unclear.<sup>40</sup>

- 33. The NIHRC recommends that long-term, secure funding for shared education is guaranteed in NI and that the UK Government ensures any negative impact on funding due to EU withdrawal will be mitigated.**

### Conversion therapy

34. The NIHRC is concerned at the persistence of conversion therapy,<sup>41</sup> **as defined by the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.**<sup>42</sup>
- 35. The NIHRC recommends that the UK Government introduces legislation to ban all practices of conversion therapy.**

**Anti-terrorism measures** (1st Cycle: 6, 9; 2nd Cycle: 110.81, 110.82, 110.83, 110.121; 3rd cycle: 134.62, 134.128<sup>43</sup>)

36. Under the Terrorism Act 2000<sup>44</sup>, a constable may arrest without a warrant a person whom he/she reasonably suspects to be a terrorist. In 2020/2021, only 13 of the 83 people arrested under this provision<sup>45</sup> were subsequently charged.<sup>46</sup>
37. In 2021, the Independent Reviewer of Terrorism Legislation reported that there were 152 arrests made under section 41 of the Terrorism Act 2000 in NI in 2019. The Independent Reviewer noted that "this continues the trend...that despite having only 3% of the UK population, NI accounts for 77% of the arrests made under section 41 of the Terrorism Act 2000".<sup>47</sup>
- 38. The NIHRC recommends the UK Government conduct and publish a review of the exercise of arrest powers under section 41 of the Terrorism Act 2000.**
39. Under the Anti-social Behaviour, Crime and Policing Act 2014, an applicant who has been wrongfully imprisoned for offences related to terrorism in NI must prove his or her innocence of a crime to obtain compensation.<sup>48</sup> In 2015, the Human Rights Committee expressed concerns, recommending the UK should "review the new test for miscarriage of justice with a view to ensuring its compatibility with Article 14(6) of the [ICCPR]".<sup>49</sup>
- 40. The NIHRC recommends the UK Government review the test for a miscarriage of justice, ensuring compatibility with**

## **Article 14(6) ICCPR.**

**Gender-based violence** (1st Cycle:1; 2ndCycle:110.40,110.51,110.52, 110.69,110.70,110.71; 3rd Cycle:134.181,134.180,134.182,134.183, 134.185,134.187,134.184,134.186<sup>50</sup>)

41. Domestic and sexual abuse remains high in NI. Reports increased during Covid-19 lockdowns.<sup>51</sup> In 2022, the NI Executive began consulting on a Domestic Abuse strategy and a Violence against Women and Girls Strategy.

**42. The NIHRC recommends the UK Government use a human rights based approach to develop the strategies, with specific reference to the UN framework.**

43. The Domestic Abuse and Civil Proceedings Act (NI) 2021 creates a new domestic abuse offence, which captures patterns of psychological and emotional abuse.

**44. The NIHRC recommends that the UK Government ratify the Istanbul Convention on combatting domestic violence.**<sup>52</sup>

**Human trafficking** (2nd cycle:110.72,110.74,110.75,110.76; 3rd Cycle: 134.220,134.139,134.140,134.141,134.142,134.143,134.144,134.147,134.145,134.138,134.146<sup>53</sup>)

45. In 2019, the CEDAW Committee recommended the UK Government ensures its domestic definition of human trafficking is in line with the international agreed definition, adopt a comprehensive strategy to combat trafficking in women and girls and continue to improve the National Referral Mechanism.<sup>54</sup>

46. In 2021, the UK Government published the Nationality and Borders Bill, which seeks to disapply the EU Trafficking Directive insofar as it is incompatible with the provisions of the Bill.<sup>55</sup>

**47. The Human Rights Council may wish to ask the UK Government how it will ensure the rights of trafficking victims in NI are not weakened through the Nationality and Borders Bill.**

**Reproductive health** (2nd cycle: 110.77; 3rd Cycle: 134.170, 134.172, 134.173, 134.171<sup>56</sup>)

48. In 2019, domestic effect was given to CEDAW recommendations on abortion. In 2020, abortion was legalised in NI on request up to 12 weeks and where there is a risk of injury to the physical or mental health of the pregnant women up to 24 weeks.<sup>57</sup>
49. The NI Department of Health has not commissioned or funded the required healthcare services to implement the Abortion (NI) (No 2) Regulations 2020. Following the NIHRC's judicial review, the NI High Court held the Secretary of State was in breach of his requirement to provide abortion services in NI "expeditiously".<sup>58</sup>
50. In 2021, the Secretary of State issued a direction to commission and make abortion services available in NI no later than 31 March 2022 and to ensure immediate support for interim services of early medical abortion.<sup>59</sup> NI is currently without a functioning Executive to commission services.
- 51. The NIHRC recommends that the Secretary of State take the required legislative action to ensure the CEDAW recommendations on accessing safe abortion services locally are implemented without further delay.**

## Relationships and sexuality education

52. In 2016, the CRC recommended the NI Executive ensure meaningful sexual and reproductive health education is a mandatory part of the school curriculum.<sup>60</sup> In 2018, a CEDAW Committee inquiry recommended the NI Executive make comprehensive and scientifically accurate education on sexual and reproductive health and rights a compulsory component of curriculum.<sup>61</sup> The Secretary of State is now under a legal duty to comply with this recommendation.<sup>62</sup>
53. Relationships and sexuality education is a statutory component for key stages three and four in NI<sup>63</sup>, but schools can provide education in line with their own ethos.<sup>64</sup> In 2019, the Education Authority published non-statutory guidance to support transgender pupils.<sup>65</sup> The NIHRC has commenced a statutory investigation on relationship and sexuality education.<sup>66</sup>
- 54. The NIHRC recommends the UK Government take steps to implement the CEDAW Committee's recommendations on sexual and reproductive education.**

**Hate crime** (1st cycle: 20; 2nd cycle:110.107,110.53,110.59,110.60, 110.61,110.90,110.91; 3rd Cycle:134.106,134.108,134.113,134.118<sup>67</sup>)

55. In 2019, the CAT Committee recommended the UK Government strengthen its efforts to investigate and prosecute alleged hate crimes.<sup>68</sup> An Independent Hate Crime Review Team undertook a review on hate crime legislation in NI, publishing recommendations in 2020.<sup>69</sup> The Department of Justice has undertaken a two-stage consultation process based on these recommendations, with the first stage currently underway.

**56. The NIHRC recommends the UK Government fully implement the recommendations of the Independent Hate Crime Review.**

### **Financial Support for unmarried couples**

57. In 2018, the UK Supreme Court ruled that the requirement that couples married to access Widowed Parent's Allowance breached their ECHR rights.<sup>70</sup> The draft Bereavement Benefits (Remedial) Order 2021 intends to remedy the incompatibility. This will only have a limited retrospective effect, leaving the original applicant and many others without a full remedy.<sup>71</sup>

**58. The NIHRC recommends the UK Government ensure that all past victims of discrimination receive a full remedy.**<sup>72</sup>

### **Anti-poverty strategy** (3rd Cycle: 134.168<sup>73</sup>)

59. 17% of people in NI live in relative income poverty (before housing costs).<sup>74</sup> Welfare reform has had a disproportionately negative impact on vulnerable groups in NI.<sup>75</sup> The New Decade, New Approach Agreement 2020 committed to develop an Anti-Poverty Strategy.<sup>76</sup> An Expert Panel gathered evidence to inform the strategy and provided a report to the Department for Communities. The timetable for the strategy's delivery has not yet been released.<sup>77</sup>

**60. The NIHRC recommends the Anti-Poverty Strategy is introduced without further delay.**

61. NI's Child Poverty Strategy 2016/2019 was extended to summer 2022.<sup>78</sup> In 2020, New Decade New Approach Agreement committed to publishing a new strategy, but no timeline has been released.<sup>79</sup>

**62. The NIHRC recommends that a comprehensive strategy tackling child poverty is developed without further delay.**

## Biometric data

63. Despite findings of the ECtHR that the law relating to DNA retention breached Article 8 ECHR<sup>80</sup> no progress has been made. The Criminal Justice (NI) Act 2013 provisions on DNA retention have not been commenced due to concerns over how this would affect legacy investigations.
- 64. The NIHRC recommends the UK Government implement proposals in NI which fully address the specific issues raised in *Gaughran v UK*.**

## Rehabilitation of offenders

65. In 2020, the NIHRC initiated legal action challenging the legality of Article 6(1) of the Rehabilitation of Offenders (NI) Order 1978 based on no review mechanism being available to individuals with unspent convictions. The Court found this incompatible with Article 8 ECHR.<sup>81</sup>
- 66. The NIHRC recommends the Rehabilitation of Offenders (NI) Order 1978 be amended to introduce a system for review of criminal records.**

## Immigration and asylum (3<sup>rd</sup> Cycle: 134.190, 134.213, 134.224, 134.222, 134.223, 134.221<sup>82</sup>)

67. In 2021, the UK Home Office published its “New Plan for Immigration”. The NIHRC responded, highlighting the failure of proposals to engage with human rights and refugee law.<sup>83</sup>
68. The NIHRC reiterated these concerns in response to the Nationality and Borders Bill,<sup>84</sup> which will introduce Electronic Travel Authorisation for those requiring leave to enter the UK, when traveling from Ireland to the UK. There are concerns this will increase racial profiling at the border crossing with Ireland.<sup>85</sup>
- 69. The NIHRC recommends the UK Government incorporate human rights standards into proposals on immigration and asylum.**
- 70. The Council may wish to ask the UK Government how it will ensure there will be no increase in racial profiling on the island of Ireland resulting from ETAs.**

## Mental capacity

71. The CRPD Committee recommended the UK Government abolish all forms of substituted decision-making and adopt new Convention compliant legislation on mental capacity and mental health.<sup>86</sup> The Mental Capacity (NI) Act 2016 provides a framework for supported decision-making but does not apply to children under 16 and has yet to be fully commenced.<sup>87</sup>

**72. The NIHRC recommends the Mental Capacity Act is commenced in full and legislative protections are introduced for under 16-year-olds in NI.**

### Persons with disabilities (3<sup>rd</sup> cycle: 134.209<sup>88</sup>)

73. The NI Department for Communities is currently consulting through a stakeholder group on the development of a disability strategy. There are still significant gaps in the implementation of CRPD in NI.<sup>89</sup>

**74. The NIHRC continues to recommend that a robust disability strategy for NI is promptly published and accompanied by a measurable action plan, modelled upon the CRPD.**

### Response to Covid-19

75. Covid-19 disproportionately affected marginalised groups.<sup>90</sup> Ongoing concerns relate to visitation in care homes<sup>91</sup> and the lack of review of emergency powers.<sup>92</sup>

76. The UK Government is consulting on terms of reference for an inquiry, examining the response to Covid-19, including NI.

**77. The NIHRC recommends the UK Government Inquiry considers and addresses how decisions were made during the pandemic.**

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<sup>1</sup> 'GANHRI Sub-Committee on Accreditation Report', October 2021, at p.29.

<sup>2</sup> 134.57 (Peru) Supported, 134.67 (Ireland) Noted, 134.62 (Botswana) Supported.

<sup>3</sup> UK Government, 'Human Rights Act Reform: a modern bill of rights, a consultation to reform the Human Rights Act 1998', (MoJ, 2021); see also the Independent Review of the Human Rights Act Team, 'the Independent Human Rights Act Review', (MoJ, 2021); the NIHRC responded to the IHRAR's call for evidence, noting a number of concerns that specifically related to NI including the inclusion of access to the ECHR and courts as part of NI's peace agreement and devolution settlement and the UK Government's commitment to no-diminution of rights, safeguards and equality of opportunity contained in the relevant chapter of the Belfast (Good Friday) Agreement 1998 under Article 2 of the Ireland/Northern Ireland Protocol.

<sup>4</sup> The Belfast (Good Friday) Agreement 1998, at 16.

<sup>5</sup> The Belfast (Good Friday) Agreement 1998 mandated the NIHRC to provide advice to the UK Government on a Bill of Rights for NI, which it did in 2008. Following the New Decade, New Approach Agreement 2020, the Ad Hoc Committee on a Bill of Rights for NI was established and conducted stakeholder engagement throughout 2021, during which the NIHRC provided written and oral evidence. The Ad Hoc Committee provided its report to the NI Assembly in 2022.

<sup>6</sup> The EU (Withdrawal) Act 2018 repealed the European Communities Act 1972, however, sections 2-4 carry over EU-derived law and direct EU Obligations into the domestic legal framework on or after the 31 December

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2020 to ensure that rights, obligations and remedies available before the UK exited the EU would continue to be recognised and available after exit day. Section 5 of the 2018 Act identifies a number of exclusions from retained EU law. The Charter of Fundamental Rights was not carried over into domestic law, references to the Charter are to be read as if they were references to any corresponding retained fundamental rights or principles. General Principles of EU law are recognised but are given a much more limited scope. Section 6(5A) of the 2018 Act permits a Minister to amend, by regulation, the Act and change the extent to which the Courts can diverge from retained EU case law.

<sup>7</sup> UK Parliament Hansard, 'Written Statement: Brexit Opportunities: Review of Retained EU Law – Lord Frost – Statement UIN HLWS445', 9 December 2021.

<sup>8</sup> (Cote d'Ivoire), Supported.

<sup>9</sup> ICCPR, ICESCR, UN CAT, UN CEDAW, UN CERD, UN CRC, UN CRPD.

<sup>10</sup> Reservation states, 'The United Kingdom reserves the right for disabled children to be educated outside their local community where more appropriate education provision is available elsewhere. Nevertheless, parents of disabled children have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated'. A further declaration to CRPD, Articles 24(2)(a) and (b) states, 'The United Kingdom Government is committed to continuing to develop an inclusive system where parents of disabled children have increasing access to mainstream schools and staff, which have the capacity to meet the needs of disabled children. The General Education System in the United Kingdom includes mainstream, and special schools, which the UK Government understands is allowed under the Convention'.

<sup>11</sup> Reservation states, 'The United Kingdom accepts the provisions of the Convention, subject to the understanding that none of its obligations relating to equal treatment in employment and occupation, shall apply to the admission into or service in any of the naval, military or air forces of the Crown'.

<sup>12</sup> CAT, Article 22 requires the State Party to issue a declaration recognising the competence of the Committee to receive individual communications.

<sup>13</sup> CERD, Article 14 requires the State Party to issue a declaration recognising the competence of the Committee to receive individual communications.

<sup>14</sup> The UK accepted the right in regard to OP-CEDAW as a 'pilot' scheme on 17 December 2004 which entered into force on 17 March 2005. However, the State made limited effort to raise awareness concerning the availability of the mechanism. The Ministry of Justice commissioned a review which was published in October 2008. Though the review concluded that the mechanism had done little to advance women's rights, the NIHRC notes that Professor Murdoch began his conclusions with the undoubted 'important symbolic value' of a commitment to human rights achieved by recognition of the individual complaint mechanism and the NIHRC believes this trumps the current lack of petitions (two admissible cases have been directed at the UK with seventeen opinions issued in total), especially given that no significant financial burden was found to exist upon the UK (quoted in the report as £4000 per petition). The evaluation report was conducted by Professor Jim Murdoch of the University of Glasgow, School of Law and published in October 2008. It is available on the Ministry of Justice website at, <http://webarchive.nationalarchives.gov.uk/20110322191207/http://www.justice.gov.uk/publications/docs/un-optional-protocol-women.pdf>.

<sup>15</sup> The UK ratified the OP-CRPD on 7 August 2009.

<sup>16</sup> 134.81 (Georgia) Supported.

<sup>17</sup> E/C.12/GBR/CO/5, 'UN ICESCR Committee Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland', 12 June 2016, at para 16; see also CRI(2016)38, 'European Commission on Racial Intolerance Report on the UK (Fifth Monitoring Cycle)' (ECRI, 2016), at para 22; CRPD/C/GBR/CO/1, 'UN CRPD Committee Concluding Observations on the Initial Report of the United Kingdom of Great Britain and Northern Ireland', 3 October 2017, at para 17(b); CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the United Kingdom of Great Britain and Northern Ireland', 14 March 2019, at para 16(a).

<sup>18</sup> 1<sup>st</sup> Cycle: 12 A (Egypt); 2<sup>nd</sup> Cycle: 110.92 N (USA); 3<sup>rd</sup> Cycle: 134.156 N (Switzerland), 134.57 N (Australia).

<sup>19</sup> CAT/C/GBR/CO/6, 'UN Committee against Torture Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 7 June 2019, at paras 41(a) and 41(f).

<sup>20</sup> NI Office, 'Addressing the Legacy of Northern Ireland's Past' (NIO, 2021) at p. 21.

<sup>21</sup> NI Office, 'Addressing the Legacy of Northern Ireland's Past' (NIO, 2021) at p. 19.

<sup>22</sup> CCPR/C/GBR/CO/7, 'UN Human Rights Committee Concluding Observations on the Seventh Periodic Report of the UK of Great Britain and NI', 17 August 2015, at para 11(b).

<sup>23</sup> CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 7 June 2019, at para 41(d); CCPR/C/GBR/CO/7, 'UN Human Rights Committee Concluding Observations on the Seventh Periodic Report of the UK of Great Britain and NI', 17 August 2015, at para 8.

<sup>24</sup> CCPR/C/GBR/CO/7, 'UN Human Rights Committee Concluding Observations on the Seventh Periodic Report of the UK of Great Britain and NI', 17 August 2015, at para 8.

<sup>25</sup> 1<sup>st</sup> Cycle: 3 (Italy), 4 (Sweden), 5 (France); 2<sup>nd</sup> Cycle: 110.78 N (Sweden), 110.79 N (Norway), 110.80 N (Finland); 3<sup>rd</sup> Cycle 134.193 N (Liechtenstein), 134.194 N (Liechtenstein), 134.195 N (Ireland), 134.196 N (Mongolia), 134.197 N (Sweden), 134.198 N (Croatia), 134.199 N (Estonia).

<sup>26</sup> 3<sup>rd</sup> cycle 134.204 N (Albania).

<sup>27</sup> Statistics provided to NI Human Rights Commission by NI Statistics and Research Agency, 8 November 2019.

<sup>28</sup> Statistics provided to NI Human Rights Commission by NI Statistics and Research Agency, 17 August 2020.

<sup>29</sup> Statistics provided to NI Human Rights Commission by NI Statistics and Research Agency, 2 July 2021.

<sup>30</sup> 3rd Cycle: 134.201 N (Russian Federation).

<sup>31</sup> CRC/C/OPSC/GBR/CO/1, 'UN CRC Committee Concluding Observations on the Report Submitted by the UK of Great Britain and NI under Article 12, Paragraph 1, of the Optional Protocol to the UN CRC on the Sale of Children, Child Prostitution and Child Pornography', 8 July 2014, at para 29; CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI', 14 March 2019, at para 35(g).

<sup>32</sup> In 2019/2020, the Police Service of NI received 5,723 reports of children going missing in NI, which involved 1,562 individual children. Of these, there were 2,300 missing persons reports (40 per cent) from Residential Children's Homes, relating to 205 individual children. Compared to 2018/2019, this is 90 more missing person reports from Residential Children's Homes (previously 2,210) with the number of individual children reported going missing increasing by four per cent (from 201 children).

<sup>33</sup> Safeguarding Board for NI, 'Getting Focused and Staying Focused, Looked After Children, Going Missing, and Child Sexual Exploitation, A Thematic Review' (QUB, 2015), at 25.

<sup>34</sup> 1st Cycle: 2 (Algeria), 7 (Algeria), 9 (Switzerland); 2nd Cycle: 110.81 N (Iran), 110.87 S (Austria), 110.94 N (Belarus), 110.95 N (Chile); 3rd Cycle 134.205 N (Albania), 134.206 N (Peru), 134.207 N (Belarus), 134.208 N (Bulgaria).

<sup>35</sup> CRC/C/GC/24, 'UN CRC Committee General Comment No 24: Children's Rights in the Child Justice System', 18 September 2019, at para 21.

<sup>36</sup> In 2020/21, the total number of admissions to the Juvenile Justice Centre was 269. Of these, 207 (77 per cent) were related to the Police and Criminal Evidence Act 1984, 60 (22.3 per cent) to remand and 2 (0.7 per cent) were sentencing admissions.

<sup>37</sup> 1st cycle: 15 (Egypt); 2nd cycle: 110.103 S (Cuba); 110.106 S (Costa Rica); 3rd cycle 134.174 S (Botswana).

<sup>38</sup> Section 2, Shared Education Act (NI) 2016.

<sup>39</sup> Department of Education, 'Shared Education 2nd Report to the NI Assembly' (DoE, 2020), at para 63.

<sup>40</sup> Roundtable discussion with civil society organisations, 23 September 2020.

<sup>41</sup> According to the UK Government LGBT Action Plan July 2018, 2% of respondents had undergone conversion therapy in an attempt to 'cure' them of being LGBT, and a further 5% had been offered it. Government Equalities Office, 'LGBT Action Plan: Improving the Lives of Lesbian, Gay, Bisexual and Transgender People.' July 2018 at pg. 14.

<sup>42</sup> The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity defined conversion therapy as: "... an umbrella term to describe interventions of a wide-ranging nature, all of which are premised on the belief that a person's sexual orientation and gender identity, including gender expression, can and should be changed or suppressed when they do not fall under what other actors in a given setting and time perceive as the desirable norm, in particular when the person is lesbian, gay, bisexual, trans or gender diverse. Such practices are therefore consistently aimed at effecting a change from non-heterosexual to heterosexual and from trans or gender diverse to cisgender." A/HRC/44/53 'UN Human Rights Council, 'Practices of so-called "conversion therapy": Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity' 1 May 2020, at para 17.

<sup>43</sup> 1st Cycle: 6 (Cuba, Ghana & The Netherlands), 9 (Switzerland); 2nd Cycle: 110.81 (Iran), 110.82 (Russia), 110.83 (Austria), 110.121 (The Netherlands); 3rd cycle: 134.63 (Botswana), 134.128 (Malaysia).

<sup>44</sup> United Kingdom: The Terrorism Act 2000 [United Kingdom of Great Britain and Northern Ireland], 2000, 20 July 2000.

<sup>45</sup> PSNI Statistics Branch, 'Police Recorded Security Situation Statistics: 1 March 2020 to 28 February 2021' (PSNI, 2021), at 1.

<sup>46</sup> Ibid, at 10.

<sup>47</sup> Jonathan Hall QC, 'The Terrorism Acts in 2019: Report of the Independent Reviewer of Terrorism Legislation on the Operation of the Terrorism Acts 2000 and 2006, Independent Reviewer of Terrorism Legislation' (March 2021), at para 5.4.

<sup>48</sup> The Anti-social Behaviour, Crime and Policing Act 2014 amended section 133 of the Criminal Justice Act 1988.

<sup>49</sup> CCPR/C/GBR/CO, 'UN Human Rights Committee Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland', 17 August 2015, at para 22(b).

<sup>50</sup> 134.181 (Maldives) Supported, 134.180 (Libya) Supported, 134.182 (Slovenia) Supported, 134.183 (Sudan) Supported, 134.185 (Indonesia) Supported, 134.187 (Czechia) Supported, 134.184 (Bosnia and Herzegovina) Supported, 134.186 (China) Supported.

<sup>51</sup> Police Service NI, 'Domestic Abuse Calls received by Police in NI: weekly management information on domestic abuse calls received by Police Service NI since COVID-19 lockdown measures were introduced on 23 March 2020', (PSNI, 2020), at 2.

<sup>52</sup> CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the United Kingdom of Great Britain and Northern Ireland', 14 March 2019, at para 29.

<sup>53</sup> 134.220 (Honduras) Supported, 134.139 (Philippines) Supported, 134.140 (Russian Federation) Supported, 134.141 (Spain) Supported, 134.142 (Timor-Leste) Supported, 134.143 (Uganda) Supported, 134.144 (Lebanon) Supported, 134.147 (Morocco) Supported, 134.145 (Australia) Supported, 134.138 (Islamic Republic of Iran) Supported, 134.146 (Bahrain) Supported.

<sup>54</sup> CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the United Kingdom of Great Britain and Northern Ireland', 14 March 2019, at para 34.

<sup>55</sup> Clause 67, Nationality and Borders Bill 2021

<sup>56</sup> 134.170 (Iceland) Noted, 134.172 (Sweden) Noted, 134.173 (Canada) Noted, 134.171 (Myanmar) Noted.

<sup>57</sup> Abortion (NI) (No 2) Regulations 2020, Regulations 3-4.

<sup>58</sup> *Re Northern Ireland Human Rights Commission for Judicial Review* [2021] NIQB 91; the Court held that the

Secretary of State was in breach his obligation under s9 of the Northern Ireland (Executive Formation etc) Act 2019.

<sup>59</sup> Brandon Lewis MP, 'The Abortion Services Directions 2021', Statement UIN HCWS238, 22 July 2021; the direction was issued to the NI Department of Health, the Minister for Health, the Health and Social Care Board and the First and Deputy First Ministers.

<sup>60</sup> 'Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland', CRC/C/GBR/CO/5, 12 July 2016, at para 65(b); The Committee recommended that this should extend to academies, special schools and youth detention centres in all areas of the State party.

<sup>61</sup> CEDAW/C/OP.8/GBR/1, 'UN CEDW Committee inquiry concerning the United Kingdom of Great Britain and Northern Ireland under Article 8 of the Optional Protocol to the UN CEDAW', 6 March 2018, at para 86(d); the Committee found that NI youth are denied education necessary to enjoy their sexual and reproductive health and rights and that access to abortion and contraceptives are not statutory requirements of the advisory curriculum, noting that this amounted to State negligence in pregnancy prevention.

<sup>62</sup> Northern Ireland (Executive Formation etc.) Act 2019, Section 9(1).

<sup>63</sup> Education (NI) Order 2006.

<sup>64</sup> NI Curriculum, 'Relationships and Sexuality Education Guidance: An Update for Post-Primary Schools', (NI Curriculum, 2019); The current curriculum structure in NI is based on the Education (Curriculum Minimum Content) Order (NI) 2007; In 2015, the Council for Curriculum, Examinations and Assessment updated guidance on relationship and sexuality education for post-primary schools.

<sup>65</sup> Education Authority, 'Guidance for Schools, EOTAS Centres and Youth Service on support transgender young people', (EA, 2019).

<sup>66</sup> The NIHRC's investigation on relationship and sexuality education is expected to be completed by April 2022 and will include engagement with key stakeholders involved in the provision of relationship and sexual education. The investigation is conducted in line with the NIHRC's powers conferred by section 69(8) of the Northern Ireland Act 1998.

<sup>67</sup> 134.106 (Pakistan) Supported, 134.108 (Romania) Supported, 134.113 (Turkey) Supported, 134.118 (Bangladesh) Supported

<sup>68</sup> CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Review of the United Kingdom of Great Britain and Northern Ireland', 7 June 2019, at para 63.

<sup>69</sup> Department of Justice, 'Hate Crime Legislation in NI: Independent Review', (DoJ, 2020).

<sup>70</sup> *In the matter of an application by Siobhan McLaughlin for Judicial Review* [2018] UKSC 48; the Court held this was a violation of Article 8 ECHR, the right to private and family life and was discriminatory, contrary to Article 14 ECHR.

<sup>71</sup> The draft remedial order would back date payments to the date of the UK Supreme Court Case. The NIHRC has recommended that these payments recompense the bereaved back to February 2016, the date of the High Court decision in *McLaughlin*.

<sup>72</sup> This is in line with recommendations from the UK Joint Committee on Human Rights; see Joint Committee on Human Rights, 'Proposals for draft Bereavement Benefits (Remedial) Order 2021: discrimination against cohabiting partners', 12 November 2021.

<sup>73</sup> 134.168 (Syrian Arab Republic) Supported.

<sup>74</sup> Department for Communities, 'Poverty Bulletin: Northern Ireland 2019/20', (DfC, 2021).

<sup>75</sup> NI Human Rights Commission, 'Cumulative Impact Assessment of Tax and Social Security Reforms in Northern Ireland', (NIHRC, 2019), at 20; Reforms have had a disproportionately negative impact on several protected groups, including disabled people, certain ethnic groups and women.

<sup>76</sup> NI Office, 'New Decade, New Approach', (NIO, 2020), at 9.

<sup>77</sup> Anti-Poverty Strategy Expert Advisory Panel, 'Recommendations for an Anti-Poverty Strategy', (DfC, 2020).

<sup>78</sup> NI Assembly Hansard, 'Written Question: Claire Sugden MLA – AQW 27647/17-22, 19 January 2022.

<sup>79</sup> NI Office, 'New Decade, New Approach', (NIO, 2020).

<sup>80</sup> *Gaughran v UK* [2020] ECHR 144, at 96.

<sup>81</sup> *In the matter of an application by JR 123* [2021] NIQB 97, at para 102; it was declared that Article 6(1) of the Rehabilitation of Offenders (NI) Order 1978 was incompatible with Article 8 ECHR by reason of failing to provide a mechanism by which certain categories of offenders can apply to have their conviction considered to be spent.

<sup>82</sup> 134.190 (Syrian Arab Republic) Noted, 134.213 (Honduras) Noted, 134.224 (Ecuador) Noted, 134.222 (Honduras) Noted, 134.223 (Argentina) Noted, 134.221 (Indonesia) Noted.

<sup>83</sup> NI Human Rights Commission, 'Response to Public Consultation on the Home Office's "New Plan for Immigration"', (NIHRC, 2021); The NIHRC highlighted how the proposals failed to establish future refugee resettlement figures and failed to demonstrate the human rights compliance of the many proposed reforms which included changes to the age assessment of minors and changes to the evidential and procedural rules underpinning a future application for refugee status, which would make it more difficult for individuals to apply for refugee status or asylum.

<sup>84</sup> NI Human Rights Commission, 'Response to Call for Evidence by the Joint Committee on Human Rights on the Nationality and Borders Bill', (NIHRC, 2021).

<sup>85</sup> NI Human Rights Commission and the Equality Commission for NI, 'Joint NIHRC/ECNI Briefing Paper on the Modern Slavery and Human Trafficking and Electronic Travel Authorisation provisions in the Nationality and Borders Bill', (NIHRC and ECNI, 2022); Additionally, the Bill makes no provisions for child victims of human trafficking.

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<sup>86</sup> CRPD/C/GBR/CO/1, 'UNCRC Committee Concluding Observations on the Initial Report of the United

Kingdom of Great Britain and Northern Ireland', 29 August 2017, at para 30.

<sup>87</sup> In 2019, the first phase of the Act came into operation with the commencement of the research provisions in relation to deprivation of liberty, offences and money and valuables in residential care and nursing homes.

<sup>88</sup> 134.209 (Israel).

<sup>89</sup> Toman, N., O'Reilly, T., McConway, M., Hamilton, A. and O'Neill, E., 'Progress Towards the Implementation of the UNCRC in Northern Ireland', 2022.

<sup>90</sup> Independent Mechanism for Northern Ireland, 'Women and Equalities Committee's Inquiry into the Unequal Impact of Covid-19: Disability and Access to Services', (IMNI, 2020).

<sup>91</sup> NIA 59/17-22, 'Committee for Health Inquiry Report on the Impact of COVID-19 in Care Homes', 21 January 2021.

<sup>92</sup> Letter from the NI Human Rights Commission to the NI Executive Office, 1 July 2021. See also; Commissioner for Older People NI, 'Press Release: Commissioner for Older People calls for public inquiry into NI's handling of care home residents throughout the Covid-19 pandemic', 24 November 2021; The Commissioner noted the specific negative impact the pandemic had on care home residents, noting the incorrect recording of deaths, no access to loved ones, PPE supply issues, inappropriate use of do not resuscitate orders, slow introduction of testing and the transfer of Covid positive patients to care homes. see also; NI Statistics and Research Agency, 'Covid-19 related deaths: week ending 12 November 2021', (NISRA 2021); 30% of Covid-19 related deaths from March 2020 to November 2021 were care home residents, either in care homes or in hospital.