

**Northern Ireland Human Rights Commission submission to the UN  
Human Rights Committee 114<sup>th</sup> Session on the Seventh Periodic  
Report of the United Kingdom of Great Britain and Northern  
Ireland on compliance with the ICCPR**



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

***29 May 2015***

Northern Ireland Human Rights Commission  
Temple Court, 39 North Street  
Belfast BT1 1NA  
Tel: (028) 9024 3987  
Fax: (028) 9024 7844  
Textphone: (028) 9024 9066  
SMS Text: 07786 202075  
Email: [information@nihrc.org](mailto:information@nihrc.org)  
Online: [nihrc.org](http://nihrc.org) - [twitter.com/nihrc](https://twitter.com/nihrc)  
[facebook.com/nihrc](https://facebook.com/nihrc) - [youtube.com/nihrc](https://youtube.com/nihrc)

## **Contents**

1. Introduction	Pg 3
2. Constitutional and legal framework within which the Covenant is implemented	Pg 3
3. Non-discrimination, equality between men and women, prohibition of advocacy of national, racial or religious hatred and minority rights	Pg 5 -7
3.1 <i>Racist Hate Crime</i>	<i>Pg 5</i>
3.2 <i>Stop and Search</i>	<i>Pg 6</i>
3.3 <i>Participation of women in public life</i>	<i>Pg 6-7</i>
4. Violence against women, including domestic violence	Pg 7 – 8
5. Counter-terrorism measures	Pg 8
6. Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment	Pg 8-14
6.1 <i>Conflict related deaths</i>	<i>Pg 9-12</i>
6.2 <i>Termination of pregnancy</i>	<i>Pg 12-13</i>
6.3 <i>Abuse in Health and Social Care Settings</i>	<i>Pg 13</i>
6.4 <i>Historical Institutional Abuse Inquiry</i>	<i>Pg 13-14</i>
7. Liberty and security of person	Pg 14-15
7.1 <i>Terrorism Act 2000 section 41</i>	<i>Pg 14-15</i>
8. <i>Treatment of persons deprived of their liberty</i>	<i>Pg 15-17</i>
9. <i>Right to an effective remedy and fair trial</i>	<i>Pg 17-18</i>
9.1 <i>Delays across the criminal justice system NI</i>	<i>Pg 17-18</i>
9.2 <i>Compensation</i>	<i>Pg 18</i>
9.3 <i>Age of Criminal Responsibility</i>	<i>Pg 18-19</i>
9.4 <i>Overuse of remand in custody of child defendants</i>	<i>Pg 19</i>
10. Freedom of conscience and religious belief, freedom of expression, peaceful assembly and freedom of association	Pg 19
11. Freedom to enter and leave one's country	Pg 20-22

## **Introduction**

1.1 The NI Human Rights Commission (the NIHRC) is a statutory public body established in 1999 to promote and protect human rights. In accordance with the Paris Principles the NIHRC reviews the adequacy and effectiveness of measures undertaken by the UK Government and NI Executive to promote and protect human rights, specifically within Northern Ireland (NI).

1.2 The NIHRC is one of the three A status National Human Rights Institutions in the United Kingdom (UK). The NIHRC's mandate extends to all matters relating to the protection and promotion of human rights in NI, both matters within the competence of the NI Assembly and those within the competence of the Westminster Parliament. This submission relates to the protection of human rights in NI.

1.3 As part of the NIHRC's engagement with the United Nations and Council of Europe treaty monitoring processes, it presents this submission regarding the UK's Seventh Periodic Report on compliance with the International Covenant on Civil and Political Rights (ICCPR) to the UN Human Rights Committee (the Committee) 114<sup>th</sup> Session. The Commission submitted to the Country Report Task Force during the Committee's 112<sup>th</sup> session and has developed this submission in line with the List of Issues, taking into account the reply of the State Party.

## **Constitutional and legal framework within which the Covenant is implemented (article 2)**

2.1 The Commission reports that no substantive progress has been made on introducing a Bill of Rights for NI, in accordance with the Belfast (Good Friday) Agreement, since the Committee last examined the UK.<sup>1</sup>

2.2 Further to our submission to the Country Report Task Force, the Commission continues to be concerned at the unwillingness of the NI Executive and Assembly to engage fully in the international human rights system.<sup>2</sup> In March 2015 the Joint Committee for Human Rights (JCHR) published a report on the execution of judgements of the European Court of Human Rights (ECtHR) in the UK.<sup>3</sup> The JCHR reported that they identified: "*three cases in particular in which full implementation of a judgment against the UK has been delayed because the judgment has been implemented in the rest of the UK but not in NI*".<sup>4</sup> The JCHR recorded that sources in NI informed them that "*the delay ... was symptomatic of a more general impasse in relation to human rights as a result of political deadlock within the governing institutions*".<sup>5</sup> Whilst the Commission notes that since publication of this report progress has been made on implementation of the ECtHR judgements in NI the Commission

agrees with the JCHR finding that "*there is a systemic problem with implementation in NI that urgently needs addressing*".<sup>6</sup>

2.3 The findings of the JCHR are reinforced by the failure of the NI Executive to contribute to the UK Government's Seventh Periodic Report on compliance with the ICCPR. A number of examples of the unwillingness of the NI Executive and Assembly to enact measures to ensure compliance with international human rights law and with recommendations of international human rights bodies are set out in this report to the Committee.

**Noting that the UK Government is required to guarantee that the laws of their provincial administrations conform with the Covenant, the Committee may wish to recommend that the State Party consider what measure should be taken to ensure the NI Executive and Assembly act in a manner compatible with international human rights law.<sup>7</sup> Furthermore the State Party should consider what measures can be taken to advance the process for a separate Bill of Rights for NI.**

2.4 The Commission will comment on plans to replace the Human Rights Act 1998 by way of a joint letter to the Committee, which records the views of UK national human rights institutions that the 1998 Act is well crafted. The 1998 Act incorporated the European Convention on Human Rights into NI law in furtherance of a commitment within the Belfast (Good Friday) Agreement.<sup>8</sup>

2.5 The NI (Miscellaneous Provisions) Act 2014 amended the NI Act 1998 to provide that the functions of the Secretary of State for NI are transferable to the competency of the NI Assembly. The 1998 Act as amended does not specify the institution to which the responsibilities of the Secretary of State for NI may be transferred. The Commission's considered view is that any transfer of the Secretary of State for NI's responsibilities should be in line with the Belgrade Principles and therefore to the NI Assembly itself, rather than a Department of the NI Executive.<sup>9</sup>

2.6 In the current financial year the Commission's cash budget is set at £1,174,000. The budget is a 9.4% reduction on the previous financial year. In March 2015 the Chancellor of the Exchequer published the 2015 Budget which will reduce Departmental budgets across the UK public sector going forward.<sup>10</sup> At the time of writing the Commission is not aware of the extent of any further reduction it will be required to meet in the financial year 2016/17. The Commission advises that it will shortly be applying for the renewal of its accreditation as an A status national human rights institution.

**The Committee may wish to recommend that the State Party ensure that any future transfer of the functions of the Secretary of State for NI relating to the Commission be to the NI Assembly and that it be in full conformity with the Paris Principles<sup>11</sup> and Belgrade Principles. Furthermore the State Party should ensure the Commission has a stable and sufficient budget in order to discharge its functions independently and effectively.**

**Non-discrimination, equality between men and women, prohibition of advocacy of national, racial or religious hatred and minority rights (arts. 2, 3, 20, 26 and 27)**

*Racist Hate Crime (Paragraph 5 List of Issues)*

3.1 The NIHRC notes that the State Party did not provide statistics in its reply to the List of Issues concerning racist hate crimes in NI. The Police Service of NI (PSNI) reports increasing numbers of hate incidents and crimes; a trend that is most pronounced where the incident is perceived to be based on a racist motivation. For example, in 2013/14, the PSNI reported 982 racist incidents, including 692 crimes. In 2014/15, the figures stood at 1,356 racist incidents, including 921 crimes.<sup>12</sup>

3.2 In NI, the primary prosecutorial tool for the hate element of a crime is the 'aggravated by hostility' sentencing legislation, namely, the Criminal Justice (No. 2) (NI) Order 2004. This legislation can be applied in conjunction with a base offence, such as criminal damage or assault, and covers hostility based on the grounds of race, religion, disability and sexual orientation.<sup>13</sup> The court must treat such offences more seriously in accordance with the 2004 Order. The Order also requires the judge to "*state in open court that the offence was so aggravated*".<sup>14</sup>

3.3 The Public Prosecution Service (PPS) publish statistics on cases considered by a prosecutor to have been '*aggravated by hostility*'. However these statistics do not demonstrate whether the 'aggravated by hostility' element of the offence has been taken into account in the sentencing of the offender.

3.4 In 2012, figures obtained from the NI Courts & Tribunals Service indicated that the provisions of the 2004 Order were being underused prompting an NIHRC investigation in 2012-13.<sup>15</sup>

3.5 The Public Order (NI) Order 1987, Articles 9 to 13, is also an important tool in the prosecution of hate crime. It criminalises "*acts intended or likely to stir up hatred against, or arouse fear of*" a group of persons by reference to their religious belief, colour, race, nationality (including citizenship) or ethnic or national origins, sexual orientation, or disability.<sup>16</sup> It creates five separate offences including in relation to the

use of threatening, abusive or insulting behaviour and the dissemination of those in public. The NIHRC investigation found that minimal knowledge among criminal justice agencies of Article 9 to 13 of 1987 Order undermined the criminal justice systems response to hate speech in NI.

3.6 While the criminal justice agencies have made efforts to improve the handling of hate crime since the investigation recommendations were published, it remains the case that there are no publicly available statistics on the impact of the 2004 Order on persons convicted of an offence which was 'aggravated by hostility'. There are also no publicly available statistics on convictions under Article 9 to 13 of the Public Order (NI) Order 1987.

3.7 NI does not currently have a racial equality strategy. As noted in the State's reply, a consultation on the draft Strategy closed in October 2014. The NIHRC has advised the NI Executive that the draft Strategy should be amended so as to specify precise, tangible, concrete and achievable steps within a reasonable timeframe to achieve the desired impacts; and that this approach would be assisted by developing the final strategy as a National Action Plan Against Racism (NAPAR) for NI in line with the OHCHR's advice.<sup>17</sup>

**The Committee may wish to recommend that the State Party:**

- **Annually publish statistics on the application of the Criminal Justice (No.2) (NI) Order 2004 setting out the number of cases in which a sentence has been increased due to the offence being 'aggravated by hostility';**
- **Annually publish statistics on the numbers of convictions under Article 9 to 13 of the Public Order (NI) Order 1987; and,**
- **Publish without delay an action-orientated racial equality strategy for NI following the OHCHR's NAPAR guidance.**

*Stop and Search (Paragraph 8 List of Issues)*

3.8 The State's Reply to the List of Issues provides detail on the use of stop and search powers contained within the Justice and Security (NI) Act 2007 (paragraphs 67 – 70). However it does not refer to the recommendation of the Policing Board NI to the PSNI; to consider how to include, within the PSNI's recording form, the community background of persons stopped and searched under the 2007 Act. This recommendation, which was made in October 2013, is still under consideration by the PSNI and a pilot has been planned.<sup>18</sup>

*Participation of women in the civil service and judiciary (Paragraph 9 List of Issues)*

3.9 In October 2014 the results of an independent assessment into gender equality at the Executive level in the public sector in NI identified "a significant degree of inequality in the gender composition at executive level of the N.I public sector: males and females holding 70.8% and 29.2% of all executive positions respectively".<sup>19</sup> The research report identified a number of barriers to career progression amongst women in the civil service including: those related to caring responsibilities, a lack of recognition of work life balance, long hours' culture and exclusion from informal networks of communication.<sup>20</sup>

3.10 There are 297 female judicial office holders in NI representing 43% of the total.<sup>21</sup> However female judicial office holders are broadly concentrated amongst the lower ranking judicial posts.<sup>22</sup>

**The Committee may wish to recommend that the State Party ensures the proposed Gender Equality Strategy for NI addresses barriers to career progression within the NI Civil Service. Furthermore, the State Party should put in place measures to remove barriers to female members of the judiciary and legal profession progressing to the upper tiers of the judiciary.**

### **Violence against women, including domestic violence (arts. 2, 3, 7, and 26)**

4.1 In 2010 the Criminal Justice Inspectorate NI (CJINI) recommended a range of measures to improve protection and support for victims of domestic violence in NI.<sup>23</sup> Recommendations included the enactment of legislation to issue Domestic Violence Protection Orders (or notices).<sup>24</sup> In a follow up report in October 2013, the CJINI noted limited progress in the implementation of the recommendations.<sup>25</sup> At this time the Department indicated that it would await the conclusion of the pilot of DVPOs in England and Wales.<sup>26</sup>

4.2 The Commission notes that the pilot of DVPOs in England and Wales was successful and DVPOs were first introduced in England & Wales in March 2014.<sup>27</sup> The evaluation of the pilot found that "DVPOs were generally seen positively by practitioners and victim-survivors and were associated with a reduction in re-victimisation, particularly when used in 'chronic' cases".<sup>28</sup>

4.3 The Commission notes that the NI Executive has indicated to the Committee that the possibility of introducing DVPOs will be considered as part of the action plan to a new strategy "Stopping domestic and sexual violence and abuse". This strategy has not been published at the time of writing. The introduction of DVPOs has been positively received in England & Wales as reducing re-victimisation.<sup>29</sup> Whilst a Bill has been introduced to the NI Assembly providing for violent offender protection

orders, these orders would be applicable only in circumstances where an offender has been convicted of a serious offence.<sup>30</sup> During the passage of this Bill the Commission queried why the opportunity had not been used to introduce DVPOs and no adequate justification was provided.<sup>31</sup>

**The Committee may wish to recommend that the State Party bring forward plans for the introduction of DVPOs in NI as a matter of urgency.**

### **Counter-terrorism measures (arts 7,9,10, 14 and 16)**

5.1 The Independent Reviewer of Terrorism, Mr David Anderson QC has referred to the definition of terrorism within the Terrorism Act 2000 as "*remarkably broad – absurdly so in some cases*".<sup>32</sup> The UK Supreme Court has stated that "*the concerns and suggestions about the width of the statutory definition of terrorism which Mr Anderson has identified .. merit serious consideration*".<sup>33</sup> In 2014 the Independent Reviewer of Terrorism recommended "*a thorough review of the criminal law in areas related to national security, focussed on the question of to what extent it is necessary to supplement ordinary rules and procedures*".<sup>34</sup>

5.2 In response to this recommendation the Home Secretary Theresa May MP stated: "*I remain ever mindful of the complexity and fluidity of changing political events in the terrorism context and its ability to evolve and diversify at great speed. This environment demonstrates the importance of having a flexible statutory framework - with appropriate safeguards – to ensure that our law enforcement and intelligence agencies can continue to disrupt and prosecute those who pose a threat to the public. It is for this reason that I do not think it is the right time to make changes to the statutory definition*".<sup>35</sup> The Home Secretary further noted a number of ongoing legal cases relating to the definition of terrorism.<sup>36</sup>

**The Committee may wish to recommend that, in line with the recommendation of the Independent Reviewer, the State Party conducts a thorough review of the criminal law in areas related to national security, focussed on the question of to what extent it is necessary to supplement ordinary rules and procedures.**

### **Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 2,6, 7, 9, 10 and 16)**

*Conflict related deaths (Paragraph 13 List of Issues)*

6.1 In its earlier submission, the Commission referred to the administrative scheme established by the UK Government by which 'comfort letters' were issued to individuals living outside of the UK, who

believed they may face questioning or arrest in connection with terrorist or other criminal offences relating to the conflict in NI if they returned to the UK.<sup>37</sup> In addition to the Report by Lady Justice Hallett, a Committee of the House of Commons (Parliamentary Committee) has now reported on the operation of the administrative scheme.<sup>38</sup> The Parliamentary Committee noted that the impact of a 'comfort letter' on any future prosecution of a recipient remains unclear.<sup>39</sup> This issue is yet to be tested by the courts. The Parliamentary Committee recommended:

*"The Government should set its mind to ensuring that all necessary steps are taken, including, if necessary, introducing legislation to ensure the letters have no legal effect."*<sup>40</sup>

6.2 The Commission considers that the establishment and operation of the administrative scheme 'below the radar' was counter to the principles of good governance as developed by the UN Human Rights Council.<sup>41</sup> This prevented accountability to democratic institutions of the state and restricted consideration of the needs of victims. Furthermore, the scheme operated without proper structure or policy creating considerable scope for error.<sup>42</sup> Indeed Lady Hallett identified systemic failings in the operation of the scheme.<sup>43</sup> The Parliamentary Committee further specifically highlighted failings in the case of Gareth O'Connor. An inquest into the death of Mr O'Connor was stayed by the Coroner pending an investigation by the Police Service of Northern Ireland into one of the suspects in Mr O'Connor's murder, it emerged during the course of the inquest that this suspect was in receipt of a 'comfort letter', despite the fact that this murder was committed in 2003 five years after the signing of the Belfast (Good Friday) Agreement.<sup>44</sup> The operation of the scheme has therefore potentially hampered the prosecution of individuals for offences committed both during and following the conflict in NI.

**The Committee may wish to recommend that the State Party take all necessary measures to ensure that the operation of the administrative scheme does not hamper independent and thorough investigations into all allegations of abuse by recipients of 'comfort letters' and does not prevent the prosecution and punishment of perpetrators.**

6.3 The Committee may be aware that on 23 December 2014 NI's political leaders agreed the Stormont House Agreement (SHA).<sup>45</sup> This Agreement, inter alia, agreed an approach to dealing with the history of violent conflict in NI. The detail of the SHA remains to be determined though implementation, review and monitoring arrangements are outlined as part of the SHA.

6.4 The Historical Enquiries Team (HET), as discussed in our earlier submission has now closed and has been replaced by a smaller

organisation within the PSNI with significantly fewer resources: the Legacy Investigations Branch.<sup>46</sup> The closure of the HET was announced prior to the SHA as a result of budgetary cuts.<sup>47</sup>

6.5 The SHA proposes the establishment of a Historical Investigations Unit (HIU), to take forward outstanding cases from the HET process and the legacy work of the Police Ombudsman for NI. The establishment of the HIU will require legislation, which will be enacted by the Westminster Parliament. It is anticipated that the HIU will not become fully operational until the spring of 2017.<sup>48</sup> The SHA states that the HIU: "*should aim to complete its work within five years of its establishment*".

The Joint Committee for Human Rights has raised concerns at "*the prospect that it may be two years before the new Historical Investigations Unit starts its work, especially as in the meantime the work of the Historical Enquiries Team is going to be carried on by the smaller Legacy Investigations Branch of the PSNI. As well as having fewer resources at its disposal than its predecessor, the Legacy Investigations Branch cannot itself satisfy the requirements of Article 2 ECHR because of its lack of independence from the police service*".<sup>49</sup>

6.6 It is anticipated that the HIU will have a complement of 150 officers and that these officers will not have served within the Royal Ulster Constabulary. Before it is fully operational protocols for the retrieval and storage of information will be required. A SHA Implementation Group, composed of the five main political parties has been established.<sup>50</sup> However there has been political disagreement regarding the social security reform aspects of the SHA which may stall implementation.<sup>51</sup>

**The Committee may wish to recommend that the State Party ensure that the HIU is established and fully operational in a manner in compliance with the state's human rights obligations as soon as possible. A detailed implementation plan, with clear targets for the separate elements of the SHA should be published as soon as possible. The Commission further advises the Committee to recommend that the five year limitation on the lifetime of the HIU should not curtail investigations or lead to the adoption a standard less than 'effective'.**

6.7 The SHA does not contain specific commitments relating to legacy inquests but rather states that:

*"Processes dealing with the past should be victim-centred. Legacy inquests will continue as a separate process to the HIU. Recent domestic and European judgments have demonstrated that the legacy inquest process is not providing access to a sufficiently effective investigation within an acceptable timeframe. In light of this, the Executive will take*

*appropriate steps to improve the way the legacy inquest function is conducted to comply with ECHR Article 2 requirements”.*

6.8 The Lord Chief Justice for NI Sir Declan Morgan QC has stated that the system of inquests is currently in a '*lamentable state of affairs*', and that: "*If existing legacy inquests are to be brought to a conclusion under the present system someone could easily be hearing some of these cases in 2040*".<sup>52</sup> The Lord Chief Justice was recently appointed president of the coroners' courts.<sup>53</sup> In addition the Minister of Justice recently assigned judges from a higher tier to take responsibility for some of the legacy inquests, to ensure that matters progress more speedily.<sup>54</sup>

6.9 A factor which has contributed towards the delays in inquest proceedings is the difficulty in obtaining full disclosure of documentation held by the UK Government and the PSNI.<sup>55</sup> The SHA contains a commitment from the UK Government to make full disclosure to the HIU. How this commitment will be realised is not yet clear. Furthermore it is unclear how the capacity of the PSNI and Office of the Police Ombudsman will be enhanced to ensure the effective transfer of all relevant case files to the HIU.

**The Committee may wish to recommend that the State Party set out plans to enhance the capacity of the legacy process in NI and for meeting its commitment to ensure 'full disclosure' to the HIU. This should include an anticipated date for the completion of all remaining inquests into conflict related deaths.**

6.10 The SHA contains further proposals for three separate initiatives for the recording and sharing of information relating to the conflict. These are: an Oral History Archive, a research project to produce a factual historical timeline and statistical analysis of the Troubles; and an Independent Commission on Information Retrieval, which will '*enable victims and survivors to seek and privately receive information about the deaths of their next of kin*'.<sup>56</sup>

6.11 At this moment it is unclear how these initiatives, in particular the Independent Commission on Information Retrieval, will operate alongside the HIU.

**The Committee may wish to recommend that the State Party ensure that all initiatives established by the SHA are complementary, ensuring prompt, thorough and effective investigations through independent and impartial bodies into alleged violations or abuses during the conflict in NI which are capable of leading to the identification and punishment of those responsible. These investigations must be open to public scrutiny and involve victims and their next-of-kin. Furthermore the**

**initiatives should assist in the realisation of victims' rights including ; the right to the truth; the right to access to justice, and the right to a remedy, including appropriate restitution, compensation, rehabilitation, measures of satisfaction, cessation of any on-going violation, and guarantees of non-repetition.**

6.12 The Commission notes paragraph 126 of the State's reply to the List of Issues relating to the Inquiries Act 2005. The House of Lords Select Committee on the 2005 Act made 33 recommendations, relating to the Inquiries Act 2005.<sup>57</sup> The Select Committee did not recommend amendments to sections 13 and 14 of the 2005 Act which give powers to the Minister to suspend and terminate inquiries, respectively.<sup>58</sup> These powers have been the principal source of concern for the Commission and others.<sup>59</sup> Furthermore, of the Select Committee's 33 recommendations the Government rejected 14 of these outright, including all but one recommendation relating to the independence of inquiries.<sup>60</sup>

6.13 The Select Committee recommended that Ministers should give reasons to Parliament for a decision not to hold an inquiry, the Government accepted that a Minister should provide '*some explanation*' to Parliament but only in circumstances where the Government has been invited to hold an inquiry by a domestic body of a certain standing. In its reply to the recommendation the Government states that this requirement "*should not extend to international bodies such as the United Nations*".<sup>61</sup> The Government has not indicated when all recommendations will be implemented, but acknowledges that some recommendations will require amendment to the 2005 Act.

**The Committee may wish to recommend that the State Party ensures full implementation of the accepted recommendations of the Select Committee; re-consider its position on the requirement to give reasons for a refusal of an inquiry and; keep under review the operation of the Inquiries Act 2005.**

*Termination of pregnancy (List of Issues paragraph 14)*

6.14 Noting the Committee's and other treaty bodies' comments, observations and jurisprudence on the issue of access to safe abortion, the Commission has consistently advised that the law governing access to abortion in NI is in breach of international human rights law.<sup>62</sup>

6.15 On 11 December 2014 the NIHRC made an application to the NI High Court to bring legal proceedings against the Department of Justice on the grounds that legislation in NI preventing access to abortion in cases of serious malformation of the foetus or sexual crime is in violation of domestic and international human rights law. The Commission has

received the permission of the High Court to proceed with the legal proceedings which will be heard in June 2015.

As set out in the State's reply to the List of Issues, the Department of Justice NI has publicly stated its position that it will seek to amend the law so that abortion is decriminalised in very specific circumstances only, namely where there is a diagnosis in pregnancy that the foetus has a lethal abnormality.<sup>63</sup> This amendment would not meet the standard set by the Committee and other international treaty bodies. Furthermore there is considerable doubt whether this proposal will receive the support of the NI Executive.<sup>64</sup>

**The Committee may wish to recommend that the State Party revise legislation in NI on abortion, to provide for exceptions in cases of rape, incest, fatal or serious malformation of the foetus.**

*Abuse in Health and Social Care Settings (List of Issues paragraph 18)*

6.16 In its earlier submission the Commission informed the Committee that a new offence of wilful or reckless neglect or mistreatment of any individual in a health and social care setting should be introduced to NI. In England & Wales it is now an offence for an individual who has the care of another individual by virtue of being a care worker to ill-treat or wilfully to neglect that individual.<sup>65</sup> This offence was introduced to address a lacuna in the criminal law of England & Wales which left those reliant on others for their care open to abuse. The State's response to the List of Issues does not address the criminal law in NI. Whilst the Commission notes the development of new standards for Nursing Homes, the effectiveness of the criminal law of NI to address ill treatment in health and social care scenarios requires consideration.<sup>66</sup>

**The Committee may wish to recommend that the State Party assess the criminal law of NI to determine if it is sufficiently robust to protect and safeguard those reliant on the health and social care system from abuse and ill treatment.**

*Historical Institutional Abuse Inquiry (List of Issues paragraph 19)*

6.17 As reported in the reply to the List of Issues the Inquiry into Historical Institutional Abuse will now report in January 2017, one year later than expected. The Report, inter alia, will consider the "requirement or desirability for redress to be provided by the institution and/or the Executive to meet the particular needs of victims".<sup>67</sup> Victims of abuse who have provided evidence to the inquiry have suffered with the consequences of abuse for many years and a number are of advanced age.<sup>68</sup> A number of groups representing the victims of institutional abuse have raised concerns regarding this delay.<sup>69</sup>

6.18 During 2014 the Chair of the Historical Institutional Abuse Inquiry raised concerns regarding the ability of the Inquiry to fully investigate issues relating to the alleged involvement of Army or MI5 personnel in child abuse that took place at Kincora Boy's Home in Belfast.<sup>70</sup> In July 2014, the Home Secretary separately announced the establishment of an inquiry into allegations that evidence of the sexual abuse of children was suppressed by people in positions of power, the Child Sex Abuse Inquiry.<sup>71</sup> The Commission wrote to the Home Secretary highlighting Mr Justice Hart's statement on Kincora Boy's Home and advising that the UK may not have fulfilled its human rights obligations. The Commission requested that consideration be given in this regard to the scope of the Child Sex Abuse Inquiry.<sup>72</sup>

6.19 In October 2014 the Secretary of State for NI announced that the terms of reference for the Child Sex Abuse Inquiry would not be amended to include Kincora Boys Home. However, the Secretary of State indicated that the ability of the Historical Institutional Abuse Inquiry to investigate allegations relating to Kincora Boys Home would be addressed and a number of assurances of co-operation were provided.<sup>73</sup> The Chair of the Inquiry commented that the assurances provided the Inquiry with the ability to "carry out an effective and thorough investigation into all the Kincora allegations".<sup>74</sup> There continues to be calls for the incidents of child sex abuse occurring in Kincora Boys Home to be included within the Child Sex Abuse Inquiry.<sup>75</sup>

**The Committee may wish to recommend that the State Party ensures that all victims of child sex abuse obtain an effective remedy, including appropriate compensation, restitution, rehabilitation and measures of satisfaction.**

### **Liberty and security of person (art. 9)**

*Terrorism Act 2000 section 41 (List of Issues paragraph 20)*

7.1 Under the Terrorism Act section 41 a constable may arrest without a warrant a person whom he reasonably suspects to be a terrorist. In its earlier submission the Commission reported on concerns that a low proportion of persons arrested under the Terrorism Act 2000 section 41 were subsequently charged with an offence.<sup>76</sup> In 2013/14 the charge rate was again a source of concern, of 168 persons arrested under section 41 only 32 were charged with an offence: the fewest number of persons charged subsequent to a section 41 arrest in the last 10 years.<sup>77</sup> Furthermore, in this year there were only 18 persons who were convicted under the Terrorism Act 2000, the Terrorism Act 2006 or the Counter Terrorism Act 2008 in NI.<sup>78</sup> In February 2015 the Policing Board reported that they had received a briefing from the PSNI on its review of the

exercise of section 41 arrest powers.<sup>79</sup> However, in light of the low charge rate in 2013/14 it recommended that a further review be carried out.

**The Committee may wish to recommend that the State Party puts in place measures to further ensure powers of arrest under section 41 of the Terrorism Act are used only when necessary and in a proportionate manner.**

7.2 In his 2013/14 report into the operation of the Terrorism Act 2000 the Independent Reviewer once again recommended that bail be made available to persons arrested under section 41 of the Terrorism Act 2000.<sup>80</sup> This recommendation was rejected by the UK Government on grounds of public safety, reflecting the State's reply to the List of Issues (paras 165 – 168).<sup>81</sup> In relation to the Government's position the Independent Reviewer has previously stated:

*"It is hard to understand the justification for this, unless it be assumed (implausibly) that those accused of terrorist crimes, however peripheral or indirect their connection with terrorism, are inherently more dangerous than anybody else. As is well established in relation to other types of crime, bail will not be granted if there are substantial grounds for believing that the defendant would fail to surrender to custody, commit an offence while on bail or obstruct the course of justice."*<sup>82</sup>

**The Committee may wish to recommend that the State Party undertake a review of counter terrorism legislation to include consideration of whether bail can be made available to suspects arrested under the Terrorism Act 2000, whilst ensuring public safety**

### **Treatment of persons deprived of their liberty (art. 10)**

8.1 The Commission advises that the prison population in NI has increased significantly over the past decade.<sup>83</sup> In 2013 the average daily prison population was 1,826, 57% higher than the population in 2003, which was 1,160.<sup>84</sup> The number of females in prison has increased from an average of 22 in 2003 to 61 in 2013. The Department of Justice has responded to this trend by increasing the capacity of the prison estate, with plans to increase the capacity to 2,200 by 2022.<sup>85</sup> Measures to reduce the number of persons being committed to prison have not been forthcoming. Under the sub title 'Right to an effective remedy and fair trial' the Commission provide an update on the number of prisoners held on remand.

8.2 In 2011 the Department of Justice reported a significant increase in the number of prisoners being committed to prison for less serious offences attracting sentences of less than 6 months.<sup>86</sup> This trend has

broadly increased with 909 newly sentenced prisoners in 2013 serving sentences of less than 6 months.<sup>87</sup> This represents over 40% of the total number of sentenced prisoners. The Department of Justice has acknowledged that "[t]he actual time served by offenders on short prison sentences provides little opportunity to address offending behaviour. Community sentences, where many offenders are under probation for a prolonged period, provide more opportunities to assist the offender to overcome the difficulties that lead the offender to reoffend".<sup>88</sup> The Prison Review Team recommended that proposals be developed "to ensure that effective community sentences are the preferred method of dealing with those who would otherwise get short custodial sentences".<sup>89</sup> However the group of experts established to monitor implementation of the Prison Review recommendations noted that this recommendation did not secure political consensus and no adequate proposals have been forthcoming.<sup>90</sup>

8.3 The Prison Review Team recommended that the NI Prison Service and Probation Board for NI undertake joint work to plan and deliver integrated services.<sup>91</sup> Both organisations have worked towards implementation of this recommendation with the establishment of a new prisoner development model.<sup>92</sup> However latest statistics indicate that 48% of adults released from custody reoffended within one year of their release.<sup>93</sup>

**The Committee may wish to recommend that the State Party including the NI Executive and Assembly bring forward measures to reduce the prison population in NI, including proposals for the development of community based sentences as an alternative to short custodial sentences. In addition the State Party should ensure services within the prison to provide for the effective rehabilitation and resettlement of prisoners are further developed and resourced.**

8.4 The issue of substance use, both legal and illegal, in prisons has been a source of concern for a number of years.<sup>94</sup> The use of substances contributes to both levels of violence and bullying within prisons and to mental health problems within prisons.<sup>95</sup> Following an inspection of prisons throughout NI the Regulation and Quality Improvement Authority and CJINI recommended that a comprehensive substance misuse strategy to address the key areas of supply and demand reduction be established for prisons in NI.<sup>96</sup> At the time of writing this strategy has not been put in place.

**The Committee may wish to recommend that the State Party including the NI Executive and NI Assembly ensure the establishment and implementation of a comprehensive substance use strategy for prisons in NI. This strategy should address the use of illegal substances and prescription medications. This**

**strategy should be health based, utilise the right to health, incorporate harm reduction strategies, and address the risk environment of those using illegal substances.**

8.5 At present there is no wholly separate custodial facility for women prisoners in NI, women prisoners are housed in Ash House which is co-located in Hydebank Wood Prison with a male young offenders centre. . A number of reviews have found this to be an unsatisfactory situation which leads to detrimental outcomes for woman prisoners.<sup>97</sup> A high number of women prisoners suffer from mental health problems.<sup>98</sup>

8.6 The Prison Review 2011 recommended the construction of a separate custodial facility for women.<sup>99</sup> The Commission notes that whilst the Minister of Justice has committed to develop a separate custodial facility for women prisoners, funding to realise this commitment has not yet been allocated by the NI Executive.<sup>100</sup> Whilst measures are being taken to improve the situation of female prisoners, such as the construction of a step down facility, it remains unclear whether a separate custodial facility will be constructed.

**The Committee may wish to recommend that the State Party including the NI Executive and NI Assembly ensures the allocation of sufficient funding to enable the construction of a separate custodial facility for women prisoners in NI as a matter of urgency.**

### **Right to an effective remedy and fair trial (arts. 2, 14 and 24)**

#### *Delays across the criminal justice system NI (Paragraph 23 List of Issues)*

9.1 In 2013 prisoners held on remand accounted for 27% of the overall prison population. Whilst this represents an improvement on previous years, remand prisoners continue to be disproportionately represented in the overall prison population.<sup>101</sup> One of the factors behind the high number of prisoners held on remand is the unacceptable level of delay in the criminal justice system in NI.<sup>102</sup>

9.2 A report by the European Commission for the Efficiency of Justice into justice systems in 33 European countries ranked the NI justice system as the second most inefficient on the basis of criminal prosecution clearance rates.<sup>103</sup> The CJINI reported in 2012 that on average Crown Court defendants, many of whom may be held in pre-trial detention, wait more than 400 days from being charged with a serious offence to disposal.<sup>104</sup>

9.3 Whilst a number of measures have been taken to reduce delays in the criminal justice system a key recommendation of the Prison Review Team and the CJINI, to introduce statutory time limits, has not been acted on.

These were first introduced to England & Wales in 1991.<sup>105</sup> Whilst there are plans to introduce time limits in the Youth Court these will not apply from arrest to disposal as recommended by the Prison Review Team and provide a significant number of exceptions allowing for extension.<sup>106</sup> In relation to the failure to introduce time limits Brendan McGuigan Criminal Justice Inspector for NI stated: "*it consigns the justice process here to continuing unacceptable delay in processing cases*".<sup>107</sup>

**The Committee may wish to recommend that concrete measures are introduced to reduce the levels of avoidable delay in the criminal justice system in NI.**

*Compensation (Paragraph 23 List of Issues)*

9.4 Prior to its amendment the Criminal Justice Act 1988 afforded the UK courts discretion to define a 'miscarriage of justice'. In the case *R (Adams) v. Secretary of State for Justice* the Supreme Court ruled that: "*A new fact will show that a miscarriage of justice has occurred when it so undermines the evidence against the defendant that no conviction could possibly be based upon it*".<sup>108</sup> The Anti-Social Behaviour, Crime and Policing Act 2014 has amended the 1998 Act to require that a miscarriage of justice exists '*if and only if the new or newly discovered fact shows beyond reasonable doubt that the person did not commit the offence*'. In delivering his judgement in *R (Adams)* Lord Philips noted that: "*The travaux [to the ICCPR] clearly demonstrate that the parties intended article 14(6) to cover the situation where a newly discovered fact demonstrated conclusively that the defendant was innocent of the crime of which he had been convicted. They were not, however, prepared to agree an interpretation which restricted the ambit of article 14(6) to this situation*".<sup>109</sup> The Commission notes that the Committee's General Comment on Article 14 does not define the term 'miscarriage of justice'.<sup>110</sup>

**The Committee may wish to recommend that the State Party assess the compatibility of the new test for a miscarriage of justice with Article 14 (6) of the ICCPR.**

*Age of Criminal Responsibility (Paragraph 25 List of Issues)*

9.5 The Commission notes the position of the UK Government on the minimum age of criminal responsibility. The Minister of Justice for NI Mr David Ford MLA has publicly stated his support for increasing the age of criminal responsibility to 12.<sup>111</sup> However, as acknowledged in the State's reply to the List of Issues, there is no political consensus amongst the political parties within the NI Assembly on this matter.

**The Committee may wish to recommend that the State Party increase the age of criminal responsibility to 12, with a view to increasing it to the age of 14.**

*Overuse of remand in custody of child defendants (Paragraph 25 List of Issues)*

9.6 The Commission notes that the State Party has not responded to the Committee's question relating to the remand of child defendants. The State has not provided any information on measures taken to address the gap in the provision of suitable bail packages for child offenders.

**The Committee may wish to recommend that the State Party take measures to ensure a suitable range of bail packages for child defendants are in place in NI to ensure that custody is used as a measure of last resort.**

**Freedom of conscience and religious belief, freedom of expression, peaceful assembly and freedom of association (arts, 18, 19, 21 and 22)**

10.1 The State's reply to paragraph 29 of the List of Issues refers to a consultation exercise on defamation law that was conducted by the NI Law Commission.<sup>112</sup> The consultation document did not contain information on the common law offences of blasphemy and blasphemous libel.

10.2 The consultation document considered the Defamation Act 2013 and its extension to NI. A report of the consultation exercise has not been published and it is unclear if one will be produced as the NI Law Commission ceased operations in April 2015.<sup>113</sup> In light of the Committee's previous recommendation this is a source of concern. The Commission notes a recent report from The Observer newspaper that Sky TV decided not to broadcast *Going Clear*, a controversial exposé into Scientology due to a fear of a libel actions being taken in NI.<sup>114</sup> In light of the closure of the NI Law Commission it appears that the case for reform of defamation law in NI will not be considered.<sup>115</sup> Furthermore there appears to be a lack of political will to consider the case for reform.<sup>116</sup>

**The Committee may wish to recommend that the State Party take measures to ensure that the practical application of the law of defamation in NI does not serve to discourage critical media reporting on matters of serious public interest, adversely affecting the ability of scholars and journalists to publish their work, including through the phenomenon known as "libel tourism".**

## **Freedom to enter and leave one's country (article 12)**

11.1 The Commission acknowledges the comments of the Office of the High Commissioner that:

*"The brutality of the criminal acts committed in the Syrian Arab Republic and in Iraq by the takfiri, also known as the Islamic State in Iraq and the Levant (ISIL) or Daesh, which have been bolstered through the support of foreign fighters, has given particular impetus to States to take measures to inhibit individuals from travelling for purposes of joining their ranks and to prevent the escalation of violence."*<sup>117</sup>

11.2 In recent years the Westminster Parliament has enacted legislation to restrict the right of British citizens to leave and to enter the UK. In February 2015 the UK Government reported that:

*"Nearly 600 people from the UK who are of interest to the security services are thought to have travelled to Syria and Iraq since the start of the conflicts and we estimate that around half of those have returned; a number of these individuals have joined terrorist organisations including the Islamic State of Iraq and the Levant (ISIL)."*<sup>118</sup>

11.3 A number of high profile cases of individuals and groups of UK nationals travelling to Syria and Iraq to join terrorist organisations have been reported in the media.<sup>119</sup>

11.4 The Immigration Act 2014 amended section 40 of the British Nationality Act 1981 to empower the Home Secretary to deprive a naturalised British citizen of their citizenship if they have engaged in conduct "seriously prejudicial" to the UK's vital interests, and the Home Secretary has reasonable grounds to believe the person is able, under the law of a country or territory outside the United Kingdom, to become a national of such a country or territory. The UK Government may exercise powers to deprive an individual of their citizenship both when they are in the UK and when they are abroad.<sup>120</sup> Under the 1981 Act the Home Secretary is required to carry out a review of the use of this power within one year of its operation.<sup>121</sup> Relevant provisions came into force on 28<sup>th</sup> July 2014.<sup>122</sup> At the time of writing it is unclear how this review will be carried out.

**The Committee may wish to recommend that the State Party clarifies how the review of the operation of new powers to deprive naturalised British citizens of their nationality will be carried out. The Committee should recommend that this review consider; how the Home Secretary has ensured the exercise of the power does not result in an individual becoming stateless; the location of the individual when their citizenship has been revoked; and what**

**consideration is given to any threat to the life or to the right to freedom from torture of the individual.**

11.5 The Counter Terrorism and Security Act 2015 introduced temporary exclusion orders (TEO), which prohibit the return of an individual to the UK unless the return is in accordance with a permit to return.<sup>123</sup> A TEO may be issued where the Home Secretary reasonably suspects that the individual is, or has been, involved in terrorism-related activity outside the UK. The Home Secretary must make an application to the court for permission to impose a TEO. This application can only be rejected if it is fundamentally flawed. An individual who has had a TEO imposed on them must apply for a permit to return. Before obtaining a permit an individual may be required to attend an interview with a police constable or immigration officer. On return to the UK an individual may have their passport removed and may be required to notify the police of their place of residence and to report to a police station at specified intervals. Subjects can also be required to attend appointments for purposes that may include de-radicalisation.<sup>124</sup> The Act makes provision for an individual subject to a TEO to be able to apply to the court for a statutory review of the decision to impose a TEO, and any associated in-country measures, once the individual is back in the UK.<sup>125</sup> At the time of writing the relevant provisions of the 2015 Act have not yet been commenced. With respect to its use the UK Government has stated that *"It is not possible to predict how many temporary exclusion orders will be served"*.<sup>126</sup>

11.6 An individual's passport may be withdrawn or refused at the discretion of the Home Secretary under the Royal Prerogative. In November 2014 the Home Secretary reported that the passports of 29 individuals had been refused or cancelled to disrupt the travel of people planning to engage in terrorist-related activity overseas since April 2013.<sup>127</sup> The Counter Terrorism and Security Act 2015 makes further provision for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Great Britain or the United Kingdom in connection with terrorism-related activity.<sup>128</sup>

**The Committee may wish to recommend that the State Party ensure any measures taken to stem the flow of foreign fighters and prevent the commission of criminal acts comply with international human rights law, in line with the Report of the UN High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism.**<sup>129</sup>

- 
- <sup>1</sup> Belfast (Good Friday) Agreement: Rights, Safeguards and Equality of Opportunity: Human Rights para 4
- <sup>2</sup> NIHRC 'Submission to the UN Human Rights Committee Country Report Task Force on the Seventh Report of the UK on compliance with the ICCPR' 2014
- <sup>3</sup> House of Lords House of Commons Joint Committee on Human Rights 'Human Rights Judgments' Seventh Report of Session 2014–15 HL Paper 130 HC 1088 4 March 2015
- <sup>4</sup> Ibid para 3.2
- <sup>5</sup> Ibid para 3.14
- <sup>6</sup> Ibid
- <sup>7</sup> Ballantyne et al v Canada (359, 385/89) at [18.42]
- <sup>8</sup> Belfast (Good Friday) Agreement: "The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency."
- <sup>9</sup> 'Belgrade Principles' on the Relationship between NHRIs and Parliaments Serbia 2012
- <sup>10</sup> HM Treasury Budget 2015 HC 1093
- <sup>11</sup> (General Assembly resolution 48/134, annex).
- <sup>12</sup> See, PSNI *Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2015* (12 May 2015), Figure 2, available at, <[http://www.psnipolice.uk/quarterly\\_hate\\_motivations\\_bulletin\\_period\\_ending\\_dec14.pdf](http://www.psnipolice.uk/quarterly_hate_motivations_bulletin_period_ending_dec14.pdf)> (accessed 16 April 2015).
- <sup>13</sup> Criminal Justice (No. 2) (NI) Order 2004, Article 2.
- <sup>14</sup> Criminal Justice (No. 2) (Northern Ireland) Order 2004, Article 2.
- <sup>15</sup> For example, statistics at the time recorded that between April 2007 and January 2012, five racially aggravated crimes received an enhanced sentence. For the NIHRC investigation rationale, methodology and recommendations, see, NIHRC *Racist Hate Crime: Human Rights and the Criminal Justice System in NI* (September 2013), available at, <[http://www.nihrc.org/uploads/publications/103141\\_NIHRC\\_Racist\\_Hate\\_Crime\\_4\\_Combined\\_%28%29.pdf](http://www.nihrc.org/uploads/publications/103141_NIHRC_Racist_Hate_Crime_4_Combined_%28%29.pdf)> (accessed 20 April 2015).
- <sup>16</sup> The Public Order (Northern Ireland) Order 1987, Part III, Articles 9-13 (as amended). The definition was expanded to include sexual orientation and disability by the Criminal Justice (No. 2) (Northern Ireland) Order 2004, Article 3.
- <sup>17</sup> NIHRC, 'Response of the Northern Ireland Human Rights Commission to the OFMdfM consultation on 'A Sense of Belonging: Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014 - 2024' (October 2014), available at, <[http://www.nihrc.org/uploads/publications/NIHRC\\_-\\_Advice\\_on\\_RES\\_%28final%29.pdf](http://www.nihrc.org/uploads/publications/NIHRC_-_Advice_on_RES_%28final%29.pdf)> (accessed 20 April 2015). See also, OHCHR, *Developing National Action Plans against Racial Discrimination: A Practical Guide* (New York & Geneva: 2014).
- <sup>18</sup> Policing Board NI 'Human Rights Annual Report 2014' Belfast 2015 pg 32
- <sup>19</sup> An Investigation of Gender Equality Issues at the Executive Level in Northern Ireland Public Sector Organisations Determining baseline data and reporting on the findings from a survey of current and aspiring executives attitudes Professor Joan Ballantine, University of Ulster Dr Graeme Banks University of Ulster Professor Kathryn Haynes, Newcastle University Dr Melina Manochin, University of Aston Mr Tony Wall, University of Ulster October 2014
- <sup>20</sup> Ibid pg 118
- <sup>21</sup> NIJAC 'The Judiciary Northern Ireland 2014 Equality Monitoring Report' 1 April 2014
- <sup>22</sup> Ibid See further QUB 'Rewarding Merit in Judicial Appointments' January 2013
- <sup>23</sup> CJINI 'Domestic Violence and Abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in NI' December 2010  
Recommendation 2
- <sup>24</sup> Ibid
- <sup>25</sup> Criminal Justice Inspection Northern Ireland, 'Domestic Violence and Abuse: A follow-up review of inspection recommendations', October 2013, p. 9, available at: <<http://www.cjini.org/CJINI/files/34/34118bcc-00c5-4071-bf2f-5397e6b20332.pdf>>.
- <sup>26</sup> Ibid
- <sup>27</sup> HC Deb 25 November 2013 c6WMS
- <sup>28</sup> Home Office, Evaluation of the pilot of Domestic Violence Protection Orders, 25 November 2013

- 
- <sup>29</sup> *ibid*
- <sup>30</sup> Justice Bill 37/11-15 Part 7
- <sup>31</sup> Committee for Justice Report on the Justice Bill (NIA 37/11-15) Volume 1 Para 206 anon
- <sup>32</sup> Report of the Independent Reviewer of Terrorism : The Terrorism Acts in 2012, July 2013 para 4.3 See comments: “Particularly striking is its indiscriminate criminalisation of those attacking “countries which are governed by tyrants and dictators” (R v F [2007] EWCA Crim 243, [32])”
- <sup>33</sup> [2013] UKSC 64, paras 33-34, 62
- <sup>34</sup> The Terrorism Acts in 2013, see further The Terrorism Acts in 2012, July 2013, 4.5; cited in R v Gul [2013] UKSC 64, para 34.
- <sup>35</sup> The Government Response to the Annual Report on the Operation of the Terrorism Acts in 2013 by the Independent Reviewer of Terrorism Legislation March 2015 Cm
- <sup>36</sup> *ibid*
- <sup>37</sup> NIHRC ‘Submission to the UN Human Rights Committee on the United Kingdom’s Seventh Periodic Report on compliance with the International Covenant on Civil and Political Rights.’ 2015 pg 15
- <sup>38</sup> *Ibid*
- <sup>39</sup> Report of the Hallett Review HC 380 17 July 2014 available at: <http://www.hallettreview.org/press-summary-17-july-2014/> House of Commons Northern Ireland Affairs Committee The administrative scheme for “on-the-runs” HC 177 24 March 2015
- <sup>40</sup> *Ibid* para 157
- <sup>41</sup> UN OHCHR, The role of good governance in the promotion of human rights, Commission on Human Rights resolution 2000/64, UN Doc. E/CN.4/RES/2000/64 para 1  
UN Human Rights Council, The role of good governance in the promotion and protection of human rights, Resolution 19/20, UN Doc. A/HRC/RES/19/20
- <sup>42</sup> Report of the Hallett Review HC 380 17 July 2014 para 2.5
- <sup>43</sup> *Ibid* para 2.6
- <sup>44</sup> House of Commons Northern Ireland Affairs Committee The administrative scheme for “on-the-runs” HC 177 24 March 2015 para 279-282
- <sup>45</sup> Stormont House Agreement
- <sup>46</sup> PSNI Chief Constable’s Speaking Note Northern Ireland Policing Board Meeting 06 November 2014
- <sup>47</sup> PSNI Chief Constable’s formal report to Northern Ireland Policing Board Meeting 4th December 2014.
- <sup>48</sup> <http://www.bbc.co.uk/news/uk-northern-ireland-31082500> (1 February 2015).
- <sup>49</sup> House of Lords House of Commons Joint Committee on Human Rights ‘Human Rights Judgments’ Seventh Report of Session 2014–15 HL Paper 130 HC 1088 4 March 2015
- <sup>50</sup> AQO 7838/11-15 23rd March 2015
- <sup>51</sup> *ibid*
- <sup>52</sup> NICTS ‘Court of Appeal suggests approach to deal with Legacy Inquests’ Summary of Judgement 17 November 2014
- <sup>53</sup> Legal Aid and Coroners’ Courts Bill Part 2
- <sup>54</sup> Northern Ireland Assembly Official Report (Hansard) Monday 18 May 2015 Volume 104, No 7 pg 35
- <sup>55</sup> NICTS ‘Court of Appeal suggests approach to deal with Legacy Inquests’ Summary of Judgement 17 November 2014
- <sup>56</sup> Stormont House Agreement, 2014, para 22
- <sup>57</sup> House of Lords Select Committee on the Inquiries Act 2005 Report of Session 2013–14 The Inquiries Act 2005: post-legislative scrutiny March 2015
- <sup>58</sup> *Ibid*
- <sup>59</sup> NIHRC ‘Submission to UN Human Rights Committee on the Sixth Periodic Report of the UK Government’ May 2008
- <sup>60</sup> Ministry of Justice ‘Government Response to the Report of the House of Lords Select Committee on the Inquiries Act 2005’ June 2014
- <sup>61</sup> *Ibid* para 35
- <sup>62</sup> Human Rights Committee, General Comment No. 28, CCPR/C/21/Rev.1/Add.10 (2000), para 11; CCPR/C/79/Add.92, para 11; CCPR/C/DOM/CO/5, para 15; CCPR/C/DJI/CO/1, para 9; CCPR/C/PRY/CO/3, para 13; K.N.L.H. v Peru CCPR/C/85/D/1153/2003 Rev. 1 (14 August 2006); CEDAW Committee, CEDAW/C/GBR/CO/7 (30 July 2013), para 51.

- 
- <sup>63</sup> DoJNI 'The criminal law on abortion: lethal foetal abnormality and sexual crime, a consultation on amending the law by the Department of Justice' January 2015
- <sup>64</sup> BBC News NI 'NI abortion law: Ford surprised at Robinson comments' 1 May 2015
- <sup>65</sup> Criminal Justice and Courts Act 2015
- <sup>66</sup> NIHRC 'Commission Welcomes Publication of Revised Care Standards for Nursing Homes' April 2015
- <sup>67</sup> Historical Institutional Abuse Inquiry - Terms of Reference  
[http://www.hiainquiry.org/index/acknowledgement\\_forum/terms-of-reference.htm](http://www.hiainquiry.org/index/acknowledgement_forum/terms-of-reference.htm)
- <sup>68</sup> See NI Assembly debate Inquiry into Historical Institutional Abuse (Amendment of Terms of Reference) Order (Northern Ireland) 2015 Executive Committee Business – in the Northern Ireland Assembly at 11:15 am on 3rd February 2015.
- <sup>69</sup> *ibid*
- <sup>70</sup> BBC News NI 'Colin Wallace: Any Kincora inquiry 'must have full access' 20 July 2014  
<http://www.bbc.co.uk/news/uk-northern-ireland-28390411>
- <sup>71</sup> See: <https://childsexualabuseinquiry.independent.gov.uk/>
- <sup>72</sup> Correspondence from Interim Chair John Corey to Home Secretary Rt. Hon Theresa May MP June 2014
- <sup>73</sup> The Rt Hon Theresa Villiers MP Written statement to Parliament 'Kincora Boys' Home: HM Government co-operation with the Historical Institutional Abuse Inquiry' October 2014
- <sup>74</sup> Historical Institutional Abuse 21 October 2014 <http://www.hiainquiry.org/index/latest-news.htm>
- <sup>75</sup> The Independent 'Child sex abuse victim from Kincora Boys' Home says he was abused by 'very powerful people' at Elm Guest House and Dolphin Square' April 2015
- <sup>76</sup> NIHRC Submission to the UN Human Rights Committee on the United Kingdom's Seventh Periodic Report on compliance with the International Covenant on Civil and Political Rights. June 2014 para
- <sup>77</sup> Northern Ireland Terrorism Legislation: Annual Statistics 2013/2014, Northern Ireland Office, October 2014.
- <sup>78</sup> *ibid*
- <sup>79</sup> Policing Board NI 'Human Rights Annual Report 2014' March 2015 pg 117 – 120
- <sup>80</sup> Independent Reviewer of Terrorism Legislation 'The Terrorism Acts in 2013' July 2014
- <sup>81</sup> Government response to July 2014 Terrorism Acts report (Cm 9032) pg 9
- <sup>82</sup> Independent Reviewer of Terrorism Legislation 'The Terrorism Acts in 2013' July 2014
- <sup>83</sup> DoJNI 'The Northern Ireland Prison Population 2013' Research and Statistical Bulletin 15/2014 pg 7
- <sup>84</sup> *Ibid*
- <sup>85</sup> DoJNI 'Prison Estate Policy' 2013
- <sup>86</sup> DoJNI 'Consultation on a Review of Community Sentences' 26 April 2011
- <sup>87</sup> DoJNI 'The Northern Ireland Prison Population 2013' Research and Statistical Bulletin 15/2014
- <sup>88</sup> DoJNI 'Consultation on a Review of Community Sentences' 26 April 2011
- <sup>89</sup> Prison Review Team' Review of the Northern Ireland Prison Service Conditions, management and oversight of all prisons' Recommendation 3 October 2011
- <sup>90</sup> Prison Review Oversight Group 'Second Annual Report' March 2014
- <sup>91</sup> Prison Review Team' Review of the Northern Ireland Prison Service Conditions, management and oversight of all prisons' Recommendation 3 October 2011 Recommendation 31
- <sup>92</sup> Prison Review Oversight Group 'Second Annual Report' March 2014 pp. 9 – 11
- <sup>93</sup> DoJNI 'Adult Reoffending in Northern Ireland (2011/12 Cohort) Research and Statistical Bulletin 18/2014 L Duncan December 2014
- <sup>94</sup> Prison Review Team 'Review of the Northern Ireland Prison Service Conditions, management and oversight of all prisons' October 2011 pp. 40 - 47
- <sup>95</sup> CJINI and RQIA 'The Safety of Prisoners held by the Northern Ireland Prison Service' October 2014
- <sup>96</sup> *ibid* Recommendation
- <sup>97</sup> NPM ' Report on announced inspection of Ash House, Hydebank Wood Women's Prison 18 – 22 February' October 2013
- <sup>98</sup> NIHRC 'The Hurt Inside: The imprisonment of women and girls in NI' (NIHRC Belfast: 2005) See also: NIHRC, 'Response to DoJNI Prison Estate Policy Consultation', December 2012, para 33
- <sup>99</sup> Prison Review Team' Review of the Northern Ireland Prison Service Conditions, management and oversight of all prisons' Recommendation 3 October 2011 Recommendation 36
- <sup>100</sup> Committee for Justice OFFICIAL REPORT (Hansard) Prison Reform Programme and Northern Ireland Prison Estate Strategy: Northern Ireland Prison Service 4 March 2015

- 
- <sup>101</sup> The prison population in England and Wales as of 30 June 2014 was 85,509 of which 12,197 were on remand representing just over 14% See Ministry of Justice Offender Management Statistics Bulletin, England and Wales Quarterly – January to March 2014
- <sup>102</sup> CJINI, ‘Avoidable Delay: A Progress Report’, January 2012, available at: <<http://www.cjini.org/CJINI/files/0b/0b926375-5443-44b6-b2f9-7a88e6f6725b.pdf>>.
- <sup>103</sup> The European Commission for Efficiency of Justice ‘Evaluation of Judicial systems’ 5th Report - Edition 2014 (2012 data) The Clearance rate is calculated by dividing the number of cases closed by the number of cases received. Thirty three states were included in the study.
- <sup>104</sup> CJINI, ‘Avoidable Delay: A Progress Report’, January 2012, available at: <<http://www.cjini.org/CJINI/files/0b/0b926375-5443-44b6-b2f9-7a88e6f6725b.pdf>>.
- <sup>105</sup> Fiona O’Connell Statutory Time Limits NIAR 125-12 31 March 2012
- <sup>106</sup> Department of Justice NI ‘Time Limits in the Youth Court’ 2014
- <sup>107</sup> Official Report (Hansard) Session: 2013/2014 Date: 25 June 2014
- <sup>108</sup> [2011] UKSC 18
- <sup>109</sup> *ibid* para 21
- <sup>110</sup> Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, U.N. Doc. CCPR/C/GC/32 (2007).
- <sup>111</sup> Belfast Telegraph ‘Call to raise criminal age limit’ 12 February 2015
- <sup>112</sup> NI Law Commission ‘Defamation Law in Northern Ireland’ NILC 19 (2014).
- <sup>113</sup> NI Law Commission website: The Minister of Justice has decided to reduce significantly funding to the Northern Ireland Law Commission from April 2015 in response to budget pressures within the Department of Justice. This will allow only essential law reform to continue.
- <sup>114</sup>
- <sup>115</sup> See AQO 7748/11-15 speaking in relation to the matter the Minister for Finance and Personnel stated: “Not a single constituent has raised the issue with me, and I think that many of us in the House would be able to say that. It seems not to be an issue at the top of people’s agenda in any way, shape or form.”
- <sup>116</sup> Belfast Newsletter ‘Robinson unapologetic on libel law, despite Scientology move’ 22 April 2015
- <sup>117</sup> OHCHR Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism A/HRC/28/28 para 32
- <sup>118</sup> Title: Counter-Terrorism and Security Act 2015 - Temporary Exclusion Orders – Royal Assent  
IA No: HO0144 11 February 2014
- <sup>119</sup> The Telegraph ‘20 British teenage girls have gone to Syria to join Isis’ 1 March 2015
- <sup>120</sup> For discussion see House of Commons Library ‘Deprivation of British Citizenship and withdrawal of passport facilities’ SN/HA/6820 30 January 2015
- <sup>121</sup> British Nationality Act 1981 Section 41
- <sup>122</sup> The Immigration Act 2014 (Commencement No. 1, Transitory and Saving Provisions) Order 2014 Article 3
- <sup>123</sup> Counter Terrorism and Security Act 2015 Section 2(1)(a)
- <sup>124</sup> Counter Terrorism and Security Act 2015 Section 9 - See Independent Reviewer of Terrorism ‘Judicial Oversight of TEOs January 8, 2015
- <sup>125</sup> Counter Terrorism and Security Act 2015 Section 10
- <sup>126</sup> Title: Counter-Terrorism and Security Act 2015 - Temporary Exclusion Orders – Royal Assent  
IA No: HO0144 11 February 2014
- <sup>127</sup> GOV.UK, speech, Home Secretary Theresa May on counter terrorism, 24 November 2014
- <sup>128</sup> Counter Terrorism and Security Act 2015 Section 1
- <sup>129</sup> OHCHR Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism A/HRC/28/28 para 32