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International Human Rights Standards: Recommendations Relating to Northern Ireland

1 Introduction

The UK has obligations under international human rights instruments. The Treaty monitoring processes linked to these obligations generate issues for consideration in upholding international human rights standards and some of these observations are specific to Northern Ireland. This paper has been written to assist the Committee for the Executive Office in its scrutiny role and it summarises Northern Ireland-specific concluding observations of the various international monitoring bodies.

2 Human Rights in Northern Ireland¹

The substantive clauses of the European Convention on Human Rights² were given effect in UK law by the Human Rights Act 1998³. However, the Convention also features in the Northern Ireland Act 1998⁴, to the effect that:

- Any matter incompatible with Convention rights is outside the legislative competence of the Northern Ireland Assembly (Section 6(2)(c))⁵
- A minister or department may not act in a way that is incompatible with Convention rights (Section 24(1)(a))

Section 68 of the Northern Ireland Act also provides for the establishment of the Northern Ireland Human Rights Commission. The role of the Commission is to “*keep under review the adequacy and effectiveness in Northern Ireland of law and practice relating to the protection of human rights*” (Section 69(1)). This includes contributing to the monitoring of international human rights treaties in Northern Ireland⁶.

The Northern Ireland Commissioner for Children and Young People (NICCY) was established by the Commissioner for Children and Young People (Northern Ireland) Order 2003⁷. The duties of the Commissioner are to promote (Paragraph 7(1)):

- (a) an understanding of the rights of children and young persons;
- (b) an awareness of the importance of those rights and a respect among children and young persons for the rights of others; and
- (c) an awareness of matters relating to the best interests of children and young persons.

The Commissioner uses the UN Convention on the Rights of the Child to guide her work⁸.

¹ For a summary of human rights legislation in Northern Ireland, see Research and Information Service Research Paper 75/11 *Equality and Human Rights Legislation in Northern Ireland: A Review*, August 2011; for an overview of human rights institutions in Northern Ireland, see Research and Information Service Briefing Paper 76/11 *Equality and Human Rights Institutions*, 24 June 2016: <http://www.niassembly.gov.uk/assembly-business/research-and-information-service-raise/research-publications-2016/publications-2011/>.

² European Convention on Human Rights: <http://www.echr.coe.int/pages/home.aspx?p=basictexts>.

³ Human Rights Act 1998: <http://www.legislation.gov.uk/ukpga/1998/42/contents>.

⁴ Northern Ireland Act 1998: <http://www.legislation.gov.uk/ukpga/1998/47/contents>.

⁵ See Research and Information Service Briefing Paper 20/14 *Human Rights and Equality Proofing of Public Bills*, 10 February 2014: <http://www.niassembly.gov.uk/assembly-business/research-and-information-service-raise/research-publications-2016/research-publications-2014/>.

⁶ ‘About us’, NI Human Rights Commission website, accessed 22 September 2016: <http://www.nihrc.org/about-us>.

⁷ Commissioner for Children and Young People (Northern Ireland) Order 2003: <http://www.legislation.gov.uk/nisi/2003/439/contents/made>.

⁸ ‘What we do’, NICCY website, accessed 22 September 2016: <http://www.niccy.org/about-us/what-we-do/>.

3 Observations on Northern Ireland from International Treaty Bodies

This section summarises the observations of international human rights treaty bodies in their examinations of UK compliance with international human rights instruments, with a focus on observations on Northern Ireland. As some common issues have emerged across different bodies, the section is arranged thematically. Summaries of the concluding observations of UN committees and recommendations of Council of Europe bodies are given in the appendices.

The relevant reporting cycles are given in the table below.

<i>Instrument</i>	<i>Last report</i>
<i>United Nations Instruments</i>	
Convention on the Elimination of all forms of Racial Discrimination (CERD)	August 2016
International Covenant on Economic, Social and Cultural Rights (ICESCR)	June 2016
International Covenant on Civil and Political Rights (ICCPR)	July 2015
Convention on the Elimination of all forms of Discrimination against Women (CEDAW)	July 2013
Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	June 2013; list of issues for next reporting cycle published April 2016
Convention on the Rights of the Child (CRC)	June 2016
<i>Council of Europe Instruments</i>	
European Social Charter (ESC)	Last reporting period 2010-13
European Charter for Regional or Minority Languages (ECRML)	January 2014; due examination again July 2017
Convention on Action against Trafficking in Human Beings (CATHB)	Initial report October 2016

Framework Convention for the Protection of National Minorities (FCPMN)	December 2012; visited March 2016 for next reporting cycle
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The paper concerns itself with specific references by treaty bodies to Northern Ireland. There may, however, be additional UK-wide issues that are within the legislative competence of the devolved Northern Ireland administration that have not been covered here. Conversely, observations specifically mentioning Northern Ireland that are not devolved are included. Only examinations since 2010 have been referred to. For example, conclusions under the European Social Charter for the reporting period 2010-13 have been referenced, but those under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have not, as the Committee last visited Northern Ireland in 2008⁹.

The paper does not include reports outside of monitoring processes of international treaties. For example, the European Commission against Racism and Intolerance (ECRI) published its monitoring report on the UK in October 2016, but this is not part of a formal monitoring process for an international human rights instrument¹⁰.

Concluding observations on each subject usually begin with a statement summarising what is being done in a particular area (positive or negative), then refer to shortcomings and recommended action. For brevity, this paper focusses on the challenges presented by committees as areas for potential development. Summarised in this section, they are given verbatim in the appendices.

Of the issues specific to Northern Ireland, twelve are referred to by more than one of the ten¹¹ committees monitoring convention compliance under analysis here. These twelve issues are discussed in this section, summarised in the table below.

⁹ For these conclusions, see European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment website: <http://www.cpt.coe.int/en/default.htm>.

¹⁰ ECRI (2016), ECRI Report on the United Kingdom, Strasbourg: ECRI: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/United_Kingdom/GBR-CbC-V-2016-038-ENG.pdf.

¹¹ Issues raised by the Council of Europe Convention on Action against Trafficking in Human Beings do not cross over with other committee concluding observations, so, while not included in this section, issues raised in the context of that committee relating to Northern Ireland are included in Appendix 2.

Issues	CERD	ICESCR	ICCPR	CEDAW	CAT	CRC	ESC	ECRML	FCPNM
Single equality legislation	✓	✓		✓					✓
Bill of Rights	✓	✓	✓			✓			
Termination of pregnancy		✓	✓	✓		✓			
Irish language protection/promotion		✓						✓	✓
Issues for Irish Travellers	✓	✓							✓
Promotion of Ulster Scots								✓	✓
Lack of involvement by NI Executive		✓						✓	
Poverty		✓				✓			
Conflict legacy issues			✓		✓				
Age of criminal responsibility/ offences by children			✓		✓				
Historical institutional abuse				✓	✓				
Structures for participation						✓	✓		

Single Equality Legislation

The Equality Act 2010¹², which harmonised and consolidated equality legislation in Great Britain, does not extend to Northern Ireland. Instead, individual equality laws prohibit discrimination on different equality grounds¹³. The effect of this has been differential protections across equality grounds. This has been referred to in the following concluding observations:

- Convention on the Elimination of Racial Discrimination (CERD) – racial equality legislation is not as comprehensive in Northern Ireland as in the rest of the UK¹⁴;
- International Covenant on Economic, Social and Cultural Rights (ICESCR) – equality legislation in Northern Ireland does not include all discrimination grounds, such as national or social origin¹⁵;
- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) – the equality framework in Northern Ireland does not include multiple discrimination and there is no prohibition against pay secrecy¹⁶;

¹² Equality Act 2010: <http://www.legislation.gov.uk/ukpga/2010/15/contents>.

¹³ For a summary of equality legislation in Northern Ireland, see Research and Information Service Research Paper 75/11 *Equality and Human Rights Legislation in Northern Ireland: A Review*, August 2011: <http://www.niassembly.gov.uk/assembly-business/research-and-information-service-raise/research-publications-2016/publications-2011/>.

¹⁴ The Committee here is making a direct comparison between protections provided for in legislation in Northern Ireland and those under the Equality Act in Great Britain.

¹⁵ Section 9 of the Equality Act includes 'nationality' as one of the definitions of 'race' in the legislation, but 'social origin' is not one of the protected characteristics in the Act.

¹⁶ Section 14 of the Equality Act provides for 'dual' discrimination, that is, a case may be brought on the grounds of discrimination relating to two characteristics, but this Section has not been commenced. The Equality Act prohibits employers from forbidding employees to disclose salary details.

- Framework Convention for the Protection of National Minorities (FCPNM) – states efforts should be stepped up for a single equality act in Northern Ireland.

A Single Equality Bill to harmonise and update the disparate equality legislation in Northern Ireland was considered by the Northern Ireland Executive, but to date has not progressed since a consultation in 2004 and a ministerial statement in 2005. In response to an Assembly Question in 2012, the First Minister and deputy First Minister stated the following¹⁷:

There are currently no plans to develop a Single Equality Bill here. Our Department continues to legislate in order to provide legal protection against discrimination and to promote equality of opportunity.

The Equality Commission for Northern Ireland has identified the following disparities between equality legislation in Great Britain and Northern Ireland¹⁸:

- The Equality Act simplifies and harmonises legislation on discrimination across grounds;
- The definition of ‘race’ in GB includes colour, nationality and ethnic of national origin;
- Age discrimination extends beyond the workplace in GB;
- Disability legislation is stronger in GB, such as the inclusion of discrimination arising from disability and protection of people from harassment when accessing facilities, goods and services;
- Equal pay provisions are stronger in GB, prohibiting employers to forbid employees from discussing pay to establish differences;
- Positive action measures are permissible in GB across all equality grounds;
- Protection from discrimination by private clubs is extended to more equality grounds in GB.

Bill of Rights for Northern Ireland

The Belfast/Good Friday Agreement (the Agreement) states¹⁹:

The new Northern Ireland Human Rights Commission (see paragraph 5 below) will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to

¹⁷ AQW 13980/11-15 answered 7 September 2016.

¹⁸ Equality Commission (2014), *Gaps in Equality Law Between Great Britain and Northern Ireland*, Belfast: Equality Commission: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Tabs/Gaps-in-equality-law>.

¹⁹ Belfast Agreement, 1998, ‘Rights, Safeguards and Equality of Opportunity’: <https://www.gov.uk/government/publications/the-belfast-agreement>.

reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience. These additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem, and - taken together with the ECHR - to constitute a Bill of Rights for Northern Ireland.

The notion of a Northern Ireland Bill of Rights had been debated before the Agreement and its inclusion in the political settlement raised hopes for those campaigning for such an initiative²⁰. A cross-sectoral, cross-party Bill of Rights Forum published its report in March 2008²¹ and the Human Rights Commission published its Advice to Government in December of that year²². A Government response in November 2009²³, which was subject to public consultation, outlined some additional rights for consideration in Northern Ireland. Development of a Bill of Rights has not progressed since then.

The issue of a Bill of Rights for Northern Ireland has been raised in the following concluding observations:

- Convention on the Elimination of Racial Discrimination (CERD);
- International Covenant on Economic, Social and Cultural Rights (ICESCR);
- International Covenant on Civil and Political Rights (ICCPR);
- Convention on the Rights of the Child (CRC).

In response to an Assembly Question, the First Minister and deputy First Minister stated the following²⁴:

The development of a Bill of Rights for Northern Ireland is an excepted matter and is, therefore, the responsibility of the UK Government. However, we are aware that the UK Government proposes to replace the Human Rights Act 1998 with a British Bill of Rights. As details emerge on the proposals, we will wish to discuss them with the Westminster Government.

Termination of Pregnancy

The Abortion Act 1967²⁵ does not extend to Northern Ireland. Guidance by the Department of Health, Social Services and Public Safety (now the Department of

²⁰ For example, the Human Rights Consortium, an alliance of organisations campaigning for a strong and inclusive bill of rights: <http://www.billofrightsnri.org/>.

²¹ Bill of Rights Forum, *Final Report: Recommendations to the Human Rights Commission for a Bill of Rights for Northern Ireland*, 31 March 2008.

²² Northern Ireland Human Rights Commission, *Advice to Government on a Bill of Rights for Northern Ireland*, 10 December 2008.

²³ Northern Ireland Office, *A Bill of Rights for Northern Ireland: Next Steps*, November 2009.

²⁴ AQW 3990/16 answered 6 October 2016.

²⁵ Abortion Act 1967: <http://www.legislation.gov.uk/ukpga/1967/87/contents>.

Health) states that termination of pregnancy is only lawful in the following circumstances²⁶:

- it is necessary to preserve the life of the woman; or
- there is a risk of real and serious adverse effect on her physical or mental health, which is either long term or permanent.

Abortion has been raised in the following concluding observations:

- International Covenant on Economic, Social and Cultural Rights (ICESCR) – the lack of availability of abortion could lead to unsafe abortions and disproportionately affects women who cannot travel to other parts of the UK for a termination;
- International Covenant on Civil and Political Rights (ICCPR) – the restricted circumstances in which termination is permitted puts women's life and health at risk and forces them to travel for a termination;
- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) – a public consultation on revising the laws on abortion has not been carried out;
- Convention on the Rights of the Child (CRC) – abortion except under specific circumstances is sanctioned with life imprisonment.

In 2014-15, the Department of Justice carried out a consultation²⁷ into abortion in cases of fatal foetal abnormality and sexual crime, following which the then Minister for Justice, David Ford, proposed legislation²⁸. However, such legislation has not been brought forward.

When asked whether legislation to legalise abortion in the case of fatal foetal abnormality would be introduced, the Justice Minister Claire Sugden stated²⁹:

Any decision to introduce legislation in this area is a cross-cutting matter for the Executive. I have yet to establish whether there is sufficient support within the Executive for any such legislative change.

²⁶ DHSSPS (2016) *Guidance for Health and Social Care Professionals on Termination of Pregnancy in Northern Ireland*, Belfast: DHSSPS, p5: <https://www.health-ni.gov.uk/publications/guidance-hsc-professionals-termination-pregnancy-northern-ireland>.

²⁷ Department of Justice (2014), *The Criminal Law on Abortion: Lethal Foetal Abnormality and Sexual Crime*, Belfast: DoJ: <https://www.justice-ni.gov.uk/consultations/consultation-abortion-2014>.

²⁸ 'NI abortion law: Legalisation in fatal foetal abnormality cases recommended', *BBC News* 16 April 2015: <http://www.bbc.co.uk/news/uk-northern-ireland-32338793>.

²⁹ AQW712/16-21 answered 16 June 2016.

Irish Language Act and Promotion of Ulster Scots

Unlike in the Republic of Ireland, the Irish language does not have official status in Northern Ireland set out in legislation³⁰. Equally, Ulster Scots does not have such protection. The St Andrews Agreement states³¹:

The Government will introduce an Irish Language Act reflecting on the experience of Wales and Ireland and work with the incoming Executive to enhance and protect the development of the Irish language.

The Government firmly believes in the need to enhance and develop the Ulster Scots language, heritage and culture and will support the incoming Executive in taking this forward.

In 2015, the Minister for Culture, Arts and Leisure launched a consultation on an Irish Language Act³². However, legislation has not as yet been brought forward.

Irish and Ulster Scots have been raised in the following concluding observations:

- International Covenant on Economic, Social and Cultural Rights (ICESCR) – there is a lack of effective measures to promote the Irish language;
- European Charter for Regional or Minority Languages (ECRML) – the adoption of legislation should provide statutory rights of Irish speakers; additionally, the Committee suggested simultaneous translation to facilitate the full use of Irish in the Northern Ireland Assembly; the work done by the Ulster Scots Agency should be supported and measures taken for the teaching of Ulster Scots;
- Framework Convention for the Protection of National Minorities (FCPNM) – consensus should be sought on legislation on the Irish language and appropriate measures should protect and develop the language; speakers of Ulster Scots should be encouraged through continued measures.

The Minister for Communities answered a question on progress on an Irish Language Act in the following way³³:

My Department meets all its obligations towards Irish under the European Charter for Regional or Minority Languages.

³⁰ See Annex 2 of Research Information Service Briefing Paper 67/11 *A summary of proposed funding changes for the Irish language voluntary sector: recent developments*, 3 June 2011, pp.11-13: <http://www.niassembly.gov.uk/assembly-business/research-and-information-service-raise/research-publications-2016/publications-2011/>.

³¹ Agreement at St Andrews, Annex B, Human Rights, Equality, Victims and Other Issues: <https://www.gov.uk/government/publications/the-st-andrews-agreement-october-2006>.

³² 'Carál Ní Chuilín: Irish language bill set for 12-week consultation', *BBC News* 10 February 2015: <http://www.bbc.co.uk/news/uk-northern-ireland-31360748>.

³³ AQW 163/16-21 answered on 22 June 2016.

Support for Irish includes joint funding of the North/South Language Body. The Department funds the Gaeltacht Quarter Action Plan and the Líofoa campaign, and work is ongoing to set up an Irish Language Academy and an Ulster-Scots Institute.

I have no plans to introduce an Irish Language Act.

In terms of promoting Ulster Scots, the Minister for Communities has stated the following³⁴:

My Department currently promotes Ulster-Scots through its joint sponsorship of the Ulster-Scots Agency as part of the North South Language Body. The Ulster-Scots Agency at community level provides funding to promote Ulster-Scots language, heritage and cultural projects and programmes.

In addition, my Department, through the former Ministerial Advisory Group on Ulster-Scots, recently funded a programme of one hour taster sessions - "A wee taste O Ulster-Scots" in venues across the province on Ulster-Scots. These sessions provided attendees with an initial experience of the study of Ulster-Scots language and culture. In addition to this, the course sought to identify which aspects of Ulster-Scots people wished to learn more about.

These taster sessions are an Ulster-Scots initiative and, following evaluation, further development and roll out of the initiative is planned.

Further, on 15 March 2016, my predecessor announced the intention to establish an Ulster-Scots Institute and my officials are working closely with the Ulster-Scots Agency, to have this Institute in place before the end of this year. The Ulster-Scots Institute will be a not-for-profit company with charitable status and will become part of the Ulster-Scots Hub located at the Corn Exchange in the Cathedral Quarter of Belfast.

Irish Travellers

The Irish Traveller community is defined as a 'racial group' in the Race Relations (Northern Ireland) Order 1997³⁵ and as such is a protected characteristic in that legislation. However, successive reports have highlighted multiple disadvantage

³⁴ AQW 761/16-21 answered 22 June 2016.

³⁵ The Race Relations (Northern Ireland) Order 1997, Section 5(3)(a):
<http://www.legislation.gov.uk/nisi/1997/869/contents?article-71-8>.

suffered by the Irish Traveller community, including in the areas of health³⁶, education³⁷, accommodation³⁸ and discrimination³⁹.

While references to Irish Travellers in human rights committee concluding observations have been UK-wide (to include Gypsy and Roma identities), they are included here due to the specificity of that identity in Northern Ireland. These references include the following:

- Convention on the Elimination of Racial Discrimination (CERD) – the condition of Gypsies, Travellers and Roma has not substantially improved and requires a comprehensive strategy to include health, education, housing and employment;
- International Covenant on Economic, Social and Cultural Rights (ICESCR) – there remain barriers to access to culturally appropriate accommodation and stopping sites;
- Framework Convention for the Protection of National Minorities (FCPNM) – there remain concerns regarding Gypsy and Traveller accommodation need and low attendance and attainment in education.

In relation to educational attainment and attendance, the Minister for Education has stated the following⁴⁰:

The attendance levels of Traveller pupils have increased by 5.6% at primary level and by 8.1% at post-primary level since 2008/09.

At present, the Department allocates an additional amount of funding to schools for each Traveller Child through the Common Funding Formula and through the

³⁶ Co-operation and Working Together (2007), *Cross-Border Connections: A Report Considering Travellers' Access to Health Services in a Cross-Border Context*, Londonderry: CAWT; Pauline Ginney (2006), *Access to Services for Travellers*, Belfast: DHSSPS; All Ireland Traveller Health Study Team (2010), *All Ireland Traveller Health Study – Our Geels: Summary of Findings*, Dublin: University College Dublin, pp.155-172: <http://www.dhsspsni.gov.uk/all-ireland-traveller-health-study>.

³⁷ Andy Biggart, Liam O'Hare and Paul Connolly (2008), *A Need to Belong: An Epidemiological Study of Black and Minority Ethnic Children's Perceptions of Exclusion in the Southern Area of Northern Ireland*, Belfast: Queen's Centre for Education Research, p.21; Jennifer Hamilton, Fiona Bloomer and Jane Holohan (2007), *The Adequacy and Effectiveness of Educational Provision for Traveller Children and Young People*, Belfast: Northern Ireland Commissioner for Children and Young People and Equality Commission for Northern Ireland; Taskforce on Traveller Education (2011) *Report of the Taskforce to the Department of Education*, Belfast: Taskforce on Traveller Education, pp.39-41: http://www.deni.gov.uk/taskforce_on_traveller_education_-_report_of_the_taskforce_to_the_department_of_education.pdf; Jennifer Hamilton, Fiona Bloomer and Michael Potter (2015), 'Traveller Education: Policy and Practice in Northern Ireland' in Iseult Honohan and Nathalie Rougier (eds.), *Tolerance and Diversity in Ireland, North and South*, Manchester: Manchester University Press.

³⁸ Siobhan Molloy (1998), *Accommodating Nomadism*, Belfast: Traveller Movement Northern Ireland; Mark Donahue, Robbie McVeigh and Maureen Ward (2003), *Misli, Crush, Misli: Irish Travellers and Nomadism*, Dublin: Irish Traveller Movement and Traveller Movement Northern Ireland; Northern Ireland Housing Executive (2014), *Travellers' Accommodation: Needs Assessment in Northern Ireland*, Belfast: NIHE.

³⁹ Sinéad Ni Shuinéar (1996), 'Irish Travellers, ethnicity and the origins question' in May McCann, Séamas Ó Síochán and Joseph Ruane (eds.), *Irish Travellers: Culture and Ethnicity*, Belfast: Institute of Irish Studies, p.62; Jim McLaughlin (1996), 'Evolution of Anti-Traveller Racism in Ireland' in *Race and Class*, Vol 37 No 3; Office of the First Minister and Deputy First Minister (2001), *Consultation on the Final Report of the PSI Working Group on Travellers*, Belfast: OFMDFM: <http://www.ofmdfmi.gov.uk/consult-final-report-psi-working-group-on-travellers.pdf>.

⁴⁰ AQW 4184/16-21 answered on 10 October 2016.

Education Authority funds the dedicated Traveller Education Support Service (TESS) and the Education Welfare Service (EWS) who work closely together in order to improve the attendance of traveller pupils.

The TESS 2016/17 Delivery Plan identifies improving attendance as a key priority for how they will continue to engage with traveller families and the relevant schools to secure improved attendance.

The EWS 2016-17 Action Plan also identifies capacity building, preventative work and pilot programmes in areas with high levels of poor Traveller attendance.

In terms of the provision of sites for Irish Travellers, the Minister for Social Development stated the following in 2015⁴¹:

The current provision of Traveller halting sites (transit sites) is detailed in the table below:

<i>Strabane</i>	<i>Greenbrae</i>
<i>Londonderry</i>	<i>Daisyfield</i> <i>Ballyarnett</i>
<i>Coalisland</i>	<i>The Glen</i>
<i>Belfast</i>	<i>Glen Road</i> <i>Heights</i>
<i>Craigavon</i>	<i>Legahory Close</i>

Based on the latest Traveller Needs Assessment and NIHE's record of unauthorised encampments, there are currently no plans to expand this provision.

⁴¹ AQW 50373/11-16 answered on 17 November 2015.

Poverty

Around 21% of people in Northern Ireland live in relative income poverty⁴², including 23% of children⁴³. The Delivering Social Change framework was established in 2012 to⁴⁴:

deliver a sustained reduction in poverty and associated issues across all ages and to improve children and young people's health, well-being and life opportunities, thereby breaking the long term cycle of multi-generational problems.

The anti-poverty and social inclusion strategy, 'Lifetime Opportunities', was launched in 2006 and expires in 2016⁴⁵. A child poverty strategy was published in March 2016⁴⁶.

Poverty in Northern Ireland has been raised as an issue in the following concluding observations:

- International Covenant on Economic, Social and Cultural Rights (ICESCR) – the adoption of an anti-poverty strategy is recommended;
- Convention on the Rights of the Child (CRC) – the rate of child poverty is high and affects Northern Ireland the most.

The Minister for Communities was asked about progress on the Executive's anti-poverty strategy, with reference to the United Nations High Commissioner for Human Rights' report entitled Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies⁴⁷. The Minister's response was⁴⁸:

I am aware of the Report the member refers to and, indeed, agree with the UN High Commissioner for Human Rights when she says that 'yet another feature of the Human Rights approach is that poverty reduction becomes a shared responsibility.'

The definition of 'overall poverty' adopted by the UN includes social discrimination and exclusion.

This is precisely why we have incorporated our work to tackle poverty in a much wider social strategy looking at all these inter-related issues.

⁴² People are considered to be living in relative income poverty if the income of their household is less than 60% of the UK median household income.

⁴³ Poverty in Northern Ireland, Department for Communities website, accessed 17 October 2016: <https://www.communities-ni.gov.uk/articles/poverty-and-social-inclusion#toc-0>.

⁴⁴ Delivering Social Change – Introduction, Department of Communities website, accessed 17 October 2016: <https://www.communities-ni.gov.uk/articles/delivering-social-change-introduction>.

⁴⁵ OFMdfM (2006), *Lifetime Opportunities: Government's Anti-Poverty and Social Inclusion Strategy for Northern Ireland*, Belfast: OFMdfM: <https://www.communities-ni.gov.uk/publications/lifetime-opportunities-governments-anti-poverty-and-social-inclusion-strategy-northern>.

⁴⁶ Northern Ireland Executive (2016), *The Executive's Child Poverty Strategy*, Belfast: Northern Ireland Executive: <https://www.communities-ni.gov.uk/publications/child-poverty-strategy>.

⁴⁷ Office of the High Commissioner for Human Rights (2006) Guidelines for a Human Rights Approach to Poverty Reduction Strategies, Geneva: OHCHR:

⁴⁸ AQO 431/16-21 answered on 10 October 2016.

Our draft Social Strategy will recognise that measuring poverty on the basis of income alone will not show the full picture.

The human rights approach set out in the Report ‘underlines the multidimensional nature of poverty, describing poverty in terms of a range of interrelated and mutually reinforcing deprivations, and drawing attention to the stigma, discrimination, insecurity and social exclusion associated with poverty’.

The draft Executive Social Strategy will seek to promote opportunity for everyone and tackle poverty and social exclusion.

Legacy of the Conflict

Issues relating to the past are managed through a range of processes, as follows:

Parades The Parades Commission⁴⁹ is responsible for adjudicating on potentially contentious parades.

Flags The Joint Protocol in Relation to the Display of Flags in Public Areas, agreed in 2005, prioritises negotiation and local agreement regarding the taking down of contentious flags.

Victims and Survivors A Commission for Victims and Survivors⁵⁰ was established in 2006 and the Victims and Survivors Service⁵¹ distributes funding to individuals and groups.

Transitional Justice There have been various official methods for investigating the past, including:

- Government-appointed inquiries and investigations
- Police Ombudsman⁵²
- Legacy Investigation Branch of the Police Service for Northern Ireland (PSNI)⁵³, which replaced the Historical Enquiries Team (HET) in 2014
- Inquests
- Independent Commission for the Location of Victims’ Remains⁵⁴

⁴⁹ Northern Ireland Parades Commission website: <https://www.paradescommission.org/>.

⁵⁰ Commission for Victims and Survivors website: <http://www.cvsni.org/>.

⁵¹ Victims and Survivors Service website: <http://www.victimsservice.org/>.

⁵² Police Ombudsman for Northern Ireland website: <https://www.policeombudsman.org/>.

⁵³ Legacy Investigation Branch of the Police Service for Northern Ireland web pages, PSNI website:

<https://www.psnipolice.uk/inside-psni/our-departments/legacy-and-justice-department/legacy-investigation-branch/>.

⁵⁴ Independent Commission for the Location of Victims’ Remains website: <http://www.iclvr.ie/>.

The Stormont House Agreement⁵⁵ in 2014 included a range of measures associated with dealing with the past, including:

- a Commission on Flags, Identity, Culture and Tradition;
- responsibility for parades to be given to the Northern Ireland Assembly;
- an Oral History Archive;
- an independent Historical Inquiries Unit to take over from the HET and take on legacy cases from the Police Ombudsman; and
- an Independent Commission on Information Retrieval.

The 2015 Fresh Start Agreement⁵⁶ included an implementation plan for the measures concluded in the Stormont House Agreement.

Conflict legacy issues have been raised in the following concluding observations:

- International Covenant on Civil and Political Rights (ICCPR) – there are independence issues relating to Police Ombudsman investigations of police misconduct and with the Legacy Investigation Branch; there are delays in the functioning of the Coroner's inquest system in legacy cases; the Inquiries Act 2005⁵⁷ gives ministers a broad mandate to suppress inquiry reports; the review into the Patrick Finucane case⁵⁸ does not satisfy investigation standards;
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) – the Justice and Security (Northern Ireland) Act 2007⁵⁹ retains the possibility of non-juror trials; there are inconsistencies in investigation processes in which military officials are involved; there is concern at the decision not to hold a public inquiry into the death of Patrick Finucane⁶⁰.

The First Minister Arlene Foster gave an update on the Fresh Start Agreement on 27 June 2016⁶¹:

We continue to make good progress on implementing the commitments that we made in 'A Fresh Start'. We are due to meet the Secretary of State and the Irish Government on Wednesday afternoon to discuss implementation, after which, it is our intention to publish a progress report. We believe that we have a good story to tell. In

⁵⁵ Stormont House Agreement: <https://www.gov.uk/government/publications/the-stormont-house-agreement>.

⁵⁶ A Fresh Start - The Stormont Agreement and Implementation Plan: <https://www.northernireland.gov.uk/publications/fresh-start-stormont-agreement-and-implementation-plan-0>.

⁵⁷ Inquiries Act 2005: <http://www.legislation.gov.uk/ukpga/2005/12/contents>.

⁵⁸ Desmond de Silva (2012), The Report of the Patrick Finucane Review, London: TSO: <https://www.gov.uk/government/publications/the-report-of-the-patrick-finucane-review>.

⁵⁹ Justice and Security (Northern Ireland) Act 2007: <http://www.legislation.gov.uk/ukpga/2007/6/contents>.

⁶⁰ Prime Minister David Cameron reiterated in 2012 that there would be no public inquiry into the 1989 murder of the Belfast solicitor Patrick Finucane, 'Pat Finucane report: David Cameron apologises over killing', *The Guardian* 12 December 2012: <https://www.theguardian.com/uk/2012/dec/12/pat-finucane-report-david-cameron-apologises>.

⁶¹ Northern Ireland Assembly Official Report 27 June 2016: <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2016/06/27&docID=268132>.

the last few weeks, for example, we have published the three-person panel report on disbanding paramilitary groups and appointed the co-chairs of the new Commission on Flags, Identity, Culture and Tradition. We will also finalise the membership of the civic advisory panel shortly.

Age of Criminal Responsibility

The Criminal Justice (Northern Ireland) Order 1998 sets the age of criminal responsibility in Northern Ireland at 10 years of age⁶². This has been raised in the following concluding observations:

- International Covenant on Civil and Political Rights (ICCPR) – the minimum age of criminal responsibility is not in line with international standards;
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) – the age of criminal responsibility should be raised.

In 2007, the Committee on the Rights of the Child recommended that the age of criminal responsibility be 12 years of age⁶³. The Criminal Justice Inspectorate for Northern Ireland (CJINI) has recommended the raising of the age of criminal responsibility to 12⁶⁴. In response to a question on the CJINI report, the Minister of Justice stated⁶⁵:

There is, of course, the recommendation relating to raising the Minimum Age of Criminal Responsibility which we are being prevented from implementing due to the lack of political support. No amount of monitoring or reporting will make a difference in this case.

Historical Institutional Abuse

The Historical Institutional Abuse Inquiry⁶⁶ was established by the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013⁶⁷, commenced in 2014 and concluded in 2016, with a requirement to report in 2017. The Inquiry has been investigating the experiences of children in residential institutions between 1922 and 1995.

References to the Inquiry in concluding observations are as follows:

⁶² Section 3, The Criminal Justice (Northern Ireland) Order 1998: <http://www.legislation.gov.uk/nisi/1998/2839/contents/made>.

⁶³ Committee on the Rights of the Child (2007), *General Comment No 10 (2007) – Children's rights in juvenile justice*, CRC/C/GC/10 25 April 2007: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11.

⁶⁴ CJINI (2015), *Monitoring of Progress on Implementation of the Youth Justice Review Recommendations*, Belfast: CJINI, p.60: <http://www.cjini.org/TheInspections/Inspection-Reports/Latest-Publications.aspx?did=1652>.

⁶⁵ AQW 52826/11-16 answered 26 January 2016.

⁶⁶ Historical Institutional Abuse Inquiry website: <https://www.hiainquiry.org/>.

⁶⁷ Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013: <http://www.legislation.gov.uk/nia/2013/2/contents>.

- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) – the mandate of the Inquiry excludes women aged over 18 years;
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) – clerical abuse survivors are not included.

In response to a question regarding individuals who fall outside the remit of the Inquiry, the First and deputy First Minister responded as follows⁶⁸:

The remit of the Inquiry into Historical Institutional Abuse is to examine if there were systemic failings by the state or institutions in their duties towards children under 18 in their residential care between 1922 and 1995.

We are sensitive to the views of those who have suffered abuse who fall outside the scope of the Historical Institutional Abuse Inquiry and are mindful of the equally destructive impact it has had on many people.

Scoping exercises and options papers were undertaken in relation to residents aged 18 or over of Mother and Baby Homes/Magdalene Asylums (Laundries), and in relation to non-institutional victims of clerical child abuse, which were put to the Executive Committee during the previous mandate for a decision on the way forward.

On 10 February 2016 the Executive agreed to establish an inter-departmental working group led by DHSSPS (now the Department of Health) to review the evidence pertaining to Mother and Baby Homes/Magdalene Asylums (Laundries) with the objective of making recommendations to the Executive within 6 months.

Officials in the Executive Office are working collaboratively with officials in the Department of Health on the outworkings of the Executive's decision regarding non-institutional clerical child abuse.

Structures for Participation in Decision-Making

Section 75(1) of the Northern Ireland Act 1998 states⁶⁹:

A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity—

(a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;

(b) between men and women generally;

(c) between persons with a disability and persons without;

⁶⁸ AQO 13/16-21 answered on 2 August 2016.

⁶⁹ Northern Ireland Act 1998: <http://www.legislation.gov.uk/ukpga/1998/47/section/75>.

and

(d) between persons with dependants and persons without

Schedule 9 of the 1998 Act sets out requirements for the enforcement of the equality duty, which includes arrangements for consultation.

Provisions for participation in decision-making have been raised in the following concluding observations:

- Convention on the Rights of the Child (CRC) – children’s views are not systematically heard in policymaking on issues that affect them;
- European Social Charter – there is no formal mechanism by which families participate in the definition of policies.

In response to a question on the Northern Ireland Youth Assembly, Paula Bradley, representing the Northern Ireland Assembly Commission, responded as follows⁷⁰:

Initially, a budget of £100,000 was allocated to develop a Youth Assembly in 2014-15. However, because of financial constraints, the project was put on hold and consideration was given to other ways of engaging with young people.

The Education Service continues to work with schools and the youth sector to increase young people’s understanding of the work of the Assembly and encourage their engagement with that work. Significantly, the Education Service has been working with Assembly Committees to consult young people about a range of legislation and inquiries, such as shared and integrated education, the Together: Building a United Community strategy, the Road Traffic Bills and proposals for a new law on bullying in schools.

The Education Service is further engaging young people in the work of the Assembly through its Connections project, which aims to promote dialogue between decision-makers and young people. Financed by the European funding stream, Erasmus+, the project is running between February 2015 and January 2016 and involves 36 participants aged between 16 and 18. The group will have the opportunity to deliver primary research findings to Assembly Committees in early 2016. Plans are under way to apply for further funding for similar projects involving other legislatures.

The Education Service’s series of Let’s Talk events around Northern Ireland brings together young people and their MLAs. In 2014-15, five such events were held, each of which involved about 100 young people from different schools and neighbouring constituencies.

⁷⁰ AQO 9187/11-16 answered 24 November 2015:

<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2015/11/24&docID=250211>.

The proposals for a Youth Assembly are an initiative of the Northern Ireland Assembly, rather than a formal participation process for the Executive.

Lack of Engagement by the Northern Ireland Executive

UK reporting to UN and Council of Europe committees requires the input of devolved administrations. The lack of a contribution from the Northern Ireland Executive to this process have been specifically commented upon in the following concluding observations:

- International Covenant on Economic, Social and Cultural Rights (ICESCR) – the Committee regretted the lack of participation of Northern Ireland in the review process and urged the UK to ensure the participation of all devolved administrations in future;
- Framework Convention for the Protection of National Minorities (FCPNM) - information on Irish and Ulster Scots in Northern Ireland was missing in the UK report and the UK Government was urged to fulfil its obligations in relation to reporting for the whole of its territory.

In relation to the absence from the ICESCR examination, the First Minister and deputy First Minister commented as follows⁷¹:

In common with other main UN human rights treaties, the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires the State Parties to it, including the UK, to make periodic reports detailing how the rights are being implemented. These reports are examined by a body of independent experts- the Committee on Economic, Social and Cultural Rights (CESCR). The CESCR considered the Sixth Periodic Report of the UK on the implementation of ICESCR at its 36th and 37th meetings held in Geneva on 15 and 16 June 2016. It is regular practice for the CESCR to examine these Reports in the presence of officials from the reporting State.

The Ministry of Justice had coordinated the reporting process on behalf of the UK State Party, and the UK's written response forwarded to the UN did not contain input specific to the Northern Ireland Executive.

Whilst a decision was not taken on this occasion to send a specific representative from the Executive to Geneva to take part in the oral examination of the UK's sixth Periodic Report, we are committed to engaging actively with the reporting process in the future, to promote the many positive actions here and ensure the good work being taken forward to protect human rights is reported back to the United Nations.

⁷¹ AQW 3841/16-21 answered on 23 September 2016.

The explanation for the absence of a contribution for the FCPNM examination was that *“it was not possible again to agree within the Executive on the relevant text to be included in the report”*⁷².

As stated above, these are issues that have been raised by more than one UN or Council of Europe committee that are specific to Northern Ireland. The appendices that follow summarise all issues relating to Northern Ireland that have been referred to by committees and additionally there may be subjects applicable to Northern Ireland that are addressed to the UK as a whole.

⁷² Committee of Experts on the Charter (2014) *Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by the United Kingdom*, ECRML (2014) 1, 15 January 2014, Paragraph 12.

Appendix 1: Concluding Observations from United Nations Committees

Convention on the Elimination of all forms of Racial Discrimination⁷³

Signed by the UK on 11 October 1966 and ratified on 7 March 1969. The treaty is monitored by the Committee on the Elimination of Racial Discrimination⁷⁴, which last examined the UK in August 2016.

Concluding observations of relevance to Northern Ireland include the following⁷⁵:

- The Committee reiterated its concern that the Equality Act 2010 does not apply to Northern Ireland, where comprehensive anti-discrimination has yet to be adopted. The Committee recommended **the authorities of Northern Ireland act without further delay to adopt comprehensive legislation prohibiting racial discrimination in accordance with the provisions of the Convention** (Paragraph 8(c)).
- The Committee reiterated its concern no progress has been made to adopt a Bill of Rights. The Committee recommended that **the State party expedite the process of adopting the Bill of Rights for Northern Ireland, and ensure that it is in line with the provisions of the Convention and other international human rights standards** (Paragraph 10).
- The Committee expressed concern that data are neither collected systematically in all fields where racial discrimination exists, nor uniformly across the State party's jurisdiction, most notably in Northern Ireland. The Committee recommended that **the governments of Northern Ireland, Scotland, Wales, the British Overseas Territories and the Crown dependencies systematically collect and publish disaggregated data on the enjoyment of rights by members of ethnic minorities in all fields of life** (Paragraph 14).
- The Committee was seriously concerned at the sharp increase in the number of racist hate crimes, especially in England, Wales and Northern Ireland, in the weeks prior to and following the referendum on the membership of the European Union. The Committee recommended that the State party:
 - **Investigate all reported acts of racist hate crimes, prosecute and punish the perpetrators with sanctions commensurate with the gravity of the offence, and provide effective remedies to victims;**

⁷³ International Convention on the Elimination of All Forms of Racial Discrimination:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>.

⁷⁴ Committee on the Elimination of Racial Discrimination web pages:

<http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx>.

⁷⁵ Committee on the Elimination of Racial Discrimination (2016), *Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland*, 26 August 2016:

http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GBR/CERD_C_GBR_CO_21-23_24985_E.pdf.

- **Systematically collect disaggregated data on hate crimes ensure that measures to combat racist hate crimes are developed with the meaningful participation of affected groups, and undertake a thorough impact assessment of the measures adopted to ensure their continued effectiveness;**
- **Adopt concrete measures, in consultation with affected groups, to increase the reporting of racist hate crimes by ensuring that the reporting mechanism is transparent and accessible, and that victims have trust in the police and the justice system;**
- **Adopt comprehensive measures to combat racist hate speech and xenophobic political discourse;**
- **Take effective measures to combat racist media coverage (Paragraph 16).**
- While noting the efforts made to improve the situation of Gypsies, Travellers and Roma, the Committee reiterated its concern that their condition has not substantially improved. The Committee recommended the State party:
 - **Develop a comprehensive strategy, in consultation with members of the Gypsy, Traveller and Roma communities, to ensure a systematic and coherent approach in addressing the challenges that they continue to face in the fields of health, education, housing and employment, and ensure its effective implementation by adopting specific action plans and affective oversight and monitoring mechanisms to track progress, with adequate human and financial resources;**
 - **Ensure the provision of adequate and culturally appropriate accommodation and stopping sites as a matter of priority throughout the State party;**
 - **Ensure the representatives of Gypsy and Traveller communities are adequately consulted before any measures that affect their situation are implemented (Paragraph 25).**
- The Committee remained concerned at continued reports of racist bullying and harassment in schools across the State party, as well as the disproportionate rate of school exclusion of pupils from Gypsy, Traveller, Roma or African Caribbean communities. The Committee recommended the State party:
 - **Strengthen efforts to eliminate all racist bullying in the State party's schools, including by requiring schools to collect qualitative and quantitative data on bullying and school exclusions**

- on grounds of race, colour, descent or national or ethnic origin, and to use the data to develop concrete strategies;**
- **Ensure that schools comply with their public sector equality duty under the Equality Act 2010 and Section 75 of the Northern Ireland Act 1998 to challenge racist bullying and to promote respect for diversity, including through the training of educational personnel (Paragraph 35)**
 - The Committee reiterated its previous concern that measures to tackle racism and sectarianism are kept outside the framework of protections against discrimination provided by the Convention and the Durban Programme of Action. The Committee recommended that **the State party consider the standards, duties and actions prescribed by the Convention and the Durban Declaration and Programme of Action on inter-sectionality between ethnic origin, religion and other forms of discrimination in its measures to combat racism and sectarianism.** The Committee also requested that the State party **provide, in the next periodic report, information on concrete measures adopted to address racial discrimination in Northern Ireland, and on the impact of the “Together: Building a United Community” strategy in addressing discrimination experienced by ethnic minority groups (Paragraph 37).**

International Covenant on Economic, Social and Cultural Rights⁷⁶

Signed by the UK on 16 September 1968 and ratified on 20 May 1979. The treaty is monitored by the Committee on Economic, Social and Cultural Rights⁷⁷, which last examined the UK in June 2016.

Concluding observations with relevance to Northern Ireland included the following:

- While noting the complex structure of the State party, with devolved administrations in Wales, Scotland and Northern Ireland, as well as its responsibility with regard to the British Overseas Territories and the Crown Dependencies, the Committee regretted the lack of involvement and participation of Northern Ireland in the review process. The Committee reminded the State Party **of its ultimate responsibility for the implementation of the Covenant in all its jurisdictions** (Paragraph 8).
- The Committee regretted that a bill of rights for Northern Ireland has not yet been adopted. The Committee urged **the State party to take all necessary measures to expedite the adoption of a bill of rights for Northern Ireland** (Paragraph 10).
- The Committee regretted that, despite its previous recommendation, the Equality Act 2010 is not applicable in Northern Ireland and does not explicitly include all prohibited grounds of discrimination, such as national or social origin. The Committee urged **the State party to provide the same access to an independent equality body and a similar level of protection to rights holders with regard to all grounds of discrimination for all individuals in all jurisdictions of the State party, including Northern Ireland** (Paragraph 23).
- The Committee was concerned about the limited availability and high costs of childcare in the State party. The Committee recommended that **the State party increase its efforts to ensure the availability, accessibility and affordability of childcare services throughout the State party, particularly in Scotland and Northern Ireland** (Paragraph 44).
- The Committee noted with concern that the State party does not have a specific definition of poverty and that the new Life Chances Strategy, as contained in the Welfare Reform and Work Act 2016, has repealed the duty to meet time-bound targets on child poverty, which remains high and is projected to increase in the future, especially in Northern Ireland. The Committee recommended that **the State party take steps to introduce measures to guarantee targeted support to all those living in poverty or at risk of poverty, in particular**

⁷⁶ International Covenant on Economic, Social and Cultural Rights:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

⁷⁷ Committee on Economic, Social and Cultural Rights web pages:
<http://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>.

persons with disabilities, persons belonging to ethnic, religious or other minorities, single-parent families and families with children, and adopt an anti-poverty strategy in Northern Ireland (Paragraph 48).

- The Committee reiterated its previous concern that Roma, Gypsies and Travellers continue to face barriers in accessing adequate and culturally appropriate accommodation across the State party, with adequate access to basic services such as water and sanitation. The Committee also remained concerned about persistent inequality in the access to adequate housing in North Belfast, affecting Catholic families in particular. The Committee urged the State party to:
 - **Ensure adequate access to culturally appropriate accommodation and stopping sites for the Roma, Gypsy and Traveller communities, as appropriate; take steps to avoid all forms of discrimination in the provision of accommodation; and repeal the Unauthorised Encampments (Northern Ireland) Order 2005;**
 - **Intensify its efforts to address the challenges to overcoming persistent inequalities in housing for Catholic families in North Belfast, including through meaningful participation by all actors in decision-making processes related to housing** (Paragraph 50).
- The Committee was concerned about the significant rise in homelessness in the State party, particularly in England and Northern Ireland, affecting mainly single persons, families with children, victims of domestic violence, persons with disabilities and asylum seekers. The Committee urged the State party **to take immediate measures, including by allocating appropriate funds to local authorities, to reduce the exceptionally high levels of homelessness, particularly in England and Northern Ireland, and to ensure adequate provision of reception facilities, including emergency shelters and hostels, as well as social rehabilitation centres** (Paragraph 52).
- The Committee was concerned that termination of pregnancy in Northern Ireland is still criminalized in all circumstances except when the life of the woman is in danger, which could lead to unsafe abortions and disproportionately affects women from low-income families who cannot travel to other parts of the United Kingdom. The Committee recommended that **the State party amend the legislation on termination of pregnancy in Northern Ireland to make it compatible with other fundamental rights, such as women's rights to health, life and dignity** (Paragraph 62).
- The Committee remained concerned about the lack of effective measures adopted by the State party to promote the use of the Irish language in Northern Ireland. The Committee recommended **that the State party adopt an Irish language act** (Paragraph 68).

- The Committee requested **the State party to ensure effective coordination with all devolved administrations, particularly Northern Ireland, and with its Overseas Territories and Crown Dependencies at all stages of the implementation of the recommendations contained in the present concluding observations and in the preparation of its next periodic report (Paragraph 72).**

International Covenant on Civil and Political Rights⁷⁸

Signed by the UK on 16 September 1968 and ratified on 20 May 1979. The treaty is monitored by the Human Rights Committee⁷⁹ which last monitored the UK in July 2015.

Concluding observations with relevance to Northern Ireland included the following:

- The Committee was concerned about the slow progress in introducing the Bill of Rights for Northern Ireland. The Committee stated that the State party should **ensure that the Bill of Rights for Northern Ireland incorporates all the rights enshrined in the Covenant and expedite the process of its adoption** (Paragraph 5).
- The Committee was concerned that the reduction in the budget of the Northern Ireland Human Rights Commission may undermine the fulfilment of its mandated activities. The Committee stated that **the State party should provide the Northern Ireland Human Rights Commission with adequate funding to enable it to discharge its mandate effectively and independently and in full compliance with the Paris Principles** (Paragraph 7).
- While welcoming the adoption of the Stormont House Agreement, the Committee remained concerned about the quality and pace of the process of promoting accountability in relation to “the Troubles” in Northern Ireland and about the absence of a comprehensive framework for dealing with conflict-related serious human rights violations. The Committee also noted with concern (a) the multiple independence and effectiveness shortcomings alleged in relation to the Police Ombudsman’s ability to investigate historical cases of police misconduct; (b) that the Legacy Investigation Branch established within the Police Service of Northern Ireland to carry out the work of the closed Historical Enquiries Team may lack sufficient independence and adequate resources; (c) delays in the functioning of the Coroner’s inquest system in legacy cases; (d) the retention in the Inquiries Act 2005 of a broad mandate for government ministers to suppress the publication of inquiry reports and the lack of safeguards against abuse of those executive powers; and (e) that the review relating to the murder of Patrick Finucane (i.e. the de Silva Review) does not appear to satisfy the effective investigation standards under the Covenant. The Committee, while welcoming the proposed establishment of an Historical Investigations Unit to deal with outstanding cases related to the conflict in Northern Ireland, was concerned that the quality of investigations to be conducted may be affected by the passage of time, given that the unit would become fully operational only in 2017. The Committee stated that **the State party should:**

⁷⁸ International Covenant on Civil and Political Rights: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

⁷⁹ Human Rights Committee web pages: <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx>.

- **(a) Ensure, as a matter of particular urgency, that independent, impartial, prompt and effective investigations, including those proposed under the Stormont House Agreement, are conducted to ensure a full, transparent and credible account of the circumstances surrounding events in Northern Ireland with a view to identifying, prosecuting and punishing perpetrators of human rights violations, in particular the right to life, and providing appropriate remedies for victims;**
 - **(b) Ensure, given the passage of time, the establishment and full operation of the Historical Investigations Unit as soon as possible; guarantee its independence, by statute; secure adequate and sufficient funding to enable the effective investigation of all outstanding cases; and ensure its access to all documentation and material relevant to its investigations;**
 - **(c) Ensure that the Legacy Investigation Branch and the Coroner's Court in Northern Ireland are adequately resourced and are well positioned to review outstanding legacy cases effectively;**
 - **(d) Reconsider its position on the broad mandate of the executive to suppress the publication of inquiry reports under the Inquiries Act 2005;**
 - **(e) Consider launching an official inquiry into the murder of Patrick Finucane (Paragraph 8).**
- While noting the authorization procedure, introduced in 2012, for the use of stop and search powers without reasonable suspicion in the Justice and Security (Northern Ireland) Act 2007, the Committee observed that no data on the community background of persons stopped and searched under that Act appear to have been gathered so as to ensure that such powers are not used disproportionately and arbitrarily against individuals of a particular ethnicity. The Committee stated that **the State party should implement, as a matter of priority, the recommendation by the Policing Board to the Police Service of Northern Ireland (PSNI) concerning the inclusion on the PSNI's recording form of the community background of persons stopped and searched under the Justice and Security (Northern Ireland) Act 2007** (Paragraph 11).
 - While noting the steps taken by the State party to increase the representation of women in the civil service and in the judiciary, the Committee was concerned about the currently low proportion of women in the civil service, particularly in Northern Ireland, and in the judiciary, where women are concentrated in the lower-instance courts. The Committee stated that **the State party should increase its efforts to achieve equitable representation of women in the**

civil service and in the judiciary within specific time frames, including through the consideration of temporary special measures, to give effect to the provisions of the Covenant. It should, inter alia, consider the speedy implementation of all recommendations made by the Advisory Panel on Judicial Diversity, in respect of England and Wales, and ensure that all existing and future gender equality strategies and policies, including the Gender Equality Strategy for Northern Ireland, identify and address effectively the barriers hindering women’s access to high positions in the civil service and in the judiciary (Paragraph 12).

- The Committee was concerned about the highly restricted circumstances in which termination of pregnancy is permitted by law in Northern Ireland and about the severe criminal sanctions for unlawful abortion, which put women’s life and health at risk and force them to travel in order to seek an abortion. The Committee noted with concern that the Department of Justice for Northern Ireland, after having held a consultation on the possible decriminalization and legalization of abortion in cases of fatal foetal abnormality and pregnancy as a result of rape or incest, indicated in April 2015 that it would propose legislation to legalize termination of pregnancy only in circumstances of fatal foetal abnormality, due to “complex issues” raised by pregnancy occurring as a result of sexual crimes. The Committee stated that **the State party should, as a matter of priority, amend its legislation on abortion in Northern Ireland with a view to providing for additional exceptions to the legal ban on abortion, including in cases of rape, incest and fatal foetal abnormality. The State party should also ensure access to information on abortion, contraception and sexual and reproductive health option (Paragraph 17).**
- The Committee was concerned that the Justice and Security Act 2013 extended the use of closed material procedures to civil proceedings involving sensitive material, the disclosure of which would damage national security, including to civil claims for damages and to historical conflict-related cases in Northern Ireland. The Committee was also concerned about the delays across the criminal justice system in Northern Ireland. The Committee stated that **the State party should:**
 - **Ensure that any restrictions or limitations on fair trial guarantees that are based on national security grounds, including the use of closed material procedures, are fully compliant with its obligations under the Covenant, and particularly that the use of closed material procedures in cases involving serious human rights violations does not create obstacles to the establishing of State responsibility and accountability or compromise the right of victims to a fair trial and an effective remedy;**

- **Take concrete measures to reduce avoidable delays in the criminal justice system in Northern Ireland, including by introducing custodial time limits** (Paragraph 22).
- The Committee was concerned that the age of criminal responsibility is set at 8 years in Scotland (and at 12 years for criminal prosecution) and at 10 years in England, Wales and Northern Ireland, which is not in accordance with international standards. It was also concerned about reports that a high number of child defendants remanded in custody do not subsequently receive custodial sentences, which may indicate that their detention was not absolutely necessary. The Committee stated that **the State party should:**
 - **(a) Raise the minimum age of criminal responsibility in accordance with international standards and ensure the full implementation of international standards for juvenile justice;**
 - **(b) Step up its efforts with a view to further reducing the number of children in the juvenile justice system;**
 - **(c) Ensure that detention on remand of child defendants is used only as a measure of last resort and for the shortest possible period of time and that suitable bail packages are available to child defendants in Northern Ireland** (Paragraph 23).

Convention on the Elimination of All Forms of Discrimination against Women⁸⁰

Signed by the UK on 22 July 1981 and ratified on 7 April 1986. The treaty is monitored by the Committee on the Elimination of Discrimination against Women⁸¹, which last examined the UK in July 2013, with no future examination as yet planned.

Concluding observations with relevance to Northern Ireland included the following:

- The Committee was concerned that the Equality Act of 2010 does not, on the whole, extend to Northern Ireland and, as a result, women in Northern Ireland do not have the same equality protections as their counterparts in England. The Committee was particularly concerned that the legislative framework in Northern Ireland does not provide for protection from multiple discrimination and that there is no prohibition against pay secrecy clauses. The Committee recommended that **the State party revise its legislation in Northern Ireland to ensure that it affords protection to women on an equal footing with other women in the State party's Administrations. The State party should therefore recognize multiple discrimination and ensure that pay secrecy clauses are prohibited** (Paragraph 19).
- While welcoming the establishment of the Historical Institutional Abuse Inquiry, which is mandated to investigate the abuse committed in residential institutions in Northern Ireland between 1922 and 1995 (the Magdalene laundries), the Committee regretted that the mandate of the Inquiry excludes women who were over 18 years of age when they entered the laundries. The Committee was concerned that this exclusion perpetuates a climate of impunity and leaves many women without a remedy. The Committee urged the State party:
 - **(a) To extend the mandate of the Historical Institutional Abuse Inquiry to include women who entered the Magdalene laundries at the age of 18 years and above;**
 - **(b) To provide adequate redress to all victims of abuse who were detained in the Magdalene laundries and similar institutions** (Paragraph 25).
- The Committee is concerned about the replacement of the Women's National Commission, which was part of the former national machinery for women's equality that extended throughout the State party, with the Government Equalities Office, the mandate of which does not extend to Northern Ireland. The Committee recommended that **the State party ensure that the Government Equalities Office has a dedicated section for the coordination of gender equality matters in all parts of the State party. It reiterated its**

⁸⁰ Convention on the Elimination of All Forms of Discrimination against Women: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>.

⁸¹ Committee on the Elimination of Discrimination against Women web pages: <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>.

previous recommendation that the State party develop and adopt a unified, comprehensive and overarching national strategy for the implementation of the Convention throughout its territory (Paragraph 29).

- While noting that in Northern Ireland it is an offence to pay for the sexual services of a child under 18 years of age, the Committee was concerned that, in the case of a child over the age of 13 years and under the age of 18 years, the prosecution is required to prove that the purchaser did not reasonably believe the child to be 18 years old or more. The Committee urged the State party **to revise its legislation by shifting the burden of proof from the prosecution to the purchaser of sexual services. The Committee recommended that, once the prosecution proves that the child was over 13 years of age and under 18 years of age, and that the accused purchased sexual services from the child, the purchaser should be required to establish that he or she did not reasonably believe that the child was under 18 years of age.**

Section 15 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015⁸² provided for the offence of paying for the sexual services of a person.

- The Committee recalled its previous concluding observations and remains concerned at the low representation of women in the post-conflict process in Northern Ireland and the failure to fully implement Security Council resolution 1325 (2000). The Committee **called upon the State party to ensure the participation of women in the post-conflict process in Northern Ireland, in line with Security Council resolution 1325 (2000)** (Paragraph 43).
- While acknowledging the consultation process on a revised set of guidelines on the limited circumstances for a lawful termination of pregnancy in Northern Ireland issued by the Northern Ireland Department for Health, Social Services and Public Safety in 2012, the Committee regretted that a public consultation on the possible abolition of laws criminalizing abortion, as called for by the Committee in its previous concluding observations has not been undertaken. The Committee was concerned that abortion continues to be illegal in Northern Ireland in all cases except where continuance of the pregnancy threatens the life of the mother, thus making it necessary for women to seek abortions in other parts of the State party. **Recalling its previous recommendation, the Committee reiterated that, in line with its general recommendation No. 24, on women and health, and the Beijing Declaration and Platform for Action, the State party should expedite the amendment of the anti-abortion law in Northern Ireland with a view to decriminalizing abortion. The State party should also ensure that legal abortion covers not only cases of threats to the life of a pregnant woman but also other circumstances, such as**

⁸² Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015: <http://www.legislation.gov.uk/nia/2015/2/enacted>.

threats to her health and in cases of rape, incest and serious malformation of the foetus (Paragraph 51).

- The Committee was concerned at reports that women with disabilities, older women, women seeking asylum and Traveller women face obstacles in gaining access to medical health care. The Committee was particularly concerned that women with disabilities face limited access to prenatal care and reproductive health services. The Committee was also concerned at legal impediments to gaining access to reproductive treatments faced by some groups of women in Northern Ireland. The Committee urged the State party:
 - **(a) To strengthen the implementation of programmes and policies aimed at providing effective access to health care for women, especially women with disabilities, older women, women seeking asylum and Traveller women;**
 - **(b) To pay special attention to the health needs of women with disabilities, ensuring their access to prenatal care and all reproductive health services;**
 - **(c) To provide equal access to reproductive treatment for all women in Northern Ireland, without discrimination** (Paragraph 53).

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁸³

Signed by the UK on 15 March 1985 and ratified 8 December 1988. The treaty is monitored by the Committee Against Torture⁸⁴, which last examined the UK in June 2013. A list of issues prior to the next reporting cycle was published in April 2016.

Concluding observations with relevance to Northern Ireland included the following:

- The Committee noted with appreciation the measures taken in Northern Ireland in the context of the security normalization programme but regretted that the Justice and Security (Northern Ireland) Act 2007 retains the possibility of the conduct of non-jury trials, despite the apparent consensus among a broad range of actors that the problem of juror intimidation in Northern Ireland still needs to be demonstrated. The Committee recommended **that the State party take due consideration of the principles of necessity and proportionality when deciding the renewal of emergency powers in Northern Ireland, and particularly non-jury trial provisions. It encouraged the State party to continue moving towards security normalization in Northern Ireland and to envisage alternative juror protection measures** (Paragraph 13).
- The Committee welcomed the development by the Northern Ireland Office and Northern Ireland Department of Justice of a “package of measures” to deal with the past in Northern Ireland, including the establishment of mechanisms to carry out historical investigations into deaths related to the conflict, including of victims of torture and ill-treatment. However, it noted reports of apparent inconsistencies in investigation processes in which military officials are involved which delay or suspend investigations, thus curtailing the ability of competent bodies to provide prompt and impartial investigations of human rights violations and to conduct a thorough examination of the systemic nature or patterns of the violations and abuses that occurred in order to secure accountability and provide effective remedy. In addition, the Committee was concerned about the State party’s decision not to hold a public inquiry into the death of Patrick Finucane. The Committee recommended that **the State party develop a comprehensive framework for transitional justice in Northern Ireland and ensure that prompt, thorough and independent investigations are conducted to establish the truth and identify, prosecute and punish perpetrators. In this context, the Committee was of the view that such a comprehensive approach, including the conduct of a public inquiry into the death of Patrick Finucane, would send a strong signal of its commitment to address past human rights violations impartially and transparently. The State party should also ensure that all victims of**

⁸³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.

⁸⁴ Committee Against Torture web pages: <http://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx>.

torture and ill-treatment are able to obtain adequate redress and reparation (Paragraph 23).

- While welcoming the establishment in May 2012 of the Historical Institutional Abuse Inquiry, which will investigate the experiences of abuse of children in residential institutions in Northern Ireland between 1922 and 1995, the Committee regretted that some victims, such as women over 18 who were confined in Magdalene Laundries and equivalent institutions, as well as clerical abuse survivors, will fall outside the remit of the inquiry. The Committee recommended that **the State party conduct prompt, independent and thorough investigations into all cases of institutional abuse that took place in Northern Ireland between 1922 and 1995, including of women over 18 who were detained in Magdalene Laundries and equivalent institutions in Northern Ireland, and ensure that, where possible and appropriate, perpetrators are prosecuted and punished, and that all victims of abuse obtain redress and compensation, including the means for as full as possible rehabilitation. The Committee recommended that the State party conduct prompt, independent and thorough investigations into all cases of institutional abuse that took place in Northern Ireland between 1922 and 1995, including of women over 18 who were detained in Magdalene Laundries and equivalent institutions in Northern Ireland, and ensure that, where possible and appropriate, perpetrators are prosecuted and punished, and that all victims of abuse obtain redress and compensation, including the means for as full as possible rehabilitation** (Paragraph 24).
- The Committee remained concerned, however, that criminal responsibility starts at the age of 8 in Scotland and at 10 in England, Wales and Northern Ireland and regrets the State party's reluctance to raise the age despite calls to do so from more than 50 organizations, charities and experts in December 2012 and the repeated recommendations made by the Committee on the Rights of the Child. The Committee stated that **the State party should raise the minimum age of criminal responsibility and ensure the full implementation of juvenile justice standards** (Paragraph 27).
- The Committee welcomed the adoption of new strategies for female offenders in England, Wales and Northern Ireland, aimed at reducing the number of women in custody and increasing the use of community sentences in combination with support and rehabilitation services. It further welcomed the Northern Ireland Minister of Justice's plan to construct a separate custodial facility for women prisoners in Northern Ireland, and the steps taken by the Scottish government to implement the recommendations made by the Commission on Women Offenders. The Committee was nevertheless concerned at the unprecedented increase of women in prison over the last 15 years, at information that about half of them have severe and enduring mental

illness, and at the disproportionate rate of self-harm amongst women prisoners. The Committee recommended that **the State party commence without further delay the construction of the new custodial facility for women prisoners in Northern Ireland and urgently implement its new strategy for female offenders, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)** (Paragraph 32).

Convention on the Rights of the Child⁸⁵

Signed by the UK on 19 April 1990 and ratified 16 December 1991. The treaty is monitored by the Committee on the Rights of the Child⁸⁶, which last examined the UK in June 2016.

Concluding observations with relevance to Northern Ireland included the following:

- The Committee recommended that **the State party expedite the enactment of a bill of rights for Northern Ireland** (Paragraph 7).
- The Committee recommended that **the State party:**
 - **(a) Revise the United Kingdom-wide strategy entitled *Working Together, Achieving More* (2009) to cover all areas of the Convention and ensure its full implementation;**
 - **(b) Adopt comprehensive action plans for the implementation of the abovementioned strategy in England and Northern Ireland** (Paragraph 8).
- The Committee recommended that **the Government of Northern Ireland expedite the finalization of a child rights indicator framework, covering all areas of the Convention and taking into account the conceptual and methodological framework set out in the Office of the United Nations High Commissioner for Human Rights publication entitled “Human Rights Indicators: A Guide to Measurement and Implementation”** (Paragraph 12).
- The Committee was concerned that a number of provisions under the Equality Act (2010) exempt children from the protection against age discrimination and, in Northern Ireland, the proposed legislation on age discrimination excludes children under 16 years of age. The Committee recommended that **the State party consider the possibility of expanding legislation to provide protection of all children under 18 years of age against discrimination on the grounds of their age** (Paragraph 22).
- The Committee was concerned that:
 - (a) Children’s views are not systematically heard in policymaking on issues that affect them;
 - (b) The reforms concerning the reduction of legal aid in all four jurisdictions appear to have a negative impact on the right of children to be heard in judicial and administrative proceedings affecting them;

⁸⁵ Convention on the Rights of the Child: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

⁸⁶ Committee on the Rights of the Child web pages: <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>.

- (c) Youth parliaments have not been established or operationalized in Northern Ireland, Wales, Montserrat, Turks and Caicos or Jersey.

The Committee recommended that **the State party:**

- **Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at the local and national levels, including in relation to discrimination, violence, sexual exploitation and abuse, harmful practices, alternative care, sexual and reproductive education, leisure and play. Particular attention should be paid to involving younger children and children in vulnerable situations, such as children with disabilities;**
- **Assess the impact and expedite the review of the reforms on legal aid in England, Wales and Scotland and conduct child rights impact assessment of the proposed reforms in Northern Ireland and Jersey, in order to ensure that such reforms do not negatively affect children's access to justice, and guarantee effective participation of children in such assessment and review;**
- **Expedite the establishment of youth parliaments in all devolved administrations and territories as permanent forums for children's effective engagement with national legislative processes on issues that affect them;**
- **Ensure that children are not only heard but also listened to and their views given due weight by all professionals working with children** (Paragraph 31).
- The Committee was concerned about:
 - (a) The use by the police of Tasers and, in the case of Northern Ireland, attenuating energy projectiles against children in the four devolved administrations;
 - (b) The increased use of restraint and other restrictive interventions against children in custodial settings in England and Wales and the lack of data on the use of restraint in other parts of the State party;
 - (c) The use of physical restraint on children to maintain good order and discipline in young offenders' institutions and of pain-inducing techniques on children in institutional settings in England, Wales and Scotland, and the lack of a comprehensive review of the use of restraint in institutional settings in Northern Ireland.

Committee urged the State party to:

(a) Prohibit the use on children of electrical discharge weapons, such as Tasers, attenuating energy projectiles (in Northern Ireland) and any other harmful devices and systematically collect and publish age-disaggregated data on their use in order to monitor the implementation of such prohibition;

(b) Abolish all methods of restraint against children for disciplinary purposes in all institutional settings, both residential and non-residential, and ban the use of any technique designed to inflict pain on children;

(c) Ensure that restraint is used against children exclusively to prevent harm to the child or others and only as a last resort;

(d) Systematically and regularly collect and publish disaggregated data on the use of restraint and other restrictive interventions on children in order to monitor the appropriateness of discipline and behaviour management for children in all settings, including in education, custody, mental health, welfare and immigration settings (Paragraph 40).

- The Committee was concerned about:

(a) Recent allegations of widespread child sexual exploitation and abuse by high profile figures, by organized gangs and in institutional settings;

(b) The increasing risk of online child sexual exploitation and abuse;

(c) The insufficient respect for the views of children in efforts to prevent, detect and respond to such exploitation and abuse;

(d) The low rate of prosecution of child sexual exploitation and abuse.

The Committee recommends that **the State party, including devolved governments, overseas territories and Crown dependencies:**

(a) Systematically collect and publish comprehensive and disaggregated data on child exploitation and abuse, including through mandatory reporting, in all settings;

(b) Develop and implement comprehensive multi-sectoral strategies on child exploitation and abuse, including online, to ensure effective prevention, early detection and intervention, at the national and devolved levels, in overseas territories and Crown dependencies;

(c) Implement the recommendations of the Marshall Inquiry into child sexual exploitation in Northern Ireland;

(d) Further develop comprehensive services to support children who are victims or at risk of sexual exploitation and abuse;

(e) Strengthen the capacity of law enforcement authorities and the judiciary to detect and prosecute child sexual exploitation and abuse, and grant effective remedies to the child victims (Paragraph 45).

- The Committee was concerned that in Northern Ireland, children face violence, including shootings, carried out by non-State actors involved in paramilitary-style attacks, and recruitment by such non-State actors. The Committee recommended that **the State party take immediate and effective measures to protect children from violence by non-State actors involved in paramilitary-style attacks and from recruitment by such actors into violent activities, including through measures relating to transitional and criminal justice** (Paragraph 48).
- The Committee was concerned about:
 - The increase in the number of children in care in England, Wales and Northern Ireland and the high rate of children in care in Scotland;
 - The adoption procedure in Northern Ireland remaining outdated and not in line with the Convention.

The Committee recommended that **the State party:**

- **Ensure that the removal of children from their families is always subject to thorough investigation, is in accordance with the best interests of the child and is only used as a measure of last resort;**
- **Expedite the approval and enactment of the Adoption and Children Bill in Northern Ireland** (Paragraph 52).
- The Committee was concerned that:
 - The number of child suicides has been steadily increasing in Northern Ireland in the past 10 years;
 - Children under the age of 16 years are excluded from protection under the Mental Capacity Act (2005) in England and Wales, and under the Mental Capacity Act (2016) in Northern Ireland, including with regard to medical treatment without consent.

The Committee recommended that **the State party:**

(a) Regularly collect comprehensive data on child mental health, disaggregated across the life course of the child, with due attention to children in vulnerable situations and covering key underlying determinants;

(b) Rigorously invest in child and adolescent mental health services and develop strategies at the national and devolved levels, with clear time frames, targets,

measurable indicators, effective monitoring mechanisms and sufficient human, technical and financial resources. Such strategy should include measures to ensure availability, accessibility, acceptability, quality and stability of such services, with particular attention to children at greater risk, including children living in poverty, children in care and children in contact with the criminal justice system;

(c) Expedite the prohibition of placing children with mental health needs in adult psychiatric wards or police stations, while ensuring the provision of age-appropriate mental health services and facilities;

(d) Support and develop therapeutic community-based services for children with mental health conditions;

(e) Review current legislation on mental health to ensure that the best interests and the views of the child are taken duly into account in cases of mental health treatment of children below the age of 16 years, in particular with regard to hospitalization and treatment without consent (Paragraph 61).

- The Committee was concerned that in Northern Ireland, abortion is illegal in all cases, except where continuance of the pregnancy threatens the life of the mother, and is sanctioned with life imprisonment. The Committee recommended that **the State party Decriminalize abortion in Northern Ireland in all circumstances and review its legislation with a view to ensuring girls' access to safe abortion and post-abortion care services** (Paragraph 64).
- The Committee was seriously concerned that The rate of child poverty remains high, disproportionately affects children with disabilities, children living in a family or household with a person or persons with a disability, households with many children and children belonging to ethnic minority groups, and affects children in Wales and Northern Ireland the most. The Committee urged the State party to:
 - **(a) Set up clear accountability mechanisms for the eradication of child poverty, including by re-establishing concrete targets with a set time frame and measurable indicators, and continue regular monitoring and reporting on child poverty reduction in all parts of the State party;**
 - **(b) Ensure clear focus on the child in the State party's poverty reduction strategies and action plans, including in the new "Life**

Chances Strategy”, and support the production and implementation of child poverty reduction strategies in the devolved administrations;

- **(c) Conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2016 on children, including children with disabilities and children belonging to ethnic minority groups;**
 - **(d) Where necessary, revise the mentioned reforms in order to fully respect the right of the child to have his or her best interests taken as a primary consideration, taking into account the different impacts of the reform on different groups of children, particularly those in vulnerable situations;**
 - **(e) Strictly implement the legal prohibition of prolonged placement of children in temporary accommodation by public authorities in England, Wales and Scotland, and enact similar legislation in Northern Ireland;**
 - **(f) Take necessary measures to reduce homelessness and to progressively guarantee all children stable access to adequate housing that provides physical safety, adequate space, protection against the threats to health and structural hazards, including cold, damp, heat and pollution, and accessibility for children with disabilities (Paragraph 71).**
- The Committee was concerned that:
 - Substantial inequalities persist in educational attainment;
 - In Northern Ireland, segregation of schools by religion persists.

The Committee recommended that the State party:

- **Abolish the practice of unregulated admission tests to post-primary education in Northern Ireland;**
 - **In Northern Ireland, actively promote a fully integrated education system and carefully monitor the provision of shared education, with the participation of children, in order to ensure that it facilitates social integration (Paragraph 73).**
- The Committee was concerned about:
 - (a) The withdrawal of a play and leisure policy in England, and underfunding of play and leisure policies in Northern Ireland, Scotland and Wales;

- (b) Insufficient places and facilities for play and leisure for children, in particular those accessible for children with disabilities and children in marginalized and disadvantaged situations, and public space for adolescents to socialize.

The Committee recommended that **the State party, including the governments of the devolved administrations:**

- (a) Strengthen its efforts to guarantee the right of the child to rest and leisure and to engage in play and recreational activities appropriate to the age of the child, including by adopting and implementing play and leisure policies with sufficient and sustainable resources;**
 - (b) Provide children, including those with disabilities and children in marginalized and disadvantaged situations, with safe, accessible, inclusive and smoking-free spaces for play and socialization and public transport to access such spaces;**
 - (c) Fully involve children in planning, designing and monitoring the implementation of play policies and activities relevant to play and leisure, at the community, local and national levels (Paragraph 75).**
- The Committee welcomes the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, and new legislation in this area, including the Modern Slavery Act (2015), the Human Trafficking and Exploitation Act (Northern Ireland) (2015), the Human Trafficking and Exploitation Act (Scotland) (2015), and the introduction of an independent statutory guardian for all unaccompanied children in Northern Ireland and Scotland, and for all potential child victims of trafficking in England and Wales. The Committee also notes the commitment of the United Kingdom in the fight against all forms of violence against children, including sexual abuse, exploitation and trafficking of children. Nevertheless, the Committee remained concerned that, while the acts adopted in 2015 provide further protection to children up to 18 years of age from offences covered by the Optional Protocol, the Sexual Offences Act (2003) in England and Wales and the Sexual Offences (Northern Ireland) Order (2008) have not been revised to provide full and equal protection to all children under 18 years of age. The Committee recommended that **the State party revise its legislation to ensure that all children up to 18 years of age are protected from all types of offence covered by the Optional Protocol (Paragraph 83).**

Appendix 2: Recommendations from Council of Europe Treaty Bodies

European Social Charter

Signed by the UK on 18 October 1961 and ratified on 11 July 1962. The UK is not part of the collective complaints procedure, but is subject to the regular examination process, undertaken by Charter article, where states are declared 'in conformity' or 'not in conformity' with individual articles, or decisions on those articles are deferred. Incidences where the UK was deemed 'not in conformity' where Northern Ireland has been mentioned include the following⁸⁷:

- Article 7 Paragraph 10⁸⁸ - The Committee noted from the Concluding observations of the UN Committee on the Rights of the Child on the report submitted by the United Kingdom of Great Britain and Northern Ireland under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child (UN-CRC) on the sale of children, child prostitution and child pornography, that certain offences listed under the Sexual Offences Act 2003 for England and Wales and the Sexual Offences (Northern Ireland) Order 2008 cover children only under the age of 13 or 16 years while children between 16 and 18 years are left outside the ambit of these laws. Therefore, the in its Concluding Observations the UNCRC specifically recommends that the existing legislation, particularly the Sexual Offences Act 2003, the Sexual Offences (Northern Ireland) Order 2008 and the proposed Modern Slavery Bill for England and Wales be amended and harmonised to ensure that all children under the age of 18 are protected against all types of offences covered by the Optional Protocol. The Committee concluded that **the situation in United Kingdom is not in conformity with Article 7§10 of the 1961 Charter on the ground that the legislation permits treating children involved in prostitution as offenders.**
- Article 16⁸⁹ - In Northern Ireland, there is no formal mechanism by which families participate in the definition of policies and this is currently achieved through the existing mechanisms for public consultation. Government Departments are also able to make use of a number of organisations which seek the views of parents and children where specific issues necessitate a more targeted consultation process. In view of the foregoing, the Committee found that **the situation is not in conformity with the 1961 Charter because there are no associations representing families which can be consulted.**

⁸⁷ Reports taken from the HUDOC database, 6 October 2016: <http://hudoc.esc.coe.int/eng/#>.

⁸⁸ Published 4 December 2015, with reference to the reporting period 2010-13.

⁸⁹ Published 4 December 2015, with reference to the reporting period 2010-13.

European Charter for Regional or Minority Languages

This Charter was signed by the UK on 2 March 2000 and ratified on 27 March 2001. On the one hand, the treaty is a commitment to certain principles for the preservation of minority languages and on the other, it is a series of measures to promote the use of minority languages on the territory of a signatory state⁹⁰. Commitments to these measures are assessed by a Committee of Experts, advising the Council of Ministers, which constitutes the enforcement mechanism for the Charter⁹¹. The Committee last reported on the UK in 2014 and is due to assess the UK again in July 2017.

Findings of the Committee of Experts included the following with reference to Northern Ireland⁹²:

- Information about Irish and Ulster Scots in the fourth periodical report was still confined to those areas which remain the sole competence of the UK Government in London. Areas which have been devolved to Northern Ireland were not included. It was explained to the Committee of Experts that the responsibility for preparing these relevant parts of the report was that of the Northern Ireland power-sharing Executive. According to the authorities it was not possible again to agree within the Executive on the relevant text to be included in the report. The Committee strongly urged the UK authorities **to comply with their obligation to report on the application of the Charter** (Paragraph 12).
- The devolution settlement in Northern Ireland presents obstacles to the promotion and the protection of regional or minority languages to the extent that there is no political consensus on the contribution to be made by the Northern Ireland Government. The responsibility of competence with regard to regional or minority languages was devolved to the Northern Ireland Assembly. Nevertheless, no legislation promoting the Irish language has been adopted. The Committee of Experts was informed that this is because of the need to obtain consensus within the power sharing administration. The Committee strongly urged the UK authorities **to provide an appropriate legislative base for the protection and promotion of Irish in Northern Ireland** (Paragraphs 13-14).
- The Committee of Experts emphasised the crucial importance of the continued freedom to use Irish within the democratic framework of Northern Ireland. The Committee encouraged the relevant authorities **to introduce a system of**

⁹⁰ European Charter for Regional or Minority Languages: <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148>.

⁹¹ Committee of Experts of the European Charter for Regional or Minority Languages web pages: http://www.coe.int/t/dg4/education/minlang/aboutcommittee/default_en.asp.

⁹² Committee of Experts on the Charter (2014) *Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by the United Kingdom*, ECRML (2014) 1, 15 January 2014: http://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/UKECRML4_en.pdf.

simultaneous translation which facilitates the full use of Irish in the Northern Ireland Assembly (Paragraphs 235, 238).

Pursuant to the report of the Committee of Experts, the Committee of Ministers of the Council of Europe recommended the UK authorities:

- **Adopt and implement an Irish language policy, preferably through the adoption of legislation providing statutory rights for the Irish speakers;**
- **Strengthen its support for the work done by the Ulster Scots Agency and take measures to establish the teaching of Ulster Scots.**

Council of Europe Convention on Action against Trafficking in Human Beings

This convention is aimed at supporting victims of human trafficking and also measures for the disruption and conviction of human traffickers. The Convention was signed by the UK on 23 March 2007 and ratified on 17 December 2008.

The implementation of the Convention is overseen by the Group of Experts on Action against Trafficking in Human Beings (GRETA), which visits parties to the Convention and reports on progress⁹³. The first GRETA visit to the UK was in 2012. The second evaluation round was commenced in 2015, with an initial report published in October 2016⁹⁴.

Recommendations with relevance to Northern Ireland include:

- The Northern Ireland Department of Employment and Learning (DEL), through the Employment Agency Inspectorate (EAI), is responsible for regulating private employment agencies which supply temporary workers to hirers. Although there is no licence system, agencies must comply with the Conduct Regulations and the EAI conducts targeted inspections. It regulates sectors not covered by the GLA, such as construction, hospitality, health and entertainment. GRETA considered that **the UK authorities should take further measures to strengthen the remit of the relevant inspectorates (Employment Agency Standards Inspectorate, Employment Agency Inspectorate in Northern Ireland, GLA/GLAA, Her Majesty's Revenue and Customs (HMRC) National Minimum Wage, Health and Safety Executive)** (Paragraphs 97, 106).
- In Northern Ireland, applications for compensation are handled in accordance with the Compensation (Northern Ireland) Order 2002 and the Northern Ireland Criminal Injuries Compensation Scheme 2009, which is administered by the Compensation Service of Northern Ireland (CSNI). This is open to victims of human trafficking who have been physically and/or mentally injured in Northern Ireland as a result of being trafficked. However, a victim's claim may be denied or reduced in certain circumstances, such as when the victims has not reported the injury to the police and can offer no reason for not doing so; the victim chose not to co-operate with the CSNI, the police or other authorities during the application for compensation; the victims has a criminal conviction. GRETA urged the UK authorities to **adopt measures and to facilitate and guarantee access to compensation for victims of trafficking in human beings (THB) and in particular to ensure that all victims of human trafficking are eligible for compensation regardless of the nature of the means used, and that the amount of compensation from the Northern Ireland Criminal Injuries**

⁹³ Group of Experts on Action against Trafficking in Human Beings web pages: <http://www.coe.int/en/web/anti-human-trafficking>.

⁹⁴ GRETA (2016), *Report Concerning the Implementation of the Council of Europe Convention on Action Against Trafficking in Human Beings by the United Kingdom*, GRETA(2016)21: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806abdc>.

Compensation Authority is not made dependent on the victim's co-operation with authorities or prior convictions (Paragraphs 238, 245).

Framework Convention for the Protection of National Minorities⁹⁵

Signed on 1 February 1995 and ratified on 15 January 1998. Monitoring of the Framework Convention is through an Advisory Committee⁹⁶ which provides evidence for the Council of Ministers to make resolutions. The UK was last visited by the Committee in March 2016, but the last available resolution is from December 2012⁹⁷.

Issues of concern of relevance to Northern Ireland include the following:

- Efforts to design comprehensive anti-discrimination legislation in Northern Ireland as outlined in the St Andrews Agreement, as well as a Bill of Rights for Northern Ireland as outlined in the Good Friday Agreement, have so far not yielded results;
- The situation of Gypsies and Travellers, particularly in the field of access to accommodation and educational attainment and attendance, is of particular concern. There has been a persistent shortage of sites, which can contribute to the establishment of unauthorised developments and encampments, which in turn can generate tensions between Gypsies and Travellers and the settled community, and result in evictions;
- The authorities have not yet adopted comprehensive legislation on the Irish language in Northern Ireland and more could be done to promote the use of this language in the public sphere;
- Gypsies, Travellers and Roma continue to experience low rates of attainment in the education system, as well as low rates of enrolment, high dropout rates, the lack of trained teachers working with pupils from these minorities and the general lack of preparation of schools to integrate children of these minority backgrounds.

The Council of Ministers recommended that the UK:

- **take effective measures to address the accommodation needs of Gypsies and Travellers including by encouraging the delivery of sites and improving the co-ordination of the different levels of authorities involved in sites delivery; ensure that local authorities comply with their responsibilities in sites delivery;**
- **enhance efforts to seek consensus on the introduction of legislation on the Irish language in Northern Ireland and continue to take appropriate measures to protect and develop the Irish language in Northern Ireland;**

⁹⁵ Framework Convention for the Protection of National Minorities website: <http://www.coe.int/en/web/minorities/home>.

⁹⁶ Advisory Committee on the Framework Convention for the Protection of National Minorities web pages: <http://www.coe.int/en/web/minorities/advisory-committee>.

⁹⁷ Council of Europe (2012), *Resolution CM/ResCMN(2012)22 on the implementation of the Framework Convention for the Protection of National Minorities by the United Kingdom*, Strasbourg: CoE: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c94cf.

- **step up efforts to develop a single Equality Act in Northern Ireland;**
- **take measures to ensure that the planning policy and process in relation to the development of caravan sites takes appropriate account of the situation of Gypsies and Travellers;**
- **continue to design and implement measures to encourage speakers of Irish, Ulster Scots and Gaelic languages to use their languages in the public sphere and in relations with local administrative authorities, respectively in Northern Ireland and Scotland;**
- **continue to take measures to improve the attainment and attendance of Gypsy, Traveller and Roma pupils at school; develop more comprehensive and integrated approaches to their education, in close co-operation with representatives of the groups concerned.**