



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Submission to the United Nations Committee on the Elimination of Discrimination against Women

**Parallel Report to the Eighth Periodic Report
Submitted by the United Kingdom of Great
Britain and Northern Ireland**

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Introduction

1. Northern Ireland Human Rights Commission (NIHRC) is one of three A-status National Human Rights Institutions in the United Kingdom (UK). Established in 1999, our mandate extends to all matters relating to the protection and promotion of human rights in NI, including within the competence of the NI Assembly and the Westminster Parliament. This submission considers the protection of human rights in NI. The purple boxes provide recommended questions that the Committee may wish to ask the State Party.

Equality Legislation and Policies (Articles 1-4; para 19)¹

Single Equality Act²

2. In NI, a number of laws and regulations within a complex framework prohibit discrimination.³ The NI Executive have not introduced a single legislative instrument to consolidate protection as recommended, instead it has adopted a piecemeal approach to updating the current framework.⁴

How NI's equality framework will be updated to ensure it is effective and accessible?

Intersectional Discrimination

3. NI's equality legislation does not recognise intersectional discrimination, which particularly affects minority women.⁵

¹ Each section heading refers to the relevant Article(s) of the CEDAW Convention and the relevant paragraph(s) of the 2013 concluding observations to the UK.

² Equality Act 2010 does not extend to NI.

³ This is unlike the rest of the UK that has the single Equality Act 2010. See Employment Equality (Age) Regulations (NI) 2006; Disability Discrimination Act 1995; Special Educational Needs & Disability (NI) Order 2005; Equal Pay Act (NI) 1970; Sex Discrimination (NI) Order 1976; Race Relations (NI) Order 1997; Fair Employment & Treatment (NI) Order 1998; Employment Equality (Sexual Orientation) Regulations (NI) 2003; Equality Act (Sexual Orientation) Regulations (NI) 2006; Northern Ireland Act 1998.

⁴ See CEDAW/C/GBR/Q/7/Add.1, 'Comments to the UN Committee on the Elimination of Discrimination against Women, Replies of UK of Great Britain and NI to the List of Issues to be taken up in connection with the consideration of its seventh periodic report', February 2013, para 17; OFMDFM, 'A Sense of Belonging: Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014-2024' (OFMDFM, 2014), at 38 and 40.

⁵ In particular, disabled women, migrant women, older women and LGBTI women.

How will Government recognise and effectively address intersectional discrimination?

Gender-related Strategies

4. Up-to-date specific strategies on gender equality,⁶ sexual orientation,⁷ childcare⁸ and carers⁹ remain outstanding. The NI Executive plans to subsume many of these issues into a gender-neutral social strategy. This ignores the intricacies and gender-sensitive elements of these issues.

What effective steps are taken to ensure:

- all relevant strategies effectively address gender equality, sexual orientation, childcare, carers and do not ignore the gender-specific elements?
- gender-related strategies contain action plans that are effectively monitored?

Stereotyping (Article 5; para 33)

5. Robust research on and effective measures to address stereotyping and objectification of women, particularly in advertising and the media, are lacking in NI.¹⁰

What effective steps are taken to address stereotyping and objectification of NI women?

⁶ The existing 'Gender Equality Strategy 2006-2016' expired in 2016 and has not been updated. This strategy does not contain an action plan.

⁷ NI has not had a sexual orientation strategy to date. The Department for Communities consulted on what a sexual orientation strategy and action plan should include between March and June 2014. The drafting and implementation of this strategy and action plan remains outstanding.

⁸ NI has not had a childcare strategy to date. The Department of Education consulted on a draft Childcare Strategy between July and November 2015. The implementation of this strategy remains outstanding.

⁹ NI is lagging behind the rest of the UK in terms of a strategy for carers and recent law development. The 'Caring for Carers 2006' is the most recent NI strategy, whereas strategies have been published in Scotland in 2010, in Wales in 2013, and in England in 2014. See Jennifer Betts and Janice Thompson, 'Research and Information Services Briefing Paper 24/17 - Carers: Legislation, Policy and Practice' (NI Assembly, 2016).

¹⁰ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

Trafficking and Exploitation (Article 6; paras 39, 41)¹¹

6. During 2017, 14 female potential victims of human trafficking were referred from NI.¹²
7. The burden is on the prosecution to prove that a purchaser did not reasonably believe a child paid for sexual services was an adult.¹³
8. In December 2016, NI legislation prohibiting trafficking came into effect.¹⁴
9. The Human Trafficking and Exploitation Strategy 2016/2017 expired in March 2017.¹⁵ Department of Justice is updating the strategy; however, publication requires Ministerial approval.

¹¹ The National Crime Agency operates a National Referral Mechanism for identifying victims of human trafficking or modern slavery and ensuring they receive the appropriate support.

¹² The total number of referrals in 2017 was 31. Since 2015, there has been a year-on-year decrease in the total number of referrals of potential victims of human trafficking. In 2015, the number of female referrals was 25 (out of 45). This decreased to 17 (out of 33) in 2016. See; National Crime Agency, 'National Referral Mechanism Statistics - End of Year Summary 2017' (NCA, 2018), at Annex B; National Crime Agency, 'National Referral Mechanism Statistics - End of Year Summary 2016' (NCA, 2017), at Annex B; National Crime Agency, 'National Referral Mechanism Statistics - End of Year Summary 2015' (NCA, 2016), at Annex B.

¹³ Under the Sexual Offences (NI) Order 2008, Article 37, it is an offence in NI to pay for the sexual services of a child under 18 years of age. The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015, Section 6(1)(d) requires that an offence of human trafficking or exploitation committed against a child must be treated as an aggravating factor. However, despite the Committee's recommendation for change, the Sexual Offences (NI) Order 2008, Article 37(1) continues to be enforceable and remains unamended. Under this provision, "a person (A) commits an offence if he intentionally obtains for himself the sexual services of another person (B), before obtaining those services, he has made or promised payment for those services to B or a third person, or knows that another person has made or promised such a payment, and either B is under 18, and A does not reasonably believe that B is 18 or over, or B is under 13". The Department of Justice is "aware of the concern" raised "in relation to the burden of proof in cases involving sexual offences against minors". The Department is "currently undertaking a review of the law to child sexual offences. Proposals emerging from this review will be subject to public consultation". See COR-0021-2018, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 15 March 2018.

¹⁴ The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) (Independent Guardian) Regulations (NI) 2016. These Regulations provide for the appointment of independent guardians to assist, represent and support children believed to be victims of trafficking and exploitation.

¹⁵ The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015 requires the Department of Justice to produce an annual strategy to address offences related to slavery, servitude and forced or compulsory labour and human

10. Unlike non-European victims of trafficking,¹⁶ EEA victims are not granted a residence permit.¹⁷ This makes it difficult for such victims to access social security benefits.¹⁸

- **When will an up-to-date Human Trafficking and Exploitation Strategy be published?**
- **What effective steps are taken to:**
 - **address the root causes of human trafficking and exploitation?**
 - **shift the burden of proof from the prosecution to the purchaser of sexual services?**
 - **ensure specialised, accessible support for victims of human trafficking and exploitation in NI is sufficiently and promptly available when required, and adequately funded, including equal access to social security benefits?**
 - **ensure the identified laws and policies are effectively implemented?**

trafficking. See Department of Justice, 'Human Trafficking and Modern Slavery Strategy 2016/17' (DoJ, 2016).

¹⁶ Non-European victims of trafficking are typically granted 'Discretionary Leave To Remain', which provides a one year residence permit. This permit is renewable and can lead to settlement. This permit also has no restriction on public funds and the victim is able to access social security benefits.

¹⁷ EEA refers to citizens from the European Economic Area. A residence permit is not required for EEA citizens under immigration law.

¹⁸ Due to the nature of their arrival in the UK, the lack of legal documentation during their exploitation, and the psychological impact of their exploitation, an EEA victim of trafficking may not be able to satisfy the 'Right to Reside' test, the 'Habitual Residence' test and the 'Genuine Prospects of Work' test. See Law Centre (NI), 'Access to Benefits for Victims of Modern Slavery' (Law Centre (NI), 2017), at paras 6-8. See <https://www.lawcentreni.org/Publications/Policy-Briefings/Access-to-benefits-for-victims-of-trafficking.pdf>.

Participation in Political and Public Life (Article 7; para 43)

11. In March 2016, 41% of public appointments and 24% of chair appointments were held by women.¹⁹ There are to be 50/50 public appointments by 2020/2021.²⁰ In 2015, the first two women ever were appointed as NI High Court judges. In 2016/2017, women represented 46% of those holding judicial office and 31% of substantive court roles.²¹ This is not fully reflective of society.²²
12. The Sex Discrimination (NI) Order 1976, Section 43A has not been utilised.²³
13. 27 MLAs (30%) elected in March 2017 were women.²⁴ Four of the 18 NI MPs (22%) elected in June 2017²⁵ and 41% of the last NI Executive²⁶ were women. In January 2016, the first woman was appointed as NI's First Minister.²⁷ In January 2017, three of the five main political parties had women leaders. At local government level, 25% of councillors elected in 2014 were women.²⁸ This is not reflective of society.²⁹

¹⁹ The Executive Office, 'Public Appointments Annual Report for NI 2015/16, NI Statistics and Research Agency', May 2017.

²⁰ The NI Executive agreed gender equality in aggregated public appointments by 2017/2018 for appointments made in-year and by end-year 2020/2021 for all appointees in post, with equality reflected both in board membership and at chair level. See The Executive Office, 'Public Bodies Annual Report for NI, 2015/16' (Executive Office, 2017), at 39.

²¹ This included legal, lay and medical appointments. See 'Email from NI Judicial Appointments Commission to NIHRC', 28 September 2017.

²² The last census in 2011 recorded that of a population of 1.811 million in NI, 51% were women and 49% were male. See NISRA, 'Statistics Bulletin – Census 2011: Key Statistics for NI' (NISRA, 2012), at 11.

²³ This provision allows political parties to take positive steps to reduce inequality between men and women elected to UK Parliament, the NI Assembly, District Councils and the European Parliament.

²⁴ MLAs are Members of the NI Assembly. See 'Poll returns most female MLAs in assembly's history', *Irish News*, 6 March 2017.

²⁵ MPs are Members of the UK Parliament. See <http://www.itv.com/news/utv/2017-06-09/election-2017-ni-results-in-full/>

²⁶ The NI Executive fell in January 2016.

²⁷ 'Arlene Foster becomes Northern Ireland's First Minister', *The Guardian*, 11 January 2016.

²⁸ North South Inter-parliamentary Association, 'Briefing Paper for the Seventh Meeting of the North-south Inter-Parliamentary Association: Women in Public Life, North South Inter-parliamentary Association', 27 November 2015.

²⁹ See NISRA, 'Statistics Bulletin – Census 2011: Key Statistics for NI' (NISRA, 2012), at 11.

14. Minority women are under-represented in public bodies.³⁰ There is a lack of accessible information available to empower disabled and migrant women.³¹

What effective steps are taken to:

- **encourage political parties to utilise Sex Discrimination (NI) Order 1976, Section 43A?**
- **ensure women’s participation in public and political life reflects their numbers in society?**
- **ensure existing and future gender equality strategies identify and address the barriers hindering women’s participation, particularly minority women?**

UNSCR 1325

15. Continued paramilitary intimidation is a barrier unique to NI that prevents women’s effective participation in peace building and political processes.³²

³⁰ This includes young, disabled, migrant and LGBTI women. Limited data is available. In 2015, 33% of public appointees were women. Furthermore, 2% of male and female public appointees in NI had a disability and 1% were under the age of 30 or came from ethnic minorities. The Commissioner for Public Appointments NI acknowledges “improving diversity means attracting people with a greater range of experience and background, more women, younger people, people with disabilities and people with the LGBT communities”. See Kevin Magee, ‘Public appointments watchdog Judena Leslie wants targets to improve women’s representation’, *BBC News*, 15 October 2015; CPANI, ‘Guardian of the Public Appointment Process: Annual Report 2016/17’ (CPANI, 2016), at 5.

³¹ The information available is not adequately available in different formats and languages, which means that it can be inaccessible. This particularly affects disabled and migrant women. See Roundtable discussions with NI women’s policy groups and NI women’s community groups, October 2017, November 2017, February 2018 and March 2018.

³² There is a “distinct lack of legitimate leadership within many NI communities which is filled by paramilitary groups”. There is “endemic paramilitary ‘bullying’ and intimidation at the level of the community”. This is reflected in the significant increase in paramilitary-style punishment shootings and beatings in NI since 2013. In 2013, there were 64 such attacks from republican dissidents and ongoing loyalist paramilitary violence directed at their own communities. This rose to 101 such attacks in 2017. The NIHRC’s engagement with civil society organisations indicated that for women, paramilitary intimidation means women’s community groups feel unable to access funding and to engage with particular peacebuilding initiatives. It was highlighted that there is a historical and ongoing fear of paramilitaries (including paramilitaries from within their own communities) that is causing women to feel threatened, which is preventing the empowerment of women in NI. It was raised that women feel displaced

What effective steps are taken to:

- ensure and monitor the effective participation of NI women in peace building and political processes?
- address paramilitary intimidation, as a barrier to women's participation?

Education (Article 10; paras 45, 61(a))

Access

16. Funding cuts to community-based education have restricted the availability of community-based educational courses³³ exacerbating

by paramilitaries taking leadership roles. It was reported that this is closely linked to drug feuds and domestic violence. The Paramilitary Crime Taskforce was setup in September 2017 to protect communities by tackling all forms of criminality linked to paramilitarism. It is made up of officers from the Police Service NI, the National Crime Agency and HM Revenue and Customs. See Caroline Walsh, 'Consortium for the Regional Support for Women in Disadvantaged and Rural Areas: Policy Prioritisation for Disadvantaged Women – Women's Perspectives' (Women's Support Network, 2017), at 34; Claire Pierson and Katy Radford, 'Peacebuilding and the Women's Sector in NI: An Overview of Reports and Programmes (Institute for Conflict Research, 2016), at 29; Margaret Ward, 'Excluded and silenced: Women in Northern Ireland after the peace process', Open Democracy, 12 June 2013. See <https://www.opendemocracy.net/5050/margaret-ward/excluded-and-silenced-women-in-northern-ireland-after-peace-process>; Henry McDonald, 'Northern Ireland "punishment" attacks rise 60% in four years', *The Guardian*, 12 March 2018; Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018; National Crime Agency, 'Paramilitary Crime Taskforce launched in NI', 27 September 2017.

³³ A policy change by the Department of Education means that further education has become centralised. An additional mandatory requirement has been added that all tutors must have a particular qualification that costs £3,000. Making this qualification mandatory has meant very experienced tutors that have facilitated further education courses in community centres for years are now no longer qualified. Community education is now limited to Level One, a low level qualification that is insufficient for employment purposes. Additionally, the education provider has to provide match funding and if a person who has undertaken a course is not employed within six months, the education provider faces a financial penalty. This creates a further barrier to community-based education. See Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

gender-sensitive barriers to education including affordability, access to carers' support and accessible location.³⁴

What effective steps are taken to ensure all levels of education are accessible and affordable to NI women?

Sex Education

17. Relationships and sexuality education is a statutory component of Key Stages three and four,³⁵ however schools can provide such education in line with its ethos.³⁶ A school's conservative ethos can cause its sex education to be "under-developed or non-existent".³⁷ This increases vulnerability to teenage pregnancies, sexually transmitted infections, sexual exploitation, domestic violence and mental health issues.³⁸
18. Women's Aid delivers 'Helping Hands' to some NI primary schools.³⁹

What effective steps are taken to ensure mandatory age-appropriate, comprehensive and scientifically accurate sexuality education that promotes healthy relationships is provided in all NI schools?

³⁴ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

³⁵ Education (NI) Order 2006.

³⁶ NI Curriculum, 'Relationships and Sexuality Education Guidance: An Update for Post-primary Schools' (NI Curriculum, 2015), at 19.

³⁷ CEDAW/C/OP.8/GBR/1, 'Report of the Inquiry Concerning the UK of Great Britain and NI under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women', 19 July 2017, at para 43.

³⁸ Ofsted, 'Not Yet Good Enough: Person, Social, Health and Economic Education in Schools' (Ofsted, 2012); Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

³⁹ This is a preventative education programme funded by the Department of Education. See <https://www.womensaidni.org/about-us/our-work/preventative-education/working-with-children-in-primary-schools/>.

Employment (Article 11; paras 47, 59(b), 61(a))

Access

19. Women are less economically active than men in NI⁴⁰ and are more likely to work part-time hours.⁴¹
20. NI women are underrepresented at management level in the public and private sectors.⁴² Administrative and secretarial posts are more common for NI women.
21. The barriers identified in research to female career progression in NI's civil service are caring responsibilities,⁴³ a lack of recognition of work life balance, long hours' culture, and exclusion from informal networks of communication.⁴⁴
22. Unlike elsewhere in the UK, there is no statutory duty on NI public authorities to provide childcare. More women than men continue to reduce their working hours or leave employment.⁴⁵

What effective steps are taken to identify and address the barriers hindering women's employment in NI, particularly managerial positions?

⁴⁰ NI Statistics and Research Agency, 'Women in Northern Ireland 2017,' 7 December 2017, at 1. The Labour Force Survey (LFS) for July – September 2017 showed that 402,000 women were economically active, in contrast to 456,000 men. This equals 66.2% of women and 76.0% of men.

⁴¹ This is most commonly due to family and caring commitments. See NI Statistics and Research Agency, 'Women in Northern Ireland 2017,' 7 December 2017, at 1. In the last ten years, the proportion of women working full-time hours has decreased to 61.2% (from 63.0%). 39% of women work part-time hours in comparison to 9% of male employees and 82% of part-time employees are women.

⁴² 8% of men worked in managerial positions in contrast to 5% of women. In respect of admin and secretarial positions, women occupied 17% of these roles, in contrast to 7% of men. See NI Statistics and Research Agency, 'Women in Northern Ireland 2017,' 7 December 2017, at 10.

⁴³ This includes childcare and informal family carers. There are nearly 214,000 informal carers in NI, this equates to 12% of the population. In 2016, 1 in 5 (22%) of carers reported that they received "little or no helpful information or advice and felt they did not know where to go for support with caring". See Des Kelly and John Kennedy, 'Power to People: Proposals to Reboot Adult Care and Support in NI' (Department of Health, 2017), at 34-39; NIHRC, 'The Human Rights of Carers in NI' (NIHRC, 2014).

⁴⁴ Professor Joan Ballantine, Dr Graeme Banks, Professor Kathryn Haynes, Dr Melina Manochin, Mr Tony Wall, 'An Investigation of Gender Equality Issues at the Executive Level in Northern Ireland Public Sector Organisations', October 2014.

⁴⁵ This is impacted by the continuing rise in the cost of NI childcare. See Employers for Childcare, 'Northern Ireland Childcare Cost Survey,' October 2016, at 2 and 28.

Gender Pay Gap

23. The NI Gender Pay Gap is 6%.⁴⁶ There is no gender pay gap strategy and reporting requirements have not been operationalised⁴⁷ in NI.⁴⁸

What effective steps are taken to address and monitor the gender pay gap in NI?

Health (Article 12; paras 51, 53, 57(b), 61(a))

Termination of Pregnancy

24. In October 2016, the UK Supreme Court heard the NIHRC's termination of pregnancy case.⁴⁹ Judgment is expected in 2018.
25. Since November 2017, NI women can receive NHS termination services in England, Scotland and Wales.⁵⁰ Department of Health's 2016 guidance to healthcare providers⁵¹ remains unchanged and does not reflect the availability of free services in England and Scotland. It also does not clarify when NI health professionals can provide information to women about accessing services elsewhere.
26. In April 2018, the Departments of Health and Justice released a report on fatal foetal abnormality, which recommended that the law in NI be changed.⁵²

⁴⁶ Women in NI on average earn 6% less than their male counterparts. The average gender pay gap in the rest of the UK is 17%. The overall better result in NI is due to the larger share of women working in public administration, which as a sector has a "relatively low pay gap". See PWC, 'Women in Work Index,' February 2017, at 6 and 20.

⁴⁷ This would require employers to publish their pay figures, disaggregated by gender.

⁴⁸ The Employment Act (NI) 2016, which would make such reporting mandatory, has not been enacted due to the current suspension of the Executive.

⁴⁹ The Commission initiated legal proceedings against the Department of Justice in 2015 in NI for breaching the European Convention on Human Rights, Articles 3, 8 and 14 by failing to provide termination of pregnancy services to women and girls pregnant as a result of rape or incest or in cases of serious fatal abnormality of the foetus.

⁵⁰ Prior to this NI had to pay for termination of pregnancy procedures, that other women in the UK receive for free under the National Health Service (NHS). Even with this development, NI women have to pay for travel to this procedure. See Jessica Elgot, 'Northern Irish women offered free abortion services in England', *The Guardian*, 23 October 2017; 'Wales and Scotland offer free abortions to women from Northern Ireland', *The Guardian*, 4 July 2017.

⁵¹ DHSSPS, 'Guidance for Health and Social Care Professionals on Termination of Pregnancy in Northern Ireland' (DHSSPS, March 2016).

⁵² Department of Justice & Department of Health, 'Report of the Working Group on Fatal Fetal Abnormality, Healthcare and the Law on Termination Of Pregnancy for Fatal Fetal Abnormality, Proposals to the Minister of Health and the Minister of Justice,' 11 October

27. CEDAW Committee's Inquiry Report called for the decriminalisation of termination of pregnancy in NI and for access to termination to be permitted in certain circumstances.⁵³ The Committee found the UK Government responsible for grave and systemic violations of the Convention.⁵⁴
28. Women attempting to access services are being intimidated outside the NI Family Planning Clinic.⁵⁵

What effective steps are taken to:

- **reform the legal framework in line with the recommendations of the Inquiry Report?**
- **ensure NI guidance in relation to termination of pregnancy is accessible and accurate, including how to access terminations elsewhere?**
- **ensure that NI women can access family planning services without intimidation, including imposing a buffer zone outside relevant clinics?**

2016. The report of the Working Group had been prepared in October 2016, but was not released until April 2018.

⁵³ Where there is a threat to the women's physical or mental health, in cases of rape or incest or in cases of serious fatal abnormality of the foetus. See CEDAW/C/OP.8/GBR/1, 'Report of the Inquiry Concerning the UK of Great Britain and NI under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women', 19 July 2017.

⁵⁴ CEDAW/C/OP.8/GBR/1, 'Report of the Inquiry Concerning the UK of Great Britain and NI under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women', 19 July 2017, at para 83. The Committee found the UK government responsible for grave violations of CEDAW as a result of the criminal law in NI, which forces victims of rape or incest and those carrying a foetus with a severe foetal impairment to carry to full term. The CEDAW Committee found systemic violations in respect of the criminal law in NI preventing women from accessing abortions and forcing them to travel or self-administer abortifacients in order to do so.

⁵⁵ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

Access to Fertility Treatment

29. Department of Health endorses, but has not fully implemented in practice the National Institute for Health and Care Excellence Clinical Fertility Problems Guidelines.⁵⁶
30. The current IVF criteria⁵⁷ in effect prohibits lesbian couples from accessing treatment.⁵⁸

What effective steps are taken to:

- fully implement in practice the NICE Guidelines in NI?
- ensure lesbian couples have equal access to fertility services?

Migrants

31. Despite legislative changes,⁵⁹ migrant women still face procedural barriers in accessing healthcare.⁶⁰

⁵⁶ NICE, 'Fertility Problems: Assessment and Treatment', 20 February 2013.

⁵⁷ Recent correspondence between the NIHRC and the Department of Health indicates that budget pressures are the reason why the guidance has not been implemented in full. The Department has asked the Health and Social Care Board to finalise revised criteria based on the guidance. See Letter from Richard Pengelly, Permanent Secretary of Department of Health, to NIHRC, 30 March 2018.

⁵⁸ The current Department of Health policy requires that there is a 'medical cause of infertility' in order to access publically funded treatment. See <http://www.rfc.hscni.net/NHSFundedTreatment.htm>

⁵⁹ In 2015, new Regulations granted asylum seekers, including refused asylum seekers, access to free primary healthcare. Any visitor exempt from healthcare charges is also able to register with a GP. The Regulations remove charges for EU Workers and family planning services are free, regardless of a patient's immigration status. The Department of Health is considering producing guidance on these changes See Regulations 4(1)(c), 7 and 9(b), Provision of Health Services to Persons Not Ordinarily Resident Regulations (NI) 2015; Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

⁶⁰ This includes having to produce unavailable identification, having to fill in forms multiple times and having to do all of this without access to the required translation and interpretation services. See Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

What effective steps are taken to:

- **identify and minimise procedural barriers to migrant women accessing healthcare?**
- **introduce and implement guidance on the 2015 Regulations for healthcare professionals?**

Women with Disabilities

32. Women with disabilities experience greater difficulties than non-disabled women in accessing healthcare in NI.⁶¹

What effective steps are taken to ensure healthcare is fully and promptly accessible for women with disabilities, including implementing reasonable accommodation measures when required?

Economic and Social Benefits (Article 13; paras 21, 57(a), 61(b))

Access to Social Security

33. Department for Communities set up the initiative 'Make the Call' in NI.⁶² Accessibility issues persist for obtaining social security benefits.⁶³

⁶¹ This can be caused by the lack of accessible information. This includes ensuring information is available in an accessible format, such as braille or sign language. The lack of interpreters for appointments at all levels of the healthcare services is also an issue. This includes during GP appointments, family planning appointments, visits to an accident and emergency department and while resident in a care home. See Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

⁶² This is a helpline that has been setup to ensure people are getting the social security benefits they are entitled to. Using the helpline, people in NI can check if they are missing out on unclaimed benefits and receive guidance on how to claim the benefits they are entitled to. See <https://www.nidirect.gov.uk/articles/i-made-the-call>

⁶³ This includes the requirement for online claiming for certain benefits, lack of support for filling out forms, documentation requirements and bureaucratic delays. This is a particular issue for asylum seekers and refugees whose first language is not English and may not have the required identification documents (eg passport or birth certificate). Delays may also result from having to wait for new identification documents to be issued or original identification documents to be translated. See Dr Fiona Murphy and Dr Ulrike M Vieten, 'Asylum Seekers and Refugees' Experiences of Life in Northern Ireland' (QUB, 2017), at 66.

34. A number of social security reforms were introduced from 2010 onwards.⁶⁴ These disproportionately, adversely affect women due to their lower income, likelihood to be lone parents and greater caring responsibilities.⁶⁵ There are concerns that NI women are turning to paramilitary-operated illegal lending.⁶⁶
35. The two-child tax credit limit⁶⁷ will result in an increase in family and child poverty and may result in women travelling to other parts

⁶⁴ These include changes to the rules governing assistance with the cost of housing for low-income households in the private rented sector including new rules for rent levels, excess payments, property size, age limits for sole occupancy and indexation for inflation (Housing Benefit – Local Housing Allowance). Changes to the rules governing the size of properties for which payments are made to working age claimants in the social rented sector (Housing Benefit – Under-occupation). Increases in the deductions from Housing Benefit, Rate Rebate and other income-based benefits to reflect the contribution that non-dependent household members are expected to make towards the household's housing costs (non-dependent deductions). New ceiling on total payments per household, applying to the sum of a wide range of benefits for working age claimants (household benefit cap). Replacement of Disability Living Allowance by Personal Independence Payment (PIP), including more stringent and frequent medical tests, as the basis for financial support to help offset the additional costs faced by individuals with disabilities. Replacement of Incapacity Benefit and related by Employment and Support Allowance (ESA), with more stringent medical tests, greater conditionality and time-limiting of non-means tested entitlement for all but the most severely ill or disabled. Three-year freeze, and withdrawal of benefit from households including a higher earner (Child Benefit). Reductions in payment rates and eligibility for Child Tax Credit and Working Tax Credit paid to lower and middle income households. Reduction in annual up-rating of value of most working-age benefits (One percent Up-rating). See Christina Beatty and Steve Fothergill, 'The Impact of Welfare Reform on Northern Ireland: A Research Paper' (NICVA, 2013).

⁶⁵ Women's Budget Group, 'Austerity is Reducing Social Security for Women' (Women's Budget Group, 2017). See <https://wbg.org.uk/wp-content/uploads/2017/11/soc-security-pre-budget-nov-2017-final.pdf>. See also Equality and Human Rights Commission, 'Distributional Results for the Impact of Tax and Welfare Reforms Between 2010-17, Modelled in the 2021/22 Tax Year: Interim Findings' (EHRC, 2017); Equality and Human Rights Commission, 'The Cumulative Impact of Tax and Welfare Reforms' (EHRC, 2018); CRPD/C/GBR/CO/1, 'Concluding Observations on the Initial Report of the UK of Great Britain and NI', 29 August 2017, at paras 58-59.

⁶⁶ Illegal lending is "lending without a consumer credit licence, as required by the Office of Fair Trading under the terms of the Consumer Credit Act". As found by the Centre for Economic Empowerment, "anecdotal evidence suggests [illegal lending] is prevalent in pockets of deprivation, where it is the option of last resort. Whilst in theory there may be recourse to the law, the fear of violence means that debt advisers often try to extricate clients from their commitments to the illegal money lender". This is particularly the case for single women with children. Furthermore, "illegal lending in NI is linked with perceived paramilitary activity". The Consumer Council has received funding from the UK government to run a new education project in NI aimed at raising awareness of the dangers of illegal lenders and to support vulnerable communities. A specialised Police Service NI officer is also being funded by the UK government to lead on illegal lending within the Paramilitary Crime Task Force. See Centre for Economic Empowerment, 'Expensive Lending in Northern Ireland: A Discussion Paper' (NICVA, 2013), at 8; 'Specialist PSNI officer to target loan sharks', *BBC News*, 25 April 2018.

⁶⁷ The two-child limit on Child Tax Credit was introduced by the Welfare Reform Work (NI) Order 2016. This cap will stop the payment of child tax credit (and its successor

of the UK for terminations under economic duress.⁶⁸ The rape exception clause⁶⁹ may force disclosure before the victim is ready and stigmatise affected children. The requirement that the claimant not reside with the alleged rapist may reduce victims' autonomy, placing them in greater danger.⁷⁰ The existing criminal law risks criminalising rape victims.⁷¹

Universal Credit) for a third or subsequent child born on or after 6 April 2017 to any new claimants. This is due to be fully implemented in November 2018.

⁶⁸ The two-child tax credit limit could subject families to poverty if more than two children are born. This creates a reality of having a termination or face a severe drop in income. Consequently, women in this situation may feel under economic duress to have a termination. Due to the current restrictions on termination in NI, the affected women have to travel to other parts of the UK for the procedure. NI women can have a free NHS termination of pregnancy in England, Scotland and Wales. The transport and accommodation costs involved in travelling to another part of the UK for a termination can increase child and family poverty. Support with travel and accommodation costs are offered for terminations conducted in England, but these are subject to a means test.

⁶⁹ Claimants with two or more children can claim for an additional child born on or after 6 April 2017 if that child is likely to have been conceived as a result of a sexual act which the claimant did not or could not consent to, or if that child is likely to have been conceived at a time when the mother was in an abusive relationships, under ongoing control or coercion by the other biological parent of the child. Those that continue to live with the other biological parent of the child cannot claim this exception. The exception may apply if there has been a conviction for rape under NI law, there has been a conviction for an offence under the law of a country outside NI which is comparable to a conviction for rape, or the claimant has been awarded a Criminal Injuries Compensation Award for a relevant injury, at or around the time of conception. However, there does not need to have been a court case, conviction or compensation award for this special circumstance to apply. See <https://www.nidirect.gov.uk/articles/universal-credit-two-child-limit>.

⁷⁰ One of the most dangerous times for a woman subject to domestic violence is when they take action to remove themselves and their children permanently from that situation. See Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

⁷¹ Criminal Law Act (NI) 1967, Section 5 obligates anyone that is aware of a crime to report it to the police. To utilise the exemption clause, the claimant is required to complete a non-consensual conception form with the help of an approved third-party professional. These include healthcare professionals, registered social workers or Women's Aid. The declaration on the form from an approved third party will be accepted as evidence that this special circumstances applies. The claimant does not have to speak to, or give details about the circumstances of the conception to the HM Revenue and Customs staff. However, Section 5 obligates anyone that becomes aware of the alleged rape in that process to report it to the police or face prosecution, this includes the third party professional, those assessing eligibility and the alleged victim. The Attorney General issued guidance in April 2018 stating that in this context, prosecutions will not be sought where there is a reasonable excuse for previous non-disclosure or it is not in the public interest to prosecute. The guidance stated that in this context "it is very likely" that one of these justifications for non-prosecution would apply, yet there are still no guarantees. See <https://www.nidirect.gov.uk/articles/universal-credit-two-child-limit>; Attorney General for NI, 'No 14 Human Rights Guidance for the Public Prosecution Service: The Application of Section 5 of the Criminal Law Act (NI) 1967 to Rape Victims and Those to Whom They Make Disclosures in Connection with a Claim for Social Security, Child Tax Credit or Anonymous Registration on the Electoral Roll', 20 April 2018.

36. Split Universal Credit payments are permitted in exceptional circumstances. Domestic violence is a recognised exception, but the burden is on the claimant to declare their circumstances.⁷²
37. Social security information is not fully accessible for disabled and migrant women.⁷³

What effective steps are taken to:

- **monitor and address the cumulative impact of social security reforms on NI women?**
- **ensure social security is accessible, promptly available and, as a minimum, guarantee an adequate standard of living for women, including access to healthcare, adequate housing and food?**
- **support women to safely extract themselves from illegal lending and to prosecute the illegal lenders?**
- **abolish the two-child tax credit/Universal Credit limit?**
- **ensure split Universal Credit payments are the default option?**

Homelessness

38. The average life expectancy for homeless women is 43 years.⁷⁴ This is barely half the average life expectancy for NI women.⁷⁵ At least

⁷² The nature of domestic violence means a joint claimant that is a victim of domestic violence may not be in a position or may not want to declare their circumstances. See <https://www.gov.uk/government/publications/universal-credit-and-your-family-quick-guide/universal-credit-further-information-for-families>; Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

⁷³ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

⁷⁴ This is women sleeping rough or in residing shelters and homeless hostels. The average life expectancy for homeless men is 48 years. See Patient and Client Council, 'Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise' (HSCNI, 2015), at 5.

⁷⁵ The most recent figures show, the average life expectancy of women living in NI is 82.3 years. See Information Analysis Directorate, 'Health Inequalities: Life Expectancy Decomposition 2017' (DoH, 2017), at 5.

one female rough sleeper died in March 2016.⁷⁶ The Housing Executive homelessness strategy acknowledges the link between homelessness and health and focuses on an inter-agency approach to homelessness prevention.⁷⁷

What effective steps are taken to:

- **tackle homelessness and improve the life expectancy of NI homeless women?**
- **implement the NI Homelessness Strategy?**

Travellers' Accommodation

39. In March 2018, NIHRC published the findings of its Travellers' accommodation investigation, which particularly affect Traveller women.⁷⁸ They included inadequacies regarding habitability, cultural adequacy, sufficient provision, non-discrimination, data collection, accessible information and effective participation.⁷⁹

⁷⁶ There is a lack of data available. See BBC News NI, 'Belfast: Homeless woman dies in shop doorway', 19 March 2016; Patrick Greenfield and Sarah Marsh, 'Deaths of UK homeless people more than double in five years', *The Guardian*, 11 April 2018.

⁷⁷ NI Housing Executive, 'Ending Homelessness Together: Homelessness Strategy for Northern Ireland 2017-22' (NI Housing Executive, 2016), at para 4.1.

⁷⁸ NIHRC, 'Out of Sight, Out of Mind: Travellers' Accommodation in NI' (NIHRC, 2018).

⁷⁹ Findings included existing legislation for the promotion of sufficient, habitable and culturally adequate Travellers' accommodation is not translating into practice. Some Travellers' sites in NI are inadequate for their actual use (eg transient sites being used as permanent sites in practice). Discriminatory behaviours and attitudes from public authorities and the settled community exist towards Travellers; this is negatively affecting the development of Traveller-specific accommodation in NI and the ability for Travellers to enjoy their accommodation. The existence of the Unauthorised Encampments (NI) Order 2005 has a disproportionate impact on Traveller communities in NI and threatens their nomadic culture. There is a general lack of data and disaggregation of data on Travellers' accommodation in NI. Resources available for developing and maintaining Traveller-specific accommodation (sites and grouped housing schemes) is insufficient to the need. There is a lack of information on Travellers' accommodation and the information that does exist is inaccessible. Efforts to ensure the participation of Travellers in decision-making processes regarding accommodation are ineffective and inadequate. See NIHRC, 'Out of Sight, Out of Mind: Travellers' Accommodation in NI' (NIHRC, 2018).

What effective steps are taken to:

- **ensure there is sufficient habitable and culturally adequate Travellers' accommodation for NI Traveller women?**
- **tackle discriminatory behaviours and attitudes from public authorities and settled community towards NI Traveller women?**
- **abolish the Unauthorised Encampments (NI) Order 2005?**
- **ensure thorough and disaggregated data and sufficient information on NI Travellers' accommodation is publically available and accessible to Traveller women?**
- **ensure NI Traveller women can effectively participate in decision-making processes regarding their accommodation?**

Housing Data

40. There is a lack of robust housing data on equality outcomes.⁸⁰

What effective steps are taken to ensure robust data collection to monitor, evaluate and address housing inequalities in NI?

⁸⁰ This includes disability, gender, gender identity and sexual orientation. See Equality Commission NI, 'Investigation Report under Schedule 9 of the NI Act 1998: Department for Social Development - Housing Policy Proposals' (ECNI, 2015).

Migrants

41. Persons in NI subject to immigration control⁸¹ generally have no recourse to public funds.⁸²
42. Support is available for refused asylum seekers that are prevented from leaving NI, are at risk of destitution and have a child under 18;⁸³ or refused asylum seekers that are prevented from leaving NI and are destitute.⁸⁴
43. Support is available for non-EEA victims of domestic violence.⁸⁵ Yet, restrictions can mean some migrant women have to choose between destitution or remaining exposed to domestic violence.⁸⁶

⁸¹ A person will be subject to immigration control if they have leave to enter or remain in the UK with the condition 'no recourse to public funds' (e.g. spouse visa, student visa); leave to enter or remain in the UK that is subject to a maintenance undertaking (e.g. there is a five year prohibition on claiming public funds for those with indefinite leave to remain as the adult dependent relative of a person with settled status); or no leave to enter or remain when the person is required to have this (e.g. visa overstayers, illegal entrants). It also includes EEA migrant women who are not qualified persons exercising an EU Treaty right. Free Movement of Persons Directive 2004/38 EC sets out the right of EEA nationals and their family members to move and reside freely within the territory of the EEA Member States. The Immigration (European Economic Area) Regulations 2006 (as amended) transpose the Free Movement Directive into UK law. This enables EEA nationals to enter the UK, subject to a passport or identity card check, and to reside in the UK for an initial period of three months without needing to exercise a Treaty right. An EEA national who will be in the UK for more than three months will have a right of residence for as long as they remain a qualified person. A qualified person is an EEA national who is in the UK and exercising a Treaty right as a jobseeker, worker or student. An EEA national claiming social security benefits in the UK would continue to be considered a qualified person, if they were a worker in receipt of top-up funds or tax credits for low income or an EEA national working in the UK who has become temporarily unemployed (due to incapacity or involuntary unemployment) and is claiming public funds.

⁸² This means no access to social security benefits, social housing or women's refuges. See Section 115, Immigration and Asylum Act 1999.

⁸³ Section 95A, Asylum and Immigration Act 1999, as amended by Schedule 11, Immigration Act 2016.

⁸⁴ Section 98A, Asylum and Immigration Act 1999, as amended by Schedule 11, Immigration Act 2016.

⁸⁵ A Destitute Domestic Violence Concession is available for single adults and adults with children who are victims of domestic violence and satisfy strict eligibility criteria. This includes the individual must have entered the UK or been given leave to remain as a spouse, civil partner, unmarried or same sex partner of a British citizen or someone present and settled in the UK; and have had that relationship break down due to domestic violence; and be destitute and in need of financial help; and intend to make a claim to stay permanently in the UK under the Domestic Violence Rule. See No Recourse to Public Funds Network, 'The Destitution Domestic Violence (DDV) Concession' (NRPF Network, 2013).

⁸⁶ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

What effective steps are taken to ensure women in NI with no recourse to public funds are, as a minimum, guaranteed prompt, long-term adequate standards of living, including access to healthcare, adequate housing and food, within a safe environment?

Equality Before the Law (Article 15; paras 23, 54)

Access to Justice

44. In September 2017, Review of Civil and Family Justice published recommendations on improving access to justice in court proceedings.⁸⁷ Current barriers to women seeking access to justice include requiring women to wait in the same areas as the other party⁸⁸ and failing to prevent violent ex-partners re-victimising women via the courts system.⁸⁹
45. An independent review is to be conducted into how the NI criminal justice system handles cases of serious sexual assault.⁹⁰
46. A pilot Domestic Violence Perpetrator Programme⁹¹ is expected to be established in Derry/Londonderry in 2018.⁹² Since 2011, a Domestic Violence Listing Arrangement⁹³ has operated in

⁸⁷ The review was commissioned by the Lord Chief Justice Declan Morgan and began in September 2015. The Review Group was led by Lord Justice Gillen. The full reports are available: <https://www.judiciary-ni.gov.uk/civil-and-family-justice-review>

⁸⁸ Review of Civil and Family Justice, 'Review Group's Report on Family Justice' (RCFJ, 2017), at para 3.6

⁸⁹ Women's Aid reported frequently observing ex-partners harassing victims of domestic violence by way of contact sessions by with child. This issue may be exacerbated by the growing numbers of litigants in person before the family courts. Women's Aid, 'A Response to Review of Civil & Family Justice: The Review Group's Draft Report on Family Justice', 28 October 2016, at 4 and 10.

⁹⁰ The review is to be chaired by Sir John Gillen and will examine support for victims and witnesses, anonymity for defendants and measures to ensure the anonymity of victims amongst others. It was commissioned after public concerns were raised about the treatment of the victim and defendants in a high profile rape trial of Ulster rugby players. It is expected to be completed by January 2019. See <https://www.justice-ni.gov.uk/publications/review-arrangements-deliver-justice-serious-sexual-offence-cases-terms-reference>.

⁹¹ This will involve perpetrators engaging with the Probation Board to undertake weekly group sessions for nine months. The Judge will not pass sentence on the offender whilst they are in this programme. Successful completion will factor into the Judge's decision regarding sentencing.

⁹² <https://www.nidirect.gov.uk/articles/domestic-violence-perpetrator-programme>

⁹³ Under this arrangement, court staff provide victims with separate entrances and waiting areas, the Public Prosecution Service provides a specially trained prosecutor and Women's Aid or Victim Support NI liaise to mentor and support women.

Derry/Londonderry.⁹⁴ There are no plans to introduce the listing arrangement across NI.

47. Specialised support services enhancing NI women's access to justice are closing due to lack of funding.⁹⁵

What effective steps are taken to:

- **fully implement the access to justice recommendations concerning civil and family justice and serious sexual assault cases?**
- **promptly introduce an accessible specialised domestic violence court in NI?**
- **ensure NI women are safe and free from harassment when accessing justice?**
- **ensure specialised advice services are available and adequately funded?**

Legal Aid

48. Access to Legal Aid or free legal representation is currently not available for representation in the Industrial Tribunal.⁹⁶ This discourages women from pursuing complex claims for discrimination in the workplace, including equal pay. This may have a disproportionate effect on migrant women in NI.⁹⁷

What effective steps are taken to ensure NI women have access to advice/representation in areas not covered by Legal Aid, e.g. the Industrial Tribunal?

⁹⁴ Review of Civil and Family Justice, 'Review Group's Report on Family Justice' (RCFJ, 2017), at para 12.8.

⁹⁵ For example, the Law Centre (NI)'s Immigration Advice Clinic. Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

⁹⁶ Legal Aid is currently only available to assist claimants to receive initial legal advice and to prepare for hearing. See <https://www.employmenttribunalsni.co.uk/if-you-are-claimant>

⁹⁷ The lack of legal aid before the Tribunal places a requirement on women to represent themselves. Women who do not have English as a first language may be discouraged from seeking restitution from the Tribunal, if they are required to represent themselves.

Women in Detention⁹⁸

49. NI women imprisoned for fine default has significantly increased.⁹⁹ Rehabilitation of women prisoners in NI remains an issue.¹⁰⁰
50. A house block within Hydebank Wood College (prison for males aged 18-21) accommodates NI women prisoners.¹⁰¹
51. Department of Justice is committed to developing a separate female custodial facility, but there has been no progress for the last decade.¹⁰²
52. Women immigration detainees are held with men in Larne House.¹⁰³

⁹⁸ In December 2017, there were 32 sentenced adult female, 21 unsentenced adult female, two young offender women sentenced and one young offender female unsentenced prisoners in NI. The average sentence length for adult females was 6.01 years and 0.66 years for young females. The average time on remand was 43.57 days for adult females and 3 days for young female. These figures are better than for males. By comparison, there were 957 sentenced adult males, 321 unsentenced adult males, 48 young offender males sentenced and 34 young male unsentenced offenders in NI. Depending on the facility, the average sentence length for adult males ranged from 3.5 to 6.3 years and 2.33 to 3.17 years for young males. The average time on remand was 133.88 days for adult males and 93.59 days for young males. See NI Prison Service, 'Analysis of NIPS Prison Population from 01/10/2016 to 31/12/2017' (DoJ, January 2018).

⁹⁹ In 2014, seven women were received by NI prisons for fine defaulting. This rose to 53 in 2015 and 71 in 2016. These figures are reflective of a general increase in the use of imprisonment for fine defaulting. In 2014, 132 males were received by NI prisons for fine defaulting. This rose to 403 in 2015 and 556 in 2016. Part 1 of the Justice Act (NI) 2016 offers alternative forms of enforcement for fine defaulters other than prison, including supervised activity orders. The data is currently unavailable for assessing whether this provision is beneficial in reducing the number of women imprisoned for fine defaulting. See Department of Justice, 'Analytical Services Group: The Northern Ireland Prison Population 2016 and 2016/17' (DoJ, 2017), at Appendix I, Table 7.

¹⁰⁰ Under the Prison Reform Programme launched by the Department of Justice NI in 2011, there have been "substantial steps in enhancing resettlement, rehabilitation and desistance provision". This has included increased cooperation and engagement between the NI Prison Service and outside agencies, which has led to a number of initiatives focused on mentoring, wellbeing, employment, rehabilitation and desistance. However, there are a number of ongoing hindering factors. These include insufficient resources available to invest in new strategies and fund rehabilitative and desistance work and inadequate management of those with severe and enduring mental health problems, personality disorders and those held in separated conditions. See Michelle Butler, 'The Northern Ireland Prison Reform Programme: Progress Made and Challenges Remaining' (Knowledge Exchange Seminar Series, 2017).

¹⁰¹ The women's facility is called Ash House.

¹⁰² Despite being consistently raised by the NIHRC and in the CEDAW Committee's concluding observations, the Department has not secured capital funding for this project. See Permanent Secretary of Department of Justice, 'COR-1076-2017: Letter from Department of Justice to NIHRC', 22 September 2017.

¹⁰³ Larne House is NI's immigration removal centre. It holds up to 19 men and women. The Home Office can hold detainees here for up to five days, seven if removal directions

What effective steps are taken to:

- address the increase in women's imprisonment for fine default?
- address the persistent barriers to women prisoners' rehabilitation and resettlement?
- implement a reasonable timeline for the development of a separate female custodial facility in NI?
- ensure women immigration detainees are safe and have the option of gender-specific communal areas?

Violence against Women (Article 16; paras 25, 35, 37, 59(a))

Istanbul Convention

53. The Westminster Parliament enacted legislation requiring the UK Government to set out a timeframe for the ratification of the Istanbul Convention.¹⁰⁴ Unspecified extra-territorial issues are responsible for delaying ratification.¹⁰⁵

have been set. Detainees arrive from Drumkeen House (short-term holding facility) in Belfast, police stations, prisons or directly from enforcement operations in the community. On departure, detainees are often transferred to immigration removal centres in Great Britain, removed from the UK or released into the community. Three rooms, on a single corridor, are designated for women detainees. This corridor is not separate from the rest of the facility and men can walk through to go to the dining room. Women can lock the doors to their rooms, which can be overridden by staff in the event of an emergency. Concerns were raised that women were not able to lock their doors if they were under close observation (e.g. if it was believed they were a threat to themselves). Communal areas are shared by men and women and there is no option for a gender-specific communal area. See HM Chief Inspector of Prisons, 'Report on an Unannounced Inspection of the Short-Term Holding Facility at Larne House' (NIPS, 2016), at Overview and para 1.12; Meeting with Larne House Visitors Group, 11 April 2018.

¹⁰⁴ Section 1, Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017.

¹⁰⁵ CEDAW/C/GBR/8, 'Eighth Periodic Report Submitted by the UK of Great Britain and NI under Article 18 of the Convention, due in 2017', 17 November 2017, at para 190.

- **What are the specific extra-territorial issues preventing the Istanbul Convention's ratification?**
- **What effective steps are taken to ensure prompt ratification and implementation of the Istanbul Convention?**

Domestic Violence

54. In 2016/2017, 29,166 domestic abuse incidents and 13,933 domestic crimes were recorded.¹⁰⁶ These figures are not disaggregated by gender, however Women's Aid NI state "about 90% of reported cases are perpetrated by men against women. It is estimated that one in four women will suffer domestic violence at some point in their lives".¹⁰⁷
55. The gender-neutral 'Stopping Domestic and Sexual Violence and Abuse in NI Strategy' was published in March 2016. Department of Justice is developing a Domestic Abuse Bill that introduces a coercive behaviour offence¹⁰⁸ and a statutory aggravation of domestic abuse.¹⁰⁹ The Department established a NI Domestic Violence and Abuse Disclosure Scheme in March 2018¹¹⁰ and will introduce a pilot Domestic Violence Perpetrator Programme.¹¹¹ The

¹⁰⁶ The number of recorded domestic abuse incidents in 2016/2017 represents a 39.2% increase since 2004/2005, when 20,959 incidents were recorded. The number of domestic abuse crimes in 2016/2017 is the second highest level recorded since 2004/2005. The rise in statistics may reflect improvement in a willingness to report domestic abuse. See Police Service of NI, 'Domestic Abuse Incidents and Crimes Recorded by the Police in NI: Quarterly Update to 31 March 2017 (Providing Final Figures for 1st April 2016 to 31st March 2017)', 17 May 2017.

¹⁰⁷ Women's Aid NI, 'Domestic Violence – Frequently Asked Questions'. See <https://www.womensaidni.org/domestic-violence/frequently-asked-questions/#2>

¹⁰⁸ This new offence captures patterns of psychological abuse, violence, and/or coercion of a current/former partner or a family member. In the interim, the Attorney General for NI issued guidance in April 2018 that provides a definition of coercive behaviour with the aim of criminal justice organisations in NI exercising "their respective functions diligently in order to prevent, investigate and prosecute acts of stalking and domestic abuse". See Attorney General for NI, 'No 13 Human Rights Guidance for the Police Service of NI, the Public Prosecution Service, the Probation Board for NI and the NI Courts and Tribunals Service: Domestic Abuse and Stalking', 20 April 2018.

¹⁰⁹ This may attract enhanced sentencing for other offences.

¹¹⁰ The Scheme would allow a victim or third party known to a potential victim who may have concerns, to apply to the police for information on a partner. The scheme aims to help ensure the safety of potential victims, allowing them to make an informed choice about whether they would wish to continue in their relationship. See COR-1076-2017, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 22 September 2017.

¹¹¹ This will be piloted in Foyle. It adopts a problem solving justice approach, aimed at changing behaviours. Convicted offenders will participate in a behavioural change

Department is considering introducing Domestic Violence Protection Notices and Orders,¹¹² developing a local Domestic Homicide Review Model,¹¹³ and developing a streamlined Advocacy Support Service across NI.¹¹⁴

56. £4.6 million is provided per year to fund 13 refuges throughout NI.¹¹⁵ However, women with no recourse to public funds are prohibited from accessing refuge support. Destitute Domestic Violence concession is a mitigating measure for such scenarios.¹¹⁶ There are delays in accessing this¹¹⁷ and strict eligibility criteria, which excludes EEA women.

programme. Monthly judicial monitoring will be a constituent part of this new programme. See COR-0021-2018, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 15 March 2018.

¹¹² A Protection Notice is an emergency non-molestation and eviction notice, which can be issued to a perpetrator by the police when attending a domestic abuse incident. It is effective from the point of issue, and can be issued without the victim's consent. Within 48 hours of a Protection Notice being served, the police can apply to the Magistrates' Court for a Protection Order. This can prevent the perpetrator from returning to a residence and from having contact with the victim for up to 28 days. This will require legislative change, which is not possible due to the current political impasse. See COR-1076-2017, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 22 September 2017; COR-0021-2018, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 15 March 2018.

¹¹³ This Model is for when a person has died as a result of domestic violence. It aims to seek out and share opportunities for learning, identifying what worked well and informing the development of practice to improve services. This is with a view to preventing domestic violence and abuse and domestic homicide happening in the future. The Department of Justice intends to consult on a proposed framework with key stakeholders shortly. There is no indication as to what "shortly" means. See COR-1076-2017, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 22 September 2017; COR-0021-2018, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 15 March 2018.

¹¹⁴ This aims to standardise the level of support to be made available, and which will respond to the needs of both female and male victims of sexual violence and abuse and domestic violence and abuse. It is anticipated that a framework for the new service will be developed by the end of June 2018. See COR-1076-2017, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 22 September 2017; COR-0021-2018, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 15 March 2018.

¹¹⁵ This is funded by Department for Communities through its 'Supporting People Programme'.

¹¹⁶ The concession, introduced in 2012, aims to help non-nationals who are victims of domestic violence and a spousal visa to leave their partner safely and secure their immigration status in the UK. The concession offers those who meet the eligibility criteria temporary leave for three months, enabling them to apply for access to public funds. During this three-month period, the person should make a separate application for indefinite leave to remain under the Domestic Violence rule. See No Recourse to Public Funds Network, 'The Destitution Domestic Violence (DDV) Concession' (NRP Network, 2013).

¹¹⁷ Nisan Zerai Kesete, 'Destitution Domestic Violence Concession – Monitoring Research Report' (Unbound Philanthropy, 2013), at 37.

57. Belfast Area Domestic and Sexual Violence and Abuse Partnership aims to improve services and support for all victims of domestic and sexual violence¹¹⁸ and abuse.¹¹⁹ It has faced funding cuts and has a limited remit.¹²⁰

What effective steps are taken to:

- **improve disaggregation of domestic violence data?**
- **implement the Stopping Domestic and Sexual Violence and Abuse in NI Strategy, adopting a gender-sensitive approach?**
- **promptly implement the proposed above initiatives and ensure these are human rights-compliant?**
- **ensure the relevant public authorities, particularly police, are adequately trained to effectively implement the initiatives?**

¹¹⁸ The Public Prosecution Service NI (PSS) reports it received 1,312 files involving a sexual offence during 2016/2017. This represented an increase of 5.4%, from 1,245 files in 2015/2016. Files received involving an offence of rape rose by 17.9% over the same period, from 335 to 395. There was also a small increase in the number of files involving other sexual offences, which rose from 910 to 917(0.8%). In 2016/2017, 1,087 decisions were issued by the PPS in sexual offence cases, this fell from 1,242 (12.5%) in 2015/2016. The Test for Prosecution was met in respect of 399 (36.7%) of these decisions. This included 363 decisions for prosecution and 36 for diversion from the courts. The percentage meeting the test was higher than 33.7% in 2015/2016. Of the 668 no prosecution decisions issued during 2016/2017, 96.5% did not pass the evidential test. The remaining 3.5% did not pass the public interest test. Nearly three-quarters (73.8%) of defendants were convicted of any offence in the Crown Court. The conviction rate including a sexual offence was 67.4%. In 2016/2017, 64 defendants were dealt with in the Crown Court for an offence of rape. Of these defendants, 57.8% were convicted of at least one offence. Just under a quarter (23.4%) of defendants were convicted of an offence of rape. A total of 148 defendants were dealt with in the Magistrates' and Youth Courts for a sexual offence during 2016/2017, a 11.3% increase from 133 in 2015/2016. Over three-fifths (62.8%) of defendants were convicted in the Magistrates' and Youth Courts of any offence. The conviction rate including a sexual offence was 54.1%. See Public Prosecution Service for NI, 'Statistical Bulletin: Cases Involving Sexual Offences 2016/17 – 1 April 2016 to 31 March 2017' (PPS, 2018).

¹¹⁹ The Partnership brings together specialised agencies, organisations, groups and individuals.

¹²⁰ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

- **ensure specialised, accessible support for NI victims of domestic violence is sufficiently and promptly available and adequately funded, particularly refuge places?**
- **ensure domestic violence concessions for non-EU women are accessed promptly?**
- **adequately support Belfast Area Domestic and Sexual Violence and Abuse Partnership and extend this initiative throughout NI?**

Female Genital Mutilation¹²¹

58. Statistics on FGM in NI are lacking, but anecdotally there are a small number of cases.¹²² Victims may travel outside NI for the procedure.¹²³
59. NI Executive published the Multi-Agency Practice Guidelines on FGM for health and social care professionals in July 2014.¹²⁴ Department of Health, Health and Social Care Board and Safeguarding Board NI prepare training resources and sessions for health and social care professionals and communities.¹²⁵
60. In August 2015, a cross-departmental Senior Officials Group was established to coordinate the regional response to FGM.¹²⁶ It works in partnership with the Safeguarding Board NI's 'Female Genital Mutilation Sub-group'.

¹²¹ FGM is illegal in the UK (including NI) under the FGM Act 2003. The Serious Crimes Act 2015 provides for FGM Protection Orders.

¹²² 'Email from Department of Health to NIHRC', 6 October 2017; NIHRC, 'Female Genital Mutilation in the United Kingdom', August 2016; African & Caribbean Support Organisation NI, 'Female Genital Mutilation Scoping Study', 9 November 2017.

¹²³ NIHRC, 'Female Genital Mutilation in the United Kingdom', August 2016; African & Caribbean Support Organisation NI, 'Female Genital Mutilation Scoping Study', 9 November 2017.

¹²⁴ NI Executive, 'Multi-Agency Practice Guidelines: Female Genital Mutilation', January 2014.

¹²⁵ 'Email from Department of Health to NIHRC', 6 October 2017.

¹²⁶ These included reviewing the 2014 guidelines, exploring data collection and analysis, developing care pathways and producing regional training and resources for health and social care professionals.

What effective steps are taken to:

- **ensure the existing measures in place to tackle FGM are effective?**
- **adopt and effectively implement a FGM Action Plan for NI, which requires the collection of thorough data and ensures specialised, accessible support for victims or potential victims of FGM in NI is sufficiently and promptly available and adequately funded?**

Stalking

61. Stalking is not a specific crime in NI. Data on the prevalence of stalking is lacking.¹²⁷

What effective steps are taken to:

- **protect and support NI victims of stalking in the absence of specific legislation?**
- **gather, disaggregate and monitor data on stalking in NI?**

¹²⁷ This is affected by the lack of a statutory definition of 'stalking' in NI. The Protection from Harassment (NI) Order 1997 deals with the criminal offence of harassment. Stalking in NI is generally dealt with under this legislation. In November 2016, the Committee for Justice reviewed and consulted on introducing specific stalking legislation in NI. The aim of the review was "to assess whether the current legislation in place in NI to deal with stalking is appropriate and effective, identify any gaps and consider the need for and potential benefits of introducing specific stalking legislation". The Committee was unable to report to the NI Assembly before its dissolution in January 2017. In the interim, the Attorney General for NI issued guidance in April 2018 providing a definition of stalking with the aim of criminal justice organisations in NI exercising "their respective functions diligently in order to prevent, investigate and prosecute acts of stalking and domestic abuse". See Paper 19/17, NIAR 462-16, RaISE, 'Briefing Paper: Incidence and Prevalence of Stalking in Northern Ireland', 5 January 2017, at 15; <http://www.niassembly.gov.uk/assembly-business/committees/2016-2017/justice/inquiries--reviews/review-of-the-need-for-stalking-legislation-in-northern-ireland/>; Attorney General for NI, 'No 13 Human Rights Guidance for the Police Service of NI, the Public Prosecution Service, the Probation Board for NI and the NI Courts and Tribunals Service: Domestic Abuse and Stalking', 20 April 2018.

Historical Abuse

62. The remit of the NI Historical Abuse Inquiry¹²⁸ did not extend to adult residents of Magdalene laundry-type institutions¹²⁹ or those abused in private settings. In February 2017, an independently chaired NI Inter-Departmental Working Group on mother and baby homes/Magdalene laundries and historical clerical child abuse was established.¹³⁰ In January 2018, research was commissioned into the operation of former mother and baby homes and Magdalene laundries. There has been a lack of consultation with victims in setting up and implementing the Working Group and research. The research has a limited remit; it omits historical clerical child abuse.¹³¹

What effective steps are taken to ensure the victims of such human rights violations in NI, outside the remit of the Inquiry, have an effective remedy, including access to thorough and effective independent investigations that offer effective redress (including compensation) and are subject to public scrutiny and effective victim participation?

¹²⁸ The Inquiry into Historical Institutional Abuse in NI investigated abuse of children under 18 who were living in children's homes, borstals, training schools, juvenile justice centres, hospitals and orphanages in NI between 1922 and 1995. It investigated 22 institutions, as well as the circumstances surrounding the sending of child migrants from NI to Australia, and the activities of Fr Brendan Smyth, and issues of finance and governance between 1922 and 1995. See Sir Anthony Hart, 'Historical Institutional Abuse Inquiry' (NI Executive, 2017).

¹²⁹ These were church-run institutions, primarily laundries, where women and girls were referred by the criminal justice system, schools, health and social services, mother and baby homes, family members, or members of the clergy to live and work, allegedly often in conditions where they and any children that were born during their time there were subject to mental and physical abuse. An inquiry was conducted into such select institutions in Ireland, but not in NI. See Department of Justice and Equality, 'Report of the Inter-Departmental Committee to Establish the Facts of State Involvement with the Magdalen Laundries' (DJE, 2013).

¹³⁰ In March 2018, Norah Gibbons (the Independent Chair) resigned due to health issues. There are no known plans for her replacement or the impact of this on the Working Group. See Claire Simpson, 'Clerical abuse victims call for public inquiry', *The Irish News*, 14 March 2018.

¹³¹ Meeting with a representative of Birth Mothers and their Children for Justice NI, 13 February 2018.

Implementation of CEDAW (paras 13, 29)

63. UK has not incorporated the CEDAW Convention into domestic law.¹³² Civil society lack awareness of CEDAW.¹³³ There is a lack of accessible information on CEDAW.¹³⁴
64. There is a lack of disaggregated CEDAW-related data.¹³⁵
65. Public authorities are not effectively consulting with civil society and acknowledging its role in the implementation of CEDAW,¹³⁶ e.g. NI's civil society was not consulted on the UK State report.
66. Gender-specific protections provided by EU law may be removed from domestic law post-Brexit.¹³⁷

What effective steps are taken to:

- **adequately consult with civil society and ensure that NI is fully represented in the UK's UN reporting?**
- **embed CEDAW obligations into domestic laws and policies, and ensure these are effectively implemented, particularly post-Brexit?**

¹³² The UK is a dualist State. It ratified the CEDAW Convention in 1986, but has not incorporated this international treaty into domestic law and has not indicated any plans to do so. However, there is precedent for this – the Human Rights Act 1998 incorporated the European Convention on Human Rights 1950 into domestic law.

¹³³ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ This includes the rights to equal pay, non-discrimination in the work place, parental leave, freedom from gendered violence, and cross-border childcare. See Colin Murray, Aoife O'Donoghue and Ben Warwick, 'Discussion Paper on Brexit' (IHREC and NIHRC, 2018); Human Rights Consortium, 'Rights at Risk: Brexit, Human Rights and NI' (Human Rights Consortium, 2018); Caroline Walsh, 'Consortium for the Regional Support for Women in Disadvantaged and Rural Areas: Brexit – Women's Perspectives' (Women's Support Network, 2017).

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