



Submission of Rights & Security International to the Committee on the Elimination of Racial Discrimination on the examination of the United Kingdom of Great Britain and Northern Ireland for the 113th session

28 June 2024

About Rights & Security International

Rights & Security International (RSI) is a London-based international human rights charity that strives to end discrimination and other rights abuses that governments commit in the name of national security.¹ For over 30 years, we have been working to hold governments accountable for rights-violating policies and obtain justice for victims.

This submission will focus on:

- 1) The UK's expansive powers to deprive people arbitrarily of their British citizenship on national security grounds, and the far-reaching consequences these powers have on people from minority and migrant communities.**
- 2) The 'Prevent' counter-terrorism strategy and how it disproportionately affects people of colour, Muslims, and other minority groups in the UK without effective oversight or evaluation.**
- 3) The urgent need to address the State Party's immigration authorities' misuse of the Common Travel Area between the State Party and the Republic of Ireland, as well as various public bodies' failures to address hate speech and hate crime, particularly in relation to intimidation in state-supported housing for people on low incomes.**

I. Deprivation of citizenship and its effect on migrants' citizenship rights

Background

1. Under Section 40 of the British Nationality Act 1981 ('BNA 1981'), the UK Home Secretary has the power to deprive people of their British nationality if s/he is satisfied that doing so is "conducive to the public good" [Section 40(2)], or if the nationality was obtained through fraud [Section 40(3)].² (Note: Although there are several types of British nationality – a situation stemming from the UK's colonial history – we use "citizenship" and "nationality" interchangeably in this submission to refer to British citizens as well as other British nationals where applicable.)

¹ For more information, see our website: <https://www.rightsandsecurity.org/>

² British Nationality Act 1981, section 40.

2. The vague language “conducive to the public good” creates the power to carry out arbitrary deprivations of British nationality, including when the individual affected has not been convicted of or even charged with a crime. UK courts are highly deferential to the Home Secretary’s “conducive to the public good” analysis, rendering legal challenges to these decisions difficult or impossible. As the government does not release statistics about the racial or gendered impact of these powers, it is also impossible to determine whether citizenship deprivations on these vague “conducive to the public good” grounds are having a discriminatory impact.
3. Various legislative changes over the last two decades have broadened the range of people who may be vulnerable to the misuse of these powers.
4. For example, the Nationality, Immigration and Asylum Act 2002 presented the UK Home Secretary with the opportunity to strip British-born dual citizens of their nationality, provided that such a revocation order would not leave the individual stateless.³ Prior to this development, only naturalised citizens were subject to revocation orders.⁴ The 2002 amendment has meant that people who have spent their entire lives in the UK, have no strong ties to their other country of nationality, and – for example – do not speak the relevant language can be stripped of their British citizenship and ordered to leave the UK.
5. Further amendments came only a few years later with the Asylum and Immigration Act 2004, which enabled citizenship deprivation decisions to become effective immediately, without a court’s review, and often while the individual is already abroad.⁵
6. Together, the 2002 and 2004 laws have made it possible for the Home Secretary to strip British citizenship from dual nationals (or purported dual nationals) who are travelling outside of the UK, and to prevent them from returning to the UK to challenge the decision. We have argued that these powers have resulted in the UK abandoning people overseas in situations of arbitrary detention and torture.⁶
7. The State Party went on to adopt the Immigration Act 2014, which empowers the Home Secretary to make deprivation orders if s/he is satisfied that an individual could *potentially* obtain another nationality.⁷ However, there is no requirement for the Home Secretary to prove that the affected individual currently holds another nationality, a provision that – in practice – has enabled the UK to render people

³ Nationality, Immigration and Asylum Act 2002, section 4(2).

⁴ House of Commons Library, Research Briefing, ‘Deprivation of British citizenship and withdrawal of passports’ (19 May 2023):

<https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>.

⁵ Asylum and Immigration Act 2004, schedule 2.

⁶ Rights & Security International, ‘Abandoned to Torture: Dehumanising Rights Violations Against Children and Women in Northeast Syria’ (13 October 2021):

https://www.rightsandsecurity.org/assets/downloads/Abandoned_to_Torture_-_Final_Report.pdf.

⁷ Immigration Act 2014, section 66.

stateless by depriving them of their British nationality.⁸ In at least one well-known case, the Home Secretary has stripped a young woman of her British citizenship even though her other country of nationality, Bangladesh, said it would refuse to recognise her as one of its nationals – rendering her stateless in practice and (after she crossed an age threshold) also in law.⁹

8. More recently, the government introduced a new provision in the Nationality and Borders Act 2022, which allows the Home Secretary to make citizenship deprivation orders without prior written notice.¹⁰ In practice, this means that some people may have no knowledge that their citizenship has been revoked, and that (for example) they can no longer gain access to consular assistance.
9. Thus, for over 20 years, the UK government has had a worsening practice of destabilising people's access to human rights as British nationals, and of leaving them in highly vulnerable positions – with ever fewer abilities to challenge mistakes or breaches of the law in this area. In the UK, citizenship has become a tool of social control rather than a stable and dependable source of rights.

Arbitrary exclusion from the state

10. During the past 14 years, the UK has deprived approximately 220 people of their citizenship on grounds that deprivation was “conducive to the public good”.¹¹ Among these deprivations, our research indicates that there have been multiple instances in which people of dual nationality, or presumed dual nationality, have been blocked from returning to the UK to lodge an appeal, raising concerns about the UK’s compliance with Article 5(d)(ii) of the Convention on the Elimination of All Forms of Racial Discrimination (CERD).¹² As noted above, the government has released no information about the racial impact of its use of these powers.
11. In previous communications with the UN Special Rapporteur on Contemporary Racism, the UK government has defended its approach to citizenship deprivation by stating that “any decision to deprive is only taken after extensive research.”¹³

⁸ Ibid, section 66 (1)(4A)(c).

⁹ *Begum v. Secretary of State for the Home Department* [2021] UKSC 7.

¹⁰ Nationality and Borders Act, clause 10.

¹¹ For most recent deprivation figures in the Home Office’s last reporting year, see House of Commons Library, Research Briefing, ‘Deprivation of British citizenship and withdrawal of passports’ (19 May 2023): <https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>, and ‘HM Government Counter-Terrorism Disruptive Powers report 2022’ (2 April 2024): <https://www.gov.uk/government/publications/counter-terrorism-disruptive-powers-report-2022/hm-government-counter-terrorism-disruptive-powers-report-2022-accessible-version>.

¹² A few examples of appellants being prevented from returning to the UK to appeal include *Begum v. Secretary of State for the Home Department* [2021] UKSC 7 and *U3 v. Secretary of State for the Home Department* [2022] SC/154/2018 & SC/153/2021.

¹³ Office of the High Commissioner for Human Rights, ‘UK response to Letter from SR Contemporary Racism’: <https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/SR/NationalityImmigration/UnitedKingdom.pdf>

However, we note that the Home Secretary is able to remove vital citizenship rights from people who, in fact, do not have legal or practical access to another nationality. Additionally, as the courts are typically highly deferential to the Home Secretary's assertions about what is "conducive to the public good" and often do not describe the Home Office's "research" (at least in public, non-secret versions of judgments), it is impossible to evaluate how thorough the Home Office's research is. We are concerned that, for example, people who travelled to Syria allegedly to join the Islamic State movement (or accompany spouses who allegedly did so) may have been stripped of their British citizenship *en masse* and without any detailed individualised research. Some of these people were children when they travelled to Syria and/or may have been trafficked there.

12. Preventing someone from returning to the UK to appeal against a deprivation decision has long-term consequences for both the individual and their family – for example, minor children. We are aware of one case, for example, in which the appellant was deprived of his citizenship while in Bangladesh, and spent many years challenging the decision from afar. During those years, the appellant had a child who was unable to automatically acquire British citizenship or freely return with him to the UK, once his citizenship was reinstated. The child was thus prevented from joining her father in the UK until the age of two.¹⁴

13. Furthermore, citizenship deprivation orders issued while people are outside the UK serve as *de facto* exclusionary measures that hinder them from returning. (Most will likely be unable to secure UK visas, meaning that the citizenship deprivation effectively bars them from the UK permanently.) Such orders have even more problematic implications for rights when combined with provisions under the Nationality and Borders Act 2022 that allow the Home Secretary to strip an individual of their citizenship without written notice. In some instances, people may be entirely unaware that they have had their citizenship removed until they leave the country or attempt to re-enter it. (As far as we are aware, the revocation of citizenship does not necessarily result in the immediate cancellation of a passport, and in any event, we are not aware of anything in practice that would prevent the UK from allowing individuals to leave the country even if their travel documents have been or will be revoked.)

14. We submit that the UK's broad and unaccountable citizenship deprivation powers, particularly combined with its failure to provide transparency of the racial impact of its use of these powers, create a clear risk of breaches of Article 5(d)(ii) of the Convention.

¹⁴ *E3 and Others v Secretary of State for the Home Department* [2022] EWHC 1133 (Admin) (13 May 2022) (*Duncan Lewis*, 26 May 2022): [https://www.duncanlewis.co.uk/Reported_Case/E3_Ors_v_Secretary_of_State_for_the_Home_Department_\[2022\]_EWHC_1133_\(Admin\)_13_May_2022_\(26_May_2022\).html](https://www.duncanlewis.co.uk/Reported_Case/E3_Ors_v_Secretary_of_State_for_the_Home_Department_[2022]_EWHC_1133_(Admin)_13_May_2022_(26_May_2022).html).

A tiered system of citizenship

15. The Committee has noted in its General Recommendation XXX on Discrimination Against Non Citizens that nationality deprivation decisions made on the basis of racial, ethnic, or national background would undermine the complete fulfilment of one's right to nationality, as set out in Article 5(d)(iii) of the Convention.¹⁵ We are concerned that the UK's power to remove British nationality from broad groups of people, coupled with assumptions about their heritage, and combined with the lack of legal safeguards to prevent statelessness, has created a discriminatory hierarchy of nationality rights that privilege British people who have been of exclusively British descent for several generations over other groups.¹⁶ Most such people will be white.
16. People who are born British citizens, and who do not have any other potential nationality, cannot be deprived of their citizenship under UK law because doing so would render them stateless, and they may not have claim to another nationality.¹⁷
17. By contrast, one analysis indicates that people of colour from migrant backgrounds are "eight times more likely to be eligible for deprivation of citizenship" than their white counterparts in the UK, forming the second "tier" of British citizenship. This is because such individuals are more likely to have access to another nationality due to their immigrant descent or heritage.¹⁸ People from common "white" but non-British backgrounds, such as those with Polish or Albanian ancestry, are also legally relegated to this second tier. People in the UK with Irish heritage are similarly affected in law even if deprivations of British citizenship from dual Irish nationals have not been reported in practice.

¹⁵ United Nations High Commissioner for Refugees, 'CERD General Recommendation XXX on Discrimination Against Non Citizens' Sixty-fifth session (*Refworld*, 5 August 2004): <https://www.refworld.org/legal/general/cerd/2004/en/39027>, accessed 19 June 2024.

¹⁶ Rights & Security International, 'Written contribution to the United Nations Human Rights Committee for Review of the United Kingdom of Great Britain and Northern Ireland (UK) on the International Covenant on Civil and Political Rights' Country Examination 140th Session' (February 2024): https://www.rightsandsecurity.org/assets/downloads/RSI_submission_to_HRC.pdf; See also Rights & Security International and The Institute on Statelessness and Inclusion's Joint Submission to the Human Rights Council, Universal Periodic Review, 'Arbitrary Deprivation of Nationality on National Security Grounds' (March 2022): https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf.

¹⁷ *Ibid.*

¹⁸ Ben van der Merwe, 'Exclusive: British citizenship of six million people could be jeopardised by Home Office plans' (*The New Statesman*, 1 December 2021): <https://www.newstatesman.com/politics/2021/12/exclusive-british-citizenship-of-six-million-people-could-be-jeopardised-by-home-office-plans>; See also Rights & Security International and The Institute on Statelessness and Inclusion's Joint Submission to the Human Rights Council, Universal Periodic Review, 'Arbitrary Deprivation of Nationality on National Security Grounds' (March 2022): https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf.

18. As a result, people in the UK who are dual nationals or who could theoretically claim another nationality by descent are treated as second-class citizens and are more vulnerable to deprivation powers because of their minority backgrounds. Dual nationals will not become stateless *de jure* as an effect of being stripped of their British citizenship, but many will experience serious disruptions to their lives – and their families’ lives.¹⁹ In practice, even people who may theoretically hold dual nationality by descent may face serious financial, linguistic or logistical obstacles to having their second nationality recognised by the relevant state in the form of a passport or other formal acknowledgement. For example, before an individual can claim nationality by descent, many states require translated and certified birth, marriage and death certificates of relatives; some require language competence.
19. People in the UK whose alternative citizenships are theoretical and not confirmed thus form a third “tier” of citizenship and would be at a high risk of *de facto* statelessness if the Home Office were to withdraw their British nationality.
20. In sum, citizenship in the UK does not afford equal rights, and the State Party’s approach systematically disadvantages people of colour as well as those from “white” migrant backgrounds (e.g. Polish, Albanian).
- 21. We submit that the UK’s tiered system of citizenship rights is incompatible with Article 5(d)(iii) of CERD, as interpreted in the Committee’s General Recommendation XXX on the Discrimination Against Non Citizens, because it has created a discriminatory distinction between British citizens that is closely tied to race, ethnicity or national origin.²⁰**

Communities most affected by deprivation orders

22. Research indicates that among the citizenship deprivation orders the Home Secretary issued on Section 40(2) ‘conducive to public good’ grounds during the last 21 years, a majority concerned Muslims or people with Muslim backgrounds.²¹ In many cases, the Home Office has accused those affected of

¹⁹ Rights & Security International and The Institute on Statelessness and Inclusion’s Joint Submission to the Human Rights Council, Universal Periodic Review, ‘Arbitrary Deprivation of Nationality on National Security Grounds’ (March 2022): https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf.

²⁰ United Nations High Commissioner for Refugees, ‘CERD General Recommendation XXX on Discrimination Against Non Citizens’ Sixty-fifth session (*Refworld* 2004): <https://www.refworld.org/legal/general/cerd/2004/en/39027>, accessed 19 June 2024;

²¹ Chris Woods and Alice Ross, ‘Medieval Exile’: The 42 Britons Stripped of Their Citizenship’ (*The Bureau of Investigative Journalism*, 26 February 2013): <https://www.thebureauinvestigates.com/stories/2013-02-26/medieval-exile-the-42-britons-stripped-of-their-citizenship/>; See also the Institute on Race Relations,

engaging in terrorism-related activities or holding extremist views, with the Home Secretary citing national security concerns as the primary reason for their citizenship revocation. However, in most cases, these have merely been accusations: few of those affected have been tried in court, which would have enabled them to contest the Home Office's claims.

23. Following this Committee's last review of the UK in 2016, the country's citizenship deprivation figures peaked in 2017, when the Home Secretary stripped an unprecedented 104 people of their British nationality on 'conducive to public good' grounds in a single year.²² Our research indicates that this sudden spike in deprivations correlates with media and political attention to British nationals who had travelled – or were trafficked – to Syria during the conflict with Islamic State.²³ Some were children at the time they left the UK for Syria.

- a. The Home Office has resisted and ultimately defeated a freedom-of-information request from RSI seeking statistics about the genders and parental statuses of people the Home Secretary deprived of their citizenship during this period. Based on information that is publicly available, it appears to us that the Home Secretary stripped the nationality of all British women who travelled or were trafficked to Syria, as well as British girls who subsequently reached adulthood, unless they had no other potential nationality. (We have no information about the men and boys in similar situations.) Such women and girls would have been Muslim or perceived as Muslim, and many belong to racial minority groups. They had not been charged with or convicted of any crimes in relation to their activities in Syria, and those who remain in camps in the country are living in conditions that the Committee Against Torture has found to be inhuman and degrading.²⁴

'Citizenship: From Right to Privilege: A background paper on the history of citizenship stripping powers' (11 September 2022): <https://irr.org.uk/wp-content/uploads/2022/09/Deprivation-of-citizenship-Final-LR.pdf>; and the Institute on Statelessness and Inclusion, 'Deprivation of Nationality in the UK in a national security context' Briefing 3: Prohibition of Discrimination https://files.institutesi.org/BRIEFING_3_UK_Seminar_Series.pdf.

²² Rights & Security International and the Institute on Statelessness and Inclusion's Joint Submission to the Human Rights Council, Universal Periodic Review, 'Arbitrary Deprivation of Nationality on National Security Grounds' (March 2022): https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf; See also House of Commons Library, Research Briefing, 'Deprivation of British citizenship and withdrawal of passports' (19 May 2023): <https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>.

²³ Ibid; Rights & Security International, 'Abandoned to Torture: Dehumanising Rights Violations Against Children and Women in Northeast Syria' (13 October 2021): https://www.rightsandsecurity.org/assets/downloads/Abandoned_to_Torture_-_Final_Report.pdf.

²⁴ Ibid; See also the Committee Against Torture, 'Décision adoptée par le Comité au titre de l'article 22 de la Convention, concernant la communication no1045/2020' (22 January 2023) CAT/C/78/D/1045/2020.

- b. Further research indicates that many of the women and children affected by the UK's deprivation orders in the camps are victims of trafficking, exploitation and abuse.²⁵

24. Deprivations of citizenship on Section 40(3) fraud grounds have also risen in recent years, with a significant number of orders being made against British-Albanian dual nationals. During the past 4 years, the Home Secretary has made over 500 deprivation orders of British citizenship on grounds that citizenship was obtained through fraud.²⁶ Government reporting shows that people with Albanian origins make up highest proportion of people referred to the Home Office's deprivation review team, and that the referral process lacks procedural safeguards to prevent discrimination.²⁷

25. Additionally, we have identified a slight increase in the number of British-Albanians who have been affected by deprivation orders under Section 40(2) 'conducive to public good' grounds, with the Home Secretary citing serious and organised crime activities as the primary reason.²⁸ (Again, the Home Secretary is able to make such claims even in the absence of any criminal convictions.) We are concerned that the rise in these deprivation orders may be linked to biases against people from Albania or with Albanian heritage.

26. We submit that the UK's citizenship deprivation powers are incompatible with obligations under Article 5(d)(iii) because their terms are so vague as to enable arbitrary decisions based on racial or other bias. We further submit that such arbitrary decisions are occurring in practice, with a particular impact on minority groups such as Muslims and people of Albanian heritage.

Recommendations

Following the information and analysis provided above, we recommend that the Committee calls on the State Party to:

- Ensure full compliance with its obligations under Article 5(d)(ii) of the Convention by ensuring that citizenship deprivation orders cannot serve as *de facto* exile/expulsion orders;

²⁵ Reprieve, 'Trafficked to ISIS' (April 2021): https://reprieve.org/wp-content/uploads/sites/2/2021/04/2021_04_30_PUB-Reprieve-Report-Trafficked-to-Syria-British-families-detained-in-Syria-after-being-trafficked-to-Islamic-State-1.pdf; *Begum v. Secretary of State for the Home Department* [2021] UKSC 7, and appeal no. SC/163/2019 [2023].

²⁶ House of Commons Library, Research Briefing, 'Deprivation of British citizenship and withdrawal of passports' (19 May 2023): <https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>.

²⁷ Independent Chief Inspector of Borders and Immigration, 'An inspection of the use of deprivation of citizenship by the Status Review Unit, April – June 2023' (February 2024): https://assets.publishing.service.gov.uk/media/65e07c743f6945001d035fc7/An_inspection_of_the_use_of_deprivation_of_citizenship_by_the_Status_Review_Unit_April_to_June_2023.pdf.

²⁸ *C9 v. Secretary of State for the Home Department* [2020] SC 173; See also *Kolicaj v. Secretary of State for the Home Department* [2023] UKUT 294 (IAC).

- Adhere to the Committee’s General Recommendation XXX on Discrimination Against Non Citizens by ensuring that the government cannot use citizenship deprivation powers arbitrarily against particular minority groups, for example because of their race or national origin; and
- Guarantee that all British citizens – including naturalised, dual and mono-nationals – have equal rights and protections, as implied by Article 5(d)(iii), by ceasing citizenship deprivation practices that create a clear recipe for racism and discrimination against people descended from migrants.

II. The Prevent counter-extremism strategy and the UK’s failure to monitor and remedy racial discrimination

Background

27. In this part of RSI’s submission, we focus on the UK’s counter-extremism strategy, ‘Prevent’, particularly how the government and the police – despite long-held concerns about the programme’s discriminatory impacts – have failed to adequately monitor and remedy its risk of racial discrimination, in line with the obligation contained in Article 2(1)(c) of the Convention.

28. The Prevent strategy is the counter-extremism strand of the UK’s counter-terrorism strategy, CONTEST. Pursuant to the strategy, the police – in collaboration with other public bodies – intervene when they think somebody may be at risk of being drawn into terrorism. These interventions begin when someone is referred to the programme, a step often described as a ‘Prevent referral’. Being referred to Prevent does not require any suspicion that the person may become violent, or any factual evidence of what the person believes or might believe. We recall in this context that under the International Covenant on Civil and Political Rights, the freedoms of thought, belief and opinion are absolute.

29. Most Prevent referrals arise out of the ‘Prevent duty’, which is a legal obligation on public bodies, such as schools and healthcare providers, to have ‘due regard to the need to prevent people from being drawn into terrorism.’²⁹ This duty is binding on England, Wales and Scotland, and requires public bodies to refer people they believe may be at risk of being drawn into terrorism to the ‘Channel’ process. The Channel process involves a multi-agency panel considering this risk in a case before it, before then deciding whether the individual requires further intervention to reduce the perceived risk – and, if so, what further action is required.

30. This Committee has previously expressed concerns about the discriminatory impact of the Prevent strategy in its concluding observations on the UK’s twenty-first to twenty-third periodic reports. In particular, the Committee urged the UK to:

²⁹ Counter-Terrorism and Security Act 2015, s26. See Schedule 6 for the list of ‘specified authorities’ subject to the duty.

‘[R]eview the implementation of and evaluate the impact of existing counter-terrorism measures, in particular the “prevent duty” under the Counter-Terrorism and Security Act 2015, in order to ensure that there are effective monitoring mechanisms and sufficient safeguards against abuse, and that they are implemented in a manner that does not constitute profiling and discrimination on the grounds of race, colour, descent, or national or ethnic origin, in purpose or effect.’³⁰

31. As we outline in this submission, the UK government has not taken these steps.

Discriminatory impacts

32. The Prevent strategy, as implemented, has had a distinct and disproportionate impact on Muslim communities in Great Britain. (The Prevent duty does not apply in Northern Ireland, despite known problems of violence related to political beliefs there.) Those affected particularly include people who identify as Black, Asian or of Middle Eastern descent.

33. RSI’s research has documented how the Prevent strategy impacts people’s freedom of expression, freedom of religion and freedom of assembly. In schools, we have documented how children and their parents have felt unable to express their lawfully held views due to a fear of being referred to Prevent; principally, this problem affects people who identify as Muslims.³¹ We have also documented an increasing reluctance of people to join activist movements due to a fear of being referred to Prevent – again, primarily impacting Muslims, Muslim communities and people supporting causes associated with Islam (e.g. human rights in Palestine).³²

34. Academics, journalists and other human rights organisations have also documented Prevent’s discriminatory impact. In 2016, the Open Society Justice Initiative concluded that authorities apparently were targeting Muslims under Prevent, including for ‘displaying signs of increased religiosity’.³³ More recently, in its 2023 report *This is the Thought Police*, Amnesty International reported:

³⁰ Committee on the Elimination of Racial Discrimination, ‘Concluding observations on the combined twenty-first to twenty-third periodic reports of the United Kingdom of Great Britain and Northern Ireland’, 3 October 2016, CERD/C/GBR/CO/21-23, para. 19.

³¹ Rights Watch (UK), ‘Preventing Education? Human Rights and UK Counter-Terrorism Policy in Schools’ (July 2016): <https://www.rightsandsecurity.org/assets/downloads/Preventing-Education.pdf>.

³² Zin Derfoufi and Rights & Security International, ‘Prevent-ing Dissent: How the U.K.’s counterterrorism strategy is eroding democracy’ (2022): https://www.rightsandsecurity.org/assets/downloads/Prevent-ing_dissent_How_the_UK’s_counter-terrorism_strategy_is_eroding_democracy.pdf.

³³ Open Society Justice Initiative, ‘Eroding Trust: The UK’s Prevent Counter-Extremism Strategy in Health and Education’ (October 2016), p. 17: <https://www.justiceinitiative.org/publications/eroding-trust-uk-s-prevent-counter-extremism-strategy-health-and-education>.

*'[I]nterviewees explained... that decisions about who to refer to Prevent ultimately rely on the judgment of individuals – in fact, official guidance sanctions the use of 'gut feeling'. Given the high prevalence of negative attitudes towards Muslims in the UK (demonstrated in surveys of the British public), the breadth of discretion permitted in Prevent decision-making has resulted in a significant risk of discrimination. Islamophobic stereotypes associating Muslims with extremism or terrorism have played a major role in referrals to Prevent.'*³⁴

35. By requiring monitoring and reporting of people based on belief or opinion (or perceived belief or opinion) in a manner that is disproportionately affecting Muslims and people from other minority groups, the UK government's implementation of the Prevent strategy continues to breach the rights to freedom of thought, conscience and religion (CERD Article 5(d)(vii)); the freedom of opinion and expression (Article 5(d)(viii)); and the freedom of peaceful assembly and association (Art. 5(d)(ix)).

36. Given these disparate impacts (or, at minimum, the clear risks thereof), we would expect the government and the police – as the body responsible for the main Prevent case database – to monitor whether the authorities are operating the strategy in a discriminatory way. Indeed, in a June 2011 equality impact assessment, the government recognised these risks and committed to monitoring the strategy's racial impact.³⁵

37. However, our extensive research indicates that neither the government nor the police has taken these steps. In fact, the UK government appears to have changed its assessment of Prevent's discrimination risk – arguing that it need not continually assess the risk of discrimination because any overrepresentation within counter-terrorism programmes would be justified. In its State report for this review, the UK government stated that '[i]n cases where certain groups are overrepresented within scope of counter-terrorism policy, this reflects the nature of the terrorism threat in the UK.'³⁶ In other words, the government appears to argue that some groups of people are more likely to engage in acts of violence than others. We note that the term 'terrorism' remains undefined in international law; insofar as 'terrorism' is colloquially understood to be violence associated with an ideology, we note that the UK government has consistently declined to regard some types of violence, such as racist hate crimes, misogynist violence

³⁴ Amnesty International, "This is the Thought Police": The Prevent duty and its chilling effect on human rights' (2023), p. 4: https://www.amnesty.org.uk/files/2023-11/Amnesty%20UK%20Prevent%20report%20%281%29.pdf?VersionId=.hjlwRZuHiGd1_IEXroFwg25jyBtwur.

³⁵ HM Government, 'Prevent Strategy: Equality Impact Assessment' (June 2011), p. 12: <https://assets.publishing.service.gov.uk/media/5a796663e5274a3864fd6af9/prevent-review-eia.pdf>.

³⁶ UK Government, 'Combined twenty-fourth to twenty-sixth periodic reports submitted by the United Kingdom of Great Britain and Northern Ireland under article 9 of the Convention, due in 2020', 3 May 2023, CERD/C/GBR/24-26, para. 31.

against women or transphobic attacks as ‘terrorism’. We also recall again that the government has chosen not to apply the Prevent duty to Northern Ireland, where there is a decades-long history of sectarian violence; it is not clear why this aspect of ‘the nature of the terrorism threat in the UK’ appears not to have come into play in the government’s decision-making. In our view, this fact supports the concern that Prevent is aimed at Muslims.

38. In fact, the UK government and the police have no systems in place to monitor the racial discrimination that could arise from Prevent. We assert that the government cannot feasibly claim that any overinclusion of one racial group within the Prevent programme is justified, when – as explained below – the government does not actually hold the data necessary to assess how extensively each group is represented in referrals or other parts of the process.

Failure to monitor discrimination

39. RSI and other human rights organisations have been long concerned about the Prevent strategy’s impact on certain racial groups in the UK; however, the government has repeatedly denied that Prevent is discriminatory by design or is being operated in a discriminatory way – on occasion referring to such suggestions as ‘disinformation’.³⁷

40. At present, the government and the police selectively publish data about Prevent referrals so that, in general, the public only has a small snapshot of information about the demographic impact of the strategy. These annual government statistical releases have never included figures about the race (or religion) of people referred to Prevent, meaning that the public and Parliament have only very limited information about the risk that Prevent is reflecting and enabling discrimination.³⁸

41. Through a series of freedom of information requests to the Home Office, the National Police Chiefs’ Council (NPCC) and the Metropolitan Police, RSI has attempted to fill this gap regarding racial impact data and has been able to access information relating to:

- a. The risk of racial discrimination resulting from the strategy, and the ‘securitised’ treatment of particular racial groups;³⁹ and

³⁷ HM Government, ‘The Response to the Independent Review of Prevent’, HC 1073 (February 2023), p. 29: https://assets.publishing.service.gov.uk/media/63e2399de90e07625faf56c6/The_response_to_the_Independent_Review_of_Prevent.pdf.

³⁸ For the most recent data, see Home Office, ‘Individuals referred to and supported through the Prevent Programme, April 2022 to March 2023’ (Gov.uk, 14 December 2023): <https://www.gov.uk/government/statistics/individuals-referred-to-prevent/individuals-referred-to-and-supported-through-the-prevent-programme-april-2022-to-march-2023>.

³⁹ Zin Derfoufi and Sarah St Vincent, ‘Analysis of FOI 63470 data on the ethnic composition of Channel cases, and a comparison to the composition of terrorism-related criminal sanctions’ (Rights & Security International, February 2023): https://www.rightsandsecurity.org/assets/downloads/RSI_FOI_63470_data_analysis_-_final.pdf.

- b. A yearslong failure by the police to collect data that would allow them to assess whether the strategy may be causing or enabling racial (or religious) discrimination.⁴⁰

42. While the government has not always disclosed the information we have requested, we have uncovered information suggesting that no one in the government is monitoring the racial impact of Prevent – and that they could not do so even if they wished, because the police collect very little information about the races of people referred to Prevent.

43. The Home Office has explicitly told us that the racial data it holds about Prevent is of poor quality: namely, it is incomplete and potentially inaccurate.⁴¹ This situation has arisen because:

- a. The police and the government do not systemically collect or store information about the racial identity of people referred to the Prevent programme – even though the police do collect such data regarding a range of other policing activities, including in the counter-terrorism context;⁴²
- b. Racial information about people referred to Prevent is not self-reported, and instead is based on the perception of the referring authority – again, a practice that runs contrary to usual data collection practices regarding policing activities in the UK;⁴³

⁴⁰ For an overview, see Areeb Ullah, ‘UK: Rights groups call on Home Office to investigate ‘haphazard’ collection of Prevent data’ (*Middle East Eye*, 1 March 2024): <https://www.middleeasteye.net/news/uk-rights-groups-call-home-office-investigate-haphazard-collection-prevent-data>; Rajeev Syal, ‘Police failed to record race of nearly two-thirds of people referred to Prevent’ (*The Guardian*, 6 February 2024): <https://www.theguardian.com/uk-news/2024/feb/06/police-failed-to-record-race-of-nearly-two-thirds-of-people-referred-to-prevent>.

⁴¹ Rights & Security International, ‘Rights & Security International raises concerns about Prevent and Channel referrals data on race’ (*Rights & Security International*, 6 March 2023): <https://www.rightsandsecurity.org/action/advocacy/entry/rights-security-international-raises-concerns-about-prevent-and-channel-referrals-data-on-race>.

⁴² See, e.g. Home Office, ‘Operation of police powers under the Terrorism Act 2000 and subsequent legislation: Arrests, outcomes, and stop and search, Great Britain, quarterly update to March 2023’ (8 June 2023), sections 2.6, 5.1-5.2: <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-march-2023/operation-of-police-powers-under-the-terrorism-act-2000-and-subsequent-legislation-arrests-outcomes-and-stop-and-search-great-britain-quarterly-u#:~:text=Under%20Section%2041%20of%20TACT%202000%2C%20police%20officers%20have%20the,related%20offences%20without%20a%20warrant>; Home Office, ‘Police powers and procedures England and Wales statistics’ (*Gov.uk*, 19 April 2024): <https://www.gov.uk/government/collections/police-powers-and-procedures-england-and-wales>; Metropolitan Police, ‘Stats and data’ (*Metropolitan Police*, no date): <https://www.met.police.uk/sd/stats-and-data/>.

⁴³ See, e.g. Home Office, ‘User guide to operation of police powers under the Terrorism Act 2000 and subsequent legislation’ (14 March 2024), section 9: <https://www.gov.uk/government/publications/user-guide-to-operation-of-police-powers-under-the-terrorism-act-2000-and-subsequent-legislation/user-guide-to-operation-of-police-powers-under-the-terrorism-act-2000-and-subsequent-legislation#terrorist-prisoners>; Home Office, ‘PACE Code A 2023’ (20 December 2023), Annex B: <https://www.gov.uk/government/publications/pace-code-a-december-2023/pace-code-a-2023-accessible>.

- c. When the police do collect information about the (perceived) racial identity of someone referred to Prevent, they do not always store this data in a way that makes it easily retrievable from the database.
44. The lack of data means that the State Party is simply unable to assess whether it is operating the Prevent strategy in a discriminatory way.
45. The Home Office and the NPCC have informed us that they do not collect racial data about people impacted by Prevent for equality monitoring purposes. Instead, the Home Office says that the government only records this information when the case officer believes it is ‘relevant’ to a specific case. There appears to be no further guidance as to when or why a case officer should regard a person’s race as relevant and record it, although the Home Office has asserted (without further explanation) that race could ‘have an impact on an individual’s radicalisation’. We dispute the notion that having a certain skin tone or set of physical features could cause anyone to be inclined toward violence.
46. The NPCC has also outlined a haphazard approach to data collection. The NPCC told the Information Commissioner’s Office, in response to a complaint that RSI lodged about the body’s failure to publicise collated data about the races of people referred to Prevent, that it stores such data in different places and different ways, with no consistent approach. In the context of this appeal to the Information Commissioner’s Office, the NPCC told us that it would take over five years for it to collate in full the data it holds about the races of people referred to Prevent.⁴⁴
47. The Metropolitan Police (‘Met’) have described to us a similarly unsystematic approach to the entry and storage of Prevent-related racial data. The Met explained to us that it may hold relevant racial data about people referred to Prevent in databases such as CRIMINT, its criminal intelligence system. Based on the explanation the Met has provided to us, we understand that the CRIMINT system requires the entry of data about an individual’s race. However, CRIMINT apparently is not synced with, or cannot aggregate data in a format that can be imported to, the other databases. Again, this non-systematic scattering of data across systems points to an inability (or unwillingness) to assess whether the way the UK authorities operate Prevent has a disproportionate impact on certain racial groups, such as people who identify as Black, Asian or of Middle Eastern descent.
48. Regardless of the specific mechanisms various agencies may have adopted for collecting and storing Prevent-related racial data, it is evident from the responses to our freedom of information requests that the State Party is paying little or no regard to whether Prevent has discriminatory impacts on individuals of particular races or national origins.

⁴⁴ Information Commissioner’s Office, Decision Notice IC-262164-Z2K6, 20 December 2023, paras. 20-24: <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4027941/ic-262164-z2k6.pdf>.

49. Regarding a programme such as Prevent, where there are long-held concerns about discriminatory impacts on certain racial groups, the State Party must ensure that the government has the necessary data to assess the risk of discrimination. Article 2(1)(c) of CERD requires this, in our view.

50. We submit that the UK government’s approach to data on the racial impact of Prevent does not comply with the State Party’s obligations under the CERD, particularly the obligation to review and amend government policies that perpetuate racial discrimination (Art. 2(1)(c)).

Recommendations

We recommend that the Committee call on the UK government to:

- Fully comply with the Committee’s prior recommendations on Prevent, as outlined in paragraph 19 of its concluding observations on the UK’s twenty-first to twenty-third periodic reports;
- Ensure that the State Party collects the individual data necessary to ascertain whether public authorities in the UK may be operating Prevent in a discriminatory way; and
- Commit to publishing aggregated data about race, religion and other protected aspects of identity in its annual statistical releases about Prevent, to enable greater public and parliamentary scrutiny.

III. Racial discrimination in Northern Ireland

Background

We also wish to address the elimination of racial discrimination in Northern Ireland (NI). We will address the State Party’s immigration authorities’ misuse of the Common Travel Area (CTA) between the UK and the Republic of Ireland (RoI), as well as various public bodies’ failures to address hate speech and hate crime, particularly in relation to intimidation in state-supported housing for people on low incomes.

Abuse of the CTA

51. The CTA allows for essentially open borders free from passport controls between the UK and the RoI.⁴⁵ In the UK, the legislative basis for the CTA is section 1(3) of

⁴⁵ See Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland concerning the Common Travel Area and associated reciprocal rights and privileges. UK government, 'Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland concerning the Common Travel Area and associated reciprocal rights and privileges' (*HM Government*, 8 May 2019): <https://assets.publishing.service.gov.uk/media/5cd29d56ed915d50b5a206d1/CTA-MoU-UK.pdf>.

the Immigration Act 1971, which prevents the use of passport controls for people travelling within the CTA – whether by land or air.

52. The land border on the island of Ireland – i.e. between NI and the RoI – should not be subject to passport checks, in line with the CTA. However, within NI, the State Party has made increasing use of internal checks (that is, checks that do not occur on the border, but elsewhere within the territory). This practice raises the possibility of racial discrimination because of the checking of people's passports based on their skin colour or perceived racial background. These passport checks reportedly are disproportionate in comparison with the rate of such checks in Great Britain (i.e. England, Wales and Scotland).⁴⁶

53. We are concerned that these increasing and seemingly disproportionate passport checks are likely a result of racial profiling in NI, which has historically been dominated by two white populations. We draw the Committee's attention to reported concerns the police and immigration officials select passengers for checks or for further questioning based on their skin colour, or their perception of that person's racial background.⁴⁷

54. Unnecessary passport checks within Northern Ireland risk violating Article 2(1)(a) of the Convention.

Failure to address racist housing intimidation

55. Racist hate crime is a significant problem in NI, with organised racist intimidation occurring in some areas, especially those controlled by paramilitaries.⁴⁸ This includes racist signs and graffiti.⁴⁹ For example, racial equality campaigner Takura Makoni, who works with the African & Caribbean Support Organisation in Northern Ireland, was forced to move home in May 2024 following his condemnation of racist posters around his home that called for the Northern

⁴⁶ Fagan and Butterly, 'Concerns over 'disproportionately high' levels of immigration checks in Belfast' (*The Detail TV*, 8 June 2020): <https://thedetail.tv/articles/concerns-over-disproportionately-high-levels-of-immigration-checks-in-belfast>.

⁴⁷ Lisa O'Carroll, 'Black lawyer accuses Northern Ireland immigration of racial profiling' (*The Guardian*, 11 June 2018): <https://www.theguardian.com/uk-news/2018/jun/11/black-lawyer-accuses-northern-ireland-immigration-of-racial-profiling>; Jack White, 'Migrants in Northern Ireland wishing to travel to Republic suffering 'disproportionate discrimination'' (*Irish Examiner*, 21 August 2023): <https://www.irishexaminer.com/news/arid-41209531.html>, accessed 19 June 2024; Irish Council for Civil Liberties, 'Equality complaint made against Translink for facilitating discriminatory passport checks on cross-border buses' (*Irish Council for Civil Liberties*, 17 September 2019): <https://www.iccl.ie/press-release/discriminatory-passport-checks-on-border/>.

⁴⁸ Brett Campbell, 'Racist' anti-immigrant posters erected in Newtownards in suspected co-ordinated UDA campaign' (*Belfast Telegraph*, 1 December 2023): <https://www.belfasttelegraph.co.uk/news/northern-ireland/racist-anti-immigrant-posters-erected-in-newtownards-in-suspected-co-ordinated-uda-campaign/a475331134.html>.

⁴⁹ Liam Tunney, 'Police investigating after anti-asylum seeker flags erected in Co Antrim' (*Belfast Telegraph*, 29 October 2023): <https://www.belfasttelegraph.co.uk/news/northern-ireland/police-investigating-after-anti-asylum-seeker-flags-erected-in-co-antrim/a48985303.html>.

Ireland Housing Executive (NIHE) to ‘stop housing illegal immigrants’.⁵⁰ The housing crisis in NI has exacerbated the problem, with paramilitaries and others campaigning for ‘locals only’ housing and threatening landlords in the public and private sectors who consider renting to migrants.⁵¹

56. We are concerned about the NIHE’s and other authorities’ failure to provide an effective response to racist housing intimidation. Rather than addressing the issue, their support appears limited to merely providing some assistance to victims of intimidation who want to leave their neighbourhood. This neglect is occurring even though such intimidation is a criminal offence.⁵²

57. There is particular link between some loyalist paramilitary groups and racist violence and intimidation, which includes longstanding collaborations with British far-right groups.⁵³ The NI Policing Board’s 2017 Thematic Review of Policing Race Hate Crime emphasised that hate crime cannot be addressed effectively until all agencies are able and willing to acknowledge and discuss the issues, including the reported threat from paramilitary groups targeting minority ethnic communities.⁵⁴ To date, it appears that officials, including the police, are unwilling to effectively engage with this issue.

58. Although there is poor data in relation to the issue, the evidence suggests that loyalist paramilitaries are involved in sectarian and racist intimidation in areas that they control – that is, areas in which they have a large presence and in which they have a large influence over everyday life.⁵⁵ Furthermore, ever-present slogans and paramilitary flags or murals operate as a deterrent to prevent people from applying for housing in those neighbourhoods. If someone decides to take up an offer of accommodation in the area, they may then experience intimidation once they have moved in. Between 2015 and 2018, there were over 2,000

⁵⁰ Jessica Rice, 'Man forced out of Belfast home after racist graffiti calls for public's support: 'This is a time for action'' (*Belfast Telegraph*, 30 May 2024): <https://www.belfasttelegraph.co.uk/news/northern-ireland/man-forced-out-of-belfast-home-after-racist-graffiti-calls-for-publics-support-this-is-a-time-for-action/a1430056720.html>.

⁵¹ BBC, 'West Belfast: Anti-immigration signage a 'hate incident'' (*BBC News*, 29 November 2023): <https://www.bbc.co.uk/news/uk-northern-ireland-67566360>.

⁵² Protection of the Person and Property Act (Northern Ireland) 1969 (NI) 1969

⁵³ See Martin Breen, 'Combat 18 links with loyalism deep-rooted' (*Belfast Telegraph*, 7 April 2001): <https://www.belfasttelegraph.co.uk/news/comb-18-links-with-loyalism-deep-rooted/28276527.html>; Northern Ireland Policing Board, 'Thematic Review of Policing Race Hate Crime' (*Northern Ireland Policing Board*, 2017): <https://www.nipolicingboard.org.uk/files/nipolicingboard/media-files/race-hate-crime-thematic-review.PDF>.

⁵⁴ *Ibid*, p. 73.

⁵⁵ See Steven McCaffery, 'Paramilitaries in Northern Ireland forcing hundreds from their homes each year' (*The Detail TV*, 25 June 2015): <https://thedetail.tv/articles/paramilitaries-in-northern-ireland-forcing-hundreds-from-their-homes-each-year>; Donna Deeney and Adrian Rutherford, '2,000 households forced out of their homes- paramilitaries blamed for 73% of cases' (*Belfast Telegraph*, 3 January 2019): <https://www.belfasttelegraph.co.uk/news/politics/exclusive-2000-households-forced-out-of-their-homes-paramilitaries-blamed-for-73-of-cases/37676384.html>; Criminal Justice Inspection Northern Ireland, 'Base 2: working to support individuals under threat, An inspection of the role of Base 2 in threat verification' (*Criminal Justice Inspection Northern Ireland*, March 2020): <https://cjini.org/getattachment/08fe716a-3ab2-4a8d-915e-57cfc2826c67/report.aspx>.

recorded cases of housing intimidation, with 73 percent of these involving allegations of paramilitary involvement,⁵⁶ while over 1,400 people reported becoming homeless as a result of paramilitary housing intimidation during the five years leading to 2022.⁵⁷ These crimes are likely under-reported.

59. We are concerned about the lack of strategic planning on the issue and note with concern that neither housing intimidation nor racist crime were addressed in the NI Executive's Action Plan for tackling paramilitary activity.⁵⁸
60. Closely linked to the issue of housing intimidation and hate crime is the related issue of hate speech. In NI, the use of hate speech in public spaces, including in housing estates, deters people from racial minority groups from remaining in or taking up housing in particular neighbourhoods.
61. In its 2022 report, 'Dealing with hate expression in public space in Northern Ireland', the Committee on the Administration of Justice (CAJ), a Belfast-based NGO, stated that many public bodies – including the Police Service of Northern Ireland (PSNI) – fail to intervene to prevent hate speech and hate crime.⁵⁹ Rather than seeking to prevent the harm caused by hate speech, the PSNI instead take a 'public order' approach: they will refrain from removing placards or flags containing hate speech if they believe that doing so could lead to public disorder. In other words, when hate speech is backed by a sufficiently organised force such as a paramilitary group, it is *de facto* legal in NI.
62. The 2020 Independent Hate Crime Review recommended a statutory duty on relevant public authorities to take reasonable steps to remove hate expression from their own property and, when engaging in their functions, broader public space.⁶⁰
63. We regard this recommendation as a crucially important measure to help address the failure of the NI Executive and public authorities to address the issue of hate crime. To date, the NI Executive has not implemented this recommendation.

⁵⁶ See Donna Deeney and Adrian Rutherford, '2,000 households forced out of their homes- paramilitaries blamed for 73% of cases' (*Belfast Telegraph*, 3 January 2019): <https://www.belfasttelegraph.co.uk/news/politics/exclusive-2000-households-forced-out-of-their-homes-paramilitaries-blamed-for-73-of-cases/37676384.html>.

⁵⁷ See Andrew Madden, 'Almost 1,400 people forced from homes by paramilitaries' (*Belfast Telegraph*, 31 July 2022): <https://www.belfasttelegraph.co.uk/news/northern-ireland/almost-1400-people-forced-from-homes-by-paramilitaries/41880846.html>.

⁵⁸ Strategic investment board, 'Tackling Paramilitary Activity, Criminality and Organised Crime Programme' (2020): <https://sibni.org/project/tackling-paramilitary-activity-criminality-and-organised-crime-programme/> See also <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/tackling-paramilitary-term-review-proposed.pdf>.

⁵⁹ See Committee on the Administration of Justice, 'Dealing with hate expression in public space in Northern Ireland' (12 May 2022): <https://caj.org.uk/publications/reports/hate-expression-report-may-22/>.

⁶⁰ Independent Hate Crime Review, 'Final Report into Hate Crime legislation in Northern Ireland Independent Review' (1 December 2020): <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/hate-crime-review.pdf>

64. These omissions call into question the UK government's compliance with the obligation under Article 2(1)(d) of the Convention to bring racial discrimination to an end through legal and other means. They also risk violating the obligation under Article 5(b) to protect the physical security of people within the State Party's territory in a non-discriminatory way, as well as the right to housing equality found in Article 5(e)(iii).

Recommendations

Accordingly, we recommend that:

- UK authorities should cease the practice of selective passport controls on journeys in and out of NI, given the risk of racial profiling. The PSNI and UK immigration officials should also commit to a policy to avoid racial profiling in the operation of immigration checks.
- The NI Executive, NIHE and PSNI should adopt and implement a strategic policy to respond to racist intimidation by paramilitaries over access to housing.
- The NI Executive should propose a clear and unambiguous statutory duty on relevant public authorities, including Councils, the Department for Infrastructure and the NIHE, to take all reasonable steps to remove hate expression from their own property and, where it engages their functions, broader public space.