

Submission from the Committee on the Administration of Justice (CAJ) and North West Migrants Forum (NWMF) to the UN Committee on the Elimination of All Forms of Racial Discrimination on the UK's compliance with the International Convention on all forms of Racial Discrimination (ICERD)

Examination of the UK- 113th session

Compliance with the ICERD and Northern Ireland, July 2024

1. The Committee on the Administration of Justice (CAJ) is an independent human rights NGO with cross community membership in Northern Ireland and beyond. It was established in 1981 and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its international human rights obligations. CAJ is affiliated to the International Federation of Human Rights (FIDH). CAJ regularly engages with the UN and Council of Europe monitoring mechanisms, including previous monitoring rounds of ICERD.
2. The North West Migrants Forum (NWMF) is a network of individuals working together to tackle racial inequality and prejudice. Based in Derry/Londonderry, NWMF was first founded in 2012 with the fundamental goal of supporting and advising members. Our vision is for a tolerant, pluralistic, and diverse Northern Ireland where migrants, refugees, and people from traditional cultures in Northern Ireland can live, work, and celebrate together -both their differences and similarities- in a welcoming and safe environment.
3. CAJ and North West Migrant Forum welcome the opportunity to provide evidence to the Committee in advance of the August 2024 dialogue with the UK authorities, further to the Committee's 2024 List of Themes.

In summary this submission focuses on the following three areas:

- **Reform of the Human Rights Act (HRA) and Northern Ireland Post Brexit Safeguards (Articles 2 and 6)** whilst a full repeal of the HRA has been shelved the outgoing UK government has instead sought to dismantle and undermine the incorporation of the ECHR in individual bills, including the Illegal Migration Act 2023 and Rwanda Act 2024. As well as diminishing compliance with ICERD this approach breaches the 1998 Good Friday Agreement (GFA). Post-brexite safeguards giving direct legal effect to certain GFA rights have prevailed in court to compel the disapplication of Illegal Migration Act provisions to Northern Ireland.
- **Racial profiling within the (UK/Ireland) Common Travel Area (CTA) (Articles 2 and 5. General Recommendations 31 and 36)** the UK and Ireland operate the CTA, meaning there are no 'routine' passport controls on most routes between the two states, including on the land border between Northern Ireland and the Irish Republic. However, there have been long held and increasing concerns regarding racial profiling in informal and selective passport checks on both the land border, and on routes between Northern Ireland and Great Britain (for which there is no legal basis).

- **The State response to paramilitary racist violence and intimidation in Northern Ireland (Articles 2, 3, 4, 5 and 6. General Recommendations 15 and 35)** Despite the progress of the peace process and ceasefires armed groups remain active in Northern Ireland. Elements of paramilitary groups remain involved in violent racist and sectarian intimidation from housing in areas of control, which can be preceded by related racist and sectarian hate expression in public space, to deter migrants from living in the area. There is a limited state response to this, with neither racist activity (often far right linked) or housing intimidation part of official strategies to tackle the activities of residual armed groups in NI. A recommendation from a judge-led review of hate crimes for a statutory duty to remove racist/sectarian expression from public authority property, has also not been legislated for.

Reform of the Human Rights Act and Northern Ireland post-Brexit safeguards

4. The Committee's List of Themes seeks information from the UK authorities on "legislation that limits the scope of application and protection of the Human Rights Act 1998, such as the Illegal Migration Act 2023 and the Safety of Rwanda (Asylum and Immigration) Act 2024. Information about the compatibility of such legislation with the State party's international obligations under the Convention and other international human rights treaties."¹
5. Although the UK 'Bill of Rights' bill has now been shelved, the UK government has begun a pattern of legislating with the purpose and effect of dismantling the incorporation of the European Convention of Human Rights (ECHR) in domestic law, piece by piece. It is notable that key examples of this have been in legislation impacting the rights of migrants in the UK. Including the Illegal Migration Act 2023 and Rwanda Act 2024. On the face of these bills, the UK government admits that they are unable to make a statement that they comply with the ECHR.
6. For example, the Rwanda Act disapplies key sections of the HRA, including limiting access to the courts and restricting access to remedies for breaches. It also allows for the UK to disregard interim measures of the European Court of Human Rights.² The Act is not a full repeal of the HRA, but it removes key protections from its scope and undermines the application of the ECHR in the UK.
7. The effect of each of these discrete pieces of legislation is to create a pattern, which gradually undermines the application of the Human Rights Act and ECHR in the UK.
8. The incorporation of the ECHR into Northern Ireland law was a key ingredient of the human rights protections in the 1988 Belfast/Good Friday Agreement (GFA). The GFA is the Northern Ireland peace agreement, including a treaty between the UK and Ireland. The GFA placed a codified and unqualified duty on the UK Government to incorporate the ECHR into the law of Northern Ireland, requiring both direct access to the courts and remedies for ECHR breaches.
9. These relevant GFA commitments were given legislative effect through the Human Rights Act 1998 and the Northern Ireland Act 1998. There are therefore particular

¹ List of Themes 2024, Paragraph 5

² See Sections 3 and 5 [Safety of Rwanda \(Asylum and Immigration\) Act 2024](#)

concerns that the weakening of HRA and ECHR protections is in breach of the Belfast/Good Friday Agreement (GFA).³

10. Article 2 of the Windsor Framework commits the UK to ensure no diminution of protections in the 'Rights, Safeguards and Equality of Opportunity' chapter of the GFA, as a result of the UK's withdrawal from the EU. The NI Human Rights Commission (NIHRC) alongside the Equality Commission for NI (ECNI), who are mandated with monitoring the implementation of Article 2 of the Windsor Framework, have taken the view that the rights of asylum-seekers and refugees fall within the protection of the relevant chapter of the GFA. The NIHRC and ECNI have also taken the view that the relevant chapter of the GFA and the range of rights protected under Article 2 of the Windsor Framework, must be understood as embracing, as a minimum, those rights set out in the ECHR, where underpinned by EU legislation in force before 31st December 2020.⁴
11. Any diminution of the relevant GFA rights, including the incorporation of ECHR rights that follow and relate to Brexit could therefore amount to a breach of Article 2 of the Windsor Framework. This was reflected in advice from the NIHRC which advised the UK government that provisions of the Rwanda Bill may be in breach of Article 2 of the Windsor Framework.⁵
12. These concerns were also reflected in the recent landmark case taken by the NI Human Rights Commission and an unaccompanied asylum seeker child in the High Court in Northern Ireland. The ruling in this matter dated 13th May 2024, found that provisions of the Illegal Migration Act are incompatible with both the ECHR and Article 2 of the Windsor Framework.⁶

The Committee may wish to press the UK on:

- **The incremental rolling back in the domestic legal order of the incorporation of ECHR and therefore rights protected by ICERD, including the Bill's limiting 'direct access to the courts' and 'remedies for breach(es)' of ECHR rights (in conflict with the Good Friday Agreement in Northern Ireland).**

Racial profiling within the (UK/Ireland) Common Travel Area

13. The Committee's List of Themes seeks information from the UK authorities on, "measures taken or envisaged to address racial profiling, excessive use of stop-and-search powers and excessive use of force, including followed by death, by law enforcement and immigration officers and staff from migration detention centres, prisons and mental health facilities, and the impact on persons of African and Asian descent, Gypsies, Roma, Travellers, persons from other ethnic or ethno-religious minorities and migrants. Steps taken to address institutional racism in law enforcement agencies."⁷

³ See joint briefing by ILPA, Justice and Freedom from Torture endorsed by 93 organisations across the UK [ILPA, JUSTICE, FFT Joint Briefing - Safety of Rwanda \(Asylum and Immigration\) Bill](https://publications.parliament.uk/pa/jt5804/jtselect/jtrights/435/report.html), Report of the Joint Committee on Human Rights <https://publications.parliament.uk/pa/jt5804/jtselect/jtrights/435/report.html> and Written evidence from CAJ <https://committees.parliament.uk/writtenevidence/127578/pdf/>

⁴ NIHRC and ECNI Working Paper the Scope of Article 21 of the Ireland Northern Ireland Protocol

⁵ NIHRC-Advice-on-Rwanda-Bill-January-2024

⁶ [Summary of Judgement NIHRC and JR 295](#)

⁷ List of Themes 2024, paragraph 14

14. The UK and Irish governments operate a 'Common Travel Area' (CTA) whereby there are largely open borders free from passport controls between the two states, including over the Northern Ireland – Republic of Ireland land border. Visa nationals still require visas to enter the alternate jurisdiction.
15. The CTA is a long-standing administrative arrangement. It is not formalised into a treaty but the CTA was reaffirmed in a post-Brexit Memorandum of Understanding and is referenced in the Ireland/Northern Ireland Protocol/Windsor Framework to the UK-EU Withdrawal Agreement.⁸ The UK government post-Brexit has also made clear commitments there will be continue to be no passport checks on the land border.
16. At the same time, UK immigration law and policy has increasingly diverged from law and policy in the Republic of Ireland. CAJ has raised concerns that this could lead to the UK government relying on hostile environment practices, and 'in country checks' within Northern Ireland, as a means of policing movement over the land border, without conducting checks on the border itself. This concern has been borne out in data which showed that Belfast has an almost four times pro rata higher rate of immigration checks than London. When this stark statistic was queried, the UK government responded that this was to combat abuse of the common travel area and the land border.⁹
17. The application of the 'Hostile Environment' to migrant communities is a UK wide concern. However, in Northern Ireland it has unique impacts and must be contextualised within the island of Ireland, the Common Travel Area (CTA) and the open land border. Linked to this are concerns over the lawfulness of immigration checks carried out on journeys within the CTA.
18. In the UK, the CTA is provided for in Section 1(3) of the Immigration Act 1971 which precludes the exercise of statutory powers for passport control on internal travel within the CTA, including on the land border.¹⁰
19. Despite this selective passport and I.D checks have been evidenced as happening within the CTA, often on the basis of quite blatant racial profiling whereby passengers are selected for checks, or for further questioning, on the basis of skin colour or other ethnic indicators. There have also been concerns raised about UK officials abusing non-immigration statutory powers such as the Schedule 7 of Terrorism Act, in order to ensure compliance with immigration checks.¹¹
20. There is no legal basis for passport checks by UK border officials on journeys within the CTA. Most of these checks by UK officers take place on journeys between Northern Ireland and Britain, essentially domestic UK journeys.
21. Some examples of these racially discriminatory checks include a black British lawyer being singled out *four times* for passport checks on one return ferry journey¹²; and a

⁸ <https://www.gov.uk/government/publications/memorandum-of-understanding-between-the-uk-and-ireland-on-the-cta>

⁹ [Concerns over 'disproportionately high' levels of immigration checks in Belfast](#) The Detail

¹⁰ [Immigration Act 1971](#)

¹¹ See CAJ [Frontline Lessons for the Future Collaborative research on the impact of immigration law and policy in post-Brexit Northern Ireland June 2022](#) (Chapter 1)

¹² [Black lawyer accuses Northern Ireland immigration of racial profiling](#) The Guardian

black British woman who was not even a passenger being singled out by immigration officers at Belfast City Airport for ‘looking foreign’.¹³

22. In the Republic of Ireland, under Section 11 of the Immigration Act 2004, Gardaí (Irish Police) have the power to carry out checks on ‘non-nationals’ entering the state from within the CTA. Non-nationals are defined as persons who are not Irish or British citizens or persons who have established EU treaty rights.¹⁴
23. In summary, the duty to carry and produce passports does not apply to British, Irish or most EU citizens travelling over the land border but does apply to other non-EEA citizens. The exercise of these powers on the land border into Northern Ireland naturally raises the question: how can Gardaí tell who is Irish or British or an EU citizen simply by looking at them? Concerns have been raised that this law fuels racism and discrimination and that checks are carried out based on ethnic stereotypes about what an Irish, British or EU citizen ‘should’ look like. Senior Gardaí have conceded before the Policing (oversight) Authority that not engaging in profiling was a “challenge”.¹⁵
24. There is a significant degree of cooperation and alignment on immigration control between the UK and Ireland. Senior Gardaí before the Policing Authority in early 2022, whilst avoiding the question as to how passengers are selected for checks, did concede that ‘particular nationalities’ would be a focus of attention at times based on information provided by UK Border Force ‘who work very closely with us’.¹⁶
25. The Common Travel Area Forum is the body which develops policy between the UK and Ireland on reciprocal immigration checks and other areas concerning the CTA.¹⁷ CAJ requested the minutes of the Forum’s meetings through FOI in 2019 and 2024 and received documents which were redacted to the point of being unreadable. It is concerning that the collaboration between the UK and Ireland on immigration control, is shrouded in secrecy and lacking in transparency. Particularly given the links to accusations of racial profiling and discriminatory practices. The UK and Ireland have made public statements regarding this ongoing cooperation, but the substance of these agreements remain unclear and lacking in transparency.¹⁸
26. The cooperation between the UK and Ireland came under public scrutiny in May 2024 due to a political dispute over the return of asylum claimants from Ireland to the UK.¹⁹ The rhetoric surrounding this has been raised as an issue of concern by human rights organisations on the island of Ireland, who called for greater transparency on collaboration between the UK and Ireland within the Common Travel Area (CTA).²⁰

¹³ [Woman awarded £2,000 in Belfast City Airport race discrimination case](#) Newsletter

¹⁴ See [Section 11](#) and [Section 12 of the Immigration Act 2004](#) which also requires non-nationals to produce ID on demand anywhere in the Irish state.

¹⁵ [February 2022 - Policing Authority meeting with the Garda Commissioner in public](#)

¹⁶ [February 2022 - Policing Authority meeting with the Garda Commissioner in public](#)

¹⁷ The CTA Forum is referenced in the [Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland](#)

¹⁸ See [Prime Minister Meeting with the Irish Taoiseach-5-october-2023](#) which is an example of a public statement which has not been reflected in policy making.

¹⁹ [Ireland-Britain diplomatic row: Taoiseach expects UK to honour agreement to accept return of asylum seekers – The Irish Times](#)

²⁰ [Both the uk and irish governments are failing asylum seekers-Irish Times](#)

27. Concerns regarding racial profiling in selective passport checks have been well documented in the media.²¹ An official report by Ireland’s Economic and Social Research Institute (ESRI) in 2023 on migrant experience of crossing the border, commissioned by the Irish Government’s Shared Island Unit, found that “border checks and racial profiling were a consistent theme” in which “participants reported many incidents of racial profiling with particular groups of people are asked to produce their passports” on the basis of “skin colour” and other ethnic indicators.²²
28. North West Migrant’s Forum is based in a border region of Northern Ireland, and works with people impacted by racial profiling on CTA journeys. This has included Irish and British citizens who have been racially profiled and stopped and questioned on journeys between NI and Great Britain and between NI and the Republic of Ireland. NWMF has raised concerns that this has created the circumstance whereby black Irish/ British citizens are ‘expected’ to have and show passports on such journeys and white Irish citizens are not. In practice a ‘hard border’ based on skin colour. They have also raised how the risk of removal from transport and detention until identity is established creates fear, to the extent some minoritized passenger’s will avoid taking journeys where they expect to be racially profiled, regardless of the right to travel on that route. NWMF have also highlighted how these checks stigmatise minoritized passengers as a ‘suspect community’ and damage integration and a sense of belonging to UK society.²³

The Committee may wish to press the UK on:

- **The steps it has taken to curtail racial profiling within the Common Travel Area, including the potential discontinuing of current such operations.**
- **The lack of transparency surrounding collaboration on immigration control with the Republic of Ireland. This could include the failure to make the minutes and terms of reference of the UK-Ireland Common Travel Area Forum public.**

The State response to paramilitary racist violence and intimidation in Northern Ireland

29. The Committee’s List of Themes seeks information from the UK authorities on, “Steps taken, and the impact thereof, to prevent and combat paramilitary, sectarian and racist intimidation, hate crimes and hate speech in Northern Ireland, including the adoption of legislation, policy measures, monitoring mechanisms, adequate allocation of resources and effective protection of victims.”²⁴
30. Racist hate crime for some time has been a serious problem in Northern Ireland. The Independent Review of Hate Crimes Law in Northern Ireland, undertaken by Judge Marrinan, highlighted that the likelihood of a person being a victim of a reported racist incident was one in 31 (the corresponding figure for a ‘sectarian’ incident was approximately a one in 1,777).²⁵

²¹ <https://www.irishexaminer.com/opinion/commentanalysis/arid-30945668.html>; [Claim of racial profiling at border by garda continues to cause concern](#) Irish Times; [Ethnic minorities fear being racially profiled during immigration checks](#) The Detail; [Cross Border immigration racial profiling checks](#) The Journal

²² [Comparing Migrant Integration in Ireland and Northern Ireland-ESRI 2023](#)

²³ See [NWMF CAJ Common Travel Area Policy Brief](#)

²⁴ List of Themes 2024, paragraph 10

²⁵ [Independent Review of Hate Crime Legislation Northern Ireland. Executive Summary.](#)

31. This pattern of has continued into 2024 and incudes orchestrated racist intimidation in particular areas.²⁶ There has also recently been a prevalence in paramilitary-linked racist signage in public space including that which is inciting discrimination in housing by threatening public and private landlords who rent to migrants.²⁷
32. Whilst Northern Ireland is 25 years on from the 1998 (Belfast/Good Friday) peace agreement there remains an issue with active armed groups. Whilst mainstream Irish republican armed groups (the IRA) have ceased paramilitary activity, there remains a number of small and marginalised republican splinter groups active who remain a threat primarily targeting police officers and the state. Whilst there has also been many persons who have transitioned, significant networks and structures of the mainstream loyalist armed groups remain in place (loyal refers to loyalty to the British crown).
33. It is well documented that there is a particular problem in Northern Ireland of the involvement of elements of loyalist paramilitarism in racist violence and intimidation, whether sanctioned by such organisations per se or involving persons with paramilitary connections. This includes the question of the extent of any paramilitary collaboration with British far right groups operating in NI.²⁸
34. In 2017 a Thematic Review of Policing Race hate crime by the Northern Ireland Policing Board (the official oversight body for policing) stated: *“hate crime will not be addressed unless and until all agencies are able and willing to acknowledge and discuss the issues, including the reported threat from paramilitary groups targeting minority ethnic communities.”*²⁹

The State response to racist housing intimidation:

35. It is no exaggeration to suggest that housing is an area of public policy in Northern Ireland that is still extensively shaped by paramilitary control and coercion. The public policy response has not moved much beyond assistance in moving victims of intimidation. There is a lack of transparency and public scrutiny in the handling of the issue. This includes a level of obfuscation of data as to which paramilitary groups are thought to be the source of threats.³⁰
36. This includes sectarian and racist intimidation in areas where there is a level of paramilitary control. It encompasses actual violent intimidation from housing by paramilitary organisations or persons with paramilitary connections as well as the broad threat of intimidation, which is the primary factor in deterring families from moving into particular areas where they have a real and realistic concern they would be subject to intimidation. There is also the related phenomenon of slogans and

²⁶ See for example investigative reporting in *The Detail*: [Race hate victims ‘enduring months of attacks’](#); [Race hate victims ‘failed’ by justice system](#); [Race hate crimes in one area of Belfast have doubled since 2017](#)

²⁷ [Belvoir: Anti-migrant signs treated as ‘hate incident’ - BBC News](#); [Co Tyrone: Police probe hate incidents after anti-immigrant signage erected and home targeted in Moygashel | BelfastTelegraph.co.uk](#); [Police investigating after anti-asylum seeker flags erected in Portrush | BelfastTelegraph.co.uk](#); [Man afraid to leave home over anti-immigrant signs BBC News](#) The public housing authority for Northern Ireland is the Northern Ireland Housing Executive (NIHE) referenced in a number of the signs.

²⁸ [Frontline Lessons for the Future Collaborative research on the impact of immigration law and policy in post-Brexit Northern Ireland June 2022](#) section 4.1.3 Paramilitary connections to racist violence in NI.

²⁹ [Thematic Review of Policing Race Hate Crime](#) See FN37, p73.

³⁰ For further detail see [CAJ Written Evidence to the Northern Ireland Affairs Committee of the UK Parliament inquiry into ‘The effect of paramilitaries on society in Northern Ireland’, May 2022](#)

other items placed on public property as a form of sectarian and racist intimidation to deter persons from taking up housing.

37. Data has not been routinely published or desegregated in an accessible way but has been drawn out by media requests. In 2015 *The Detail* investigative journalism website obtained figures from the regional housing authority documented 1,842 cases of persons made homeless through intimidation over a three year period between 2012-2015, with over 70% of cases concerning paramilitary intimidation. There was an unclear separation in these NIHE figures of paramilitary incidents from racist, sectarian and homophobic incidents. In close to 900 of the cases of paramilitary intimidation where confirmed the threshold of risk of death or serious injury was met. Yet despite such assessments being conducted, the housing authorities would not release statistical data on the paramilitary organisations suspected of being responsible with the housing authority (NIHE) 'We cannot provide information regarding the origin of paramilitary threats as this is not recorded.'³¹It is difficult to understand how a threat can be officially verified as coming from a source with the capability of inflicting death or serious injury, but no record is kept as to which organisation the source of threat is connected to. It would be expected that these agencies would want to map paramilitary activity to be able to counter it and inform broader strategic interventions. Housing intimidation figures were also released through Freedom of Information legislation following a request from the *Belfast Telegraph* for the period of 2015-2018 – recording over 2,000 cases of intimidation from housing in the time period, with 73% attributed to paramilitaries (1,488).³² In 2022 further figures were reported as 1,400 persons being forced from their homes by paramilitaries in a five year period. These figures need to be taken in the context of the small population of Northern Ireland (1.8 million) and noting that many cases of intimidation will not be reported.³³ Whilst official figures on intimidation are falling, CAJ if anything, is seeing racist intimidation as just as bad, if not more prevalent now than in recent years. We suspect the drop in numbers is more of an indicator of victims not going through particular official schemes to move house.
38. Intimidation, including from housing, has long been a specific criminal offence in Northern Ireland.³⁴ However, the assessment of ongoing paramilitary activity commissioned by the UK Secretary of State for Northern Ireland in 2015 lists areas of crime it assesses paramilitaries are involved in. Despite the prevalence of housing intimidation, no reference is made to it, nor is there any reference to sectarian or racist crime at all.³⁵

³¹ [Paramilitaries in Northern Ireland forcing hundreds from their homes each year - Investigations & Analysis - Northern Ireland from The Detail](#)

³² [Exclusive: 2,000 households forced out of their homes- paramilitaries blamed for 73% of cases | BelfastTelegraph.co.uk](#)

³³ [Almost 1,400 people forced from homes by paramilitaries | BelfastTelegraph.co.uk](#)

³⁴ [Protection of the Person and Property Act \(Northern Ireland\) 1969 \(legislation.gov.uk\)](#)

³⁵ Paragraph 8 of the report lists a range of areas of crime which are attributed to members, including some senior members, of the UDA as "drugs dealing, robbery, extortion and the distribution of counterfeit and contraband goods." Reference is also made to paramilitary-style assaults, street disorder and violent protests. Paragraph 5 in relation to the UVF states that members, including senior members, are 'extensively involved' in organised crime including 'drug-dealing, extortion and smuggling' '[Paramilitary Groups in Northern Ireland: An assessment commissioned by the Secretary of State for Northern Ireland on the structure, role and purpose of paramilitary groups focusing on those which declared ceasefires in order to support and facilitate the political process](#)' (Northern Ireland Office: 2015).

39. CAJ has raised particular concerns about the lack of strategic response designed to deal with the links between paramilitarism, housing intimidation and hate crimes. There has been a downplaying of the link between racist crime and paramilitaries in assessments and hence in state strategic policy. Following the assessment of ongoing paramilitary activity by the Secretary of State in 2015 the Northern Ireland Executive (the regional government) adopted a specific strategic policy to tackle paramilitary activity. This is known as the (Northern Ireland) Executive Action Plan for *'Tackling Paramilitary Activity, Criminality and Organised Crime'* of July 2016.³⁶
40. It is notable that neither housing intimidation nor racist crime are mentioned at all in Northern Ireland Executive's Action Plan for tackling paramilitary activity.

State response to racist expression in public space

41. A core part of sectarian and racist intimidation from housing can be the use of hate expression in public space to deter persons from the targeted groups from remaining in or taking up housing. This can include racist and sectarian slogans in graffiti or banners ('locals only' '[x] out') or the use of flags, including paramilitary flags, for the purposes of intimidation. This can include individual incidents of intimidation (e.g. when a flag is solely placed outside the home of the only ethnic minority family in a street), or more generalised forms, where for example flags are placed at the entrance to new housing developments – including those expressly developed to be 'shared' – with the purpose or effect of deterring the 'other' from moving into the area. One example of this was a shared housing scheme in south Belfast where the placement of paramilitary flags for such a purpose was followed by Catholic families being violently intimidated out of their homes, which the PSNI attributed to the UVF (Ulster Volunteer Force) a loyalist paramilitary group.³⁷
42. CAJ recently produced a research report into the broader questions of public authority practices in relation to removing racist and other hate expression from public space, including expression used for intimidation from housing.³⁸
43. The report is critical of practices of non-intervention by some relevant public authorities. Specifically, we are critical of the Police Service of Northern Ireland (PSNI) position being grounded in a public order lens only rather than giving due weight to the harms of hate expression. In this sense the PSNI will not remove hate expression if there would then be possible disorder and may even prevent the removal of paramilitary-approved expression as it is those individuals most likely to react with violence if it is removed. Whilst not dismissing public order as a legitimate concern we do raise concerns that this approach provides an incentive to paramilitaries to create a threat to control the type of expression that is permitted in a particular area. It also does not take into account the harm of racist expression, including when it constitutes intimidation or incitement to racial hatred (neither of which are referenced in the Policy).

³⁶ ['Tackling Paramilitary Activity, Criminality and Organised Crime' NI Executive Action Plan, July 2016](#)

³⁷ ["PSNI: 'UVF behind intimidation of Catholic families' BBC News](#) see also, [PSNI Approach to removing Loyalist flags frustrating](#) Belfast Telegraph , see also: [Alliance disappointed by police response to UVF flags in Cantrell Close](#) Belfast Telegraph

³⁸ [Dealing-with-hate-expression-in-public-space-in-Northern-Ireland-May-22.pdf \(caj.org.uk\)](#)

44. We recommend an alternative approach in line with Recommendation 15 of the Independent Review of Northern Ireland Hate Crime Legislation, led by Judge Desmond Marrinan which issued its final report in late 2020 and recommended a statutory duty on relevant public authorities to take reasonable steps to remove hate expression from their own property and, when engaging their functions, broader public space. The recommendation is framed as follows:

Hate Crime Review Recommendation 15: *There should be a clear and unambiguous statutory duty on relevant public authorities including Councils, the Department for Infrastructure and the Northern Ireland Housing Executive, to take all reasonable steps to remove hate expression from their own property and, where it engages their functions, broader public space.*³⁹

45. North West Migrants Forum represents and works with people who have been the victims of Hate Crimes and housing intimidation. They have highlighted that these incidents not only inflict suffering on the victims, but also undermine the values enshrined in the human rights legislations. Respect for human dignity, freedom, equality, and human rights. They have called for an active, interventionist approach to hate crime. NWMF have particularly highlighted how the lack of a properly implemented Racial Equality Strategy in Northern Ireland, feeds into the lack of effective response to racist hate crimes and housing intimidation. In particular, they have highlighted that the lack of Ethnic Monitoring in Northern Ireland hinders evidence gathering and accurate dissemination of data, which in turn impacts government and policing responses to issues such as hate crimes.⁴⁰

The Committee may wish to press the UK on:

- **The need for an official strategic policy on tackling ongoing paramilitary activity in Northern Ireland that includes tackling paramilitary involvement in housing intimidation and racist crime.**
- **Progress on legislation to implement Recommendation 15 of the Hate Crimes Review, which provides for a statutory duty on public authorities to take reasonable steps to remove racist and other hate expression from their property and broader public space.**

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³⁹ Department of Justice (December 2020), *Hate Crime Legislation in Northern Ireland: Independent Review*, Final Report (hereafter 'Hate Crime Review') para 10.76.

⁴⁰ See [Joint Written Evidence on 'The experience of minority ethnic and migrant people in Northern Ireland'](#)