



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

**NIHRC Submission to the NI Affairs Committee  
Inquiry into the experience of minority ethnic  
and migrant people in Northern Ireland**

## Summary of Recommendations

### **The NI Human Rights Commission (Commission) recommends –**

- 2.11 the Hate Crime Review Team recommendations are implemented in NI to ensure better protections for victims of racially motivated hate crime.
- 2.12 that in light of the acute levels of anti-Traveller racism and to ensure the recording of disaggregated data, that hate crime law recognises the specific harm of hostility to Travellers, Roma and other non-settled people is recognised it as a particular characteristic of hate crime.
- 3.9 the experiences and challenges that face travellers, Roma and other non-settled people in NI are recognised.
- 3.10 that the Unauthorised Encampments (NI) Order 2005 is repealed.
- 4.7 the introduction of legislation that will strengthen, simplify and harmonise equality law within a Single Equality Act.
- 4.14 the introduction of legislation providing for intersectional multiple discrimination claims in NI.
- 4.17 the Executive Office implements the outstanding recommendations from international human rights treaty bodies to reform the Race Relations (NI) Order 1997 without further delay.
- 4.18 that effective steps are needed to ensure data collection on racial equality is consistent, extensive and disaggregated to capture to experience of ethnic minorities and migrants living in NI.
- 5.7 effective measures to ensure the accessibility and availability of quality health-care services to migrants and persons belonging to ethnic minorities. Including effective steps to identify and minimise procedural barriers to migrant women accessing healthcare. This includes introducing guidance for healthcare professionals on providing effective access.
- 5.10 the Crisis Fund is put on a permanent footing, with guaranteed funding. In the long-term, the Commission continues to recommend that the UK Government and NI Executive address the causes of destitution in the first instance, rather than rely on a discretionary fund to address destitution when it emerges.

- 5.11 the UK Government and NI Executive to introduce measures to guarantee targeted support to all those living in poverty or at risk of poverty, including asylum seekers, refugees, migrants and other vulnerable groups.
- 5.14 that the No Recourse to Public Funds condition is suspended immediately for at least the course of the pandemic.
- 5.15 In the absence of not suspending the No Recourse to Public Funds condition, that Discretionary Support payments are not treated as 'public funds' for immigration law purposes to enable such individuals and families to be eligible for such payments.

## 1.0 Introduction

1.1 The Northern Ireland Human Rights Commission (the Commission), pursuant to section 69(1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI). In accordance with this function, the following advice is submitted to the Northern Ireland Affairs Committee in response to their Inquiry into the Experience of Minority Ethnic and Migrants in Northern Ireland.

1.0 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, and the treaty obligations of the Council of Europe (CoE) and United Nations (UN). The relevant regional and international treaties in this context include:

- European Convention on Human Rights (ECHR);<sup>1</sup>
- UN International Covenant on Civil and Political Rights (UN ICCPR);<sup>2</sup>
- UN International Covenant on Economic, Social and Cultural Rights (UN ICESCR);<sup>3</sup>
- UN Convention on the Elimination of All Forms of Racial Discrimination (UN CERD);<sup>4</sup>
- UN Convention on Elimination of Discrimination against Women (UN CEDAW);<sup>5</sup>
- UN Convention against Torture (UN CAT);<sup>6</sup>
- UN Convention on the Rights of the Child (UN CRC);<sup>7</sup>
- UN Convention on the Rights of Persons with Disabilities (UN CRPD);<sup>8</sup> and
- Framework Convention for the Protection of National Minorities.<sup>9</sup>

1.1 In addition to these treaty standards, there exists a body of 'soft law' developed by the human rights bodies of the CoE and UN. These

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<sup>1</sup> Ratified by the UK in 1951. Further guidance is also taken from the body of case law from the European Court of Human Rights (ECtHR).

<sup>2</sup> Ratified by the UK in 1966.

<sup>3</sup> Ratified by the UK in 1966.

<sup>4</sup> Ratified by the UK in 1969.

<sup>5</sup> Ratified by the UK in 1986.

<sup>6</sup> Ratified by the UK in 1988.

<sup>7</sup> Ratified by the UK in 1989.

<sup>8</sup> Ratified by the UK in 2009.

<sup>9</sup> Ratified by the UK in 1998.

declarations and principles are non-binding, but provide further guidance in respect of specific areas. The relevant standards in this context include:

- UN Human Rights Committee General Comment No 18 on Non-discrimination;<sup>10</sup>
- European Commission against Racism and Intolerance Policy Recommendation No 1 on Combatting Racism and Xenophobia;<sup>11</sup>
- UN Committee on the Elimination of Racial Discrimination (UN CERD Committee), General Recommendation No 25 on gendered related dimensions of racial discrimination;<sup>12</sup>
- UN Human Rights Committee General Comment No 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant;<sup>13</sup>
- UN CERD Committee General Recommendation No 31 on the Prevention of Racial Discrimination in the Criminal Justice System;<sup>14</sup>
- UN Special Rapporteur on freedom of religion's report on freedom of religion of persons belonging to religious minorities and;<sup>15</sup>
- UN CERD Committee General Recommendation No 35 on Combating Racist Hate Speech.<sup>16</sup>

1.2 The Commission welcomes the NI Affairs Committee Inquiry into the experience of ethnic minorities and migrants in NI. The Commission's submission follows the format of the questions posed by the NI Affairs Committee dealing with each in turn, except for the question on successful initiatives and programmes to encourage cultural exchange and diversity among people in NI, as this is beyond the scope of the Commission's remit.

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<sup>10</sup> 'UN Human Rights Committee General Comment No 18: Non-discrimination', 10 November 1989.

<sup>11</sup> European Commission against Racism and Intolerance, 'Policy Recommendation No 1: Combatting Racism and Xenophobia', 4 October 1996.

<sup>12</sup> 'UN CERD Committee General Recommendation No 25: Gendered Related Dimensions of Racial Discrimination', 20 March 2000.

<sup>13</sup> CCPR/C/21/Rev.1/Add. 13, 'UN Human Rights Committee General Comment No 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant', 26 May 2004.

<sup>14</sup> 'UN CERD Committee General Recommendation 31: Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System', 2005.

<sup>15</sup> A/HRC/22/51, 'Report of the Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, on the Need to Respect and Protect Freedom of Religion or Belief of Persons Belonging to Religious Minorities', 24 December 2012.

<sup>16</sup> CERD/C/GC/35, 'UN CERD Committee General Recommendation No 35: Combating Racist Hate Speech', 26 September 2013.

## 2.0 The experiences and challenges that minority ethnic and migrant people face living in Northern Ireland

- 2.1 This submission highlights issues that the Commission, alongside international and regional human rights organisations, has continuously raised in regards to the experience of minority ethnic people and migrants in NI.
- 2.2 Racism and racial discrimination challenge societies worldwide and is unfortunately widely experienced by minority ethnic and migrant communities in NI. It causes immense suffering for its victims and it undermines communities.
- 2.3 Article 1 of UN CERD defines the term 'racial discrimination' as:
- any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
- 2.4 The European Commission Against Racism and Intolerance defined 'racism' in Policy Recommendation 7 as "the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons".<sup>17</sup>

### Hate Crime

- 2.5 The NIHRC's investigation into Racist Hate Crime in the criminal justice system recognised that "racial discrimination may give rise to action by private persons which may constitute criminal offences" and that 'hate crime' can be used to "incorporate acts of racism that may not amount to a criminal offence, such as name calling or anti-social behaviour".<sup>18</sup> Victims who have experienced 'hate' aggravated incidents that do not constitute a crime, so called 'signal incidents', are also protected by international human rights law and require safeguards alongside material, medical, psychological and social assistance and support.<sup>19</sup> Moreover, in order to

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<sup>17</sup> European Commission against Racism and Intolerance, 'Policy Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination', 7 December 2017, at para 1.

<sup>18</sup> NI Human Rights Commission, 'Racist Hate Crime: Human Rights and the Criminal Justice System in Northern Ireland' (NIHRC, 2013).

<sup>19</sup> NI Human Rights Commission, 'Racist Hate Crime: Human Rights and the Criminal Justice System in Northern Ireland' (NIHRC, 2013).

monitor the potential for escalation from hate signal incidents to hate crimes, full disaggregated data needs to be collected to inform the response of the criminal justice system and other agencies.<sup>20</sup>

- 2.6 In 2016, the UN CERD Committee recommended that the UK Government and NI Executive “investigate all reported acts of racist hate crimes... and provide effective remedies to victims” and that it “systematically collect disaggregated data ... undertake a thorough impact assessment of the measures adopted to ensure their continued effectiveness”.<sup>21</sup> In addition, the UK Government and NI Executive should “adopt concrete measures, in consultation with affected groups, to increase the reporting of racist hate crimes” as well as adopting measures to “combat racist hate speech and xenophobic political discourse, including on the Internet”.<sup>22</sup>
- 2.7 The Advisory Committee to the Framework Convention on National Minorities in 2017 highlighted that “certain sections of the media and online sources of hate speech are responsible for spreading racially hostile narratives, often targeting... Gypsies, Travellers and Roma” and that the UK Government and NI Executive were required to “ensure that debates are carried out in a responsible manner respecting all groups in society”.<sup>23</sup>
- 2.8 The Police Service of Northern Ireland reports that racism comes second only to sectarianism as the most reported form of hate crime. In particular, racist verbal and physical threats and attacks on immigrants are a cause of concern. In 2019/2020, there were 936 incidents and 626 crimes recorded where there was a racist motivation. There has been a steady decrease in reports of racially motivated incidents and crimes since 2014/2015, when there were 1,336 racially motivated incidents and 916 racially motivated crimes recorded.<sup>24</sup>
- 2.9 Public Prosecution Service figures show that over one-third, 35.3 percent of hate crime files received during 2019/20 related to racial crimes. In 2019/20 in regards to prosecutorial decisions involving hate crime motivated by race, out of a total of 149 decisions issued, four received an

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<sup>20</sup> NI Human Rights Commission, ‘Racist Hate Crime: Human Rights and the Criminal Justice System in Northern Ireland’ (NIHRC, 2013).

<sup>21</sup> CERD/C/GBR/CO/21-23, ‘UN CERD Committee Concluding Observations on the Twenty-first to Twenty-third periodic Reports of the United Kingdom of Great Britain and Northern Ireland’, 26 August 2016 at para 16(c) and (d).

<sup>22</sup> CERD/C/GBR/CO/21-23, ‘UN CERD Committee Concluding Observations on the Twenty-first to Twenty-third periodic Reports of the United Kingdom of Great Britain and Northern Ireland’, 26 August 2016 at para 16(c) and (d).

<sup>23</sup> ACFC/OP/IV(2016)005, ‘Advisory Committee to the Framework Convention on National Minorities Fourth Opinion on the United Kingdom’, 27 February 2017.

<sup>24</sup> Police Service NI, Trends in Hate Motivated Incidents and Crimes Recorded by the Police in NI 2004/2005 to 2019/2020, (PSNI, 2020), at Table 1.1.

indictable prosecution, 75 received a summary prosecution, 13 received a diversion and 57 received no prosecution.<sup>25</sup>

2.10 In early 2020, the Independent Hate Crime Review Team undertook a public consultation on reviewing hate crime legislation in NI. The Commission submitted a response to the consultation providing human rights advice on the various issues raised within the scope of the consultation. On 1 December 2020, the findings and recommendations of the Review Team were published. The Minister of Justice, Naomi Long MLA, is now considering the recommendations.

**2.11 The Commission recommends the Hate Crime Review Team recommendations are implemented in NI to ensure better protections for victims of racially motivated hate crime.**

**2.12 The NIHRC recommends that in light of the acute levels of anti-Traveller racism and to ensure the recording of disaggregated data, that hate crime law recognises the specific harm of hostility to Travellers, Roma and other non-settled people is recognised it as a particular characteristic of hate crime.**

### **Travellers, Roma and other non-settled people**

3.1 The Race Relations Order 1997 cites “belonging to the Irish Traveller community” as included in the ‘racial grounds’ provision of the anti-discrimination law in Northern Ireland.<sup>26</sup> This definition is used in the Criminal Justice No 2 (Northern Ireland) Order, which established enhanced sentencing for offences, which were aggravated by hostility towards someone on the basis of membership of a “racial group”.

3.2 The Race Equality Strategy 2015-2025 recognises that Travellers are in a particularly vulnerable position in NI and that there is a need to “develop and implement specific programmes of work to address particular challenges and vulnerabilities facing particular groups such as Irish Travellers and the Roma”.<sup>27</sup> The Strategy provided for the establishment of a thematic subgroup, however, to date this has not been established.<sup>28</sup> However, the Executive Office has taken steps to establish a Traveller

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<sup>25</sup> Public Prosecution Service for NI, ‘Statistical Bulletin: Cases Involving Hate Crime 2019/20: April 2019 to 31 March 2020’, (PPS, 2020).

<sup>26</sup> Section 5, Race Relations (Northern Ireland) Order 1997.

<sup>27</sup> Office of the First Minister and Deputy First Minister, ‘Racial Equality Strategy 2015-2025’ (OFMdFM, 2015), at para 6.20.

<sup>28</sup> Office of the First Minister and Deputy First Minister, ‘Racial Equality Strategy 2015-2025’ (OFMdFM, 2015), at 53.



Thematic Group outside of the Strategy.

- 3.3 In its report 'Out of Sight, Out of Mind' on Traveller Accommodation in NI, the NIHRC found that "Travellers experience the most negative attitudes of any ethnic group. Poor relations and intimidation has resulted in some Travellers leaving their homes."<sup>29</sup> In addition, this report highlighted that "the lack of structured race relations programmes to improve relations between the settled and Traveller communities contributes to discrimination against Travellers that has persisted for decades" and that "without proactive and systemic changes in attitude at all levels" this discrimination will continue.<sup>30</sup>
- 3.4 In 2016, the UN CERD Committee was concerned at "continued reports of racist bullying and harassment in schools" across the UK and that there was a disproportionate rate of exclusion from school of pupils belonging to Traveller communities.<sup>31</sup> The UN CERD Committee recommended that the UK Government and NI Executive "strengthen efforts to eliminate all racist bullying and harassment in... schools, including by requiring schools to collect qualitative and quantitative data on bullying and exclusions from school on the grounds of race, colour, descent, or national or ethnic origin".<sup>32</sup> It further recommended that the NI Executive "ensure that schools comply with their public sector equality duty under... section 75 of the Northern Ireland Act 1998 to challenge racist bullying and to promote respect for diversity".<sup>33</sup>
- 3.5 In 2016, the UN ICESCR Committee expressed concern at how the Unauthorised Encampments (NI) Order 2005 "makes Roma/Gypsies and Irish Travellers liable to be evicted from their homes, to have their homes destroyed and then to be imprisoned and/or fined" and has recommended that this legislation is repealed.<sup>34</sup>
- 3.6 In 2018, use of the Unauthorised Encampments (NI) Order 2005 was

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<sup>29</sup> NI Human Rights Commission, 'Out of Sight, Out of Mind – Traveller Accommodation in Northern Ireland' (NIHRC 2018), at 278.

<sup>30</sup> Ibid, at 289.

<sup>31</sup> CERD/C/GBR/CO/21-23, 'UN CERD Committee Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of United Kingdom of Great Britain and Northern Ireland', 26 August 2016, at para 34.

<sup>32</sup> CERD/C/GBR/CO/21-23, 'UN CERD Committee Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of United Kingdom of Great Britain and Northern Ireland', 26 August 2016, at para 35.

<sup>33</sup> CERD/C/GBR/CO/21-23, 'UN CERD Committee Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of United Kingdom of Great Britain and Northern Ireland', 26 August 2016, at para 35.

<sup>34</sup> E/C.12/GBR/CO/6, 'UN ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at paras 49 and 50(d).

considered by the Commission as part of its investigation into Travellers' accommodation. The Police Service NI reported that the powers are used sparingly; however, the Commission heard reports from some representatives of the Police Service NI and civil society organisations that the potential threat of the use of the 2005 Order on Traveller communities was used on a number of occasions as a lever to move families on. The Commission's investigation confirmed that the 2005 Order "has a disproportionate impact on the Traveller communities and threatens their nomadic culture".<sup>35</sup>

3.7 The Department for Communities accepts that the powers under the 2005 Order has a particular impact on Travellers in NI, but states that annual monitoring of its impact "indicates that the provisions of the 2005 Order have been applied sensitively, pragmatically and proportionately and are effective in balancing the rights of the Irish Travellers, landowners and the settled community".<sup>36</sup> For example, the NI Housing Executive operates a co-operation policy. This policy permits Travellers to set up an unauthorised encampment on public land for which there is no current or immediate use and permits them to occupy the land provided it does not create a public health or traffic hazard and the land is maintained in a reasonable and orderly manner. The NI Housing Executive emphasises that the policy is not a substitute for permanent or transit sites, but is intended to act as a way of dealing with a humane requirement.

3.8 In 2019, the Department for Communities re-confirmed it has no plans to repeal the 2005 Order, and highlighted that any proposed change to legislation would require the approval of the Minister for Communities and NI Executive and the agreement of the NI Assembly.<sup>37</sup>

**3.9 The Commission recommends the experiences and challenges that face travellers, Roma and other non-settled people in NI are recognised.**

**3.10 The Commission continues to recommend that the Unauthorised Encampments (NI) Order 2005 is repealed.**

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<sup>35</sup> NI Human Rights Commission, 'Out of Sight, Out of Mind: Travellers' Accommodation in NI' (NIHRC, 2018), at 288.

<sup>36</sup> Letter from Leo O'Reilly, Permanent Secretary of Department for Communities to the NI Human Rights Commission, 18 May 2018

<sup>37</sup> NI Human Rights Commission, 'Implementation of Travellers' Accommodation Recommendations' (NIHRC, 2019), at 9.

## 4.0 The steps the UK Government can take to help ensure effective racial equality legislation in Northern Ireland

### Single Equality Legislation

- 4.1 In NI, discrimination is prohibited by a number of laws and regulations, resulting in a complex framework. Unlike other parts of the UK, there is no single legislative instrument to consolidate, clarify and enhance existing equality protections in NI. The Commission has continuously called for single equality legislation, in line with the Equality Act 2010 in the rest of the UK. Without a single equality act, NI lags significantly behind compared to the rest of the UK in providing appropriate protections for all members of society.
- 4.2 Furthermore, NI legislation does not provide for cases of intersectional multiple discrimination. At present in NI, each ground for discrimination must form its own case, meaning it has to be considered and ruled on separately.
- 4.3 In 2016, the European Commission against Racism and Intolerance also recommended, as a priority for implementation, that the NI Executive “consolidate equality legislation into a single, comprehensive equality act, taking inspiration from the Equality Act 2010, and taking account of the recommendations of the Equality Commission NI”.<sup>38</sup>
- 4.4 In 2016, the UN CERD Committee recommended that the UK Government and NI Executive “act without further delay to adopt comprehensive legislation prohibiting racial discrimination, in accordance with the provisions of the [UN CERD]”.<sup>39</sup>
- 4.5 In 2018, the UN Special Rapporteur on contemporary forms of racism, E Tendayi Achiume visited NI. During her visit, the UN Special Rapporteur noted inconsistency in the data collected by government departments and the limitations in its scope, including a failure to account for the racial impact of immigration and counter terrorism law and policy. The UN Special Rapporteur called on the UK authorities and other key stakeholders to “ensure the adoption of comprehensive legislation prohibiting racial

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<sup>38</sup> CRI(2016)38, ‘European Commission on Racial Intolerance Report on the UK (Fifth Monitoring Cycle)’ (ECRI, 2016), at para 22.

<sup>39</sup> CERD/C/GBR/CO/21-23, ‘UN CERD Committee Concluding Observations on the Combined Twenty-first to Twenty-third Periodic Reports of the UK of Great Britain and NI’, 3 October 2016, at para 8(c).

discrimination in NI".<sup>40</sup>

4.6 The Commission remains concerned that the Executive Office has confirmed that there is no agreement for bringing forward a single Equality Bill. Instead, the Executive Office's view remains that the current equality framework protects against discrimination on a range of grounds, albeit with some exceptions.

#### **4.7 The Commission continues to recommend the introduction of legislation that will strengthen, simplify and harmonise equality law within a Single Equality Act.**

### **Review of Race Relations (NI) Order 1997**

4.8 The Executive Office Racial Equality Strategy 2015-2025 committed to reviewing the Race Relations (NI) Order 1997 to ensure that it "offers at least the same levels of protection as in GB and the Republic of Ireland".<sup>41</sup> The terms of reference of the review include reference to the UN CERD Committee's recommendation on multiple discrimination. This review recognised that "following the enactment of the Equality Act 2010 in England, Scotland and Wales, a significant gap has opened up between the protections offered in Great Britain and [NI]".<sup>42</sup>

4.9 In 2020, the Executive Office confirmed that a comparison of protections offered by the Race Relations (NI) Order with laws in the rest of the UK and Ireland, including protection against multiple discrimination, is being analysed and validated by the Departmental Solicitors Office for consideration. Despite the commitment in the Strategy to new legislation being in place by 2017/18, the review of the legislation is ongoing.

### **Intersectional Multiple Discrimination**

4.10 The Racial Equality Strategy has recognised that "the most commonly cited victims of 'multiple discrimination are minority ethnic women".<sup>43</sup> The Strategy further committed to exploring, through the legislative review of the Race Relations Order 1997, protection against multiple

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<sup>40</sup> A/HRC/41/54/Add.2, 'Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance: Visit to the United Kingdom of Great Britain and Northern Ireland', 27 May 2019, at para 74(f).

<sup>41</sup> Office of the First Minister and Deputy First Minister, 'Racial Equality Strategy 2015-2025' (OFMdfM, 2015), at para 5.11.

<sup>42</sup> Office of the First Minister and Deputy First Minister, 'Racial Equality Strategy 2015-2025' (OFMdfM, 2015).

<sup>43</sup> Office of the First Minister and Deputy First Minister, 'Racial Equality Strategy 2015-2025' (OFMdfM, 2015), at para 3.22.

discrimination.<sup>44</sup>

4.11 UN CERD Committee in General Recommendation No 25 recognised that some forms of racial discrimination have a “unique and specific impact on women” and highlighted the need for states to address that multiple discrimination.<sup>45</sup> The UN CERD Committee, in its concluding observations to the UK in 2016, recommended that the UK government and NI Executive ensure that “equality legislation in all jurisdictions of the [UK] provides effective protection to victims of dual or multiple discrimination”.<sup>46</sup>

4.12 In 2017, the UN CRPD Committee recommended that the UK Government and NI Executive:

explicitly incorporate in its national legislation protection from, in particular multiple and intersectional discrimination on the basis of gender, age, race, disability, migrant, refugee and/or other status, and provide appropriate compensation, and redress for victims, and sanctions proportional with the severity of the violation.<sup>47</sup>

4.13 In 2019, the UN CEDAW Committee recommended that the NI Executive “revise its legislation in NI to ensure that it affords protection to women on an equal footing with women in other administrations of the State party” and:

review and amend the public sector equality duty in order to address situations of intersectional forms of discrimination, such as discrimination faced by 'Black, Asian and Minority Ethnic' women, older women, women with disabilities, asylum-seeking and refugee women, and lesbian, bisexual, transgender women and intersex persons.<sup>48</sup>

**4.14 The Commission recommends the introduction of legislation providing for intersectional multiple discrimination claims in NI.**

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<sup>44</sup> Office of the First Minister and Deputy First Minister, 'Racial Equality Strategy 2015-2025' (OFMdfM, 2015), at para 3.25.

<sup>45</sup> 'UN CERD Committee General Recommendation No 25: Gendered Related Dimensions of Racial Discrimination', 20 March 2000, at para 3.

<sup>46</sup> 9 CERD/C/GBR/CO/21-23, 'UN CERD Committee Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the United Kingdom of Great Britain and Northern Ireland', 26 August 2016, at para 8(b).

<sup>47</sup> CRPD/C/GBR/CO/1, 'UN CRPD Committee Concluding Observations on the Initial Report of the UK of Great Britain and NI', 3 October 2017, at para 19.

<sup>48</sup> EDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the United Kingdom of Great Britain and Northern Ireland', 14 March 2019, at para 15(a) and (c).

## Ethnic Monitoring

- 4.15 The Racial Equality Strategy committed to ethnic monitoring as an important tool in tackling inequality and racism and proposes to “examine where ethnic monitoring should be introduced and consult on proposals for implementation”. In 2020, the Executive Office completed a study to determine the feasibility of introducing monitoring to the public sector in NI and a draft report has been produced. The report is now complete however, the Commission understands that no further action has been taken.
- 4.16 In 2019 the Commission commissioned a research report on the ‘Cumulative impact assessment of tax and social security reforms in Northern Ireland’. The report which used the FRS and LCF was not able to examine the impact of changes on black and minority ethnic communities collectively or the impact on individual ethnic communities because the sample sizes are too small. Within the report’s recommendations to improve the quality of data for impact assessments in NI, the report recommended that the Ni Executive and/or the UK Government should investigate changes to the FRS and LCF datasets for NI to enable a larger sample size for analysis of protected characteristics which could not be included in this report because the sample size was too small, for example ethnicity and specific analysis of traveller households.<sup>49</sup>
- 4.17 **The Commission recommends the Executive Office implements the outstanding recommendations from international human rights treaty bodies to reform the Race Relations (NI) Order 1997 without further delay.**
- 4.18 **The Commission recommends that effective steps are needed to ensure data collection on racial equality is consistent, extensive and disaggregated to capture to experience of ethnic minorities and migrants living in NI.**

## 5.0 The health and economic outcomes of minority ethnic and migrant people in Northern Ireland, and the steps the UK Government can take to help improve them

### Access to Healthcare for irregular migrants

- 5.1 In 2016, the UN ICESCR Committee recommended that the UK Government and NI Executive “take steps to ensure that temporary

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<sup>49</sup> NI Human Rights Commission, ‘Cumulative impact assessment of tax and social security reforms in Northern Ireland’, (NIHRC, 2019).

migrants and undocumented migrants, asylum seekers, refused asylum seekers... have access to all necessary health-care services".<sup>50</sup>

- 5.2 The UN CRC Committee also recommended that the UK Government and NI Executive ensure that migrant, refugee and asylum-seeking children are provided with "sufficient support... to access basic services [including health care]".<sup>51</sup>
- 5.3 The UN CERD Committee also reaffirmed that the UK Government and NI Executive "should take effective measures to ensure the accessibility and availability of quality health-care services to persons belonging to ethnic minorities, through its jurisdiction".<sup>52</sup>
- 5.4 In 2019, the UN CEDAW Committee highlighted the "obstacles faced by women from marginalised groups... to access healthcare services, including as a result of their inability to provide identity documentation, proof of address or immigration status".<sup>53</sup> It recommended that the UK Government and NI Executive "strengthen the implementation of programmes and policies aimed at providing effective access to healthcare by women from marginalised groups, particularly asylum-seeking and refugee women, migrant women, Gypsy and Traveller women, and victims of trafficking".<sup>54</sup>
- 5.5 The Commission has received reports that there are a number of barriers to migrants, including irregular migrants, accessing healthcare including mental health care. Delays in the Home Office issuing asylum registration cards and HC2 certificates required to register and receive full support for many health care services have been reported. There are difficulties in migrants, including irregular migrants, travelling to healthcare appointments as financial support is provided by vouchers, which cannot be used for transport. Due to delays in the decision-making process, pregnant migrant women, including irregular migrants, do not receive financial support until late in their pregnancy. Furthermore, there have

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<sup>50</sup> E/C.12/GBR/CO/6, 'UN ICESCR Committee Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and NI', 14 July 2016, at para 56.

<sup>51</sup> CRC/C/GBR/CO/5, 'UN CRC Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and NI', 12 July 2016, at paras 77-78.

<sup>52</sup> CERD/C/GBR/CO/21-23, 'UN CERD Committee, Concluding Observations on the Twenty-first to Twenty-third periodic Reports of the United Kingdom of Great Britain and NI', 26 August 2016, at para 31.

<sup>53</sup> CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the United Kingdom of Great Britain and Northern Ireland', 14 March 2019, at para 49.

<sup>54</sup> CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the United Kingdom of Great Britain and Northern Ireland', 14 March 2019, at para 50.

been reports of access to translation and interpretation services being a barrier.

5.6 The Commission is also aware that women and girls that may face additional challenges and barriers in accessing termination services in NI. These include girls under 18 years old, women and girls living in poverty, in rural areas, with disabilities, experiencing domestic abuse and from a migrant background, particularly where language is a barrier.

**5.7 The Commission recommends effective measures to ensure the accessibility and availability of quality health-care services to migrants and persons belonging to ethnic minorities. Including effective steps to identify and minimise procedural barriers to migrant women accessing healthcare. This includes introducing guidance for healthcare professionals on providing effective access.**

## **Crisis Fund**

5.8 The Crisis Fund, which is managed by the Executive Office, aims “to help minority ethnic individuals with no other means of support through emergency situations, such as vulnerable migrants, refugees and asylum seekers and other vulnerable groups”.<sup>55</sup> It is not a permanent arrangement, but has proved to be “critical in alleviating short-term hardships for destitute asylum seekers and refugees”.<sup>56</sup>

5.9 In 2019/2020, the Crisis Fund supported 1,163 people including 516 children from 59 different countries. The primary causes of destitution that can lead to someone applying to the Crisis Fund were problems with social security benefits, No Recourse to Public Funds status and issues to do with the National Asylum Support Service. The Crisis Fund continues to be managed by the Red Cross when available.

**5.10 The Commission recommends that the Crisis Fund is put on a permanent footing, with guaranteed funding. In the long-term, the Commission continues to recommend that the UK Government and NI Executive address the causes of**

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<sup>55</sup> NI Executive, 'Press Release: Junior Ministers Jennifer McCann and Jonathan Bell today outlined the benefits of the new Crisis Fund for vulnerable minority ethnic people,' 4 February 2015.

<sup>56</sup> Fiona Murphy and Ulrike Vieten, 'Asylum Seekers' and Refugee's Experiences of Life in NI: Report of the First Study on the Situation of Asylum Seekers and Refugees in NI - 2016' (QUB, 2017), at 65.



**destitution in the first instance, rather than rely on a discretionary fund to address destitution when it emerges.**

**5.11 The Commission calls on the UK Government and NI Executive to introduce measures to guarantee targeted support to all those living in poverty or at risk of poverty, including asylum seekers, refugees, migrants and other vulnerable groups.**

### **No Recourse to Public Funds**

5.12 Those whose immigration status is based on having 'no recourse to public funds' have also not been effectively provided for. The reliance on local authority provision as an alternative source of support is a problem in Northern Ireland where local councils do not have responsibility for housing, social services or education.

5.13 In Northern Ireland, the Department for Communities has made additional Discretionary Support payments in NI.<sup>57</sup> In the absence of suspending 'no recourse to public funds' this payment could be discounted as public funds for the duration of the COVID-19 crisis and utilised to support those with 'no recourse to public funds'.

**5.14 The NIHRC recommends that the No Recourse to Public Funds condition is suspended immediately for at least the course of the pandemic.**

**5.15 In the absence of not suspending the No Recourse to Public Funds condition, the NIHRC recommends that Discretionary Support payments are not treated as 'public funds' for immigration law purposes to enable such individuals and families to be eligible for such payments.**

## **5.0 Experiences of applying for the EU Settlement Scheme**

5.1 The Commission would direct the Committee to the Commission's response to the NI Affairs Committee inquiry into citizenship and passport processes in NI where the Commission discussed its concerns for those applying for the EU Settlement scheme.

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<sup>57</sup> Department for Communities, 'Press Release: Minister announces further support for those affected by COVID-19', 24 March 2020.

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