



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Submission to Voluntary National Review of
the United Kingdom of Great Britain and
Northern Ireland on progress in meeting the
Sustainable Development Goals**

June 2019

Table of Contents

1.0 Introduction.....	5
2.0 Link between Sustainable Development Goals and Human Rights.....	5
3.0 Voluntary National Review.....	6
4.0 Sustainable Development Goal 1: No Poverty	8
Human Rights Framework.....	8
Northern Ireland.....	9
Anti-poverty measures	9
Childcare strategy	10
5.0 Sustainable Development Goal 4: Quality Education	11
Human Rights Framework.....	11
Northern Ireland.....	13
Academic selection.....	13
Bullying in schools.....	13
Educational needs of Traveller children	14
Integrated education	14
Shared education.....	14
Special educational needs	15
6.0 Sustainable Development Goal 5: Gender Equality.....	16
Human Rights Framework.....	16
Northern Ireland.....	17
Domestic violence and abuse.....	17
Participation of women in public and political life.....	20
UN Security Council Resolution 1325	23

7.0 Sustainable Development Goal 8: Decent Work and Economic Growth	24
Human Rights Framework.....	24
Northern Ireland.....	25
Access to financial support for unmarried couples	25
Gender pay gap	26
Reduction in asylum financial support.....	27
Modern slavery and human trafficking	28
8.0 Sustainable Development Goal 10: Reduced Inequalities	30
Human Rights Framework.....	30
Northern Ireland.....	31
9.0 Sustainable Development Goal 12: Responsible Consumption and Production	33
Human Rights Framework.....	33
Northern Ireland.....	33
Business and human rights	33
Trade agreements.....	34
10.0 Sustainable Development Goal 13: Climate Action.....	35
Human Rights Framework.....	35
Northern Ireland	36
11.0 Sustainable Development Goal 16: Peace, Justice and Strong Institutions	38
Human Rights Framework.....	38
Northern Ireland.....	39
Legacy allegations of torture	39
Historical institutional abuse.....	40
Abuse in health and social care settings	42
Termination of pregnancy	43

Paramilitary threats.....	45
Physical punishment of children	46
Freedom of expression of journalists	47
Age of criminal responsibility	48

1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (the NIHRC) is one of three A-status National Human Rights Institutions in the United Kingdom (UK). Established in 1999, the NIHRC, pursuant to Section 69(1) the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights. The NIHRC's mandate extends to all matters relating to the protection and promotion of human rights in Northern Ireland (NI), including within the competence of the NI Assembly and the Westminster Parliament.
- 1.2 This submission illustrates the link between the Sustainable Development Goals and human rights, highlights the NIHRC's difficulties with the Voluntary National Review process and sets out recommendations for ensuring fulfilment of the eight identified goals within NI.

2.0 Link between Sustainable Development Goals and Human Rights

- 2.1 The 2030 Agenda for Sustainable Development was adopted by all United Nations (UN) Member States in 2015. The 2030 Agenda confirms a strong link between Sustainable Development Goals and human rights. The 2030 Agenda sets out 17 Sustainable Development Goals and 169 targets, which:

seek to build on the Millennium Development Goals and complete what they did not achieve. They seek to realise the human rights of all and to achieve gender equality and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental.¹

¹ A/Res/70/1, 'Resolution Adopted by the General Assembly on 25 September 2015 – Transforming Our World: The 2030 Agenda for Sustainable Development', 21 October 2015, at Preamble.

2.2 The Office of the High Commissioner for Human Rights explains that:

the 2030 Agenda for Sustainable Development marks a paradigm shift towards a more balanced model for sustainable development aiming to secure freedom from fear and freedom from want for all, without discrimination. Strongly grounded in international human rights standards, the new Agenda strives to leave no one behind and puts the imperative of equality and non-discrimination at its heart. Despite some gaps from a human rights perspective, the new Agenda goes far beyond the Millennium Development Goals in encompassing issues related not only economic, social and cultural rights, but also civil and political rights and the right to development. With its universal applicability and its importance in shaping development priorities, the 2030 Agenda will open up new avenues to integrate human rights into global and national policies in both developed and developing countries over the next 15 years.²

2.3 The 2030 Agenda for Sustainable Development provides that:

the new Agenda is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the 2005 World Summit Outcome Document. It is informed by other instruments such as the Declaration on the Right to Development.³

3.0 Voluntary National Review

3.1 UN Member States, which includes the UK, are encouraged “to conduct regular and inclusive reviews of progress at the national

² Office of the High Commissioner for Human Rights, ‘Transforming Our World: Human Rights in the 2030 Agenda for Sustainable Development’ (OHCHR, 2015), at Summary.

³ A/Res/70/1, ‘Resolution Adopted by the General Assembly on 25 September 2015 – Transforming Our World: The 2030 Agenda for Sustainable Development’, 21 October 2015, at para 10.

and subnational levels which are country-led and country-driven”.⁴ These reviews are called Voluntary National Reviews. They are State-led and presented to the High-Level Political Forum on Sustainable Development Goals, under the auspices of the UN Economic and Social Council.⁵

3.2 The UK committed to submitting its first Voluntary National Review in 2019. It is due to present its report to the High-Level Political Forum in July 2019.⁶

3.3 The 2030 Agenda states that:

such reviews should draw on contributions from indigenous peoples, civil society, the private sector and other stakeholders, in line with national circumstances, policies and priorities. National parliaments as well as other institutions can also support these processes.⁷

3.4 The Mérida Declaration highlights that national human rights institutions “in all regions are already addressing issues of crucial importance to the [2030] Agenda in their regular work”. Furthermore, national human rights institutions “are uniquely placed to play a bridging role between stakeholders and promote transparent, participatory and inclusive national processes of implementation and monitoring”.⁸

3.5 However, the NIHRC found the UK’s engagement process to be inaccessible and lacked transparency. The engagement roundtables that were offered were not widely advertised and limited to locations in England. There was no opportunity offered to make written submissions to the UK, to inform its report. This made it impossible for stakeholders in NI to engage.

⁴ Ibid, at para 79.

⁵ Ibid, at para 47; Sustainable Development Knowledge Platform, ‘Q and A for Voluntary National Reviews at the 2019 HLPF’ (SDKP, 2019).

⁶ Sustainable Development Knowledge Platform, ‘Q and A for Voluntary National Reviews at the 2019 HLPF’ (SDKP, 2019).

⁷ A/Res/70/1, ‘Resolution Adopted by the General Assembly on 25 September 2015 – Transforming Our World: The 2030 Agenda for Sustainable Development’, 21 October 2015, at para 79.

⁸ Global Alliance of National Human Rights Institutions, ‘The Mérida Declaration – The Role of National Human Rights Institutions in Implementing the 2030 Agenda for Sustainable Development’, 10 October 2015, at para 15.

- 3.6 The NIHRC also notes that the High-Level Political Platform does not offer the opportunity to make shadow submissions to inform analysis of the State's report.
- 3.7 The NIHRC recommends that the UK ensures the Voluntary National Review process is based on the principle of effective participation. This includes offering genuine opportunities for stakeholders to be involved at every stage in the process – design, implementation, monitoring and evaluation. The participation process should also be transparent, accessible and practically available to all stakeholders across the UK, including NI.**
- 3.8 The NIHRC recommends that a special space is created for national human rights institutions and civil society organisations to make shadow submissions and presentations to the High-Level Political Platform.**

4.0 Sustainable Development Goal 1: No Poverty

Human Rights Framework

- 4.1 Freedom from poverty engages a number of human rights, particularly those set out within the UN International Covenant on Economic, Social and Cultural Rights (ICESCR). For example, right to social security (Article 9) and right to an adequate standard of living (Article 11). These rights require effective steps are taken to ensure exercising these rights is available, adequate, affordable and accessible.⁹
- 4.2 These rights require State Parties to take steps “to the maximum of its available resources, with a view to achieving progressively the full realisation” of these rights. This “imposes an obligation to move as expeditiously and effectively as possible towards that goal”.¹⁰ Thus “any deliberately retrogressive measures in that regard would

⁹ E/1992/23, 'UN ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8; E/C.12/1999/5, 'UN ICESCR Committee General Comment No 12: The Right to Adequate Food', 12 May 1999, at paras 6-13; E/C.12/2002/11, 'UN ICESCR Committee General Comment No 15: The Right to Water', 20 January 2003, at para 12; E/C.12/GC/19, 'UN ICESCR Committee General Comment No 19: The Right to Social Security', 4 February 2008, at paras 11-27.

¹⁰ E/1991/23, 'UN Committee on Economic, Social and Cultural Rights General Comment No 3: The Nature of States Parties' Obligations', 14 December 1990, at para 9.

require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the ICESCR and in the context of the full use of the maximum available resources".¹¹

Northern Ireland

Anti-poverty measures

- 4.3 During 2017/18, 16 per cent (approximately 292,000 individuals) were in poverty, compared to 18 per cent in 2016/17.¹² The average (median) income before housing costs in NI increased by three per cent from £464 in 2016/17 to £480 in 2017/18. The proportion of individuals in relative poverty (before housing costs) was 16 per cent. This compares to 18 per cent in 2016/17. The proportion of working age adults in relative poverty (before housing costs) was 15 per cent, compared to 16 per cent in 2016/17. The proportion of working age adults in absolute poverty (before housing costs) was 13 per cent, compared to 14 per cent in 2016/17. The proportion of pensioners living in relative poverty (before housing costs) was 15 per cent, compared to 19 per cent in 2016/17.¹³
- 4.4 The NIHRC welcomes the reduction in poverty in 2017/18. However, the NIHRC continues to highlight the disproportionate, adverse impact that social security measures introduced between 2010 and the present time are having on the enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups. Over a four-year period from April 2016 until March 2020, £585 million was allocated by the NI Executive to 'top-up' UK social security arrangements in NI.¹⁴ By 31 March 2018, with a budget of £214 million for April 2016 to March 2018, only £78 million was spent, with an under-spend of £136 million.¹⁵ The existence of the mitigation package underspend is not indicative of an absence of need as accepted by the Department for Communities (NI).

¹¹ Ibid, at para 9.

¹² NI Statistics and Research Agency, 'Poverty Bulletin: NI 2017/18' (DfC, 2019); NI Statistics and Research Agency, 'Households Below Average Income: NI 2016/17' (DfC, 2018).

¹³ Ibid.

¹⁴ Department for Communities, 'Review of Welfare Mitigation Schemes' (DfC, 2019), at para 2.1.

¹⁵ NI Audit Office, 'Welfare Reforms in NI' (NIAO, 2019), at para 6.4.

- 4.5 There is no anti-poverty strategy in NI, despite the NI High Court ruling of 2015 that held that the NI Executive acted unlawfully by failing to adopt one. Consequently, there is “no roadmap” in place to tackle poverty, social exclusion and patterns of deprivation, which it is under a duty to have within NI Act 1998, section 28E.¹⁶
- 4.6 The NIHRC recommends that measures are developed and effectively implemented to guarantee targeted support to all those living in poverty or most at risk of poverty, including persons with disabilities, persons belonging to ethnic minorities, single parent families and families with children in NI.**
- 4.7 The NIHRC recommends social security benefits, as a minimum, guarantee an adequate standard of living for all recipients, including access to health care, adequate housing and food. This includes establishing and ensuring that all maximum available resources are effectively utilised and ensuring adherence to the principle of non-retrogression.**
- 4.8 The NIHRC recommends the UK Government conducts its own comprehensive cumulative impact assessment of tax and social security reforms across the UK.**
- 4.9 The NIHRC recommends a new mitigation package is introduced that reflects the best use of maximum available resources and the principle of non-retrogression. The package should be effectively monitored.**
- 4.10 The NIHRC recommends that an anti-poverty strategy is promptly adopted and implemented in NI.**

Childcare strategy

- 4.11 There is no childcare strategy in NI and no statutory duty akin to that on local and public authorities in England, Scotland and Wales to provide adequate childcare provision.¹⁷ In 2018, the average cost

¹⁶ *Committee on the Administration of Justice and Brian Gormally's Application* [2015] NIQB 59, at paras 46 and 52.

¹⁷ NI Human Rights Commission, 'The 2018 Annual Statement: Human Rights in NI' (NIHRC, 2018), at 124.

of a full-time childcare place in NI was £166 per week.¹⁸ Migrant parents and families from lower socio-economic backgrounds are disproportionately affected by the lack of childcare support in NI. Such parents are more likely to work long hours or late shifts and less likely to have family support to assist with childcare.¹⁹

4.12 The NIHRC recommends that a Childcare Strategy for NI is published as soon as possible and to clarify the availability of necessary resources. This Strategy should ensure a model that operates outside traditional working hours to meet the needs of those working shift patterns, as is the case for many parents in NI.

4.13 The NIHRC recommends that clear accountability mechanisms for the eradication of child poverty are introduced, including the re-establishment of concrete targets with set time frames and measurable indicators.

4.14 The NIHRC recommends that the eradication of child poverty in NI against (former) targets set by the UK Government to eliminate Child Poverty by 2020 are analysed and published.

5.0 Sustainable Development Goal 4: Quality Education

Human Rights Framework

5.1 The ICESCR, Article 13 protects the right to education. In human rights terms, achieving quality education requires education to be available, accessible, acceptable and adaptable.²⁰ This right is to be progressively realised, guided by the principles of non-retrogression and full use of the maximum available resources.²¹

¹⁸ Employers for Childcare, 'NI Childcare Cost Survey 2018' (EfC, 2018), at 2.

¹⁹ Sirin Sung, 'BME (Black and Minority Ethnic) Women Balancing Work and Family in NI', Queen's University Belfast, 11 April 2019; Donna Kernaghan, 'Believe in Childcare? An Investigation into the Childcare Needs of Ethnic Minority Communities in NI' (Barnardo's and NICEM, 2014).

²⁰ E/C.12/1999/10, 'UN ICESCR Committee General Comment No 13: The Right to Education', 8 December 1999, at para 6.

²¹ Ibid, at paras 43-45.

5.2 Specific rights protections concerning quality education exist for women,²² children,²³ racial and ethnic minorities²⁴ and persons with disabilities.²⁵

5.3 In a regional context, European Convention on Human Rights (ECHR) within Article 2, Protocol No 1 provides “no person shall be denied the right to education”. This right “may be subject to limitations”.²⁶ The European Court of Human Rights (ECtHR) offers some guidance stating that:

the regulation of educational institutions may vary in time and in place, *inter alia*, according to the needs and resources of the community and the distinctive features of different levels of education. Consequently, the Contracting States enjoy a margin of appreciation in this sphere, although the final decision as to the observance of the Convention’s requirements rests with the Court. In order to ensure that the restrictions that are imposed do not curtail the right in question to such an extent as to impair its very essence and deprive it of its effectiveness, the Court must satisfy itself that they are foreseeable for those concerned and pursue a legitimate aim.

5.4 Unlike qualified rights set out in the ECHR, Articles 8 to 11, the right to education:

is not bound by an exhaustive list of ‘legitimate aims under Article 2 of Protocol No 1. Furthermore, a limitation will only be compatible with Article 2 of Protocol No 1 if there is a reasonable relationship of proportionality between the means employed and the aim sought to be achieved.²⁷

²² Article 10, UN Convention on the Elimination of All Forms of Discrimination against Women 1979.

²³ Articles 28 and 29, UN Convention on the Rights of the Child 1989.

²⁴ Articles 5 and 7, UN Convention on the Elimination of All Forms of Racial Discrimination 1965.

²⁵ Article 24, UN Convention on the Rights of Persons with Disabilities 2006.

²⁶ *Leyla Sahin v Turkey* (2005) ECHR 819, at para 154.

²⁷ *Ibid.*

Northern Ireland

Academic selection

5.5 A two-tiered system of education continues in NI, which is based on unregulated post-primary academic selection and a prevalence of privately funded tutoring. This places children from poor socio-economic backgrounds at a particular disadvantage.

5.6 The NIHRC recommends that the Department of Education NI introduce a non-selective system of post-primary school admission in order to abolish the two-tier system of education in NI.

Bullying in schools

5.7 The Addressing Bullying in Schools (NI) Act 2016 introduced a statutory definition of bullying and introduced duties around preventing bullying and recording bullying incidents for all grant-aided schools.²⁸ The provisions of the Act have not yet been commenced. The Department of Education has produced draft statutory guidance, along with an associated training programme and a new incident reporting mechanism, which will be accessible to all grant maintained schools.

5.8 The NIHRC recommends that the Department of Education ensures that there are sufficient resources to effectively implement the draft statutory guidance, training programme and incident reporting mechanism.

5.9 The NIHRC recommends that the Department of Education NI monitors levels of bullying in schools across all vulnerable groups and review protected categories within the 2016 Act accordingly.

²⁸ Addressing Bullying in Schools Act (NI) 2016.

Educational needs of Traveller children

5.10 The Traveller Child in Education Action Framework was launched in 2013.²⁹ It was announced that an independent Monitoring and Evaluation Group would be setup to monitor the Action Framework,³⁰ this group has not been established.

5.11 The NIHRC recommends that the Department of Education NI expedites the establishment of the Monitoring Group and regularly publishes data on the educational outcomes of Traveller children.

Integrated education

5.12 In 2016, an independent review of the planning, growth and development of integrated education was conducted.³¹ One of the recommendations of this review included introducing legislation to promote integrated education in NI.³² This has not been able to progress due to the suspension of the NI Assembly and NI Executive.

5.13 The NIHRC recommends that the Department of Education NI set out its plans to implement the Independent Review Panel's recommendations on integrated education.

Shared education

5.14 The Shared Education Act (NI) 2016 places an obligation on the Department of Education to promote: 'shared education'.³³ The Fresh Start Agreement includes provision of up to £500 million over ten years (2016-2026) of new capital funding to support shared and integrated education.

5.15 In October 2018, the Education and Training Inspectorate published a report into shared education recording that almost 60,000 pupils

²⁹ NI Executive, 'Press Release: Traveller children and young people should be encouraged to value education and supported to reach their full potential', Wednesday 13 November 2013.

³⁰ Ibid.

³¹ Department of Education, 'Review of Integrated Education: Integrating Education in NI: Celebrating Inclusiveness and Fostering Innovation in our Schools' (DoE, 2016).

³² Ibid, at Recommendation 2.

³³ Section 2, Shared Education Act (NI) 2016.

and about 580 schools participate in shared education projects across NI.³⁴

5.16 The Strule shared education campus, which is being built on the former Lisanelly army base in Omagh in County Tyrone, has been subject to significant delays. In 2013, work began on developing six schools on the site, with a view to all six opening in 2020. In 2018, only one of the six schools was open. In June 2018, it was announced that the completion of the campus would be delayed until at least 2022.³⁵

5.17 The NIHRC recommends that the Department of Education NI carefully monitors the provision and promotion of shared education in order to ensure that it facilitates social integration.

Special educational needs

5.18 The Special Educational Needs and Disability (NI) Act 2016 received royal assent in March 2016. In 2017, the Department of Education consulted on Regulations required to implement the new legislation. In June 2017, the NI Audit Office published a report that concluded:

neither the Department [of Education] nor the Education Authority can currently demonstrate value for money in terms of economy, efficiency or effectiveness in the provision of support to children with special educational needs in mainstream schools.³⁶

5.19 The NIHRC recommends that the Department of Education NI ensures regulations to implement the provision for the piloting of appeal rights for children under 16 should be introduced as soon as possible.

³⁴ '60,000 pupils in shared education in NI', *BBC News*, 12 October 2018.

³⁵ Robbie Meredith, 'Strule campus: School project delayed until at least 2022', *BBC News*, 18 June 2018.

³⁶ NI Audit Office, 'Special Educational Needs' (NIAO, 2017), at 3.

6.0 Sustainable Development Goal 5: Gender Equality

Human Rights Framework

- 6.1 In a human rights context, gender equality is embedded within the principles of non-discrimination and equality. The ICESCR and International Covenant on Civil and Political Rights (ICCPR), common Article 2 states rights “will be exercised without discrimination of any kind as to... sex”.
- 6.2 The UN Convention on the Elimination of All Forms of Discrimination against Women (UN CEDAW) has developed this further. It defines discrimination against women as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.³⁷

- 6.3 Clarifying what is required by the principle of equality, UN CEDAW, Article 3, provides:

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

- 6.4 The UN Committee on the Elimination of Discrimination against Women (UN CEDAW Committee) confirmed that:

³⁷ Article 1, UN Convention on the Elimination of All Forms of Discrimination against Women 1979.

the obligation to respect requires that States parties refrain from making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights. The obligation to protect requires that States parties protect women from discrimination by private actors and take steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, and of stereotyped roles for men and women. The obligation to fulfil requires that States parties take a wide variety of steps to ensure that women and men enjoy equal rights de jure and de facto, including, where appropriate, the adoption of temporary special measures.³⁸

- 6.5 In a regional context, ECHR, Article 14, provides “the enjoyment of the rights and freedoms set forth in... [the ECHR] shall be secured without discrimination on any ground such as sex”.

Northern Ireland

Domestic violence and abuse

- 6.6 Violence against women is on the rise in NI. As an indicator, between 2004 and 2018, the number of reported domestic violence incidents rose by 42.7 percent.³⁹ There are at least 80 incidents of domestic violence reported a day and the devolved Department of Justice has confirmed that such abuse is significantly under-reported. There are five people every year killed by a partner, an ex-partner or a close family member.⁴⁰

³⁸ CEDAW/C/GC/28, ‘UN CEDAW Committee General Comment No 28: Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women’, 16 December 2010, at para 9.

³⁹ Police Service of NI, ‘Domestic Abuse Incidents and Crimes Recorded by the Police in NI: Quarterly Update to 31 March 2018 (Providing Final Figures for 1st April 2016 to 31st March 2017)’ (PSNI, 2018), at Figure 1.

⁴⁰ Department of Justice, ‘Over 80 domestic violence and abuse incidents every day in NI – working together we can help stop it’, *Department of Justice Press Release*, 4 July 2018; Police Service of NI, ‘Domestic Abuse Incidents and Crimes Recorded by the Police in NI: Quarterly Update to 31 March 2018 (Providing Final Figures for 1st April 2016 to 31st March 2017)’ (PSNI, 2018).

- 6.7 A gender-neutral 'Stopping Domestic and Sexual Violence and Abuse in NI Strategy' was published in March 2016.⁴¹
- 6.8 A Domestic Abuse (NI) Bill is being developed. It aims to introduce a coercive behaviour offence, which captures patterns of psychological abuse, violence, and/or coercion of a partner, ex-partner or close family member. It also includes a statutory aggravation of domestic abuse, which may attract enhanced sentencing for other offences. It cannot progress without a functioning devolved government. In the interim, the Attorney General for NI issued guidance in April 2018 that provides a definition of coercive behaviour with the aim of criminal justice organisations in NI exercising "their respective functions diligently in order to prevent, investigate and prosecute acts of stalking and domestic abuse".⁴²
- 6.9 Plans to introduce Domestic Violence Protection Notices and Orders,⁴³ require legislative change, which is impossible without a functioning devolved government.
- 6.10 Thirteen refuges throughout NI are funded by £4.6 million per year. This is funded by Department for Communities through its 'Supporting People Programme'. In 2017-2018, 717 women and 485 children in NI accessed refuges run by Women's Aid NI.⁴⁴ However, in that same period, 258 women could not access a refuge because there was no space.⁴⁵ The Department of Health and Police Service NI also jointly fund the Rowan Sexual Assault Referral Centre, which provides professional 24-hour support and services to children, young people, women and men who have been sexually abused, assaulted or raped, whether in the past or more

⁴¹ Department of Health and Department of Justice, 'Stopping Domestic and Sexual Violence and Abuse Strategy: Draft Year 3 Action Plan' (DoH and DoJ, 2018); Department of Justice, 'Domestic Violence and Abuse Disclosure Scheme NI Guidance' (DoJ, 2018); 'NI pilot scheme launched to change behaviour of domestic violence offenders and help victims', *Belfast Telegraph*, 22 March 2018; Correspondence from the Department of Justice to the NI Human Rights Commission, 27 November 2018.

⁴² Attorney General for NI, 'No 13 Human Rights Guidance for the Police Service of NI, the Public Prosecution Service, the Probation Board for NI and the NI Courts and Tribunals Service: Domestic Abuse and Stalking' (AGNI, 2018).

⁴³ COR-1076-2017, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 22 September 2017; COR-0021-2018, 'Permanent Secretary of Department of Justice: Letter from Department of Justice to NIHRC', 15 March 2018.

⁴⁴ Women's Aid Federation NI, 'Annual Report 2017-2018' (Women's Aid NI, 2019), at 1.

⁴⁵ *Ibid.*

recently. This is the only such Centre in NI. It is not a drop-in centre and an appointment is required to access its services.⁴⁶

6.11 Women with no recourse to public funds cannot access refuge support.⁴⁷ The Destitute Domestic Violence concession aims to mitigate this.⁴⁸ There are delays in accessing this⁴⁹ and strict eligibility criteria, which excludes EEA women.

6.12 There is a lack of training for front of house staff (receptionists, call handlers, security) on how to support domestic violence victims.⁵⁰

6.13 The NIHRC recommends that the Stopping Domestic and Sexual Violence and Abuse in NI Strategy is effectively implemented, adopting a gender-sensitive approach.

6.14 The NIHRC recommends disaggregation of domestic violence data is improved. This includes systematically collecting, publishing and effectively monitoring data on domestic and sexual violence and abuse in NI. The Commission recommends this data is disaggregated by sex, gender, ethnicity, disability and age to inform policy-making and assess the impact of measures taken.

6.15 The NIHRC recommends that effective steps are taken to ensure all staff and officials that victims of domestic violence come into contact with are effectively trained and qualified to work with victims of abuse and implement the initiatives.

6.16 The NIHRC recommends effective steps are taken to ensure specialised, gender-sensitive, accessible support for victims of domestic violence is sufficiently and promptly available and adequately funded, particularly refuge places. This

⁴⁶ The Rowan, 'Welcome'. Available at: <http://therowan.net/>

⁴⁷ Ibid.

⁴⁸ The concession, introduced in 2012, aims to help non-nationals who are victims of domestic violence and a spousal visa to leave their partner safely and secure their immigration status in the UK. The concession offers those who meet the eligibility criteria temporary leave for three months, enabling them to apply for access to public funds. During this three-month period, the person should make a separate application for indefinite leave to remain under the Domestic Violence rule. See No Recourse to Public Funds Network, 'The Destitution Domestic Violence (DDV) Concession' (NRPF Network, 2013).

⁴⁹ Nisan Zerai Kesete, 'Destitution Domestic Violence Concession – Monitoring Research Report' (Unbound Philanthropy, 2013), at 37.

⁵⁰ Meeting with civil society representatives, 30 November 2018; Roundtable discussion with civil society representatives, November 2018.

includes ensuring that the policy of commissioning services effectively supports the provision of specialized services for women who are victims of gender-based violence. It also includes ensuring that laws and policies effectively protect women with disabilities from all forms of gender-based violence, and in particular violence perpetrated by their caregivers.

6.17 The NIHRC recommends effective steps are taken to ensure that asylum-seeking women, migrants and women with insecure immigration status are able to seek effective protection and support services without fear of having their immigration status reported to authorities. This includes ensuring domestic violence concessions for non-EU women are accessed promptly.

Participation of women in public and political life

6.18 In NI, women make up 51 percent of the population.⁵¹ The NI Executive has set a target of 50/50 gender representation within public appointments by 2020/2021.⁵² Early indications are that the government will meet its target for entry and mid-level public appointments, with these sitting around 40 percent women at present.⁵³ However, concerns remain for higher level appointments. Of the nine appointed High Court Judges only 22 percent are women, the four Court of Appeal Judges are all men and only 28 percent of chair appointments are women.⁵⁴

6.19 Of the five main political party leaders in NI, three are women. There has been improvement in the number of women elected, with 30 percent of Members of the NI Assembly,⁵⁵ 22 percent of NI

⁵¹ NI Statistics and Research Agency, 'Statistics Bulletin – Census 2011: Key Statistics for NI' (NISRA, 2012), at 11.

⁵² The Executive Office, 'Public Bodies Annual Report for NI, 2015/16' (Executive Office, 2017), at 39.

⁵³ The Executive Office, 'Public Appointments Annual Report for NI 2015/16, NI Statistics and Research Agency' (TEO, 2017); NI Statistics and Research Agency, 'Public Appointments Annual Report for NI 2016/17' (TEO, 2018).

⁵⁴ The Executive Office, 'Public Appointments Annual Report for NI 2015/16, NI Statistics and Research Agency' (TEO, 2017); NI Statistics and Research Agency, 'Public Appointments Annual Report for NI 2016/17' (TEO, 2018) 'Email from NI Judicial Appointments Commission to NIHRC', 28 September 2017.

⁵⁵ MLAs are Members of the NI Assembly. See 'Poll returns most female MLAs in assembly's history', *Irish News*, 6 March 2017.

Members of Parliament,⁵⁶ 41 percent of the last NI Executive⁵⁷ and 26 percent of local Councillors.⁵⁸ However, this does not sufficiently reflect society.⁵⁹

6.20 Sex Discrimination (NI) Order 1976, Section 43A has not been utilised.⁶⁰ There are particular concerns that minority women are under-represented and that there is limited disaggregated data available on this issue.⁶¹ This includes young, disabled, migrant and LGBTI women. Limited data is available. In 2015, 33 per cent of public appointees were women. Furthermore, 2 per cent of male and female public appointees in NI had a disability and 1 per cent were under the age of 30 or came from ethnic minorities. The Commissioner for Public Appointments NI acknowledges “improving diversity means attracting people with a greater range of experience and background, more women, younger people, people with disabilities and people with the LGBT communities”.⁶² A lack of accessible information to empower minority women is a barrier;⁶³ not only to stand for election, but to vote and engage with elected representatives. The information available is not adequately available in different formats and languages, which means that it can be inaccessible. This particularly affects disabled and migrant women.⁶⁴

6.21 Funding for women’s community groups have been regularly and significantly cut. Such groups are vital for empowerment. Women that attend such groups have expressed distress at the funding cuts that are placing the continuation of such groups and their activities under threat. One woman spoke of how she believed her local women’s group had “saved my life”. Other women spoke of how

⁵⁶ MPs are Members of the UK Parliament. See <http://www.itv.com/news/utv/2017-06-09/election-2017-ni-results-in-full/>

⁵⁷ The NI Executive fell in January 2016.

⁵⁸ North South Inter-parliamentary Association, ‘Briefing Paper for the Seventh Meeting of the North-south Inter-Parliamentary Association: Women in Public Life, North South Inter-parliamentary Association’, 27 November 2015; Yvonne Galligan, ‘The NI local elections May 2019 – a gender analysis’, *Sluggie O’Toole*, 21 May 2019.

⁵⁹ NI Statistics and Research Agency, ‘Statistics Bulletin – Census 2011: Key Statistics for NI’ (NISRA, 2012), at 11.

⁶⁰ This provision allows political parties to take positive steps to reduce inequality between men and women elected to UK Parliament, the NI Assembly, District Councils and the European Parliament.

⁶¹ Kevin Magee, ‘Public appointments watchdog Judena Leslie wants targets to improve women’s representation’, *BBC News*, 15 October 2015; CPANI, ‘Guardian of the Public Appointment Process: Annual Report 2016/17’ (CPANI, 2016), at 5.

⁶² *Ibid.*

⁶³ Roundtable discussions with NI women’s policy groups and NI women’s community groups, October 2017, November 2017, February 2018 and March 2018.

⁶⁴ *Ibid.*

such groups had assisted with depression, provided a sense of belonging and support, and improved confidence.⁶⁵

6.22 Gender-specific protections provided by EU law may be removed from domestic law post-Brexit. This includes the rights to equal pay, non-discrimination in the work place, parental leave, freedom from gendered violence, and cross-border childcare⁶⁶ The NIHRC welcomes the UK government's commitment to non-diminution of rights under the relevant section of the Belfast (Good Friday) Agreement. This will provide some protection, should the draft Withdrawal Agreement be passed by the UK parliament.

6.23 The NIHRC recommends effective steps are taken to ensure women's participation in public and political life is proportionate to NI's population. The Commission recommends taking specific targeted measures, including temporary special measures, to improve the representation of women, including in particular Black, Asian and Minority Ethnic women and women with disabilities, in Parliament, NI Assembly and NI Executive and the judiciary.

6.24 The NIHRC recommends political parties to utilise Sex Discrimination (NI) Order 1976, Section 43A to improve the proportion of women being elected to parliamentary institutions is improved.

6.25 The NIHRC recommends that effective steps are taken to ensure existing and future gender equality strategies identify and effectively address the barriers hindering women's participation, particularly minority women.

6.26 The NIHRC recommends that effective steps are taken to ensure sufficient funding for women's community groups.

⁶⁵ 'Féile an Phobail and Equality Commission NI: What Every Women Wants – Equality!', An Chultúrlann, 8 August 2018.

⁶⁶ Colin Murray, Aoife O'Donoghue and Ben Warwick, 'Discussion Paper on Brexit' (IHREC and NIHRC, 2018); Human Rights Consortium, 'Rights at Risk: Brexit, Human Rights and NI' (Human Rights Consortium, 2018); Caroline Walsh, 'Consortium for the Regional Support for Women in Disadvantaged and Rural Areas: Brexit – Women's Perspectives' (Women's Support Network, 2017).

6.27 The NIHRC recommends that obligations contained within the UN CEDAW are incorporated into domestic laws and policies, and that effective steps are taken to ensure these are effectively implemented, particularly post-Brexit.

UN Security Council Resolution 1325

6.28 Paramilitary activity is still prevalent throughout NI and the suspension of the devolved institution has presented opportunities for paramilitaries to solidify their prominence in disadvantaged communities. This is evidenced by the rise in paramilitary violence, particularly towards their own communities. In 2017, there were 101 such attacks.⁶⁷ This represents a 58 percent increase from 2013.⁶⁸

6.29 This is having a particular impact on women within the affected communities, who live in fear of such groups. In practice, this intimidation (which can include threats to life) is preventing women from accessing funding, to engage with peace initiatives and to be empowered.⁶⁹ Women's involvement with such opportunities is protected by the UN Security Council's Resolution 1325.

6.30 A Paramilitary Crime Taskforce has been set up by the Police Service of NI to deal with all forms of criminality linked to paramilitaries.⁷⁰ However, more needs to be done including recognising that NI requires specific mechanisms under Resolution 1325, which is currently denied by the UK government.

⁶⁷ Caroline Walsh, 'Consortium for the Regional Support for Women in Disadvantaged and Rural Areas: Policy Prioritisation for Disadvantaged Women – Women's Perspectives' (Women's Support Network, 2017), at 34; Claire Pierson and Katy Radford, 'Peacebuilding and the Women's Sector in NI: An Overview of Reports and Programmes' (Institute for Conflict Research, 2016), at 29; Margaret Ward, 'Excluded and silenced: Women in NI after the peace process', Open Democracy, 12 June 2013. See <https://www.opendemocracy.net/5050/margaret-ward/excluded-and-silenced-women-in-northern-ireland-after-peace-process>; Henry McDonald, 'NI "punishment" attacks rise 60% in four years', *The Guardian*, 12 March 2018.

⁶⁸ In 2013, there were 64 such attacks from republican dissidents and ongoing loyalist paramilitary violence directed at their own communities. Henry McDonald, 'NI "punishment" attacks rise 60% in four years', *The Guardian*, 12 March 2018.

⁶⁹ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

⁷⁰ National Crime Agency, 'Paramilitary Crime Taskforce launched in NI', 27 September 2017

6.31 It is notable that Ireland’s National Action Plan for Women, Peace and Security makes specific provision for NI,⁷¹ but the UK’s National Action Plan does not.⁷²

6.32 The NIHRC recommends that effective steps are taken to ensure and comprehensively monitor the effective participation of NI women in peace building and political processes, including effectively implementing UNSCR 1325, Legacy Gender Integration Group’s gender principles and the Stormont House Agreement. The Commission further recommends women’s participation is guaranteed in the context of the transitional justice mechanisms envisaged in the draft NI (Stormont House Agreement) Bill.

6.33 The NIHRC recommends that measures are taken to effectively addresses paramilitary intimidation, as a barrier to women’s participation in civic and political life.

7.0 Sustainable Development Goal 8: Decent Work and Economic Growth

Human Rights Framework

7.1 Decent work and economic growth primarily engages the right to work as provided for by ICESCR, Article 6. In human rights terms, achieving decent work and economic growth requires the right to work to be available, accessible and acceptable.⁷³ This right is to be progressively realised, guided by the principles of non-retrogression and full use of the maximum available resources.⁷⁴ Specific rights protections regarding decent work and economic growth exist for women,⁷⁵ children,⁷⁶ racial and ethnic minorities,⁷⁷ and persons with disabilities.⁷⁸

⁷¹ Government of Ireland, ‘Ireland’s Second National Action Plan on Women, Peace and Security 2015-2018’ (Government of Ireland, 2015).

⁷² HM Government, ‘UK National Action Plan on Women, Peace and Security 2018-2022’ (HM Government, 2018).

⁷³ E/C.12/GC/186, ‘UN ICESCR Committee General Comment No 18’, 24 November 2005, at para 12.

⁷⁴ Ibid, at paras 19-21.

⁷⁵ Article 11, UN Convention on the Elimination of All Forms of Discrimination against Women 1979.

⁷⁶ Articles 32, UN Convention on the Rights of the Child 1989.

⁷⁷ Article 5(e)(i), UN Convention on the Elimination of All Forms of Racial Discrimination 1965.

⁷⁸ Article 27, UN Convention on the Rights of Persons with Disabilities 2006.

7.2 It also engages the right to freedom from slavery and servitude, as provided by ICCPR, Article 8. This is an absolute right that should not be interfered with or derogated from in any circumstances.⁷⁹ Specific rights protections regarding slavery, servitude and trafficking exist for women⁸⁰ and children.⁸¹ In a regional context, prohibition of slavery and forced labour is provided for by ECHR, Article 4.

Northern Ireland

Access to financial support for unmarried couples

7.3 In August 2018, the UK Supreme Court ruled that the requirement that couples be married in order to access Widowed Parent's Allowance was in violation of the right to private and family life under Article 8 ECHR and was also discriminatory, contrary to Article 14 ECHR.⁸² The UK Supreme Court held that this was so as the purpose of the allowance was to benefit children and it was therefore unjustifiable that the allowance should be restricted to married couples so as to preserve its special status. A declaration of incompatibility was issued by the Supreme Court, although a change to the law in NI may be delayed until the Executive is restored.⁸³ To date, there has also been no change to the law in the rest of the UK. In August 2018, the NIHRC issued proceedings on behalf of an individual who was denied access to her late partner's pension by the Ministry of Defence, on the grounds that they were not married. It is anticipated that the case will be heard in 2019.

7.4 The NIHRC recommends effective steps are taken to ensure criteria for social security benefits and pensions are widened so as to allow couples in long term, cohabiting relationships to access these benefits.

⁷⁹ Article 4(2), International Covenant on Civil and Political Rights 1966.

⁸⁰ Article 6, UN Convention on the Elimination of All Forms of Discrimination against Women 1979.

⁸¹ Articles 33-35, UN Convention on the Rights of the Child 1989.

⁸² *In the matter of an application by Siobhan McLaughlin for Judicial Review (NI)* [2018] UKSC 48

⁸³ Allan Preston, 'NI mum facing Stormont delay after Supreme Court victory on pensions for unmarried widows', *Belfast Telegraph*, 31 August 2018.

Gender pay gap

- 7.5 NI women are less economically active than men in NI. 410,000 women were economically active, in contrast to 458,000 men. This equals 66.7 per cent of women and 76.6 per cent of men in NI. It is also the case that women in NI are more likely to have insecure, low paid employment in NI. This contributes to the gender pay gap and impacts empowerment. In the last ten years, the proportion of women working full-time hours has decreased to 61.2 per cent (from 63.0 per cent). 39 per cent of women work part-time hours in comparison to 9 per cent of male employees and 82 per cent of part-time employees are women.⁸⁴
- 7.6 PriceWaterhouseCooper's 2018 Women in Work index reported that NI's gender pay gap is at 6 per cent, the lowest in the UK.⁸⁵ The overall better result in NI is due to the larger share of women working in the public sector, which as a sector has a "relatively low pay gap".⁸⁶ However, the index also reports that since 2016, NI has seen a widening of the pay gap "largely driven by growth in male employment exceeding growth of their female counterparts, coupled with sluggish growth in median female pay relative to median male pay".⁸⁷
- 7.7 The Employment Act (NI) 2016 seeks, inter alia, the elimination of the gender pay gap, creating reporting requirements and requiring the adoption of action plans by employers with a gender pay gap and by the former Office of the First and Deputy First Minister (now the Executive Office). Regulations are required to give effect to the relevant provisions of the 2016 Act stipulating which employers it is applicable to and the scope of their reporting requirements. The necessary regulations were not published prior to the suspension of the NI Assembly.
- 7.8 The NIHRC recommends that effective steps are taken to ensure that regulations are introduced to give effect to the protections contained within the Employment Act (NI) 2016.**

⁸⁴ NI Statistics and Research Agency, 'Labour Force Survey Household Data for NI: July to September 2018' (NISRA, 2018).

⁸⁵ PriceWaterhouseCooper, 'Women in Work Index 2018' (PWC, 2018).

⁸⁶ Ibid, at 20.

⁸⁷ Ibid, at 5.

Reduction in asylum financial support

- 7.9 The Immigration and Asylum Act 1999, section 95 provides for support for asylum seekers and their dependants who appear to the Home Secretary to be destitute or who are likely to become destitute. In July 2015, the UK Government introduced a flat rate in asylum support. The standard rate is £37.75 per week provided to each person supported, of all ages.⁸⁸ Extra money to buy healthy food is provided to asylum seekers that are pregnant or a mother of a child under three. The amount (between £3 and £5 per week) depends on the individual's situation. A one-off maternity payment of £300 can be applied for if an individual's baby is due in eight weeks or less, or if the individual's baby is under six weeks old.⁸⁹
- 7.10 The Immigration Act 2016 amended the Asylum and Immigration Act 1999 by creating a new power to support failed asylum seekers who can demonstrate that they are destitute and face a genuine obstacle to leaving the UK at the point their appeal rights have been exhausted.⁹⁰ The 2016 Act amends the 1999 Act so that persons who have children in their household at the time their asylum claim and any appeal is finally rejected will no longer be treated as though they were still asylum seekers and so will no longer be eligible for support under section 95. Those refused asylum will be given somewhere to live and £35.39 per person on a payment card for food, clothing and toiletries. They will not be given any money and will not be given the payment card if they do not take the offer of somewhere to live. Those refused asylum can apply for a one-off £250 maternity payment if the baby is due in eight weeks or less, or if the baby is under six weeks old.⁹¹
- 7.11 In September 2017, a report by the Refugee Council found that a number of newly recognised refugees were forced to rely on charities, friends and family and foodbanks once their asylum support was terminated, as Home Office support had dropped away and employment had not been secured. The Refugee Council recommended that when an application for welfare payments has been made within the 28 day move on period, the Home Office

⁸⁸ Regulation 2, Asylum Support (Amendment) Regulations 2018.

⁸⁹ Gov.UK, 'What You'll Get'. Available at: <https://www.gov.uk/asylum-support/what-youll-get>

⁹⁰ Schedule 11, Immigration Act 2016.

⁹¹ Gov.UK, 'What You'll Get'. Available at: <https://www.gov.uk/asylum-support/what-youll-get>

should not cease asylum support until the first payment has been made.⁹²

7.12 The NIHRC recommends that the UK Home Office increases the level of support provided to asylum seekers, including through the daily allowance, in order to ensure that they enjoy their economic, social and cultural rights, in particular the right to an adequate standard of living. It also calls on the UK Home Office to review the restrictions placed on asylum seekers, which prevent the taking up of work while claims are being processed.

7.13 The NIHRC recommends that the UK Home Office reviews the length of the 28-day grace period for social security payments which, without revision of current safeguards, is contrary to the best interests of the child.

Modern slavery and human trafficking

7.14 Between April 2017 and March 2018, 36 potential victims of human trafficking were referred from NI. This figure included 17 adult males and 19 adult females. Recorded exploitation includes labour exploitation, domestic servitude and sexual exploitation.⁹³ Between April 2017 and March 2018, the Police Service NI's Modern Slavery and Human Trafficking Unit made eight arrests, conducted 22 searches under warrant and carried out 59 safeguarding visits/ non-warrant operations for labour and sexual exploitation. Over the same period, six persons were charged with modern slavery and human trafficking offences and/or related offences, and two persons were reported to the Public Prosecutions Service NI for human trafficking related offences.⁹⁴ In 2018, five persons were prosecuted and two convicted for trafficking in persons to NI for sexual exploitation.⁹⁵ Those convicted received a custodial sentence and a Slavery and Trafficking Prevention Order.⁹⁶

⁹² Refugee Council, 'Refugees without Refuge: Findings from a Survey of Newly Recognised Refugees' (Refugee Council, 2017), at 4.

⁹³ Police Service NI, 'Annual Report and Accounts for the Year Ended 31 March 2018' (PSNI, 2018), at 30.

⁹⁴ HM Government, '2018 UK Annual Report on Modern Slavery' (HM Government, 2018), at para 2.34.

⁹⁵ Ibid, at Tables 28 and 29.

⁹⁶ Correspondence from the Department of Justice to the NI Human Rights Commission, 27 November 2018.

- 7.15 The Police Service NI saw a potential upsurge in cases of modern slavery, with 33 victims identified in the first six months of 2018, compared to 36 in the whole of 2017.⁹⁷ During that same period, the Department of Justice's contracted support providers, Migrant Help and Women's Aid, supported 18 potential adult victims (three male and 15 female).⁹⁸ The Police Service NI highlighted that the actual number of people in NI affected by modern slavery is unknown, as it often goes unreported and undetected within the community.⁹⁹
- 7.16 The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015 places a requirement on the Department of Justice to produce an annual strategy to address offences related to slavery, servitude and forced or compulsory labour and human trafficking. In April 2019, the Department of Justice published a NI Modern Slavery Strategy 2018-2019.¹⁰⁰ In December 2016, the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) (Independent Guardian) Regulations (NI) 2016 came into operation.¹⁰¹ On 1 January 2018, Barnardos was awarded the contract for delivery of an Independent Guardian service for three years, with the possibility of two 12-month extensions.

7.17 The NIHRC recommends that any future Modern Slavery Strategy includes a strategy for tackling effectively human trafficking and exploitation.

7.18 The NIHRC recommends effective steps are taken to address the root causes of human trafficking and exploitation. This includes undertaking research into the prevalence and nature of prostitution in NI, to identify necessary changes to legislation and policy.

7.19 The NIHRC recommends effective steps are taken to ensure specialised, accessible support for victims of human

⁹⁷ 'Potential upsurge in modern slavery in NI', *ITV News*, 18 October 2018.

⁹⁸ HM Government, '2018 UK Annual Report on Modern Slavery' (HM Government, 2018), para 2.125.

⁹⁹ 'Potential upsurge in modern slavery in NI', *ITV News*, 18 October 2018.

¹⁰⁰ Department of Justice, 'Draft NI Modern Slavery Strategy 2018-2019: Consultation Document' (DoJ, 2018).

¹⁰¹ Human Trafficking and Exploitation (Criminal Justice and Support for Victims) (Independent Guardian) Regulations (NI) 2016.

trafficking and exploitation in NI is sufficiently and promptly available when required, and adequately funded, including effective access to social security benefits. Additionally, the Commission recommends that steps are taken to improve the National Referral Mechanism, including by implementing the reform package announced in October 2017, to ensure that victims of trafficking are properly identified and adequately protected and supported.

7.20 The NIHRC recommends that effective steps are taken to ensure all staff in contact with victims of modern slavery and human trafficking are effectively trained and qualified to work with victims in NI.

8.0 Sustainable Development Goal 10: Reduced Inequalities

Human Rights Framework

8.1 In a human rights context, gender equality is embedded within the principles of non-discrimination and equality. Article 2 of both the ICESCR and ICCPR specifically states rights “will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

8.2 As stated by the UN Human Rights Committee, “the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination”.¹⁰² Therefore, “not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate”.¹⁰³

¹⁰² ‘UN Human Rights Committee General Comment No 18: Non-Discrimination’, 10 November 1989, at para 10.

¹⁰³ Ibid, at para 13.

8.3 Specific rights protections concerning reducing inequalities exist for women,¹⁰⁴ racial and ethnic minorities¹⁰⁵ and persons with disabilities.¹⁰⁶

8.4 In a regional context, ECHR, Article 14, provides:

the enjoyment of the rights and freedoms set forth in... [the ECHR] shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Northern Ireland

8.5 NI does not have a single legislative instrument to consolidate equality protection.¹⁰⁷ A piecemeal approach has been adopted to updating the current framework.¹⁰⁸

8.6 NI's equality legislation does not recognise intersectional discrimination, which particularly affects women, children, persons with disabilities, migrants, racial and ethnic minorities, older persons, transgender and intersex persons and gay, lesbian and bisexual persons.

¹⁰⁴ UN Convention on the Elimination of All Forms of Discrimination against Women 1979.

¹⁰⁵ UN Convention on the Elimination of All Forms of Racial Discrimination 1965.

¹⁰⁶ Article 4(1), UN Convention on the Rights of Persons with Disabilities 2006.

¹⁰⁷ In NI, a number of laws and regulations within a complex framework prohibit discrimination. This is unlike the rest of the UK that has the single Equality Act 2010. The Equality Act 2010 does not extend to NI. See Employment Equality (Age) Regulations (NI) 2006; Disability Discrimination Act 1995; Special Educational Needs & Disability (NI) Order 2005; Equal Pay Act (NI) 1970; Sex Discrimination (NI) Order 1976; Race Relations (NI) Order 1997; Fair Employment & Treatment (NI) Order 1998; Employment Equality (Sexual Orientation) Regulations (NI) 2003; Equality Act (Sexual Orientation) Regulations (NI) 2006; NI Act 1998.

¹⁰⁸ CEDAW/C/GBR/Q/7/Add.1, 'Comments to the UN Committee on the Elimination of Discrimination against Women, Replies of UK of Great Britain and NI to the List of Issues to be taken up in connection with the consideration of its seventh periodic report', February 2013, para 17; OFMDFM, 'A Sense of Belonging: Delivering Social Change through a Racial Equality Strategy for NI 2014-2024' (OFMDFM, 2014), at 38 and 40.

8.7 Up-to-date specific strategies on gender equality,¹⁰⁹ sexual orientation,¹¹⁰ childcare¹¹¹ and carers¹¹² remain long outstanding. The Department for Communities plans to subsume many of these issues into a gender-neutral social strategy, ignoring the intricacies and gender-sensitive elements of these issues.¹¹³ Publication of new or updated strategies requires a functioning devolved government.

8.8 The NIHRC recommends that the Executive Office prioritise the introduction of legislation that will strengthen, simplify and harmonise equality law within a Single Equality Act. It calls on the NI Executive to support the Executive Office and secure necessary political consensus on this matter.

8.9 The NIHRC recommends the Executive Office introduce legislation providing for intersectional multiple discrimination claims in NI.

8.10 The NIHRC recommends that the Department for Communities develops robust gender equality, sexual orientation, childcare and carers strategies. These strategies should be accompanied by a measurable action plan for advancing gender equality and effective monitoring arrangements. These strategies should also not ignore the gender-specific elements.

¹⁰⁹ The existing 'Gender Equality Strategy 2006-2016' expired in 2016 and has not been updated. This strategy does not contain an action plan. Updating this strategy requires a functioning devolved government.

¹¹⁰ NI has not had a sexual orientation strategy to date. The Department for Communities consulted on what a sexual orientation strategy and action plan should include between March and June 2014. The drafting and implementation of this strategy and action plan remains outstanding. Introducing this strategy requires a functioning devolved government.

¹¹¹ NI has not had a childcare strategy to date. The Department of Education consulted on a draft Childcare Strategy between July and November 2015. The implementation of this strategy remains outstanding. Introducing this strategy requires a functioning devolved government.

¹¹² NI is lagging behind the rest of the UK in terms of a strategy for carers and recent law development. The 'Caring for Carers 2006' is the most recent NI strategy, whereas strategies have been published in Scotland in 2010, in Wales in 2013, and in England in 2014. Updating this strategy requires a functioning devolved government. See Jennifer Betts and Janice Thompson, 'Research and Information Services Briefing Paper 24/17 - Carers: Legislation, Policy and Practice' (NI Assembly, 2016).

¹¹³ The gender-sensitive elements also include the requirement to consider the specific needs of young, older, disabled, migrant, rural, transgender, intersex, lesbian and bisexual women.

9.0 Sustainable Development Goal 12: Responsible Consumption and Production

Human Rights Framework

9.1 The UN Office of the High Commissioner for Human Rights has developed 'Guiding Principles on Business and Human Rights'.¹¹⁴ Amongst others, these are grounded in recognition of "the role of business enterprises as specialised organs of society performing specialised functions, required to comply with all applicable laws and to respect human rights".¹¹⁵ This requires business enterprises to:

- a) avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; and
- b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.¹¹⁶

9.2 Oliver De Schutter, the Special Rapporteur on the right to food published the 'Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements', which provides clear guidance on what should be included in such an assessment.¹¹⁷

Northern Ireland

Business and human rights

9.3 In 2013, the UK was the first State to produce a business and human rights National Action Plan.¹¹⁸ The process of updating the UK's second National Action Plan, which was published in 2016,

¹¹⁴ UN Office of the High Commissioner for Human Rights, 'Guiding Principles on Business and Human Rights' (OHCHR, 2011).

¹¹⁵ Ibid, at 1.

¹¹⁶ Ibid, at 14.

¹¹⁷ A/HRC/19/59/Add.5, 'Report of the Special Rapporteur on the Right to Food, Oliver De Schutter: Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements', 19 December 2011.

¹¹⁸ HM Government, 'Good Business, Implementing the UN Guiding Principles on Business and Human Rights' (HM Government, 2013).

provided limited opportunities for stakeholder consultation, and no consultation in the devolved jurisdictions.¹¹⁹

9.4 The NI Business and Human Rights Forum was established in 2015. It has a multi-stakeholder membership which allows government, business, and civil society to engage on business and human rights. In December 2018, the Department of Finance NI developed, in consultation with NIHRC, a guidance note on Human Rights in Public Procurement.¹²⁰

9.5 The NIHRC recommends that measures giving effect to the UN Guiding Principles on business and human rights should provide for the effective participation of all relevant stakeholders in NI.

9.6 The NIHRC recommends that the NI Executive should consider adopting a National Action Plan on business and human rights specific to NI.

Trade agreements

9.7 In the context of Brexit, the NIHRC has considered the potential human rights implications of the UK Government entering into international trade agreements. International agreements entered into by the UK have the potential to impact on the protection of human rights in the UK and on the rights of others throughout the world. The NIHRC has advised the UK Parliament on the importance of the UK Government conducting human rights impact assessments on international trade agreements.

9.8 The Joint Committee on Human Rights has recommended that “there should be a formal role, specifically covering human rights, for the devolved administrations and parliaments in the formulations of trade policy, the negotiations process and the scrutiny of agreements prior to ratification”.¹²¹

¹¹⁹ ‘Oral Statement Submitted by the NI Human Rights Commission (A Status NHRI) to the 35th Session of UN Human Rights Council Agenda’, June 2017.

¹²⁰ Department of Finance, ‘Procurement Guidance Note PGN 03/18: Human Rights in Public Procurement’ (DoF, 2018).

¹²¹ House of Commons and House of Lords Joint Committee on Human Rights, ‘Human Rights Protections in International Agreements: Seventeenth Report of Session 2017–19’ (JCHR, 2019), at para 69.

9.9 The NIHRC recommends that before entering an international trade agreement the UK Government should conduct a robust human rights impact assessment, which should be kept under review throughout the lifetime of the trade agreement to assess its impact on the human rights of all. Furthermore, there should be a role for the UK Parliament and devolved administrations in monitoring implementation of trade agreements, as recommended by the Joint Committee on Human Rights.

10.0 Sustainable Development Goal 13: Climate Action

Human Rights Framework

10.0 The far-reaching implications of climate change means that it has the potential to negatively affect a wide range of rights. The UN CEDAW Committee has identified that it raises particular concerns regarding the right to live free from gender-based violence against women and girls, rights to education and information, rights to work and social protection, right to health, right to adequate standard of living and right to freedom of movement.¹²²

10.2 In terms of where environment is specifically mentioned in a human rights context, ICESCR, Article 12, provides for the right to the highest attainable standard of physical and mental health". In the full realisation of this right, Article 12(2)(b) provides it is necessary to take steps for "the improvement of all aspects of environmental and industrial hygiene". The UN ICESCR Committee confirmed that this right:

is not confined to the right to healthcare. On the contrary, the drafting history and the express wording of Article 12(2) acknowledge that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the

¹²² CEDAW/C/GC/37, 'UN CEDAW Committee General Recommendation No 37: Gender-related Dimensions of Disaster Risk Reduction in the Context of Climate Change', 7 February 2018, at paras 55-78.

underlying determinants of health, such as... a healthy environment.¹²³

10.3 UN CRC, Article 24(2)(c) requires States to take “into consideration the dangers and risks of environmental pollution”. The UN CEDAW Committee finds that “women, girls, men and boys are affected differently by climate change and disasters, with many women and girls experiencing greater, risks, burdens and impacts”, and that this should be acknowledged in State’s actions in combating climate change.¹²⁴ In acknowledging the specific threat of climate change to rural women, UN CEDAW,¹²⁵ Article 14(2)(h) requires States to ensure rural women have the right “to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications”.

Northern Ireland

10.4 The Climate Change Act 2008 is the basis for the UK's approach to tackling and responding to climate change. The 2008 Act, section 1, commits the UK Government to reducing the UK's greenhouse gas emissions by at least 80 per cent of 1990 levels by 2050. This includes reducing the emissions from the devolved administrations (Scotland, Wales and NI), which account for about 20 per cent of the UK's emissions. Under the 2008 Act, Part 4, the UK Government is also required to produce a UK Climate Change Risk Assessment every five years, which assesses current and future risks to and opportunities for the UK from climate change. Furthermore, responsible departments across the UK are required to produce their own national adaptation programmes and policies, this includes the Department of Agriculture, Environment and Rural Affairs in NI.

10.5 The NI Cross-Departmental Working Group on Climate Change, is committed to producing an annual progress report. Due to the suspension of the NI Assembly and NI Executive, the last progress

¹²³ E/C.12/2000/4, 'UN ICESCR Committee General Comment No 14: The Right to the Highest Attainable Standard of Health', 11 August 2000, at para 4.

¹²⁴ CEDAW/C/GC/37, 'UN CEDAW Committee General Recommendation No 37: Gender-related Dimensions of Disaster Risk Reduction in the Context of Climate Change', 7 February 2018, at para 2.

¹²⁵ CEDAW/C/GC/34, 'UN CEDAW Committee General Recommendation No 34: Rights of Rural Women', 7 March 2016, at para 12.

report published by the group was in March 2016 and the last mitigation action plan produced was for 2016/2017.¹²⁶

- 10.6 The draft Programme for Government 2016-2021 includes a commitment to increase environmental sustainability.¹²⁷ This commitment lacks specificity.
- 10.7 The Environmental Better Regulation (NI) Act 2016, inter alia, provides for a review of powers of entry and associated powers relating to the protection of the environment and for the repeal or rewriting of such powers and for safeguards in relation to them.¹²⁸ The Act is an enabling piece of legislation which grants the Department of Agriculture, Environment and Rural Affairs the power to introduce secondary legislation which may amend primary legislation.¹²⁹ NI is the only part of the UK not to have an independent environmental regulator.
- 10.8 The NIHRC calls on the NI Executive and NI Assembly to take effective steps to ensure NI plays its role in tackling and preventing climate change. The NIHRC recommends that effective steps are taken to expediently develop and implement NI-specific legislation and statutory targets.**
- 10.9 The NIHRC recommends that the NI Executive ensures that secondary legislation enacted under the Environmental Better Protection Act 2016 is fully compliant with international human rights obligations and is subject to robust oversight.**

¹²⁶ Department of Agriculture, 'Environment and Rural Affairs, Cross-Departmental Working Group on Climate Change'. Available at: <https://www.daera-ni.gov.uk/articles/cross-departmental-working-group-climate-change>

¹²⁷ NI Executive, 'Draft Programme for Government Framework 2016-21' (NI Executive, 2016), at 92.

¹²⁸ Environmental Better Regulation (2016 Act) (Commencement No. 1) Order (NI) 2016.

¹²⁹ Committee for the Environment, 'Report on the Environmental Better Regulation Bill' (CCC, 2015).

11.0 Sustainable Development Goal 16: Peace, Justice and Strong Institutions

Human Rights Framework

- 11.1 Peace, justice and strong institutions engages a number of human rights, particularly those set out within the ICCPR. For example, freedom of expression (Article 19), right of peaceful assembly (Article 21), freedom of association (Article 22), and right to vote (Article 25).
- 11.2 These rights can be restricted in limited circumstances. In relation to freedom of expression, peaceful assembly and freedom of association any restrictions must be “provided by law”, “are necessary” and in the interests of national security, public safety, public order, protection of public health or morals or the protection of the rights and freedoms of others.¹³⁰ Regarding the right to vote, any restrictions “must be justifiable on objective and reasonable criteria”.¹³¹
- 11.3 Specific rights protections in this context exist for women,¹³² racial and ethnic minorities,¹³³ and persons with disabilities.¹³⁴ Concerning conflict and peace-building, the UN Security Council Resolution 1325 stresses the importance of women’s “equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution”.¹³⁵
- 11.4 Right to fair and public hearing is provided for within ICCPR, Article 14. The UN Human Rights Committee confirms that “deviating from fundamental principles of fair trial, including the presumption of innocence, is prohibited at all times”. The public scrutiny aspect of this right may be interfered with, but only as set out within ICCPR, Article 14(1). Furthermore, it is not a non-derogable right, but:

¹³⁰ Articles 19(3), 21 and 22(2), International Covenant on Civil and Political Rights 1966.

¹³¹ CCPR/C/21/Rev.1/Add.7, ‘UN Human Rights Committee General Comment No 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service’, 12 July 1996, at para 15.

¹³² Articles 7 and 8, UN Convention on the Elimination of All Forms of Discrimination against Women 1979.

¹³³ Article 5(c), UN Convention on the Elimination of All Forms of Racial Discrimination 1965.

¹³⁴ Article 29, UN Convention on the Rights of Persons with Disabilities 2006.

¹³⁵ S/RES/1325 (2000), ‘Resolution 1325’, 31 October 2000.

States derogating from normal procedures required under Article 14 in circumstances of a public emergency should ensure that such derogations do not exceed those strictly required by the exigencies of the actual situation. The guarantees of fair trial may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights.¹³⁶

11.5 Additionally, ICCPR, Article 7, prohibits torture or cruel, inhuman or degrading treatment or punishment in all circumstances, with no derogation.¹³⁷ There are specific protections for children,¹³⁸ and persons with disabilities.¹³⁹ Special measures are also identified to protect women¹⁴⁰ and racial and ethnic minorities from violence.¹⁴¹

11.6 In a regional context, ECHR provides for the absolute right to freedom from torture or ill-treatment (Article 3). It also provides for right to fair trial (Article 6), freedom of expression (Article 10), freedom of assembly and association (Article 11) and right to free elections (Article 3, Protocol No 1) with similar permitted restrictions to those identified by UN treaty bodies.

Northern Ireland

Legacy allegations of torture

11.7 There is no current systematic and fully independent mechanism or procedure for the investigation of allegations of torture, inhuman and degrading treatment that took place during the NI conflict. The NIHRC is aware that no systematic and fully independent approach is being considered for investigating non-fatal conflict related crimes, which would include allegations of torture, inhuman or degrading treatment. Particular instances of waterboarding during the 1970s, have also not been effectively investigated by the UK Government.¹⁴²

¹³⁶ CCPR/C/GC/32, 'UN Human Rights Committee General Comment No 32: Right to Equality Before Courts and Tribunals and to a Fair Trial', 23 August 2007, at para 6.

¹³⁷ Article 4(2), International Covenant on Civil and Political Rights 1966.

¹³⁸ Article 37(a), UN Convention on the Rights of the Child 1989.

¹³⁹ Article 15, UN Convention on the Rights of Persons with Disabilities 2006.

¹⁴⁰ A/47/38, 'UN CEDAW Committee General Recommendation No 19: Violence against Women', 30 January 1992; CEDAW/C/GC/35, 'UN CEDAW Committee General Recommendation No 35: Gender-based Violence against Women, Updating General Recommendation No 19', 26 July 2017.

¹⁴¹ Article 5(b), UN Convention on the Elimination of All Forms of Racial Discrimination 1965.

¹⁴² Roundtable discussion with civil society representatives, November 2018.

11.8 The NIHRC recommends effective steps are taken to ensure the effective investigation of all other serious violations or abuses of human rights, meeting the threshold under the prohibition on torture, cruel, inhuman or degrading treatment or punishment, are carried out expeditiously.

Historical institutional abuse

11.9 In July 2017, the Historical Institutional Abuse Inquiry published its report with broad ranging recommendations.¹⁴³ The Inquiry's remit did not extend to adult residents of Magdalene laundry type institutions or those abused in private settings.

11.10 The NI Executive did not issue a formal substantive response to the Inquiry Report, prior to the suspension of the NI Assembly. It is reported that 30 victims and survivors entitled to compensation under Hart's recommendations have died since July 2017.¹⁴⁴ Victims and survivors requests for the Secretary of State NI to exercise powers within the NI Act 1998 to make an interim compensation payment to victims of institutional abuse have been turned down stating that it is a devolved matter.¹⁴⁵ In the absence of a functioning Executive, the Head of the Civil Service has directed the Executive Office to develop draft legislation in respect of a Redress board and a Commissioner of Survivors of Institutional Childhood Abuse, which will be subject to public consultation.¹⁴⁶ In April 2019, Justice McCloskey ruled that the Secretary of State's failure to compensate victims in absence of Stormont was not unlawful.¹⁴⁷ The main political parties have written to the Secretary of State suggesting proposals for implementing a compensation scheme under the current talks process to restore devolved institutions.

11.11 In February 2016, an inter-departmental Working Group on Mother and Baby Homes and Magdalene Laundries and historical clerical

¹⁴³ Anthony Hart, 'Historical Institutional Abuse Inquiry' (HIA, 2017).

¹⁴⁴ 'Up to 30 abuse survivors have died since end of HIA inquiry', *BBC News*, 1 April 2019.

¹⁴⁵ 'Brokenshire criticised on historical abuse compensation', *BBC News*, 18 August 2017; Parliament Business, 'Historical Institutional Abuse Inquiry: Written Question - 131709', 16 March 2018.

¹⁴⁶ NI Direct, 'Historical Institutional Abuse'. Available at: <https://www.nidirect.gov.uk/articles/historical-institutional-abuse>

¹⁴⁷ *JR80 v Secretary of State for NI and the Executive Office*, Summary Judgment, 12 April 2019.

child abuse was established.¹⁴⁸ In March 2018, the Independent Chair of the Working Group resigned due to health issues. In February 2019, work was ongoing to appoint her replacement.¹⁴⁹ In June 2018, the Department of Health funded research on Mother and Baby Homes and Magdalene Laundries in NI to examine the operation of the homes and laundries between 1922 and 1999 commenced.¹⁵⁰ Victims and survivors feel they were not effectively consulted on the establishment of the Working Group and the commissioned research.¹⁵¹

11.12 Victims of historical abuse crimes committed before 1 July 1988 are not entitled to criminal injuries compensation, if they were living together with the assailant as members of the same family at the time of the crime.¹⁵² In November 2018, the NI Court of Appeal found that this requirement is an unjustified interference with Article 14 ECHR, in conjunction with Article 1 of Protocol 1, ECHR.¹⁵³ The lack of devolved institutions is inhibiting amendments to the NI scheme that would reflect the NI Court of Appeal's ruling.

11.13 The NIHRC recommends that a plan to ensure full and effective implementation of the Historical Institutional Abuse Inquiry's Report recommendations is developed and published, in particular those relating to compensation for victims.

11.14 The NIHRC recommends that effective steps are taken to ensure the victims of historical abuses outside the remit of the Historical Institutional Abuse Inquiry have an effective remedy, including access to thorough and effective independent investigations that offer effective redress (including compensation) and are subject to public scrutiny and meaningful victim participation.

¹⁴⁸ Department of Health, 'Mother and Baby Homes - Magdalene Laundries'. Available at: <https://www.health-ni.gov.uk/articles/mbh-ml>

¹⁴⁹ Email from Department of Justice officials to NI Human Rights Commission, 18 December 2018; Department of Health, 'Mother and Baby Homes - Magdalene Laundries'. Available at: <https://www.health-ni.gov.uk/articles/mbh-ml>

¹⁵⁰ Department of Health, 'Press Release: Research to start on mother and baby homes and Magdalene Laundries in NI', 11 January 2018.

¹⁵¹ Meeting with a representative of Birth Mothers and their Children for Justice NI, 13 February 2018.

¹⁵² Department of Justice, 'NI Criminal Injuries Compensation Scheme 2009' (DoJ, 2009), at paragraph 7(c).

¹⁵³ *In the Matter of an Application by Mary Meehan and in the Matter of a Decision by Cicapni and Department of Justice* [2018] NICA 42.

Abuse in health and social care settings

11.15 In June 2018, the Commissioner for Older People NI published a report of its investigation into Dunmurry Manor care home, following concerns of the standard of care and safety for residents with dementia. The report found “an environment of poor care and treatment, serious safeguarding issues and medicines management issues, compounded by a failure of responsible bodies to act quickly and comprehensively”. In October 2018, a follow-up report by the Care Inspectorate (commissioned by the Department of Health) found that, “the Regulation and Quality Improvement Authority regulated Dunmurry Manor care home in accordance with the policies and procedures in place at the time”.¹⁵⁴ The Department of Health continues to review care at Dunmurry¹⁵⁵ and the Police Service NI is conducting an investigation into allegations of mistreatment at the Care Home over the period June 2014 to July 2017.¹⁵⁶

11.16 In July 2018, allegations of physical and mental abuse at Muckamore Abbey Hospital, which provides inpatient care for people with severe learning disabilities, became public. The Belfast Health and Social Care Trust initiated a serious adverse incident investigation, the report remains confidential. There are ongoing investigations by the Police Service of NI in relation to allegations of physical and mental abuse. The Belfast Health and Social Care Trust is also conducting an investigation, through which 19 staff members have now been suspended.¹⁵⁷

11.17 The NIHRC recommends that effective steps are taken to ensure that the criminal law is sufficient to provide robust protection to those individuals reliant on others for their health and social care needs. In particular, ensuring the introduction of a free standing offence where an individual, who has the care of another individual by virtue of being a care worker, ill-treats or wilfully neglects that individual as is the case elsewhere in the UK.

¹⁵⁴ Care Inspectorate, ‘Rapid Investigation into the Regulatory Response to Issues at Dunmurry Manor Care Home by the Regulation and Quality Improvement Authority’ (DoH, 2018), at 9.

¹⁵⁵ Information provided by DoH, by email of 18 February 2019.

¹⁵⁶ Marie-Louise Connelly, ‘Dunmurry Manor: Care home families contacted by police’, *BBC News*, 19 March 2019.

¹⁵⁷ ‘Muckamore: Health chief Richard Pengelly ‘shocked and appalled’’, *BBC News*, 16 Jan 2019.

11.18 The NIHRC recommends that effective steps are taken to ensure that the Care Inspectorate’s recommendations concerning Dunmurry Manor are implemented without delay.

Termination of pregnancy

11.19 Disparity exists in the UK regarding access to termination of pregnancy in NI. Women in NI also face intimidation when attempting to access family planning services, including information on terminations. The UN CEDAW Committee’s Inquiry found these disparities sufficiently grave to constitute a violation of the rights of women in NI by unduly restricting their access to terminations. This applied in particular where there is a threat to the women’s physical or mental health, in cases of rape or incest or in cases of serious (including fatal) abnormality of the foetus.¹⁵⁸

11.20 Following the UN CEDAW Inquiry, in June 2018 the UK Supreme Court ruled on NIHRC’s case, where it was argued that failing to provide termination of pregnancy services to women and girls pregnant as a result of rape or incest or in cases of serious (including fatal) abnormality of the foetus violated human rights. The Supreme Court ruled that the NIHRC did not have the statutory powers to take the case without a victim, nonetheless the Supreme Court made the unusual decision to express its views on the substantive issue.

11.21 A majority of the UK Supreme Court considered the current law in NI is disproportionate and incompatible with Article 8 of the European Convention on Human Rights, insofar as that law prohibits terminations in cases of a) fatal foetal abnormality, b) pregnancy as a result of rape and c) pregnancy as a result of incest.¹⁵⁹

11.22 The NI Assembly and Executive remain suspended, with no indication of a resolution being reached. Despite UK Parliament debates on the issue, where parliamentarians from Great Britain declared support for the law to be changed, the UK Government

¹⁵⁸ CEDAW/C/OP.8/GBR/1, 'Report of the Inquiry Concerning the UK of Great Britain and NI under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women', 19 July 2017.

¹⁵⁹ *In the Matter of an Application on the NI Human Rights Commission for Judicial Review* [2017] UKSC 27.

views it as a devolved matter and has no plans to take any action.¹⁶⁰

11.23 Locally, the devolved Departments of Justice and Health released a report, which recommended termination is permitted in cases of fatal foetal abnormality.¹⁶¹ However, there is currently no devolved Minister to action the required legislative changes. In the Commission's view, the Department's guidance also does not go far enough.

11.24 The NIHRC recommends that effective steps are taken to ensure that women and girls have access to termination of pregnancy in at least circumstances of a threat to physical or mental health, serious (including fatal) foetal abnormality, rape or incest. In addition, women and girls should have access to appropriate aftercare services. This includes reforming the legal framework on termination of pregnancy is reformed in line with the UN CEDAW Inquiry report. It also includes noting Article 33 of the Belfast (Good Friday) Agreement 1998, which provides that the Westminster Parliament shall legislate as necessary to ensure that the United Kingdom's international obligations are met in respect of Northern Ireland.

11.25 The NIHRC recommends that the current guidance from the Department of Health is reviewed to ensure that it provides sufficient direction for healthcare professionals to provide termination of pregnancy within the present legal framework.

11.26 The NIHRC recommends that appropriate information is provided to women and girls in NI in respect of their options relating to sexual and reproductive health. This includes the current pathway available in the rest of the UK to access a lawful termination of pregnancy.

¹⁶⁰ UK Parliament, Emergency Debate: Sections of the Offences against the Persons Act, 5 June 2018; Stella Creasy MP, 'Urgent Question on Supreme Court Ruling: Abortion in NI', *House of Commons Hansard*, Column 453, Volume 642, 7 June 2018.

¹⁶¹ Department of Justice & Department of Health, 'Report of the Working Group on Fatal Fetal Abnormality, Healthcare and the Law on Termination Of Pregnancy for Fatal Fetal Abnormality, Proposals to the Minister of Health and the Minister of Justice,' 11 October 2016. The report of the Working Group had been prepared in October 2016, but was not released until April 2018.

11.27 The NIHRC recommends that effective steps are taken ensure the introduction of legislation to end the criminalisation of women and girls in NI if they seek a termination of pregnancy.

11.28 The NIHRC recommends that effective steps are taken to ensure that NI women can access family planning services without intimidation, including imposing a buffer zone outside the relevant clinics.

Paramilitary threats

11.29 During 1 December 2017 and 30 November 2018, there was one security related death compared to two in the previous 12 months. There were 20 casualties of paramilitary style shootings, compared to 26 in the previous 12 months. All 20 casualties were 18 years old or above. There were 51 casualties of paramilitary style assaults, compared to 75 in the previous 12 months. Of the 51 casualties, one was under 18 years old. The number of bombing incidents more than halved compared to the previous year (17 compared to 32). There were 41 shooting incidents compared to 58 in the previous year.¹⁶² Statistics are not published on arrests and prosecutions for paramilitary style attacks.¹⁶³

11.30 There is a “distinct lack of legitimate leadership within many NI communities which is filled by paramilitary groups”.¹⁶⁴ There is also “endemic paramilitary ‘bullying’ and intimidation at the level of the community”.¹⁶⁵ This is reflected in the continued paramilitary-style punishment shootings and beatings in NI.¹⁶⁶ In February 2017, a senior officer reported that the Police Service NI deals with a paramilitary threat every day in Belfast, including death threats against children.¹⁶⁷ There have also been reports of similar threats, particularly against children, in Derry/Londonderry.¹⁶⁸ The Chief

¹⁶² Police Service NI, ‘Police Recorded Security Situation Statistics: 1 December 2017 to 30 November 2018’ (PSNI, 2018), para 1.

¹⁶³ Correspondence from the Department of Justice to the NI Human Rights Commission, 27 November 2018.

¹⁶⁴ Claire Pierson and Katy Radford, ‘Peacebuilding and the Women’s Sector in NI: An Overview of Reports and Programmes’ (Institute for Conflict Research, 2016), at 31.

¹⁶⁵ Caroline Walsh, ‘Consortium for the Regional Support for Women in Disadvantaged and Rural Areas: Policy Prioritisation for Disadvantaged Women – Women’s Perspectives’ (Women’s Support Network, 2017), at 34.

¹⁶⁶ Henry McDonald, ‘NI “punishment” attacks rise 60% in four years’, *The Guardian*, 12 March 2018.

¹⁶⁷ ‘PSNI deal with paramilitary threat every day in Belfast, reveals senior cop’, *Belfast Telegraph*, 28 February 2017.

¹⁶⁸ Brendan McDaid, ‘Paramilitary threats to children “obscene”’, *Derry Journal*, 30 November 2018.

Constable of the Police Service NI has revealed that families were often providing their children with alcohol or painkillers prior to being taken to an 'appointment' for a punishment-style attack.¹⁶⁹

11.31 There is a historical and ongoing fear of paramilitaries (including paramilitaries from within their own communities) that is causing women to feel threatened, which is preventing the empowerment of women in NI. It was raised that women feel displaced by paramilitaries taking leadership roles. This is closely linked to drug feuds and domestic violence.¹⁷⁰

11.32 The NIHRC notes that the NI Executive and UK Government each committed £25 million between 2016 and 2021 to tackle paramilitarism¹⁷¹ and setup the Paramilitary Crime in September 2017 to protect communities by tackling all forms of criminality linked to paramilitarism. However, more needs to be done. These measures do not tackle community-based intimidation. These measures also introduced before the suspension of the NI Executive and Assembly, which has created a political void that is being filled by paramilitaries.

11.33 The NIHRC recommends that effective steps are taken to effectively monitor, and, where necessary effectively develop and expand, the steps taken to address paramilitary intimidation in NI, particularly against children.

Physical punishment of children

11.34 The Law Reform (Miscellaneous Provisions) (NI) Order 2006 continues to allow for a defence of reasonable punishment of a child, and provides that this is a defence to a charge of common assault tried summarily. There is currently no intention to review or remedy this issue in the absence of the NI Executive.¹⁷²

¹⁶⁹ Henry McDonald, 'NI 'punishment' attacks rise 60% in four years' *The Guardian* (12 March 2018).

¹⁷⁰ Roundtable discussions with NI women's policy groups and NI women's community groups, October 2017, November 2017, February 2018 and March 2018.

¹⁷¹ Department of Justice, 'Executive Programme for Tackling Paramilitary Activity and Organised Crime'. Available at: <https://www.justice-ni.gov.uk/articles/executive-programme-tackling-paramilitary-activity-and-organised-crime>

¹⁷² Meeting between Department of Justice officials and NI Human Rights Commission, 29 November 2018.

11.35 Statistics are not currently collated on the number of cases in which the defence of reasonable chastisement is successfully pleaded.¹⁷³

11.36 The NIHRC recommends that the Department of Justice NI repeals the defence of reasonable chastisement of a child and devise and implement a strategy to effectively promote positive and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity, with a view to eliminating the use of physical punishment in child-rearing.

Freedom of expression of journalists

11.37 In August 2018, journalists Barry McCaffery and Trevor Birney were arrested as part of an investigation into the suspected theft of confidential documents from the Police Ombudsman NI, relating to a police investigation into the 1994 murder of six men at Loughinisland, Co Down.¹⁷⁴

11.38 Lawyers for Fine Point Films brought emergency proceedings to the Belfast High Court challenging the legality of the search warrant used by police. In May 2019, the NI High Court ruled that the search warrants issued were “inappropriate”.¹⁷⁵ The Police Service NI has subsequently dropped the case against the two journalists.¹⁷⁶

11.39 Journalist Lyra McKee was shot and killed by the New IRA while observing rioting in the Creggan estate, Derry/Londonderry.¹⁷⁷ Investigations by the Police Service NI into the murder are ongoing.

11.40 The NIHRC recommends any limitation of journalists’ freedom of expression must be human rights compliant. This includes that the right to a fair trial and right to an effective remedy for journalists facing allegations are fulfilled, respected and protected.

¹⁷³ Correspondence to Mr Nick Perry, Permanent Secretary, Department of Justice from NI Human Rights Commission, September 2017.

¹⁷⁴ ‘Loughinisland: Journalists arrested over documents investigation’, *BBC News*, 31 August 2018.

¹⁷⁵ ‘Loughinisland: Police drop case against two journalists’, *BBC News*, 3 June 2019.

¹⁷⁶ *Ibid.*

¹⁷⁷ ‘Lyra McKee: ‘New IRA’ admits killing of journalists’, *BBC News*, 23 April 2019.

11.41 The NIHRC recommends that steps are taken to ensure journalists have effective protection to report on issues of public importance.

Age of criminal responsibility

11.42 There has been no change in the age of criminal responsibility, which remains at ten years old.

11.43 The NIHRC recommends raising the minimum age of criminal responsibility to at least twelve, in line with international human rights standards, and to take account of any recommendations of the forthcoming UNCRC General Comment.

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