



**Written contribution to the United Nations Human Rights Committee for  
Review of the United Kingdom of Great Britain and Northern Ireland (UK) on  
the International Covenant on Civil and Political Rights' Country Examination  
140th Session**

**About Rights & Security International (RSI)**

Rights & Security International (RSI) is a London-based human rights charity that works to end human rights abuses committed in the name of national security.<sup>1</sup> RSI aims to remove biases and discrimination from national security policies, and advocates for government accountability, transparency, and access to justice for victims of human rights violations.

**This submission will focus on the UK's approach to nationality and citizenship rights, especially for minority groups and including the State's approach to British (and formerly British) nationals detained in camps in northeast Syria. We also analyse the impact of the Prevent counter-'extremism' strategy and its harms to a wide range of rights, including free expression, freedom of religion, freedom of association, and privacy. Lastly, we explain new rights-violating laws that aim to end investigations into human rights abuses committed during the height of the conflict in Northern Ireland, and the ongoing need for transparent and effective investigations leading to justice.**

**I. Nationality and citizenship**

*Background*

1. Although the UK is a party to various international human rights treaties that guarantee the right to a nationality, the government maintains that British citizenship is a privilege rather than a right, and has implemented multiple changes in legislation to reflect this stance.<sup>2</sup> This approach leaves some people in the UK at risk of *de jure* or *de facto* statelessness, or of the

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

<sup>2</sup> Right & Security International and The Institute on Statelessness and Inclusion, 'Joint Submission to the Human Rights Council, Universal Periodic Review: Arbitrary Deprivation of Nationality on National Security Grounds' (March 2022), para. 34: [https://www.rightsandsecurity.org/assets/downloads/FINAL\\_Joint\\_Submission\\_UPR\\_UK\\_Nationality\\_Deprivation.pdf](https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf). See also House of Lords Library Briefing, 'Nationality and Borders Bill HL Bill 82 of 2021-22' (21 December 2021): <https://researchbriefings.files.parliament.uk/documents/LLN-2021-0038/LLN-2021-0038.pdf>.

permanent instability that results from losing or being unable to gain British citizenship—especially at a time of official hostility to migrants.

2. Under section 40(2) of the British Nationality Act 1981 ('BNA 1981'), the UK's primary nationality legislation, the Home Secretary is empowered to deprive someone of their British nationality if he<sup>3</sup> decides that doing so would be 'conducive to the public good,' including because a person has allegedly engaged in what he regards as 'unacceptable behaviours...'<sup>4</sup> The vagueness of this wording in the law means that citizenship deprivation orders in the UK can be, and likely have often been, issued arbitrarily or in circumstances in which the deprivation was not necessary to achieving a legitimate aim. The results are permanent and life-altering.
3. Unlike in other states such as France and Denmark, no criminal conviction is required for the UK to strip a person of their nationality. Similarly, the UK lacks other legal safeguards that would help prevent someone from being deprived of their nationality arbitrarily, such as having the deprivation order assessed and certified by the courts.<sup>5</sup> This means that in the UK, the executive has the power to deprive someone of their citizenship unilaterally on 'conducive to public good' grounds.
4. We note that there have been many deprivations under these broad section 40(2) powers in recent years, with research indicating that the Home Secretary has ordered over 200 deprivations on grounds that doing so was 'conducive to public good'.<sup>6</sup> While some of these deprivations have involved government claims of national security grounds, we have located

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<sup>3</sup> At the time of writing, the UK Home Secretary is male, and we have therefore used male pronouns.

<sup>4</sup> British Nationality Act 1981, s40(2).

<sup>5</sup> See Rights & Security International's 'Roundtable on Citizenship Deprivation Practices in Council of Europe Jurisdictions' (*Rights & Security International*, 8 June 2023): [https://www.rightsandsecurity.org/assets/downloads/Rights\\_and\\_Security\\_International%E2%80%999s\\_Roundtable\\_on\\_Citizenship\\_Deprivation\\_Practices\\_in\\_Council\\_of\\_Europe\\_Jurisdictions.pdf](https://www.rightsandsecurity.org/assets/downloads/Rights_and_Security_International%E2%80%999s_Roundtable_on_Citizenship_Deprivation_Practices_in_Council_of_Europe_Jurisdictions.pdf). See also the relevant legislation, including the British Nationality Act 1981, s40(3); French Civil Code, Article 27(2); Ministry of Foreign Affairs of Denmark, 'Consolidation Act No. 422 of 7 June 2004: Consolidated Act on Danish Nationality,' (2004), ss7-9.

<sup>6</sup> Institute on Statelessness and Inclusion & Global Citizenship Observatory, 'Instrumentalising citizenship in the fight against terrorism' (March 2022): [https://files.institutesi.org/Instrumentalising\\_Citizenship\\_Global\\_Trends\\_Report.pdf](https://files.institutesi.org/Instrumentalising_Citizenship_Global_Trends_Report.pdf). See also House of Commons Library, Research Briefing, 'Deprivation of British citizenship and withdrawal of passports' (19 May 2023): <https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>. Home Office, 'Deprivation of British citizenship, version 2.0' (2 October 2023): <https://assets.publishing.service.gov.uk/media/651e7e9e7309a10014b0a872/Deprivation+of+British+citizenship.pdf>.

multiple cases in which the Home Secretary deprived dual nationals of their British citizenship for involvement – or merely alleged involvement – in conspiracies to engage in money laundering or other alleged organised crime activities.<sup>7</sup> At least one of these citizenship deprivation decisions, involving a dual Albanian/British national, was overturned on appeal because the tribunal found that the Home Secretary appeared to have made an automatic decision without taking account of the full circumstances of the case.<sup>8</sup> In a 2016 case, the courts upheld the Home Secretary’s decision to deprive a dual Nigerian/British national of her British citizenship due to a past drug conviction despite a history of serious conflict-related and other trauma that the court acknowledged, and a recognition by the judge that ‘There can be no doubt in anyone’s mind that the appellant has significant mental health issues’ (although it is unclear if the Home Secretary’s decision in that case was rendered under section 40(2) *per se*).<sup>9</sup> In 2010, the Home Secretary removed the citizenship of a dual Sudanese/British national who had lived in the UK since childhood and had been arrested while taking part in a public protest (subsequently leaving the country).<sup>10</sup>

5. These cases make it clear that Home Secretary can strip British citizenship from virtually any dual national and for an extremely wide range of reasons – including unproven alleged acts that, even if they were ultimately proven during a criminal trial, would not result in lifelong punishment.
6. The decision as to whether to deprive a person of their British nationality rests solely with the Home Secretary. As we discuss below, those affected by deprivation orders seeking to challenge them in court are typically prevented from doing so due to deprivation orders becoming effectively immediately, and often while the individual is already abroad. Indeed, in at least one case involving a dual Albanian/British national, the Home Secretary deliberately waited until the individual had left the UK before depriving him of his British citizenship.<sup>11</sup>
7. When – as is often the case – the UK deprives a person of their British nationality while they are outside the country, the government has the power to prevent them from re-entering the

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<sup>7</sup> *Kolicaj v. Secretary of State for the Home Department* [2023] UKUT 294 (IAC); *C9 v. Secretary of State for the Home Department* [2020] SC 173; *D5, D6 and D7 v. Secretary of State for the Home Department* [2020] SC 176, pp. 176-178.

<sup>8</sup> *Ibid.*

<sup>9</sup> *AB (British citizenship: deprivation; Deliallisi considered) (Nigeria) v. Secretary of State for the Home Department* [2016] UKUT 451 (IAC), para. 90.

<sup>10</sup> *G1 v. Secretary of State for the Home Department* [2012] EWCA Civ 867.

<sup>11</sup> *C9 v. Secretary of State for the Home Department* [2020] SC 173, paras. 3, 7.

country even for the purposes of appealing against the deprivation order.<sup>12</sup> For many, this means that citizenship deprivation results in exile.

8. The UK has not established that citizenship deprivation, which is permanent, is necessary to achieving legitimate aims when alternatives such as imprisonment following a conviction are available. We note that imprisonment is usually temporary and, in the UK, has stated goals that include ‘promot[ing] rehabilitation’ and ‘tackling the underlying causes of offending’.<sup>13</sup> In a 2018 speech, the then-Justice Secretary asserted, ‘It is only by prioritising rehabilitation that we can reduce reoffending and, in turn, the numbers of future victims of crime.’<sup>14</sup>
9. By contrast, the goal of citizenship deprivation in the UK appears to be simply exile – a practice that Article 9 of the Universal Declaration of Human Rights sought to prohibit and that, we submit, the ICCPR likewise should be understood as prohibiting.
10. More challenges arise from new powers (see below) to deprive someone of their citizenship without notice, meaning that someone may not be informed that they have been deprived, and are therefore prevented from returning to the UK and are unable to lodge an appeal within the allocated timeframe.<sup>15</sup>
11. Based on the number of UK citizenship deprivations on national security or other vague ‘conducive to the public good’ grounds in recent years, the fact that many people deprived of their British citizenship do not have an underlying relevant criminal conviction, and evidence suggesting that UK citizenship deprivations sharply escalated during the height of the conflict

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<sup>12</sup> *Begum v. Secretary of State for the Home Department* [2021] UKSC 7.

<sup>13</sup> Ministry of Justice, ‘Prisons Strategy White Paper’ (December 2021), para. 1: <https://assets.publishing.service.gov.uk/media/61af18e38fa8f5037e8ccc47/prisons-strategy-white-paper.pdf>.

<sup>14</sup> Ministry of Justice and David Gauke, ‘Prisons reform speech’ (6 March 2018): <https://www.gov.uk/government/speeches/prisons-reform-speech>.

<sup>15</sup> Nationality and Borders Act 2022, clause 10. See also Rights & Security International ‘Letter to UN Human Rights Experts Re: UK Nationality and Borders Bill’ (21 January 2022): [https://www.rightsandsecurity.org/assets/downloads/FOA\\_UNSR\\_trafficking\\_-\\_RSI.pdf](https://www.rightsandsecurity.org/assets/downloads/FOA_UNSR_trafficking_-_RSI.pdf). See also Office of the High Commissioner for Human Rights (OHCHR), UN Mandates of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on trafficking in persons, especially women and children and the Working Group on discrimination against women and girls, ‘Letter to Her Excellency Ms Elizabeth Truss, Secretary of State for Foreign and Commonwealth Affairs’, OL GBR 3/2022, 11 February 2022: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27073>.

with the Islamic State (when some British citizens travelled or were trafficked to Syria), we have concluded that the UK is using citizenship deprivation as a means of punishing individuals without securing a conviction in court and barring them from the country.<sup>16</sup> For many, the result is not only exile, but exile without trial.

- 12. We invite the Committee conclude, as we have, that the UK is violating Articles 14 and 15 of the ICCPR by imposing a punishment with consequences as serious as those of a criminal conviction without adhering to fair-trial rights – or, indeed, holding a trial at all.**
- 13. At minimum, we submit that the UK’s powers to deprive an individual of their citizenship on arbitrary grounds, and under legislation so vague as to lack the quality of a law, violate Article 17 of the ICCPR by resulting in arbitrary and unlawful interferences with private and family life.**
- 14. For similar reasons, we further submit that the laws governing citizenship deprivation in the UK violate Article 12(4) of the ICCPR, due to arbitrary refusals of the right to enter the country. We refer by comparison to Article 9 of the Universal Declaration of Human Rights, which would prohibit ‘exile’.**
- 15. We respectfully submit that the UK’s practices have exposed a lacuna in Article 13, and that individuals should be protected under the Covenant from expulsions that are not done in accordance with the law, regardless of whether the individual is still in the State Party’s territory.** We note that expulsions and refusals of entry following deprivations of citizenship were a feature of some of the tragic historical events that led to the Covenant’s adoption.

*Recent legislation restricting challenges to citizenship deprivation and access to nationality*

16. In 2022, despite concerns that RSI and other international human rights experts had raised, the UK passed the Nationality and Borders Act 2022 (‘NBA 2022’), which broadened the Home Secretary’s unilateral citizenship deprivation powers by amending the requirement to give written notice of the deprivation order. Notice is no longer universally required, meaning that

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<sup>16</sup> Reprieve, ‘Trafficked to ISIS’ (April 2021): [https://reprieve.org/wp-content/uploads/sites/2/2021/04/2021\\_04\\_30\\_PUB-Reprieve-Report-Trafficked-to-Syria-British-families-detained-in-Syria-after-being-trafficked-to-Islamic-State-1.pdf](https://reprieve.org/wp-content/uploads/sites/2/2021/04/2021_04_30_PUB-Reprieve-Report-Trafficked-to-Syria-British-families-detained-in-Syria-after-being-trafficked-to-Islamic-State-1.pdf). See also House of Commons Library, Research Briefing, ‘Deprivation of British citizenship and withdrawal of passports’ (19 May 2023): <https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>.

an individual could be deprived of their British citizenship without being aware of the order or able to challenge it in time.

17. RSI also raised concerns about the inevitable obstacles the NBA 2022 would create for people deprived of their British citizenship (or, in practice, their children) to return to the UK if the order had been certified while they were abroad. The provisions create barriers for the individual affected to make adequate representations before domestic courts, especially if they only become aware of the decision after the deadline to challenge it has passed.<sup>17</sup> Unfortunately, since the NBA 2022's enactment, UK courts have ruled in favour of the government's power to deprive people of citizenship without giving written notice, particularly in cases in which the Home Secretary decides (unilaterally) that giving notice would 'frustrate the opportunity' for him to certify the order.<sup>18</sup> We believe that the deliberate concealment of orders – especially life-altering ones – to prevent people from being able to lodge appeals eviscerates the rule of law, a concept on which the entirety of the international human rights regime is based.

18. Similarly, in 2023, the UK government passed the Illegal Migration Act 2023 ('IMA 2023'), which additionally restricted paths to settlement and British citizenship for specific groups of migrants in the UK — including asylum-seekers and survivors of human trafficking.<sup>19</sup> The IMA

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<sup>17</sup> Right & Security International and The Institute on Statelessness and Inclusion Joint Submission to the Human Rights Council, Universal Periodic Review, 'Arbitrary Deprivation of Nationality on National Security Grounds' (March 2022), para. 34: [https://www.rightsandsecurity.org/assets/downloads/FINAL\\_Joint\\_Submission\\_UPR\\_UK\\_Nationality\\_Deprivation.pdf](https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf). Rights & Security International 'Letter to UN Human Rights Experts Re: UK Nationality and Borders Bill' (21 January 2022): [https://www.rightsandsecurity.org/assets/downloads/FOA\\_UNSR\\_trafficking\\_-\\_RSI.pdf](https://www.rightsandsecurity.org/assets/downloads/FOA_UNSR_trafficking_-_RSI.pdf). See also Office of the High Commissioner for Human Rights (OHCHR), UN Mandates of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on trafficking in persons, especially women and children and the Working Group on discrimination against women and girls, 'Letter to Her Excellency Ms Elizabeth Truss, Secretary of State for Foreign and Commonwealth Affairs', OL GBR 3/2022, 11 February 2022: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27073>

<sup>18</sup> *Kolicaj v. Secretary of State for the Home Department* [2023] UKUT 294 (IAC).

<sup>19</sup> Rights & Security International, 'Hindering Access to British Citizenship: RSI's Briefing on the Illegal Migration Bill' (19 May 2023): <https://www.rightsandsecurity.org/impact/entry/hindering-access-to-british-citizenship-rsis-briefing-on-the-illegal-migration-bill>.

Rights & Security International 'Letter to UN Human Rights Experts Re: UK Nationality and Borders Bill' (21 January 2022): [https://www.rightsandsecurity.org/assets/downloads/FOA\\_UNSR\\_trafficking\\_-\\_RSI.pdf](https://www.rightsandsecurity.org/assets/downloads/FOA_UNSR_trafficking_-_RSI.pdf). See also Office of the High Commissioner for Human Rights (OHCHR), UN Mandates of the

2023 also makes most trafficking survivors liable to removal from the UK, despite the serious harms they have suffered.<sup>20</sup> **Such practices are not consistent with State Party's responsibilities under Article 8 to prohibit all forms of slavery and provide effective remedies for victims thereof.**<sup>21</sup> We submit that trafficking survivors whose immigration status is permanently uncertain are inherently at a heightened risk of fresh exploitation, trafficking or other abuse.

### *Discrimination*

19. In conjunction with existing immigration and nationality legislation, these two new Acts have further cemented the UK's discriminatory system of tiered citizenship, wherein some groups of citizens enjoy stronger rights and protections than others. British citizens who hold no other nationality (and can gain no other nationality by descent), for instance, retain a higher level of citizenship rights than those who are naturalised British citizens or dual nationals (including those who may have dual nationality by virtue of their heritage, even if they have never sought to confirm that nationality). British mono-nationals who do not have, or have the potential to acquire, another citizenship have heightened protection against citizenship-stripping under UK law because such orders would render them stateless.<sup>22</sup> By contrast, naturalised British citizens and (actual or potential) dual citizens are placed in a second-class category with less secure citizenship rights, and are vulnerable to citizenship deprivation orders even if the deprivation would cause *de facto* statelessness.<sup>23</sup>

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Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on trafficking in persons, especially women and children and the Working Group on discrimination against women and girls, 'Letter to Her Excellency Ms Elizabeth Truss, Secretary of State for Foreign and Commonwealth Affairs', OL GBR 3/2022, 11 February 2022: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27073>

<sup>20</sup> Illegal Migration Act 2023, s22(5).

<sup>21</sup> ICCPR Article 8.

<sup>22</sup> Right & Security International and The Institute on Statelessness and Inclusion Joint Submission to the Human Rights Council, Universal Periodic Review, 'Arbitrary Deprivation of Nationality on National Security Grounds' (March 2022), para. 34: [https://www.rightsandsecurity.org/assets/downloads/FINAL\\_Joint\\_Submission\\_UPR\\_UK\\_Nationality\\_Deprivation.pdf](https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf)

<sup>23</sup> British Nationality Act 1981, s40(4A). See also Right & Security International and The Institute on Statelessness and Inclusion Joint Submission to the Human Rights Council, Universal Periodic Review, 'Arbitrary Deprivation of Nationality on National Security Grounds' (March 2022), para. 34:

20. RSI is concerned that the UK's treatment of citizenship is directly discriminatory on the basis of national origin, and indirectly on the basis of race or ethnicity.<sup>24</sup> This is because the government's deprivation policies disproportionately affect people in the UK whose ancestors were nationals of other states, many of whom are from minority racial or ethnic backgrounds.<sup>25</sup>

21. In its latest concluding observations, the Human Rights Committee ('HRC') raised similar concerns about the UK's citizenship deprivation practices and their potential to cause statelessness. The HRC also noted that such practices may be incompatible with obligations under Article 12(4), given that many of the UK's deprivation orders are certified when the individual is already abroad, meaning that people stripped of their citizenship are unable to return to the UK.<sup>26</sup> We invite the Committee to reiterate and strengthen these conclusions, and we further believe that such situations, in which the UK effectively exiles certain individuals, also violate Article 17 (see above).

#### *Preventing children from acquiring nationality*

22. Upon ratifying the ICCPR, the UK government entered a reservation on Article 24(3), stating that any 'necessary' domestic legislation on acquiring British nationality would take precedence over other potential obligations in this subsection.<sup>27</sup>

**23. We submit that the government's reservation on Article 24(3) and subsequent legislation to prevent children from acquiring citizenship contravenes its international human rights obligations.**

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[https://www.rightsandsecurity.org/assets/downloads/FINAL\\_Joint\\_Submission\\_UPR\\_UK\\_Nationality\\_Deprivation.pdf](https://www.rightsandsecurity.org/assets/downloads/FINAL_Joint_Submission_UPR_UK_Nationality_Deprivation.pdf)

<sup>24</sup> Ibid.

<sup>25</sup> House of Commons Library, Research Briefing, 'Deprivation of British citizenship and withdrawal of passports' (19 May 2023): <https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf>. See also Institute of Race Relations, 'Citizenship: From Right to Privilege: A background paper on the history of citizenship-stripping powers' (11 September 2022): <https://irr.org.uk/wp-content/uploads/2022/09/Deprivation-of-citizenship-Final-LR.pdf>.

<sup>26</sup> Human Rights Committee, 'Concluding observations on the 7<sup>th</sup> periodic report of the United Kingdom of Great Britain and Northern Ireland, CCPR/C/GBR/CO/7, 17 August 2015, para. 15: <https://digitallibrary.un.org/record/804708>.

<sup>27</sup> See the UK's reservation to Article 24(3).



24. In the UK's response to the List of Issues (LoI), the government claimed that the rights of trafficking victims, including children, remained a top priority.<sup>28</sup> However, the push for more restrictive nationality legislation runs contrary to this statement, with the government carrying out extensive measures to further restrict access British citizenship, particularly on the basis of how the person entered the UK. When the UK passed the IMA 2023, it effectively barred a majority – potentially an overwhelming one – of asylum-seekers and victims of human trafficking from ever acquiring British citizenship, due to what the government regards as their irregular entry into the UK or their passage through other countries first. The provision applies to some children who have entered the UK irregularly on or after 7 March 2023.<sup>29</sup> Under this law, even children who are victims of trafficking may also be subject to removal from the UK and banned from ever acquiring British citizenship – a harmful practice that could lead to potential statelessness or *de facto* statelessness.<sup>30</sup>
25. The provisions also fail to provide permanent, long-term protection for children who have been found to be victims of trafficking or may still be vulnerable to exploitation, making the scope and application of the IMA 2023 extremely concerning and incompatible with the UK's international human rights responsibilities.<sup>31</sup>
26. Lastly, failing to provide reliable support and guaranteed paths to citizenship will have far-reaching consequences on children victims of trafficking, particularly if they are unable to return to their country of origin due to instability, violence or conflict. Similarly, without a nationality document or access to other citizenship rights, certain groups of children in the UK may be unable to confirm their identity, travel freely and return back to the UK securely, obtain consular assistance, reunite with family, or access other social benefits.

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<sup>28</sup> HM Government, 'The United Kingdom's Response to the United Nations Human Rights Committee's List of Issues on the Covenant on Civil and Political Rights (ICCPR)' (May 2020): <https://assets.publishing.service.gov.uk/media/60d309bfe90e07439ba751b4/uk-response-issues-un.pdf>, para. 138.

<sup>29</sup> Illegal Migration Act 2023, s31.

<sup>30</sup> Rights & Security International, 'Hindering Access to British Citizenship: RSI's Briefing on the Illegal Migration Bill' (19 May 2023): <https://www.rightsandsecurity.org/impact/entry/hindering-access-to-british-citizenship-rsis-briefing-on-the-illegal-migration-bill>. See also Kids in Need of Defense (KIND), 'Briefing: The Illegal Migration Act 2023: Leave to Remain and British Citizenship for Children' (22 November 2023): <https://www.kidsinneedofdefense.org.uk/2023/11/briefing-the-illegal-migration-act-2023-leave-to-remain-and-british-citizenship-for-children/#25b56307-1250-4be2-89ca-2646cc9f109d>.

<sup>31</sup> *Ibid.*

27. Although voting rights are not the focus of our submission, we note that people in the UK who are not British citizens (or qualifying Irish or Commonwealth citizens) generally cannot vote, depending in part on the UK jurisdiction in which they live. This means that children who are affected by the IMA 2023 may never have the right to vote in UK parliamentary elections, and those who live in England and Northern Ireland may never have a right to vote at all.<sup>32</sup>

### *Recommendations*

28. RSI recommends that the Human Rights Committee calls on the State Party to:

- a. Ensure its full compliance with Articles 14 and 15 by prohibiting citizenship deprivation, especially in the absence of a serious relevant criminal conviction.
- b. Comply with its obligations under Articles 12(4), 17 and 26 by repealing nationality legislation that enables deprivations of citizenship on vague, arbitrary and potentially discriminatory grounds and prevents British citizens from freely returning to the UK.
- c. Ensure its compliance with the letter and spirit of Article 13, and avoid exploiting a lacuna, by ending the practice of exile via citizenship deprivation.
- d. Withdraw its reservation to Article 24(3), to ensure that children in the UK – especially those who have sought asylum and/or are found to be victims of trafficking – are safeguarded long-term and have routes to British citizenship.
- e. Comply with Article 24(3) by ensuring that every child in the UK has the ability to acquire British citizenship.

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<sup>32</sup> House of Commons Library, 'Who can vote in UK elections?' (16 January 2024): <https://commonslibrary.parliament.uk/research-briefings/cbp-8985/>.

## II. Arbitrary detention of British nationals in northeast Syria

### *Background*

29. Since 2019, hundreds of third-country nationals, including British citizens and former citizens, have been confined without trial in dangerous facilities in northeast Syria, on account of alleged connections with the so-called Islamic State (sometimes via family members). Many of those held in the gender-segregated camps are young children, and our information indicates that the adult British women in the camps were not convicted of any associated offence before the UK government deprived them of their citizenship, thereby abandoning them in Syria.

**30. We submit that the UK's failure to repatriate British and former British nationals from detention facilities in northeast Syria violates Articles 7, as the State is knowingly leaving these children and adults in conditions that amount to torture despite having the political and practical ability to remove them from those conditions.<sup>33</sup>**

31. Since our 2020 submission to the Human Rights Committee's Pre-sessional working group, RSI has published extensive research that further details the deteriorating conditions in the camps — which, we have concluded, entail pain and suffering rising to a level that meets the definition for torture.<sup>34</sup> The conditions in the camps heavily conflict with the UK's obligations under Article 7. Despite numerous calls by human rights groups and experts to immediately repatriate all third-country nationals, the UK has only repatriated two adults and fifteen children to date.<sup>35</sup> In its reluctance to safely return those confined in the camps, the UK has solidified its position as an outlier in repatriation efforts when compared to international counterparts, even doubling down on its stance that those remaining in Syria may continue to

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<sup>33</sup> Rights & Security International, 'Global Repatriations Tracker' (*Rights & Security International*, no date): <https://www.rightsandsecurity.org/action/resources/global-repatriations-tracker>.

<sup>34</sup> Rights & Security International, 'Europe's Guantanamo: The Indefinite Detention of European Women and Children in North East Syria' (17 February 2021): <https://www.rightsandsecurity.org/impact/entry/europes-guantanamo-report>. See also Right & Security International, 'Abandoned to Torture: Dehumanising Rights Violations Against Children and Women in Northeast Syria' (13 October 2021): <https://www.rightsandsecurity.org/impact/entry/abandoned-to-torture-dehumanising-rights-violations-against-children-and-women-in-northeast-syria>

<sup>35</sup> Rights & Security International, 'Global Repatriations Tracker' (*Rights & Security International*, no date): <https://www.rightsandsecurity.org/action/resources/global-repatriations-tracker>.

pose a national security risk, despite hundreds of successful repatriations to other third countries.<sup>36</sup>

32. Although the UK has the capacity and resources to repatriate all of its nationals and former nationals, it has continued to ignore calls from camp authorities to repatriate all third-country detainees immediately.<sup>37</sup> Furthermore, the UK must also uphold its responsibilities under Article 17 and 23(1) by repatriating parents and caregivers together with their children, and ensure that no repatriation effort results in forced family separations, or compels parents and caregivers to authorise sole repatriation of a child without them.

### *Recommendations*

33. RSI recommends that the Human Rights Committee calls on the State Party to:

- a. Immediately ensure full compliance with Article 7 by repatriating all British and formerly British nationals from torturous conditions in the camps in northeast Syria.
- b. Ensure that repatriations do not entail pressure on families to agree to be separated, in violation of Articles 17 and 23(1).

### **III. The 'Prevent' counter-extremism strategy**

#### *Background*

34. The UK's 'Prevent' counter-extremism strategy is a 'pre-crime' programme through which the government asks everyday citizens to hunt for what it says are signs of 'non-violent extremist'

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<sup>36</sup> UN Human Rights Committee, 'Eighth periodic report submitted by the United Kingdom of Great Britain and Northern Ireland under article 40 of the Covenant pursuant to the optional reporting procedure due in 2021' (28 June 2021): [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F8%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F8%2F8&Lang=en), para 176. See also Rights & Security International, 'Global Repatriations Tracker' (*Rights & Security International*, no date): <https://www.rightsandsecurity.org/action/resources/global-repatriations-tracker>.

<sup>37</sup> Right & Security International, 'Abandoned to Torture: Dehumanising Rights Violations Against Children and Women in Northeast Syria' (13 October 2021): <https://www.rightsandsecurity.org/impact/entry/abandoned-to-torture-dehumanising-rights-violations-against-children-and-women-in-northeast-syria>.

beliefs, which the government claims indicate a risk that an individual will later support or commit acts of terrorism.<sup>38</sup> The strategy also involves the ‘Prevent duty’, which legally obligates public sector workers and other Prevent practitioners – such as teachers, university staff, and healthcare and social workers – to report behaviours and views that they regard as ‘extremist’ to the police (a ‘Prevent referral’).<sup>39</sup>

35. Once a practitioner instigates a Prevent referral, the case will go through the ‘Channel’ process. This process ostensibly focuses on providing support to individuals whom the government believes are vulnerable; in practice, however, all referrals result in police involvement and records in policing databases.<sup>40</sup> They may also result in undefined ‘theological/ideological support’.<sup>41</sup>
36. Following the Prevent process, individuals may face criminal or non-criminal interventions – although in 2022-23 (the most recent period for which figures are available), only 13 percent of cases were adopted for Channel support – meaning that most cases will have resulted in a police record of the person’s religious, political or other beliefs or opinions, and potentially other sensitive personal information, even though the government ultimately decides that no further engagement is needed.<sup>42</sup>
37. Since the strategy’s creation in 2011, human rights groups and academics have heavily criticised its weak evidence base and the human rights harms it causes, particularly among Muslim communities. However, schools, universities, police, medical workers and others continue to refer thousands of people to Prevent for their suspected beliefs or opinions every

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<sup>38</sup> HM Government, ‘Prevent Strategy’, Cm 8092 (June 2011): <https://assets.publishing.service.gov.uk/media/5a78966aed915d07d35b0dcc/prevent-strategy-review.pdf>.

<sup>39</sup> Counter-Terrorism and Security Act 2015, s26.

<sup>40</sup> See, e.g. Document Number [NCTPHQ/ICT/212 QRG](#), 24 May 2018 and Document Number [NCTPHQ/ICT/218 QRG](#), 30 May 2018.

<sup>41</sup> HM Government, ‘Channel duty guidance: protecting people susceptible to radicalisation’ (2023): [https://assets.publishing.service.gov.uk/media/651e71d9e4e658001459d997/14.320\\_HO\\_Channel\\_Duty\\_Guidance\\_v3\\_Final\\_Web.pdf](https://assets.publishing.service.gov.uk/media/651e71d9e4e658001459d997/14.320_HO_Channel_Duty_Guidance_v3_Final_Web.pdf).

<sup>42</sup> Home Office, ‘Individuals referred to and supported through the Prevent Programme, April 2022 to March 2023’ (Gov.uk, 14 December 2023): <https://www.gov.uk/government/statistics/individuals-referred-to-prevent/individuals-referred-to-and-supported-through-the-prevent-programme-april-2022-to-march-2023>.

year, including 6,817 between April 2022 and March 2023. Government statistics show that boys and young men are especially heavily impacted.<sup>43</sup>

**38. We submit that the government’s operation of Prevent violates several rights protected under the ICCPR, including the Article 17 right to respect for private life; the Article 18 right to freedom of thought, conscience and religion; the Article 19 rights to freedom of expression and opinion; the Article 21 right to freedom of assembly; the Article 22 freedom of association; and the Article 2(1) and Article 26 rights to freedom from discrimination.**

39. In response to RSI’s and others’ criticisms, in 2019 the UK Parliament required the government to establish an ‘Independent Review’ of Prevent.<sup>44</sup> In our 2020 submission on the UK’s implementation of the ICCPR, RSI criticised the appointment of Lord Carlile of Berriew as the Independent Reviewer, due to our concerns about his lack of independence.<sup>45</sup> Following RSI’s legal challenge, the government removed Lord Carlile from the post and, following a further recruitment process, William Shawcross (subsequently ennobled) took the post in 2021.<sup>46</sup> Despite a widespread civil society boycott of the Review in response to Sir William’s prior comments about Islam, the government published the final report of Independent Review of Prevent in February 2023.<sup>47</sup>

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<sup>43</sup> Home Office, ‘Individuals referred to and supported through the Prevent Programme, April 2022 to March 2023’ (*Gov.uk*, 14 December 2023): <https://www.gov.uk/government/statistics/individuals-referred-to-prevent/individuals-referred-to-and-supported-through-the-prevent-programme-april-2022-to-march-2023>.

<sup>44</sup> Counter-Terrorism and Border Security Act 2019, s20(8).

<sup>45</sup> Rights Watch (UK), ‘Submission to the United Nations Committee Pre-Sessional Working Group on the United Kingdom’s Implementation of the International Covenant on Civil and Political Rights’ (2020), p. 14: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FICS%2FGBR%2F41028&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FICS%2FGBR%2F41028&Lang=en)

<sup>46</sup> Owen Bowcott, ‘Lord Carlile removed from Prevent review after legal challenge’ (*The Guardian*, 20 December 2019): <https://www.theguardian.com/uk-news/2019/dec/19/lord-carlile-prevent-review-legal-challenge>; Home Office, ‘William Shawcross to lead Independent review of Prevent’ (*Gov.uk*, 26 January 2021): <https://www.gov.uk/government/news/william-shawcross-to-lead-independent-review-of-prevent>.

<sup>47</sup> For a summary of Sir William’s prior comments, see Open Society Justice Initiative, ‘Concern Over Appointment of William Shawcross to Review UK’s Counter Terror Strategy’ (*Open Society*, 28 January 2021): <https://www.justiceinitiative.org/newsroom/concern-over-appointment-of-william-shawcross-to-review-uks-counter-terror-strategy>. William Shawcross, ‘Independent Review of Prevent’, HC 1072 (February 2023): <https://www.gov.uk/government/collections/independent-review-of-prevent>.

40. The Independent Reviewer recommended significant changes to the strategy that pose additional threats to human rights. On the same day that the Review's report was published, the UK government committed to implementing the Review's recommendations.<sup>48</sup> These included recommendations that the strategy:

- Focus more heavily on 'Islamist' extremism, particularly 'non-violent Islamist extremism', including the vague category of individuals or groups that, in the Reviewer's view, 'create an environment conducive to extremism.' We observe that such language is broad and vague, recall that the freedoms of thought and belief are absolute, and note that such categories could capture many people who are lawfully expressing their views and are not inciting violence or engaging in hate speech. We believe that this approach, now implemented, **violates the freedoms of expression, opinion, thought, conscience and religion (Articles 19 and 18)**. It may also violate the prohibition of discrimination (under Articles 2(1) and 26) by exacerbating the strategy's pre-existing disproportionate and discriminatory impact on Muslims.
- Shift away from using language such as 'vulnerability', 'harm' and 'safeguarding', replacing them with 'susceptibility', 'threat' and 'risk' – while refocusing on 'extremist ideology' as an ostensible reason that people decide to commit acts of 'terrorism', rather than social or psychological factors. Again, we submit that state interferences with the freedoms of thought, belief or opinion necessarily violate rights, and that interferences that are not genuinely necessary to preventing violence, as demonstrated by factual evidence, violate the rights to freedom of expression, respect for private life and other rights. Any increased monitoring of 'ideology', which includes political views or opinions and religious beliefs, risks lawful expression being needlessly reported to police as 'extremist'. This may result in the self-censorship of lawful expression, and possibly the direct censorship of activists and campaign groups by state authorities.<sup>49</sup>

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<sup>48</sup> Home Office, 'The response to the Independent Review of Prevent', HC 1073 (February 2023): <https://www.gov.uk/government/publications/independent-review-of-prevents-report-and-government-response/the-response-to-the-independent-review-of-prevent-accessible>.

<sup>49</sup> As we concluded in 2022, the government – through the Prevent strategy – creates a 'chilling effect' on activist movements, who feel unable to express their views and opinions: see Rights & Security International and Zin Derfoufi, 'Prevent-ing Dissent: How the U.K.'s counterterrorism strategy is eroding democracy (2022): [https://www.rightsandsecurity.org/assets/downloads/Prevent-ing\\_dissent\\_How\\_the\\_UK's\\_counter-terrorism\\_strategy\\_is\\_eroding\\_democracy.pdf](https://www.rightsandsecurity.org/assets/downloads/Prevent-ing_dissent_How_the_UK's_counter-terrorism_strategy_is_eroding_democracy.pdf).

41. Alongside these concerns prompted specifically by our understanding of the Independent Review of Prevent, we also hold other concerns about how Prevent has long operated.

*Data processing and the right to privacy*

**42. Prevent-related data handling practices violate the Article 17 right to respect for private life, through the unlawful and unnecessary storage and sharing of personal data, including sensitive information about race/ethnicity, religious belief and political or other opinion.**

43. Once a Prevent practitioner instigates a Prevent referral, the affected person's data is initially stored on a dedicated Prevent Case Management Tracker (PCMT). This database is accessible to a range of authorities, including police, counterterrorism officers, and local authorities. The PCMT is used to store 'biographical information', as well as details on perceived risks or vulnerability. The types of data included under the category of 'biographical information' have not been publicly disclosed; however, it is likely that they includes data that is considered especially sensitive under both domestic law and international norms because it could easily be abused and because the harms of that abuse would be great: for example, data about an individual's race/ethnicity, their political or other opinions, and their religious or philosophical beliefs.<sup>50</sup> This information is then disseminated to a multitude of Prevent-related and non-Prevent-related databases, meaning that a wide range of public bodies have access to this sensitive data. In practice, this poorly controlled spread of sensitive data has prompted some people to stop accessing public services, including health and social care.<sup>51</sup>

44. In 2022, RSI published *Secret, Confused and Illegal*, a research report concluding that the processing of personal data under the Prevent strategy contravenes the UK's data protection obligations and violates individuals' right to respect for private life under international law.<sup>52</sup>

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<sup>50</sup> Rights & Security International, 'Secret, Confused and Illegal: How the UK Handles Personal Data Under Prevent' (2022), paras. 143-146: [https://www.rightsandsecurity.org/assets/downloads/Secret%2C Confused and Illegal - How the UK Handles Personal Data Under Prevent.pdf](https://www.rightsandsecurity.org/assets/downloads/Secret%2C%20Confused%20and%20Illegal%20-%20How%20the%20UK%20Handles%20Personal%20Data%20Under%20Prevent.pdf).

<sup>51</sup> See Hil Aked, 'False Positives: the Prevent counter-extremism policy in healthcare' (Medact, 2020): <https://www.medact.org/2020/resources/reports/false-positives-the-prevent-counter-extremism-policy-in-healthcare/>.

<sup>52</sup> Rights & Security International, 'Secret, Confused and Illegal: How the UK Handles Personal Data Under Prevent' (2022)



Further, we have also uncovered information about the Home Office’s poor information handling practices as part of the Prevent process. Having chosen to store sensitive personal data, the police and the government have failed to do so in a way that would allow them to determine whether they are operating Prevent in a discriminatory way.<sup>53</sup>

45. We identified clear and substantial issues with public bodies’ – particularly the police’s – data collection, storage, retention and sharing practices under Prevent:

- **Prevent-related data practices are not guided by clear and accessible laws and policies that would allow an individual to understand how, when and why a public authority may use their personal data.** Rather, they are guided by often secret policies specific to individual institutions, which can vary between authorities in ways that are conflicting and confusing. These policies often do not afford proper weight to human rights; rather, they prioritise extensive data processing and sharing, with some official guidance advising practitioners not to let human rights ‘stand in the way’ of Prevent.<sup>54</sup>
- **In practice, Prevent-related personal data storage is not subject to any maximum storage period, and the government could store the data for many years, even when the case has been closed or marked as erroneous or requiring ‘no further action’.** The duration of the retention can vary depending on the individual practitioner’s discretion and relevant professional guidance, which risks personal data being stored unnecessarily for long periods of time. Due to the high level of secrecy around the storage of Prevent data, people are often not aware that their data has been retained

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[https://www.rightsandsecurity.org/assets/downloads/Secret%2C Confused and Illegal - How the UK Handles Personal Data Under Prevent.pdf](https://www.rightsandsecurity.org/assets/downloads/Secret%2C%20Confused%20and%20Illegal%20-%20How%20the%20UK%20Handles%20Personal%20Data%20Under%20Prevent.pdf)

<sup>53</sup> Rights & Security International, ‘Rights & Security International raises concerns about Prevent and Channel referrals data on race’ (*Rights & Security International*, 6 March 2023): <https://www.rightsandsecurity.org/impact/entry/rights-security-international-raises-concerns-about-prevent-and-channel-referrals-data-on-race>.

<sup>54</sup> See HM Government, ‘Keeping children safe in education 2021: Statutory guidance for schools and colleges’ (September 2021), para. 60: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1021914/KCSIE\\_2021\\_September\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1021914/KCSIE_2021_September_guidance.pdf). Similar statements are also repeated at para. 110. See also, HM Government, ‘Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children’, paras. 27-28: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/942454/Working\\_together\\_to\\_safeguard\\_children\\_inter\\_agency\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942454/Working_together_to_safeguard_children_inter_agency_guidance.pdf).

on these databases, even after their cases have been closed.<sup>55</sup>

- **Once initially logged in the PCMT, data is copied and pasted into other police and government databases, without the individual's knowledge.** For instance, police documents uncovered by the Open Rights Group reveal that Prevent-related data is being shared with national databases such as the Police National Computer and the Police National Database, despite the government claiming that Prevent is not a policing strategy. Prevent data is also being shared with authorities such as the Immigration Services, the police's Criminal Records Office (ACRO) and the Foreign, Commonwealth and Development Office, none of which have any official role in the Prevent process.<sup>56</sup>

#### *Freedoms of expression, assembly and association*

**46. We submit that the UK government's implementation of Prevent breaches Articles 19 (freedom of expression and opinion), 21 (freedom of assembly) and 22 (freedom of association).**

47. For the purposes of Prevent, the government defines extremism as 'vocal or active opposition to fundamental British values', with those 'values' including such broad concepts as 'the rule of law', 'individual liberty' and 'tolerance of different faiths and beliefs'.<sup>57</sup> These terms are sweeping and vague, casting a wide net that could encompass a vast range of ideas, beliefs and behaviours, including those not necessarily indicative of any risk of violence.<sup>58</sup> (We note that while these concepts may be generally consistent with requirements that the human rights treaties impose on the *state*, and while many people who support human rights may view individuals' respect for these principles as desirable, the state is not permitted to *require*

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<sup>55</sup> E.g. see *R (on the application of II (by his mother and Litigation Friend, NK)) v. Commissioner of Police for the Metropolis* [2020] EWHC 2528 (Admin).

<sup>56</sup> Mark Townsend, 'Revealed: data from UK anti-radicalisation scheme Prevent being shared with ports and airports' (*The Guardian*, 17 December 2023): <https://www.theguardian.com/uk-news/2023/dec/17/prevent-programme-anti-radicalisation-data-shared-secretly>.

<sup>57</sup> HM Government, 'Prevent Strategy', Cm 8092 (June 2011), p. 107: <https://assets.publishing.service.gov.uk/media/5a78966aed915d07d35b0dcc/prevent-strategy-review.pdf>.

<sup>58</sup> See e.g. Carol Vincent and Myriam Hunter-Henin, 'The trouble with teaching 'British values' in school' (*Independent*, 9 February 2018): <https://www.independent.co.uk/news/education/british-values-education-what-schools-teach-extremism-culture-how-to-teachers-lessons-a8200351.html>.

people to hold certain beliefs or opinions. Nor is the state permitted to interfere with free expression simply because the views expressed are unpopular or controversial.)

48. Official guidance and training instructs Prevent practitioners – such as teachers, police, local authorities, and health and social workers – to report any expression or behaviour they perceive as being inconsistent with these ‘values’.<sup>59</sup>
49. As a result, Prevent grants practitioners extremely wide discretion to target forms of expression that are protected under human rights law. These broad terms, which allow the literal policing of opinions and beliefs, may result in a ‘chilling effect’ on the right to freedom of expression as people refrain from engaging in lawful, non-violent expression and debate because they fear a referral to Prevent.<sup>60</sup>
50. For the same reasons, Prevent may have a chilling effect on individuals’ right to freedom of assembly and association (Articles 21 and 22). In 2022, RSI released a report, *Prevent-ing Dissent*, in which we documented the ‘chilling climate’ the government has created under Prevent for artists, educators and activists, some of whom report self-censoring due to a fear of being reported to the authorities, having their funding or performances cancelled, or similar consequences.<sup>61</sup> By allowing the tagging of non-violent forms of artistic expression, educational debate and civic action as ‘extremism’, Prevent creates a climate in which people in the UK cannot engage in peaceful dissent without fear of being referred to the Prevent programme for government (including police) intervention.

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<sup>59</sup> HM Government, ‘Prevent duty guidance: Guidance for specified authorities in England and Wales’ (2023):

[https://assets.publishing.service.gov.uk/media/64f8498efdc5d10014fce6d1/14.258\\_HO\\_Prevent\\_Duty\\_Guidance\\_v5c.pdf](https://assets.publishing.service.gov.uk/media/64f8498efdc5d10014fce6d1/14.258_HO_Prevent_Duty_Guidance_v5c.pdf).

<sup>60</sup> Rights & Security International and Zin Derfoufi, ‘Prevent-ing Dissent: How the U.K.’s counterterrorism strategy is eroding democracy (2022):

[https://www.rightsandsecurity.org/assets/downloads/Prevent-ing\\_dissent\\_How\\_the\\_UK's\\_counter-terrorism\\_strategy\\_is\\_eroding\\_democracy.pdf](https://www.rightsandsecurity.org/assets/downloads/Prevent-ing_dissent_How_the_UK's_counter-terrorism_strategy_is_eroding_democracy.pdf); Amnesty International, ‘This is the Thought Police’: The Prevent duty and its chilling effect on human rights’ (2023): [https://www.amnesty.org.uk/files/2023-11/Amnesty%20UK%20Prevent%20report%20%281%29.pdf?VersionId=.hjlwRZuHiGd1\\_IECXroFwg25jyBtwur](https://www.amnesty.org.uk/files/2023-11/Amnesty%20UK%20Prevent%20report%20%281%29.pdf?VersionId=.hjlwRZuHiGd1_IECXroFwg25jyBtwur).

<sup>61</sup> Rights & Security International and Zin Derfoufi, ‘Prevent-ing Dissent: How the U.K.’s counterterrorism strategy is eroding democracy (2022):

[https://www.rightsandsecurity.org/assets/downloads/Prevent-ing\\_dissent\\_How\\_the\\_UK's\\_counter-terrorism\\_strategy\\_is\\_eroding\\_democracy.pdf](https://www.rightsandsecurity.org/assets/downloads/Prevent-ing_dissent_How_the_UK's_counter-terrorism_strategy_is_eroding_democracy.pdf).

## Discrimination

51. **Through Prevent, the UK government is jeopardising the Article 2(1) and Article 26 prohibitions on discrimination, especially for British and other Muslims in the UK.**

52. In its 2020 submission on the UK's implementation of the ICCPR, RSI (then Rights Watch (UK)) highlighted excessive referrals of people to Prevent for ostensible 'Islamist' extremism, evidenced by a high number of referrals (3,197, approximately 44 percent of the total number of referrals) that led to only a relative handful of cases (179) being assessed as requiring an onward referral to the Channel deradicalisation programme, based on the data for 2017-18. These numbers stood in contrast to the smaller number of initial referrals (1,312) for perceived 'Extreme Right Wing' beliefs or behaviours that nevertheless led to a similar number of Channel interventions (174).<sup>62</sup>

53. Official statistics for 2022-23 now show a far higher number of 'Extreme Right Wing' referrals (1,310) in comparison to those marked 'Islamist' (781). There is a similar difference in 'Extreme Right Wing' referrals adopted as a Channel case (296, compared to 115 defined as 'Islamist').<sup>63</sup>

54. However, an analysis by RSI and criminologist Dr Zin Derfoufi of St Mary's University London of statistics on the race/ethnicity of referred individuals, based on data RSI obtained via a freedom of information request, indicates that although people whom the authorities label as 'White' are more likely to be adopted as a Channel case, people whom they label as 'Asian', and cases recorded as 'Islamist', are more likely to be referred directly to the police.<sup>64</sup> (The

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<sup>62</sup> Rights Watch (UK), 'Submission to the United Nations Committee Pre-Sessional Working Group on the United Kingdom's Implementation of the International Covenant on Civil and Political Rights' (2020), pp. 14-15: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FICS%2FGBR%2F41028&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FICS%2FGBR%2F41028&Lang=en); Home Office, 'Individuals referred to and supported through the Prevent Programme, April 2017 to March 2018' (2018): <https://assets.publishing.service.gov.uk/media/5c0e9aa540f0b60bb17f6ddc/individuals-referred-supported-prevent-programme-apr2017-mar2018-hosb3118.pdf>.

<sup>63</sup> Home Office, 'Individuals referred to and supported through the Prevent Programme, April 2022 to March 2023' (2023): <https://www.gov.uk/government/statistics/individuals-referred-to-prevent/individuals-referred-to-and-supported-through-the-prevent-programme-april-2022-to-march-2023>.

<sup>64</sup> Rights & Security International, 'Rights & Security International raises concerns about Prevent and Channel referrals data on race' (*Rights & Security International*, 6 March 2023): <https://www.rightsandsecurity.org/action/advocacy/entry/rights-security-international-raises-concerns-about-prevent-and-channel-referrals-data-on-race>.

Home Office informed us that information about people’s race/ethnicity for Channel purposes is not self-reported, but rather entered by the authorities, apparently based on their own perceptions. The Home Office also informed us that its data regarding the race/ethnicity of people referred to Channel is of poor quality, and we have recently received a similar statement from the National Police Chiefs’ Council regarding the poor quality of data about the race/ethnicity of people referred to Prevent – the earlier stage of the process.) Further, Home Office data on terrorism-related criminal arrests and charges also shows that Asian Britons are more likely to face terror-related criminal justice measures than people who identify as being of other races/ethnicities, despite decreases in the number of Channel cases involving individuals recorded as being of Asian descent.<sup>65</sup> These statistics suggests that the UK is subjecting people it believes are of ‘Asian’ descent (which, in UK parlance, typically means people whose ancestral origins are on or near the Indian subcontinent) to disproportionate engagement with the criminal justice system.

### *Recommendations*

55. RSI recommends that the Committee call on the UK government to:
- a. Repeal the Prevent strategy and re-evaluate its approach to violence prevention to ensure that it complies with its international human rights obligations.
  - b. Remove Prevent-related personal data from databases other than the Prevent Case Management Tracker; inform people about where their personal data has been held and who has had access to it; and otherwise comply with the international right to respect for private life as well as the UK’s own data protection laws, including the laws on the handling of ‘special category’ data such as race/ethnicity, religious belief and political or other opinion.
  - c. In a rights-compliant manner, collate and publish data that will allow it – and the public – to determine whether Prevent operates in a discriminatory way, including against people in Britain of Asian descent.

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<sup>65</sup> Home Office, ‘Operation of police powers under the Terrorism Act 2000, financial year ending March 2021’ (2021): <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-financial-year-ending-march-2021>.

#### IV. The legacy of the conflict in Northern Ireland

##### *Background*

56. This section of our submission covers the current legal and practical situation regarding investigations of violence committed during the height of the conflict in the Northern Ireland, which occurred between 1966 and 1998 and is often described as ‘the Troubles’. The government refers to these criminal and civil matters as ‘legacy’ cases, although we note that large numbers of the people who survived the violence, or whose loved ones were killed, are still living. Indeed, there are multiple organisations in Northern Ireland dedicated to assisting those who continue to experience trauma as a result of violence they endured or witnessed during the conflict.

57. Over 20 years after the Belfast/Good Friday Agreement (the peace agreement that formally brought an end to the conflict), many victims and their families are still trying to secure truth and accountability for killings and other alleged human rights violations. Since the UK’s last review, there have been significant and unprecedented developments, culminating in the passage of the government-sponsored Northern Ireland Troubles (Reconciliation and Legacy) Act 2023 (the ‘Legacy Act’).

**58. RSI submits that the Legacy Act breaches the UK’s obligations under Articles 6 and 7 of the Covenant, and we highlight that the government of the Republic of Ireland has made similar allegations in an interstate case recently filed at the European Court of Human Rights.**

59. Today, many alleged unlawful killings from the ‘Troubles’ era in Northern Ireland remain unsolved and without a complete investigation. While the UK government has, in the past, created several different mechanisms to ‘deal with the past’, it has subsequently abandoned these, with current investigative bodies struggling due to a lack of resources (and in numerous instances) state cooperation.<sup>66</sup> These existing bodies will shortly cease operation altogether due to the Legacy Act.

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<sup>66</sup> See Rights & Security International, ‘The Human Right to Effective Investigations and Northern Ireland ‘Legacy’ Cases: A Legal Explainer’ (2021), p. 1: [https://www.rightsandsecurity.org/assets/downloads/210916\\_Legacy\\_Legal\\_Brief\\_Final.pdf](https://www.rightsandsecurity.org/assets/downloads/210916_Legacy_Legal_Brief_Final.pdf).

60. In 2014, the governments of the UK and the Republic of Ireland concluded the Stormont House Agreement (SHA), in which both governments ‘recognise[d] that there are outstanding investigations and allegations into Troubles-related incidents, including a number of cross-border incidents’ and ‘commit[ed] to co-operation with all bodies involved to enable their effective operation, recognising their distinctive functions, and to bring forward legislation where necessary.’<sup>67</sup> A commitment to honour the Stormont House Agreement was repeated in the UK-Ireland New Decade, New Approach Deal of January 2020, which committed the UK to legislate for the SHA within 100 days. However, the UK government has since decided not to legislate to implement the Agreement, as we discuss further below.<sup>68</sup>
61. Since 2014, the UN Human Rights Committee, UN Committee Against Torture and several UN Special Rapporteurs have all requested that the UK Government to take urgent measures to advance and implement the SHA, particularly in relation to investigating conflict-related violations.<sup>69</sup>
62. After an initial poor level of engagement with the various post-conflict investigative measures by the Police Service of Northern Ireland and British security forces, the existing measures had recently started to achieve significant positive outcomes for many families in so-called ‘legacy’

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<sup>67</sup> Stormont House Agreement 2014, para. 55.

<sup>68</sup> For a summary, see BBC News, ‘Legacy cases: Stormont House Agreement must not be ‘rewritten’’ (BBC News, 25 June 2021): <https://www.bbc.co.uk/news/uk-northern-ireland-57614908>.

<sup>69</sup> Human Rights Committee, ‘UN Human Rights Committee Concluding Observations on the Seventh Periodic Report of the UK of Great Britain and Northern Ireland’, CCPR/C/GBR/CO/7, 17 August 2015, para. 11(b): [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Download.aspx?symbolNo=CCPR%2FC%2FGBR%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolNo=CCPR%2FC%2FGBR%2FCO%2F7&Lang=en); Committee Against Torture, ‘UN Committee against Torture Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, CAT/C/GBR/CO/6, 7 June 2019, paras. 41(a) and 41(b): <https://www.ohchr.org/en/documents/concluding-observations/catcgbrc06-concluding-observations-sixth-periodic-report-united>; Pablo de Greiff, ‘Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff on his Mission to the UK of Great Britain and NI’, A/HRC/34/62/Add.1, 17 November 2016, para. 39: <https://undocs.org/A/HRC/34/62/Add.1>; Office of the High Commissioner for Human Rights, ‘Press Release: UN experts voice concern at proposed blanket impunity to address legacy of “the Troubles” in NI’ (OHCHR, 10 August 2021): [https://www.ohchr.org/en/press-releases/2021/08/uk-un-experts-voice-concern-proposed-blanket-impunity-address-legacy#:~:text=GENEVA%20\(10%20August%202021\)%20%E2%80%93,and%20blanket%20impunity%20for%20the](https://www.ohchr.org/en/press-releases/2021/08/uk-un-experts-voice-concern-proposed-blanket-impunity-address-legacy#:~:text=GENEVA%20(10%20August%202021)%20%E2%80%93,and%20blanket%20impunity%20for%20the).

cases, especially regarding truth recovery –including for victims of allegedly state-perpetrated harms.

### *The ‘Legacy Act’*

63. In the years following the SHA, some UK government ministers and other political representatives, as well as individuals in the British military, expressed concerns about what they believed to be ‘vexatious prosecutions’ or ‘vexatious claims’ resulting from investigators’ and prosecutors’ attempts to conduct rights-compliant investigations into alleged serious crimes and human rights abuses committed by state actors, either in Northern Ireland or as part of the UK’s overseas military operations.<sup>70</sup> Our research indicates that these concerns were not based in reality, and instead were serving to provide the government with an ostensible justification for shutting down investigations that, under human rights law, should have continued. We have published data showing that, despite members of the UK Parliament referencing so-called ‘vexatious’ claims or prosecutions over 250 times since 2016, no government official or public body has ever provided actual evidence of any systemic problem of ‘vexatious’ criminal or civil claims against serving or former members of the military for alleged rights abuses.<sup>71</sup>

64. In 2020, the UK government announced a unilateral departure from the SHA. Instead of following its previously agreed commitments, it decided to introduce the Legacy Bill (as it then was) to Parliament.<sup>72</sup> Through what is now the Legacy Act, the government has shut down existing investigative mechanisms – both civil and criminal – that were providing some form of truth and justice (however flawed) to victims of rights violations; introduced a broad amnesty for conflict-related crimes, provided that the individual meets conditions that do not require a verified disclosure of the truth; and established a new investigative body with only weak and limited powers to investigate outstanding conflict-related cases. The Act became law in September 2023.

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<sup>70</sup> The Legacy Act was preceded by the Overseas Operations (Service Personnel and Veterans) Act 2021, which restricts civil and criminal claims against members of the military who commit crimes or civil harms during overseas operations.

<sup>71</sup> Rights & Security International, ‘Briefing: Research Shows UK Government Is Wrong about ‘Vexatious Claims’ from Northern Ireland Conflict’ (2021): [https://www.rightsandsecurity.org/assets/downloads/211216\\_Vexatious\\_Claims\\_Briefing\\_Website.pdf](https://www.rightsandsecurity.org/assets/downloads/211216_Vexatious_Claims_Briefing_Website.pdf).

<sup>72</sup> UK Parliament, Statement made by Northern Ireland Secretary of State, Brandon Lewis, ‘Addressing Northern Ireland Legacy Issues’ (18 March 2020): <https://questions-statements.parliament.uk/written-statements/detail/2020-03-18/HCWS168>.



*Effective investigation of potential human rights violations*

65. RSI's main concerns regarding the Legacy Act are as follows:

- The existing investigative and legal processes into so-called 'legacy' cases involving violence (including alleged state-involved violence) committed during the Troubles will be terminated, leaving many victims and survivors without redress.
- The introduction of an amnesty (termed as a 'conditional immunity scheme'), which has a low eligibility threshold, will create impunity and threaten long-term peace.
- The introduction of a new legacy body called the Independent Commission for Reconciliation and Information Recovery (ICRIR), which has the purpose of 'reviewing' certain 'legacy' cases but which does not meet the standards of independent investigation undertaken by previous legacy mechanisms, will impede justice and risks forever obscuring the truth rather than revealing it.<sup>73</sup>

66. The UK government often describes the Act's amnesty provisions as a 'statute of limitations' or a 'conditional immunity', as part of a 'move away from criminal justice outcomes'.<sup>74</sup> These descriptions are misleading: as we can see from section 19 of the Act, the ICRIR must grant a person immunity from prosecution if they have requested it, have provided an account of the events in question, and have stated that these accounts are 'true to the best of [the person's] knowledge and belief.' In effect, this provision will create an amnesty for people who admit they have committed serious conflict-related crimes, without requiring them to disclose the full and verified truth.

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<sup>73</sup> See Rights & Security International, 'The Human Right to Effective Investigations and Northern Ireland 'Legacy' Cases: A Legal Explainer' (2021): [https://www.rightsandsecurity.org/assets/downloads/210916\\_Legacy\\_Legal\\_Brief\\_Final.pdf](https://www.rightsandsecurity.org/assets/downloads/210916_Legacy_Legal_Brief_Final.pdf).

<sup>74</sup> See. e.g. Northern Ireland Office, 'Addressing the Legacy of Northern Ireland's Past', CP 498 (July 2021), pp. 19-21: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002140/CP\\_498\\_Addressing\\_the\\_Legacy\\_of\\_Northern\\_Ireland\\_s\\_Past.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002140/CP_498_Addressing_the_Legacy_of_Northern_Ireland_s_Past.pdf).

67. The amnesty provision is particularly concerning in circumstances in which prior Troubles-related investigations were also ineffective or otherwise unlawful, leading to a broad lack of justice and reconciliation.
68. RSI submits that a thorough investigation requires that inquiries be capable of establishing the facts, identifying the perpetrator and following all lines of inquiry. These goals cannot be achieved by conducting only a light-touch review or producing a basic historical record, as proposed by the Legacy Act.
69. We recall that the investigative obligations attached to the right to life and the prohibition on torture (under Articles 6 and 7 of the ICCPR) do not lessen with the passage of time, or with the failures of previous investigative mechanisms.
70. We are also concerned about subject-matter limits to ICRIR investigations. For instance, the UN Special Rapporteur on the Promotion of Truth in 2016 (prior to the introduction of the Legacy Act) stated that the existing focus on fatalities meant that

*‘persons physically or psychologically injured as a result of life threatening attacks, torture or ill-treatment, including sexual violence, are excluded from historical investigations. The majority of violations and abuses relating to the Troubles therefore remain largely unaddressed.’<sup>75</sup>*

71. This gap is exacerbated by the Legacy Act. After a follow-up visit to the UK in 2021, the Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli, stated that,

*‘The Special Rapporteur regrets the insufficient implementation of the recommendations contained in the country visit report and the current reported plans to obstruct conflict-related accountability and related investigative powers under a “legacy package”. He urges the relevant authorities to adopt effective and immediate measures to ensure that the*

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<sup>75</sup> Pablo de Greiff, ‘Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, Pablo de Greiff on his Mission to the UK of Great Britain and NI’, A/HRC/34/62/Add.1, 17 November 2016, para. 39: <https://undocs.org/A/HRC/34/62/Add.1>.

*Government fully complies with, and refrains from regressing on, its international human rights obligations.*<sup>76</sup>

72. We submit that the UK continues to retreat from its international human rights obligations in relation to post-conflict accountability mechanisms in Northern Ireland, particularly the procedural obligation to effectively investigate potentially unlawful killings under Article 7, following the enactment of the Legacy Act.

### *Recommendations*

73. RSI recommends that the Committee call on the UK government to:

- a. Repeal the Legacy Act and replace the ICIR with an investigative mechanism that fulfils its obligation to effectively investigate serious crimes resulting from the Troubles.
- b. Fully cooperate with investigations into its own role in Troubles-related crimes, including by removing national-security-related exemptions to obligations to disclose evidence.

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<sup>76</sup> Fabián Salvioli, 'Follow-up on the visits to Burundi, the United Kingdom of Great Britain and Northern Ireland and Sri Lanka Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence', A/HRC/48/60/Add.2, 5 August 2021: <https://www.ohchr.org/en/documents/country-reports/ahrc4860add2-follow-country-visits-burundi-united-kingdom-great-britain>.