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**Case Study: Counter-terrorism
Stop and Search in Post-conflict
Northern Ireland**

Context: UK

The UK includes four nations – England, Scotland, Wales and Northern Ireland.

UK Parliament is the supreme legislative body of the UK – but it has **devolved** various powers to the Scottish Parliament, the Welsh Parliament and the Northern Ireland Assembly.

UK Parliament maintains responsibility for policy matters that have not been devolved (and for England)– this includes on matters relating to **national security and counter-terrorism**.

The UK has **three NHRIs** that advise on and promote human rights within their specific mandates and devolved competencies.



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The Northern Ireland Conflict: Background

- From the late 1960s to the end of 1990s there was a period of conflict in NI, commonly known as '**the Troubles**'
- Thousands of people were killed by various opposing parties, including by (Irish) republican armed groups; (British) loyalist paramilitary groups; and the UK security forces (police, military)
- An unknown but large number of attacks were committed by paramilitaries acting in **collusion** with the State
- **Over 3,600 persons** were killed and approximately 47,000 people were injured (of a population of only 1.6 million people)



The Northern Ireland Conflict: Emergency Measures

- During this period, a complex legal system prevailed throughout:
 - **Special powers** were invoked by the Northern Irish government during late 1960s/early 1970s
 - **Emergency legislation** introduced by British Government to counter threat of paramilitary violence
- These special or emergency measures included:
 - Internment and trial without jury (Diplock courts)
 - Banning of certain armed groups ('proscribed organisations')
 - Broadening of powers to stop, search, arrest and interrogate



The Northern Ireland Conflict: Peace Process

- In 1998, the **Belfast (Good Friday) Agreement** was signed & supported in both NI and the Republic –
 - **Power-sharing** devolved assembly in NI
 - **Decommissioning** of weapons held by paramilitaries
 - Radical **reforms** to policing
 - Commitment to “**normalisation** of security arrangements and practices”
 - Commitment to incorporate the European Convention on **Human Rights** into NI law
- Introduction of the **Human Rights Act 1998**
 - **UK-wide** legislation
 - Incorporates **ECHR** into domestic law
 - Provides victims of human rights abuses **direct access** to the courts for redress



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Post-conflict Northern Ireland: Counter-terrorism Stop and Search/Question

- The power to stop and search/question **without reasonable suspicion** –
 - Section 44, Terrorism Act 2000 (TACT) – applies to all UK
 - Section 24, Justice and Security (NI) Act 2007 (JSA) – applies to NI only
- Subject to additional **safeguards**, enhanced **oversight** and **regular review** mechanisms designed to prevent arbitrary use –
 - Time-bound authorisation required for use of powers
 - External oversight mechanisms – Independent Reviewers, NI Policing Board (with Independent Human Rights Advisor), Police Ombudsman
 - Publication of statistical information



Post-conflict Northern Ireland: Counter-terrorism Stop and Search/Question

- Independent Reviewers highlight concerns that counter-terrorism stop and search powers are **intrusive**, can **alienate** sections of the community, and **lower confidence** in the police.
- In 2022/2023, counter terrorism powers accounted for 16% of all stop and search/question in NI. Of these, 11% were conducted on **children**.
- Consistently **low arrest rates** (typically around 1% for JSA)
- Independent Reviewers, the NI Policing Board and international human rights monitoring bodies have been critical of the **lack of community background** monitoring in respect of JSA powers.



What we do: Domestic

The Northern Ireland Human Rights Commission (NIHRC) was established in **1999** on the basis of the **Belfast (Good Friday) Agreement** and created by the UK Parliament through the Northern Ireland Act.

Our mandate includes:

- Advice to Government
- Educating, Promotion and Awareness Raising
- Investigating (specific pieces of research)
- Litigating (legal cases)
- Dedicated Mechanism



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What we do: International

The NIHRC is an NHRI with A status accreditation from the UN. It is an independent, statutory organisation that operates in full accordance with the **UN Paris Principles**.

Recent international reporting cycles:

- UN CRC in 2023
- ICCPR in 2024
- UN CERD in 2024 (ongoing)
- CoE ECRI 2023 (ongoing)



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What we do: International

UN Human Rights Committee, Concluding Observations to the UK and NI in **2015** (emphasis added):

“Implement, as a matter of priority, the recommendation of the Policing Board to the Police Service of NI concerning the inclusion in the Police Service of NI’s recording form of **community background** of persons stopped and searched under the **Justice and Security (NI) Act 2007**”.

UN Human Rights Committee, Concluding Observations to the UK and NI in **2024** (emphasis added):

“Bearing in mind the Committee’s previous recommendations, the State party should **review** its counter-terrorism legislation to ensure that it is in compliance with the Covenant and the principles of legality, certainty, predictability and **proportionality**”



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What we do: International

UN CERD Committee, List of Themes to the UK and NI in **2024** (emphasis added):

“Measures adopted or envisaged to address...excessive use of **stop and search powers**...by law enforcement and immigration officers”

“Additional information on measures adopted or envisaged to **review** its anti-terrorism legislation and its counter-terrorism strategy....and on measures to address their **disproportionate impact** on persons belonging to ethnic or ethno-religious groups and on non-nationals, including children.”

“Steps taken or envisaged to ensure transparency and **accountability** in the implementation of counter-terrorism programmes and strategies, including the publication of **statistics disaggregated** by ethnicity, age, gender and religion.”



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A 'Fragile Peace': Other Human Rights Concerns related to the Conflict

- Lack of political consensus on **Bill of Rights** for NI
- **Investigations** into conflict-related human rights violations
- **Remedies** for victims of conflict-related human rights violations (Victims' payments)
- Threats to the rule of law from non-state actors (**Paramilitarism**)
- **Participation of women** in peace-building initiatives in line with UN Security Council Resolution 1325
- The continued use of **non-jury trials**
- Use of **closed material procedures** in civil cases



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