



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

UK Asylum and Migration Reform and NIHRC Response

Context: NIHRC

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.

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**.

Our mandate includes:

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



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

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 **asylum and migration**.

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



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Context:

Reform of UK Asylum System

- New Plan for Immigration 2021
- The Nationality and Borders Act 2022
- The Illegal Migration Act 2023
- Migration and Economic Development Partnership (later renamed UK-Rwanda Asylum Partnership) 2022
 - UK Supreme Court judgment, 15 Nov. 2023
 - UK-Rwanda Asylum Partnership Treaty, 5 Dec. 2023
 - Safety of Rwanda (Asylum and Immigration) Bill, 6 Dec. 2023
- Safety of Rwanda (Asylum and Immigration) Act 2024



NIHRC Key Concerns

- The Nationality and Borders Act created a **two-tier system** of legal protections to penalise individuals who arrive through unofficial routes.
- The concept of “**illegal**” **migration** and the differential treatment of individuals based on their mode of arrival is incompatible with international refugee protection law.
- The Illegal Migration Act **removes the ability to claim asylum** except in very limited circumstances, **creates barriers** for individual legal challenges and **dismantles existing safeguards** for children and victims of human trafficking and exploitation.
- The Safety of Rwanda Act **undermines** UK Supreme Court judgment, **externalizes** UK’s asylum obligations, undermines the international system and **poses serious risks** for the safety of refugees.



NIHRC Response

Advice

- Home Office - New Plan for Immigration 2021
- UK Joint Committee on Human Rights – Nationality and Borders Bill 2021
- UK House of Lords - Nationality and Borders Bill 2022 (Dedicated Mechanism only)
- UK Joint Committee on Human Rights – Illegal Migration Bill 2023
- UK House of Lords – Illegal Migration Bill 2023
- UK House of Lords – Safety of Rwanda Bill 2024



NIHRC Response

Education, promotion and awareness raising

- Research – Dedicated Mechanism - rights of refugees and persons seeking asylum 2023
- Human Rights Annual Statement
- Annual Lecture 2023 – Keynote Address: UN Refugee Agency's Assistant High Commissioner for Protection, Gillian Triggs
- Refugee Week



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

NIHRC Response

International reporting

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



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

UN Concluding Observations

UN CRC Committee, Concluding Observations to UK and NI in 2023 (emphasis added):

Para 50. “The Committee urges the State party: (a) To **urgently amend** the Illegal Migration Bill to **repeal** all draft provisions that would have the effect of **violating** children’s rights under the Convention and the Convention relating to the Status of Refugees and bring the Bill in line with the State party’s obligations under international human rights law to ensure children’s rights to nationality, to seek asylum and to have their best interests taken as a primary consideration and to prevent their prolonged detention and removal;

(b) To amend the Nationality and Borders Act 2022 to **abolish** the designation of Group 2 status, used for certain groups of refugee children, for all refugee children and ensure that no asylum-seeking and refugee children, including unaccompanied children, are criminalized and that they have access to necessary support and services.”



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

UN Concluding Observations

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

Para 39. “The State party should: (a) Ensure that the legislative framework to combat trafficking in persons is aligned with international standards on trafficking in persons, including... by ensuring that implementation of the Illegal Migration Act 2023 does not result in victims of trafficking in persons being returned to face further exploitation and harm”

Para 41. “The Committee **urges** the State party: (a) To **swiftly repeal** the legislative provisions, including those within the Illegal Migration Act 2023, that discriminate against migrants and that seek to limit access to rights for asylum-seekers, refugees and migrants on account of their “illegal entry or presence”, with a view to ensuring that its legislation fully complies with the Covenant and relevant international standards...[and]

(c) To **withdraw** the Safety of Rwanda (Asylum and Immigration) Bill, or **repeal** the bill if passed, with a view to strictly upholding the principle of non - refoulement in both law and practice.”



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Legal Challenge: Illegal Migration Act 2023

- Recommendations from NIIHRC, UN Treaty bodies, UN Refugee Agency & others not followed – the Illegal Migration Act passed 20 July 2023.
- As a **last resort**, the NIIHRC issued a legal challenge against the Illegal Migration Act (IMA) in Sept. 2023.
- On the basis that the IMA is **in breach** of the UK's domestic and international human rights obligations under the European Convention on Human Rights, 1951 Refugee Convention and Article 2(1) of the Windsor Framework.
- Provisions challenged stand to **adversely affect thousands**, if not tens of thousands, of individuals each year. NIIHRC believes that the IMA will **unlawfully threaten** their life, dignity and liberty



Judgment: Illegal Migration Act

- On 13 May 2024, the NI High Court of Justice ordered the **disapplication of provisions** of the Illegal Migration Act 2023 in NI and declared others to be **incompatible** with the European Convention on Human Rights “given the significant nature of the violations identified”, including:
 - Removal of persons without assessment of protection or human rights claim
 - Removal of safeguards for potential victims of modern slavery or human trafficking
 - Failure to ensure a child’s interests are a primary consideration
- The Court also ruled that a number of provisions did **breach** Article 2(1) of the Windsor Framework, including:
 - Lack of effective examination and grant of asylum claims
 - Lack of effective remedy to challenge decisions
 - Detention without remedy for 28 days



Reflections

- The judgment means the provisions of the **IMA disapplied** by the court, which are expected to be commenced soon, cannot be brought into force in NI (still apply in other UK jurisdictions).
- The current UK Government confirmed its intention to **appeal** against the ruling and stated the judgment "changes nothing about our operational plans to send illegal migrants to **Rwanda** this July or the lawfulness of our Safety of Rwanda Act".
- The case did not consider or conclude on other related legislation and policy such as the Nationality and Borders Act, the Safety of Rwanda Act 2024 or the UK-Rwanda Partnership Treaty - **threat of removal** to Rwanda (or other third country) still exists for many.



Swansea Asylum Seekers Support – Special Asylum Seekers Edition Snakes & Ladders

Concept and design by SASS members Aruni McShane, Tom Cheesman, Diana Amaya, Fru Delvis, Achuli Monyoch, Final art design by Harry Richmond.		90 Congrats! You are a UK citizen, can be the next Home Secretary!	89 Congrats! You are a refugee! Throw a 1 to make UK your new home	88	87 Leave to remain! But wait 6 months for UK papers Miss a throw	86	85 Leave to remain! Panic attack Miss a throw	84 Tip! Some lawyers work for free (pro bono) to uphold justice	83 Tip! Fresh Claim requires new evidence. Legal Aid funded support is very limited
73 Wait, wait, wait Miss a throw	74	75 Wait, wait, wait Miss a throw	76 Case failed Evicted, destitute	77 Tip! NRPF = No Recourse to Public Funds = no benefits or state support	78 Case failed No appeal rights, NRPF	79 Sofa surfing Miss a throw	80	81 Re-settlement scheme Envy is a bad feeling	82 Fresh claim Thanks to pro bono lawyer
72	71 Case failed Due to solicitor negligence	70 Flashbacks Recognition!	69 Award for community volunteering! Recognition!	68	67	66 Tip! You can be put in detention any time without charge or release date	65 Detention	64 Campaign for your rights Extra throw	63 Case failed You can appeal Extra throw
53 Right to work granted After a year – but only for shortage jobs	54	55	56	57 A food bank... helps you survive	58 Cultural differences... not recognised Lonely Miss a throw	59	60	61 Aspen Card lost No money for weeks	62 Tip! The Home Office loads your weekly cash onto your Aspen Card.
52 Living with strangers Best friends or enemies	51 Sent to Wales Lucky! Free language classes	50 All the family in one room Relationship damage	 SNAKES & LADDERS Special Asylum Seekers Edition Prototype for the Conference at Unison Delegates Brighton 2024			49	48	47 Long wait You lose skills and self-confidence Miss a throw	46 Long wait But you train and get educated Extra throw
41	42	43 Long wait No right to work big CV gap Miss a throw				44 Community volunteer ...finds evidence to support your claim Extra throw	45	46 Long wait But you train and get educated Extra throw	47 Long wait You lose skills and self-confidence Miss a throw
40 Your children are bullied... for being asylum seekers	39	38	37 Asylum seekers in the news Scary	36 Tip! Streamlined process is if you're from Afghanistan, Eritrea, Libya, Syria, or Yemen	35	34 Stream-lined process for some Just fill in a form!	33 Volunteering Feel useful Extra throw	32	31 Make friends in the community Extra throw
21 Start English classes... even if you walk 3 miles	22 Your solicitor... drops all asylum case work	23	24 Home Office loses your phone with evidence of your persecution	25	26 Charity helps you... prepare for interviews & tribunal	27	28 Home Office sends you a letter Miss a throw while you find a translator	29 Tip! Your fate depends on your "Substantive Interview" with a Home Office official	30 Substantive Interview Relive it all
20 Receive charity Clothes, shoes, soap and toothpaste	19 Insomnia Missing family Miss a throw	18 Legal Aid funds a solicitor Your case is taken on	17	16 Depression No therapy Miss a throw	15 Room, kitchen & £50 a week Life's possible	14 Shelter Meals & £9 a week Grateful	13 Emergency housing Might be anywhere	12 Tip! The Bail 101 letter warns that you can be detained at any time	11 Tip! Your Asylum Registration Card (ARC) is your new ID
1 Flee your home country Survive persecution	2 Don't reach UK Back to Square Zero	3 Arrive safe in UK End of a dangerous journey	4 Try to claim asylum Hope & believe in humanity	5 Not allowed to make an asylum claim Back to Square Zero	6 Asylum claim is registered Life's possible	7	8	9	10 Get your ARC card & Bail 101 letter
RULES: Use one dice. Throw 1 to start. To win, land on 89 then 90. 'Square Zero' is where you came from. Rules can be changed by the government at any time.									



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Contact us:
Emily.Mills@nihrc.org

www.nihrc.org | info@nihrc.org | +44 (0)28 9024 3987
Temple Court, 39 North Street, Belfast, BT1NA



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION