

## Written Evidence to the Northern Ireland Affairs Committee on its inquiry into 'Citizenship and Passport Processes in Northern Ireland'

### Committee on the Administration of Justice (CAJ)

February 2021

1. CAJ is an independent human rights organisation with cross community membership in Northern Ireland and beyond. It was established in 1981 and lobbies and campaigns on a broad range of human rights issues. CAJ seeks to secure the highest standards in the administration of justice in Northern Ireland by ensuring that the Government complies with its obligations in international human rights law.
2. CAJ welcomes the opportunity to provide Written Evidence to the Committee on its inquiry into the 'Citizenship and Passport Processes in Northern Ireland'.<sup>1</sup> The Committee seeks written evidence on the following three questions:
  - The interaction between UK nationality law and Articles 1 (v) and (vi) of the Belfast/Good Friday Agreement, and any engagement with the ECHR;
  - Whether the Government should consider implementing changes to citizenship rules and requirements to better incorporate the birthright commitments of the Agreement into UK law; and
  - Whether the Government should allow Northern Ireland residents born in the Republic of Ireland to apply for a British passport given that Northern Ireland residents can currently apply for an Irish passport.
3. CAJ has a significant body of work on these issues and was involved in supporting the *DeSouza* case. Since 2016, we have developed a body of work on the implications of Brexit, including on issues relating to rights related to British, Irish, and, hence EU citizenship, and the principles of equality of treatment in NI. CAJ was the NGO partner in the 'BrexitLawNI' collaborative research project with the law schools of Queen's University Belfast and Ulster University.<sup>2</sup> In March 2019, through the Equality Coalition (which CAJ co-convenes with UNISON), we hosted the Conference 'Post Brexit Citizenship Status: Divided by the Rules', which included a panel of representatives drawn from all the major political parties on the NI Executive.<sup>3</sup> We have previously given oral evidence on this subject to Committees of the Oireachtas.<sup>4</sup>

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<sup>1</sup> <https://committees.parliament.uk/call-for-evidence/349/citizenship-and-passport-processes-in-northern-ireland/>

<sup>2</sup> <https://brexitlawni.org/>

<sup>3</sup> <https://caj.org.uk/wp-content/uploads/2019/06/Divided-by-the-Rules-low-res.pdf>

<sup>4</sup> Seanad Special Select Committee on the Withdrawal of the UK from the EU [https://data.oireachtas.ie/ie/oireachtas/debateRecord/seanad\\_special\\_committee\\_on\\_the\\_withdrawal\\_of\\_the\\_united\\_kingdom\\_from\\_the\\_european\\_union/2019-05-08/debate/mul@/main.pdf](https://data.oireachtas.ie/ie/oireachtas/debateRecord/seanad_special_committee_on_the_withdrawal_of_the_united_kingdom_from_the_european_union/2019-05-08/debate/mul@/main.pdf) Oireachtas Joint Committee on Justice and Equality [https://www.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_justice\\_and\\_equality/2019-12-04/3/](https://www.oireachtas.ie/en/debates/debate/joint_committee_on_justice_and_equality/2019-12-04/3/)

## Executive Summary

4. This submission raises the following main issues:
  - Article 1(vi) of the British-Irish treaty as part of the Belfast/Good Friday Agreement (GFA) binds both the UK and Ireland to recognise birthrights for “the people of Northern Ireland ... to identify themselves and be accepted as Irish or British, or both, as they may so choose”. The Article also binds both States to recognise dual citizenship (which had been historically contested) and to ongoing application of the provisions if the status of Northern Ireland changes.
  - Article 1(v) binds the Government with jurisdiction to freedom from discrimination and equal treatment for all people in NI. Together and with broader provisions of the GFA, these Articles have been interpreted as not just conferring choice of citizenship, but to equality of treatment regardless of that choice. This has been regularly reaffirmed by the UK Government during the Brexit process.
  - Whilst these provisions of the GFA are not incorporated they are binding in international law. The Northern Ireland Human Rights Commission (NIHRC) in discharging its mandate under the GFA has advised the provisions be incorporated into an NI Bill of Rights as “the right of the people of Northern Ireland to hold British or Irish citizenship or both, with no detriment or differential treatment of any kind”. To date, Westminster has not legislated for the Bill of Rights. Had it done so the birth right provisions would have already been incorporated into domestic legislation.
  - Following the GFA, Irish nationality legislation was changed to end automatic birth conferral of Irish citizenship in line with Article 1(vi). The UK, however, did not do the same with regards to British nationality. Therefore, the British Nationality Act 1981 continues to confer British citizenship automatically on the ‘people of Northern Ireland’. NIHRC has now produced a legal blueprint demonstrating how UK nationality law can be brought in line with the GFA.
  - It should be noted that the Home Office nevertheless as a matter of broader policy respected persons of NI who wished to be accepted as solely Irish. The (aborted) UK identity cards scheme provides one example, where NI Irish citizens were to be permitted to access a separate card to that for British Citizens. Until 2012, the Home Office also respected when NI-born Irish citizens exercised their EU rights to be joined by (non-EU) family members in NI; the post 2012 policy reversal on this led to *DeSouza* case.
  - The Home Office response to the *DeSouza* case included taking the position that it did not have to comply with the GFA as it is not domestically enforceable; arguing a reduction of the scope of the birthright provisions to one of ‘national identity’ in the abstract (overlooking the ‘accept as’ duty); and arguing that the GFA requirements can be met by option of *renunciation* of British Citizenship.
  - Renunciation is, however, a complex and costly process. It requires the applicant to first declare they are British, in conflict with the GFA (for NI-born persons who wish to be accepted as solely Irish). It also adversely affects NI-born persons who wish to be accepted as British, or dual citizens, but are incentivised to renounce their British citizenship. This policy has continued in, for example, the exclusion of NI-born Irish citizens from retaining the European Health Insurance Card (EHIC) under UK-EU TCA,

unless British citizenship has been renounced. NI-born Irish citizens are also domestically precluded from retaining EU rights under the Withdrawal Agreement.

- The current fix resultant from the *DeSouza* case committed to in the *New Decade New Approach* document was welcome in that it reinstated access for NI-born Irish citizens to EU rights to family reunification, and that it also embedded the ‘equality of treatment’ principle in extending the benefit across ‘the people of Northern Ireland’. It is however a temporary fix that is largely set to expire following the end of the EU Settlement Scheme (in conflict with a UK Withdrawal Agreement commitment to ‘no diminution’ in certain GFA rights as a result of Brexit). This fix also did not address the broader issues of amending UK nationality law.
- In relation to the Committees’ final question, it should be noted that residency in Northern Ireland cannot lead to acquisition of Irish citizenship (either for British citizens or others). At present Irish citizenship *through residency* can be only obtained through residency in the Republic. There is a campaign by the NI Council for Racial Equality for this to change and be extended to residency anywhere on the island of Ireland (as is the case with acquisition of Irish citizenship through marriage). British citizenship can be obtained through residency in NI for Irish (and other) citizens, through the same costly process of naturalisation elsewhere in the UK. Clearly it is open to both governments to change this and make specific provision that would extend the spirit of GFA ‘citizenship’ provisions beyond birthrights. There are also questions regarding the extent to which the development of Common Travel Area (CTA) ‘reciprocal rights’ following Brexit have been restricted to British and Irish citizens only, with particular detriments caused by the provisions not being extended to other permanent residents who live in border communities.

### **Background: The birthright provisions of the Belfast /Good Friday Agreement**

5. The GFA, in addition to being approved by referendum, was incorporated as a treaty between the UK and Ireland and lodged with the UN (UK Treaty Series no. 50 Cm 4705). Article 2 of the treaty binds the UK to implement provisions of the annexed Multi-Party Agreement corresponding to its competency.
6. The Agreement creates a unique constitutional context for Northern Ireland. In Article 1(vi) of the treaty the UK and Ireland:  
*(vi) recognise the birthright of all the people of Northern Ireland<sup>5</sup> to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.*
7. The preceding Article 1(v) also provides that the power of the sovereign government with jurisdiction will be exercised with ‘rigorous impartiality’ on behalf of all the

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<sup>5</sup> In order to restrict access of birthrights to British citizenship to the children of temporary migrants, the Home Office subsequently sought and obtained the following interpretive declaration as to “the people of Northern Ireland” included as Annex 2 of the GFA as follows: “The British and Irish Governments declare that it is their joint understanding that the term ‘the people of Northern Ireland’ in paragraph (vi) of Article 1 of this Agreement means, for the purposes of giving effect to this provision, all persons born in Northern Ireland and having, at the time of their birth, at least one parent who is a British citizen, an Irish citizen or is otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.”

people in the diversity of their identities and be founded on full respect for economic, social and cultural, civil and political rights. This specific provision notably extends beyond British and Irish citizens and birthrights.

8. The commitments are binding in international law and are consequently to be interpreted in good faith in accordance with their ordinary meaning in light of the context and object of the treaty.<sup>6</sup> In this context it is clear that the duties around State recognition of persons “British, Irish or both” are intended to encompass citizenship (the legal bond between a citizen and a state), rather than to be limited to some declaratory concept of identity in the abstract, not least because they directly refer only to national identities that are citizenships.
9. The interpretation of both the Article 1(v) and 1(vi) provisions alongside others in the GFA, has been that it should mean equality of treatment regardless of the choice of citizenship. This has been reiterated by the UK Government in its Brexit position papers, which allude to the birthright for the people of Northern Ireland: “...to identify themselves and be accepted as British or Irish or both, as they may so choose; [and] to equal treatment irrespective of their choice.”<sup>7</sup>
10. The NIHRC GFA-mandated advice on provisions for the NI Bill of Rights recommended framing the provision as the “...right of the people of Northern Ireland to hold British or Irish citizenship or both in accordance with the laws governing the exercise of this right, with no detriment or differential treatment of any kind”.<sup>8</sup>
11. In addition to incorporating the principle of equality of treatment, the NIHRC advice is clear in its interpretation that the provision affords rights to British or Irish citizenship (or both). This also the interpretation in the 2008 ‘Citizenship Review’ conducted in 2008 by the former Attorney General Lord Goldsmith QC, which stated that, “the Good Friday Agreement confirms the right of the people of Northern Ireland to take either British or Irish citizenship or both.”<sup>9</sup>
12. This has also been the interpretation of Ireland, which amended its nationality laws after the GFA in order to make Irish citizenship an entitlement rather than automatic conferral.<sup>10</sup> However, the UK did not amend its nationality laws, and continues to automatically confer British citizenship on most persons born in NI under the terms of the British Nationality Act (BNA) 1981.<sup>11</sup> This applies even if the individual wishes to be accepted as an Irish citizen only.
13. The reference to both States recognising dual citizenship accommodates persons who choose to be ‘both’ British and Irish. This provision should be read in the

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<sup>6</sup> See Article 31(1) Vienna Convention on the Law of Treaties; (General Rule of Interpretation: ‘A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.’)

<sup>7</sup> HM Government, ‘Northern Ireland and Ireland Position Paper’ 16 August 2017, Paragraph 12.

<sup>8</sup> Page 42 <https://www.nihrc.org/uploads/publications/bill-of-rights-for-northern-ireland-advice-to-secretary-state-2008.pdf>

<sup>9</sup> ‘Citizenship: Our Common Bond’ Lord Goldsmith QC Review 2008, paragraph 20.

<sup>10</sup> Irish Nationality and Citizenship Act, 2001, section 3 substituting section 6 of the 1956 Act of the same name.

<sup>11</sup> Section 1(1) ‘A person born in the United Kingdom after commencement...shall be a British citizen if at the time of the birth his father or mother is—(a) a British citizen; or (b) settled in the United Kingdom.

context of both many countries not permitting dual citizenship, but also historical contestation between the UK and Ireland on this very issue.<sup>12</sup>

### Home Office interpretation of the GFA

14. The policy approach of the Home Office prior to 2012, regardless of the BNA 1981, was to generally allow NI-born Irish citizens access to EU rights as Irish citizens, and thus to accept NI-born persons as Irish or British or both. In order to comply with the GFA, separate provision was also made under the (aborted) UK Identity Cards to allow NI-born Irish citizens to have access to a separate card that did not identify them as British citizens.<sup>13</sup>
15. In the context of the onset of the 'hostile environment', the Home Office shut down the route for NI-born Irish citizens to be joined by family members following the CJEU ruling in *McCarthy* concerning limitations on dual nationals accessing EU rights.<sup>14</sup> The facts of this case (concerning an English woman who had naturalised as an Irish citizen to seek to avail of EU rights) bore no relation to the circumstances of birthrights under the GFA. The Home Office nevertheless relied upon it to change policy and treat all NI born Irish citizens as dual nationals, creating the GFA compliance issues impacting on Emma DeSouza and others.
16. In seeking to justify its position, the Home Office has sought to reinterpret the GFA birthright provisions, overlooking the 'accept as' duty, and portraying them as limited to referring to 'identity' in the abstract and as allowing only for dual citizenship. For example, take the following Ministerial response in correspondence to Lord Empey regarding the *DeSouza* case:

*"... The Belfast Agreement gives the people of Northern Ireland the right to identify as Irish or British, or both, as they may so choose, and to hold both British and Irish citizenship ... We do not consider that there is any conflict between the Belfast Agreement and domestic immigration and nationality provisions."*<sup>15</sup>

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<sup>12</sup> Under the 1922 constitution, persons domiciled in Southern Ireland became citizens of Saorstát Éireann (Irish Free State). However, UK law treated the same persons as British Subjects, this was resisted by the Irish authorities, who in 1935 passed citizenship legislation providing that a 'natural born citizen of Saorstát Éireann' did not confer any other citizenship. The Act restricted dual citizenship providing that acquisition of another citizenship could lead to loss of Irish citizenship – although later legislation (1956) qualified that this would not occur where such citizenship was 'conferred' on a person by the law of 'another country' without any 'voluntary act' on their part. When in the UK, however, the Courts found in *Murray v Parkes* (1942) that a Roscommon-born man who had moved to England was a British Subject under British law (and had been legitimately therefore subject to conscription).

<sup>13</sup> Under the scheme set up under the Identity Cards Act 2006 (repealed), NI-Born persons were able to opt out of the 'National Identification Card' for British citizens and instead opt for 'Identification Card' aimed at Irish and other EEA nationals.

<sup>14</sup> C-434/09 Judgment of the Court (Third Chamber) of 5 May 2011, *Shirley McCarthy v Secretary of State for the Home Department*. Following the ruling in *McCarthy*, the Home Office amended the Immigration (EEA) Regulations 2016 to exclude dual British and EEA nationals: "EEA national' means—(a) a national of an EEA State who is not also a British citizen". These regulations were further amended in July 2018 following the ECJ ruling in *Lounes* which found that an EEA national who naturalises as a British citizen after exercising their EEA treaty rights in the UK could continue to rely on their EEA free movement rights as a dual national. This does not apply to anyone the Home Office considers to have been born with British citizenship.

<sup>15</sup> Correspondence from Caroline Noakes MP, Minister of State for Immigration, to Lord Empey of Shandon, ref MIN/0016984/18, 13 December 2018

17. Arguments made by the UK Government during the *DeSouza* case, and later policy decisions, indicate that in order to comply with their commitments under the GFA, the Government consider it sufficient for people of Northern Ireland who wish to be accepted as solely Irish to be permitted to renounce their British citizenship.<sup>16</sup>
18. Renunciation is a formal process currently costing £372 and requiring the applicant to first confirm that they are a British citizen.<sup>17</sup> This itself conflicts with the GFA duty to accept persons as solely Irish if they choose. If a person renounces it is also very difficult to regain British citizenship and it may result in any descendants being excluded from holding British citizenship. The provision also provides an incentive for persons of NI who do wish to be accepted as British to paradoxically have to renounce British citizenship to access certain rights and entitlements.

### **Impact of automatic conferral of British Citizenship**

19. For many Irish citizens in NI there is often little practical impact of this conferral of British citizenship and many 'people of Northern Ireland' who have only ever held Irish passports are entirely unaware that they are deemed to be British citizens. Issues arise when a person of Northern Ireland, who wishes to be accepted as an Irish citizen only, seeks to exercise a right tied to Irish or EU citizenship and are refused on the basis that they are treated as British for such a statutory purpose.
20. This was demonstrated in the case of *DeSouza*.<sup>18</sup> Emma DeSouza applied for an EEA residence permit for her US husband, on the basis that he was the spouse of an Irish national living in the UK. This application was refused. In the refusal, the UK Home Office stated that Emma was a British citizen and advised her to renounce her British citizenship in order to become solely Irish and reapply. Emma is an Irish citizen born in Northern Ireland, who has never held a British passport. Emma and Jake appealed the refusal on the basis that the GFA gives Emma the right to identify and be accepted as Irish only and therefore the Home Office policy of treating her as British was unlawful. The case was successful before the First Tier Immigration and Asylum Chamber, but was appealed successfully before the Upper Tier Tribunal by the Home Office, where the argument was made that the automatic conferral of British citizenship does not breach the GFA and that in the alternative, an international treaty of which the UK is part, does not bind in UK domestic law (in short the Home Office argued it did not have to comply with the GFA, as its unincorporated).
21. The *DeSouza* case demonstrates how the imposition of British citizenship can have unexpected but significant rights impacts; in this case potentially preventing Emma's husband from residing with her in Northern Ireland and impacting their Article 8 ECHR right to family life. The average person in NI is far more likely to know of the GFA and their rights under it, than to know about the provisions of the BNA. The *DeSouza* case caused widespread shock and anger in NI and received worldwide attention and political support, including from the Irish government who stated that the Home Office interpretation of the GFA was erroneous.<sup>19</sup>

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<sup>16</sup> De Souza (Good Friday Agreement: nationality) United States of America [2019] UKUT 355 (IAC) (14 October 2019)

<sup>17</sup> <https://www.gov.uk/renounce-british-nationality>

<sup>18</sup> De Souza [2019] UKUT 355

<sup>19</sup> <https://www.bbc.co.uk/news/uk-northern-ireland-48268586>

22. Responding to this, the then Prime Minister Theresa May stated that the birthright to identify and be accepted as British, Irish or both was “absolutely central” to the GFA and committed to an urgent review of this issue which would deliver a long term solution consistent with the letter and spirit of the GFA.<sup>20</sup>
23. Although the review never materialised, in the *New Decade New Approach* (NDNA) agreement the specific issue of family reunion for people of NI was addressed; eventually resulting in an amendment to UK immigration law permitting non-EU family members of ‘relevant persons of Northern Ireland’ to apply to the EU Settlement Scheme.<sup>21</sup> While this change failed to address the compliance of UK nationality law with the GFA, it was welcome itself and also (in conformity with the equality of treatment provisions of the GFA) extended EU family reunion rights beyond Irish citizens to include British and dual British and Irish citizens from NI.<sup>22</sup> The *DeSouza* case was withdrawn due to this concession and did not proceed to the Court of Appeal.
24. However, the NDNA-led changes to the EU Settlement Scheme constitute a short term, issue specific solution which ends at the end of June 2021 with the closing of the EU Settlement Scheme. There will be further rights differentiations related to family reunion in NI, with those applying to bring family to the UK after June 2021 left to use UK immigration routes, which are much less accessible than the route open to those applying before.
25. Any loss of rights caused by the conferral of British citizenship that is also linked to Brexit is also now subject to the binding commitment that there will be no diminution in certain GFA rights (including rights to choose place of residence) as a result of Brexit provided for in Article 2(1) of the Withdrawal Agreement Northern Ireland Protocol.<sup>23</sup>
26. A further example of the implications of Brexit and the treatment of all persons in NI as British for statutory purposes has arisen in relation to future access to the EHIC card for Irish citizens from Northern Ireland under the UK-EU Trade and Cooperation Agreement (TCA).<sup>24</sup> The online application process provides that unless a person of Northern Ireland has renounced their British citizenship they must apply for a ‘UK Global Health Insurance Card’ instead of the EHIC available for other EU citizens (including Irish citizens not born in NI). This will be offset in practical terms if the ‘GHIC’ card proves to afford equal treatment, but will be problematic if there is reduced access to healthcare when compared to the EHIC.<sup>25</sup>
27. A further issue related to the exit of the UK from the European Union is that Irish citizens born in Northern Ireland have been excluded by the Home Office from

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<sup>20</sup> <https://www.gov.uk/government/speeches/pm-speech-in-belfast-5-february-2019>

<sup>21</sup> Page 48

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf)

<sup>22</sup> <https://caj.org.uk/wp-content/uploads/2020/06/EUSS-advice-flyer-2021.pdf>

<sup>23</sup> Article 2(1)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/840230/Revised\\_Protocol\\_to\\_the\\_Withdrawal\\_Agreement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840230/Revised_Protocol_to_the_Withdrawal_Agreement.pdf)

<sup>24</sup> <https://caj.org.uk/wp-content/uploads/2021/01/Post-Brexit-access-to-EHIC-rights-for-people-in-NI.pdf>

<sup>25</sup> <https://caj.org.uk/2021/01/18/post-brexit-access-to-ehic-rights-for-people-in-northern-ireland/>

applying to the EU Settlement Scheme due to holding dual British/EU nationality through the BNA. This leaves Irish citizens in NI as some of the only EU citizens residing in the UK who are unable to retain EU rights under the Withdrawal Agreement through the EU Settlement Scheme.<sup>26</sup>

### **Remedial action**

28. As an interim measure, the UK government could amend the renunciation policy to make it a free and declaratory process compatible in relation to persons of NI, in light of the GFA. This would include a process that does not require ‘persons of Northern Ireland’ to make a declaration of British citizenship in order to renounce and allowing for a route to regaining British citizenship and permitting descendants of a person who has renounced to hold British citizenship.
29. However, this can only be a short-term solution, as it would embed incentivising renunciation of British citizenship for those who wish to be accepted as British. There is evidence that this has previously occurred, with people of Northern Ireland impacted by the UK immigration rules challenged in *DeSouza*, choosing to renounce British citizenship in order to access family reunion rights available only to solely Irish citizens. For many who identified as British or dual British/Irish this was an extremely difficult choice and they now find themselves with no easy route to regaining their British citizenship, despite the changes to UK immigration law which has now expanded these rights to British and dual British/Irish citizens of Northern Ireland.

### **Amendment of the British Nationality Act**

30. The long term solution is to amend the British Nationality Act 1981 in a manner compatible with the birthright provisions of the GFA. CAJ commends for consideration the 2020 report by the NIHRC and barrister Alison Harvey, *A Legal Analysis of Incorporating into UK Law the Birthright Commitment under the Belfast (Good Friday) Agreement 1998*, which provides a blueprint to do so.<sup>27</sup> This report also deals with some of the concerns raised by commentators such as preventing statelessness and consideration for persons without legal capacity.

### **Passport applications for NI residents born in the Republic of Ireland**

31. Outside of the specific birthright provisions of the GFA, the Committee also asks for evidence on the following question: “*whether the Government should allow Northern Ireland residents born in the Republic of Ireland to apply for a British passport given that Northern Ireland residents can currently apply for an Irish passport.*”
32. This question highlights the limits to the boundaries birthright concept of the ‘people of Northern Ireland’ in the GFA. We have come across persons who have lived most of their lives in NI but who were born either in the Republic, Great Britain, or elsewhere during periods of temporary parental residence away. In such circumstances persons are usually still entitled to be British or Irish citizens due to their parentage, but not to any benefits solely accruing by virtue of being ‘people of

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<sup>26</sup> [Rights-and-the-EU-future-relationship-Aug-20.pdf \(caj.org.uk\)](#)

<sup>27</sup> <https://www.nihrc.org/uploads/publications/Birthright-Commitment-Report.pdf>



Northern Ireland’ – such as the recent post-*DeSouza* route to be joined by non-EEA family members.

33. At present it is not possible to naturalise as an Irish citizen through residency in Northern Ireland. Irish nationality law only permits naturalisation on the basis of five years residency in the (Irish) State. There is different provision for naturalisation through marriage/civil partnership to an Irish citizen, which requires three years residency anywhere on the island of Ireland.<sup>28</sup> There is a campaign by the NI Council for Racial Equality (NICRE) to *“in the context of Brexit [...] support Irish citizenship for all BME people who have been working and living in Northern Ireland for at least 5 years, including their spouse/partner, children and parents.”*<sup>29</sup> In the context of the GFA the Irish government could make this amendment.
34. It is presently possible for a person born in the Republic of Ireland to naturalise as a British citizen through residency in Northern Ireland. We do not have figures as to present uptake of this, but like all other British and Irish citizenship naturalisation applications it does require a significant fee. In relation to practical benefits, the most obvious relate to restrictions that are not compatible with the equality of treatment provisions of the GFA. For example, there are still provisions in the Civil Service Nationality Requirements reserving ‘public service’ posts to British citizens only, with no GFA extension in NI to Irish citizens. Whilst the NI Civil Service has presently resolved this GFA compatibility issue by not having any ‘public service’ designated posts, this remains a live issue for UK civil service regulated ‘reserved’ posts in NI. This has been recently highlighted by Border Force restricting post-Brexit posts in NI to British citizens only, in spite of the GFA.
35. A final related issue is the context of the post-Brexit development of Common Travel Area (CTA) ‘reciprocal rights’ following Brexit, and the decision by both governments to seek to restrict these to British and Irish citizens only. There is an active campaign from the Derry/Londonderry based North West Migrants Forum<sup>30</sup> to seek extension of CTA entitlements to other permanent residents to prevent an additional hardening of the land border as a consequence of Brexit.

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<sup>28</sup> Irish Nationality and Citizenship Act 1956, as amended up to 2011. Sections 15 & 15A

<sup>29</sup> <https://nicre.org/services/legal-action-and-campaign/>

<sup>30</sup> <https://nwmf.org.uk/>