

Citizen Denied

Emma DeSouza



Emma DeSouza and her American husband are into the fifth year of their long struggle to assert their right to family life in Northern Ireland. In her recent open letter to the UK Home Secretary, as yet unanswered, Emma sets out how the UK government takes an increasingly hard line, contrary to the terms of the Good Friday Agreement, in denying rights to Irish nationals in the North. Although an EU and Irish citizen, she has less rights than her counterparts in the Republic of Ireland.

To The Rt Hon. Sajid Javid,
Secretary of State for the Home Office

The Good Friday Agreement is widely championed as a success — revered as a model of peace and celebrated worldwide. Yet your department has openly disregarded the Agreement, and is actively seeking to undermine its very foundation. The people of Northern Ireland are unique within the United Kingdom in that we have the birthright to identify and be accepted as Irish or British or both — a right enshrined in the international treaty your government claims to be upholding through the Brexit negotiations. Contrary to the statutory duty on your department to accept the birthright provisions of the Good Friday Agreement, your department is arguing through the British courts that the people of Northern Ireland are ‘automatically British’ as we were ‘clearly born in the United Kingdom’. Your department regularly and repeatedly forces British citizenship on Irish citizens born in Northern Ireland — citizens who are Irish by birth and by choice — a choice the people of this island voted for overwhelmingly in the Good Friday Agreement referendum — a choice you and your department are denying.

I am an Irish national born in Northern Ireland, who has spent the last four years in legal proceedings at the hands of your department. The position of the Home Office is that I’m a dual British/Irish national due to my birth in Northern Ireland, and if I would like to fully retain and access my rights as an Irish/EU national in the United Kingdom, I am ‘welcome to renounce my British citizenship and rely on my Irish citizenship’.

I have never claimed British citizenship and do not hold a British passport.

It's difficult to understand your personal view or commitment to the integrity of the Good Friday Agreement, as you are not on record on the subject, and have to date ignored all correspondence from myself and senior political figures on this issue. We only have the court documents lodged by your department to guide us on the view of the Home Office and British government. The position, according to these documents, is that the people of Northern Ireland are 'as a matter of law British', with the counterintuitive argument that there 'is nothing in the Belfast Agreement to prevent British citizenship being acquired at birth'. Further, the documents troublingly elaborate – 'A treaty HMG is a party of does not alter the laws of the United Kingdom' and that the 'courts do not have the power to force the government to uphold its obligations and commitments to a treaty'. These arguments have been reaffirmed by the Immigration Minister, Caroline Nokes, who stated 'Our view is that an international agreement such as the Belfast Good Friday Agreement cannot supersede domestic legislation'.

Legally, treaties are to be interpreted in good faith and in accordance with the meaning given to the terms within them, in light of their context and purpose. The motivation for your department's refusal to accept that the Good Friday Agreement is a UN-registered international treaty between two sovereign states, and that the government is expected to act in accordance with said treaty, remains unclear. What is clear, however, is that an Irish identity in Northern Ireland comes at great personal cost. It could be losing your right to work. It could be losing your right to travel. It could be losing the right to say a final goodbye to a loved one before they're gone. It could be all of these things, or it could be something else entirely. NI citizens are losing their right to be who they are.

I, as well as many others, have had to stand in court detailing every moment of our lives where our Irish identity was evident, at the behest of your department. We are being asked to literally prove that we are Irish.

Prime Minister Theresa May acknowledged that an incompatibility between Home Office policies and commitments to the Good Friday Agreement exists. An urgent review was promised in order to bring policy 'in line with the letter and spirit of the Good Friday Agreement'. In response to a Freedom of Information request, we have since discovered that there is no formal review, no progress, and no terms of reference or timeframe held on record. Instead of a solution to the detrimental treatment of Irish citizens in Northern Ireland, we are seeing a hardening of the British Home Office position. At every opportunity the principles of the

Good Friday Agreement are being reneged on.

Under recent policy changes, NI-born Irish citizens will be unable to fully retain and access their EU rights and entitlements within the United Kingdom. The EU Settlement Scheme is the British government's enactment of the citizens' rights chapter of the Withdrawal Agreement. It remains open to Irish citizens born in the Republic of Ireland, whilst it is closed to Irish citizens born in Northern Ireland. This is creating a two tier system for Irish citizens: those who can fully retain their EU rights and benefits under the Settlement Scheme, and those who cannot. Whilst it is noted that the Home Office has advised Irish citizens that they 'do not need to apply but can do so if they wish', is also important to note that their non Irish/British family members need to apply. The Common Travel Area is cited as a reason for Irish citizens to not apply under the scheme but it remains largely unimplemented and unenforceable. The restrictions on NI born Irish citizens will result in a loss of wider EU rights, such as Family Reunification. We will be among the only EU citizens within the United Kingdom to face such a restriction. How can the Home Secretary justify the marginalisation of one group of Irish citizens?

I ask you, as Home Secretary, to consider the will of the people of this island. We voted for peace and the recognition of the unique status of Northern Ireland. There is no equality in legally allowing NI-born citizens to be exclusively British whilst denying that same right to those who wish to be Irish. No citizen should have their identity questioned or be instructed to renounce any citizenship in order to access an entitlement.

There is an onus on you, as Home Secretary, to take responsibility for the derogation of duties to the Belfast Good Friday Agreement, and to the people of Northern Ireland. I ask that you outline how your department will address and rectify the clear incompatibility between Home Office policies and the Good Friday Agreement.

To the British government – we have waited, and we have waited patiently, for the full implementation of the Good Friday Agreement and full realization of our rights. In the face of Brexit we cannot wait any longer. It is time for the Good Friday Agreement to become what it was destined to be. I ask that the British Government implements the Good Friday Agreement in all its parts.

Emma DeSouza