
**COMMITTEE
ON THE
ADMINISTRATION OF JUSTICE**

The Northern Ireland Civil Liberties Council

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A Submission to the

Joint Oireachtas Foreign Affairs Committee

by the
Committee on the Administration of Justice

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1. Who we are and what we do?

The **Committee on the Administration of Justice (CAJ)** is an independent civil liberties group working to secure the highest standards in the administration of justice in Northern Ireland. It was established in 1981 and draws its membership from all sections of the community. The membership includes lawyers, students, community workers, trade unionists, unemployed people and academics. CAJ is affiliated to the **International Federation for Human Rights** which has consultative status at the **United Nations**. The Committee takes no position on the constitutional question and is opposed to the use of violence to achieve political goals in Northern Ireland.

By carrying out research, holding conferences, lobbying, issuing press statements, publishing pamphlets, circulating a monthly bulletin and working with the international human rights community, CAJ seeks to stimulate awareness and concern about justice issues in Northern Ireland and to encourage the adoption of urgently needed safeguards. In the CAJ's view, not only are abuses of civil liberties wrong in themselves but, in the Northern Ireland context, they hinder peaceful resolution of the conflict.

2. Human Rights and the Peace Process

CAJ is firmly convinced that in the long run respect for and defence of human rights must be the cornerstone of any lasting settlement to the conflict. Unless the peace process delivers concrete improvements in the situation of people on the ground it will not deliver lasting peace. Both governments must have as their priorities measurable improvements in the human rights situation. Such improvements should not be bargaining chips to be traded in political negotiations. Full protection for the human rights of all is an essential foundation for a peaceful society. Greater protection of human rights is in the interests of everyone and to the disadvantage of

no one. For too long human rights have been seen as optional extras or luxuries rather than as absolute pre-requisites for any civilised society.

The ends of the peace process must have justice at their heart and the means of the process must reflect this. It is essential that human rights are central to any negotiations, that international human rights expertise is brought to bear on the process and has some formal and structured mechanism for impacting on it. In this regard the establishment of an independent Commission or Commissions should be considered, composed of internationally recognised experts with both practical and legal knowledge of international human rights law standards.

3. The Current Situation

In the wake of the ceasefires while there has been welcome progress on the broadcasting ban, the re-opening of border roads and the decision to revoke two exclusion orders many problems remain. One of these is the continued operation of exclusion orders against some 70 people from the two main communities. The British government's approach on this issue falls into the trap of politicising human rights rather than acting from a position of principle.

Since the ceasefires we continue to receive complaints of harassment from each community. People continue to be stopped, searched and questioned and to have their homes searched. People are still being arrested under emergency legislation and being held in Castlereagh Holding Centre, with neither adequate access to legal advice nor effective safeguards to prevent ill-treatment. Diplock trials, such as the case of the Ballymurphy 7, (now 3), continue with a much lower standard governing the admissibility of confessions. In a recent disturbance outside a hotel in Cookstown some 18 plastic bullets were fired, the fifth time this lethal weapon has been used since August 31st. Finally, there has been no structural change within the security apparatus which operates these powers and weapons.

In seeking to respond to the changed circumstances which exist and mindful of the ongoing problems in the civil liberties arena CAJ has identified four main priority areas for action.

4. Emergency legislation

CAJ has consistently called for the repeal of emergency legislation. We take the view that the ordinary law already gives adequate powers to respond to the situation in Northern Ireland and we have maintained that emergency legislation is part of the problem rather than part of the solution. Our experience has shown that this legislation facilitates and provides the opportunity for abuse and harassment. Its repeal could make an important contribution towards improvements in the situation of policing. The longer it remains in force the more necessary it will become to consider interim arrangements for policing such as international monitoring of the police force.

The British government's sole justification for the emergency legislation, namely extensive paramilitary violence, has now disappeared. The legislation has been found to breach the **European Convention on Human Rights** concerning 7-day detention. Rather than amend the legislation, the UK government derogated from the

European Convention and the **International Covenant on Civil and Political Rights**. These derogations remain in place.

Emergency law has also resulted in widespread criticism from the international human rights community. The British government should act quickly to dismantle this legislation. To do so is a concession to no-one, it merely guarantees to all who live in Northern Ireland their fundamental human rights.

- The **Northern Ireland (Emergency Provisions) Act 1991** and the **Prevention of Terrorism (Temporary Provisions) Act 1989** should be abolished as soon as possible, and, at any rate, at the time of the renewal debates in the spring of 1995.
- In the meantime, the powers should not be used and the authorities should rely on ordinary powers.

5. Policing

A core issue for the peace process concerns the structure, nature and culture of policing. This question has stimulated much community debate. CAJ has worked over the years on police accountability, police-community liaison and mechanisms for investigating complaints against the police.

There is a need for an ongoing and extensive debate and consultation with communities throughout Northern Ireland on policing. International experience of other societies in transition should also be brought to bear.

At a minimum any future police service must be genuinely accountable, representative, responsive to the needs and concerns of the community it serves and impartial. It must also be backed up by an effective and independent system for investigating complaints against the police. The powers under which the police operate must fully comply with both the letter and spirit of international human rights standards. Human rights training must be a core element in their education. A useful starting point for considering the minimum principles necessary for a credible police service is the **UN Code of Conduct for Law Enforcement Officials**. The RUC do not meet these minimum criteria.

- A wide-ranging review of policing in Northern Ireland should be established. This should be independent, have an international dimension, draw on international human rights expertise and should report to the Irish and British governments and all parties to the negotiations.
- Wide-ranging consultation with communities at grass-roots level should be included in the terms of reference of the review.
- The army and associated secret units should play no further part in policing.

6. Mechanisms for the protection of human rights

CAJ has been working for many years to promote the concept of a Bill of Rights to protect the rights of everyone. The political parties all agree that such a bill is

necessary but there has been insufficient debate among them and indeed more generally as to what it should contain. CAJ's proposed Bill was produced to encourage that debate.

The question of enforcement of any Bill of Rights is problematic. We need judges with the commitment, ability and human rights training, to enable them to interpret such a Bill of Rights. It will not do to entrust that function to the existing judges who have a poor record in terms of human rights protection and are both unrepresentative of society and untrained in human rights matters. The question of how and by whom judges are appointed in Northern Ireland will be a key issue.

More generally there is a need to ensure effective human rights training for everyone involved in the administration of justice.

- The British and Irish governments, along with all parties to the negotiations, should engage in extensive and widespread consultation leading to the enactment of an effective Bill of Rights.
- A mechanism for reviewing the record, training and appointment of the NI judiciary should be established.

7. Anti-Discrimination

Protection from discrimination is a fundamental human right to be enjoyed by everyone. It is essential that there is strong legislation against discrimination in all its forms. The problem of religious discrimination in employment is a long-standing one which has been a major factor in the conflict and continues to bear heavily on the situation. Religion remains the major determinant of economic disadvantage and little progress has been made in shifting the unemployment differential.

During the passage of the 1989 **Fair Employment Act**, a commitment was given to review into the operation of this legislation after 5 years. It is unfortunate that this forthcoming review into fair employment is being directed by the Northern Ireland Office's Central Community Relations Unit rather than an independent body. It is essential that this review focuses on what change has taken place to secure fairness for everyone, what change is still required and how is it going to be achieved. Given the slow pace of change and the genuine difficulties in resolving such a serious problem it is essential that every element within the machine of government works to ensure fairness.

As the ceasefires bring talk of increased investment and growth this must result in fairness for all with the poorest and most disadvantaged benefiting.

- In the absence of a truly independent review of the fair employment legislation and government policy, the outcome of the CCRU review should be subjected to independent and international scrutiny to inform any future action.
- A comprehensive and measurable plan of action should be developed to tackle the problem of religious discrimination.

8. General conclusion

CAJ is convinced of the need to make progress on these issues and others in the civil liberties area. A lasting peace depends on such progress being made. It is in everyone's interests to ensure that the society in which we live provides real protection for everyone. To this end it is important that a human rights culture be nurtured. For too long these issues have been sectarianised and marginalised. Local grassroots campaigns seeking to raise these issues - who are in touch with CAJ on a daily basis - have been ignored, under-resourced and mis-trusted. In developing a human rights culture, these groups must be resourced, acknowledged and supported.

We will continue to work with our colleagues in the local and international human rights community to ensure that human rights protection becomes a reality. In our experience it has been international attention and scrutiny which has brought about progress on the human rights front. In the year ahead we hope to ensure that the spotlight of international scrutiny continues to shine. The continued interest of and scrutiny by the Irish Government in these matters is extremely important in maintaining the pressure for change on the British government.

CAJ's delegation

Ms Angela Hegarty	Chairperson
Ms Christine Bell	Vice-Chair
Ms Caitriona Ruane	Minute Secretary
Dr Colm Campbell	Parliamentary Liaison Officer
Mr Martin O'Brien	Information Officer