

CAJ becomes a full member of the International Federation for Human Rights (FIDH)

The last issue of Just News carried a message of solidarity for the CAJ, in the context of the increase in racism and xenophobia associated with the Brexit vote, from the oldest and largest global network of human rights groups, the FIDH (International Federation for Human Rights). As that issue went to print, the FIDH was holding its 39th triennial Congress in Johannesburg. It departed from the provision in its statutes for one member per UN member state to admit CAJ as a full or “affiliate” member; we had been a “correspondent” member for 25 years alongside the existing UK affiliate, Liberty. A similar exception was made for Free Legal Aid Centres (FLAC), which was admitted to affiliate status alongside the Irish Council for Civil Liberties (ICCL).

The three-day internal congress followed a two-day international forum on human rights, both events hosted for FIDH by three non-governmental organisations from the region (Zimrights from Zimbabwe, Ditshwanelo from Botswana and Lawyers for Human Rights, South Africa). Under the slogan “Fighting Back for Human Rights”, the 400 participants in the forum shared experiences of the threats to universal human rights from the rise of the security state, increasing surveillance and control of civil society, challenges from groups using religious or moral arguments to promote oppression, and the consequences of an unbalanced and unfair globalisation.

The second day explored means by which activists can fight back, including the resourcing of the human rights movement, civil society involvement in shaping development and trade policies, and fighting against corruption and for transparency and freedom of information. Speakers addressed the need for the human rights movement to engage more widely with civil society, to protect whistleblowers, to use innovative methods in advocacy and litigation, to challenge the negative discourse around human rights groups (which in some countries are demonised as foreign agents), and to use social networks and other web-based tools to best advantage.

The internal congress, attended by 93 affiliate groups, reviewed the past three years’ activities. In addition to reports from the outgoing president, Iranian human rights activist Karim Lahidji, and the treasurer, there were reports from thematic working groups on migrants’ rights, women’s rights, the right to justice, globalisation, and the death penalty. Under each rubric it was clear that the FIDH had made significant advances, but that each of these topics must remain a priority.

The organisations then met in six geographic teams to discuss recent work, current priorities and action plans for 2016-19 in each region. The Western Europe regional meeting looked in particular at the impact of austerity policies on economic and social rights, a matter addressed in an FIDH regional seminar held in Dublin in 2015.

Civil and political rights were also discussed, with particular reference to threats to democratic values and the rule of law associated with the so-called “refugee crisis” and counter-terrorism measures.

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UN Committee calls for stronger measures to combat racism in Northern Ireland

In August the Committee on the Elimination of Racial Discrimination published its concluding observations on the latest periodic report from the United Kingdom. The Committee is the expert grouping that monitors states' progress and compliance under the International Convention on the Elimination of All Forms of Racial Discrimination. Some of the comments and recommendations with particular significance for Northern Ireland are listed below.

Legislation on equality in general has fallen behind in Northern Ireland, largely because of the failure to pass a Single Equality Act as promised in the Belfast Good Friday Agreement. The Committee recommended that the UK Government:

Ensure that the authorities of Northern Ireland act without further delay adopt comprehensive legislation prohibiting racial discrimination in accordance with the provisions of the Convention.

In common with other international treaty monitoring mechanisms, the CERD Committee is worried about the proposals to scrap the Human Rights Act:

The Committee is concerned that the proposal to replace the Human Rights Act of 1998 with a new British Bill of Rights may lead to decreased levels of human rights protection... It also recommends that the State party expedite the process of adopting the Bill of Rights for Northern Ireland

Racial discrimination cannot be properly tackled unless statistics present a full picture of the impacts of policies on all different ethnic groups. "Disaggregated data" is the term used to describe statistics which are broken down by all relevant groups including, in Northern Ireland, by community background. The Committee said:

While commending the collection of detailed disaggregated data in some of the devolved administrations of the State party, the Committee expresses concern that data are neither collected systematically in all fields where racial discrimination exists, nor uniformly across the State party's jurisdiction, most notably in Northern Ireland...

This is particularly important in sensitive areas of the criminal justice system such as "stop and search." CAJ and others have long called for the statistics on the use of these powers to be disaggregated to demonstrate their use in relation to Protestants and Catholics. The Committee recommended as follows:

Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party ensure that the governments of Northern Ireland, Scotland and Wales, regularly review the impact of stop and search powers on persons belonging to visible ethnic minority groups, and take effective measures to ensure that such powers are used in a lawful, non-arbitrary and non-discriminatory manner on the basis of reasonable suspicion, with rigorous monitoring and review mechanisms.

In relation to racism in Northern Ireland, the Committee has long held that sectarianism is a variant of racism, rather than just some cultural peculiarity. In this report they said:

The Committee notes the complex interplay between racism and sectarianism in Northern Ireland and welcomes the adoption of "Together: Building a United Community Strategy" in May 2013 to tackle racism, sectarianism and other forms of intolerance.

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Countries of special concern were Hungary and Poland, where authoritarian governments were challenging the fundamental values of the European Union and encroaching on the liberties of civil society, and Turkey, where oppressive measures against the Kurdish minority had, since the recent coup attempt, been accompanied by a serious onslaught on political and media freedoms. The FIDH's priorities for work on the region – with a slightly increased staff resource – would remain largely unchanged, around the economic crisis, equality issues, migration and asylum, and counter-terrorism. The congress adopted resolutions on a range of themes and national or regional issues, including defending the space for civil society; environmental rights; Palestine; the Colombian peace process; and issues in Nicaragua, the Dominican Republic, Mexico, Iran, China, Zimbabwe and Vietnam.

The FIDH maintains its credibility as a global voice for human rights by rigorous quality control of its membership. Of 178 member organisations, five were excluded from the Federation as having become inactive or ineffective, and the resignations of four others were accepted. A total of 15 organisations were admitted as “correspondent” members, including from Western Europe the Norwegian Helsinki Committee and the Polish Society for Anti-Discrimination Law. The congress then considered applications from 13 correspondent members, including CAJ and FLAC, to advance to affiliate status. The Executive Board of the FIDH had endorsed CAJ's application at its meeting in June, noting that it was backed by UK member Liberty, and this was supported by the full International Board in the same month. In the event, no formal vote at congress was required: as there was no objection or abstention, CAJ's admission was adopted by acclamation.



The final item of business was the election of a new International Board, with Prof. Dimitris Christopoulos of the Hellenic League of Human Rights, unopposed, succeeding Lahidji as president. There were contested elections for the 15 vice-president and five general secretary positions, while the treasurer was returned unopposed. As is customary, delegates elected a Board with a reasonably fair balance in terms of gender and regional representation.

Having taken its place at the FIDH top table, there is an expectation that CAJ will become more involved in regional and international FIDH networks and events, particularly in sharing experience and expertise with other member groups working on issues around societies in transition from conflict, truth recovery and impunity; the impact of austerity policies; equality issues, and civil society engagement with the European and UN systems. The impact of the Brexit decision on the European human rights framework was a recurring theme in discussions among our Western Europe colleagues, not just in terms of protections in the UK but as a possible harbinger of a scaling-back of the EU's rights activism to dampen down anti-EU sentiment in other member states.

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The Committee however reiterates its previous concern that measures to tackle racism and sectarianism are kept outside the framework of protections against discrimination provided by the Convention and the Durban Programme of Action (arts. 2 and 4).

The Committee recommends that the State party consider the standards, duties and actions prescribed by the Convention and the Durban Declaration and Programme of Action on inter-sectionality between ethnic origin, religion and other forms of discrimination in its measures to combat racism and sectarianism. It requests the State party to provide, in the next periodic report, information on concrete measures adopted to address racial discrimination in Northern Ireland, and on the impact of the “Together: Building a United Community Strategy” in addressing discrimination experienced by ethnic minority groups.

Event summary and highlights -

On 27th September, CAJ and University of Ulster's Transitional Justice Institute (TJI), with the support of the Equality Coalition, convened a discussion seminar on the human rights and equality implications of the EU referendum entitled 'Brexit and Rights'. Two panels of impressive speakers discussed what was agreed to be a significant amount of uncertainty since the Brexit vote.

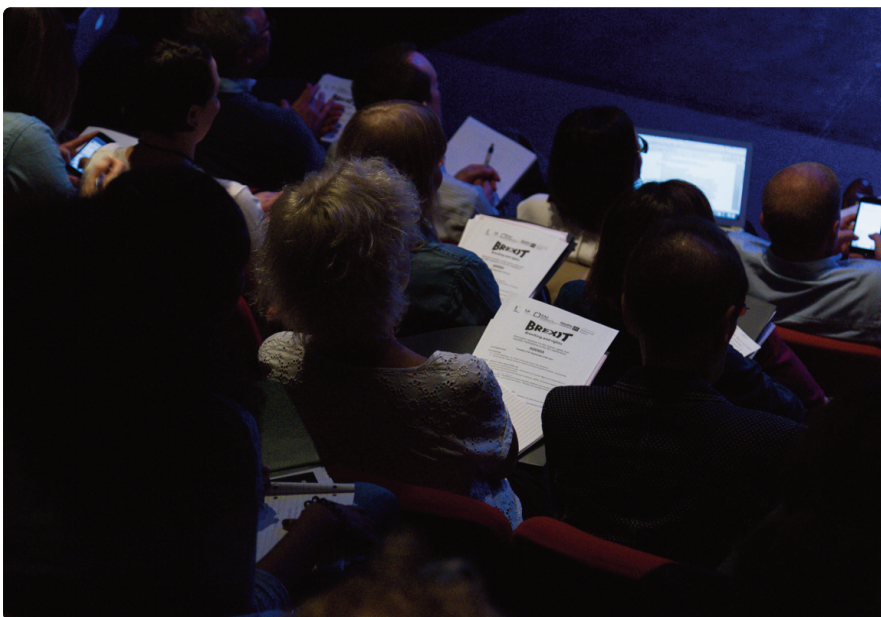
Brian Gormally concluded the seminar with powerful words on behalf of our collective role and obligation as human rights organisations in light of an already observable rise in hate crime: 'We must unite against the rise of racism. We must gather around the banner of human rights as a legal construct and as a direction for movement'.

Professor Colin Harvey of Queen's University began the morning with a call to challenge the Brexit agenda and the policies that ignore human rights and equalities that are so important in the Northern Ireland context.



As so much is still undecided, Claire Archbold, the Deputy Departmental Solicitor, outlined some of the work facing the civil service moving forward and stressed the importance of civil society engaging with government. The Northern Ireland Assembly still has much to work out in terms of process and substance of Brexit, and human rights organisations have a great deal to offer to ensure rights are protected.

The speakers discussed specific uncertainties of Brexit in Northern Ireland, making clear that the effects will be prevalent in all sectors. Paul MacFlynn of the NEVIN Economic Research Institute shared an economic perspective, noting in particular the likely extensive impact on rural women workers in Northern Ireland. He discussed the various options for the UK's continued engagement with the single market of the EU, and the likely difficulties posed to the exercise of free movement.



The importance of all-island trade is clear, and with it the existence of the common travel area. Many of the speakers acknowledged that Northern Ireland must recognise the importance of the relationships across the land border of this island, and the need to maintain equivalency of rights on both sides, as provided by the Belfast/Good Friday Agreement.

Brexit and rights seminar September 2016

Anne Speed of UNISON spoke about the implications of Brexit on equality and socioeconomic rights, focusing on the important role of EU directives for the protection of workers' rights.

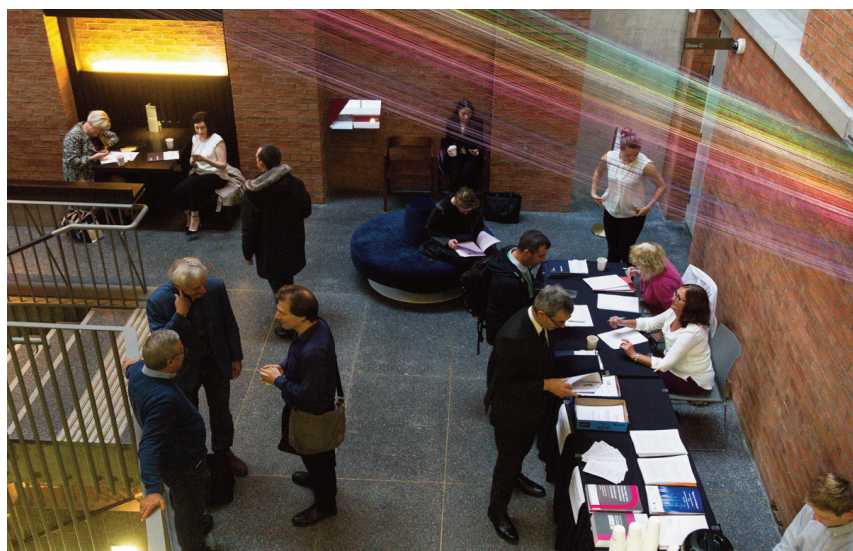
Ciaran White of Ulster University proposed a model to maintain the rights workers enjoy under current employment law in Northern Ireland. This would be for the Assembly to act within its rights under devolution to continue to enforce EU labour law.

He and Claire Archbold discussed the task ahead for the Assembly of making sense of current domestic legislation that falls under the 1972 European Communities Act, if that Act is in fact repealed.



Rory O'Connell, Director of TJI, noted the political nature of this constitutional moment, and the continuing influence of politics on the UK constitution. Furthermore, there are currently cases in court, including one in Northern Ireland, to challenge Brexit, showing there are many levels of engagement with this unknown process.

The Northern Ireland Assembly may be in a position to exercise a considerable amount of independence in the Brexit process, and should do so to maintain the peace and the rights to which so many here have contributed.



Professor Colin Harvey and others called for a revisit of the unfinished business of the Good Friday Agreement, namely the Bill of Rights and the all-island Charter of Rights.

It is clear, as Brian Gormally said, that as human rights organisations we have an obligation to ensure that rights are protected in whatever political situation we find ourselves. That is a task that will require civic engagement alongside political willpower.

Christina Verdimane,
CAJ Volunteer

Human Rights based Policing

This is a summary (edited by Just News) of the speech given by Alyson Kilpatrick BL, Independent Human Rights Advisor to the Policing Board, launching the 2015 Human Rights Report.

Good morning and thank you all for coming to this event to mark another year of the Policing Board's monitoring of compliance by the PSNI with the Human Rights Act.

I have, on behalf of and with the Performance Committee, monitored many aspects of police performance, which are reflected in the report. I have done that in my capacity as independent human rights advisor to the Board. The independence of the role is absolutely critical to its performance and something it is my duty to guard jealously. The reason the Board chose, from the outset, to appoint barristers in private practice was to demonstrate its commitment to independence and to ensure the separation of interests.

Instead of getting into the detail of the report I would like to take this opportunity to talk about human rights compliance more generally – in particular why it has been important to date and why it will continue to be important in the coming years.

Firstly, and most obviously, because it is an express statutory requirement that the PSNI complies with the Human Rights Act and that the policing board holds it to account for that compliance. Secondly, but perhaps less obviously, because compliance by the police with human rights standards enables democracy to flourish thus helping to maintain peace, security and the rule of law.

The concept of human rights compliance and the Board's monitoring however is not uncontested so I would like to address that directly by acknowledging and hopefully dealing with some of the questions that have been posed.

The question posed most frequently is: what degree of risk should we collectively accept to ensure the protection of fundamental human rights and freedoms? That question arises only if one assumes that public safety and security are in an inverse relationship with each other – that more of one necessarily undermines our pursuit of the other. I would argue that public safety and security is best achieved by the protection of fundamental freedoms. A commitment to safeguarding human rights, the substantive and visible protection of those rights and the exposure of violations of rights if they do occur is the best means of building public confidence in policing and ensuring an effective and efficient police service.

There is undoubtedly a threat to our national security from terrorism and other crime and a very laudable desire of government and the security services to do everything possible to protect the public they serve. Each incidence of violence is itself an affront to human decency and a flagrant breach of human rights. Because of that, there is a temptation to violate individuals' rights in the (in my view mistaken) belief that it is for the greater good. It is entirely understandable and, for that reason, extremely common. The focus however can stray into perceived risks rather than real ones – putting people in fear of each other. When fearful, we become obsessed with security. To permit perceived as opposed to real risk to influence decision-making means the balance tips away from fundamental freedoms towards security.

As the Council of Europe put it, in 2002, "The temptation for government and parliaments suffering from terrorist action is to fight fire with fire, setting aside the legal safeguards that exist in a democratic state. But let us be clear about this: while the State has the right to employ to the full its arsenal of legal weapons to repress and prevent terrorist activities, it may not use indiscriminate measures which would only undermine the fundamental values they seek to protect. For a State to react in such a way would be to fall into the trap set by terrorism for democracy and the rule of law."

As Human Rights Advisor to the Board one of my responsibilities is to monitor and report upon the compliance of the police service with the human rights act including in the use of counter-terrorism and security powers. I am granted access to any operation I wish to observe, to any material including closed material which I wish to review and to any officer or member of staff with whom I wish to consult. It has enabled me to observe police decision-making and the application of human rights in practice including during live operations.

I have been privileged to see at close hand how police officers really do balance security and rights under extreme pressure. That has made me more confident that the PSNI are able and motivated to protect the public while also protecting rights.

The current Chief Constable of the PSNI, George Hamilton, while an Assistant Chief Constable in 2012, said: "The fundamental building blocks for community confidence and the delivery of effective policing are human rights and accountability. When the discontent of a minority is expressed through violence the safety of the community is threatened... the greater the challenges faced by the police service, the more important human rights policing becomes."

Speaking as Chief Constable in September 2014 he said this "The critical success story, from a policing perspective, has been the full implementation of the human rights framework." That was against the backdrop of what he described as a developing but imperfect peace in which the security threat remained severe and dissident republicans continued to target police officers. Despite that, at every opportunity, the Chief Constable and his colleagues have re-stated the importance and value of the Human Rights Act and its practical implementation.

Police are familiar with the Human Rights Act and the balances that must be struck: the delivery of their service is built upon it. If the Human Rights Act is ripped up I suspect they will carry on as they have been because they believe it works. But, it would not be easy. With the Human Rights Act we have one document which contains a framework for decision-making by the police which provides a degree of certainty (comfort even) to police while endowing them with a degree of discretion to balance rights.

Getting rid of human rights as the core method of operating...may undermine the peace process itself – it being a key element of the agreement. Or, as Professor Conor Gearty commenting on NI has put it, "Northern Ireland's fragile stability depends on human rights".

Human rights are not, as someone said recently 'done'. They will never be done not least because times change – new challenges emerge and resources diminish. With challenge comes the temptation to cut corners, to bend the rules, to fight fire with fire. The police must resist those temptations and society must support them in doing so. Support does not mean blind acceptance – which is not worth having - it requires searching scrutiny and accountability - reporting on the bad and recognising the good. That in turn should enhance community confidence and make the police stronger.

That is what the annual reports seek to achieve – in its small way to contribute to the forging of police/community relations. This year's review highlights many areas of good practice but also areas in which further improvement is required. In accepting all of the recommendations the PSNI has demonstrated its determination to continue to improve.

CAJ's AGM

**will take place on
Thursday, 8th December at
9.30 am in
The MAC, 10 Exchange Street,
Belfast**

**Followed by public seminar
'Human Rights Past and Future'**

All members welcome

Civil Liberties Diary - August/September

10th August

A Government Minister has reaffirmed the Executive's commitment to removing every peace wall in Northern Ireland in the next seven years. Addressing a community festival in North Belfast as part of a panel discussion, Sinn Féin Junior Minister Megan Fearon spoke of the way in which 'reconciliation has been hampered by physical divisions,' expressing her hope that removing a peace wall could 'open a door to a new shared space.' While implemented as a temporary protection from violence during the Troubles, Department of Justice figures reveal that 50 barriers; 39 walls and 11 fences remain in interface areas.

15th August

Relatives of the victims of the Ballymurphy massacre have marked its 45th anniversary with repeated calls for justice for the 11 civilians killed in disputed circumstances in August 1971. An inquiry into the controversial shootings at the hands of the same Parachute Regiment later responsible for the Bloody Sunday killings was never given the go ahead. Barrister Michael Mansfield, who represents some of the victims' families, joined them in their annual March for Truth. He compared the case to that of Hillsborough disaster whitewash, reiterating the possibility that the deceased had been 'unlawfully killed.'

30th August

Homelessness in Northern Ireland has more than doubled since the turn of the millennium, shock new figures have revealed. The statistics, released by homeless charity Shelter NI in the run up to their latest awareness raising campaign, show that more than 50 families or individuals declare themselves homeless every day, making Northern Ireland the UK region with the highest level of comparative homelessness.

Chief Constable George Hamilton has confirmed further cuts to the PSNI's budget giving rise to fears over the future of policing in Northern Ireland. The Police Federation has predicted looming disaster in the wake of the £40.5 million decrease in funding.

6th September

Northern Ireland's most senior judge has urged the Executive to sort out its finance for legacy inquests or run the risk of delaying any progress on their hearing for years to come. Lord Chief Justice Sir Declan Morgan has branded additional delays to a large backlog of cases 'hugely disappointing,' expressing fears that the inertia could lead to further devastation for victims' families. Sir Declan admonished Ministers in Stormont and Westminster for their lack of will to set aside the funds required to adequately deal with the past, claiming that coroners only had the resources to complete two more inquests this financial year.

19th September

The Chairman of the Community Relations Council has urged public representatives to highlight the positive contribution made by migrant workers in Northern Ireland in order to tackle the scourge of hate crime. Mr Peter Osborne spoke as it emerged that there had been an 87% rise in hate crime in the province in the last four years alone. Mr Osborne described the development as a 'deeply troubling,' one, stating that he believed that most people in Northern Ireland 'don't agree with the racists.' He argued that Britain's vote to leave the E.U had exacerbated the issue and encouraged public representatives to 'shout very loudly and publicly about what huge benefit Northern Ireland derives from black and minority ethnic communities and newcomers.'

Compiled by Helen Byrne from various newspapers

Just News

Just News welcomes readers' news, views and comments.

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