

New premises officially launched!

On 7th October, we officially opened our new premises on Queen Street in Belfast. After more than 20 years on Donegall Street, the move marks a significant step forward for CAJ and provides us with outstanding premises to continue our work. With an ever-expanding core staff and increasing numbers of volunteers, it became clear that we required a larger office to accommodate our needs. The pressing need for accessibility also played an important part in the decision to look for a new space.

The new office was designed and fitted by Sean and Martin O'Hare of Sturgen Properties and is a state of the art facility which we hope will be used and frequented by our members and stakeholders alike for many years to come. The new office includes a boardroom to fit 20 people roundtable, and more than 30 theatre style. There are 7 individual offices and 2 specific volunteer desks. The new boardroom will soon be available to hire for meetings and small events. Further details will be available from our website in the coming months. The office is wheelchair accessible and benefits from an induction loop system at the reception desk and in the boardroom. The building is conveniently situated in the centre of Belfast so we encourage those interested in our work to visit.

Over 100 members, stakeholders and associates attended the launch event, which provided an excellent opportunity to view the new premises and find out more information on the work of CAJ. CAJ's 'Quilt for Beijing' was on display for the duration of the launch event. The quilt which depicts scenes of women's rights as human rights, was a joint project by CAJ and the then CRD (Centre for Research and Documentation).

We also took the opportunity, with the support of his partner Karen and his family, to name the new Boardroom after our good friend and colleague, Stephen Livingstone. Professor Kieran McEvoy spoke about Stephen's work in the early days of CAJ, his commitment to and enthusiasm for human rights issues and the incredible legacy he leaves behind. His inspiration sustains us yet.

The official opening of the new premises was carried out by noted international lawyer Professor Philippe Sands QC of Matrix Chambers and University College, London. His activism on Guantánamo Bay, torture and the illegality of the war in Iraq were key reasons for us to ask him to open the new centre. Professor Sands spoke about his respect for the work that CAJ has done over the years. He highlighted in particular a recent CAJ publication, 'War on Terror', which he believes outlines the key lessons to be learned by other countries. Professor Sands also touched on his friendship with Stephen Livingstone, recalling their time spent in Harvard University, and his delight at being present for the naming of the boardroom.

Excerpts from the opening speech by Professor Philippe Sands QC can be found on page 2.

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Excerpts from the speech of Professor Philippe Sands QC

I am truly pleased to be with you today. When the invitation arrived, it was unexpected, but one that I accepted immediately because of my huge admiration for the work that the Committee on the Administration of Justice (CAJ) has done over the years and for the inspiration that it has provided to me and to countless other people around the United Kingdom, in Europe and around the world.

The CAJ is a Northern Ireland institution. I am going to focus on the area that I know CAJ for most and that is in relation to my work – what to do when there are threats to security and how to go about addressing them? The CAJ was founded in the context of that very issue and as a result has a great deal of experience in this field. Over the years it has fought cases, put out publications, and contributed an enormous body of literature, thought and ideas that remain readily available. In my professional life, I rely on a lot of that material. Before coming to deliver this speech, I just drew from my library one document from the CAJ that I've used a lot over the last couple of years. It is called 'War on Terror – Lessons from Northern Ireland' (published in 2008). It is a good title because it is a simple title and it is one that I wish the former US president George W. Bush and the former British Prime Minister Tony Blair had had more regard to back in the days after September 11th 2001 when we could not have imagined what certain governments were going to do. We had a certain experience about what to do, certainly in Britain, because of what we knew from Northern Ireland and from Britain's colonial past. So we knew that there was a cross-party consensus that the one thing you did not do was to start abusing people, torturing people, interrogating people in ways that violated minimum international standards and detaining people indefinitely. And yet, within days, in fact, we now know from the documents that have emerged, within hours, it was decided that these sorts of measures would be the response. It was these very measures which were put in place. Not by the United Kingdom, but rather by the United States, but apparently with some degree of support from the United Kingdom, notwithstanding public statements to the contrary and the bitter experience of Northern Ireland in 1970, 1971 and 1972.

For me, the single most important thing about the work of the CAJ, as reflected in this book and other writings of the CAJ, is on the issues of impunity and of accountability. The United States stands right now at a difficult crossroads. There is no dispute that torture happened. There is no dispute that it happened systematically and on a widespread basis. Some countries, such as the United Kingdom have set up inquiries in response. I give real credit to this coalition government, because the last Labour government did not do it, to have set up a judicial inquiry to look at the circumstances in which allegations of possible British complicity in torture in Pakistan, in Morocco and in other parts of the world have occurred. I very much welcome that effort. There is no question in my mind that the decision of the coalition government to do that was drawn from the experience in Northern Ireland. They knew that they had to deal with this now or it would fester and undermine public confidence and trust and prevent building good links between different communities. The United States has not done that. President Obama has said: we need to move on; we will not look back to the past; we will not do truth and reconciliation; we will not do criminal justice; we will not investigate the previous administration or their lawyers for what happened. That is a mistake which is going to come back to haunt President Obama. He should read the CAJ's book and the work that this organisation and many associated with it have been so deeply engaged in these past years. If there is one lesson to be drawn from the Northern Ireland experience, it is that you cannot escape the past. That, it seems to me, is one of the great lessons that I have learned from the work of the CAJ – you cannot just sweep these issues under the rug.

The voice of this organisation and that of your wonderful colleagues resonates way beyond Belfast and the United Kingdom. I strongly encourage you to do what you can to reach out to other communities because you can help other communities around the world draw from the lessons that you have learned and apply the conclusions that are right for them in their particular circumstances. I would like to express my deep and strong admiration for the work that the CAJ has done, is doing and I hope will continue to do. To all those who are associated with it now; those who have been associated with it in the past and those who have been its guiding light and its spirit, it is an admirable and extraordinary achievement. It is a wonderful credit that you now have this great space in which to develop your work and it is truly my honour to be associated with the unveiling of this building.



CAJ Director Mike Ritchie with Professor Philippe Sands QC



Padraigin Drinan, Vinny McCormack and Liz McAleer, CAJ



Professor Kieran McEvoy unveils the plaque in memory of Stephen Livingstone



Professor Colm Campbell, Professor Philippe Sands QC and Professor Tom Hadden



The Stephen Livingstone Boardroom

CAJ comments on the Justice Bill EQIA

CAJ recently responded to the consultation on the equality impact assessment ('EQIA') on proposals for the Justice Bill (NI) 2010 ("the Bill"), the first major piece of devolved legislation on justice matters in Northern Ireland for almost 40 years.

In its consultation submission, CAJ considered the following key points:

1. Meaningful Consultation

The EQIA on the proposed Justice (NI) Bill 2010 was issued for consultation on 12th August 2010 with a closing date for submissions of 4th November 2010. However, the draft Bill was published by the NI Assembly on 18th October 2010 before responses to the consultation had been received. This approach is legally problematic.

Publishing the Bill before the end of the consultation period and before all responses have been submitted and considered means that DOJ (Department of Justice) has not taken all necessary consultation into account, thus not complying with its statutory obligations under Section 75 of Northern Ireland Act in this regard.

Secondly, as well as statutory obligations, in common law a number of cases have outlined what is required in any consultation process, including for example what are referred to as the "Sedley Requirements." These set out:

- i. it must be undertaken when proposals are still at a formative stage;
- ii. it must give sufficient reasons to permit the consultee to make a meaningful response;
- iii. it must allow adequate time for consideration; and
- iv. the results of the consultation must be conscientiously taken into account in finalising any proposals.

Given the publication of the Bill before submissions have been received, the extent to which this consultation meets requirements (i) and (iv) in particular is extremely questionable.

These requirements are also reflected in the Cabinet Office Code of Practice on Consultation, which makes it clear that "Formal consultation should take place at a stage when there is scope to influence the policy outcome."

CAJ notes that some of the component parts of the Bill have already been consulted upon individually and that equality issues were raised in these consultations. However, we think that the manner in which equality issues were addressed was insufficient.

CAJ is also concerned that DOJ has not coordinated various consultations on issues related to component proposals in the Bill in such a way that allows proper consideration of the issues. A number of relevant consultations are currently underway and such consultations will not be completed until after the closing date of the consultation on the EQIA of the Bill. As a result, DOJ and consultees will not be able to co-ordinate and use the results of these consultations to inform the development of the Bill. In relation to legal aid in particular, this is subject to a wider review on access to justice, and we would suggest that these provisions are best considered as part of that overall review.

2. Approach to Impact Assessment

Identifying possible equality impact and approach to screening exercises

The 'Overarching assessment of Impacts' section of the EQIA (p. 16-25), reviews the impacts across each of the three groups that the Bill will affect: the general public; victims and witnesses; and offenders, and on examination of the first two groups asserts that the proposals will be "to the benefit of all Section 75 groups." (p. 19 and 22). The phrases "benefit of/to all" or positively impacting on all, are used no less than 9 times in the EQIA.

The EQIA states that: “each individual proposal has by and large been individually screened out as being in need of a full equality impact assessment. The reason for this outcome is in the spread and nature of the proposals.” It is claimed that the proposals will “improve procedures for all” and provide “a better service for all.” (p. 12, 13). These are vague statements which do not provide sufficient justification for not conducting further equality analysis. They are presenting benefits that the Bill will bring to the general public in large, rather than considering actual impact on equality grounds.

CAJ therefore believes the approach that the proposals will have equal benefit to everyone in Northern Ireland across all Section 75 categories is problematic. Section 75 of the Northern Ireland Act 1998 requires a public authority to have due regard to the need to promote equality of opportunity between the nine equality categories, rather than providing equal benefit to all. The phrase “equal benefit to all” does not exist in Section 75. Therefore, merely stating that the proposals will “benefit all” is not a proper approach to be taken while exercising EQIA. There is a need to consider how to better promote equality of opportunity.

Alternative policies and mitigating measures

If any impact on any of the categories specified in Section 75 has been recognised, there is a need to consider alternative measures that better promote equality of opportunity. According to Schedule 9 (9)(1) of the Northern Ireland Act 1998 a public authority should:

“give details of any consideration given by the authority to - (a) measures which might mitigate any adverse impact of that policy on the promotion of equality of opportunity; and (b) alternative policies which might better achieve the promotion of equality of opportunity.”

The Equality Commission’s Practical Guidance on Equality Impact Assessment is clear on this:

“The consideration of mitigating measures and alternative policies is at the heart of the EQIA process. Different options must be developed which reflect different ways of delivering the policy aims. The consideration of mitigation of adverse impacts is intertwined with the consideration of alternative policies. Mitigation can take the form of lessening the severity of the adverse impact. Ways of delivering policy aims which have a less adverse effect on the relevant equality category, or which better promote equality of opportunity for the relevant equality category, must in particular be considered. Consideration must be given to whether separate implementation strategies are necessary for the policy to be effective for the relevant group” (p. 29) (emphasis added).

The impact of the Bill on young males has been recognised. However, nowhere in the proposals are mitigating measures or alternative policies introduced which might better achieve the promotion of equality of opportunity than the existing proposals.

In relation to mitigating the impact of the Bill’s proposals on mostly young, male offenders it is suggested that mitigating factors are already in place and which can be taken to address any perceived adverse impacts. In the section on ‘Mitigation of Impacts’ (p. 99), it is stated that these can be categorised into three areas: strategic actions and activities that exist at an overarching level to prevent offending, divert offenders, and provide for rehabilitation when the justice system is engaged; proposals within the Bill which in themselves enhance those activities and improve offender options; and delivery and monitoring arrangements which seek to ensure that the proposals are correctly delivered. Proposals within the first area involve: operation of a cautioning system, creation of the Youth Justice Agency, existence of rehabilitation legislation and crime prevention and education programmes.

CAJ acknowledges the consideration of mitigation factors. However, distinction needs to be made between consideration of general measures that are already in place and those that specifically apply to the impact of the particular proposals, the latter being what is actually required.

In relation to alternative policies, it is asserted that the Bill itself proposes alternative policies to previous legislation and that the whole Bill is an improvement on the old legislation.

(continues on page 6)

CAJ does not consider this to be a proper approach.

In summary, although CAJ acknowledges the significance of this first major Bill for the Department of Justice, and the publication of this EQIA, CAJ has significant concerns that equality obligations have not been adequately discharged. In particular we question whether meaningful consultation is taking place when the Bill has already been submitted to the Assembly, and we underline the failure to assess and address impacts as required, including consideration of mitigating factors and alternatives.

To read the consultation response in full, please visit www.caj.org.uk

Yes Jim!

Poem by Richard Harvey

The life-affirming Derry greeting
Rings like a bell this Sunday morning
Not, how are you, how's it going, but Yes:
I see you, know your people, your address
My Da knows your Da, my Ma your Ma
Yes Jim, we know each other, who we are.
Yes Jim.
Yes Jim.

The Creggan's ablaze the day for Civil Rights
Banners and signs reflect bright winter's light
Politicians sleep on, unconcerned
As twenty thousand march for those interned
Free Derry's on the move to the Guildhall
Can their army stop us? Not at all.
Yes Jim
Yes Jim

Pick up the banner someone else has dropped
And hold it high; no way can you be stopped
Now I see you arms wide, cross-legged, seated
Giving the peace sign, silent, undefeated
While lurking behind shields and barricades
The Paras prepare their deadly fusillade.
Yes Jim
Yes Jim

Hankie around your face against the gas
Although it's clear now they'll not let you pass
On down to Derry Corner, I'm with you
What's that? Oh Christ, they're coming through!
Their engines roaring like it's Judgement Day
That girl got hit there, let's get out the way
Yes Jim
Yes Jim

Turn here into Glenfada, by your Nan's
Those Paras have come here with their own
plans
Get in behind this wall. But what's those
sounds?
It can't be. Yes it was. Those were live
rounds.
Theres fellas lying shot there, dead some say
Come on, across the Park, get out that way.
Yes Jim
Yes Paddy

Got you in my sights I have, old son
Go on, that's right, let's see you try to run
Before you even hear my rifle's crack
I will have dropped you, shot you in the back
What's that? Still moving? That's soon
changed
In close, and shoot again, from point blank
range.
Yes Paddy.
Yes Jim

It's 38 years. We're still fighting strong
They took you from us but you're never gone
We know if it had been some other youth
You'd be here campaigning for the truth
You'd fight Widgery's lies, the law's delay
Your spirit lives in all of us, Jim Wray.
Yes Jim
Yes!

The 10th International Conference of National Human Rights Institutions

The Scottish Human Rights Commission is the national human rights institution for Scotland, created by an Act of the Scottish Parliament in 2006. We have a general duty to promote awareness, understanding and respect for human rights, and in particular to encourage best practice in relation to human rights.

The Commission also acts as a bridge between national and international communities on human rights – to ensure that the Scottish experience is reflected internationally, and to bring the international experience to our country.

Human rights are truly international. Everyone, in every country in the world, has the same basic rights and freedoms no matter what their gender, race, language, religion, national origin, age or disability. The Commission is one of around 80 national human rights institutions (NHRIs) around the world, including the Northern Ireland Human Rights Commission.

In October 2010, 'The Edinburgh Declaration' was adopted at the close of the 10th International Conference of National Human Rights Institutions held in Scotland - initiating the development of national, regional and international programmes of action on business and human rights.

The theme of the conference - business and human rights - has emerged as a critical challenge to the international legal framework. In a significant development the UN Human Rights Council affirmed earlier this year that, while recognising that states remain the primary duty bearer in the UN human rights system, business does have a responsibility to respect human rights. This has followed a decade or more of debate and interaction among governments, business, legal, academic and NGO communities, all of whom were represented at the conference.

The shift in economic and political power from states to business has led to a shift in public expectations that business must now accept its share of responsibility towards human rights, that it must become part of the solution and not be part of the problem.

Companies are increasingly expected to behave to responsible standards, at the very least to cause no harm to the people working for them, living nearby, or affected by their products or services. The influence of multinationals in particular has led to demands for businesses to accept their proper share of responsibility for respecting human rights in their territories, in the investments they make, with their environmental record, and in how they deal with possible human rights violations. The past decade has seen many initiatives to make it the norm that rights are respected in the day to day behaviour of firms towards employees, individuals and communities. This now needs to be scaled up in a more coherent and consistent way.

Voluntary groups are also already active in protesting against procurement decisions which could affect human rights standards, for example in the delivery of care services. Individual companies in Scotland and the UK are becoming more mindful of the need to protect human rights in their supply chains and operating systems overseas.

Conference delegates, representing human rights commissions from New Zealand, Morocco, Indonesia, India, Mexico, and South Africa, amongst many others, discussed the role we as human rights institutions have in addressing corporate responsibility, the duties of states in protecting people against corporate human rights abuses, and state duties to ensure effective remedies when abuses take place.

With others, our Commission is committed to supporting companies to make meaningful commitments to respect human rights, help them monitor their own progress, and support them to deal with emerging issues as they arise.

You can find out more about the work of the Scottish Human Rights Commission by visiting www.scottishhumanrights.com

Jemma Neville, Outreach Coordinator, Scottish Human Rights Commission

Civil Liberties Diary - October

1st October

Security systems within Northern Ireland prisons have been criticised after the release of the Billy Wright Inquiry Report. Investigations determined that security cameras in Northern Ireland prisons failed 783 times in the past five years. Additionally, the surveillance systems at Maghaberry Prison are outdated and not fully functional.

8th October

A High Court judge reserved his verdict on a challenge to an advertising ban. The Advertising Standards Authority had issued the ban after the Sandown Free Presbyterian Church took out a full page advertisement before Pride Week 2008, which declared that sodomy was an abomination.

13th October

Ten percent of people in Northern Ireland receive the Disability Living Allowance. This allowance is given to children and adults with physical or mental disabilities. Latest figures show that the percentage of recipients varies by electoral area, with the largest percentage (twenty percent) in West Belfast.

14th October

The High Court ruled that two children born with darker skin than their parents following an IVF treatment mix-up were not owed a duty of care during the fertilisation process, as they had no legitimate expectation other than being born healthy and well.

15th October

The Organized Crime Task Force launched a new campaign aimed at helping potential victims of human traffickers. The campaign includes posters and leaflets entitled "Visitor or Victim?" The Task Force reported that seven victims of human trafficking have been rescued so far this year in Northern Ireland.

26th October

Northern Ireland judges were accused of being too lenient on offenders. Only 23 people out of 3,500 convictions for burglary and sex offenses received the maximum sentences. This comes after the former Maghaberry Prison Governor William McKee called for tougher sentences to deter future offenders.

27th October

The Northern Ireland Assembly Committee for Justice asked for public participation in determining new sentencing guidelines. The Committee is looking for opinions on current sentencing arrangements for a range of crimes as well as the role a sentencing guidelines council might play.

Northern Ireland has the lowest re-conviction rates in the UK, though almost a third of criminals, including sex offenders and those jailed for assault, death threats, and robbery, will reoffend within a year of being released from prison.

29th October

The budget of the Northern Ireland Human Rights Commission will be cut by £300,000 for the next year. Chief Commissioner, Monica McWilliams voiced concerns that the budget reductions amount to a regressive step by the UK government in protecting human rights in Northern Ireland.

*Compiled by Elizabeth Super
from various newspapers*

Just News

Just News welcomes readers' news, views and comments.

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