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## Chairperson's Foreword *by Professor Louise Mallinder*

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During 2017, the enduring importance of human rights and equality issues to the sustainability of Northern Ireland's peace process has been made clear in multiple fora. For example, since the Stormont power sharing Executive collapsed on 16 January 2017, as part of fallout from the financial mismanagement of the Renewable Heat Incentive scheme, equality issues have been among the most divisive issues in the negotiations to restore the institutions. These include the official status of the Irish language in Northern Ireland and the right of same sex couples to marry. Furthermore, the DUP's resistance to providing adequate support for coroners' inquests and the United Kingdom's insistence on a national security veto over the information that can be shared with families by the mechanisms proposed in the Stormont House Agreement to address legacy offences have also proven to be stumbling blocks in the talks.



The Brexit negotiations also have deep implications for human rights in Northern Ireland. On one hand, the Conservative Party's decision in its May 2017 election manifesto to put its efforts to withdraw from the European Convention on Human Rights on hold until after the Brexit process has been concluded provides some welcome respite from efforts among some sections of British political and media establishment to erode human rights protections within the United Kingdom. On the other hand, research by CAJ and others has increasingly revealed the myriad ways in which Brexit could pose significant challenges to human rights within Northern Ireland, some of which are set out within this report.

Given the pressing nature of these developments and the potential consequences for Northern Ireland's peace process and human rights, it is unsurprising that over the past year, CAJ has dedicated a substantial part of its work to defending the peace process. This work has involved detailed research and multipronged strategic interventions through participating in judicial reviews as well as direct engagement with policymakers in Belfast, London, Dublin and Brussels.

In addition, CAJ has continued its longstanding work on combating impunity for the legacy of the Troubles at multiple levels. For example, to try to overcome the national security blockage in implementing the Stormont House Agreement, in April 2017, CAJ, together with Queen's University Belfast, the Pat Finucane Centre,

Relatives for Justice, and Rights Watch UK, hosted a roundtable to make public proposals on principles and mechanisms for information redaction. CAJ has also worked to resist the threat posed to the Stormont House Agreement legacy proposals by the call for a Statute of Limitations for all offences committed by British soldiers during the Troubles, which could amount to an amnesty for torture and violations of the right to life.

This work has included supporting Professor Kieran McEvoy in preparing his submission to the House of Commons Defence Committee on these proposals. Related to this, CAJ has engaged with UN Special Rapporteurs and international NGOs to denounce the threats that have been made against human rights lawyers involved in the prosecution of British soldiers. In the coming months, CAJ will continue to call for the implementation of the Stormont House Agreement and if the UK Government's proposals are opened for public consultation, CAJ will scrutinise them carefully with respect to human rights compliance.

Over the past 12 months, CAJ has also worked on a number of issues relating to equality. This has included hosting a landmark conference in October 2017 on the sanctioning of hate expression. This event was particularly timely, given that Northern Ireland, like other parts of the UK has witnessed a rise in hate crimes following the referendum on leaving the European Union. In addition, during the summer, CAJ held an extraordinary general meeting in which the CAJ Executive asked the members to support a resolution that CAJ adopt a position on reproductive rights that is in line with international standards. I am glad to report that the members approved this resolution unanimously.

A final point to highlight in terms of CAJ's work this year is that it has had significant international dimensions. This has included reporting to UN bodies and the Council of Europe Committee of Ministers on the UK's compliance within its international obligations with respect to Northern Ireland. However, it has also involved drawing from Northern Irish experiences to inform international standards, such as the Principles on the right to information relating to freedom for protest, which are being developed by the Open Society Justice Initiative. In addition, CAJ has welcomed numerous delegations from many parts of the world who come to Northern Ireland to learn more about the successes and challenges of our peace process. These initiatives while substantively important also speak to CAJ's global reputation as a methodologically rigorous and independent organisation committed to promoting the highest standards of human rights compliance.

This volume and consistent high quality of the work produced is only made possible through the hard work of CAJ's staff and volunteers.

This year, CAJ was joined by two new staff members, Fidelma O'Hagan, a highly experienced solicitor, who has joined us while Gemma McKeown is on maternity leave, and Caroline Maguire who has been appointed to the role of Equality Duty Enforcement Project Coordinator as part of a three year project. On behalf of the Executive, I would like to welcome Fidelma and Caroline to CAJ and also to extend our good wishes to Gemma on the birth of her son Matthew. Congratulations Gemma!

We have also witnessed changes among the membership of the Executive. Patricia Lundy resigned in September for personal reasons. We would like to thank Patricia for all her hard work over the years. In late November, the Executive were deeply saddened to learn that the Deputy Chair of CAJ, Johnston Price, had passed away suddenly. During his time on the Executive, Johnston was always a warm, committed, and engaging colleague, with a profound commitment to human rights. We will miss him greatly.



Director of CAJ, Brian Gormally (Left) and Professor Louise Mallinder, Chair of CAJ (Right) with the late Johnston Price, Deputy Chair of CAJ (Middle)

## Introduction

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This year has seen political events move at bewildering speed in some areas and in others move with glacial slowness. In spite of the long drawn out nature of the Brexit negotiations, the shifting alliances and political deals have on occasion been hard to keep up with. In contrast, no initiative of any significance has come from government on dealing with the legacy of the past. Developments, and our interventions, in both these areas and many others are detailed in the following account. What is clear, however, from all the areas described is the centrality of a human rights approach.

Whether it be analysing the strategic significance of particular policies or assessing the detail of legislation or regulation, using the lens of human rights enables an unparalleled clarity of vision. More important, a human rights approach offers proposals and solutions that could impact positively on the lives of all who live within this jurisdiction.

Events have demonstrated the potential fragility of the peace process and the lack of understanding in some quarters of the principles and assumptions that underlay it. We can see that, in so far as human rights are belittled or ignored – the equal rights of British and Irish citizens, for example – the peace process is put at threat.

When there are guarantees offered on free movement and the equality of rights across the island, faith in our current institutions is strengthened. The only way forward for this region is through building a rights based society. This is not a rhetorical device but a way of developing a detailed recipe for progress in every area of society. Firmly linked to the highest international standards, it also provides a practical, as well as principled, alternative to violence.

CAJ's job is to take international standards and relate them to our own, very particular reality. Our task is to draw out the implications for law and policy and to advocate for the requisite changes. We must look ahead to analyse potential threats long before we see actual impact on people's lives and look backwards to see what commitments and promises remain unfulfilled. The following pages detail how we have tried to carry out these tasks in the past year.



## Combating Impunity

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### Introduction

“Impunity” is the term used for a systemic failure to hold people, especially state agents, accountable for human rights violations. It is hugely destructive of the rule of law and erodes faith in the justice system and state institutions in general. The longer it goes on, the more it poisons contemporary society, even when it relates to crimes of the past. A failure to hold a state to account for patterns of past human rights violations, fuels the risk that they will be repeated at home or abroad when similar circumstances arise. This is why impunity is a prime target of human rights activists throughout the world.

The failure by the UK Government to properly investigate many of the deaths and maimings that occurred during the conflict in our view amounts to a maintenance of impunity. 18 years after the Belfast Good Friday Agreement and 15 years after the landmark rulings by the European Court of Human Rights in Northern Ireland cases on the obligation to investigate deaths, there is no proper system to deal with these matters. Last year we published “The Apparatus of Impunity?” – a report which came to the following conclusion:

What can be seen...is how a great number of laws, policies and actions together have the effect of providing impunity for state agents who might have been involved in crimes in the past. It appears that a significant number of individuals – politicians, officials, police officers and others – are working assiduously to conceal records, limit information or disrupt fact-seek enquiries. Given the evidence, there is no reasonable alternative to the inference of a common purpose.

A UN report in 2005, “Conclusions and Recommendations of the Expert Seminar on Democracy and the Rule of Law,” indicated what should be done:

All States must act within the law and encourage accountability for abuses and wrongdoing. National action plans to combat impunity may be a suitable vehicle for implementing this principle. They should be based on a comprehensive approach, including mutually reinforcing measures, such as judicial accountability, mechanisms of truth and reconciliation, and programmes of reparation. Such plans should be developed in a participatory manner and the views of civil society should be taken into account.



## **Implementing the Stormont House Agreement And the “McKerr Group of Cases”**

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In August 2001, the European Court of Human Rights gave judgement in a number of cases from Northern Ireland known collectively as the “McKerr group of cases.” These were cases involving deaths in which UK security forces were involved; CAJ was the legal representative in three of them. Other judgements followed in 2002, 2003 and 2013. All said that the UK was in breach of its obligation under Article 2 of the Convention (“Right to Life”) to properly investigate these crimes. To this day, the UK has still not discharged its obligations and the cases remain under the supervision of the Committee of Ministers of the Council of Europe, the body which oversees implementation of the judgements of the Court.

Every six months, CAJ makes representations to the Committee of Ministers under Rule 9 of its procedures which allows NGOs with a human rights focus to communicate with the body. The State Party, in this case the UK, is obliged to respond with its explanation for not complying with the Court’s judgements. For the last three years, the sorry tale of the “package of measures” applied to dealing – or rather not dealing – with the past has been replaced by successive promises about implementing the Stormont House Agreement in legislation.

In CAJ’s opinion, if and when implemented in a human rights compliant manner, the Agreement would provide a comprehensive mechanism for investigating deaths during the conflict and other aspects of dealing with the past. It is not perfect, and leaves out cases of those badly injured, but it is the last, best hope for a resolution of these cases and decommissioning the “apparatus of impunity.”

In our submission to the Committee in August of this year we explained that:

“In summary the legislation for the Historical Investigations Unit (the investigative body recommended by Stormont House) was derailed further to the proposed insertion by the UK of a ministerial power to redact the contents of independent investigation reports by the HIU on undefined ‘national security’ grounds. The Secretary of State for Northern Ireland announced that he sought ‘political consensus’ between Northern Ireland parties before moving to publish the consultation document on the proposed legacy bodies in the SHA. This essentially provides a veto to those who are opposed to independent investigations. In relation to inquests, whilst the Lord Chief Justice for Northern Ireland produced a blueprint for their implementation through a Legacy Inquests Unit, the UK has continued to withhold the necessary funding for the Unit. The Northern Ireland Executive collapsed in January 2017 and elections took place in March 2017.”<sup>1</sup>

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<sup>1</sup> <https://caj.org.uk/2017/09/21/s468-cajs-submission-committee-ministers-august-2017/>



In its decision of September 21<sup>st</sup>, the Committee of Ministers:

“noted with deep concern that the Historical Investigations Unit (HIU) and other legacy institutions agreed upon in December 2014 have still not been established because of a failure to reach agreement on the legislation required;

“considered it imperative that a way forward is found to enable effective investigations to be conducted particularly in light of the length of time that has already passed since these judgements became final, and the failure of previous initiatives to achieve effective, expeditious investigations; called upon the authorities to take all necessary measures to ensure that the planned public consultation phase regarding the HIU is launched and concluded within a clear timescale to ensure that the legislation can be presented to Parliament and the HIU established and made operational without any further delay;”

It went on to say that it:

“deeply regretted that the necessary resources have not been provided to allow effective legacy inquests to be concluded within a reasonable time; strongly urged the authorities to take, as a matter of urgency, all necessary measures to ensure both that the legacy inquest system is properly resourced and reformed in accordance with the Lord Chief Justice of Northern Ireland’s proposals and that the Coroners’ Service receives the full co-operation of the relevant statutory agencies to enable effective investigations to be concluded.”<sup>2</sup>

The exasperation of the Committee with the procrastination of the UK Government is clear – more important is the hurt of the victims still denied justice and the corrosive impact of the lack of institutions to deal with the past on the present trust in the institutions of state and the rule of law.

In the light of the failure of the post-election negotiations, in which the legacy issues were a major factor, we decided to publish the proposals on information redaction which we had passed to the two governments last year. The documents were launched at a seminar in QUB on 4<sup>th</sup> April.

These were designed as an adjunct to the Model Bill<sup>3</sup> which we published last year in the NI Legal Quarterly and gave a set of criteria for legitimately withholding information designed to prevent harm to individuals or exposing contemporary and legitimate security methods and a legal appeal procedure.

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<sup>2</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=090000168074a3a0](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168074a3a0)

<sup>3</sup> <https://caj.org.uk/2015/09/17/stormont-house-agreement-model-implementation-bill-explanatory-notes/>

The principle underlying both was that sufficient information must be released to enable measures to be taken to prevent recurrence of any abuses revealed.

The UK Government has promised a consultation on draft legislation and will include the suggestion for a “statute of limitations” for British soldiers (see below). However, at the time of writing the consultation documentation has not been published.

## **Attacks on lawyers and “statute of limitations” for British soldiers**

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At the end of last year, following the first decision since the Good Friday Agreement to prosecute a soldier for a legacy killing, the *Sun* and *Mail*, and senior figures in the Conservative party launched high profile campaigns attacking both defence lawyers and law officers, mostly the Director of Public Prosecutions. They claimed that the belated application of the rule of law to the military was a ‘witch-hunt’ against soldiers and demonstrated bias in the criminal justice system. The *Sun* published pictures and named two local lawyers, along with the price and general location of their houses, juxtaposing them with a picture box setting out the solicitors ‘IRA clients’.<sup>4</sup>

We responded to the initial media coverage about defence lawyers by liaising with them and making a detailed formal submission to the UN Special Rapporteur on the independence of lawyers and judges. The Secretary of State was entirely silent in relation to the attacks on law officers, with NIO ministers in fact endorsing the suggestion that there is ‘bias’ in the NI criminal justice system against the military. We wrote a joint letter with FIDH and Liberty to the Secretary of State complaining about the issue, and received a response essentially limited to stating there was a free press and reiterating his view that there was bias in the current system.

We also cooperated with Brian Dooley of the Washington-based Human Rights First organisation who produced a detailed report on the matter which was published in June this year.<sup>5</sup> The report was also discussed at a roundtable in September organised by Doughty Street Chambers in London to which we contributed.

As part of the continuing campaign against “persecution” of British soldiers by the criminal justice system in Northern Ireland, the House of Commons Defence Select Committee held an inquiry into the matter.

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<sup>4</sup> <https://www.thesun.co.uk/news/2368744/northern-irish-law-firms-who-scored-12m-in-legal-aid-will-make-millions-more-in-witch-hunt-probe-into-killings-by-brit-troops-during-the-troubles/>

<sup>5</sup> <http://www.humanrightsfirst.org/sites/default/files/A-Troubling-Turn.pdf>

We worked with Professor Kieran McEvoy of Queen's University Belfast on written evidence to the Committee;<sup>6</sup> he also gave oral evidence.

The reality is that only a tiny percentage of legacy cases relate to ex-soldiers. Such cases amounted to only 2% of those investigated by the Historical Enquiry Team of the PSNI (since disbanded, partly because of showing bias *towards* soldiers). Of the 17 prosecutorial decisions in legacy cases since 2011, only 3 related to soldiers and in only 2 of those was the decision taken to prosecute.

Notwithstanding reality, the report<sup>7</sup> of the Defence Select Committee called for the enactment of a "statute of limitations" covering all Troubles-related incidents involving members of the Armed Forces. This concept effectively means a selective amnesty for crimes committed by British soldiers. The Committee also suggested that it be extended to the RUC and other security force members. This position is, of course, completely contrary to human rights standards and, were it enacted, would probably be found unlawful by the courts. Nonetheless, the UK Government has said that it will include the proposal in the forthcoming consultation on the implementation of the Stormont House Agreement.

One of the myths revived at the defence select committee was that the Agreement early release legislation, which also puts a two year maximum on any prison term to be served after a "legacy" prosecution, cannot apply to the security forces. We subsequently published a piece on the Eamonn Mallie blog to challenge that position.<sup>8</sup> We understand the UK government is now looking at amending the early release scheme to close off the anomaly that it does not apply to pre-1973 cases.

## **Matrix Chambers Event: Torture in Northern Ireland new evidence**

This took place on 26<sup>th</sup> June (the UN International Day in Support of Victims of Torture). It was well attended and successful. CAJ spoke on the panel alongside Paul O'Connor, director, Pat Finucane Centre (*the new documentary evidence*). Ann Hannah, director of policy and advocacy, Freedom from Torture *The long-term impact of torture; the case for accountability*; Ian Cobain, author of *Cruel Britannia: A Secret History of Torture. A pattern of impunity for torture by UK forces*. The event was chaired by Professor Conor Gearty and powerful victims' testimony was read by one victim and others by actors.

<sup>6</sup> <http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Defence/Investigationsinto%20fatalities%20in%20Northern%20Ireland%20involving%20British%20military%20personnel%20%E2%80%8B/written/48436.html>

<sup>7</sup> <https://publications.parliament.uk/pa/cm201617/cmselect/cmdfence/1064/106402.htm>

<sup>8</sup> <http://eamonnmallie.com/2017/03/who-says-the-two-year-limit-on-prison-sentences-for-troubles-offences-excludes-the-security-forces-asks-cajs-daniel-holder/>

## **“Hooded Men” Case**

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This case involves the torture, in 1971, of 14 men, interned without trial, by the British Army and the RUC. CAJ represents Mary McKenna, the daughter of one of the men who died in 1975, partly as the result of his torture. We are involved in a judicial review which was heard in February. The fundamental points of the review were that the unlawful torture carried out on the hooded men was never subject to a criminal investigation and that the findings from the archive that Ministers were fully knowledgeable about the methods that were to be used and promised impunity to those who used them amounts to new evidence which triggers a continuing obligation to fully investigate the events. The continuing obligation to investigate was argued under Article 3 (Prohibition of Torture) of the ECHR but in the case of our client we were also able to argue under Article 2 (Right to Life) where the jurisprudence is much more developed.

Mr Justice Maguire delivered his complex, well-reasoned [judgment on 27 October](#). Finding in favour of the Hooded Men, he quashed the October 2014 decision of the PSNI to end their investigation into allegations of torture since it was unreasonable in all the circumstances. In considering whether there was a breach of articles 2 & 3 ECHR and whether the High Court can find such a breach in domestic law, the judgment sets out that if the European Court of Human Rights were to consider today the evidence that had been made available to the High Court during these proceedings, it would now find that the Hooded Men had been subjected to torture. This meant that the case went to the heart of “Convention values” and could come within its operation.

Next, the court considered whether the material exposed was sufficient to satisfy the ‘Brecknell test’ i.e. is the evidence credible and could it result in the eventual prosecution or punishment of the perpetrator of an unlawful killing thereby imposing an obligation on authorities to take further investigative measures. The court found that the new material was sufficient to revive an Article 2 obligation to carry out an effective official investigation but that it was bound by the decision of the House of Lords in *In re McKerr* [2004] UKHL 1. This therefore means that because the events took place long before the Human Rights Act came into effect in 2000, Articles 2 & 3 of that Act are not engaged.

Notwithstanding this finding, the court proceeded to consider whether the PSNI is sufficiently independent to carry out an investigation and held, in very strong terms, that it is not. Due to the fact that the judgment set out in very clear terms why it considered itself bound by the decision of the House of Lords in *McKerr*, and while the PSNI is considering whether to appeal this decision, we have protected our client’s position and lodged an application seeking permission to ‘leap frog’ the Court of Appeal and bring the matter straight to the Supreme Court. That application has yet to be considered by the High Court. If the PSNI does appeal we will cross appeal on the *McKerr* issue.

## ICCPR Submission

We filed a [detailed submission](#) to the Human Rights Committee as part of its follow up procedure addressing accountability for conflict-related violations in Northern Ireland. This provides a comprehensive narrative of key developments since our evidence before the Committee in June 2015. In particular it provides a useful chronology of the obstacles faced in respect of implementation of the Stormont House Agreement; inquests; Inquiries Act and Pat Finucane Inquiry; the political and media backlash in respect of prosecution of conflict related deaths and the vilification of human rights lawyers and the judiciary.

## Miscarriage of justice case

CAJ has represented for many years a Shankill Road taxi driver who was wrongly convicted and imprisoned for conflict related offences. After the Appeal Court found that he was the subject of a miscarriage of justice, he has now received full compensation for his wrongful conviction and imprisonment. We are exceptionally pleased for him and his family.

## Walker Report Freedom of Information case

We continue our attempts to achieve publication of the “Walker Report” – a 1981 report by the then local head of MI5 on the practices of RUC Special Branch. We believe that this contains evidence of practices which amount to deliberate human rights abuses. These are in the past and were not legitimate so there can be no good reason for concealing them. However, the PSNI, which has confirmed it has a copy of the document, is relying on the blanket exemption for security bodies such as MI5 contained in Section 23(1) of the Freedom of Information Act. We believe that this blanket exemption is unlawful under the Human Rights Act and will be seeking a declaration to that effect.

## Contemporary Accountability

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### Introduction

Working for contemporary accountability means making progress on the promise of a rights based society held out by our peace settlement. In our minds it particularly relates to the question of accountability of the police and other agencies of the state. In some ways it is a catch-all heading but the very concept goes to the heart of the human rights endeavour. Where it exists it marks a victory over impunity and the effective maintenance of the interlocking series of institutions that go to make accountability a reality.

### Principles on the right to information relating to freedom for protest

CAJ has been working with the Open Society Justice Initiative as part of an international project to develop these Principles. The Principles cover the interface between two developments in international human rights law in recent years – the first the increasing codification of rights to free assembly, expression and other rights to protest and the second the ripening into an accepted norm of international standards of the right to access official documents of public interest. The Principles seek to codify the interface between the two issues and provide a tool for police reform advocates both outside and inside policing to assess the compliance of public authorities of facilitating the human rights to protest within their legal frameworks and practice. This has meant working on a commentary for the Draft Principles and contributing to a number of conferences, roundtables and presentations in Washington, Limerick, Brussels and Montevideo. The Montevideo seminar on the 25-26 October brought together human rights NGOs from across Latin America, was opened by the OAS Special Rapporteur and took place on the fringes of the Inter American Commission on Human Rights summit. It involved discussion on the status of the right to protest on the continent with a number of NGOs keen to use the Principles in their countries.

We organised a major workshop as part of the contract which was entitled Workshop on the “Right to Protest and Civic Space in Europe: Opportunities for Strategic Litigation.” We hosted this in Belfast on 28-29 November 2017, using the Crumlin Road Gaol conference centre. It involved around 40 NGOs and lawyers from around Europe and the OSJI network and covered right to protest issues and civic space issues. There were a series of parallel sessions on the right to protest covering matters such as the use of covert policing powers in a protest context; the use of force; legitimate and disproportionate restrictions on protest and the question of discriminatory practices in protest facilitation and restriction. The meeting also addressed the range of issues closing down civic space for human rights NGOs and others in a number of European jurisdictions.



## Other initiatives on contemporary accountability

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### **Stop and Search**

We had two meetings with the PSNI and presented at a seminar in Queen's on police stop and search practices. We are pleased at the recent reduction in the use of "no suspicion" powers but remain concerned that there is no effective monitoring of the community background of those searched under any of the relevant powers.

### **Closed Material Procedures (Justice and Security Act 2013)**

CAJ participated in research being conducted by the Bingham Institute on the Rule of Law/York University into the application of CMPs under the 2013 Justice and Security Act. This involved a meeting with researchers and participation in two roundtable events in Belfast and London.

### **Meeting with Independent Reviewer of the Justice and Security Act 2007**

We met with David Seymour reviewer of the emergency type powers under the justice and security act. Main topics of discussion included stop and search, and whether the powers for the military under the act (which have never been used) should now be stood down. One area which emerged was a lack of clarity in relation to the scope of Operation Helvetic (the current British Army operation in Northern Ireland after Operation Banner) and whether it is compliant with the stipulations of the Patten Commission. We have issued a Freedom of Information request to the Ministry of Defence for the Terms of Reference for Helvetic, but we have so far been met with a negative response.

## **European Parliament: Accountability for State Agents, 6 September 2017**

CAJ addressed this event at the European Parliament organised by MEPs in the NGL-GUE group (Lynn Boylan, SF Dublin, Sabine Losing MEP Die Linke and Martina Anderson MEP;) and funded by the Parliament. Our input focused on the issues around ECHR compliance and the framework for informant and undercover officer handling in both Northern Ireland and elsewhere. Statewatch addressed the meeting in relation to EU wide policing cooperation on the issue. The other speakers related to the activities of the Metropolitan Police Special Demonstrations Squad which infiltrated activist groups for many years and is now the subject of the Pitchford Inquiry.

## **Meeting with Judge Barker**

We met with Judge Brian Barker, the Independent Reviewer of National Security Arrangements in Northern Ireland, on 2<sup>nd</sup> November. In this year's report he will be focusing on the regulation of the use of informants possibly because of representations we have made to him in the past. We explored with him our arguments for clear, published guidelines on the parameters of informant behaviour and particularly the procedures for allowing involvement in criminality. We explained that, because the PSNI had gone some way along this route, Northern Ireland could be a leader in developing international guidelines for this area of policing. He was interested and said he would include points on the matter in his report but could not be sure how much would be published.

## Protecting the Freedom of Expression and Assembly while opposing Racism

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### Introduction

The closely linked freedoms of expression and assembly are vital to the proper working of a democratic and participative society. At the same time, the pernicious impact of hate expression threatens to undermine tolerance and the equality on which a diverse society must be built. Furthermore, racism and other prejudice are the direct opposite of human rights built on the concept of the universal dignity of the human. This is why human rights standards uphold the freedom to come together and the right of free speech while at the same time obligating states to sanction hate expression. Where and how to “draw the line” is the subject of debate in many countries – this year we have made a contribution to the debate in our own circumstances.

### Challenging Incitement to Hatred

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We met with the then Justice Minister Claire Sugden regarding our issues with the effectiveness of current provision for combating incitement to hatred under the 1987 Public Order (Northern Ireland) Order. The minister instructed officials to begin a review of the legislation.

A major initiative in our long term campaign to encourage the proper sanctioning of hate expression was an Equality Coalition conference we organised in partnership with the QUB George Mitchell Institute and held on 13<sup>th</sup> October in the Canada Room at Queen's. This was entitled “Defining public duties to tackle incitement to hatred whilst respecting free expression: reviewing the legal and policy framework.” The conference addressed the ‘threshold’ and ‘intervention’ questions increasingly defined in human rights law as to when public authorities can or must act against speech and cultural expression in order to protect the rights of others. There was a good representation of people who attended from across the NGO sector and Government bodies. The conference was opened by former Justice Minister Claire Sugden, followed by a ‘harms and impacts of incitement to hatred panel’ with speakers covering experiences of racist, sectarian, homophobic, transphobic and misogynistic incitement. Dr Robbie McVeigh presented Equality Coalition commissioned research into the Northern Ireland context and was followed by a panel of comparative European speakers; there was then a response panel from the PSNI and Department of Justice and a political parties panel.

The conference report and research will be finalised for early 2018 and we are considering options for launch in light of whatever the political arrangements for the institutions are at the time. We are also planning a follow up roundtable with local government.



Anna Lo, Daniel Holder, Gavin Boyd, Dr Robbie McVeigh, Ellen Murray and Dr Rachel Killean at the Countering Incitement to Hatred Conference Oct 2017

ACC Mark Hamilton, Jeremy McBride, Sinead Simpson, Prof Jon-Mirena Landa, Paul Giannasi, Claire Sugden MLA and Prof Colin Harvey at the Countering Incitement to Hatred Conference Oct 2017



## Flags, Identity, Culture and Tradition Commission

We attended two “engagement” sessions with members of this Commission, one for lawyers and academics, the other for Section 75 groups. We made available material which had been submitted to the Haass-O’Sullivan process on the subject, and filled in a lengthy stakeholder questionnaire. It is not clear where this process is heading given the lack of a Stormont administration.

# Protecting Human Rights and the Peace Settlement

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## Introduction

We noted last year that this area was an unexpected and unwanted addition to our strategic priorities. It has consumed a great deal of time and effort in the past twelve months but rightly so, given the likely impact on the peace settlement and human rights. The withdrawal of the UK from the EU will have a profound effect on the legal and constitutional underpinning of the present jurisdiction of Northern Ireland, its relations with the Irish state and UK-Ireland bilateral relations. In particular, Brexit will negatively impact the peace agreement in the following ways:

- The Referendum and the decision to leave the EU ignored the all-island character of the peace agreement and that it was an exercise of self-determination by the people of Ireland
- UK and Ireland's common membership of the EU was an assumption in the Belfast Good Friday Agreement
- EU law regulates the powers and legislative operations of the devolved institutions
- Equal rights of Irish and British citizens, a principle of the Agreement, relies on both having EU citizenship
- Lack of significant border regulation and therefore free movement across Ireland is largely due to common membership of the EU, North and South
- Many equality and anti-discrimination provisions in Northern Ireland rely on EU law
- The delicate constitutional balance achieved by the Belfast Good Friday Agreement would be upset by any kind of border across the island

Even if there are no static customs or immigration controls on the border, we are worried that ad hoc checks will lead to racial profiling by immigration officers – a clear case of racial discrimination. CAJ is also concerned that relatively free movement across the island could see the territory of Northern Ireland targeted by UK authorities for particularly severe and intrusive “in-country” immigration checks including raids on workplaces and increased detention of migrants. This could lead to Northern Ireland becoming “one big border” with respect to the rest of the UK. Amongst other things, such a security clampdown outside the police accountability mechanisms painstakingly built up since 2001 would have a negative effect on public confidence in the rule of law and would be entirely unacceptable from a human rights point of view.

At the time of writing, a deal on the future nature of the border appeared to have been done, only to be scuppered by the refusal of the DUP to countenance any difference between the arrangements for Northern Ireland and the rest of the UK. It seems that on Monday 4<sup>th</sup> December, the UK and Irish Governments and the EU negotiators had agreed a deal that promised “no regulatory divergence” between the two jurisdictions on the island. This would require Northern Ireland effectively to keep to “the best of the best” in terms of regulations like food safety, the environment, workers’ rights and so on. This would be both economically beneficial and would help the progress of a rights based society here. However, in spite of the many regulatory divergences which currently exist between Northern Ireland and the rest of the UK, especially in agriculture and food production, the DUP argues that this deal would threaten the Union. In turn their position in propping up the Conservative government seems to give them the power to threaten any deal which fails to meet their demands. There is thus currently a stalemate.

## Brexit Litigation

As we reported last year, we were applicants in the *Agnew* case which was heard together with the [Miller case by the Supreme Court](#) in December. Judgement was delivered on 24<sup>th</sup> January.

We welcomed the Supreme Court’s decision that the Government could not trigger Article 50 without Parliamentary legislation. This was the principal argument made by the applicants to the High Court in Belfast, but rejected by that court. The majority of the Supreme Court held in the related *Miller* case that the European Communities Act 1972 has constrained the Government’s powers to trigger Article 50, without legislation, principles that the applicants also argued applied to the Northern Ireland Act.

We also welcomed the Supreme Court’s recognition of the vital role that EU law, and EU-based rights, play in the Northern Ireland devolution settlement. The Supreme Court said, at paragraph 132:

“It would ... be incongruous if constraints imposed on the legislative competence of the devolved administrations by specific statutory provisions were to be removed, thereby enlarging that competence, other than by statute. A related incongruity arises by virtue of the fact that observance and implementation of EU obligations are a transferred matter and therefore the responsibility of the devolved administration in Northern Ireland. The removal of a responsibility imposed by Parliament by ministerial use of prerogative powers might also be considered a constitutional anomaly.”



We were, however, disappointed that the Supreme Court did not accept our argument that the consent of the Northern Ireland Assembly was legally required. According to the Sewel Convention, the UK Parliament will not normally legislate in areas affecting devolution without the consent of the Northern Ireland Assembly. The Court accepted the “important” constitutional role that this convention plays but held that it had no role in enforcing it. Essentially the Court observes that whilst the UK Government may be acting in a manner which is unconstitutional, this itself is not unlawful and hence key elements of the constitutional arrangements cannot be enforced.

The judgement therefore re-asserted the absolute character of Parliamentary Sovereignty in a positive way in relation to the use of the Crown Prerogative but in a rather negative way in relation to the constitutional status of the devolved legislatures. This judgement will not be helpful if it comes to arguing against the repeal of the Human Rights Act, but would prevent a unilateral prerogative withdrawal from the EHCR. There was a concerted effort by the state to talk down the international-treaty based dimension of the Northern Ireland peace settlement, seeking to refer to the Belfast Good Friday Agreement as a mere political agreement. This throws into some doubt the durability of the constitutional accommodation which underlies the peace settlement.

**JONES CASSIDY BRETT SOLICITORS**  
24 January 2017

**Supreme Court rules on NI Brexit cases**

The applicants in *Agnew and others* welcome the Supreme Court's decision that the Government cannot trigger Article 50 without Parliamentary legislation. This was the principal argument made by the applicants to the High Court in Belfast, but rejected by that court.

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The applicants emphasize the importance that the decision will have in the future in protecting the role that the European Convention on Human Rights plays in the Northern Ireland Act 1998.



Supreme Court  
Decision, Joint Press  
Statement from  
applicants

## BrexitLawNI

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In early December of last year, the Economic and Social Research Council published a special and urgent call for proposals for research studies on Brexit. We discussed this with academic colleagues in the two universities and after a great deal of hard work an application was prepared and submitted with CAJ as the partner NGO. We heard that the application was successful on 8th March. The ESRC project, branded as BrexitLawNI, is designed to research the human rights, constitutional, equality and general legal implications of Brexit in six key areas, will draw up policy proposals and widely disseminate them. As part of its methodology, the ESRC project is interviewing key legal, political and policy actors in Belfast, London, Dublin and Brussels and holding meetings with key stakeholders across civil society, mainly organised through the Equality Coalition (co-convened by CAJ and UNISON). It is also organising “town hall” meetings and a wide range of seminars and consultative events.

The BrexitLawNI team is led by Professor Colin Harvey, together with Professor Kieran McEvoy, Dr Anna Bryson and Dr Amanda Kramer, all of QUB and Professor Rory O’Connell of Ulster University and includes four CAJ staff. The project is working well cooperatively and has published a series of pamphlets on the six policy areas as “Preliminary Views.” More than twenty practical proposals are included in these papers. The project has also launched a website which contains all the materials generated by the project and other information. The project is part of the major initiative funded by the ESRC “[The UK in a Changing Europe](#).” A CAJ Briefing on Brexit and Human Rights was circulated in September and is on our website together with other [materials](#).

A seminar and several “town hall” consultative meetings have been organised by the project during the autumn, and the project has contributed to a wide range of events.

[www.brexitlawni.org](http://www.brexitlawni.org)



## Meetings and events on Brexit during the year

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### **All-Island Civic Dialogue on Brexit**

There have been three plenary sessions of this broad coming together of politicians and civil society from all over the island and one sectoral meeting on human rights at which CAJ spoke.

### **British Irish Parliamentary Assembly**

We gave evidence to the Constitutional Affairs Committee of this body.

### **Seminar with Irish Council of Civil Liberties**

We attended and spoke at a seminar on Brexit in which we jointly organised with ICCL and Bar Ireland in Dublin on 1<sup>st</sup> March. This was a well-attended and successful event chaired by Judge Catherine McGuinness.

### **Centre for Cross Border Studies Conference**

We spoke at the above 'Impact of Brexit on Citizens' Rights' conference, held on the 28 March 2017.

### **Irish Congress of Trade Unions 'Workers must not pay the price of BREXIT' conference**

CAJ spoke at this conference held in Girdwood on the 29 March on the subject of "The impact of Brexit on Human Rights and the Good Friday Agreement".

### **Work with colleagues in Britain**

CAJ attended a meeting of NGOs from the four regions of the UK organised by the Joseph Rowntree Charitable Trust on 24<sup>th</sup> May in Manchester. This was useful and continuing contact will be maintained. We collaborate with the Repeal Bill alliance coordinated by Unlock Democracy and the Brexit work of the Human Rights Alliance led by the British Institute for Human Rights. We are also in frequent contact with Liberty and our close friends Rights Watch UK. With the Human Rights Consortium we met Owen Smith, Shadow Secretary of State on 14th September. We spoke at a seminar organised by the Institute of Race Relations in London on 26<sup>th</sup> June on the risk of a "racist border." This was published in the journal *Race and Class*<sup>9</sup> and a blog on the same subject is on the UK in a Changing Europe website.<sup>10</sup>

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<sup>9</sup> <http://www.irr.org.uk/publications/issues/race-and-class-october-2017/>

<sup>10</sup> <http://ukandeu.ac.uk/>

## **Recent meetings**

On 28<sup>th</sup> September, CAJ participated in the third plenary session of the National Civic Dialogue on Brexit in Dublin. On 6<sup>th</sup> October we gave a speech to the Association for Criminal Justice Research and Development Annual Conference in Dublin on Brexit and cross-border cooperation on Human Rights and Brexit. Also in October we participated in a delegation organised by Sinn Féin MEP Martina Anderson in Brussels around the launch of Doughty Street Opinion on special status for NI in the EU. Meetings were held with Jim Nicholson MEP, Declan Kelleher, Irish Ambassador to EU, Irish legal counsellors and members of Task Force 50 (EU negotiators on Article 50).

## **All-island initiative**

As the “first stage” of the Brexit negotiations came to a head and focused on the situation in Ireland at the beginning of December, CAJ joined with the Irish Council of Civil Liberties and other human rights activists across the island to draw attention to the central importance of human rights. In a brief statement of minimum principles the organisations called for the negotiators to ensure that there would be no regression in rights protections and to guarantee the continuing effect of both the EU Charter of Fundamental Rights and the European Convention on Human Rights.

## **Negotiations on the future of the devolved institutions**

After the Assembly elections, the parties settled down to protracted – and still uncompleted – negotiations in the attempt to form an Executive. CAJ produced two Briefing Papers designed to assist the process.

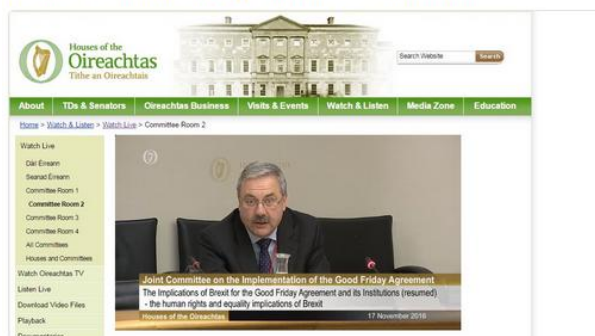
The first briefing paper was entitled ‘How many of the current negotiation issues could be dealt with by the NI Bill of Rights?’ and explored how this and some of the other outstanding and new crisis issues that could be dealt with through the vehicle of the Bill of Rights through the Advice given by the Human Rights Commission. It also considered how this advice might be updated and augmented to reflect changed circumstances. This covered, in addition to legacy:

- Impact of BREXIT – a new ‘particular circumstance’
- Flags and identity
- Equality legislation and duties
- Marriage equality
- The right of women to full and equal political participation
- Conflict-related convictions
- Language rights
- Non-discrimination and the allocation of resources on the basis of objective need

The second briefing paper covered “The Irish language, Ulster Scots, the Military Covenant and the definition of a victim of the conflict.” In summary on the first three issues this covered:

- Irish Language Act: in addition to the commitment in the (UK-Ireland) international agreement at St Andrews legislating to protect the Irish language engages the UK’s human rights treaty-based commitments at the UN and Council of Europe, who have made half a dozen calls for implementation;
- Ulster Scots: international treaty bodies have consistently held that seeking artificial parity for Ulster Scots and Irish will damage the protection and development of both, to the detriment of speakers of both the Irish and Scots languages. Measures to promote Ulster Scots should be tailored to the needs of speakers and its preservation – not as a counterweight to Irish;
- Military Covenant: as in our evidence to Westminster on housing and health care issues we would urge a rights-based approach removing any barriers particular to service personnel to ensure equality of opportunity in access to services. This is different to any proposals to afford preferential treatment in housing and health waiting lists; this would dismantle the founding principles of the NHS and NIHE that decisions are on the basis of objective need.<sup>11</sup>

CAJ evidence to Oireachtas on #brexit: threats #humanrights 🇮🇪 anti-#immigrant discourse and a retreat from #EU protections and a hard border



Brian Gormally giving evidence to the Oireachtas

BrexitLawNI team

Bottom: Prof Colin Harvey, Brian Gormally, Prof Kieran McEvoy, Fidelma O’Hagan  
Top: Prof Rory O’Connell, Dr Anna Bryson, Emma Patterson, Dr Amanda Kramer



<sup>11</sup> <https://caj.org.uk/publications/submissions/>



## Promoting Equality

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### Introduction

The universality of human rights and the fact that inherent dignity of the human is their foundation means that equality is at their heart. Any breach of the equality principle undermines the moral or normative basis of all human rights. Discrimination is an assault on human dignity and sense of belonging and self-worth; but it is also a breach of the very universality which is the basic characteristic of “human” rights.

Similarly, human rights are the antithesis, the polar opposite of any form of racism or other prejudice. Repressive laws and practices, institutionalised discrimination, limitations on basic freedoms, arbitrary detention, torture and extra-judicial killings are all gross violations of human rights but in some senses they are simply symptoms. Behind these abuses is a willingness to offend against the dignity of the human, almost always on the basis of some form of prejudice. The underlying racism or prejudice is the basic enemy. There can be no compromise on this. Human rights activists cannot pander to any form of discrimination or prejudice without losing their moral compass.

Equality is therefore at the heart of CAJ’s approach to human rights. It is also one of the areas where we cooperate most with a disparate group of organisations pursuing the interests of different categories of people but united by their human rights approach. In particular, we want to pay tribute to the trade union UNISON with which we have formed a strong and durable partnership through the Equality Coalition.



The Equality Coalition is an ad hoc grouping co-convened by  
CAJ and UNISON the trade union.



The strategic priorities for 2017 were agreed by members and co-conveners:

### **1: EU Referendum**

Activism and campaigning on common platforms in relation to matters such as safeguarding workers/maternity/anti-discrimination and other EU derived rights; the implications of withdrawals of EU regional/peace/ agricultural funding. Challenge anti-migrant racism and its institutionalisation, in particular the risks of racial profiling on the land border and NI ports and airports. The Equality Coalition will work together to produce a list of key equality points on Brexit.

### **2: Enforcing the Equality Duty**

In the context of austerity and public sector reform. Undertake and produce research into the enforcement of the equality duty including the holding of a number of evidence hearings with member groups. To continue to build skills capacity within members to instigate successful equality duty compliance challenges. The Coalition will host an event for Departmental Equality Officers to make connections on equality matters, and offer interactive seminars/ training sessions.

### **3: Mainstreaming Equality and Objective Need in the NI Governance Structures**

Campaign to ensure our proposed changes to equality schemes of the new 9 government departments are implemented, campaign against the resistance to the Sexual Orientation Strategy and for a revised Gender Equality strategy among others. Launch the conference report and key principles on the Anti-Poverty Strategy and campaign for its adoption. Seek to ensure that the Flags, Identity and Culture commission produces recommendations that reflects the 'equality of treatment' framework that has already been developed as a core provision of the Northern Ireland Bill of Rights. Include the need for diversity in public appointments when lobbying in this area.

### **4: Countering Incitement to Hatred**

Campaign, including the hosting of a conference, to seek a review and reform of the current domestic incitement to hatred legislation (the Public Order NI Order 1987). Campaign that any proposals on regulating cultural expression from the Flags, Identity and Culture Commission reflect pluralism across protected grounds and campaign for adequate weight to be given to tackling racism, sectarianism, homophobia and prejudice on other protected grounds in this and other mechanisms. The Coalition will also support the work of UNISON tackling sectarianism in the workplace initiative.

Equality Coalition members meet on a bi-monthly basis and attendance has increased during the year. Amongst the issues discussed have been the Child Tax Credits “two child rule,” (including the infamous “rape clause”), countering incitement to hatred, strategic housing issues and inequality, Heritage Lottery Fund, Audit of Inequalities in the Education Authority and gathering evidence for the Research Project into Equality Enforcement.

### **Equality Duty Enforcement Research**

This project is designed to analyse the various methods by which the statutory equality duty can be enforced and present Equality Coalition members’ experience of them. Oral evidence sessions were hosted over two days by the Equality Coalition co-conveners and an independent person (Evan Bates) and took evidence from coalition members groups as to their experiences of working with the Equality duty.

This has been transcribed and a placement to assist with the research, which undertook this and other desk-based work has been completed and the report has now been drafted. It was presented at an event prior to CAJ’s AGM on 12<sup>th</sup> December.

### **Equality Duty Enforcement Project**

This is a CAJ project, funded by the Baring Foundation, which will work closely with the Equality Coalition. The three-year project seeks to dismantle the barriers to successful enforcement and hence application of the duty through the employment of a dedicated equality duty enforcement post to work with the 80+ Equality Coalition member groups.

The post holder will be responsible for scrutinising policy initiatives in Northern Ireland that impact on economic, social and cultural rights for non-compliance with the statutory equality duty; drawing such processes to the attention of directly affected member groups and facilitating enforcement processes. Caroline Maguire has been appointed to the post.

## **Equality Scheme complaints and campaigning**

CAJ has been involved in a wide range of cases this year where it appears that public authorities had not properly applied or taken cognisance of their equality duty. These included:

### **Bedroom Tax**

CAJ triggered a formal review of the Department of Communities Equality Screening exercise on the so-called “bedroom tax” – extra rent demanded when a public housing occupant is deemed to have an “extra” bedroom. The screening avoided analysis of four of the nine equality categories and stated that the tax would be good for “good relations” as it might force people to move somewhere where they met persons from the other side of the community.

### **Líofa bursaries decision**

On the eve of Christmas 2016, in a decision that contributed to the collapse of the NI Executive, the Communities Minister cut a small bursaries scheme (totalling £50k) that had allowed children and adults on low incomes to attend summer gaeltacht programmes. The official reason given by the Minister was that of ‘efficiency’ savings. We engaged with Irish speakers who prepared an application for judicial review, and sought information under Freedom of Information and under the terms of the equality scheme on the decision. The decision was reversed but we continued to pursue the basis on which it was taken, which included the bypassing of equality screening. After an appeal to the Information Commissioner, documents were produced that reveal that officials had advised the Minister of the benefits of continuing the scheme and also that there was no pressure for efficiency savings at the time. This received extensive media coverage and led to the Equality Commission launching a formal investigation.

### **Community Halls**

The announcement by the Communities department in January on allocations to a community halls fund also generated significant questions as regards due process, equality and accountability for public funding; the budget for the scheme had quadrupled and there was a political outcry alleging sectarian bias (although the differential is even more stark on grounds of gender). We used the tools of Freedom of Information and Equality screening to seek to assess these claims. It transpired that the Department had “forgotten” to equality screen the policy and then rushed through a deeply flawed process. The Department produced a flawed Screening exercise in response which we overturned on review. We identified around 19 breaches of the Departments Equality Scheme in relation to the fund and asked the Equality Commission to launch a formal investigation – they agreed and the process continues.

## **Anti- Poverty Strategy**

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The April 2016 “Meeting Objective Need: towards an Anti Poverty Strategy” Conference report was published at the NI Anti-Poverty Network AGM on 29<sup>th</sup> March – a planned launch at the NI Assembly was cancelled following its suspension. We have continued to engage with counsel about legal recourse given the lack of any sign of a proper strategy from government. However, this is rather on hold, given the lack of a functioning Executive at Stormont.

### **North Belfast housing issues**

We have been working with our colleagues in Participation and Practice of Rights on the deep inequalities that exist between Protestants and Catholics in housing need in North Belfast. We corresponded on various planning applications and other matters with Belfast City Council, the Housing Executive and the Department for Communities. Our colleague organisation, Public Interest Litigation Support has agreed to provide assistance to acquire counsel’s opinion on the merits of initiating judicial review proceedings against all three public authorities. This process is continuing.

### **Reproductive Rights**

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CAJ was approached by the Trust Women Coalition who campaign for the de-criminalisation of abortion and other matters. Due to a long-standing commitment to consult members on any developments on policy in this area, a meeting of members was held on 20<sup>th</sup> February. At a well-attended meeting, the following motion was passed unanimously:

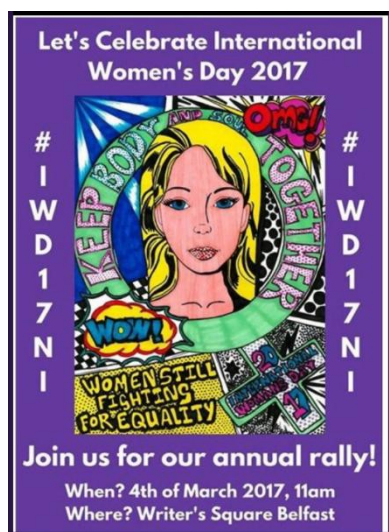
"Given its extensive history of supporting non-discrimination, procedural rights and the equality of men and women as protected by international human rights law, CAJ supports the Trust Women Coalition. Recognising that there are varied views in our organisation we take the position, consistent with international human rights law standards that women's rights to sexual and reproductive health are guaranteed by international treaties to which the United Kingdom is a party and extend to Northern Ireland. Our position is premised on the view that the current regulatory position in Northern Ireland is at variance with that of the United Kingdom as a whole, and undermines the dignity and non-discrimination rights of women and girls."



## Childcare for All Campaign and Reclaim the Agenda

We participate as possible in these campaigns which are fundamentally about advancing women's rights.

CAJ and the Equality Coalition attended and supported the equality sector throughout 2017



 **EqualityCoalition** @EqualityCoal · Sep 21  
Lunch time rally #scrapthe2childcap #scraptherapeclause @CAJNi  
@BillOfRightsNI



### Help us fight the 2 child cap and rape clause.

The UK government has imposed a 2 child 'family cap' on tax credits and universal credit which means that if you already have 2 or more children, you can't claim for any further children after 6th April 2017. This already affects people making new claims and will apply to anyone whose circumstances change. The 'rape clause' is an exemption that people can apply for if they have a child conceived by rape or in a coercive relationship. It is badly thought out, could put women in danger and invades the privacy of women and children.

Women all over the UK are fighting these cuts and on **21st Sept we'll have a national day of action**. Join us to tell the Dept of Communities we won't accept this attack on women and children's rights.

For more info email [reclaimtheagenda@gmail.com](mailto:reclaimtheagenda@gmail.com)

If you're worried about this change please call the independent Welfare Changes Helpline free on **0808 802 0020**

**RECLAIM THE AGENDA**

**women's aid**  
Federation Northern Ireland

## International Solidarity

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### Introduction

Human rights standards are an international system with global significance and impact. As a human rights organisation, therefore, CAJ is ready and willing to participate in international campaigns of solidarity. We also believe that the successes and failures in the human rights field in Northern Ireland are of continuing global relevance. We are now full members of the International Federation of Human Rights (FIDH) and we do our best to disseminate the experience of the peace process and human rights here to international visitors.

### International work

Meetings of the International Committee of the Executive were held earlier in the year. However, at its meeting in November the CAJ Executive decided to have international work as a standing item on its full meetings. Our main work through the year was hosting a wide variety of delegations which come to Northern Ireland to study our peace process and the role of human rights.

We presented to visiting delegations from Kashmir (both sides of the Line of Control) and Mexico (particularly interested in policing reform). We spoke to a large group of Israelis and Palestinians, together with international diplomats, who were visiting as part of a fellowship programme on negotiation.

We met with visiting academic Limor Yeduda on the subject of con-sociational systems in divided societies and Sri Lankan human rights activist Jude Lal Fernando. We hosted a Social Change Initiative fellowship holder from the organisation Rabbis for Peace (Israel) for a day. We met with a leading human rights defender from NE Nigeria on a study visit organised by Conciliation Resources. The discussion largely focused on documenting and internationalising a response to human rights violations.

We met with more than a dozen senior US academics and others who are involved with the Olive Tree Initiative, which is a university based peacebuilding initiative which studies conflict situations. It has had particular engagement with Israel/Palestine. This was a study trip on our situation – the group was very interested in our work, asked penetrating questions and seemed satisfied with the responses.



We met with a delegation from Bahrain organised by the Training for Women's Network and outlined a number of peace settlement relevant issues. We attended a small roundtable with a Palestinian activist in UNISON. We hosted a 20-strong delegation from Breaking the Silence, the Israeli NGO largely comprised of ex-soldiers who oppose the Occupation. We met with a delegation of senior Iraqi politicians and human rights activists hosted by the Social Change Initiative. Finally, we met with two Colombian academics who are actually working in the Mexican Centro de Investigación y Docencia Económicas and are carrying out a comparative project on peace processes including Northern Ireland.

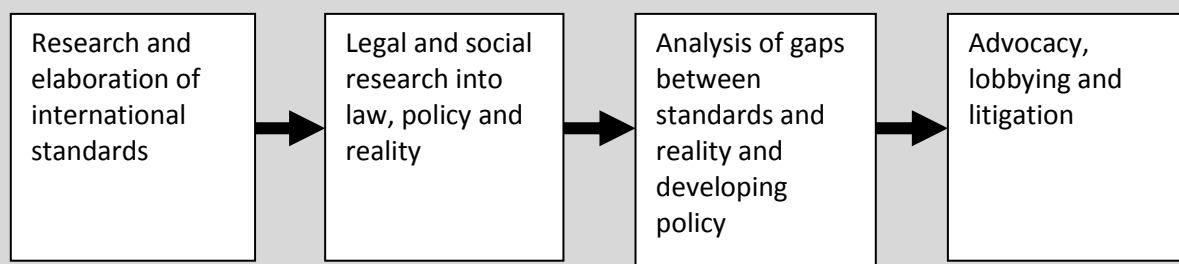


## Increasing the Effectiveness of CAJ

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### Collaborative Working

CAJ's basic method of work is a unique blend of legal research and analysis, policy formation and advocacy. In relation to any given human rights issue it can be shown diagrammatically thus:



- We start from the position of international human rights standards so, in any given area of concern, we research hard and soft international law, analyse what standards are applicable and lay them out clearly.
- We then research the contemporary reality in Northern Ireland society, looking at the legal situation, any guidelines or other policy formulations and the social reality on the ground. This involves high quality legal research and sometimes formal social research to gather evidence of the nature and extent of any violations of standards.
- Any gap between standards and reality is then analysed and suggestions developed that might remedy the situation. These may be formalised into recommendations to relevant public authorities and policy statements.
- We then engage in advocacy, lobbying and litigation as possible with the object of bringing the reality more closely into line with the human rights standards. Advocacy involves disseminating our policy positions publicly and in appropriate forums and may involve the production of “model” legislation or standards or guides to the relevant standards. Lobbying is more about winning politicians and other significant social actors to our positions, supporting them with data, questions for authorities and policy formulations and encouraging them to exercise their powers for or against relevant proposals. Litigation is pursued where possible within the focus of our main concerns and can help implement policy proposals or can open up new opportunities for advocacy.

Quality assurance is fundamental to producing authoritative policy formulations and all major pieces of work are peer reviewed by external experts in the relevant field where possible. In addition, virtually all our work is carried out in collaboration with other civil society organisations, academics or individual experts. In particular we work with three other human rights based organisations under the auspices of the Human Rights Fund, the Human Rights Consortium, Participation and Practice of Rights and Public Interest Litigation Support. We do distinct but complementary work as a focus for independent, non-state funded human rights work.

We come together with these organisations both to manage the building which we jointly own and to collaborate in practice which we manage through an Impact Committee. This year we have focussed on cooperation in work around Brexit. Our organisations are jointly and severally evaluated by independent consultants.

## Staffing and Finance



## Staffing

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This year we have been pleased to welcome Fidelma O'Hagan, a highly experienced solicitor, as cover for Gemma McKeown who has been on maternity leave. In November we also welcomed Caroline Maguire in the new post of Equality Duty Enforcement Project Coordinator. We also want to take this opportunity to thank the staff for their dedication and support throughout the year.

CAJ relies heavily on volunteers for a range of tasks, from court observation to legal research, and would particularly like to thank Christina Verdimane, Helen Byrne, Fiona McGrath, Jeanette Murtagh, Fiona Cash, Philip Kidd, Martyn Bunting, Charlotte Mills, Lucy Keown, and Sinead Burns.

Leon Daum took over from Johannes Hilling as our volunteer from the Eirene organisation and we thank both of them for their invaluable work. We wish to give a special thank you to Johannes for his work on developing the new CAJ website.

## Finance

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CAJ is grateful for the support it receives from the Human Rights Fund and has actively worked in the past year to assist in encouraging donations to it from individuals and foundations. The Fund is trying to build up to its maximum goal of supporting four organisations over ten years and is currently able to match donations with an equivalent amount from the Human Rights Fund.

CAJ also has to raise almost half of its income from other sources such as charitable foundations. We are very grateful for the support of:

- Joseph Rowntree Charitable Trust
- UNISON
- Paul Schurgot Foundation
- Open Society Foundations (Research Projects)
- The Baring Foundation

Summary Audited Accounts for the year July 2016 to June 2017 are included.

CAJ has been raising funds through Local Giving and wish to thank all those who have made a donation.

The Committee on the Administration of Justice Ltd  
Company limited by guarantee

Detailed Income and Expenditure  
**for the year ended 30 June 2017**

Turnover	£ 2017	£ 2016
Community Relations Council (Public Order Policing)	9,319	1,164
HRT - Joseph Rowntree Charitable Trust	35,000	25,995
HRT - Human Rights Fund	150,123	130,332
Service Fees	3,715	237
Human Rights Partnership	-	283
Project partner contributions (UNISON)	10,000	10,250
Donations	8,835	1,556
Publications	385	23
Reimbursement of costs	4,493	4,170
Conference and Seminar receivable	-	1,235
Income from secondment (HIAI)	-	10,281
Legal Fees Income	11,418	20,031
Income from secondment (UNISON)	2,004	-
Membership Fees	1,390	1,680
QUB School of Law (Secondment)	8,233	22,808
Other income	10,420	3,686
	<u>255,335</u>	<u>233,731</u>



<b>Administrative expenses</b>	<b>2017</b>	<b>2016</b>
	<b>£</b>	<b>£</b>
Wages and salaries	(185,196)	(195,488)
Employer's NI contributions	(16,797)	(17,943)
Staff pension costs	(16,662)	(15,745)
CAJ training	(190)	(250)
Insurance	(4,798)	(4,319)
Equipment leasing	(3,467)	(4,150)
Light and heat	(1,428)	(558)
Cleaning	-	(603)
Building maintenance	(9,732)	(11,283)
Office materials	(830)	(1,179)
Postage, stationery & telecommunications	(7,397)	(9,025)
Publications (including Justnews)	(2,122)	(4,690)
Conferences and seminars	(1,023)	(875)
Computer/I.T. Support	(5,408)	(6,089)
Website and web development	(675)	(497)
Travelling expenses	(2,973)	(3,153)
Legal, professional and research	(7,488)	(6,167)
Litigation costs	-	(9,240)
Auditors remuneration	(3,424)	(3,146)
Bank charges	(415)	(488)
Hospitality	(1,075)	(1,519)
Miscellaneous expenses	(3,510)	(454)
Fundraising expenses	-	(87)
Volunteer expenses	(2,972)	(3,805)
Affiliations & subscriptions	(206)	(427)
Write off of historical costs	4,155	-
Depreciation of tangible assets	(426)	(253)
	<b>(274,059)</b>	<b>(301,433)</b>
Other interest receivable and similar income	44	250
<b>(Loss)/profit on ordinary activities before taxation</b>	<b><u>(18,680)</u></b>	<b><u>(67,452)</u></b>

The Committee on the Administration of Justice Ltd  
Company limited by guarantee

**Statement of financial position**  
**30 June 2017**

		<b>2017</b>		<b>2016</b>	
	<b>Note</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Fixed assets</b>					
Tangible assets	<b>6</b>	1,505		246	
			1,505		246
<b>Current assets</b>					
Debtors	<b>7</b>	16,696		46,260	
Cash at bank and in hand		80,659		64,718	
		<u>97,355</u>		<u>110,978</u>	
<b>Creditors: amounts falling due within one year</b>	<b>8</b>	(21,970)		(15,654)	
<b>Net current assets</b>			75,385		95,324
<b>Total assets less current liabilities</b>			<u>76,890</u>		<u>95,570</u>
<b>Net (liabilities)/assets</b>			<u>76,890</u>		<u>95,570</u>
<b>Capital and reserves</b>					
Profit and loss account			76,890		95,570
<b>Members funds</b>			<u>76,890</u>		<u>95,570</u>

These financial statements have been prepared in accordance with the provisions applicable to companies subject to the small companies' regime and in accordance with FRS 102 'The Financial Reporting Standard applicable in the UK and Republic of Ireland'.

The financial statements were approved by the board of directors and authorised for issue on 12 December 2017, and are signed on behalf of the board by:

**Cheryl Lawther**  
**Director**  
**registration number NI 032591**

## Submissions



## Submissions

**S460** CAJ submission to the Committee of Ministers, re Rule 9, Feb 2017

**S461** CAJ Discussion Note – How many negotiation issues could be dealt with by the NI Bill of Rights?, March 2017

**S462** CAJ's Briefing, Irish Ulster Scots Military Covenant and Victims, April 2017

**S463** CAJ submission on draft ECRI GPR 2, May 2017

**S464** Request for ECNI Para 11 Investigation into DfC Community Halls Fund, May 2017

**S465** CAJ submission to UNHRC – ICCPR, June 2017

**S466** CAJ submission to the PPS Equality Action Plans, July 2017

**S467** CAJ submission to the Bill of Rights Project, Aug 2017

**S468** CAJ submission to the Committee of Ministers, Aug 2017



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