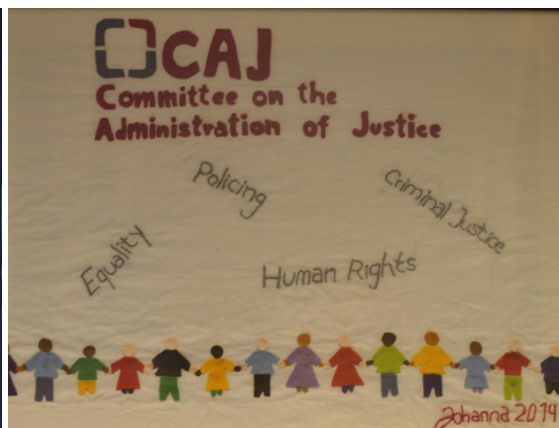


# Annual Report 2021

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**Celebrating 40 years:  
1981 to 2021**

*Published December 2021*



# Annual Report 2021

## Promoting Justice

## Protecting Rights



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# Chairperson's foreword

Dr Anna Bryson

As we reflect on the fraught legal and political context in which the Committee on the Administration (CAJ) was founded in 1981, it is clear that huge strides have been made in the course of the last forty years. The peace process has proved largely durable, sectarian discrimination in employment is no longer tolerated, policing has been transformed, and the devolved democratic institutions are (for the most part) intact.

That is not to suggest that the work of CAJ is done. 2021 has been overshadowed by a global pandemic that has thrown into sharp relief a host of new and existing inequalities in our society. In light of these challenges, CAJ has consistently campaigned for a public health response that prioritises human rights ahead of security, with targeted resources to support those most severely affected by the consequences of the virus. We have also been mindful of the need to balance the universal right to health with the right to be free from discrimination.

A number of Good Friday / Belfast Agreement commitments remain unimplemented and there has been rollback in other areas (including with regard to the provisions in the New Decade New Approach (NDNA) deal, which saw devolution re-established in 2020). These include failures to: make appointments to the Ad Hoc Committee on a Bill of Rights; progress long unfulfilled commitments in relation to Irish language legislation; and develop a comprehensive anti-poverty strategy. As noted elsewhere in our annual report, the current UK government has also consistently sought to weaken existing human rights safeguards, particularly in the area of immigration. Most recently we have seen attempts to undermine the Northern Ireland Human Rights Commission (NHRC) through funding cuts.

At the start of 2020, we eagerly anticipated the introduction of legislation (again as promised in NDNA) to finally implement the legacy aspects of the 2014 Stormont House Agreement. Following prevarication and delay in 2020, we had the shocking announcement in March 2021 that the UK government intended to unilaterally abandon the commitments enshrined in the Stormont House Agreement. This was followed in July 2021 by a Command Paper that set out proposals for a sweeping and unconditional amnesty that would call a halt to all criminal, civil, and coronial proceedings regarding Troubles-related offences. In what appears to many in the human rights world to be a hollow attempt at a 'consolation prize', the proposals include reference to a 'toothless' information recovery body (whose powers fall significantly short of the existing investigative powers of the PSNI and Police Ombudsman, as well as the powers of discovery in judicial proceedings such as prosecutions, inquests, and civil

actions), plus a suite of vaguely defined oral history and memorialisation

initiatives. Throughout

2021, CAJ has been

working in partnership with myself and other academics at Queen's University Belfast to critique these proposals and to highlight the ways in which they fall short of international human rights standards. This work included the publication and launch in September of a 70 page report, in addition to tireless advocacy and lobbying alongside victims and survivors, local politicians, human rights experts, and key institutional stakeholders such as the Committee of Ministers, the Council of Europe, and the UN. At the time of writing the Northern Ireland Office (NIO) has agreed to stall the introduction of the proposed legacy legislation, most likely until the New Year.

Even in areas where solid progress has been made in the course of the last forty years, there is no room for complacency. Accountability in policing, criminal justice and public administration remains a key focus, as reflected in two recent high-profile public seminars organised by CAJ in collaboration with (respectively) our sister organisation, ICCL, and the Senator George J. Mitchell Institute for Global Peace, Security and Justice at Queen's University, Belfast. Indeed, in spite of the restrictions and curtailments brought about by the pandemic, this comprehensive annual report attests to CAJ's tireless work to progress key elements of the Strategic Plan. This includes new and significant work on citizenship and migration, combatting 'hate crimes', and (working closely with partners in the Equality Coalition) on ensuring that a commitment to equality effectively unites a diverse range of interests and enables them to lobby collectively with maximum impact.

Work on these overlapping rights and equality issues has progressed against the backdrop of both the Covid-19 pandemic and a chaotic Brexit. The latter in particular continues to disrupt the peace settlement and to put human rights and the rule of law at risk. With a relatively modest budget and a staff of seven, CAJ continues to deliver a staggeringly impressive volume of work across a wide range of issues. On behalf of the Executive, I would like to sincerely thank all of our staff and volunteers for their ongoing commitment and dedication, and for their flexibility and innovation in responding to the ongoing challenges thrown down by the Covid-19 pandemic. The challenges ahead are not to be underestimated, but, as before, we face into the New Year with a steadfast and renewed determination to continue the fight for a fair and just rights-based society.





# Introduction

## Brian Gormally, CAJ Director

This year marks the 40<sup>th</sup> anniversary of the founding conference that established the Committee on the Administration of Justice. 1981 was one of the worst years of the Troubles, with 117 people dying, 10 of them on hunger strike and seven through being hit by plastic bullets. Many of the others were victims of armed groups of various kinds.



We lived in a cage of repression and violence. It was almost impossible to raise the principles of human rights amongst vicious, partisan warfare; callous government policy; the mass mobilisation of people for contradictory aims; and a pervading sense of helplessness and, hence, hopelessness.

In these circumstances, some 100 people attended the conference that led to the foundation of CAJ. The conference was called by a broad group of peace workers, lawyers, and community activists, who wished to reassert the importance of the rule of law and the impartial administration of justice, and consider whether “some more permanent unofficial body or forum should be established”.

According to Maggie Beirne’s history of CAJ, [\*A Beacon of Hope\*](#), much of the motivation of those who attended was, “If you want peace, **work** for justice” - that is still one of the key motivations of CAJ today. From the same source comes a quote from a founder member of CAJ that, we hope, continues to be a characteristic of this organisation: “The legal arguments around emergency powers and criminal justice would be central, and the new organisation must be able to withstand any criticism that ‘you don’t understand the law’”.

We have endeavoured to honour the intentions of our founders in the past 40 years. Certainly, the human rights perspective in our small corner of the world has changed radically. In spite of all that remains to be done—as is detailed in this annual report—we have come a long way. Politically motivated violence has massively reduced, state repression has moderated, state torture has been eradicated, prisoners have been released, sectarian discrimination in employment is mainly a thing of the past, police reform has been carried through, and we have at least semi-functioning democratic institutions.

The struggle for human rights will never be completed as our aspirations must always outreach our present reality. However, though we have made progress, there are pressing human rights issues that face us today.

In last year’s annual report, we reflected on the way the world had changed with the advent of the Coronavirus pandemic. Unfortunately, we are still living in that changed world, with deaths and hospitalisations world-wide and continuing restrictions on daily life, in spite of the vaccination programme. CAJ has continued, and - on some measures - increased, its work for a rights based society.

During the pandemic, we have responded to restrictions that have been necessary to protect health with a balanced human rights approach. As part of this, we have made it clear that human rights standards are quite different from arguments grounded in individual libertarianism, which pay no regard to the rights of others.

Our work this year has taken place in the context of an increasing disregard by the current UK Government for the rule of law. The government has weakened the judicial review of government decisions in some areas, especially immigration. It has openly sought to restrict the role of the Human Rights Act, which incorporates the European Convention on Human Rights (ECHR) into domestic law, though the independent panel carrying out the review of the act has yet to officially report.

The recent CHIS (Criminal Conduct) Act allows MI5 and a range of other agencies to authorise criminal conduct

by agents with no limitation on the nature of the crimes that could be committed. In our situation, where state agents have been proved to have taken part in crimes such as torture and murder in collusion with illegal armed groups, this law is very troubling.

Most shocking of all are the proposals for a total amnesty in regard to the Troubles, which are contained within the government's Command Paper on legacy (published in July 2021). These would not only provide for an end to prosecutions, but also ban all recourse to law of any kind in relation to Troubles "incidents". We have yet to see any draft legislation, but the Government's clear intention is to provide for total impunity for state agents, completely contrary to the rule of law.

Further shocking news came in late November. The Northern Ireland Human Rights Commission (NIHRC) had its routine five-yearly application for 'A' status as a national human rights institution deferred for a year by the international panel responsible for reviewing the applications. The main reason quoted was the reduction in funding declared by the Northern Ireland Office (NIO) which, according to the Commission, will "undermine the very foundation of the NIHRC in the discharge of its core functions". One of the main protections for human rights contained in the Good Friday Agreement (GFA) is therefore at risk.

Additionally, the recent suspension of the Stormont Ad Hoc Committee on a Bill of Rights halts, for a time anyway, the latest attempt to fulfil the promise of the GFA on another of the major proposed protections for human rights. The Ad Hoc Committee heard a mass of evidence, which was mostly in favour of a comprehensive set of safeguards in a Bill of Rights. Meanwhile, polling shows support for a Bill of Rights amongst the general public. Nonetheless, the process has been brought to a premature halt and there is little chance of the present UK Government taking the initiative as is its responsibility.

The negative impact of Brexit has continued to affect everyday life here. We are seeing a punitive approach to some EU citizens and their families and this combines with the "hostile environment" policies to create problems for many vulnerable people. Last year, the Ireland/Northern Ireland Protocol was under threat from the international law-breaking Internal Market Bill. That threat did not materialise, but the attempted re-negotiation of the Protocol continues to create uncertainty and unrest. We need to be clear that the biggest threat to peace from Brexit would be the imposition of a hard land border on the island of Ireland, which would mean huge practical disruption, as well as a symbolic reversion to the past.

There are many other challenges to human rights, many of which are detailed elsewhere in this report. However, we believe that this year has again proved the worth of CAJ as an organisation that works meticulously to international human rights law and standards, and applies them to whatever current situation faces us. We produce policy advice and work to craft practical solutions to practical problems. In collaboration with many other people and organisations, we advocate, lobby, and, where relevant, litigate to achieve progressive change. That is our role and we hope to keep playing it, with the help of our loyal funders, for the coming period.

At the end of last year, we produced a new Strategic Plan (for 2021 to 2024), which is designed to reflect the developing circumstances in which our fight for human rights is being played out. In keeping with the idea of promoting a positive goal for human rights activists, within this strategy we have formulated our vision for a **peaceful society based on human rights and equality**. This brings together the necessarily interlinked activities of peacebuilding and human rights activism, as well as expressing our hope and aim for the future.

The strategy sets out a number of supporting elements or "pillars" that will help make this peaceful, rights-based society a reality. We will coordinate our work around these pillars going forwards. This annual report is therefore organised under these new headings.



# Democratic, progressive governance



Given our unique geographical and constitutional position, combined with the need for cross-community participation in government, the devolved institutions have great significance. It is therefore a key priority to work for and support democratic, progressive governance in this region.

While the 2020 **New Decade, New Approach** (NDNA) agreement gave a basis for a new stability in the Stormont institutions, there has been a grievous failure to implement the rights-based commitments contained within the document. To record this, in March 2021, we updated [\*Mapping the Rollback: Human Rights Provisions of the Belfast/Good Friday Agreement 15 years on\*](#), an influential report we first released in 2013. The updated version - [\*The unimplemented rights commitments of the peace settlement 23 years on from the Belfast/Good Friday Agreement \(GFA\): A mapping exercise\*](#) - looks at progress made against commitments contained within the Stormont House Agreement (2014), the Fresh Start Agreement (2015), and NDNA. It is the basis for the development of policy platforms as we move forward to new Assembly elections in May 2022.

A negotiated draft **Programme for Government** (PfG) was included in NDNA. More than a year later, however, the Executive has not yet approved a PfG. This is despite the Executive being legally obliged, under legislation flowing from the GFA, to annually seek to agree a Programme for Government (PfG), “incorporating an agreed budget linked to policies and programmes”. A **Covid Recovery Plan**, containing some elements of what would have been in a PfG, has been adopted, albeit without prior equality screening. One of the difficulties with this is that items in a PfG cannot be vetoed by one party in the Executive – the same is not true of the recovery plan. The lack of a PfG therefore gives full rein to the so-called ‘St Andrews veto’ - when enacted this requires that all NI Executive Ministers, rather than individual Ministers, must agree ‘significant’ and ‘controversial’ decisions.

We did considerable work over this period on the use and misuse of the various ‘vetoes’ within the Executive and Assembly. Our written and oral evidence to the UK Commons General Committee on the Northern Ireland (Ministers, Elections and Petitions of Concern) Bill contained analysis of the Petition of Concern, the St Andrews veto, and the Executive agenda veto. We noted that the Petition of Concern had not been used since the NDNA agreement, but the St Andrews veto had been used six times up to November 2020, every time by the DUP - three times in relation to abortion services, twice on Covid restrictions, and once to prevent an Executive request to extend the Brexit transition period. Items for the agenda at meetings of the Executive Ministers have to be agreed between the First and Deputy First Ministers, which gives either of them an effective veto over the agenda. Ministers from other parties have stated that the DUP have used this veto multiple times to block discussion, including to progress rights-based policy. We have called for an end to the use of such vetoes, and a return to the original intention of the GFA, whereby Executive and legislative powers were to be qualified by rights based safeguards, centred on the NI Bill of Rights.

One of the curious elements of the NDNA Agreement was the declaration by the UK Government that it intended to designate **Ulster-Scots** as a national minority under the Framework Convention for the Protection of National Minorities. This is unusual as Ulster-Scots speakers are already recognised as a linguistic minority under the Framework Convention, with Scots - including its Ulster variant - registered as a language under the European Charter for Regional or Minority Languages. Despite considerable secrecy over the background to the NDNA commitment, freedom of information requests to the Ulster Scots Agency indicate the political ask of the designation is to extend recognition beyond language and presumably seek recognition of those who identified as Ulster-Scots as an ethnic minority. However, there does not appear to be any clear evidence base to show that significant numbers of people would choose to identify themselves in this way. There are also a range of likely adverse consequences, including a shift away from already limited initiatives to safeguard Ulster Scots linguistically. Our public questioning of this has resulted in the Ulster Scots Agency committing to a full public consultation on the

matter, although this is yet to happen. At the same time, the Northern Ireland Human Rights Commission (NIHRC) has cautioned against the conflation in the NDNA legislation of 'Ulster Scots' with 'Ulster Britishness', raising concerns this ties Ulster Scots to a distinct political identity. In a similar vein the draft 'cultural markers' for Ulster Scots produced (but not published) by the Ulster Scots Agency include 'political outlook' and even the Ulster Banner (the flag of the former NI Stormont Parliament until 1972).

We welcomed the new functions taken on by NIHRC and the Equality Commission for Northern Ireland (ECNI) as '**dedicated mechanisms**' to enforce a UK commitment that there will be no diminution in certain GFA rights due to Brexit. This commitment is contained in Article 2 of the Ireland/Northern Ireland Protocol to the EU-UK Withdrawal Agreement. In spite of its limited scope, we will continue to engage with these mechanisms where we can.

The Chief Commissioner of NIHRC, Les Allamby, left the post in August this year. Les is a former Chairperson of CAJ and we wish to pay tribute to his highly effective work in the Commission, in spite of budgetary constraints imposed by the Northern Ireland Office. We welcome the new Chief Commissioner, Alyson Kilpatrick, who has been a redoubtable champion of human rights and accountability for many years and look forward to working with her on future issues.

The Commission is one of the major supports for progressive governance of this region. It is therefore deeply worrying that it has reported that its five-year accreditation as an 'A' status National Human Rights Institution has been deferred for a year. The Global Alliance of National Human Rights Institutions (GANHRI) accredits national bodies on the basis of their adherence to the UN Paris Principles. The [Paris Principles](#) set out internationally agreed minimum standards that NHRIs must meet to be considered credible. They require NHRIs to be independent in law, membership, operations, policy, and control of resources. They also require that NHRIs have a broad mandate, pluralism in membership, broad functions, adequate powers, adequate resources, cooperative methods, and engage with international bodies.

GANHRI referred expressly to inadequate funding from the UK government as the primary reason for its decision. The Commission is due to have its funding cut over the next three years to an extent that will "undermine the very foundation of the NIHRC in the discharge of its core functions". This is yet another attack on human rights protections by the current UK government. CAJ stands in full solidarity with the Commission in this difficult period.

The consequences of **Brexit** have continued to be a focus of political contention in the past year. While not perfect, the NI Protocol was at least designed to protect the GFA and avoid a hard border on the island, in the context of the widespread disruption to daily lives of border communities that the latter would entail. It was also designed to support trade and business in this region by providing for access to both the UK market and the EU Single Market. However, the UK government decided to try to renegotiate its practical impacts, and some local politicians have purported to see this as a threat to the Union. At the time of writing, negotiations between the EU and UK continue, while the DUP threat to bring down the devolved institutions if the Protocol is not scrapped or heavily modified. This continues to be a source of political instability within Northern Ireland. Furthermore, our concern that Brexit would harden boundaries between different groups of citizens have been borne out. We believe that a new hard border on the island would be the greatest threat to daily lives, causing widespread disruption; engaging rights to family life, to work and other provisions; as well as reversing the out workings of the peace settlement. All parties purport to wish to avoid a hard border, but no realistic alternatives to the Protocol have been put forward. In recent weeks, along with other groups, we have met with the UK's chief negotiator, Lord Frost; and EU Commission Vice President and negotiator, Maroš Šefčovič. We also had a meeting alone with the EU Delegation to the UK. Our Immigration Solicitor is a member of the EU Delegation's Advisory Monitoring Group. We are active in three civil society groupings on these issues: the Ad Hoc Committee on North-South and East-West Cooperation, the Human Rights Consortium Brexit Working Group; and the NI Civic Working Group on the Protocol.

Meanwhile, as well as activity recorded below in the immigration section, we have been active on a number of issues relating to the **Common Travel Area**, including the Home Office's (possibly unlawful) introduction of passport checks, and racial discriminatory border checks by the Garda. We are working with the North West Migrants Forum, and others, on free movement across the island, as well as combatting race hate crimes.



In the continuing struggle to build a rights-based society here, we have to contend with a UK government that appears intent on undermining the rule of law and reducing its own accountability to both human rights bodies and the domestic courts. The **Independent Review of the Human Rights Act**, in the context of the declared Conservative policy to scrap or weaken the Act, was seen as a major threat to what has become a pillar of our society. We prepared a detailed written submission to the Review and participated in several roundtables. The review team is yet to report.



We also engaged with the **Independent Review of Administrative Law** (which looked at the judicial review process), though its practical impact would be in England and Wales, rather than this jurisdiction. The report of the review body proposed some changes, but the UK government introduced more wide-ranging legislation. The resulting Judicial Review and Courts Bill proposes to remove access to judicial review for those making asylum and immigration claims. In response, we challenged the Ministry of Justice grounds for this bill and argued that it potentially breached the GFA in respect of weakening the Human Rights Act. Our Solicitors worked actively in the Law Society during this period, who met with the Ministry of Justice and the Bar Council on the judicial review legislation. They contributed to the follow-up submissions of these bodies.

We continued to work for a **Bill of Rights** for Northern Ireland during the last year. We gave written and oral evidence to the Ad Hoc Committee on a Bill of Rights as both CAJ and the Equality Coalition, framing the Bill of Rights as a potential safeguard over power sharing. Our positions helped shape the debate and, bar the DUP, all parties – nationalist, unionist and ‘other’ - were receptive to many of the points we made. We worked on these issues through the Equality Coalition and as part of the Bill of Rights Working Group, which is convened by the Human Rights Consortium. We were disappointed that the Ad Hoc Committee was suspended in November, partly over the apparent rejection by the DUP of a justiciable Bill of Rights, and partly because of the failure to appoint a panel of experts. One aspect of that appears to be a refusal to appoint a leading expert, Professor Colin Harvey, to the panel because of his engagement in discussions around the constitutional future of Northern Ireland. If that were the case, it would be an egregious example of political discrimination.

Together with our partner organisations from the Human Rights Partnership, we met with representatives of women’s groups, environmental campaigners, and ethnic minority associations to gather their views and their concerns in relation to future **constitutional discussions**. This was in line with our joint commitment to make human rights a centre point of any debate on the constitutional future of Northern Ireland. We held a successful roundtable with representatives of civil society movements who are in favour of a united Ireland. A further roundtable with pro-Union representatives is being arranged.

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## Accountability in policing, criminal justice and public administration

A peaceful, rights based society requires accountability in its institutions, especially those authorized to deploy coercion. Accountability in policing, criminal justice and public administration is therefore an important pillar of the good society. We have continued to raise our concerns on policing matters over the past year. We have been working with a range of agencies to try to discontinue the PSNI use of **spit and bite guards**. Although their use is opposed by the Policing Board, the PSNI continue to use them and have rolled them out throughout the service. We are also continuing engagement with environmental protestors regarding alleged PSNI hostility and misconduct during environmental protests.

In February, we held an ‘experts’ roundtable on concerns relating to **regression in policing reform**. In March, we were asked by Derry City and Strabane District Council to investigate allegations of inappropriate police behaviour in Creggan. We responded with an analysis of the human rights issues that might arise, were the allegations substantiated. We presented this at the Council meeting in September and our contribution was warmly welcomed by across the broad political spectrum.

Together with our sister organisation, the Irish Council For Civil Liberties (ICCL), we applied to the new All-Island Communities Fund to secure funding for a project examining the current state of policing, North and South. Police reform has, of course, been an essential pillar of the peace process in Northern Ireland since the 1990s. Great progress has been made - the vision for policing reform arising from the Patten Commission and the Police Ombudsman model have served as a global model for human rights-based policing and police oversight. However, recently we have raised significant concerns over the risks of 'rollback' of elements of this framework, which might negatively impact the advance of human rights based policing in Northern Ireland. At the same time, in the South, generational police reforms under the Commission on the Future of Policing are now entering a critical phase as legislation in relation to restructured oversight mechanisms is being brought forward. This is a critical moment for advancing and sustaining policing reform in both jurisdictions. There is an opportunity for best practice from the two jurisdictions to be furthered and adopted. Conversely, there is also a risk of mutual repetition of mistakes and regressive practices.



We held the first of two planned seminars on policing reform in November in collaboration with the Senator George J. Mitchell Institute for Global Peace, Security and Justice at Queen's University, Belfast. An opening panel on human rights, policing reform processes and structure featured experts including Dr Richard Martin (LSE), Alyson Kilpatrick (current Chief Commissioner with NIHRC and former Human Rights Advisor to the Policing Board), and Dr Michael Maguire (former Ombudsman and Honorary Professor of Practice at the George J. Mitchell Institute, QUB). This was followed by a panel discussion focused on policing at a community level including Dr John Topping (QUB), Lilian Seenoi-Barr (Director of Programmes for the North West Migrants Forum), Conal McFeely (Creggan Community Development Worker), and Debbie Watters (Ulster University). A final 'reflections' panel drew on the experience of those involved in policing reforms processes, North and South, and was addressed by Stephen White (former Assistant Chief Constable, PSNI) and Jack Nolan (former Assistant Commissioner, An Garda Síochána). This was a very successful 'hybrid' meeting and will be followed by another event in the South in early 2022.

We met separately with Marie Breen-Smyth, the new Independent Reviewer of the exercised powers under the Justice and Security (Northern Ireland) Act 2007 (including stop and search); and Brian Barker, Independent Reviewer of the MI5-PSNI national security arrangements. We appreciate the role these reviewers play, but we still have concerns about the lack of accountability for Security Service activities here. In the **Third Direction** case, on 9 March 2021, the Court of Appeal in London dismissed our appeal (taken by Reprieve, CAJ, Privacy International, and Pat Finucane Centre) and held that the Security Service has power to encourage and procure its agents to commit serious criminal offences. It also found that it was lawful for the Security Service to operate a policy under which it does not routinely inform the police or prosecutors about the crimes it authorises. We have sought permission to appeal to the Supreme Court. In advance of this judgement, the UK Parliament passed the **Covert Human Intelligence Sources (Criminal Conduct) Act 2021**, which allows all kinds of criminality, including human rights violations, to be authorised by an agent's handler. We have engaged with the PSNI and the MI5-PSNI independent reviewer about the implications of this legislation. Discussion continues.

We have engaged extensively on issues arising from **pandemic restrictions**. We sent a briefing paper on *The Right to Protest and NI Coronavirus Regulations* to the Stormont Health Committee, who raised these issues with the Department and received a detailed response from the Health Minister, Robin Swann. Significant progress was made on the matters raised, though there are still areas where the law could be clarified. We have also engaged on the issues of vaccine equality of uptake and eligibility with the Department of Health (DoH) and the Public Health Agency (PHA). In April, we conducted and published a lengthy analysis of the potential use of '**Covid passports**' for travel and/or social events, examining the proposals against the provisions of the Human Rights Act and European Court of Human Rights jurisprudence. This found that such passports would engage Article 8 (Right to Private Life), and could be discriminatory. However, the basic point we made was that human rights are not a black or white matter. If an act, law, or regulation restricts human rights, that does not necessarily mean it is wrong, only that its enactment must be justified in the terms laid down in human rights law. Any restriction must be in accordance with the law, for a legitimate aim, and necessary in a democratic society (which also means it must be proportionate to the aim pursued). That is the **human rights test** and

it is a matter of evidence, not emotion. We wrote in similar terms to Executive Ministers as they made their decision to deploy covid passports in the social field to regulate access to venues of various kinds. We have just published on our website an [FAQ](#) on Covid-related restrictions, such as wearing face masks and being required to have a vaccine passports to enter some arenas. This seeks to counter myths and put forward the balanced human rights approach.

We have called for a **human rights compliant inquiry** into the handling of the Covid pandemic here. Given the number of deaths in care homes, especially at the beginning of the pandemic, we believe a public inquiry needs to have the powers and investigative capacity to be compatible with Article 2 (Right to Life) of the European Convention. In November, we featured in a BBC Spotlight documentary examining the impact of the first wave of Covid on care homes and the reasoning behind calls for a public inquiry.

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## A just resolution to the legacy of conflict

As a post-conflict society, still scarred by violence and victimisation, we need to combat impunity and work for a just resolution to the legacy of conflict. In the first part of this year, we continued to work in response to the UK government's statement made in March 2020 proposing a 'fast-track' scheme for legacy cases, which appeared to renege on the commitments in the **Stormont House Agreement** (SHA). We reported to the Committee of Ministers (which oversees implementation of European Court of Human Rights judgements) and gave evidence to the UN Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence, as well as the Joint Committee on Human Rights when it was considering the Overseas (Service Personnel and Veterans) Bill. With the **Model Bill Team** (CAJ team members and QUB legal academics), we met with the Secretary of State and discussed the options for legacy work. We sent a submission on legacy matters to various contacts in the United States and the Senate resolution for St Patrick's Day contained material on the SHA and legacy.

Then, in July 2021, without any evidence of a meaningful consultation process, the UK Government published a command paper on legacy. That paper suggested not only abandoning the mechanisms agreed in the SHA, but also proposed a sweeping **statute of limitations** (in effect an amnesty), which would also have the effect of closing down prosecutions, civil actions, and conflict-related inquests. These shocking proposals would provide total impunity forever to all those who committed crimes during the Troubles. The proposed legislation would not only prevent all prosecutions, it would also ban any recourse to law in respect of 'incidents' during the conflict. It would provide for a total amnesty, more wide ranging and more dismissive of the rule of law than any such law passed by dictatorial regimes to cover up their crimes since the Second World War. The proposals provoked a storm of protest, uniting victims' groups from all constituencies, all local political parties, the Irish Government, and most security force veterans' groups. On 8 September 2021, the Model Bill Team published a detailed analysis of the proposals. It said that they were likely unlawful under human rights law, breaching the obligation to carry out effective investigations in cases of killing or torture and - by banning any recourse to law - were a huge blow to the principle of the rule of law.

We engaged with the UN and Council of Europe human rights mechanisms and worked with stakeholders locally, in Britain, the South, and the United States, to oppose these proposals, and also made a serious impact in the media. The Model Bill Team analysis is widely recognised as the definitive and authoritative legal analysis of the UK government **Command Paper**. At the time of writing, we are awaiting the publication of draft legislation so that we can assess the detailed impact of these extraordinary proposals.

We continued our work on the various legacy cases we have carriage of - a number of which would be ended by the proposals contained within the Command Paper. The Supreme Court hearing in the **Hooded Men** case took place between 14 to 16 June. No time frame was given for the delivery of the judgment, but it could be before Christmas or early 2022. We hope the court will order a fresh investigation into the allegations of torture, but this case also might be affected by the clamp down on legal proceedings proposed by the UK Government. In February, we were pleased when the Committee of Ministers decided to reopen its oversight of the Finucane case. This was, however, only necessary because of the UK's continuing refusal to hold a proper inquiry into Pat Finucane's murder and the weary treadmill of domestic litigation that the family has had to experience.

# A society where prejudice is confronted and tackled



Racism and other prejudice are the antithesis to human rights. Confronting and tackling prejudice has to be a pillar of the rights-based society. The final report of the **independent review into hate crime legislation in NI** was published late last year and reflected our input in a number of areas, in particular recommending a statutory duty to tackle hate expression in public spaces. We are trying to facilitate dialogue with the police oversight mechanisms. We have given support to the Belfast Multi-Cultural Association and other minority ethnic groups. CAJ was given a Racial Justice Award by the NW Migrants Forum and Belfast Multi-Cultural Association at a ceremony in Derry for our work in supporting the **Black Lives Matter** movement.

We have been working on the implementation of the hate crime review report. In particular, we have discussed with a number of stakeholders the best way of taking forward the proposal to extend the protected grounds in the legislation to cover gender, with a specific focus and codification to ensure such a provision is targeted at misogynistic hate crimes.

We completed an interim report on public authority intervention to remove **public hate expression** and used this as the basis for engagement with the most relevant public authorities, especially with government departments and public agencies. We are now finalising this report.

With the Equality Coalition, we met Junior Ministers to discuss the upgrading of the racial equality strategy. We were also involved in the re-launch of the Covid Feminist Recovery Plan.

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## A fair and humane immigration system

Brexit has brought issues associated with citizenship, immigration, and the movement of people across this island to the fore. Anti-immigrant rhetoric and the imposition of a hostile environment on asylum seekers and refugees by government dangerously stokes racism and leads to wholesale abuse of human rights. We have responded by working to achieve a fair and humane immigration system.

The **Immigration Project** has been highly active in the past year. There are two broad categories of work within which we make a policy and analysis contribution – issues arising from Brexit and the nature of the general immigration regime in Northern Ireland. We have a strategic focus, connecting with high level forums in which we can have real influence, while also being very involved with front line advisors and NGOs working at ground level.

Amongst the issues we have engaged with are the Home Office 'voluntary' returns policy, the detention of asylum seekers, the Nationality and Borders Bill, the Home Office asylum screening process (for UNCHR), the impact of Brexit on frontier workers, Common Travel Area (CTA) policy, hate crime, data protection law, the NI Affairs Committee inquiry into Good Friday Agreement citizenship provisions, physical evidence of settled status, and the NI Protocol.

During the year we have worked with **frontline advice groups** to commission research on the patterns of need and experiences of human rights abuses across the spectrum of migrants and asylum seekers. We have also commissioned a legal opinion from a leading barrister on the interface between devolved and excepted and reserved powers when it comes to immigration. These initiatives will lead to the development of policy platforms which should enable a broad coalition of people and groups that can work for a humane and fair immigration system here. We can see the interaction between post-Brexit arrangements in relation to EU citizens and overall UK immigration policy operating in practice in this region. It will be important to build alliances between those working for free movement across the island and those working with undocumented or other migrants.





# Increased equality

Equality is perhaps the most important value underpinning human rights and, hence, the creation of a rights based society. It refers to the notion of the dignity that should be due to us all as equal members of the human family. We may never achieve perfect equality, but the effort in that direction is an intrinsic part of the overall struggle for human rights.



This year was a milestone one for the **Equality Coalition**, which is co-convened by CAJ and UNISON, with its membership increasing to over 100 groups for the first time in its history. Despite the ongoing pandemic, the Coalition has maintained a high level of activity, with six plenary meetings held this year (one still pending). CAJ continues to represent the Coalition within various working groups, including the NI Women's Budget Group, Childcare for All Working Group, and Women's Policy Group (contributing to a new edition of the Feminist Recovery Plan through the latter). Additionally, the Coalition is now regularly represented by CAJ at two All Party Groups (APGs)—these focus on childcare and UNSCR 1325 (women's involvement in peacebuilding) respectively. The Coalition's template or generic submission for equality schemes was updated this year and submitted to several public authorities and government departments who are in the process of revising their schemes. Additionally, the Coalition membership has agreed a new 'policy asks' document – essentially a policy platform for the Coalition—which will be launched next year. The Coalition engaged in lobbying activities throughout this year (some examples of which has already been referenced elsewhere in this report). Recently, the co-conveners held two meetings with the Minister for Infrastructure, covering the removal of hate expression, bilingual road signage, and racially discriminatory passport checks.

The effective implementation of the **Equality Duty** on public bodies is a central goal of CAJ. Earlier this year, we had an important meeting with the Strategic Investment Board to stress that any future investment strategy would need to be put through equality processes. We facilitated or made several complaints about breaches of equality scheme by the Northern Ireland Office (NIO) including in relation to the then proposed Legacy Bill. The Equality Commission agreed to investigate this complaint and eventually found that the NIO had indeed breached their equality scheme by failing to properly screen the policy declared in the Written Ministerial Statement.

We completed responses (either Screening Decision Review Requests or Equality Scheme Complaints) to every public authority who submitted a budget screening or EQIA in time for the budget consultation deadline. This is the first time that further to previous representations and a resultant Equality Commission investigation, the budget process was formally equality assessed across departments. The budget was agreed, and explicit reference was made to the Department for Communities (DfC) receiving an additional £24.9 million for their Benefit Delivery Response and £26.9m for their Labour Market Interventions in response to consultation submissions received. The underfunding of these areas was a serious concern of Equality Coalition members and was reflected in our consultation response. This is a good example of the significance of both responding to consultations, and to Departments utilising the Section 75 process in budget determinations.

This past year, we trained councillors, university students and UNISON stewards in the use of Section 75. We also presented training on Section 75 to the Law Society Human Rights and Equality Group and welcomed the opportunity to broaden understanding of this among the legal profession.

CAJ has engaged on **minority language rights** in a number of ways. We made a detailed submission to the implementation body of the European Charter for Regional or Minority Languages in response to a recent UK report. We used treaty obligations in advising on Belfast City Council's street signage policy and discussed proposals for future research with Irish language activists. We have also engaged with both universities over their continued 'English-only' policies in relation to signage. We jointly commissioned research with Conradh na Gaeilge on Irish language medium education, which has been undertaken by Dr Robbie McVeigh. We continued to work on progressing treaty-based commitments on the Irish language, including through legislative protection.

# International solidarity



We have maintained our active participation in the **International Federation of Human Rights (FIDH)**, and responded to several calls for solidarity over the past year. We have agreed to participate in a major comparative research study involving Colombia and Lebanon as well as Northern Ireland. This is run by academics from Bristol and Durham universities. It is entitled *Getting on with it: Understanding the micro-dynamics of Post-Accord Intergroup Relations* and addresses the role of so-called ordinary people in making and maintaining peace. CAJ will bring its human rights approach to peacebuilding to this project.

We have not had the same engagement with visiting groups as in past years due to the pandemic. We look forward to a resumption of occasions to present on the successes and failures of our process in relation to peace and human rights.

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## Communications during a pandemic

The pandemic has transformed how we communicate with each other in everyday life, at home and at work. It seems increasingly clear that there will be no return to the old normal - hybrid working and the prominence of digital communications appear set to continue for some time, perhaps indefinitely. Since March 2020, the CAJ team has worked primarily from home, changing the way we interact with each other, but our work has continued unabated and uninterrupted nonetheless.

During 2021, we took stock of our communications and introduced some important changes. In the summer, we launched a survey to gather views from key stakeholders on how we engage with them – the results are already being used to inform and improve our communications. Partially on the back of the survey, we developed a new, overarching **Communications and Engagement Strategy** for the period 2021-24. We have also updated a number of related plans and policies, including our branding and accessibility guidelines, and policy submissions procedure.

We have also begun the process of redeveloping our **website**. Bag of Bees have been chosen to develop the new site – watch out for it launching in early 2022! In the meantime, you can still keep up to date by visiting our current site, [www.caj.org.uk](http://www.caj.org.uk), which continues to attract upwards of 6,000 page views in a typical month. Our **Twitter** account, @CAJNi, is another key point of public engagement. As of 7 December 2021, we have 4,560 followers (up 387 compared to what was reported in the annual report last year). The Equality Coalition account has more than 1,000 followers for the first time (currently at 1,138 – a growth of over 100 since last year).

**Just News** remains a digital only publication at present because of the pandemic; while our long-term aim remains to resume printing Just News, this is not logistically possible at this moment in time. The issues continue to be made available on our website. We recently made some tweaks to the design of Just News to modernise the layout and will be using this new template going forwards. **Just Updates**, our ezine, was issued 12 times during 2021. Opens of the ezine were between 30% to 40% across all issues. Currently, Just Updates has 394 active subscribers – efforts will be made to grow this mailing list during 2022.

CAJ attracted a respectful level of **media coverage** during 2021, despite the pandemic dominating the headlines throughout the year. This included pick-up related to our legacy work with the Model Bill Team, our criticism of the Covert Human Intelligence Sources Bill (now an Act), and our various analyses of the impact of Covid-19 restrictions on human rights. Our policing conference with ICCL was also covered by the Press Association in November. A number of CAJ staff recently attended broadcast media training – it is hoped this will support further CAJ appearances on TV and radio.

We continue to make every effort to be fully compliant with **GDPR**. If you would like to find out more about how we keep data secure, please refer to our Privacy Policy, which is available from our website. You can also request a copy of this policy by emailing [robyn@caj.org.uk](mailto:robyn@caj.org.uk).

# Finance

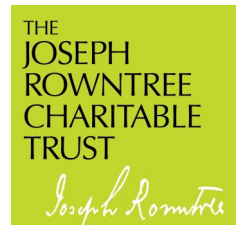
CAJ is supported by the **Human Rights Fund** – a dedicated fund managed by the Community Foundation for Northern Ireland, designed to support CAJ and the three other organisations in the Human Rights Partnership (the Human Rights Consortium, Participation and the Practice of Rights, and Public Interest Litigation Support). We have actively worked on fund development this year and the Fund has met its fundraising targets.

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 General Political Fund**  
**Paul Schurgot Foundation**  
**Open Society Justice Initiative**  
**Community Foundation for Northern Ireland**  
**New Philanthropy Capital Transition Advice Fund**  
**Legal Education Foundation**  
**Paul Hamlyn Foundation**

CAJ has also raised funds through Local Giving and would like to thank all those who have made a donation. You can find our Local Giving page here: [www.localgiving.org/charity/caj/](http://www.localgiving.org/charity/caj/)

A full set of audited accounts is available to members on request. Email [info@caj.org.uk](mailto:info@caj.org.uk).



# Staffing

There were no staffing changes within CAJ this year.

## Staff

Brian Gormally, **Director**  
Daniel Holder, **Deputy Director**  
Gemma McKeown, **Solicitor**  
Paula Gourley, **Office and Finance Manager**  
Robyn Scott, **Communications & Equality Coalition Coordinator**  
Una Boyd, **Immigration Project Coordinator**  
Eliza Browning, **New Decade Human Rights Project Coordinator**



## Executive

Anna Bryson, Chairperson	Rory O'Connell, Treasurer	Fionnuala Ni Aolain, Editor of Just News
Cathy Bollaert	John Topping	Kieran McEvoy
Dáire McGill	Ursula O'Hare	Louise Mallinder
Ciarán Ó Maoláin	Anne Smith	

# Submissions and publications

## Publications: Reports, guidance, FAQs

**Advisor guidance on changes to the EU Settlement Scheme, Jan 21**

**The unimplemented rights commitments of the peace settlement 23 years on from the Belfast/Good Friday Agreement: A mapping exercise, Apr 21**

**Addressing the Legacy of Northern Ireland's Past: The Model Bill Team's Response to the NIO proposals, Sept 21**

**Coronavirus and human rights FAQ: Facemasks, vaccines, and vaccine passes, Dec 21**

### Addressing the Legacy of Northern Ireland's Past:

The Model Bill Team's Response to the NIO Proposals

September 2021

THE MODEL BILL TEAM  
Anna Bryson, Louise Mallinder  
Kieran McEvoy (QUB)  
Brian Gormally, Daniel Holder  
Gemma McKeown (CAJ)



## Submissions

- S512 **List of initial breaches of 'Non-Diminution in certain GFA rights due to Brexit' Commitments, Jan 21**
- S513 **Post-Brexit access to European Health Insurance Card (EHIC) rights for people in Northern Ireland, Jan 21**
- S514 **Model Bill Team Response to Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence on follow up to UK visit, Jan 21**
- S515 **Submission to COMEX on the UK response to the 5th report on UK compliance with the European Charter for Regional or Minority Languages (ECRML), Jan 21**
- S516 **Submission to the Committee of Ministers from the Committee on the Administration of Justice (CAJ) in relation to the supervision of the cases concerning the actions of the security forces in Northern Ireland, Feb 21**
- S517 **Written Evidence to the Northern Ireland Affairs Committee on its inquiry into 'Citizenship and Passport Processes in Northern Ireland', Feb 21**
- S518 **Submission by the Equality Coalition in relation to the draft Programme for Government and draft Budget, including Departmental screening/EQIA, Feb 21**
- S519 **CAJ Response to the Independent Human Rights Act Review (IHRAR), Mar 21**
- S520 **CAJ response to the Joint Committee on Human Rights' call for evidence in relation to the Government's Independent Human Rights Act Review, Mar 21**
- S521 **The unimplemented rights commitments of the peace settlement 23 years on from the Belfast/Good Friday Agreement: A mapping exercise, Mar 21**
- S522 **Are vaccination or immunity "passports" lawful under the Human Rights Act? An analysis by the Committee on the Administration of Justice, Apr 21**
- S523 **CAJ briefing note on Irish citizens not born in Northern Ireland obtaining British citizenship and a British passport through residence in NI, Apr 21**
- S524 **Briefing paper summarising the expert advisory panel reports on the Social Inclusion Strategies, May 21**
- S525 **ICCL and CAJ background note on Dáil statements on Ballymurphy, May 21**
- S526 **Response to the PSNI consultation and Equality Impact Assessment on the temporary use of spit and bite guards, May 21**
- S527 **CAJ briefing note on vaccine eligibility and residency status, June 21**
- S528 **The Right to Protest and NI Coronavirus regulations, June 21**
- S529 **Briefing note on the Northern Ireland (Ministers, Elections and Petitions of Concern) Bill: The Petition of Concern and Stormont's' other safeguards and vetoes, June 21**
- S530 **Written Evidence to the Northern Ireland Affairs Committee on its inquiry into 'The experience of minority ethnic and migrant people in Northern Ireland', June 21**
- S531 **Written Evidence to the introductory inquiry of the House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland, June 21**
- S532 **Joint NGO submission to Statutory Review of Closed Material Procedures, June 21**



- S533 **Written Evidence to the HC Public Bill Committee on the Northern Ireland (Ministers, Elections and Petitions of Concern) Bill: The Petition of Concern and Stormont's other safeguards and vetoes, June 21**
- S534 **Submission on behalf of the Equality Coalition in relation to draft equality schemes (2021), Aug 21**
- S535 **Submission on behalf of the Equality Coalition in relation to the ECNI draft legal assistance policy, Sept 21**
- S536 **Joint CAJ and CnaG submission to the 2021 Review of Local Government boundaries and names, Apr 21 (filed out of sequence)**
- S537 **Written statement submitted by FIDH to the UN on UK proposals for blanket impunity for Northern Ireland conflict, Sept 21**
- S538 **The CTA and the Island of Ireland post Brexit: Beyond British and Irish citizens, Sept 21**
- S539 **Submission to the Committee of Ministers from the Committee on the Administration of Justice (CAJ) in relation to the supervision of the cases concerning the actions of the security forces in Northern Ireland, Oct 21**



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