JUST NEWS

Human rights in Northern Ireland *February 2022*

CAJ Committee on the Administration of Justice

40 years and counting - CAJ marks milestone anniversary

At the end of last year, a special online event, featuring South African activist Albie Sachs, was held to celebrate CAJ's 40th anniversary. Founded in 1981 at the height of the Troubles, CAJ has spent the last four decades striving to promote justice and protect human rights within Northern Ireland. During this time, NI has undergone a major transformation. Violence has given way to a fragile peace following the 1998 Good Friday Agreement, but the fight for human rights and the rule of law is as important and as necessary as it ever was.

In this article, staff members from CAJ's past and present share their thoughts on their time with CAJ and discuss the work that remains to be done to support the transformation of Northern Ireland into a peaceful society, which is based upon human rights and equality.

Brian Gormally, CAJ's current Director

Last year marked the 40th anniversary of the founding conference which 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, seven through being hit by plastic bullets, and 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 obligations of human rights amidst vicious, partisan conflict, callous government policy, mass mobilisation of people for contradictory aims and a pervading sense of helplessness and hopelessness.

In these circumstances, some 100 people attended a conference called by a broad group of peace workers, lawyers, and community activists designed 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.

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, 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-

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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.

The world is still living through the Covid-19 pandemic and there have been necessary restrictions on personal freedoms. On the whole, this jurisdiction has operated in a responsible manner and sometimes competing rights have been properly balanced. This is in sharp contrast to the scandalous behaviour of the UK government elite, where rule-breaking appears to have been the norm.

That behaviour is only part of an increasing disregard by the current UK government for the rule of law. It has weakened judicial review of government decisions in some areas, especially immigration; openly sought to restrict the role of the Human Rights Act; and legislated to allow MI5 and a range of other agencies to authorise criminal conduct by agents with no limitation on the nature of the crimes that can be committed.

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.

There are many other challenges to human rights. However, we believe that the difficult last couple of years have once again proved the worth of an organisation like CAJ, which 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 and supporters, for the coming period.

Paddy Sloan, CAJ's first staff member

In 1985 I joined the CAJ as its first member of staff, Information Officer. I discovered an eclectic group of individuals, with widely varying life experiences and a common commitment to fairness and opposition to violence.

Comprising students, academics, teachers, legal and social care professionals, civil servants, community and political activists, monthly meetings produced animated and often lengthy debates on key issues of the day. Hopefully we finished in time for a glass in the nearby Duke of York, but on many occasions I scrambled to find a cup of tea and a biscuit to keep Peter Tennant awake on his drive home to Armoy in the early hours ... not always successfully.

At that time, the Anglo-Irish Agreement protests were at their height and we were focused on emergency legislation - such as the Payments for Debt Order, the Prevention of Terrorism Act, and the Emergency Provisions Acts - and their impact on communities across Northern Ireland. Plastic bullets were in use and protests escalated on the Garvaghy Road in Portadown. My role at the time was to engage the expertise of the membership and expand our reach to support CAJ's developing influence locally, nationally, and internationally. Maintaining a credible, objective, and evidence based standing was the intention, promoting and protecting human rights.

Those were the days of editing copy for Just News on an Amstrad and laying it out with cow gum for Ian Knox to illustrate, and Dave and Marylin Hyndman to print, for free. Volunteer input was the basis of the organisation, coordinated through the newly established office at the Belfast Centre for the Unemployed. As well as good company, the offices provided back up services and easy access to other relevant organisations and individuals working there. It was a dynamic, neutral, and welcoming base in the city centre.

When I left the job in 1987 Martin [O'Brien - see overleaf] took over and, with an expanding but still small staff team amplifying the voluntary input, CAJ's

credibility and influence grew rapidly. I stayed involved as a member and on the Executive until after the Good Friday (Belfast) Agreement. In 1999, I went to work at the NI Human Rights Commission (NIHRC), to which CAJ remained a valued critical (sometimes very critical ….) friend. At CAJ's recent 40th anniversary event, Albie Sachs spoke of the importance of truth – witnessing, evidencing, and speaking truth to those in a position to respond. Both CAJ and NIHRC understood it was important and valuable for victims and families to know what happened during the Troubles, to tell their stories and to have them heard and validated.

As well as a time of great friendships and solidarity there were many challenges, not least the brutal murder of Rosemary Nelson and the untimely loss of Stephen Livingstone, both human rights champions and close friends of CAJ. The integrity and commitment of staff and volunteers over the past 40 years has provided a platform for truth and a strategy to ensure it is heard. Congratulations on your significant achievements and good luck going forward – much has changed since 1981 but the role of an independent, rights based monitor is still essential.

Martin O'Brien, CAJ's first Director

Working at CAJ was my first proper job. Due to uncertainties about funding, I had a one-year contract. I said I would stay for as long it proved interesting and continued to stretch me. I stayed for 16 years. When I left it wasn't because it had become less interesting or stretching.

Two things stand out about my time there. The first was the amazing group of remarkably talented, committed, and generous people I got to work with - members, staff colleagues, local and international volunteers, and the people on the receiving end of human rights violations and their families. The second was that the work made a difference. Maggie Beirne's excellent history of CAJ tells the story of that impact. More importantly, it reveals the ingredients for CAJ's success and how it took strong clear public positions on deeply controversial topics and events while maintaining a cross community, non-aligned position that could not be easily dismissed. I believe there are lessons in that story for others advancing human rights in deeply divided societies in conflict.

At the heart of the effort were the international human rights standards which the UK had committed to. It was our job to ensure that they lived up to those commitments. At a certain point in the early 90s we concluded that our domestic advocacy was having limited impact. Internationalising our concerns might be more productive.

At that time, the UK government was sensitive about its reputation. That seems to be much less so now. We used multiple UN mechanisms, took cases to the European Court of Human Rights, and testified in the US Congress. At the same time, we built increasingly strong relationships with Amnesty, Human Rights Watch, the International Federation for Human Rights, and the Lawyers Committee for Human Rights (now Human Rights First). These interventions and alliances yielded significantly better results. Their involvement and findings legitimated our concerns and moved them from the margins to the mainstream, where they were often addressed. When times were tough, these international friends stood beside us and had our backs. They also supported our efforts to ensure that the peace agreement placed human rights at its very centre.

One of the problems about human rights work is that you have to do it all the time. You can't afford to be complacent. Power regroups quickly. Gains can be easily lost. Others often tried to undermine CAJ's efforts, and that undermining of the Good Friday Agreement's human rights gains is ongoing.

The current UK government seems entirely insensitive to the consequence of its choices for the carefully constructed peace. At the same its wider policies and approaches are increasingly authoritarian. It's limiting the right to protest, weakening the Human Rights Act, proposing limits on judicial review and court powers, increasing executive power, working to undermine the Electoral Commission, and exert increased control over the media and education. I could go on. It's a picture of how fascism takes root.

Congratulations CAJ on 40 years of impressive work. Unfortunately, much more remains to be done.

CAJ - Sidestepping car bombs: How it all started

Tom Foley, President, Association of Independent Colleges and Universities in Pennsylvania (AICUP)

The CAJ's 40th anniversary celebration moved me greatly, especially the poignant example of Albie Sachs, captured by the views expressed in the seminar. In that context, I thought this might be perfect time to review the formative struggles of CAJ and its very first days, challenges brought to mind by Albie's own difficult journey. The collaboration and persistence that characterized the first CAJ conference previewed traits common to the organization and characteristic of its successes over the next four decades.

1981 - Context of violence

1981, the year of CAJ's birth, was an especially painful period in the search for justice in Northern Ireland. In one month that year:

- A 17-year-old was killed by the British army for joyriding.
- A police officer was killed on the steps of the church where he had just attended Mass.
- A prison warden was killed on his way to church, in front of his screaming family.
- A 24-year-old father of three infants was killed on the charge that he was an informer.
- Nine policemen were killed in a mortar attack as they enjoyed cups of tea between shifts in their heavily barricaded police station.

Between 1969 and 1981, the death toll in the Troubles exceeded 2,000, with over 20,000 serious injuries. CAJ emerged during an extraordinarily contentious time in the short history of Northern Ireland, in the midst of the deadliest hunger strikes in the long story of the island, and at perhaps the very height of sectarian tensions in that land.

When the first meeting of the CAJ occurred on June 13, 1981, the second H-Block hunger strike had already claimed four young lives (six more before September) and tensions were higher than at any point since I first journeyed from America to Belfast in 1975. The excruciatingly slow deaths *inside* the prison combined with rapid and successful Republican campaigns for elective office *outside* the prison (which saw Bobby Sands gain a seat in the UK Parliament) resulted in extensive rioting and violence that doubled the "normal" death toll.

1981 - Context of justice

In the years before 1981, numerous groups advocating for justice released public statements, documents, proposals - all about how to find justice in the midst of the Troubles. As the elected Member for Justice on the Peace People Executive, I wrote four different publications on the subject - the first a guide for young people through the maze of emergency laws; the second a proposal to end emergency law submitted to the British Parliament; and two papers with plans for ending the two hunger strikes (1980 and 1981). The last opened many doors for Mairead Corrigan-Maguire, then the Chair of Peace People, and myself. With these proposals in hand, we met with all sides - governments, republicans, unionists, prisoner and community groups, church and political leaders. Like the efforts by our colleagues from other organisations, our meetings produced few tangible results.

Then, in late 1980, Tom Hadden, Kevin Boyle, and Paddy Hillyard published the first truly non-partisan portrait of the Troubles. *Ten Years On in Northern Ireland* was a concise analysis of decisions, data, and outcomes since emergency laws had been re-enacted. It documented - with footnoted charts and figures - facts like these:

- Northern Ireland had the lowest prison population in western Europe before the Troubles and the highest after.
- Northern Ireland had the youngest prison population in Europe.
- Two-thirds of those serving long term sentences were under 15 when the Troubles began again in 1969 and one-third were under nine.
- The number of officially recorded 'emergency' home searches greatly exceeded the total number of homes in Northern Ireland.
- Since the emergency laws were enacted, violence by every measure (deaths, injuries, explosions, etc.) had increased dramatically.

The *Sunday Times* called the book required reading "by all those who care that the long agony of Northern Ireland be brought to an end". I reviewed it for *Fortnight*, saying: "The precise and expert handling of a long series of emotional issues sets this book apart from any other legal and political analyses of the situation." Bottom line, the authors of *Ten Years On* planted a seed from which CAJ grew. Planning for CAJ began when I visited Queens Professor Tom Hadden. We understood immediately that, unless we all joined our voices, our solo meetings would remain unproductive.

Early days - Organising strategies and potential sticking points

Ten Years On gave us a shared scripture from which to preach, but we needed a pulpit from which to proclaim it. Hadden and I partnered on three assignments: gathering a broad-based committee, developing appropriate agenda topics for a formal conference, and soliciting speakers to advance the agenda.

A Committee: We ended up with four people with connections to Peace People on the Committee, including its aforementioned Chair, Mairead Corrigan-Maguire. Corrymeela's then-leader, John Morrow, also brought three

to four people to the table. We quickly compiled a roster of 12, representing peace and justice groups, religious groups, and community-based leaders.

An Agenda: This turned out to be relatively easy. We lifted directly from *Ten Years On* and chose the titles of four chapters - Arrest/Interrogation; (Diplock) Courts; Prisons; Police (Complaints Procedures) - and added Joyriding, a new development that was particularly dangerous for young people.

Honorary Chairman: Hadden and I served as co-chairs for the five sessions, but some on the Committee felt strongly that we needed a more public voice as an honorary chair. Lord Gardiner was suggested and secured. Gardiner was a controversial choice, but in my view ultimately the right one. He authored the Gardiner Report that ended what some called the 'political status' approach to prison life, and that made him a reviled figure in certain circles. But he was also a rare voice for prisoners' rights among the British judiciary and led the progressive Howard League for Penal Reform.

Speakers: The five sessions were respectively led by a Cobden Trust scholar, the Dean at UC Galway, an ex-prisoner, a criminal law solicitor, and the founder of an alternative to joyriding program. Numerous groups submitted their earlier work on justice as position papers for the Conference (e.g. the Peace People submitted all four of my papers), but *Ten Years On* was truly the seminal and only document truly necessary to the Conference.

Venue: We settled on the QUB Student Union (SUB), but not without significant opposition. The University opposed our use of that building because they viewed it as a potentially dangerous gathering, a prescient concern. But the student leadership withstood last-minute attempts to evict us, and the meeting went ahead, as planned, on 13 June 1981 at 9am.

Participants: We decided to invite all comers - peace and justice groups, community leaders, prisoners' groups, the 'political' wings of the paramilitary groups, et al. Of these groups, only Provisional Sinn Fein failed to respond positively, though they never formally said no. In truth, had they responded affirmatively, some other groups may well have withdrawn - the atmosphere at the time was that toxic. The Peace People had hosted a series of meetings with these groups over the previous year, and Corrymeela was an established venue for those groups to convene. *Ten Years On* gave people new hope for real change and a reason to try a joint approach. In the end, over 100 individuals attended.

Sessions: Gardiner, Hadden, and I took turns chairing, but each session required little beyond opening. Steve McBride, a journalist and future member of the NI parliament who was with the Peace People then, wrote a comprehensive summary of each session in *Peace by Peace*. McBride was most impressed by Mervyn Love on prisons. Love, a UVF leader before incarceration, pursued higher education and a different path. I previously met him at Corrymeela and was struck by his sincerity and depth. All the sessions were productive - we chose well in lead speakers for each. We produced a good summary of the sessions (the very first CAJ publication) entitled *The Administration of Justice in Northern Ireland: The Proceedings of a Conference held in Belfast on June 13, 1981*.

Assassination Attempt: On the morning of the conference, a Provisional Sinn Fein representative informed us that, although they would not attend the conference, they wanted to meet with Gardiner. Gardiner agreed; we secured an office. At lunchtime, Gardiner and his security team waited; no one showed up. We resumed proceedings at 1pm and Gardiner left the conference at a previously unannounced time. 15 minutes later, the security forces barged into the conference room and ordered evacuation; before we could conclude or discuss next steps.

We trudged out a back door of the SU building and I circled to the front of the building in time to see a robot detonate an incendiary device directly in front of the building. The *New York Times* reported on 15 June that, "The Irish Republican Army said today it made an unsuccessful attempt to assassinate Lord Gardiner, a former British Lord Chancellor, using a bomb attached to the car that he had been expected to use at Queen's University here. 'The device fell off the car and failed to detonate,' the IRA said in a statement. The police said later that they found a three-pound bomb lying on Elmwood avenue…defused by army bomb disposal experts."

Outcomes

With no chance to summarize or plan next steps, *we* worried that the progress from the Conference was wiped out. About to return to the States to finish my law doctorate, I was concerned that we had no plan in place for next steps since all 100 participants had been evacuated to go our separate directions. Not a problem. A seven-person interim committee took form and immediately began planning future work. Steve McBride and later Brice Dickson stepped in for Tom Hadden and I as organizing and administrative principals. Martin O'Brien (then a 16-year-old Youth for Peace member) was already in 'training' for his future long-term role.

CAJ quickly produced a series of papers covering topics from our first Conference, which Brice Dickson, Tom Hadden, myself, and others edited. CAJ also received submissions from other groups working on NI justice. A link with my colleagues at Yale Law School produced four working papers on police complaints procedures, the failure of international law in Northern Ireland, the history of hunger strikes, etc, which reside in the CAJ archives.

Despite the assassination attempt and the aborted conference, CAJ went right to work. Forty years later, CAJ's work still hasn't stopped. I hope this story about CAJ's origins heartens all those committed to the work, and helps light the way forward for the next forty.

The repeal of the Payments for Debt Act: A short history

Les Allamby, former NIHRC Chief Commissioner

In 1986, tenants in a township in Cape Town began withholding rent in protest at the breaking up of the Crossroads Squatter Camp. The raids were followed by the forcible displacement of families to 'black homelands' created under apartheid. In response to the protests, the South African government introduced emergency laws to deduct wages and other monies from source to cover rent payments. The template for the legislation was drawn from emergency legislation introduced in Northern Ireland 15 years earlier. The ending of that legislation was down to the work of the (then) Belfast Law Centre and CAJ and it is one of the more unheralded achievements of both organizations.

In the early hours of 9 August 1971, the British Army arrested 342 individuals in NI and held them without trial or charges being filed. Internment had commenced. In response, a campaign of civil disobedience was organized by the Northern Ireland Civil Rights Association (NICRA) and nationalist politicians. Its centrepiece was a rent and rates strike and by September 1971 around 26,000 households were withholding payments. The NI government's response was equally swift and the (then) Minister of Home Affairs John Taylor introduced emergency legislation, namely, the Payments for Debt (Emergency Provisions) Act (NI) 1971 (PDA), which came into effect from 14 October 1971 to be applied retrospectively from 1 April 1971.

The PDA allowed government departments and public authorities monies due to individuals to be diverted to pay rent and rates including fuel and service charges instead and to levy a collection charge and interest payments on the debts when doing so. The law bypassed normal judicial procedures, with rights of appeal limited to contesting liability for the debt. There was no limit on the amount that could be deducted. The deductions could be made from wages, social security benefits and other payments.

The PDA had an immediate effect and by April 1972 12,700 households were having deductions made from social security benefits with almost half coming from child benefit. As a result, long before internment ended in December 1975, the rent and rates strike had been curtailed. On 29 March 1976, NICRA officially called off the rent and rates strike.

This development, instead of heralding the end of the use of emergency legislation to recover debt, led to an expansion of its use. Government directions decreed that anyone due a rent or rates rebate or exceptional needs payments (the precursor of the Social Fund/ Discretionary Support Payments) were not to be paid to anyone having deductions made under the PDA. The right to receive a rent and rate rebate was eventually restored in March 1980.

Moreover, the Labour government announced in 1976 that the PDA would be extended to anyone owing over £20 in rent or rates arrears, with a 50 pence a week collection charge being levied on weekly deductions. Moreover, the PDA was also applied to electricity and gas arrears, and criminal injuries payments. A campaign against the use of emergency legislation to recover ordinary debt was launched with limited success, though the government announced it would only use the PDA to make deductions from child benefit in limited circumstances and would no longer do so from carers' benefits, certain disability benefits, maternity benefits, and funeral payments.

From September 1980, direct deductions from supplementary benefit to cover rent, rates and fuel charges was introduced across the UK. The ordinary legislation included a limit on weekly deductions, a right of appeal, and no administrative charge for making deductions. However, the greater reach, lack of appeal, and no limit on recovery meant using emergency legislation was a temptation many public authorities could not resist.

In December, the Department of Finance and Personnel issued a direction under the PDA ordering the Education and Library Boards to accede to requests for deductions from student grants, while the Housing Executive transferred self-help repair grants, redecoration grants, and other payments towards rent arrears.

The impact of the PDA was, at times, Kafkaesque. In one case, a cleaner for Belfast City Council received her weekly pay packet with a note saying her whole wage had been deducted to pay housing and other debts, and that she owed the Council 40 pence, while another City Council employee was paid only 58 pence after deductions.

CAJ's social legislation sub-group including Brice Dickson, Mary McMahon, Dominic Gates, Pat Johnston, and Kevin Smyth decided to publish a history of the PDA, its use, and effect. CAJ Pamphlet No 13 Debt – An Emergency Situation? was published in June 1989. It set out the policy and legal case for repeal.

Shortly afterwards, the Law Centre began a judicial review on behalf of Trevor Kerr a mature student. Trevor Kerr had been unemployed with a young family and had gone back to further education. Under the rules that then applied, he had to come off benefit and was entitled to a lesser value student award, which paradoxically left him below benefit level. He persevered with his studies, though fell into debt with the Housing Executive. On getting a place at university, he qualified for a full grant, only to discover the whole of the grant would be diverted to pay his rent and rates arrears leaving him unable to continue his studies.

The legal challenge hinged on provision in the Act, which stated that the Act was to continue until six months after the present emergency has ended. The first roadblock faced was getting the minutes of a high-level civil servant committee on public debt. The (then) Department of Health and Social Services issued a public interest immunity certificate setting out that releasing the minutes created public interest and security concerns – though the nature of the concerns was never fully explained. Instead, the Law Centre sought supporting evidence from an unlikely alliance. First, Betty Sinclair the chair of NICRA provided an affidavit outlining the history of the civil disobedience campaign and how it had formally ended in March 1976. Second, John Taylor then an MP outlined how when he had introduced the legislation it was only to deal with a specific emergency and was never intended to deal with debt caused by poverty and that this was made clear in the debate on the passage of the Bill through the then Stormont Parliament. John Taylor's affidavit was particularly useful, and, on meeting him to get support for the case, it helped that he was particularly irked by the fact that the government had threatened to use the Act to combat a threatened withholding of business rates in response to the signing of the Anglo-Irish Agreement in November 1985.

The Law Centre instructed Reg Weir and Seamus Treacy, while Crown Counsel for the Secretary of State was Brian Kerr. The case proceeded to court, until the day before the hearing, in January 1990, when a call was received from Brian Kerr offering to settle the case on the basis of repaying the grant to Trevor Kerr; furthermore, the Secretary of State would declare the emergency had ended in line with the legislation, and the Act would subsequently be repealed within six months (in line with the provision outlined above). All of this was on condition of no publicity about the settlement. Agreement was reached and, the following week, the (then) Secretary of State Peter Brooke announced the intention to repeal the Act. Subsequently, the Payments for Debt Act (Emergency Provisions) Order was made, repealing the Act from 24 July 1990.

In producing the research, I recall examining public debt recovery legislation globally only to discover that legislative provision public debt was more draconian in Northern Ireland than anywhere else in the world. The experience has echoes of the recent work on comparing amnesties to deal with post-conflict situations, which also placed Northern Ireland at the top of a similarly unenviable global league table on the scope of legislation and the failure to apply due legal process.

Plus ca change, plus c'est la meme chose.

A feminist recovery? TEO's engagement with the women's sector in the wake of Covid-19

Aoife Mallon, Independent Contractor, Women's Resource and Development Agency (WRDA)

The Northern Ireland Women's Policy Group (WPG) published its original *Covid-19 Feminist Recovery Plan* in July 2020 and relaunched the Plan in July 2021 with updated evidence, recommendations, and findings from its primary research. Both plans outline the disproportionate impact of the pandemic on women and make policy and legislative recommendations for how to address this impact.

Since July 2020, the WPG Feminist Recovery Plan has been widely disseminated among the general public and political representatives. The WPG sent the full Plan, bespoke briefings, reports, and presentations on the Feminist Recovery Plan to public officials, public agencies, and government ministers. Bespoke departmental reports were sent to all government departments, along with requests for Ministers to meet with the WPG to discuss these reports. In most cases, these requests were either ignored or rejected.

In August 2021, The Executive Office (TEO) published its own Covid-19 Recovery Plan, *Building Forward: Consolidated Covid-19 Recovery Plan*. Despite being aware of the WPG Feminist Recovery Plan, there are significant gaps within TEO's Recovery Plan, in terms of addressing the disproportionate impact of the pandemic on women. Furthermore, minimal engagement has taken place between TEO and the women's sector in the development of TEO's Recovery Plan. Engagement requests from TEO have not been meaningful and in several cases have provided women's sector organisations with extremely short timeframes to submit responses.

TEO began consulting on their Covid-19 Recovery Plan in June 2021. At this time, a limited number of organisations were invited to respond and were only given five working days to do so. The Women's Resource and Development Agency (WRDA) was invited to provide views on the TEO Covid-19 Recovery Plan on Friday 25 June 2021, with a deadline of Friday 2 July 2021. In response, the WPG sent TEO the full relaunched WPG NI *Covid-19 Feminist Recovery Plan*, which outlines the actions required by TEO to address the impact of the pandemic on women.

At the time, WRDA raised concerns with TEO that five working days was not enough time to facilitate meaningful engagement with the sector. For reference, the minimum amount of time recommended for public consultations is 12 weeks, according to best practice guidelines by the Equality Commission for NI (ECNI). The WRDA also submitted a joint complaint with CAJ and the Women's Budget Group (WBG) about the lack of equality screening by TEO on their Covid-19 Recovery Plan.

TEO then published an equality screening of their Recovery Plan in November 2021 and gave organisations three working days to respond. WRDA was invited to provide views on this document on Wednesday 24 November 2021 with a deadline for submitting views on Monday 29 November 2021. In response, WRDA sent a letter to TEO explaining that this short deadline meant that WRDA could not respond to the Consultation. This sentiment was shared among several women's sector organisations who also could not respond to the consultation as a result of the three-day deadline.

Through a comparison of the WPG Feminist Recovery Plan and TEO's Recovery Plan, it is clear that significant gaps exist in the latter, in terms of addressing the disproportionate impact of the pandemic on women. This is demonstrated by the limited references made to women, the vague strategic commitments, and the limited equality screening done on the plan.

Within the 38-page document, TEO make seven references to 'women,' one reference to 'gender', and one reference to 'childcare.' In this document, TEO acknowledge that the pandemic has had a disproportionate impact on women, particularly with regards to employment, and that women continue to be disadvantaged by the gender pay gap. TEO also recognise that levels of domestic abuse have increased during the pandemic.

TEO make several commitments to reducing gender equality and suggest several strategies for addressing these inequalities. These include: increasing the availability of affordable and accessible childcare, implementing the Violence Against Women and Girls (VAWG) Strategy, and delivering the social inclusion strategies.

Women's employment, domestic abuse, and childcare are a few of many significant areas of gender inequalities that exist in Northern Ireland. Other gender inequalities highlighted in the WPG Feminist Recovery Plan, which are not identified in the TEO Recovery Plan, include: gender segregated labour markets; the unequal distribution of care work; women's poverty; inequalities faced by ethnic-minority, transgender, rural, and disabled women; women's mental health; climate justice; the impact of paramilitarism on women; abortion; women in prisons; misogynistic hate crime; honour-based abuse; rape culture; and online abuse. These inequalities existed before the pandemic, but, in many cases, have been exacerbated as a result of the pandemic.

The equality screening of TEO's Recovery Plan recognises that "all aspects of our society have been affected [by the pandemic], with elderly, women, young people and low-paid workers some of the hardest hit" and that "it will take 10 years to reverse the pandemic's economic impact on women". Despite this, the document makes very little reference to women and, where it does, the analysis of how women have been impacted by the pandemic and how TEO will attempt to address this is extremely limited.

There is also a lack of understanding of intersectionality within the equality screening or recognition of how people who fall into multiple Section 75 groups have been impacted by the pandemic. In regards to intersectionality, TEO state that: "It is intended that all those within the S75 [Section 75] equality categories, including those who fall into more than one S75 equality category will be positively impacted by the Consolidated Covid-19 Recovery Plan. For example, young, single mothers."

However, the intersectional harms of sexism, racism, ableism, and transphobia are not recognised or discussed. For example, TEO recognise that Black Asian and Minority Ethnic (BAME) communities have been disproportionately impacted by Covid-19, but offer no recognition that BAME women are among the worst impacted from this group, as they are disadvantaged by multiple intersectional harms, such as racism and sexism. Furthermore, TEO recognise the disproportionate impact of the pandemic on disabled people, but do not consider the intersectional harms faced by disabled women, such as sexism and ableism.

There are also multiple sections of the screening document that discuss issues predominantly faced by women without recognising that they are gendered issues. For example, TEO state that "The Pandemic has required people with children to provide home-schooling in addition to balancing their regular work and domestic commitments", and that "people with caring responsibilities for elderly or disabled relatives have received less help during the pandemic and will need additional assistance to re-establish a work/life balance". However, there is no recognition that women provide the majority of this care work (which is mostly unpaid) and have been most impacted by increased caring responsibilities during the pandemic.

The rural impact assessment for TEO's Recovery Plan makes no reference to rural women or the need to take targeted action to address the disproportionate impact of the pandemic on this group. In this assessment, TEO notes that no steps were taken to identify the social and economic needs of people in rural areas and justify this on the basis that, "Departments have engaged directly with stakeholders and gathered evidence relevant to the interventions they are responsible for to identify the social and economic needs of people in rural areas."

TEO reference the social inclusion strategies as a solution to the adverse impacts of the pandemic on Section 75 groups. However, there is no timeline offered for the delivery of these strategies and the current political turmoil and upcoming election in May 2022 means that it is unlikely that these strategies will be approved before the end of the political mandate. Furthermore, because the TEO Recovery Plan is not an official Programme for Government (PfG), everything in the Plan can be subject to Executive veto, including the social inclusion strategies. This means that there is no guarantee for when or how these Strategies will be implemented.

In recent years, there has been an increasing tendency by TEO to rely on the willingness of the voluntary and community sector to respond to consultations within unreasonable periods of time. These short timeframes do not provide the sector with the opportunity for meaningful engagement.

The women's sector has faced funding challenges for many years, alongside additional challenges in working to support women throughout the Covid-19 pandemic. In the current political climate, there has been an unprecedented number of public consultations, surveys to support Private Members' Bills, and calls for evidence submissions, which has increased pressure on an already constrained sector.

Women's sector organisations, collectively represented by the WPG, have significant expertise and experience regarding the issues faced by women in Northern Ireland. The WPG regularly offers its experience and expertise to public officials when asked to engage with them on policies or legislation that may impact women in Northern Ireland. However, meaningful engagement in public consultations can only be achieved when reasonable amounts of time are provided for organisations to respond.

Women in Northern Ireland have been disproportionately impacted by the Covid-19 pandemic; financially, socially, and in terms of health. It is crucial that legislative processes on issues relating to women are accessible and open, as understanding women's lived experience is crucial to tackling the disproportionate impact of the pandemic on women.

WRDA has produced a guide for public authorities when engaging with women through public consultations titled *Putting Women at the Heart of Public Consultations*. WRDA ask that TEO and all public officials consult this document before opening public consultations and inviting organisations to engage with them on legislative and policy development.

Good news on the horizon for abortion access!

Alliance for Choice

Why is it in the struggle for abortion rights, access and justice, the 'good news' is always just out of reach or 'on the horizon' somewhere? Reflecting on the year that was 2021, this, in short, was the case yet again.

Despite the fact that Convention on the Elimination of Discrimination against Women (CEDAW) compliant law has been enacted as primary legislation since October 2019, the NI Executive under the auspices of the Robin Swann, the NI Health Minister, has continued with the obstruction of decent and adequate abortion healthcare provision across Northern Ireland. Having deemed abortion healthcare 'controversial', and therefore the charge of the full Executive, rather than his responsibility as Health Minister, he has continued with the obstruction of commissioned abortion services.

In effect and throughout the second year of an unprecedented pandemic, this means that it falls to each of the five NI Health Trusts and the dedicated health staff therein to fund, staff, and provide the abortion provision they are able to. To date, despite the ability of the NI Department of Health (DoH) to provide central governance and information for women and pregnant people to access abortion healthcare, they have chosen not to do so irrespective of the confusion and distress that it causes abortion seekers.

It is fair to say, we are far from the place we were prior to the decriminalisation of abortion in NI. Early Medical Abortion (EMA), that is, abortion via pills, is available in four out of the five Health Trusts across (NI). Despite support, financial or otherwise, from DoH, a local charity organisation, Informing Choices NI (previously known as the Family Planning Association NI), provided consistent and reliable advice and information on family planning services, including abortion service provision. They had done

so for many years, advising countless women and pregnant people who were forced to travel in the absence of any statutory provision or information.

Regrettably ICNI had no choice other than to withdraw the only central access point for abortion provision in NI in October 2021, as a direct consequence of no funding from the DoH. Since that time, the British Pregnancy Advisory Service (BPAS) in conjunction with four of the five Health Trusts has been providing pathways to abortion (NI) up to nine weeks six days gestation and via medical abortion only. Unlike England, Scotland, Wales, and the Republic of Ireland, abortion telemedicine is not available in NI, despite the fact it is recommended by the World Health Organisation (WHO) and the benefits of such provision would ease not only access for those who need but also ease pressures on the Health Service during a pandemic. In fact, a number of countries, including France and Australia, now provide abortion telemedicine as a matter of course and because such medication is deemed safe to administer at home with medical advice and supervision.

Since decriminalization of abortion, the majority Health Trusts and their staff - who are conscientiously committed to the provision of abortion healthcare - have worked steadfastly to ensure that most of those who need abortion can access it. The one exception is the Western Health Trust, which without proper commissioning, funding, and staffing from DoH, is unable to provide any abortion services. The remaining abortion provision - that is later gestational abortion and surgical abortion - is ostensibly provided in England, and those who require it, arguably the women who should least be travelling for healthcare, are those forced to do so.

Ironically, the refusal on the part of the Health Minister to commission abortion services means the very women like Sarah Ewart and Ashleigh Topley who campaigned tirelessly and selflessly are now the people being denied the necessary healthcare provision at home.

In the summer of 2019, Alliance for Choice and a number of campaigning organisations met with the (then) Secretary of State for NI, Brandon Lewis, who stated that he had taken the unprecedented step of directing the Department of Health NI to bring forward a paper to the NI Executive on commissioning CEDAW complaint abortion provision, to be implemented no later than March 2022. Brandon Lewis also gave commitment that if this was resisted by the Executive, he would direct the Executive accordingly and had the powers to do so.

In tandem with the pull and push on abortion access in NI were the cynical decries of the Democratic Unionist Party (DUP), and other anti-choice lobbies, who referred to the actions of the Secretary of State as 'undemocratic'. They do so in the full knowledge that human rights, and the abuse of such, is not a devolved matter. In addition, the same people who were so concerned about 'interference' from Westminster had no issue exporting tens of thousands of women and pregnant people to the UK for decades prior to decriminalisation. The attempts to thwart the legislation continued with a Private Members' Bill (PMB), initiated by Paul Givan (DUP), and eventually transferred to Christopher Stalford, which sought deliberately and wrongfully to entangle and conflate disability rights with abortion rights for purposes of limiting reproductive rights for everyone, people with disabilities included. It is questionable how the PMB passed scrutiny given it directly contravened human rights and primary legislation. However, following an intense period of lobby from campaigning groups including Alliance for Choice, the Bill was voted down at Assembly consideration stage.

As of January 2022, Alliance for Choice understand that an paper on commissioned abortion services will go before the NI Executive in the coming weeks. In

other positive developments, Clare Bailey, Green Party MLA, has tabled a Private Members' Bill to create safe zones outside abortion clinics, which has progressed to Health Committee stage and has received cross-party support, with the exception of those who would deny women and pregnant people their reproductive rights, irrespective of any circumstances.

What is clear is that (NI) abortion rights, access and provision is headed in the right direction. Whilst we are not confident that March 2022 will bring everything that is needed to fulfill not simply reproductive rights, but reproductive justice, we are certain that until free, safe, local, legal, and stigma free abortion is readily available for every woman and pregnant person who needs it, Alliance for Choice, as well as all the other individuals and organisations who have campaigned tirelessly, won't be taking anything for granted. We are tired, we are frustrated, and at times we are angry, really angry, but if the past 25 years of the existence of Alliance for Choice shows us anything, we aren't going anywhere anytime soon and we are as determined as ever to ensure reproductive justice is all that it should be for every woman and pregnant person in NI.

ALLIANCE FOR CHOICE

Peace as an opportunity for Colombian people: Five years of the agreement implementation

Daniela Casagui, advisor at the National Center for Historical Memory in Colombia and PhD student at the Complutense University of Madrid

Human rights and peace will always be an important combination for the development of a country, the world, and humankind. After 58 years since the end of the Second World War and the Charter of the United Nations, peace is seen as a distant utopia that seems unattainable, when considering all the contexts of violence taking place in many regions worldwide today. It is fair to say that the right to peace is violated in those places where violence continues to play a leading role in regional contexts.

Peace constitutes a value, a principle, and a goal. It is an element inherent to the personality of most individuals and, as well as human rights, is part of our common human heritage. The conviction of the need for peace has been shared across cultures, countries, and states, where some have done their best for it to be incarnated through political-legal action and individual-collective fight. If peace is a value of human civilizations, then defending and promoting it is an ethical principle which, when acquiring a legal shape, is transformed into a right. The violent realities in many countries justify the effort to promote peace again and make it part of the political, social, cultural, and legal discussion. On the other hand, war is the denial of the right to life, which is why peace becomes a necessary expression of the acknowledgement of the right to and respect for life. Thus, it can be understood that peace is the fight against all kind of violence and the possibility of a peaceful coexistence required for the full realization of humankind.

On November 24, 2016, the Colombian state and the former Farc-EP guerrilla leaders signed the Final Peace Agreement, with the objective of putting an end to over 50 years of internal armed conflict, which has left more than 260,000 dead and impacted more than 9 million victims. This Agreement has implied a political change, where there has been a reconfiguration of Colombian politics, creating clear new agendas for transformation. In parallel, the agreement has allowed a social and cultural change, where discussions involving peace and war have in fact become a matter of national debate and worldwide reference.

The Agreement is made up of 6 chapters: I) Comprehensive Rural Reform, II) Political Participation, III) End of the Conflict, IV) Solution to the Illicit Drugs Problem, V) Agreement regarding the Victims of the Conflict, and VI) Implementation, verification, and public endorsement. The following chart shows the percentage of implementation of the first five years of the Agreement (2016-2021).

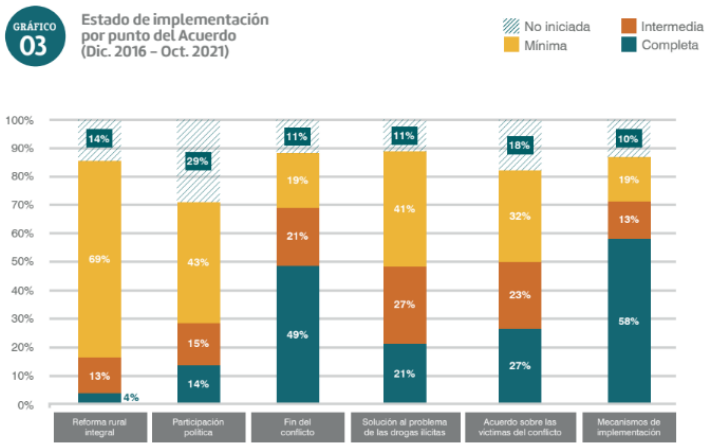


Image 1 (above): Taken from: "Five Years of Peace Agreement Implementation in Colombia: Achievements, Challenges, and Opportunities to Increase Implementation Levels". 2021. Kroc Institute

As seen above, items 3 and 6 have had an adequate implementation. Items 4 and 5 are progressing; however, there must be a commitment to continue with their implementation pace, otherwise they will fall behind. Finally, the critical and concerning items are 1 and 2, which do not show major progress and clearly will not be met within the established deadline. From the total of 578 provisions stated in the Agreement, 30% has been completed (172 provisions), 18% has reached an intermediate level of implementation (106 provisions), 37% is currently at a minimum status of implementation (211

provisions), and 15% has not started its implementation (89 provisions).

During the internal armed conflict in Colombia, there were serious human rights violations, and the Final Peace Agreement seeks to repair the damages caused by war, considering that the victims are the center of the transitional justice process. The Agreement has been a great inspiration for the world and has become a political, social, cultural and legal tool for the defense and protection of human rights in Colombia. As shown before, there have been significant achievements in the implementation of the Agreement; however, the setbacks and challenges that it faces today cannot be ignored. Whilst the Agreement seeks to protect life and persons, violence continues to increase in the country; from the day the Agreement was signed to December 2021, the following events have been recorded: 238 massacres, 292 former fighters killed, and 668 social leaders and human rights defenders killed.

Peace does not come overnight, but it is the duty of the state and the society to understand that the Agreement is a primary tool to reach social justice and to prevent more violence from happening on Colombian territory. On the other hand, the pandemic had an impact on the dynamics of the armed conflict in Colombia and in turn, on the implementation of the Agreement. The mandatory confinements and the accelerated transmission and deaths due to Covid-19, forced the State to take preventive measures which restrained Colombian society and paralyzed the economy affecting millions of people.

This situation led to a series of national demonstrations; strengthened the presence of the illegal armed groups in the territories; delayed the works in the Territorially Focused Development Programmes (PDET in Spanish); increased the threats, massacres, and killings; and hindered the works undertaken in territories with victims in aspects regarding reparation, truth and memory, thus increasing violations to human rights in Colombia. Currently, the preventive measures are getting softer

due to the vaccination plan, which allows a greater possibility for the implementation of the Agreement, as well as a greater opportunity to reach the territories and the people.

Nonetheless, the present scenario remains alarming, violence is taking over the regions affected by the conflict and each death or event of violence sends a discouraging message to the communities that are still waiting for the promises of the Agreement. However, as António Guterres said in his last visit to Colombia, it is not too late to revert the trend. These first five years of the Agreement sowed an important regulatory and institutional structure, so that there is a more solid path for the full implementation in the coming years. It is worth noting that a new president – government - will be elected this year, and his/her priority must be the full and efficient implementation of the Agreement, considering that in the current administration it was shown that, thwarting the execution of the Agreement simply affected Colombian people and their pursuit for a stable and lasting peace.

The right to peace is a need for the action against violence that every day infringes the rights of people. In Colombia, people have come to the point of normalizing the violation of human rights and the society has had to get used to living among violence. With the Agreement, Colombians have the opportunity to build a new path to strengthen the true democratic rule of law, and become fair defenders of human rights.

Colombia must focus on the opportunities to increase the levels of implementation of the Agreement in the next five years and truly believe that war cannot be the way.

Equality Coalition seminar with the Shadow Secretary of State - Can Stormont Deliver on Equality and Human Rights?

Robyn Scott, Communications & Equality Coalition Coordinator

In January 2022, the Equality Coalition held a seminar for its members featuring the new Shadow Secretary of State, Peter Kyle MP, who has been in position since November 2021. The seminar was the first major engagement between the Shadow Secretary of State and the Coalition - through direct conversation with its members, Mr Kyle was provided with a broad introduction to the Coalition and its work.

At the start of the seminar, Daniel Holder (CAJ) presented the key issues captured within the Coalition's 2022 'Policy Asks' document. These 'asks' were developed subsequent to an extensive mapping exercise by CAJ that examined what progress has been achieved towards implementing a range of rights-based commitments made as part of the NI peace settlement. Despite more than two decades elapsing since the Good Friday Agreement was reached in 1998, many of these commitments have not been actioned, or have only been partially fulfilled.

Following the presentation, a panel of Coalition members shared their experiences of battling through the current structures to progress rights and equality issues within NI. They included: Trása Canavan, Barnados on the statutory duty to adopt an Anti-Poverty Strategy; Danielle Roberts, HereNI and Alliance for Choice, on the LGBTQI+ Strategy, reproductive rights in NI, and the implementation of the CEDAW inquiry; Conchúr Ó Muadaigh, Conradh na Gaeilge, on Irish language legislation and strategy;and Claire Kemp, Children's Law Centre, children's rights and age legislation.

The event closed with some reflections from Mr Kyle:
On hearing from the Coalition: "I sense from listening to everyone and looking at everybody's facial expressions and reactions to some of the facts, the figures, the opinions, and the insight and wisdom of the people who've spoken, just the sense of sheer frustration that many of you feel. Not only am I grateful for you being here and sharing your insight and experience with me, I'm also very grateful for the tenacity that you've shown over such a long period of time. I'm very aware that I've been in post for less than two months … and that you have been fighting these battles and inching forward in some of the areas that you care so passionately about, when at times you should have been taking leaps and bounds."

On the Good Friday Agreement: "It's one of the most accessible international treaties that I've ever come across. So it's always a pleasure to read it. I've read it three times through since I was appointed again … [it is] a foundational agreement for the era that Northern Ireland is living through … The reason why I've read the Good Friday / Belfast Agreement so many times since I came in is because there is a lot in the letter of that agreement that has not been implemented. I think the most glaring thing is the Bill of Rights."

*On legacy proposals: "*We've gone through a period where repeatedly majority opinions in the population of Northern Ireland - and even the majority opinions of elected people in Northern Ireland - have not expressed [themselves] in the policies that have transposed, either through the blockage of policies or through policies that have been imposed via Westminster. And just in the short time I've been appointed, we've seen it time and again with legacy proposals very clearly not having the consent of people in Northern Ireland, not having consent even at Stormont, not even having consent of the majority view of the people who are Northern Ireland representatives who take their seats in Westminster; a complete abrogation of the spirit of the Good Friday agreement."

On Irish language rights: "It's one of these things that was agreed and has been delivered, but actually needs now to be rolled out … I would like to come and visit [an Irish language school]. Because language is not just a technical thing that can be described in a virtual conference. I understand that it is an emotional and it strikes at the heart of people's identity."

On the Bill of Rights: "The Labour Party policy is that we will deliver the Bill of Rights that was agreed to in the Good Friday Agreement … We are looking forward, rather than actually being able to rewrite the past failures unfortunately. We want the Northern Ireland Human Rights Commission (NIHRC) to be commissioned to deliver a set of proposals as to how that would play out in practise. We need now to see the nuts and bolts of what it would look like, and how it can be implemented, and what would be the framework for implementation.

"We know that there are reports in the Westminster Parliament and Stormont Assembly on the Bill of Rights which are outstanding … We think they should form a bedrock for moving forward … there are outstanding international commitments that need to be delivered upon, which we believe does empower the Northern Ireland Secretary to get cracking with this and no longer delay. And there certainly needs to be a signal of intent very rapidly on this. And I'm very happy to give the commitment that hopefully when I become Secretary of State for Northern Ireland, [the Bill of Rights] would be a priority."

Equality Coalition

Shanaghan family responds to 'Operation Greenwich'

'As in life, Patrick was in death, denied the most basic of human rights' - Shanaghan family

The family of Patrick Shanaghan have been on the long road to truth and justice for Patrick since his murder on 12 August 1991, a day after his 33rd birthday, as he was driving to work at the DoE Roads Service in Castlederg. Patrick, from Castlederg, was the only son of Philip and Mary Shanaghan, and older brother to Mary and Anna. The Ulster Freedom Fighters (UFF), a known cover name for the then legal Ulster Defence Association (UDA), claimed responsibility for his death.

Patrick complained of continuous harassment for a decade by the RUC, UDR, and British Army, and was stopped on an almost daily basis. Between 15 April 1985 and 19 May 1991, he was arrested and detained 10 times. His family home was subjected to repeated searches, yet no illegal material was ever found. Patrick was subjected to death threats from the RUC when detained at Castlereagh Holding Centre. He was shot and killed after personal information and photographs identifying him 'fell off the back of an army lorry'.

In 1996, a community public inquiry was held in the absence of any effective official investigation. It was chaired by retired US judge Andrew Somers who concluded: "I have never seen a case where all the evidence loudly points to one conclusion. Patrick Shanaghan was murdered by the British government and more specifically with the collusion of the police."

Five years later in 2001, the European Court of Human Rights vindicated the Shanaghan family following a case taken by Patrick's late mother Mary, which was supported by CAJ. The court found that the UK violated the right to life (Article 2 of the European Convention on Human Rights) by failing to adequately investigate Mr Shanaghan's murder, stating that Patrick's case "is a situation, which to borrow the words of the domestic courts, cries out for an explanation".

The judgment in *Shanaghan v UK* and five other troubles-related cases taken from Northern Ireland proved seminal in developing the caselaw on what an Article 2 ECHR compliant investigation should look like. The Court held that such investigations must be independent, effective, prompt, involve the next of kin, and be public. In response to these cases, the UK said that the establishment of the office of the Police Ombudsman in Northern Ireland would be a mechanism to investigate police wrongdoing.

In January 2022, Marie Anderson, the Police Ombudsman, published a Public Statement into Patrick's death as part of 'Operation Greenwich', which relates to a series of 19 murders and three attempted murders committed across several counties between 1989 and 1993 by the Derry/ North Antrim UDA/UFF, including killings committed in Greysteel and Castlerock. The statement references the definition of collusion provided in the Stevens Inquiries as including the "wilful failure to keep records, the absence accountability, the withholding of intelligence and evidence, through to the extreme of agents being involved in murder", and reports all of these elements have been identified in the conduct of former RUC officers in relation to a number of the cases examined under Operation Greenwich.

The Ombudsman concludes that the assault rifle used in Patrick's murder was part of the loyalist arms importation from apartheid South Africa. In relation to the RUC preventing a local doctor from accessing Mr Shanaghan after the attack, the Ombudsman concludes, "The decision not to afford Mr Shanaghan urgent medical assistance at the scene was incorrect", recording that one RUC officer subsequently received a disciplinary sanction. The Ombudsman, however, cites gaps in her powers as resulting in her being unable to investigate the Shanaghan family's complaints that, prior to Patrick's murder, there were beatings in custody and death threats against Patrick from RUC officers. The Ombudsman stated it was not presently in her legislative remit to investigate these complaints as they had previously been investigated by the RUC. The Ombudsman was also unable to reach a conclusion on the family's complaints that the actions of the RUC in the run up to Patrick's murder constituted harassment. This was on the basis of factors including the absence of records relating to arrests and repeated stop and searches. The Ombudsman does, however, "fully acknowledge the family's perception that the nature and frequency of interactions with police amounted to harassment".

While the Shanaghan family has welcomed the Ombudsman's findings that their concerns about the occurrence of collusive activity were justified, they expressed disappointment and concern that key aspects of their complaints relating to the actions of RUC officers prior to Patrick's murder could not be dealt with.

In a statement, the family commented, *"*What is most distressing for us was the blatant disregard the RUC had for Patrick's life and the inexcusable refusal of police to allow medical assistance for Patrick after he was shot. As in life, Patrick was in death, denied the most basic of human rights'. Our family will never have Patrick back again and nothing can undo the suffering Patrick had to endure. We stated at the time of Patrick's murder that we did not want any reprisals and did not want another family to suffer what we suffered and we still stand by that sentiment. But that does not mean we want the suffering that Patrick endured to go unnoticed. We want people to know what Patrick had to endure in his daily life and the ultimate sacrifice he made because he refused to be driven from his home."

A Bill of Rights for Northern Ireland?

Professor Colin Harvey, School of Law, Queen's University Belfast

The Good Friday Agreement (GFA) created well-founded expectations that human rights should become central to the special arrangements in Northern Ireland. Many will recall the optimism and hope of 1998, a feeling that a 'new beginning' had arrived. There was also wariness among those who worried about complacency and the various ways that agreements can be undermined. The deployment of the language of human rights does not necessarily mean a firm commitment to serious social change.

The last two decades have demonstrated that the vigilance and caution were merited. A robust and inclusive human rights and equality agenda is a prominent casualty. The reasons are complex and nuanced; and gains made, which are significant, must be acknowledged. The role of rights activism in making piecemeal progress is remarkable, as people continue to find creative ways, locally and globally, to navigate difficult circumstances, and thus achieve practical outcomes in the here and now. With so much attention - quite rightly - on the past, and on the future, there is a risk that the grim realities of the present will be neglected.

There is no Bill of Rights for this region. But the Human Rights Act 1998 remains, for now. The Protocol contains a notable rights and equality guarantee, and people will hopefully make effective use of it. The equality and non-discrimination picture is fragmented, underused and risks falling far behind other contexts. Brexit, and the actions of the current British government, fuel anxiety that even the floor of protections here may be removed. The Conservative Party has no doubt learned the tactical value of chipping away at, and 'hollowing out', agreements. Human rights activists everywhere know the part that discursive 'window-dressing' can play, how normative worlds can be dismantled by attrition, and thus are aware that focused attention is required. Maximising the impact of what is there, and not permitting protections to be further eroded, will be core to the next few years.

Where now for the Bill of Rights? A question that has been asked many times in the last two decades. A process that was formally launched in March 2000 has still not produced the sort of comprehensive framework of guarantees that many here expected and want. The NI Human Rights Commission delivered its final advice on 10 December 2008, and the reaction of the-then Labour government is well-known. A stalemate emerged, the familiar one that has blighted dialogue about rights and equality for years.

The insertion of a novel requirement for cross-party agreement has been disastrous. Even though evidence consistently suggests strong societal support, a major blockage within political unionism is the primary impediment. *New Decade, New Approach* confronted this political challenge directly. It led to the creation of an Ad Hoc Committee of the NI Assembly to map ways forward. Thus far, this process has confirmed once again where the obstacle resides and is a sharp reminder that the Bill of Rights was supposed to be enacted at Westminster.

There is work to be done in preparing the ground well for the correct moment to advance this project to completion. People should not give up and are right to insist on an ambitious agenda for change, but equally need to be careful about a Westminster government not known for its dedication to equality and human rights. The revived attempt to 'update' the Human Rights Act 1998 carries severe risks for Northern Ireland and is yet another destabilising proposition to add to an expanding list.

Approaching the 25th anniversary of the Good Friday Agreement in 2023, the vote on the Protocol in 2024, and with the NI Assembly election this year, there are wider questions raised. How have mechanisms designed to assist rights-based power sharing ended up doing the precise opposite? Many are asking and this will only intensify as the desire for social change grows. A Bill of Rights could assist, and although prospects appear bleak at present, history tells us that we should keep going.

Something that does not need to be said to the resilient and determined readers of *Just News*.

Coronavirus and human rights FAQ: Facemasks, vaccines, and vaccine passes

Is having to wear a facemask an abuse of human rights?

No. First it is important to remember that you cannot invent specific human rights. Human rights are set out in international standards developed by the UN or the Council of Europe (the regional body overseeing the European Court of Human Rights, which is a separate body from the EU.)

Human rights standards set both positive and negative obligations. Negative obligations prevent public authorities from doing particular things (e.g. torture, arbitrary arrest, unfair discrimination). Positive obligations oblige public authorities to proactively intervene and take protective measures, including taking reasonable steps to protect life and safeguard the right to health.

There is no 'right not to wear a facemask' in human rights law.

Conversely, there are positive obligations on public authorities to take reasonable and proportionate steps to prevent the transmission of coronavirus to protect human right to life and the health of others. As there is clear evidence facemasks reduce the risks of covid transmission, promoting the use of such masks in such a context furthers positive human rights obligations. Even when we consider the extent to which being made to wear a facemask relates to restricting actual recognised human rights, there would still not be a *breach* of rights provided this restriction can be *justified* under human rights law.

Aren't human rights about protecting my personal liberty to act as I wish and make my own individual choices?

No. The Universal Declaration of Human Rights says, at Article 1: "All human beings are born free and equal in dignity and rights." Freedom and rights for all can only be achieved through equality and dignity. As the Preamble to the Universal Declaration says: "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." We must live as a human family, not with a selfish disregard for the rights and freedoms of others.

Human rights standards are quite different from arguments grounded in individual libertarianism which pay no regard to the rights of others. The language of rights may be used by such persons opposed to vaccines, social distancing, or facemasks, particularly when referring to personal choices and actions, but that does not mean it is grounded in human rights law.

To give a practical example, whilst one person may argue it is their 'right' not to wear a face mask, or refuse to socially distance, this may in practice restrict the freedom of another person who is elderly or who has a health condition and wishes to get the bus or go to a shop. The choices of the vulnerable individual are therefore choices limited by the heightened risks of catching covid through proximity to an unmasked person.

Has a human rights approach anything to say about restrictions introduced in response to Covid?

Yes. Whenever the State takes powers that allow it to restrict people's lives and activities, these powers may come into the scope of human rights laws. International human rights law, and our own Human Rights Act, which incorporates the European Convention of Human Rights (ECHR) into domestic law, protect many rights, such as the right to life, the right not to be tortured, the right to a fair trial, the right to a private life, and many others. However, those rights, except the right not to be tortured, are not absolute. They can be restricted in strictly defined circumstances if there are justifiable reasons. In many practical circumstances, the exercise of certain rights can be restricted to meet a recognised 'pressing social need' or competing rights need to be balanced. When that happens, we need to apply the human rights test.

Can you define the human rights test?

Yes. For many ECHR rights any measure which results in the restriction of or interference with a right 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). So, any restriction on these human rights must have lawful authority, usually under a new or existing piece of legislation. It must be for a recognized legitimate aim. It must be necessary, which doesn't just mean 'desirable' or 'convenient', rather it means there is a pressing social need to implement that restriction and no lesser method will do. Lastly, the

interference with a right must be proportionate – the harm to be prevented must be significantly greater than the harm done by restricting rights. All that has, of course, to be evidenced, not just asserted by the state.

Is it compatible with the human rights test to be made to wear something like a facemask in certain situations *or risk a fine*?

Yes, where there are good public health reasons to do so. For a long time, the law has obliged people, on threat of a fine, to wear seat belts or crash helmets for similar reasons - namely that it is effective in saving lives and preventing other bodily harm.

To the extent to which a restriction engages rights like the right to private life, the human rights test, as well as assessing whether the measure is clearly set out in law, will look at whether the restriction follows a permitted 'legitimate aim'. In this case it is straightforward to identify at least two permitted legitimate aims namely: The "protection of health" and: The "protection of the rights and freedoms of others." (this latter right refers to recognised human rights of others, including the right to life).

The next step would be to assess the proportionality of the restriction. This would include consideration of the limited nature of the restriction (wearing a facemask is not particularly onerous), and the proportionality of the sanction. One important consideration is the extent to which the measure would contribute to achieving the legitimate aims identified above. In this instance, since there has been an increasing body of evidence showing that face coverings reduce the risks of Covid-19 transmission, there will be little difficulty in these tests being met. It should be noted that with a new or mutated virus, the full evidence base may only emerge over time and a precautionary approach may be taken.

Another relevant consideration would be the likelihood of having to introduce measures that are much more restrictive in human rights terms - such as 'lockdown' type provisions - if lesser restrictions - such as obliging the wearing of facemasks - are not implemented.

A *blanket* requirement for facemasks *without exemption* would, however, engage risks of discrimination against people who are not able, or cannot reasonably be expected to, wear face masks. The present NI Regulations, in addition to being restricted to particular circumstances, do provide exemptions, including for persons with a disability or particular health conditions that make wearing a facemask very difficult.

It is important to stress that under human rights law any form of differential treatment does not necessarily constitute discrimination and discrimination must, in any case, be on the basis of a recognised *protected characteristic*. Protected characteristics include disability, ethnicity, and gender. Consistent with human rights standards, the long overdue NI Bill of Rights was also to protect against unfair discrimination on the basis of health status.

Holding personal views that deny the science around Covid or vaccines have not been held to be a *protected characteristic* on which a legitimate claim of discrimination can be founded.

Does human rights law prevent vaccine mandates?

No, not necessarily. In general terms, vaccination - like other medical interventions - is to be based on informed consent. However, the European Court of Human Rights has held that whilst levels of compulsion *interfere* with a person's rights under Article 8 of the ECHR (right to private and family life), this interference can be *justified* in certain circumstances where it is necessary to control diseases and as such would be found to meet the human rights test we have outlined above.

In a case relating to childhood vaccinations (*Vavřička and Others v the Czech Republic*), where vaccines were not physically enforced, but parents could face a fine and unvaccinated children be excluded from pre-school, the Court found that the policy was compatible with the ECHR in the particular circumstances examined. Some anti-vax groups have argued vaccine mandates breach the post-WWII 'Nuremberg Code' drawn up on the back of the actions of Nazi doctors in concentration camps. Notwithstanding the broader absurdity of comparing Nazi atrocities to public health measures, the Code related to persons being subject to forcible *medical experiments,* not to the provision of vaccines.

Can you apply the human rights test to vaccination passes?

Yes. A vaccination pass being required for access to aspects of social life can amount to an *interference* with the right to a private life, thus engaging Article 8 of the ECHR. This does not, however, in itself mean that the interference could not be *justified* under the terms of the human rights test. The 'legitimate aims' pursued by such a measure would, as with facemasks, centre on the protection of health and

protection of the rights of others (i.e. the right to life, etc). In terms of assessing the proportionality of requiring vaccine passports in certain circumstances for the protection of health, we must consider both the health of those in the social situation in question (including the evidence of reduced transmission of the virus where persons are vaccinated or tested), the knock on effect of reducing pressure on the NHS caused by hospitalisations, and the extent to which the measure is likely to encourage vaccine take-up.

In terms of assessing the proportionality of the restriction and the risks of discrimination on the basis of protected characteristics, an assessment should balance the likely impact of the measure on rights in light of any provisions to provide *exemptions*.

Relevant issues arise for (a) the rights of those who could avail of a vaccine passport that requires the production of proof of identity combined with vaccination status to access aspects of social life, and (b) the rights of those who could not or would not qualify for a vaccine certificate, or do not wish to avail of one whose access to social life would therefore be restricted.

The proportionality test will also depend on the arenas to which a requirement for a vaccine passport is imposed. For example, requiring the production of aa vaccine passport to enter a restaurant or nightclub (with the latter being particularly high risk) does not amount to limiting access to essential services.

In relation to the first category of people who are vaccinated and eligible for a vaccine pass issues around privacy and non-discrimination will depend on the accessibility of vaccines and the pass. In relation to the accessibility of passes, digital access may be convenient for many, but alternative means would be needed to mitigate against 'digital exclusion' of groups who cannot access or use the technology, including on the basis of protected characteristics (such as age, disability, etc). A paper based alternative and digital models that do not store records of usage also reduce privacy concerns. (The current Northern Ireland digital app does not record usage related to an individual.)

In relation to the second category of people, a restrictive impact for persons who are not vaccinated or will not take the vaccine pass can be mitigated by the provision of safe alternatives, such as taking a negative test. People whose health status prevents them from taking the vaccine would also require an exemption to a vaccine pass to prevent discrimination engaging a protected characteristic.

The measures would also have to be clearly set out in law to meet the legal certainty tests, and be time bound for only as long as there is a clear proportionate benefit to the measures in human rights terms.

If all the above those conditions are met, it is highly likely the vaccine passport will be compatible with human rights law if we remain in circumstances where there is a pressing need for additional public health measures to deal with the pandemic.

Are there issues with the way vaccine passports have been legislated for?

Yes. Vaccine passports have been under discussion for some time and, in common with a range of other Covid measures, we do not think it is necessary to use the 'emergency procedure' - whereby the legislation is only debated by the Assembly **after** it has already come into force.

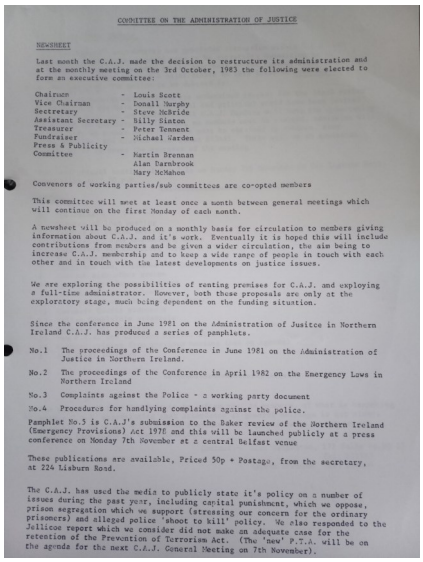
There also appears to be an error in the NI legislation that will require photo ID to be shown even when the CovidCertNI app is used on a mobile phone, which was not the policy intention.

But isn't the price of liberty *still* eternal vigilance?

Yes. CAJ has closely monitored the use of emergency powers to control the Covid-19 virus, as well as their enforcement. Our first briefing paper on emergency regulations was shared in March 2020 and we have published five formal submissions since then, covering, for example, travel restrictions and their impact on the Common Travel Area, the impact of the pandemic on the right to protest, and an analysis of the human rights implications of vaccination passports. We criticized the use of 'Covid fines' by the PSNI against Black Lives Matters protesters on the basis of discriminatory treatment, and a lack of legal certainty over the application of the coronavirus regulations in this particular circumstance. Our position was vindicated by reports from the Police Ombudsman for NI and the NI Policing Board.

A good human rights slogan is **"Keep your eyes open"** -we will continue to do just that.

JUST NEWS through the years from 1983 onward



COMMITTEE ON THE ADMINISTRATION OF JUSTICE

NEWSSHEET

Last month the C.A.J. made the decision to restructure its administration and at the monthly meeting on the 3rd October, 1983 the following were elected to form an executive committee:

Chairman	- Louis Scott
Vice Chairman	- Donall Murphy
Secretary	- Steve McBride
Assistant Secretary	- Billy Sinton
Treasurer	- Peter Tennent
Fundraiser	- Michael Harden
Press & Publicity Committee	- Kerrin Brennan Alan Darnbrook Mary McMahon

Convenors of working parties/sub committees are co-opted members

This committee will meet at least once a month between general meetings which will continue on the first Monday of each month.

A newsheet will be produced on a monthly basis for circulation to members giving information about C.A.J. and it's work. Eventually it is hoped this will include contributions from members and be given a wider circulation, the aim being to increase C.A.J. membership and to keep a wide range of people in touch with each other and in touch with the latest developments on justice issues.

We are exploring the possibilities of renting premises for C.A.J. and employing a full-time administrator. However, both these proposals are only at the exploratory stage, much being dependent on the funding situation.

Since the conference in June 1981 on the Administration of Justice in Northern Ireland C.A.J. has produced a series of pamphlets.

No.1 The proceedings of the Conference in June 1981 on the Administration of Justice in Northern Ireland.

No.2 The proceedings of the Conference in April 1982 on the Emergency Laws in Northern Ireland

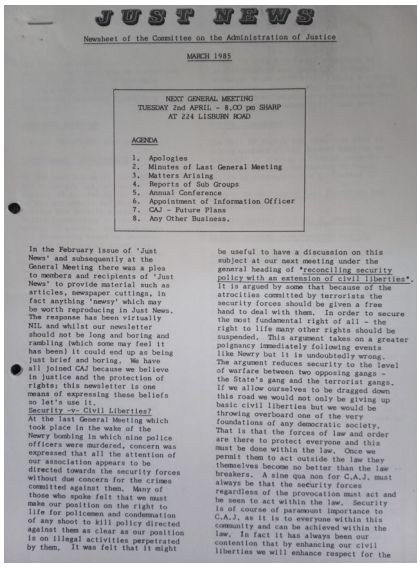
No.3 Complaints against the Police - a working party document

No.4 Procedures for handling complaints against the police.

Pamphlet No.5 is C.A.J's submission to the Baker review of the Northern Ireland (Emergency Provisions) Act 1978 and this will be launched publicly at a press conference on Monday 7th November at a central Belfast venue

These publications are available, Priced 50p + Postage, from the secretary, at 224 Lisburn Road.

The C.A.J. has used the media to publicity state it's policy on a number of issues during the past year, including capital punishment, which we oppose, prison segregation which we support (stressing our concern for the ordinary prisoners) and alleged police 'shoot to kill' policy. We also responded to the Jellicoe report which we consider did not make an adequate case for the retention of the Prevention of Terrorism Act. (The 'new' P.T.A. will be on the agenda for the next C.A.J. General Meeting on 7th November).



JUST NEWS

Newsheet of the Committee on the Administration of Justice

MARCH 1985

NEXT GENERAL MEETING
TUESDAY 2nd APRIL - 8.00 pm SHARP
AT 224 LISBURN ROAD

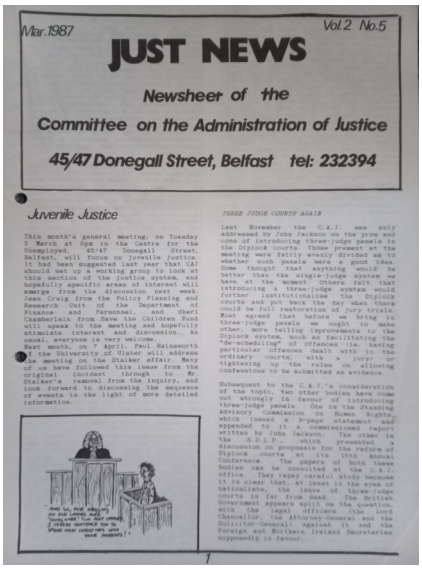
AGENDA

1. Apologies
2. Minutes of last General Meeting
3. Matters Arising
4. Reports of Sub Groups
5. Annual Conference
6. Appointment of Information Officer
7. CAJ - Future Plans
8. Any Other Business.

In the February issue of 'Just News' and subsequently at the General Meeting there was a plea to members and recipients of 'Just News' to provide material such as articles, newspaper cuttings, in fact anything 'newsy' which may be worth reproducing in Just News. The response has been virtually NIL and whilst our newsletter should not be long and boring and rambling (which some may feel it has been) it could end up as being just brief and boring. We have all joined CAJ because we believe in justice and the protection of rights; this newsletter is one means of expressing these beliefs so let's use it.

Security -v- Civil Liberties?

At the last General Meeting which took place in the wake of the Newry bombing in which nine police officers were murdered, concern was expressed that all the attention of our association appeared to be directed towards the security forces without due concern for the crimes committed against them. Many of those who spoke felt that we must make our position on the right to life for policemen and condemnation of any shoot to kill policy directed against them as our position is on illegal activities perpetrated by them. It was felt that it might be useful to have a discussion on this subject at our next meeting under the general heading of "reconciling security policy with an extension of civil liberties". It is argued by some that because of the atrocities committed by terrorists the security forces should be given a free hand to deal with them. In order to secure the most fundamental right of all - the right to life many other rights should be suspended. This argument takes on a greater poignancy immediately following events like Newry but it is undoubtedly wrong. The argument reduces security to the level of warfare between two opposing gangs - the State's gang and the terrorist gangs. If we allow ourselves to be dragged down this road we would not only be giving up basic civil liberties but we would be throwing overboard one of the very foundations of any democratic society. That is that the forces of law and order are there to protect everyone and this must be done within the law. Once we permit them to act outside the law they themselves become no better than the law breakers. A sine qua non for C.A.J. must always be that the security forces regardless of the provocation must act and be seen to act within the law. Security is of course of paramount importance to C.A.J. as it is to everyone within this community and can be achieved within the law. In fact it has always been our contention that by enhancing our civil liberties we will enhance respect for the



Mar.1987 Vol.2 No.5

JUST NEWS

Newsheet of the Committee on the Administration of Justice

45/47 Donegall Street, Belfast tel: 232394

Juvenile Justice

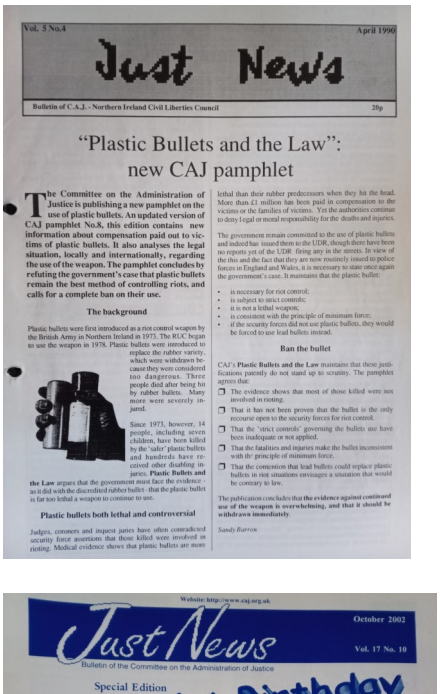
THREE JUDGE COURTS AGAIN

This month's general meeting, on Tuesday 3 March at 8pm in the Centre for the Unemployed, 45/47 Donegall Street, Belfast, will focus on juvenile justice. It had been suggested last year that CAJ should set up a working group to look at this section of the justice system, and hopefully specific areas of interest will emerge from the discussion next week. Jean Craig from the Policy Planning and Research Unit of the Department of Finance and Personnel, and Sheri Chamberlain from Save the Children Fund will speak to the meeting and hopefully stimulate interest and discussion. As usual, everyone is very welcome.

Last November the C.A.J. was only addressed by John Jackson on the pros and cons of introducing three-judge panels in the Diplock courts. Those present at the meeting were fairly evenly divided as to whether such panels were a good idea. Some thought that anything would be better than the single-judge system now operating at the moment. Others felt that introducing three-judge panels would further politicise the Diplock courts and put the judiciary, when there is no jury trial, in the front line of any criticism. Most agreed that before we bring in three-judge panels we ought to make other, more telling improvements to the Diplock system, such as facilitating the "de-scheduling" of offences in which having a particular offence dealt with in the ordinary courts, with a non-jury trial, lengthening up the rules on allowing confessions to be submitted as evidence.

Next month, on 7 April, Paul Ainsworth of the University of Ulster will address the meeting on the Stalker affair. Many of us have followed this issue from the original incident through to Mr. Stalker's removal from the inquiry, and look forward to discussing the sequence of events in the light of more detailed information.

Subsequent to the C.A.J.'s consideration of the topic, two other bodies have come out strongly in favour of introducing three-judge panels. One is the Standing Advisory Commission on Human Rights which issued a 9-page report and appended to it a commissioned report written by John Jackson. The other is the S.D.L.P., which presented a discussion on proposals for the reform of Diplock courts at its 10th Annual Conference. The papers of both these bodies can be consulted at the C.A.J. office. They repay careful study because it is clear that, at least in the eyes of nationalists, the issue of three-judge courts is far from dead. The British Government appears to be on the question, with the legal officers to the Lord Chancellor, the Attorney-General and the Solicitor-General against it and the Foreign and Northern Ireland Secretaries supposedly in favour.



Vol. 5 No.4 April 1990

Just News

Bulletin of C.A.J. - Northern Ireland Civil Liberties Council 20p

"Plastic Bullets and the Law": new CAJ pamphlet

The Committee on the Administration of Justice is publishing a new pamphlet on the use of plastic bullets. An updated version of CAJ pamphlet No.8, this edition contains new information about compensation paid out to victims of plastic bullets. It also analyses the legal situation, locally and internationally, regarding the use of the weapon. The pamphlet concludes by refuting the government's case that plastic bullets remain the best method of controlling riots, and calls for a complete ban on their use.

The background

Plastic bullets were first introduced as a riot control weapon by the British Army in Northern Ireland in 1973. The RUC began to use the weapon in 1978. Plastic bullets were introduced to replace the rubber variety, which were withdrawn because they were considered too dangerous. Three people died after being hit by rubber bullets. Many more were severely injured.

Since 1973, however, 14 people, including seven children, have been killed by the 'safer' plastic bullets and hundreds have received other disabling injuries. Plastic Bullets and the Law argues that the government must face the evidence - as it did with the discredited rubber bullet - that the plastic bullet is far too lethal a weapon to continue to use.

Plastic bullets both lethal and controversial

Judges, coroners and inquest juries have often contradicted security force assertions that those killed were involved in rioting. Medical evidence shows that plastic bullets are more lethal than their rubber predecessors when they hit the head. More than £1 million has been paid in compensation to the victims or the families of victims. Yet the authorities continue to deny legal or moral responsibility for the deaths and injuries.

The government remain committed to the use of plastic bullets and indeed has issued them to the UDR, though there have been no reports yet of the UDR firing any in the streets. In view of the this and the fact that they are now routinely issued to police forces in England and Wales, it is necessary to state once again the government's case. It maintains that the plastic bullet:

- is necessary for riot control;
- is subject to strict controls;
- it is not a lethal weapon;
- is consistent with the principle of minimum force;
- if the security forces did not use plastic bullets, they would be forced to use lead bullets instead.

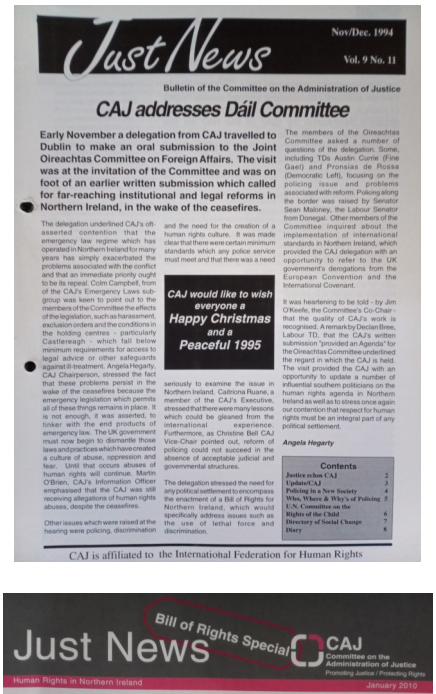
Ban the bullet

CAJ's Plastic Bullets and the Law maintains that these justifications patently do not stand up to scrutiny. The pamphlet agrees that:

- ☐ The evidence shows that most of those killed were not involved in rioting.
- ☐ That it has not been proven that the bullet is the only recourse open to the security forces for riot control.
- ☐ That the 'strict controls' governing the bullets use have been inadequate or not applied.
- ☐ That the fatalities and injuries make the bullet inconsistent with the principle of minimum force.
- ☐ That the contention that lead bullets could replace plastic bullets in riot situations envisages a situation that would be contrary to law.

The publication concludes that the evidence against continued use of the weapon is overwhelming, and that it should be withdrawn immediately.

Sandy Barron



Just News

Nov/Dec. 1994 Vol. 9 No. 11

Bulletin of the Committee on the Administration of Justice

CAJ addresses Dáil Committee

Early November a delegation from CAJ travelled to Dublin to make an oral submission to the Joint Oireachtas Committee on Foreign Affairs. The visit was at the invitation of the Committee and was on foot of an earlier written submission which called for far-reaching institutional and legal reforms in Northern Ireland, in the wake of the ceasefires.

The delegation underlined CAJ's oft-asserted contention that the emergency law regime which has operated in Northern Ireland for many years has simply exacerbated the problems associated with the conflict and that an immediate priority ought to be its repeal. Colm Campbell, from of the CAJ's Emergency Laws sub-group was keen to point out to the members of the Committee the effects of the legislation, such as harassment, exclusion orders and the conditions in the holding centres - particularly Castlereagh - which fall below minimum requirements for access to legal advice and other safeguards against ill-treatment. Angela Hegarty, CAJ chairperson, stressed the fact that these problems persist in the wake of the ceasefires because the emergency legislation which permits all of these things remains in place. It is not enough, it was asserted, to tinker with the end products of emergency law. The UK government must now begin to dismantle those laws and practices which have created a culture of abuse, oppression and fear. Until that occurs abuses of human rights will continue. Martin O'Brien, CAJ's Information Officer emphasised that the CAJ was still receiving allegations of human rights abuses, despite the ceasefires.

Other issues which were raised at the hearing were policing, discrimination and the need for the creation of a human rights culture. It was made clear that there were certain minimum standards which any police service must meet and that there was a need

CAJ would like to wish everyone a Happy Christmas and a Peaceful 1995

seriously to examine the issue in Northern Ireland. Catriona Ruane, a member of the CAJ's Executive, stressed that there were many lessons which could be gleaned from the international experience. Furthermore, as Christine Bell CAJ Vice-Chair pointed out, reform of policing could not succeed in the absence of acceptable judicial and governmental structures.

The delegation stressed the need for any political settlement to encompass the enactment of a Bill of Rights for Northern Ireland, which would specifically address issues such as the use of lethal force and discrimination.

The members of the Oireachtas Committee asked a number of questions of the delegation. Some, including TDs Austin Currie (Fine Gael) and Pronsias de Rossa (Democratic Left), focusing on the policing issue and problems associated with reform. Policing along the border was raised by Senator Sean Maloney, the Labour Senator from Donegal. Other members of the Committee inquired about the implementation of international standards in Northern Ireland, which provided the CAJ delegation with an opportunity to refer to the UK government's derogations from the European Convention and the International Covenant.

It was heartening to be told - by Jim O'Keefe, the Committee's Co-Chair - that the quality of CAJ's work is recognised. A remark by Declan Bree, Labour TD, that the CAJ's written submission "provided an Agenda" for the Oireachtas Committee underlined the regard in which the CAJ is held. The visit provided the CAJ with an opportunity to update a number of influential southern politicians on the human rights agenda in Northern Ireland as well as to stress once again our contention that respect for human rights must be an integral part of any political settlement.

Angela Hegarty

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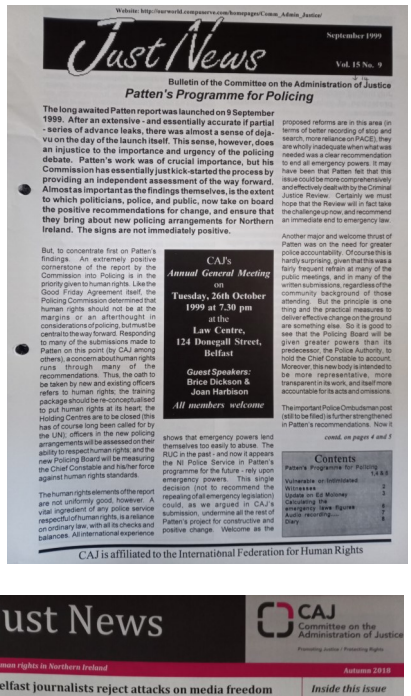

Website: http://surworld.compuserve.com/homepages/Comm_Admin_Justice/

Just News

September 1999 Vol. 15 No. 9

Bulletin of the Committee on the Administration of Justice

Patten's Programme for Policing

The long awaited Patten report was launched on 9 September 1999. After an extensive - and essentially accurate if partial - series of advance leaks, there was almost a sense of deja-vu on the day of the launch itself. This sense, however, does an injustice to the importance and urgency of the public debate. Patten's work was of crucial importance, but his Commission has essentially just kick-started the process by providing an independent assessment of the way forward. Almost as important as the findings themselves, is the extent to which politicians, police, and public, now take on board the positive recommendations for change, and ensure that they bring about new policing arrangements for Northern Ireland. The signs are not immediately positive.

But, to concentrate first on Patten's findings. An extremely positive cornerstone of the report by the Commission into Policing is in the priority given to human rights. Like the Good Friday Agreement itself, the Policing Commission determined that human rights should not be at the margins or an afterthought in considerations of policing, but must be central to the way forward. Responding to many of the submissions made to Patten on this point (by CAJ among others), a concern about human rights runs through many of the recommendations. Thus, the oath to be taken by new and existing officers refers to human rights; the training package should be re-conceptualised to put human rights at its heart; the Holding Centres are to be closed (this has of course long been called for by the UN); officers in the new policing arrangements will be assessed on their ability to respect human rights; and the new Policing Board will be measuring the Chief Constable and his/her force against human rights standards.

The human rights elements of the report are not uniformly good, however. A vital ingredient of any police service respectful of human rights, is a reliance on ordinary law, with all its checks and balances. All international experience

CAJ's Annual General Meeting on Tuesday, 26th October 1999 at 7.30 pm at the Law Centre, 124 Donegall Street, Belfast

Guest Speakers: Brice Dickson & Joan Harbison

All members welcome

shows that emergency powers lend themselves too easily to abuse. The RUC in the past - and now it appears the NI Police Service in Patten's programme for the future - rely upon emergency powers. This single decision (not to recommend the repealing of all emergency legislation) could, as we argued in CAJ's submission, undermine all the rest of Patten's project for constructive and positive change. Welcome as the proposed reforms are in this area (in terms of better recording of stop and search, more PACE/PACE), they are wholly inadequate when what was needed was a clear recommendation to end all emergency powers. It may have been that Patten felt that this issue could be more comprehensively and effectively dealt with by the Criminal Justice Review. Certainly we must hope that the Review will in fact take the challenge up now, and recommend an immediate end to emergency law.

Another major and welcome thrust of Patten was on the need for greater police accountability. Of course this is hardly surprising, given that this was a fairly frequent refrain at many of the public meetings, and many of the written submissions, regardless of the community background of those attending. But the principle is one thing and the practical measures to deliver effective change on the ground are something else. So it is good to see that the Policing Board will be given greater powers than its predecessor, the Police Authority, to hold the Chief Constable to account. Moreover, this new body is intended to be more representative, more transparent in its work, and itself more accountable for its acts and omissions.

The important Police Ombudsman post (still to be filled) is further strengthened in Patten's recommendations. Now it

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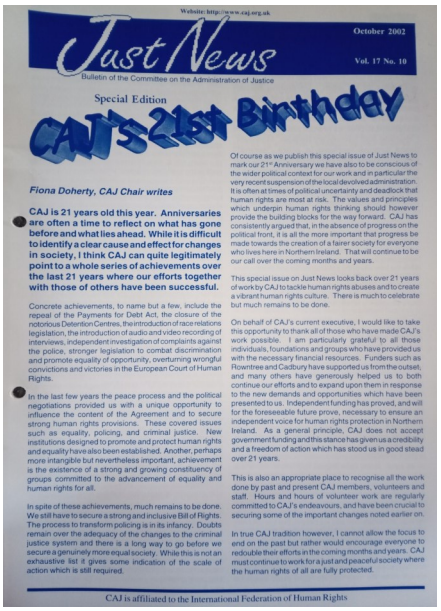

Website: http://www.caj.org.uk

Just News

October 2002 Vol. 17 No. 10

Bulletin of the Committee on the Administration of Justice

Special Edition

CAJ's 21st Birthday

Fiona Doherty, CAJ Chair writes

CAJ is 21 years old this year. Anniversaries are often a time to reflect on what has gone before and what lies ahead. While it is difficult to identify a clear cause and effect for changes in society, I think CAJ can quite legitimately point to a whole series of achievements over the last 21 years where our efforts together with those of others have been successful.

Concrete achievements, to name but a few, include the repeal of the Payments for Debt Act, the closure of the notorious Detention Centres, the introduction of race relations legislation, the introduction of audio and video recording of interviews, independent investigation of complaints against the police, stronger legislation to combat discrimination and promote equality of opportunity, overturning wrongful convictions and victories in the European Court of Human Rights.

In the last few years the peace process and the political negotiations provided us with a unique opportunity to influence the content of the Agreement and to secure strong human rights provisions. These covered issues such as equality, policing, and criminal justice. New institutions designed to promote and protect human rights and equality have also been established. Another, perhaps more intangible but nevertheless important, achievement is the existence of a strong and growing constituency of groups committed to the advancement of equality and human rights for all.

In spite of these achievements, much remains to be done. We still have to secure a strong and inclusive Bill of Rights. The process to transform policing is in its infancy. Doubts remain over the adequacy of the changes to the criminal justice system and there is a long way to go before we secure a genuinely more equal society. While this is not an exhaustive list it gives some indication of the scale of action which is still required.

Of course as we publish this special issue of Just News to mark our 21st Anniversary we have also to be conscious of the wider political context for our work and in particular the very recent suspension of the local devolved administration. It is often at times of political uncertainty and deadlock that human rights are most at risk. The values and principles which underpin human rights thinking should however provide the building blocks for the way forward. CAJ has consistently argued that, in the absence of progress on the political front, it is all the more important that progress be made towards the creation of a fairer society for everyone who lives here in Northern Ireland. That will continue to be our call over the coming months and years.

This special issue on Just News looks back over 21 years of work by CAJ to tackle human rights abuses and to create a vibrant human rights culture. There is much to celebrate but much remains to be done.

On behalf of CAJ's current executive, I would like to take this opportunity to thank all of those who have made CAJ's work possible. I am particularly grateful to all those individuals, foundations and groups who have provided us with the necessary financial resources. Funders such as Rowntree and Cadbury have supported us from the outset, and many others have generously helped us to both continue our efforts and to expand upon them in response to the new demands and opportunities which have been presented to us. Independent funding has proved, and will for the foreseeable future prove, necessary to ensure an independent voice for human rights protection in Northern Ireland. As a general principle, CAJ does not accept government funding and this stance has given us a credibility and a freedom of action which has stood us in good stead over 21 years.

This is also an appropriate place to recognise all the work done by past and present CAJ members, volunteers and staff. Hours and hours of volunteer work are regularly committed to CAJ's endeavours, and have been crucial to securing some of the important changes noted earlier on.

In true CAJ tradition however, I cannot allow the focus to end on the past but rather would encourage everyone to redouble their efforts in the coming months and years. CAJ must continue to work for a just and peaceful society where the human rights of all are fully protected.

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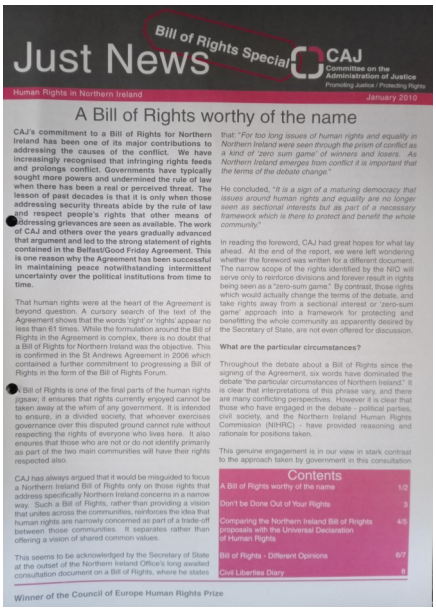

Bill of Rights Special

Just News

CAJ Committee on the Administration of Justice

Promoting Justice / Protecting Rights

Human Rights in Northern Ireland January 2010

A Bill of Rights worthy of the name

CAJ's commitment to a Bill of Rights for Northern Ireland has been one of its major contributions to addressing the causes of the conflict. We have increasingly recognised that infringing rights feeds and prolongs conflict. Governments have typically sought more pragmatic responses and undermined the rule of law when there has been a real or perceived threat. The lesson of past decades is that it is only when those addressing security threats abide by the rule of law and respect people's rights that other means of addressing grievances are seen as available. The work of CAJ and others over many years gradually advanced that argument and led to the strong statement of rights contained in the Belfast/Good Friday Agreement. This is one reason why the Agreement has been successful in maintaining peace notwithstanding intermittent uncertainty over the political institutions from time to time.

That human rights were at the heart of the Agreement is beyond question. A cursory search of the text of the Agreement shows that the words 'right' or 'rights' appear no less than 61 times. While the formulation around the Bill of Rights in the Agreement is complex, there is no doubt that a Bill of Rights for Northern Ireland was the objective. This is confirmed in the St Andrews Agreement in 2006 which contained a further commitment to progressing a Bill of Rights in the form of the Bill of Rights Forum.

A Bill of Rights is one of the final parts of the human rights jigsaw; it ensures that rights currently enjoyed cannot be taken away at the whim of any government. It is intended to ensure, in a divided society, that whoever exercises governance over this disputed ground cannot rule without respecting the rights of everyone who lives here. It also ensures that those who are not or do not identify primarily as part of the two main communities will have their rights respected also.

CAJ has always argued that it would be misguided to focus a Northern Ireland Bill of Rights only on those rights that address specifically Northern Ireland concerns in a narrow way. Such a Bill of Rights, rather than providing a vision that unites across the communities, reinforces the idea that human rights are narrowly concerned as part of a trade-off between those communities. It separates rather than offering a vision of shared common values.

This seems to be acknowledged by the Secretary of State at the outset of the Northern Ireland Office's long awaited consultation document on a Bill of Rights, where he states that: "*For too long issues of human rights and equality in Northern Ireland were seen through the prism of conflict as a kind of 'zero sum game' of winners and losers. As Northern Ireland emerges from conflict it is important that the terms of the debate change.*"

He concluded, "*It is a sign of a maturing democracy that issues around human rights and equality are no longer seen as sectional interests but as part of a necessary framework which is there to protect and benefit the whole community.*"

In reading the foreword, CAJ had great hopes for what lay ahead. At the end of the report, we were left wondering whether the foreword was written for a different document. The narrow scope of the rights identified by the NIO will serve only to reinforce divisions and forever result in rights being seen as a "zero-sum game." By contrast, those rights which would actually change the terms of the debate, and take rights away from a sectional interest or 'zero-sum game' approach into a framework for protecting and benefitting the whole community as apparently desired by the Secretary of State, are not even offered for discussion.

What are the particular circumstances?

Throughout the debate about a Bill of Rights since the signing of the Agreement, six words have dominated the debate "the particular circumstances of Northern Ireland." It is clear that interpretations of this phrase vary, and there are many conflicting perspectives. However it is clear that those who have engaged in the debate - political parties, civil society and the Northern Ireland Human Rights Commission (NIHRC) - have provided reasoning and rationale for positions taken.

This genuine engagement is in our view in stark contrast to the approach taken by government in this consultation

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Ciarán Ó Maoláin, Secretary of the Belfast Branch of the NUJ

When members of the 700-strong Belfast and District Branch of the National Union of Journalists (NUJ) held their monthly meeting on 28 September, the first item on the agenda was a minute's silence in memory of Martin O'Hagan, the branch secretary at the time of his assassination 17 years ago to the day. The botched investigation into that murder of a leading investigative journalist, which continues to be the subject of campaigning by the NUJ, CAJ and others, represents a gross failure by the state to protect the rights of freedom of expression and information.

Much of the rest of the meeting was taken up with discussion of the latest assault on media freedom, the police raids on the homes and offices of two journalists, Trevor Birney and Barry McCaffrey, who were arrested and questioned about their use of leaked information on a number of alleged police investigation. They had worked on a documentary, *No Stone Unturned*, dealing with the 1994 massacre of six people at The Heights Bar, Loughinisland. The documentary drew on a highly critical Police Ombudsman investigation into how the Royal Ulster Constabulary, and since 2001 the Police Service of Northern Ireland (PSNI), had failed to bring the perpetrators of the massacre to justice.

The documentary, directed by Academy Award winner Alex Gibney and produced by Belfast-based Fine Point Films, named some of the suspects in the massacre and questioned why no-one had been convicted. The Police Ombudsman's office reported to the PSNI that material used in the film had been "stolen" from it, and the PSNI asked Durham Constabulary to conduct an investigation.

While a handful of officers from Durham were involved in the arrests and raids, which also affected other media companies sharing premises with Fine Point Films, it was apparent throughout that it was largely a PSNI operation.

The raids and arrests sparked fury among journalists and the NUJ vowed to stand with Birney and McCaffrey, both members, to defend the principle that the public interest in uncovering criminality, incompetent policing and, it is suspected in this instance, collusion between state agents and murder gangs took precedence over any claim of confidentiality.

Séamus Dooley, the NUJ's Irish Secretary, said: "The protection of journalistic sources of confidential information is of vital importance and journalists must be free to operate in the public interest without police interference. These journalists are entitled to claim journalistic privilege and to seek the protection of the legal system if there is any attempt to force them to reveal sources.

"We note the confiscation of computers and data held by Trevor Birney and Barry McCaffrey. Every effort must be taken to ensure that data held on computers is not compromised and that the confidentiality of the sources are not put in jeopardy. Journalists throughout the UK and Ireland will support Trevor and Barry in any stand they take to lawfully protect their confidential sources. It is profoundly depressing to note that, yet again, priority appears to be given to tracking down the source of journalistic stories rather than solving murders in Northern Ireland."

On 7 September, when a preliminary court hearing addressed demands for the return of some of the materials seized in the raid, there was a substantial gathering of journalists and other media workers outside the High Court in Belfast. Birney and McCaffrey's arrival, in the company of Dooley and Gerry Carson, the Cathaoirleach (Chair) of the NUJ's Irish Executive Council, was greeted with sustained applause.

The Belfast Branch, in coordination with the NUJ nationally, is considering further action in support of its members.

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Just News is published by the Committee on the Administration of Justice. Readers' news, views and comments are welcome. Correspondence should be addressed to the Editor, **Fionnuala Ní Aoláin**, and sent to CAJ Ltd, 1st Floor, Community House, Citylink Business Park, 6A Albert Street, BT12 4HQ. Phone: (028) 9031 6000. Email: info@caj.org.uk. Website: www.caj.org.uk.