

Academic freedom under threat in Northern Ireland?

Brian Dooley, Senior Advisor, Human Rights First @dooley_dooley

We all know where this leads; it's an ominous phrase often said about the social media attacks on human rights law professor Colin Harvey of Queen's University, Belfast.

Harvey is a prominent legal scholar, a Fellow of the Senator George J Mitchell Institute for Global Peace, Security and Justice; an Associate Fellow of the Institute of Irish Studies; and a former Commissioner of the Northern Ireland Human Rights Commission (NIHRC).

The attacks began to intensify on Twitter at the turn of the year, around the time Ruth Dudley Edwards [wrote in a local paper](#) that she lamented she had forgotten to include Harvey in her end of year list of those she wanted banished to a desert island.

The smears mostly accused Harvey of political bias, and focused mainly on his advocacy for peaceful constitutional change in Ireland. They involved a range of accusations, including that he was not fit to be an academic, or that he supported terrorism. Some [compared him](#) to leading Nazi Joseph Goebbels, and other (now deleted) tweets accused him of being an active supporter of the IRA. Another, also now deleted, suggested Harvey "should be stripped of his position...Colin Harvey is a snake. Get rid."

These are intimidating enough, but given the context of the conflict in the region, they're extremely menacing. We know that an atmosphere of vilification has preceded attacks on other human rights lawyers, including the murders of Pat Finucane in 1989 and Rosemary Nelson ten years later.

Attacks on human rights lawyers have continued in the decades since, with threats and intimidation becoming common. My organisation, Human Rights First, published [a report](#) I'd researched on these threats in 2017.

We know too that many attacks on human rights defenders across the world follow [campaigns of warnings and threats](#) against them, which are designed to isolate the target, making it easier to attack them.

When the smears began to intensify early this year, Harvey told me that, "Everyone knows what is being stirred up and how the story can end. Are we going to wait for something awful to happen before there is collective action stop it? Have we not learned the lessons of the past?"

Then Colin Harvey's supporters began to rally behind him publicly. [A blog](#) posted on Human Rights First's website gave those on twitter a chance to stand up for Harvey, and within days hundreds of people retweeted or liked the post. The [media](#) got interested, and other statements of support soon followed from US [legal bodies](#), from the [Dean of Fordham Law School](#) in New York, from various academics, and from Harvey's employer, in addition to [others](#). In March, three UN Special Rapporteurs [wrote to the British government](#) asking for answers about what they were doing to protect him.

The UN independent human rights experts noted that Harvey had "reportedly been the subject of intense threats and stigmatisation for a number of years from elected officials, members of the media and individuals on

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social media”, and that “attacks target his academic standing, his participation in public debate on the constitutional future of Northern Ireland, and his participation in the formulation of the proposed Bill of Rights for Northern Ireland”.

They noted too that “hundreds of social media comments conflate his legal work on the constitutional future of Northern Ireland with violent republicanism or Nazism, or they imply that he was involved in bombing and violence committed by paramilitary groups in Northern Ireland; he is being called ‘dangerous’; his academic teaching is being labelled as propaganda and indoctrination...”.

At the time of writing this piece, the government has yet to respond to the UN Special Rapporteurs. The slurs are intended to silence Harvey and to prevent him from doing his legitimate work, and the shows of support are important.

“The solidarity remains heartening and is deeply appreciated. It makes a practical and personal difference,” said Harvey. “People know how this society operates. So, expressions of support are acts of civic courage. None of it is taken for granted, and I know there are those who disagree with the choices I have made. The priority must be to ensure that the collective effort continues.”

Those supporting Harvey should do it publicly. Those who say, “*We all know where this leads*”, should also be saying that even if this doesn’t lead anywhere else, it’s still not okay to vilify and attack Harvey’s work in this way.

“Targeting here, as anywhere, has a well-worn purpose,” added Harvey. “The intention is to discourage others and derail the work. That the reverse has in fact happened tells its own story.”

2022 Assembly Election update

Robyn Scott, Communications & Equality Coalition Coordinator, CAJ

In anticipation of the Assembly Election 2022, the Equality Coalition held a hybrid **election hustings** on 28 April 2022 in the MAC. In person tickets were available exclusively to Coalition members, but everyone else was invited to participate online. We were joined by the following election candidates: Nuala McAllister (Alliance Party), Mal O’Hara (Green Party NI), Emma Sheerin (Sinn Féin), and Elsie Trainor (SDLP). Invites were also issued to the UUP, DUP, TUV, and People Before Profit, but unfortunately none of these parties were able to attend.

During the hustings, each party was asked to respond to various issues raised within the Coalition’s ‘[policy asks](#)’ document, which was launched earlier this year. The event covered three main thematic areas: The implementation of the social inclusion’ strategies; outstanding rights-based commitments (of which there are still many!); and reform to the power sharing Institutions. At the end of the session, time was set aside for open questions from audience members (attending both online and in-person). It is fair to say that the candidates were subject to a real grilling! But they were very responsive to everything asked. Questions covered a huge variety of topics, including (but not limited to) trans rights, climate justice, the Trade Union Bill, gender budgeting, and the rights of Asylum seekers.

The Coalition would like to say a huge thank you to the candidates who attended and to all of the audience members for making the event such a success. At the time, most of us remained hopeful that the election might ultimately lead to a return to power sharing, though unfortunately this proven not to be the case so far ...

The election result: The election followed less than a week after the hustings, on Thursday 5 May 2022. The result was an unprecedented one for Northern Ireland, with Sinn Féin



becoming the largest party for the first time (on 27 seats out of a possible 90), with the DUP taking second place (25 seats). Alliance also made major gains to become the third largest party (17 seats), a development widely seen by commentators as a political breakthrough for the party.

But instead of any this leading to any meaningful change or progress, we have ended up mired in another political deadlock, caused by the DUP’s refusal to elect a Speaker (or nominate Ministers), without which the Assembly cannot function. The DUP claims to be motivated by their opposition to the Northern Ireland Protocol, which was agreed in 2019 as part of the UK’s withdrawal from the EU.

Two attempts to elect a Speaker and restore the Assembly have already failed. Currently, we are in a position where Ministers can act in a caretaker capacity, with limited powers. However, there can be no Assembly plenary debates, no committees can be held, and the actions of ministers cannot be scrutinised by MLAs. It is difficult to see a way forward - or a means to escape from this repeating pattern of reset and collapse - without the current system undergoing fundamental (human rights compliant) reform.

The Equality Coalition plans to arrange meetings with the leading political parties to discuss the current situation and possible resolutions soon. In the meantime, we have returned to exactly where we were during the last collapse (which lasted for three years from January 2017). Once again, we are without a fully functioning government and there is no clear end in sight to the deadlock.

Findings from primary research into violence against women and girls in Northern Ireland

Aoife Mallon, Policy Assistant, Women's Resource and Development Agency (WRDA)

Women are aware that we face threats to our safety on a daily basis and that these threats disproportionately come from men. We hold keys in our hand as we walk home alone; we text our friends to say, "Let me know when you get home," after every night out; and we hold stories close to our hearts about times when we or our loved ones have been impacted by violence. Although women are aware of this reality, until now, we have not had robust local data to reflect the lived experiences of women and girls in Northern Ireland in regards to the violence that they face.

The Northern Ireland Women's Policy Group (WPG) has conducted pioneering research into the scope, scale, and prevalence of men's violence against women and girls (VAWG) in Northern Ireland. This research was conducted to inform the WPG's written response to the call for views on the *Equally Safe Strategy*, a draft strategy to tackle violence against women and girls developed by The Executive Office (TEO). This was to ensure that the voices of women were central to our response and to the development of the strategy.

This primary research consisted of an anonymous online survey and a one-to-one interview. The online survey consisted of 27 questions, including a range of quantitative and qualitative questions. The survey was open for 25 days and in that timeframe received 1,065 responses.

It is clear from the findings of this research that Northern Ireland has a significant problem with men's violence against

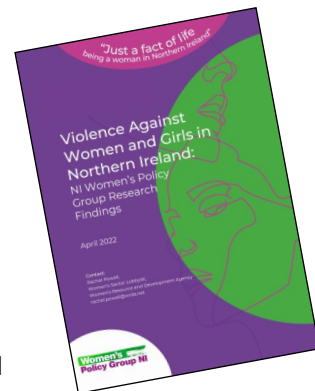
women and girls. This research shows that 91.2% of women think that Northern Ireland has a problem with men's violence against women and girls and 97.2% think that Northern Ireland should have a strategy to specifically tackle this violence. Furthermore, 83% of the women surveyed had been impacted by men's violence, with 82% of

victims experiencing this violence before the age of 20. From this survey data, the following three key themes emerged: 1. The importance of education; 2. Our justice system is failing victims; 3. Men's violence must be directly addressed.

The findings obtained through this research reiterate what women in Northern Ireland already know: the issue of men's violence in our society is highly prevalent, incredibly harmful, and must be addressed as a matter of urgency. The findings also show that the current system is failing women and girls in Northern Ireland and more must be done to protect and safeguard them from men's violence.

It is the responsibility of our elected officials, legislators, public officials, and those working in the justice system to put legislation, policy, and other necessary measures in place to tackle the increasing levels of violence against women and girls and meaningfully engage with the women's sector in doing so. These findings should be used to inform policy and legislative decision-making by all public authorities, including the Northern Ireland Executive and Assembly, local councils, the Police Service of Northern Ireland (PSNI), and our human rights and equality public bodies.

A full report on the findings from this research can be accessed [here](#). Additionally, the full WPG Response to the Domestic and Sexual Abuse Strategy (led by DOJ, and DOH) and the VAWG strategy (led by TEO) can be accessed [here](#).



At a glance summary of key findings from the survey:

91.2% of women think that Northern Ireland has a problem with men's violence against women and girls.

97.2% of women think that Northern Ireland should have a strategy to tackle men's violence against women and girls.

83% of women have been impacted by men's violence against women and girls.

82% of women first experienced men's violence before the age of 20.

Only **21.4%** of victims of men's violence reported this to the police and **77.4%** of those who did so did not find it useful.

89.7% of women believe Northern Ireland has a problem with attitudes of sexism and misogyny.

87.4% of women believe Northern Ireland has a problem

with victim-blaming.

80.8% of women believe Northern Ireland has a problem with rape myths and rape culture.

81.2% of women believe there is stigma surrounding issues of violence against women and girls.

92.3% of women think that there are barriers to reporting men's violence against women and girls.

95.2% of women think that reducing levels of violence against women and girls requires focusing on changing men and boys' behaviours and actions.

86.8% of women think that there needs to be a review of how the justice system treats victims and survivors of men's violence against women and girls.

The Irish Language Act - Where are we now?

Dr Pádraig Ó Tiarnaigh, Community Activist, An Dream Dearg

It may seem that the issue of language rights here has been around for a long, long time. Well, that's because it has. History tells us language has consistently been recognised as one of the key indicators of identity, conquest, and control. Ireland has been no different to other countries in this respect. As far back as 1367, Article III of the Statutes of Kilkenny made it illegal for English colonists in Ireland to speak the Irish language and for the native Irish to speak their language when interacting with them. Fast forward several centuries and anti-Irish laws were mainstreamed into education, law, and public life. With the foundation of the Northern state, provision for Irish became marginalised even further, with Irish been pushed out of almost all aspects of primary education and government policy,

In 1961 a pioneering group of Irish language families came together to self-build the north's first urban Gaeltacht on the Shaw's Road, a movement that would inspire the first Gaelscoil in Belfast, Scoil Ghaeilge Bhéal Feirste, in 1971. Those who led the way were threatened by the Northern Ireland Office (NIO) with imprisonment for facilitating education in Irish. They persevered, and from that one school with a small handful of students, an entire Irish medium education sector has grown to include over 30 Irish medium schools, spearheaded by Coláiste Feirste, the largest Irish medium secondary school in Ireland. In total, over 7,000 young people now get their daily education through the medium of Irish.

That hasn't happened by chance. The growth and development of the Irish language here has been mostly bottom-up, led by incredibly active communities with immense drive and desire to promote their native tongue. Unfortunately, the state has been a reluctant and disengaged passenger on that journey.

In 1998, the Good Friday Agreement committed parties and governments to taking "resolute action" to protect and promote the language. That vision quickly became aspirational, and unfulfilled. The bespoke campaign for language rights came to the fore in preceding years, and led to a specific commitment from the British Government in the St Andrew's Agreement to "introduce an Irish language Act based on the experiences of Wales and Ireland".

Since then, we have had three public consultations on the issue, with a draft bill being vetoed in 2016, despite the latest consultation receiving over 13,000 responses, 94.7% of which were in favour of legislative insulation for the language in the form of an Irish language Act. In that time, however, Irish became the subject of ongoing political slurs and insults. When the Renewable Heat Incentive (RHI) crisis was compounded with the £50,000 Irish language Lófa bursary cuts in December 2016, the quest for Irish language rights re-

emerged as a transformative community campaign, *An Dream Dearg*. The demand for language legislation was supported by a cross-party alliance of five Assembly parties, equivalent to 50 of 90 MLAs, after the Assembly Elections of 2017. Political unionism, however, continued their long-standing denial of those rights. That veto would continue until January 2020, when the then British Secretary of State, Julian Smith, and Irish Tánaiste, Simon Coveney, presented parties with the *New Decade New Approach (NDNA) Agreement*, an agreement which contained a pre-defined and published 'Irish language bill' as part of a three-strand 'languages and culture package'.

Whilst the Irish language community welcomed the draft legislation as an historic step forward in the campaign for rights, they declared that the draft legislation fell well short of the 2006 commitments. Ultimately, when stacked up against the Welsh legislation, and the Irish legislation in the South, the NDNA Irish language bill was weak and watery, handing the DUP an 'Executive Office veto' over many of its core-component parts. The Council of Europe's oversight body (COMEX) on the European Charter for Regional and Minority Languages, the language treaty ratified for Irish by the British Government in 2001, would later assess the bill in a similar way, stating that "even once the measures contained in the January 2020 agreement are enacted, there remains a need for a comprehensive Irish Language Act".

Since 2020, the DUP has withdrawn from those NDNA commitments. In June 2021, the current Secretary of State Brandon Lewis committed to legislating for Irish at Westminster by October. October came and went, as did a handful of other deadlines. As the Assembly mandate came to a close in March 2022, Brandon Lewis and his NIO Minister, Conor Burns, would stunningly, but unsurprisingly, renege on their commitments. The absence of language rights post NDNA has left a void in policy and leadership, with many public authorities now citing that absence of legal guidance as a reason for non-action.

The reality is that no form of political government here since 1998 has been able to deal with and facilitate Irish language rights, in any comprehensive manner. The absence of rights, policies and progressive support for developing the language leaves us decades behind language revival efforts in Wales and in many other leading bilingual and multilingual countries around the world. In the meantime, the community campaign for language rights and for respect and legal recognition continues, emboldened by a state that refuses to accept them as equal citizens in a truly shared society.

Now, the [Identity and Language \(Northern Ireland\) Bill](#) finally makes its way through Westminster, and includes 'step-in powers' for the Secretary of State in case (and when) the DUP wield their TEO veto. The very first litmus test of the British government's intent will be for them to use those powers on Day 1 and to appoint Commissioners without delay. We won't hold our breath...



Update on reforming the rehabilitation of offenders in Northern Ireland

Les Allamby, Chair, NIACRO

Northern Ireland looks set to substantially reform its approach to rehabilitation and continuing disclosure of convictions by former offenders. Once enacted, the reforms will be the first time rehabilitation periods have changed since the introduction of the original legislation in 1978.

The reform stems from the outcome of a recent successful judicial review (JR) taken by the Northern Ireland Human Rights Commission (NIHRC), with supporting evidence provided by NIACRO and Unlock - two NGOs who have long campaigned for reform to rehabilitation periods for the disclosure of convictions. See a previous article on this legal challenge in [Just News June 2021](#) (page 8).

In JR123 2021 (NIQB 97), the High Court in Belfast considered the challenge from an applicant convicted of arson and other offences and sentenced to five years in prison in early 1980 after becoming involved in a gang. Under the Rehabilitation of Offenders (NI) Order 1978 any sentence of imprisonment of over 30 months can never be spent and is subject to lifelong disclosure. Despite a clean record of 40 years, the conviction continued to dog the applicant who struggled to find work again and as a result became self-employed, yet still found it hard to obtain insurance.

The challenge was based on the argument that the failure to provide any prospect of the conviction becoming spent was contrary to the right to a private life under Article 8 of the European Convention on Human Rights (ECHR).

In giving judgment, the Judge, Mr Justice Colton, recognised the public interest to provide the opportunity for rehabilitation alongside the need to ensure those convicted of serious offences serve an appropriate punishment and the need to protect the public from harm after a sentence is served. Having held that Article 8 was engaged and being interfered with, the issue turned on whether the means applied was proportionate. In considering the balance to be struck, the judgment noted the circumstances in which disclosure continues to be required is extensive and is not confined to employment, but extends to travel, insurance, accommodation, and other applications.

In reaching the decision, the Judge distinguished the circumstances from those in another recent case, [R\(P\) and others v SoS for the Home Department \(2019\) UKSC 3](#), which resulted in a challenge to broadly equivalent legislation in England and Wales being dismissed in a majority decision. The Judge emphasised that this previous case was different because it had focused on the **regime of criminal record checks** (rather than hinging on rehabilitation periods for the disclosure of convictions).

As a result, in November 2021, a declaration was made under the Human Rights Act that the provision in Article 6(1) of the Rehabilitation of Offenders (NI) Order, which states that



sentences of over 30 months can never be spent, was not compatible with ECHR Article 8. You can read the judgment [here](#).

Prior to judgment being given, the case prompted the Department of Justice (DoJ) to issue a consultation document on reform. Before the NI Assembly collapsed again in March 2022, DoJ published the Rehabilitation of Offenders (Amendment) Order (NI) 2022. The amendment seeks to increase the period of imprisonment where convictions are automatically never spent from 30 months to ten years. In addition, disclosure periods for sentences of between four and ten years will be seven years after the sentence, including any time on licence, has been completed. A sentence of between one and four years will become spent after four years and those under a year will no longer need disclosure after 12 months. A similar approach is to be taken to disclosure of fines, where the requirement for disclosure will be reduced from five years to 12 months. There are also reductions proposed for disclosure of offences committed by those aged under 18.

Unfortunately, the amendment was withdrawn at the last minute for technical reasons as it had not updated rehabilitation periods for military service disciplinary convictions under the 1978 Order. This now appears to have been resolved. Accordingly, passing a revised amendment will depend on the return of the NI Assembly.

In England, Wales, and Scotland, there have been earlier reforms to reduce rehabilitation periods. Most recently, in September 2020, the Ministry of Justice (MoJ) issued a White Paper on *A Smarter Approach to Sentencing*, proposing a rehabilitative period of the length of the sentence plus seven years for those sentenced to more than four years in England and Wales.

This proposal along with other reductions are now contained in S193 of the Police, Crime Sentencing and Courts Act. There is, however, a sting in the tail in that exemptions apply to those convicted of serious sexual, violent, or terrorist offences. The crimes covered by these exemptions, however, have been so widely drawn in the Bill will capture very large numbers in its net.

With storm clouds approaching strategic litigation on so many fronts, JR123 and its aftermath is a timely reminder of the value that the Human Rights Act can have as a catalyst for legislative reform.

Can Stormont Rollback the Home Office 'Hostile Environment'? Legal Research Report

Úna Boyd, Immigration Project Solicitor & Coordinator, CAJ

On Wednesday 23rd February, CAJ launched a new legal research paper, *Can Stormont RollBack the Hostile Environment?*. The hostile environment is a suite of UK policies designed at making life unbearable for people living in the UK without immigration status. However, these policies have been shown to negatively affect all migrants and ethnic minority communities, regardless of the immigration status that people hold. The impact of the hostile environment was famously revealed during the Windrush scandal, and the same policies continue to apply today. The hostile environment continues to cause racism, discrimination, and rights abuses across the UK. Immigration is an excepted matter, but the hostile environment policies that apply in Northern Ireland encroach on many areas of devolved competence, such as housing, social security, employment, and health.

CAJ's Immigration Project has undertaken strategic interventions on the impact of the hostile environment in Northern Ireland. The project's work has been met with a considerable degree of political support in NI, but also with questions as to the extent it is within the competence of the devolved institutions to act against these harmful policies.

Funded by the Paul Hamlyn Foundation, CAJ commissioned barrister Mark Bassett to conduct a legal analysis, which examines where NI Executive Departments can use their devolved competencies to push back against the hostile environment, and take a proactive stance to protect the rights of migrant and minority ethnic people in our communities. The analysis aims to act as a blueprint for ways forward and highlights several areas where provisions enacted by Westminster can be amended, repealed, and/or modified by the Northern Ireland Assembly, in accordance with their legislative competence. These include the right to rent and housing provision; the regulation of driving licences; the provision of social security for people subject to No

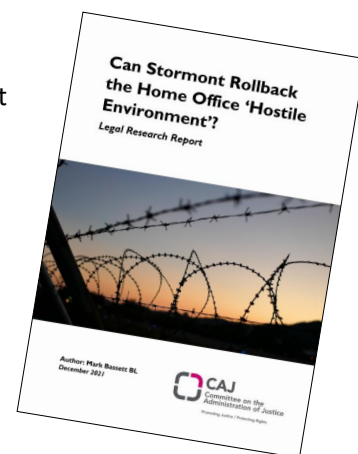
Recourse to Public Funds; the provision of healthcare; the regulation of marriage; and the protection of workers subject to labour exploitation.

Report author Mark Bassett BL commented, "The last decade has seen the creation and expansion of hostile environment measures aimed at making ordinary aspects of life either more difficult or intolerable for migrants. Measures were contained, in particular, in the Immigration Acts of 2014 and 2016. However, the implementation of those provisions was often delegated on to private parties and devolved institutions. The report looks at the extent to which the Northern Ireland institutions may reassert their own priorities within the scope of devolved competence."

At the launch of this report in February, attendees heard from a panel of experts including Lilian Seenoi-Barr (North West Migrants Forum) and Maria McCloskey (Children's Law Centre), who discussed the impact of the hostile environment in NI. Mark Bassett BL presented the report's key findings, followed by a Q&A session chaired by Professor Colin Harvey (QUB).

Panellist Lilian Seenoi-Barr stated, "The hostile environment driven by the Home Office leads to mass racial discrimination and harassment, it intrudes immigration enforcement into aspects of daily life, it led to Windrush, has a ripple effect. and is getting worse. This report shows how Stormont Ministers could use their powers to roll at least some of it back, this should be core element of Stormont's racial equality strategy, it is clear this can now be done."

This report is ground-breaking in its findings and has received widespread acclaim. In March, CAJ's Deputy Director, Daniel Holder, and Immigration Project Solicitor & Coordinator, Úna Boyd, appeared before the Stormont Committee for the Executive Office. They gave oral evidence on the report and put forward actions that the Committee could take based on the report's findings. A recording of the session can be found [here](#).



A racist border? The limitations of the Common Travel Area (CTA)

This year, CAJ has partnered with North West Migrant Forum's campaign for change, 'No Racist Border on the Island of Ireland'. This campaign aims to raise awareness and challenge the racial inequalities that are currently embedded in the Common Travel Area (CTA).

The Common Travel Area has long constituted a UK-Ireland

free movement zone, including there being no border control on the island of Ireland. This is supported by provisions in UK legislation, including the Immigration Act 1971, which exempts local journeys within the Common Travel Area from passport controls, and the Immigration (Control of Entry through the Republic of Ireland) Order 1972, which creates a system of deemed leave allowing eligible persons automatic permission to enter the UK from Ireland, including over the land border. This means at present many nationalities such

as EU citizens can travel over the land border freely. The Common Travel Area has been crucial in allowing people to live fluid, cross border lives on the island of Ireland.

Although it is a passport check free zone, visa requirements still apply within the Common Travel Area and 'visa nationals' are required to hold the correct visa to enter the UK or Republic of Ireland. Legal residence in either the UK or Republic of Ireland does not automatically confer rights of entry or residence in the other jurisdiction. This has led to the situation where many 'visa nationals', legally resident on the island of Ireland, are required to apply for a visa in advance in order to cross the land border. This includes for short, local journeys, including journeys to access services, visit friends and family, or to take part in events.

According to the North West Migrants Forum, among those impacted by these rules are young people excluded from cross-border school trips, refugees unable to visit beaches beside their home, and visa nationals who are married to Irish and British citizens but still can't freely cross the border with their family members. Visa requirements are expensive and onerous. The current system prevents 'visa nationals' from living cross border lives.

Despite the Common Travel Area being a free movement zone, checks do occur on people undertaking cross border journeys. The current legislation in ROI permits Gardaí to check the passports of anyone who is not British, Irish, or European. With the increasing diversity of our population, it is unclear how Gardaí can ascertain who they are permitted to check under this legislation. Members of North West Migrants Forum have been wrongly subjected to checks, which they believe were based on racial profiling. This has led to a situation where members of the migrant and minority ethnic community feel they must carry ID documents in order to cross the border.

North West Migrants Forum states that these systems result

in an invisible, racist, hard border for many people in our community.

North West Migrants Forum's campaign currently highlights key action points for the Irish government:

1. Grant deemed leave to enter the Republic of Ireland as visitors for all people with lawful residency in Northern Ireland
2. Amend Section 11(4) of the Immigration Act 2004 to end the requirement for non-British/Irish/EU citizens to carry and produce passports when crossing the border
3. Amend Irish naturalisation law to open a pathway to Irish citizenship through residency on the island of Ireland (including NI) and to restore birth entitlements to citizenship.
4. Undertake a social mobility assessment and ensure that essential cross-border services are available to everyone with lawful residence on the island of Ireland.
5. Ensure that journeys across the land border are exempt from the UK government's proposed Electronic Travel Authorisation requirement

On 19 March 2022, over a hundred people participated in a 'No Racist Border' protest on the border between Lifford and Strabane. CAJ Deputy Director Daniel Holder was invited to speak about the current Common Travel Area policy and the impact on the rights of the migrant and minority ethnic community. CAJ has also been invited to join North West Migrant Forum in high level meetings regarding the campaign.

Further information on the campaign can be found [here](#), while a petition in support of the campaign can be signed [here](#).



Join us for the launch of our collaborative immigration research!

Funded by the Paul Hamlyn Foundation, the Committee on the Administration of Justice (CAJ) Immigration Project has partnered with frontline service and advice organisations to produce *Frontline Lessons for the Future: Collaborative research on the impact of immigration law and policy in post-Brexit Northern Ireland*.

This report maps key issues and challenges for migrant rights in Northern Ireland, based on collaborative research with frontline organisations. It aims to combine expert frontline data and experience with CAJ's legal and policy analysis.

Building on the findings of the Immigration Project's previous report, *Can Stormont Rollback the Home Office Hostile Environment?*, the new report proposes policy and legislative reforms aimed at overcoming current challenges and creating a welcoming, human rights compliant immigration regime for Northern Ireland.

The report will be launched with a one-day **hybrid conference** on Wednesday 29 June 2022 from 10am to 5pm in UNISON, Belfast. Both **online** and **in-person** tickets are available for the launch of this report. The latter, however, is strictly limited so please book early to avoid disappointment!

To find out more or to secure your place, please visit [Eventbrite](#). If you have any questions about the event, email events@caj.org.uk.

Human Rights Act reform – Resisting the rollback

In March 2022, CAJ responded to the [latest consultation](#) (now closed) on the Human Rights Act 1998 (HRA), conducted by the Ministry of Justice (MoJ), entitled ‘Human Rights Act Reform: A Modern Bill of Rights’. This followed an Independent Human Rights Act Review (IHRAR), commissioned by the UK government last year, which was chaired by Sir Peter Gross QC. The IHRAR resulted in the publication of a 580-page [report](#), which was made publicly available on 14 December 2021.

In our [response](#) to IHRAR, CAJ outlined our strong objection to any tampering with the Human Rights Act (HRA) - and we have repeated the same sentiment in our [response](#) to the latest consultation. We made it clear to MoJ that we objected to the proposals in this consultation, including the proposed Bill of Rights to replace the HRA 1998, which in our view would greatly reduce the protections currently in place. It is our view that the underlying tone and content of this consultation misrepresented the positive impact of the HRA to wider society and the important role it has in ensuring accountability from public authorities. It is a further attempt to reduce access to justice and to interfere with the separation of powers, which does not have the support of civil society in Northern Ireland.

We noted the minimal reference to the particular circumstances of the Northern Ireland devolved administration in the 123 page consultation document. We reminded the Ministry of Justice that the incorporation of the European Convention on Human Rights (ECHR), through the HRA, was a central tenet of the peace settlement. We consider any amendment or weakening of these protections to be in breach of the 1998 Belfast/Good Friday Agreement (GFA), which could lead to a potential undermining of one of the most successful underpinning elements of our hard-won peace process.

The GFA commits the UK to incorporation of the ECHR into NI law in a way that will ensure “direct access to the courts, and remedies” for breaches of ECHR rights. Yet the consultation proposed measures that will impede direct access to the courts and remedies. The GFA also provided that these protections should be complemented and enhanced through a Bill of Rights for Northern Ireland.

Whilst this was a ‘Bill of Rights’ consultation, we noted that it is highly unusual in that its main aim appears to be

to reduce the level of protection for human rights. This has to be contrasted with efforts in the devolved jurisdictions, where there are proposals and debates about significantly expanding the protection of rights by giving greater effect to more rights than are found in the ECHR and HRA. The UK government has taken a court case in order to stymie one of those initiatives (see [Reference](#) by the Attorney General and the Advocate General for Scotland [2021] UKSC 42). This consultation did not have the aim of expanding rights protection, which is apparent from the fact it is proposing adding only one right, the right to a jury trial, and even there the proposal has not been thought-through.

The consultation’s 29 questions were grouped in the following themes: ‘Respecting our common law traditions and strengthening the role of the Supreme Court’; ‘Restoring a sharper focus on protecting fundamental rights’; ‘Preventing the incremental expansion of rights without proper democratic oversight’; and ‘Facilitating consideration of and dialogue with Strasbourg, while guaranteeing Parliament its proper role’. We strongly rejected a number of proposals, such as those to include a new permission stage and remedies available; the weakening of the obligation under Section 2 of the HRA for courts to take into account European Court of Human Rights (ECtHR) judgments; and any reform or repeal of Section 3 of the HRA, which requires legislation to be read compatibly with Convention rights so far as it is possible to do so.

As the Joint Committee on Human Rights noted in its March 2022 [report](#) ‘Human Rights Act Reform’, in relation to Northern Ireland in particular, the GFA “and the principle of respect for human rights guaranteed therein is at the heart of the peace settlement in Northern Ireland”. This report also referenced that “the Committee on the Administration of Justice told IHRAR that any weakening of the protections in the HRA would breach the GFA and ‘potentially destabilise elements of our peace settlement’”. There have been many attempts by Conservative governments to weaken or entirely scrap the HRA and this consultation is the most recent attempt to do so. A lack of public understanding and sense of ownership of the HRA, combined with misrepresentation of human rights cases and issues by elements of the tabloid press, has contributed to the misunderstanding and hostility to the HRA and the role of the ECtHR.

At the same time, we have also witnessed an apparent willingness to weaken the rule of law amongst members of the current government, as well as attacks on ‘leftist

lawyers' from the most senior levels of government, namely the Prime Minister and Home Secretary. We have had also witnessed a false 'witch-hunt' narrative relating to historic offences in Northern Ireland, including the official assertion that prosecutorial decisions have been "vexatious", fundamentally undermining the constitutional principles of the rule of law and the separation of powers: key cornerstones of a democratic society.

This consultation took place against the background of other measures undermining the rule of law by the present government. Once such example relating to Northern Ireland is the [Northern Ireland Troubles \(Legacy and Reconciliation\) Bill](#), which shuts down civil proceedings, inquests, Police Ombudsman and police investigations and proposes a body to carry out reviews, not human rights compliant investigations into Troubles related incidents, and the provision of immunity to perpetrators, which in our view is in fact an amnesty. Other such regressive measures include the [Covert Human Intelligence Sources \(Criminal Conduct\) Act 2021](#), which allows the intelligence and security services, as well as a range of other public authorities, to issue criminal conduct authorisations for agents. The Act places no express limits on the crimes that can be authorised, including murder and torture, and reverses the reforms of the NI peace process by bypassing the independent role of the prosecution service in relation to criminal offences committed by informants, instead rendering such crimes "lawful for all purposes".

The Internal Market Bill (now [Act](#)) in its original form also explicitly broke international law - as was openly conceded by the NI Secretary of State - by disregarding Northern-Ireland related provisions of the treaty with the EU, signed only nine months before. The [Judicial Review and Courts Bill](#) is another example of the move to limit access to justice and effective remedies, while the [Police, Crime, Sentencing and Courts Bill](#), with its extremely wide scope and extraordinary police powers, is a clear attack on the rights to freedom of expression and assembly in England and Wales.

The [Nationality and Borders Bill](#) is yet another example of the attempts by the current Government to rollback on access to justice, human rights, and equality. The impact of this Bill is so severe that the United Nations High Commissioner for Refugees (UNHCR) has publicly opposed it, stating that it will undermine the UK's obligations under the Refugee Convention.



This consultation is a further attempt to weaken and limit judicial oversight of government policy and actions, such as those outlined above. The rule of law applies to all in society including, especially, the Government. It is of note that, despite the length of the consultation, it did not at any stage ask whether there was support for a UK Bill of Rights to replace the HRA. In Northern Ireland, there is civil society support for the NI Bill of Rights that would supplement and provide additional rights to the ECHR, as committed to in the GFA, rather than for a regression in current protections.

On 10 May, the Queen's Speech 2022 introduced a Bill of Rights to "ensure the constitution is defended" and to "restore the balance of power between the legislature and the courts". Its stated purpose being to end 'abuse' of the framework of human rights and bring 'common sense' to the Justice System. This includes a focus on defending freedom of speech; closing down 'rights culture', as well as 'unnecessary litigation'; establishing the primacy of UK case law; and restricting the positive obligations UK courts can impose on public services. In June, the government indicated that it did not intend to submit the Bill of Rights for pre-legislative scrutiny, despite calls to do so from Parliamentary committees, including the Joint Committee on Human Rights and the Justice Committee.

Given the threat to the devolution settlement in Northern Ireland, and the wider constitutional significance of these proposals, CAJ is working with a large number of civil society organisations to protect the hard-won Human Rights Act and will strenuously resist any attempts to weaken human rights protections in Northern Ireland. Our Director, Brian Gormally, gave oral evidence to this end to the Joint Committee on Human Rights on 11 May 2022. A transcript of the session is available [here](#).

Rise in suicide shows need for urgent action on mental health

Sara Boyce, Organiser, PPR

On 26 May 2022, NISRA published its [Review of Suicide Statistics](#) and released a new data series for 2015-2020. This review was undertaken in conjunction with the Coroner's Service for NI (CSNI).

The review was initiated following a significant fall in suicide numbers among registrations in 2019 which had been subject to increased quality checks of source data compared with previous years.

The main outcome of the review was that the majority of cases previously coded as undetermined intent were reviewed by a coroner and deemed accidental and recorded as such, which excluded them from the official suicide definition.

In addition to the outcome of the review itself, NISRA released a set of tables giving the revised time series (2015-2020) of the number of suicide deaths in the north of Ireland. Among the main findings were

- There were 219 suicides registered in NI in 2020. This is an increase of 14 (7%) since 2019.
- The age-standardised suicide death rate in NI increased from 12.4 deaths per 100,000 in 2019 to 13.3 per 100,000 in 2020.

The 123GP Campaign issued the following statement in response to NISRA's publication. "The 123GP campaign is saddened and concerned by the increase in the deaths by suicide in 2020. This followed a welcome reduction in 2019, down from 236 deaths in 2018 to 205 deaths.

As families directly impacted by suicide we know only too well the devastation caused by each and every death. We pay tribute to the herculean efforts of local communities across the north. They have worked tirelessly, often with very little funding and resources, to help bring about this reduction in deaths.

Yet we know that there can be no acceptable number of deaths by suicide. Our collective aspiration should be to have zero suicides, not limited to a 10% reduction, as in the Protect Life 2 Strategy. We now need to see efforts by government and its agencies intensified, to bring a reduction in these preventable deaths. There is a strong link between inequality and preventable deaths, whether those are deaths by suicide, drugs and alcohol or other health related issues.

Rates of death by suicide are three times greater in the most deprived area than in the wealthiest area. For drug related deaths that rises to five times higher rates. While deaths by suicide are increasing, drug-related deaths are rising even more sharply. We've seen the rate of drug-related deaths more than double in the past 10 years.

Regardless of how they are classified, the majority of these preventable deaths occur in deprived areas. So, we need to see suicide prevention efforts targeted at areas of greatest need and we need to see evidence of this happening.



Right now, there is an 'inverse care law' in operation. Those areas that are most deprived, like North and West Belfast, or Inner East Belfast, with the highest rates of mental ill-health, have the worst access to mental health services. We can see this inverse care law in operation in relation to counselling provision.

As highlighted by the 123GP campaign in 2020, access to counselling services continues to be a post-code lottery. West Belfast contains five of the worst 10 areas in the entire North when measured against a mental health indicator. Yet in 2021, 16 GP practices in West Belfast [stopped](#) providing in-house counselling.

Alongside this, community organisations providing vital counselling services are being defunded. It's not enough to say that the Mental Health Strategy, and new Multi-Disciplinary Teams, if fully funded, would address these deep levels of inequality. Resources for mental health and suicide prevention need to be visibly targeted at those communities with the highest levels of need. We need to see an immediate end to the post-code lottery for counselling. Community -based counselling providers need to be properly resourced on a sustainable basis. No one should wait longer than 28 days for an appointment.

Beyond mental health and suicide prevention services, the government needs to also tackle the underlying causes of emotional distress and despair. In the words of the late Bishop Desmond Tutu: *'There comes a point when we need to stop pulling people out of the river. We need to go upstream and find out why they're falling in'.*

This was true before 2020. It is more urgent than ever now. The economic impacts of the pandemic, coupled with the cost of living crisis, are hitting poor communities hardest. We look forward to hearing how government intends to 'equality-proof' it's resourcing of suicide prevention and mental health services, so that services truly meet the needs of communities.

All of these issues and the solutions being proposed must be included in a #NewScriptForMentalHealth , the campaign for which is being spearheaded by mental health activists and local communities."

If you'd like to help us write a #NewScriptForMentalHealth, contact Sara Boyce from PPR on sara@pprproject.org or **078 6407 4235**.

Misogyny and hate crime legislation

Robyn Scott, Communications & Equality Coalition Coordinator, CAJ

Misogyny is a familiar, everyday problem for women in Northern Ireland – a type of prejudice that is far too often normalised, even though it has far-reaching consequences for how women go about their daily lives and interact with others (especially men). The issue of misogyny in our society must be addressed – preferably with urgency - but questions remain over the exact approach that should be used.

On Friday 10 June 2022, the [Equality Coalition](#) (which is co-convened by CAJ and UNISON) held a webinar in collaboration with the Coalition Against Hate Crimes Ireland (CAHC) to examine ‘Misogyny and Hate Crime Legislation, North and South’. This webinar considered the new misogyny aggravator model proposed by the Working Group on Misogyny and Criminal Justice in Scotland in their report, [Misogyny – A Human Rights Issue](#).

We invited Baroness Helena Kennedy QC to join the event as our keynote speaker. Helena led the Scottish working group and has been a legal practitioner for five decades. The webinar was Chaired by Patricia McKeown (UNISON) and also featured input from Daniel Holder (CAJ), Luna Lara Liboni (CAHC), and Rachel Powell (Women’s Policy Group NI (WPG)). Members of the Equality Coalition, WPG, and CAHC were invited to participate in the event, alongside officials from a number of public bodies.

During the last few years, the Equality Coalition has compiled a significant body of work on hate crime and, specifically, misogyny. The Coalition worked closely on the Independent Review of Hate Crime Legislation in Northern Ireland, led by Judge Marrinan, which [reported](#) in December 2020. Recommendations from this review were in the process of being taken forward by the Department of Justice (DoJ) prior to Stormont’s latest collapse. In recent months, the Coalition has been engaging extensively with the Women’s Policy Group to consider how misogynistic hate crimes could best be protected against under NI law. Meanwhile, the co-organiser of our webinar, CAHC, has taken part in similar discussions in relation to the development of hate crimes legislation in the Republic of Ireland. CAHC, which is chaired by the Irish Council for Civil Liberties (ICCL), draws its membership from organisations that represent groups commonly targeted in hate crimes

Published in March 2022, *Misogyny – A Human Rights Issue*, has, for the first time, provided a detailed blueprint on how protections against misogyny could potentially be incorporated into law.

What exactly does this report propose?

When the Hate Crime and Public Order (Scotland) Act 2021

received Royal Assent, the UK Parliament left open the opportunity to add 'sex' as a further protected category at a later date. Helena was invited to establish a working group to decide whether this would be an effective way of protecting women, or whether an alternative option of creating a separate, standalone offence based on misogyny might be more appropriate (a suggestion that was already finding favour with many women because hate crime legislation is principally designed to protect minorities, and women are not a minority).

The conclusions of the working group were set out in *Misogyny – A Human Rights Issue*. The report proposes that a standalone act on misogyny be introduced since misogyny is so “deeply rooted in our patriarchal ecosystem that it requires a more fundamental set of responses”. Specifically, the report advocates for the introduction of a dedicated Misogyny and Criminal Justice (Scotland) Act, which would:

1. Create a new Statutory Misogyny Aggravation which operates outside of the Hate Crime and Public Order (Scotland) Act 2021;
2. Create a new offence of Stirring Up Hatred Against Women and Girls;
3. Create a new offence of Public Misogynistic Harassment; and
4. Create a new offence of Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline.

The outcome of the webinar

The core purpose of the webinar was to focus on how learning from *Misogyny – A Human Rights Issue* could be applied to the ongoing processes in Northern Ireland and the Republic of Ireland. During the event, Helena provided a detailed overview of the core proposals set out in the report and then answered questions from the audience. She has offered to engage further with groups on the island of Ireland on these issues – the Equality Coalition will endeavour to organise a follow-up event this year.

It remains to be seen what will happen next in terms of government policy - especially with the continuing political turmoil in NI - but the Equality Coalition, CAHC, and WPG will continue to work on these issues regardless.

As Helena said during the webinar, “Different nations will take their own routes in trying to deal with [misogyny] ... I now believe that we can tinker around the edges until the cows come home and it won’t do it if you don’t address the underlying problem of misogyny in our society. I see it as being fundamental because [every] women experiences misogyny. So, let’s be very clear that this is one of those primary prejudices that exist in our societies, and if we don’t deal with it, we will not make the progress in our societies that we need to make.”



Experts call for radical overhaul of police accountability and oversight

CAJ and our sister organisation, the Irish Council for Civil Liberties (ICCL), called for greater accountability in policing and better oversight of police intelligence at a cross-border seminar on police reform, held in March.

Organised jointly by CAJ and ICCL, the hybrid event assembled international experts on policing in the Westin Hotel, Dublin, including policymakers, practitioners, community representatives, and academics. The seminar was held at an important juncture in advancing and sustaining policing reform in the South, with key reform legislation before the Oireachtas. Best practice in other jurisdictions, including Northern Ireland, was a major focus across the day.

CAJ Director, Brian Gormally, said: “Covert policing and informant handling have gone badly wrong in the past in Northern Ireland, damaging confidence in policing and the rule of law. However, significant reform within the PSNI, increased accountability and the application of international human rights standards can bring useful learning for other police reform processes.”

Addressing the importance of an effective complaints mechanism, ICCL Executive Director, Liam Herrick, said: “It’s crucial that people feel the police service has their best interests at heart but also that, where mistakes are made, there is a robust complaints system. Complaints must be dealt with promptly,

independently, and effectively. Government has a once-in-a-generation opportunity now to make sure the public can have complete confidence in the police Ombudsman by strengthening its powers and resources.”

The seminar also addressed how to achieve changes to police culture – widely acknowledged as the most complex aspect of reform.

Yasmin Cader, Deputy Legal Director of the American Civil Liberties Union (ACLU) said: “To create meaningful and long-lasting solutions to discriminatory and harmful policing, we must centre, engage and take leadership from our most vulnerable communities. This effort must be coupled with a robust analysis of societal structural inequities and how those inequities have been historically furthered and maintained by our public institutions -- including law enforcement.”

The seminar was the second in series of two events, following on from a previous seminar in Belfast, ‘PSNI@20’, which was held in November. A detailed report from the first seminar, which includes all the speakers’ presentations, is available here: <https://bit.ly/3JQ2k7i>. We hope to publish a report on the second seminar soon so watch this space! Both events were funded by the Community Foundation Ireland through the All-Island Fund.

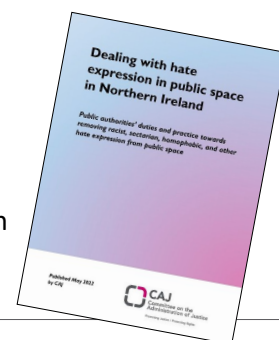
GJS Hub Convention 2022 - Belfast and London

In May, CAJ attended the second in-person convention of the GCRF Gender, Justice and Security Hub, which is led by the London School of Economics (LSE). CAJ is a partner, alongside TJI, in a hub research project looking at social and economic rights and transition.

The convention, which took place from 8-14 May in both Belfast and London, was the first post-pandemic gathering of hub members, who predominantly come from places that, like Northern Ireland, have been impacted by violent conflict. During the convention, participants contributed to developing the hub’s future workplan and from heard local voices, including CAJ staff, on the NI political context and ongoing peace process.

Hate expression in public space

Hate expression remains prevalent in public space in Northern Ireland, causing significant harm to those communities it targets. Homophobic, sexist, and especially racist and sectarian expression is common. Because of its intimidating nature, hate expression is a significant contributor to housing segregation. CAJ’s latest report, *Dealing with hate expression in public space in Northern Ireland*, examines what duties public bodies have in relation to removing hate expression from public space and contrasts this with their current practice. Recommendations for improving practice are included. The in-depth report can be downloaded [here](#).



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.

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