



Crushed by the cost of living

Siobhán Harding, Policy Officer, Women's Support Network

There is no escape from the cost of living crisis. We hear on an almost daily basis about rising prices for the most essential items such as food and energy bills. Yet there has been little meaningful action from local and national politicians to provide hope for those most affected by this crisis.

In September 2022, the *Crushed by the Cost of Living* event at Stormont brought together a range of experts who are working on behalf of those who will be the most impacted by the crisis. A number of people with lived experience also spoke passionately about the impact of the crisis on their lives. These very powerful contributions outlined the fear, worry, cold, and hunger that they and their families are experiencing because of the cost of living increases. Many pleaded directly with local politicians to do something to help them get through this winter.

The backdrop to the event is a series of grim statistics and predictions about poverty, financial hardship, and rising energy costs. The National Institute of Economic and Social Research (NIESR) has [predicted](#) that destitution levels could rise by as much as 67% in Northern Ireland, double the rate of the headline figure of 30% in other parts of the UK. This equates to some 25,000 destitute households. When you consider that the definition of destitution means going without the essentials necessary to eat, stay warm, and keep clean, then you get some indication of how desperate the situation could be for many households.

[Fieldwork](#) for the Northern Ireland Life and Times Survey carried out in the last quarter of 2021 also shows some worrying signs. It found that 26% of respondents had reported a decline in household income and that around 25% of households could not afford to pay an unexpected £500 bill.

Recently released [survey data](#) from the Consumer Council has shown that 66% of households in Northern Ireland believe that their financial position is worse now compared to 12 months ago. Of this group, 47% attributed this to rising food and grocery prices, while 45% attributed this to increases in the cost of petrol and diesel. 24% of households said they are unable to cope with bills and buy the essentials they need every month. 99% said they are concerned about home energy prices, and 96% say they are concerned about food prices. 75% say they have cut back a little (27%) or a lot (48%) on essentials after paying their mortgage/rent/loans/overdraft.

In terms of housing, Joseph Rowntree Foundation [research](#) found that Northern Ireland has a greater proportion of homeowners in poverty than the rest of the UK. Twice as many of Northern Ireland's mortgaged households were behind with their mortgage repayments (14%) when compared to the whole of the UK (7%). A [response](#) to an Assembly Question also highlighted the situation for private renters on Universal Credit (UC), with 82% having a shortfall between the amount of support they receive

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from and the amount of rent they owe. The average shortfall is £119 per month.

Astronomical increases in energy costs are a significant part of the inflationary pressures on households. [Research](#) by the Consumer Council in Northern Ireland shows that an average electricity bill has increased by 55% since July 2021.

Depending on where you live an average gas bill has increased by between 210% to 354%. Meanwhile, an average oil bill has increased by 148%. This means that typical annual energy costs have increased from £1,125 to £2,539 (gas, Greater Belfast), £1,129 to £3,296 (gas, Ten Towns), and £1,351 to £2,784 (oil). Energy bills are more than double and in some cases almost three times what they were a year ago.

Women are more likely to be affected by economic crises and the cost of living crisis is no different. As women's incomes are generally lower over their lifetimes - often as the result of caring responsibilities, a greater likelihood of working part-time, and of being in receipt of social security benefits - they have less protection against these crises.

[Research](#) by the Women's Regional Consortium (WRC) on women living with debt has shown the impact of cost of living pressures on local women and their debts. 60% of the women who participated in the research reported their debts had been impacted by rises in the cost of energy and food. Worryingly, 60% of the women reported difficulty meeting their repayments or said they had missed repayments on their debts. Women told the WRC that the cost of living crisis is making it difficult for them to feed their children, heat their homes, and live dignified, healthy lives. They talked about having to ration their heat or stop putting it on altogether; struggling to buy food particularly healthy food; going to foodbanks; and finding it really difficult to meet school costs including school uniforms, shoes, and lunches.

All these figures give serious cause for concern, particularly for those on the lowest incomes who are least able to manage the significant increases in prices resulting from this crisis. The situation is arguably worse in Northern Ireland, where there is currently no fully functioning Assembly or Executive. Attendees at the Crushed by the Cost of Living event heard a recurring theme of the need for local politicians to get back to work to help those most affected by

the crisis. Politicians in attendance were presented with four fully costed emergency measures designed to protect low-income households from the worst impacts of the cost of living crisis:

1) PAUSE SOCIAL SECURITY DEBT FOR SIX MONTHS - stop social security debt deductions from low-income households to maximise monthly income.

2) REINSTATE THE £20 UPLIFT TO UNIVERSAL CREDIT AND EXTEND IT TO LEGACY BENEFITS - target more cash to working and non-working households to give families the dignity of affording basic essentials.

3) A ONE-OFF PAYMENT OF £500 TO THOSE ENTITLED TO DISABILITY BENEFITS OR CARER'S ALLOWANCE - those entitled to Child DLA, Personal Independence Payment, Attendance Allowance and Carers Allowance will receive a £500 payment to recognise additional costs.

4) REMOVE THE TWO-CHILD LIMIT FOR UNIVERSAL CREDIT AND CHILD TAX CREDIT - all children in a family should receive benefit entitlement to ensure that no child goes hungry this winter.

These emergency measures could help households in Northern Ireland get through the winter with the dignity of being more able to afford the most basic essentials. The measures were costed for a six-month period, but it was acknowledged by policy experts that they are a temporary solution and therefore can only provide temporary relief.

Ultimately, what is needed is the urgent implementation of the long awaited for Anti-Poverty Strategy, first promised in the Northern Ireland Act 1998. We also await the publication and fulfilment of the Review of Welfare Reform Mitigations, and the implementation of the recommendations contained in the recent Review of Discretionary Support. These important reviews provide the potential for targeted and essential help for those on the lowest incomes and those most impacted by the crisis.

We need to see long-term measures that will provide adequate protection for people in times of difficulty and crisis. If our politicians do not act now, we risk collectively standing over a humanitarian calamity of epic proportions.

"Society is facing an acute and unparalleled crisis. There is no question that delivering the emergency measures called for today will come at a significant cost to the public purse. However, these spending implications must be understood in the context of the costs, both in financial and human terms, associated with a failure to act. These costs will be borne by people and families across Northern Ireland. Agonising decisions are already being taken daily by parents over whether to heat their homes or feed their children, with impacts felt in terms of poorer mental and physical health and implications for children's development. This is not to mention the subsequent costs to the public services which respond to the myriad of problems associated with poverty. When considered in this light, it is clear our elected representatives must take urgent steps to avert the most severe aspects of the cost-of-living crisis. The time to act is now."

Dr Ciara Fitzpatrick, one of the organisers of Crushed by the Cost of Living

Legacy legislation under criticism at the Council of Europe

Gemma McKeown, Solicitor, CAJ

CAJ has welcomed a decision by the [Council of Europe](#) Committee of Ministers to call on the UK to rethink the controversial [Northern Ireland Troubles \(Legacy and Reconciliation\) Bill](#). The decision by the Committee of Minister (CoM), who met in Strasbourg, France, in September, states that if the legislation is progressed it must be “in full compliance with the European Convention [of human rights]”, “enable effective investigations into all outstanding cases”, and be able to gain “the confidence of victims, families and potential witnesses”.

The CoM outlined its serious concerns at the lack of formal consultation on the current legacy bill and “the minimal support for, and public confidence in the Bill and its mechanisms in Northern Ireland from victims groups, civil society, the Northern Ireland Human Rights Commission and political representatives”.

While the CoM noted the UK government’s own position that the legacy bill is compatible with the European Convention, they were clearly not persuaded. Instead, the CoM urged the UK government to make significant amendments to the Bill, including guaranteeing in law the independence of the proposed Information Recovery Commission, ensuring that full disclosure of information be given to it. The UK was also urged to allow pending inquests to conclude and to reconsider the conditional immunity scheme, given concerns about its compatibility with the European Convention.

CAJ welcomes this decision from the CoM – given regard

What is the Northern Ireland Troubles (Legacy and Reconciliation) Bill?

The Northern Ireland Troubles (Legacy and Reconciliation) Bill was introduced to the UK Parliament in May 2022 and has departed entirely from the legacy mechanisms proposed within the 2014 [Stormont House Agreement](#), a move that has garnered virtually no support from within NI.

The Bill will close down all current independent judicial and investigative processes into Northern Ireland legacy cases. It will ban future investigations and, instead, for a temporary period, set up an alternative legacy body designed to do limited desktop ‘reviews’ of cases, which will be subject to significant control from the Secretary of State for Northern Ireland.

The Bill completed passage through the House of Commons in July 2022 and is now in the House of Lords.



to the diplomatic process by which these statements are produced, which involves intense negotiations between Members States including the UK government, this is a very strong statement.

It is our view that the CoM is going as far as it can to signal its view that the legacy bill is incompatible with the European Convention of Human Rights and asking the UK government to rethink its entire approach to this legacy legislation and to take seriously the concerns of victims and others.

We have reiterated our call on the UK to now withdraw this bill and abide by its international human rights obligations. The engagement of the international community which has shone the spotlight on this concerning legislation – if the British Government pushes through this legacy bill it will not only lead to worrying impunity within NI, but will risk being replicated by authoritarian governments elsewhere.

The CoM decision has been [published online](#) in full.

CAJ regularly makes submissions the Committee of Ministers on the ‘McKerr group of cases’ concerning the actions of the security forces in the 1980s and 1990s in Northern Ireland. Our last was drafted for consideration at the 1443rd meeting (in September 2022) of the Ministers’ Deputies.

You can access this submission and all previous ones on the CAJ website:

www.caj.org.uk/publications/submissions

Pádraigín Drinan 1947 - 2022

Fiona McCausland

It was in the early 2000s and CAJ's director Martin O'Brien asked me to attend a conference for Frontline Defenders, an international human rights organisation founded in Dublin, for the protection of human rights defenders at risk. I arrived in Dublin and was sitting quietly reading in my hotel room when a woman arrived through the door with shopping bags laden with papers. This was my introduction to fellow CAJ member and civil rights lawyer Pádraigín Drinan. When we established that this was a shared room we settled into a long chat and what became an enduring friendship that would last until her untimely death in July this year. Over the subsequent years, I had the privilege of enjoying her friendship, her journey campaigning for human rights and travelling with her to some of the most interesting countries in the world.

Pádraigín was one of four women in a class of seventy-four when she studied law at Queen's University in the late 1960s. Here she also became a prominent campaigner in the Civil Rights movement within Peoples Democracy.

Pádraigín was active in the Association for Legal Justice and started work with Belfast solicitor Christopher Napier; her first job involved a challenge to internment. As a trainee solicitor she then assisted in the representation of the families of those killed on Bloody Sunday, collating statements which were later used in the Saville Inquiry. Pádraigín was involved with taking several cases to the European Court of Human Rights and the Supreme Court. For example, in the case of *Brogan and others v. the United Kingdom*, the European Court determined that the detention of alleged terrorists without a prompt judicial intervention was a breach of the European Convention of Human Rights (ECHR). When the United Kingdom brought the European Convention into British law, by way of the Human Rights Act, there is a section saying that they have derogated from part of the Convention because of the decision in "Brogan and Others".

Pádraigín was a solicitor who recognised that there was a wider context in which she conducted her civil rights legal work. In one case, Noreen Winchester, at twenty years old, was given a seven-year sentence in Armagh Women's Prison for killing her father. Ms. Winchester had been subjected to sexual assaults by her father since her mother's death when she was thirteen. Her father had also raped her younger sisters and threatened to kill her and her four sisters and three brothers if she told anyone. Pádraigín petitioned for Noreen to receive the Royal Prerogative of Mercy. At the same time, she organised the Noreen Winchester Committee to send notice to Roy Mason (the then Secretary of State for Northern Ireland) that actions would be raised in five European countries and in America, Canada, and Australia. Mason subsequently released Noreen. Pádraigín built a network of allies and organisations around her clients to progress justice. She continued to support and volunteer in women's organisations such as Women's Aid, Rape Crisis, and Falls Women's Centre.



Despite threats to her life, she represented residents' groups in the Ormeau Road in legal challenges about contentious marches and later in Garvaghy Road following the murder of fellow solicitor Rosemary Nelson in 1999.

One of the most interesting campaigns that she galvanised concerned the proposed public order legislation which would have curtailed public meetings, thereby affecting the work of trade unions and other groups. We collected the leaflets from the printer on May Day 2010 and distributed them to the participating Unions and associated groups on the march. Pádraigín was unwell during that afternoon, and we found out the next day she had been admitted to hospital overnight having experienced heart failure.

Pádraigín was one of the first Immigration lawyers. One of the clients that I brought to her for legal help was a young woman from Poland. On leaving the office she said to me: "There were so many papers on the table and yet when she started to speak the papers seemed to disappear. I saw a light around her head, and I felt that an angel was speaking to me." Pádraigín represented many clients from all backgrounds and deployed her extensive knowledge of immigration to inform the Marrinan Inquiry on hate crime legislation.

Coupled with her legal skills, she also knew the importance of campaigning against injustice. As a solicitor, she could analyse the shortcomings of legislation that was supposedly intended to protect civil rights. Post retirement, Pádraigín continued her campaigns. She brought together a group of women (former clients) and worked with them to articulate a campaign to ensure justice for abuse survivors, working closely with the Gillen Review on sexual offences, the Historical Institutional Abuse Inquiry, and the Mother and Babies homes working group. One of her friends recently said, "When she was fighting for you, she would be fighting in the frontline alongside you."

Although she had very serious health issues over several years, her death was sudden and unexpected. She still had so much that she wanted to do and will be sorely missed in a place that needs champions like her for the persecuted and oppressed.

Positive obligations: Making rights effective

Rory O'Connell, Professor of Human Rights and Constitutional Law, Ulster University

With the UK government once again in turmoil, we have no way to be sure of the ultimate fate of the Bill of Rights Bill. However, although we do not yet know what the government thinking on this Bill will be under the new Prime Minister (Rishi Sunak), I want to highlight one of the many objectionable features in the Bill, as it was first introduced.

The Bill proposed to restrict the use of positive obligations by UK courts when giving effect to the rights in the European Convention on Human Rights (ECHR). The Bill would have prohibited the courts applying any 'new' positive obligations, and would have restricted the application of existing positive obligations. This proposal was problematic, as positive obligations have been important in making rights effective.

When we write about positive obligations, we contrast them with negative obligations. A negative obligation means that the state is prohibited from interfering with the existing enjoyment of rights. Take the examples of where the state detains someone, or censors their expression, or intercepts their communications. These are all examples of the state interfering with existing rights and so may be breaches of negative obligations (subject to any justification).

On other occasions human rights may be violated where the state *fails to act*. In these circumstances we speak about a violation of the state's positive obligations.

Several ECHR articles explicitly establish positive obligations – the right to life “shall be protected by law” (Article 2); states “undertake to hold free elections” (Article 3). Other rights necessarily presuppose state action, be it the creation of courts, the recognition of the institution of marriage or property. The overarching obligation in Article 1 is for the states to “secure to everyone within their jurisdiction the rights and freedoms” in the ECHR.

The European Court of Human Rights has relied on this textual basis and the need for a purposive approach to interpretations – rights should be real and effective, not paper rights – to develop specific obligations since the late 1970s. In the ECHR, positive obligations take many forms. For instance, the state may be required to legislate to provide effective protection for rights. Or the state may be obliged to take specific operational steps to protect persons from violations of their rights by non-state actors, or to provide information about risks to human rights. The state may be obliged to provide certain resources or services to enable rights to be realised. The state must take positive steps to protect the rights of persons in detention.

Positive obligations are crucial in contemporary conditions. In the late 1940s, it was understandable that people might focus on the harms carried out by the state. But today we should be aware that it is not enough to merely prohibit wrongful state

action. Sometimes even when the concern is about state action, it is necessary to require the state to act. This is the case with the investigative obligations in relation to the right to life (Article 2 ECHR) and freedom from torture, inhuman and degrading treatment (Article 3 ECHR). It is not enough to prohibit these violations. To make the prohibition effective, states must carry out independent, effective investigations into allegations of violations of these rights.

Positive obligations are also essential when the threat to human rights comes from non-state actors. We know today that human rights might be violated by business, news media, churches, paramilitaries, family members, and others. For instance, the state is required to have a legal framework that gives protection to the free expression rights and freedom of religion rights of employees in their place of work (*Eweida v UK*).

Positive obligations require the state to protect persons from threats to their life by third parties in specified circumstances (the so-called Osman duty). In the last dozen years or so, the European Court of Human Rights has developed this to apply in the context of domestic and intimate partner violence (*Opuz v Turkey*). Positive obligations require the state to protect people from serious environmental harm such as that caused by a landslide triggered by an explosion in a dump (*Öneryıldız v. Turkey*).

The duty to investigate suspicious killings and allegations of torture has been applied to cases where private individuals are the threat to life. The European Court of Human Rights also requires that investigations consider allegations of racial or religious bias.

Positive obligations are valuable in protecting certain groups who are likely to have their rights violated (vulnerable groups for short). So, for instance, positive obligations require the state to adopt legislation that protects children from corporal punishment (*A v UK*); positive obligations also require the state to take steps to protect children from serious neglect (*Z v UK*). The European Court of Human Rights has applied the doctrine of positive obligations to require states to legislate to protect victims of human trafficking and domestic servitude, and to take operational steps to investigate such violations and to protect the victims.

The European Court of Human Rights has ruled there is a positive obligation to facilitate voting by persons with disabilities, to enable them to vote on an equal basis with others (*Toplak and Mrak v Slovenia*). It has also held that positive obligations require the state to facilitate the access to education of students with disabilities (*Çam v. Turkey*). In short, the positive obligations doctrine has been a versatile one, enabling the European Court of Human Rights to try and make rights more effective and real for people, including many vulnerable groups.



Recognition of a right to a healthy environment – What does it mean for climate justice?

Millie John Pierre, Intern, Friends of the Earth NI

In October 2021, the right to a healthy environment was recognised by the United Nations Human Rights Council (UNHRC) in a new [resolution](#). The resolution has come at a critical point during the climate crisis, following years of hard work and tireless efforts by campaigners and activists who had been calling for the connection between human health and the environment in which we live to be recognised.

The UNHRC is an elected body, made up of 47 UN member states, which discusses current global and country specific human rights issues in their meetings three times a year. Resolutions are one of the main outputs from the UNHRC sessions. While these resolutions are not legally binding - meaning they cannot be used to argue a case in domestic courts - they set new international standards, which states are supposed to implement within their own countries. Campaign groups often use resolutions as a tool to put political pressure on governments to implement change on particular issues. In a 2021 [statement](#), the (former) UN High Commissioner for Human Rights, Michelle Bachelet, urged UN member states to take bold actions to give prompt and real effect to the right to a healthy environment.

Case Study – Climate Case Ireland

A case close to home that recognised the right to a healthy environment was ‘Climate Case Ireland’ against the Irish government (Friends of the Irish Environment v Government of Ireland). It was brought by the campaigning group Friends of the Irish Environment (FIE) before the Irish High Court in September 2019. FIE argued that the Irish government’s National Mitigation Plan 2017 did not go far enough in reducing emissions under the Climate Act 2015 and, due to this, violated citizens’ constitutional rights and the European Convention on Human Rights (ECHR) (basic rights that citizens are entitled to). The case generated an abundance of interest. The Court was crowded at its hearing in 2019, which led to the judge to free up space at the bench to allow mothers with buggies to watch the proceedings. Despite this, the Court found that due to the wide margin of discretion afforded to states in terms of climate policy, the government had acted within the law. However, within this judgement, the Court recognised the unwritten “right to an environment that was consistent with human dignity”. The case was later appealed to the Court of Appeal, but instead went directly to the Supreme Court upon application due to the “issues of general public and legal importance”.

The Supreme Court decided in favour of FIE in July 2020. In finding that the Irish government had acted outside the law, the court further progressed the discussion on a constitutional right to a healthy environment and the



standing corporate bodies have regarding ECHR rights. The importance of the case is significant as it was the second in the world, following the Dutch climate case (Urgenda V Netherlands), which compelled the government to revise its national climate policy in accordance with legislation. This case was monumental as it safeguarded the rights of future generations within Ireland.

Northern Ireland has recently passed its first Climate Change Act, which, although requiring urgent implementation, could set the framework for further development, recognition, and understanding of a right to a healthy environment in this jurisdiction.

Now that the right is recognised through the UN, it raises the bar for states across the world to take action. Despite states not being held accountable through the UN Council’s recent resolution of the right to a healthy environment, the importance of the resolution is by no means lessened and it demonstrates a clear recognition that human rights and environmental justice are intrinsically linked.

Many states have pushed the discussion of a right to a healthy environment further in recent years and have pushed elaboration of the right in legislation, with some states enacting stronger environmental laws in reflection of this link between human health and the health of our environment. The right to a healthy environment is currently recognised by 155 states. More than 100 have given a constitutional status to the right to a healthy environment, ensuring a legally binding right that can be argued in court. An interesting point to consider is to what extent the UN’s resolution reflected an already prolific and inevitable global recognition of a right to a healthy environment or whether its reflections on the issue set this agenda. That “chicken/egg” discussion is one that will undoubtedly be the subject of future research as the right to a healthy environment is expanded and defined further.

What remains clear at this early stage in the debate is that the steps recently taken by the UNHRC moves international acceptance and implementation of the right to a healthy environment forward, which will ultimately ensure a healthier future for both people and planet.

Frontline Lessons for the Future

Úna Boyd, Immigration Project Solicitor & Coordinator, CAJ

In June, CAJ held an event at UNISON, Belfast, to launch a collaborative [immigration research paper](#), *Frontline Lessons for the Future: Collaborative research on the impact of immigration law and policy in post-Brexit Northern Ireland*.

Post-Brexit, we are facing into the biggest overhaul of the UK immigration system in decades. The impact of this on the rights of migrant and minority ethnic people will be varied and severe. However, the way in which these changes will specifically impact Northern Ireland is often overlooked in mainstream UK discourse.

Frontline services are at the fore of safeguarding and supporting people as they try to navigate their way through the UK immigration regime. The work of CAJ's strategic immigration project is designed to complement the work of frontline organisations, and the project is informed by collaboration and partnership with frontline immigration service and advice organisations.

Funded by the Paul Hamlyn Foundation, CAJ worked collaboratively with some of these frontline organisations to produce *Frontline Lessons for the Future*. Our research partners were STEP NI, the Children's Law Centre, Participation and Practice of Rights (PPR), Migrant Centre NI, and Victim Support NI. Each organisation contributed their expert data and insight from their frontline work. The report then brings together this expert frontline experience, with CAJ's legal and policy analysis. The result combines law, policy, case studies, and data in a unique format.

The report highlights overarching themes in each chapter, Freedom of Movement and the Common Travel Area; the EU Settlement Scheme and the Future Rights of EU Citizens; the Experiences of Asylum Seekers and Refugees; and Racist Hate Crimes and Incidents. These chapters reflect the key issues and patterns raised by our frontline research partners - they show clearly the breadth of issues impacting migrant rights in Northern Ireland. Each chapter outlines case studies and frontline insights from our research partners, which give a unique insight into how these issues impact people on the ground.

Building on the findings of the Immigration Project's previous report, [Can Stormont Rollback the Home Office Hostile](#)

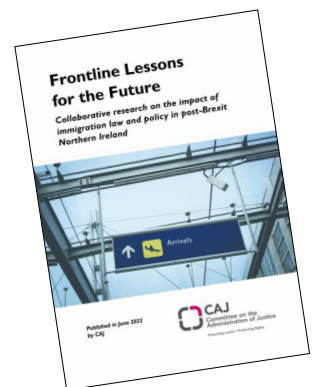


[Environment?](#), the new report not only highlights the issues facing migrant rights, but also proposes policy and legislative reforms aimed at creating a welcoming, human rights compliant immigration regime for Northern Ireland.

The report proposes actions for the UK and Irish governments, as well as focusing on the actions that can be taken by devolved institutions in NI. Together, both of these reports provide a blueprint for genuine change.

At the launch of *Frontline Lessons for the Future*, attendees heard from a series of expert panels themed along the report's various areas of focus. Speakers highlighted the need for action and meaningful change. The final panel brought together expert speakers from throughout the day to discuss changes needed for the future. The panel was chaired by CAJ Director Brian Gormally and included Kendall Bousquet (Migrant Centre NI), Maria McCloskey (PILS), Michael Avila (Victim Support NI), Coumilah Manjoo (Anti-racism activist), Lilian Seenoi Barr (North West Migrants Forum), and Anthony Soares (Centre for Cross Border Studies).

The launch of this report was particularly timely as it occurred on the day when the majority of the Nationality and Borders Act came into force. In the face of the regressive legislation and policies exemplified by that Act, CAJ will continue to advocate for meaningful legal and policy changes, which protect the rights of the migrant community in Northern Ireland. This report will form an essential evidence base and platform on which to build this work.



“This report provides a unique insight into the issues and concerns brought to frontline services, the legal and policy background to these issues, and the impacts in Northern Ireland...in each area of focus, this report has put forward policy proposals for the UK and Irish governments and for the devolved institutions in Northern Ireland. These proposals make it clear that there are significant and meaningful changes that can be made in order to address the issues raised and protect the rights of migrant and minority ethnic people in Northern Ireland.”

Úna Boyd, Immigration Project Solicitor & Coordinator, CAJ

Keeping equality on the agenda – A brief history of the Equality Coalition

Robyn Scott, Communications & Equality Coalition Coordinator, CAJ

There is no denying that there has been great change within Northern Ireland during the last 25 years. Throughout that time, the Equality Coalition has been a stalwart presence, working to ensure equality remains high on the political agenda. The Transitional Justice Institute (TJI) and CAJ are currently working on a case study about the Coalition as part of their work with LSE's international Gender Justice and Security Hub. As a key component of this case study, we have attempted to assemble a definitive history of the Coalition's earliest days - an abridged version of which is presented to you below. As the current Coordinator of the Equality Coalition, I have found it extremely useful to reflect on the progress that has been made since the Coalition's first days, while recognising how far we still have to go.

The genesis of the Coalition

The origins of the Equality Coalition can be traced back to the mid-nineties when a peace agreement in Northern Ireland began, finally, to appear to be a tangible possibility, rather than a distant dream. However, the finer details of this peace remained undecided. CAJ was among those leading the call for human rights protections and equality mechanisms to be included in the peace agreement. A key ally in this work was the trade union movement, including UNISON, the large, mainly public sector union.

During 1996, CAJ and UNISON came together to establish an ad-hoc group comprised of NGOs and trade unions who were campaigning for increased equality – this group soon became known as the Equality Coalition. The group was instrumental in putting equality at the forefront of the agenda at this time, while peace talks were still ongoing. To this day, CAJ and UNISON continue to co-convene the Equality Coalition.

The Good Friday Agreement (GFA) was signed in April 1998. Although it could have gone much further, the GFA contained many progressive features and the text mentioned the word 'right' or 'rights' 61 times in a relatively short document. One of the most important provisions in the GFA was for the development of a statutory duty on public authorities to take equality into account when making policy decisions. This became Section 75 of the Northern Ireland Act 1998 - the act which implemented many aspects of the Agreement.

Section 75 provides that public authorities in carrying out their functions relating to Northern Ireland have "due regard" to the need to promote equality of opportunity between:

- a) persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- b) men and women generally;
- c) persons with a disability and persons without;
- d) persons with dependants and persons without.



These protected characteristics (nine in total) cover a large part of the 'equality agenda' advocated by the Equality Coalition, although today the Coalition also works on other recognised protected equality grounds.

Section 75 requires all designated public authorities to produce an Equality Scheme and to screen their policy for differential (negative) impacts these categories. When one a differential impact is identified through screening, the policy is then meant to be subjected to a full equality impact assessment (EQIA) and changes made to the policy as appropriate. The effective implementation of Section 75 became a unifying factor for the equality sector and the Equality Coalition. Although the particular circumstances and concerns of individual Coalition members were (and remain) highly diverse, all had a common interest in the effective implementation and enforcement of the duty. Indeed, the Coalition continues to use Section 75 as a key tool within its wider work in 2022.

By late 1999, the Coalition had becoming so active that one of its meetings discussed applying for money for a worker. Though this did not go ahead, in 2000, CAJ directly recruited an Equality Worker, a role that has continued to exist in various forms since then. Today, CAJ employs a 'Communication & Equality Coalition Coordinator' to help manage the work of the Coalition.

From the beginning of 2000, the Coalition's activity increased further. The Equality Commission for Northern Ireland (ECNI) had been established and published its guidelines for the development of Equality Schemes by public authorities. In this period, minutes from Equality Coalition meetings show that the group took on many of the characteristics that have remained with it in the succeeding two decades. The co-conveners (UNISON and CAJ) met to set the overall agenda for the Coalition, while members were able to give their input at regular meetings attended by the wider membership. The meetings also settled into an interesting pattern, beginning with information sharing between the various sectors, before focusing on the implementation of Section 75.

Another feature of this era was the beginning of regular meetings between the Coalition and ECNI. From this period onward, the Equality Coalition saw itself as a critical friend to ECNI – supporting its work but being robustly critical when it was not performing up to expectations. It is a crucial role that the Coalition plays to this day.

The Coalition today

In 2022, the Equality Coalition describes itself as a “broad civil society alliance ... dedicated to promoting equality and compliance with Section 75 within Northern Ireland” (as stated on the Coalition website). It has more than 100 members, some of which are themselves umbrella groups, and engages at the highest political level in NI.

Key Findings of The Equality Duty Enforcement Project

Eliza Browning, Policy Officer, CAJ

From 2018 to 2021, the Equality Duty Enforcement Project (EDEP) in CAJ worked to enhance the enforcement of Section 75 through increased Section 75 training, normalising the complaints process for Equality Coalition members by taking forward complaints, and seeking increased transparency in the way that the Equality Commission for Northern Ireland (ECNI) assesses complaints and determines which complaints to investigate. The result of this work has been published in a narrative report of the project, which documents the efforts and impact of the EDEP.

The EDEP strived to reduce the amount of avoidable delay while ECNI is deciding if a complaint will be investigated. In 2018, ECNI promised to review their procedures for complaints and investigations - and to include timeframes in their assessment process - following a complaint made by CAJ to the Public Service Ombudsman in response to ECNI taking more than a year to decide not to investigate blocked funding for the ‘Legacy Inquests Unit’.

However, when ECNI’s draft complaint and investigation procedure was published for consultation a year later, there were still no specific timeframes included within ECNI’s assessment process. After an Equality Coalition intervention, specific timeframes were then inserted into the final policy. This provides a degree of certainty for complainants about the timeframe for a decision on their complaint and was a welcome success for the project. However, as illustrated within the EDEP report, ECNI compliance with the new timeframes has been inconsistent, and there is still a lack of timeframes around the actual investigation of a complaint.

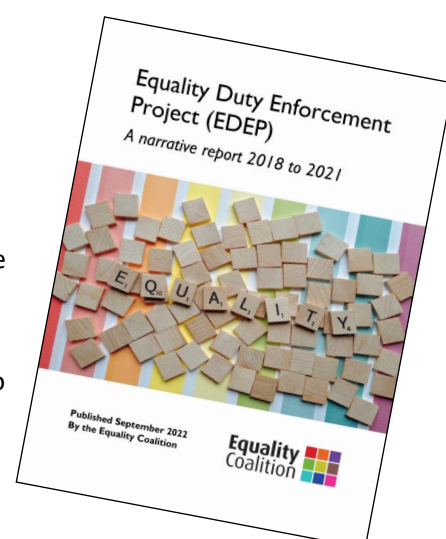
Another recurring issue identified by the EDEP has been a general trend of ECNI not investigating valid complaints, despite the overall low number of complaints which are submitted annually to ECNI and the facts of the complaint often relating to easily identified technical breaches (which are frequently identified in the assessment of the complaint). The reasons given by ECNI for not investigating complaints

You can access some of the Coalition’s latest work by visiting its website: www.equalitycoalition.net. If your organisation is interested in joining the Coalition, please email equalitycoalition@caj.org.uk. Membership is open to groups working to advance equality in Northern Ireland.

can be vague and based on a subjective assessment of the value of what an investigation would achieve. There is also concern that ECNI has used confidential legal advice in lieu of a formal investigation. The EDEP discovered that that a complaint was not investigated on the basis of confidential legal advice. This was a second legal opinion obtained after initial legal advice came to the opposite conclusion and recommended an investigation into the alleged breach. The complainants were not provided with the initial assessment of the complaint which recommended an investigation.

The EDEP report recommends that ECNI institute a ‘fast track’ investigation process for complaints with obvious breaches of equality schemes or where the issue is time sensitive. This would prioritise resources while also ensuring transparency and public accountability over breaches which are clear from the assessment of the complaint, but which at the moment do not receive publicity or enforcement because they are not formally investigated

One of the main findings of the report is that ECNI’s strategy of relying on advice provision over formal enforcement action to impact Section 75 compliance has not been effective. While this has been a position of the Equality Coalition for years, new evidence detailed in the report demonstrates that public authorities are now also aware that advice provision alone is ultimately not capable of shifting the culture of non-compliance with Section 75. By contrast, the report details how formal investigations do seem to affect policy and culture regarding Section 75 within public authorities. The findings of the project demonstrate that, when utilised, ECNI formal enforcement powers prompt the type of Section 75 compliance that ECNI advice provision alone has not been able to achieve. The full report, including recommendations of the EDEP, will be uploaded to the [CAJ website](#) in early November.



Seminar on housing intimidation 25 years after the Good Friday Agreement



QUB Human Rights Centre

Freedom from Sectarian Harassment &
The Right to Choose your Residence:
state practice and paramilitary housing
intimidation 25 years on from the GFA

Daniel Holder

Deputy Director of the
Committee on the Administration of Justice
(CAJ)

Tuesday 6 December at 13:00

in the

Moot Court



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To register, please visit: <https://bit.ly/QUBHousingSeminar>. Both online and in-person tickets are available.

New report - Irish education and the 'Statutory Duty'

[Conradh na Gaeilge](#) and CAJ have launched new research on Irish medium education (IME), *Irish education and the 'Statutory Duty': From the point of view of rights*. Authored by Dr Robbie McVeigh, the report looks at the effectiveness of the Department of Education (DE) and the Education Authority (EA) in relation to delivering on their statutory duty to encourage and facilitate Irish medium education.



The report looks at what (limited) progress has been made and documents obstacles still faced by those within the Irish Medium Education sector. It has been published in both English and Irish:

[Download a copy of the research in English here](#)

[Íoslódáil cóip Ghaeilge anseo](#)

Meeting with European delegation



In September, members of the Equality Coalition - including CAJ - met with a factfinding delegation from the European Association of Lawyers for Democracy and World Human Rights, who are examining the implementation of the Good Friday Agreement in Northern Ireland. A report, including recommendations, is expected to follow from the delegation.

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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