



**CAJ**

**Committee on the  
Administration of Justice**

Promoting Justice / Protecting Rights

## **CAJ Annual Report 2013 - 2014**



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# CAJ Annual Report 2013 - 2014

## Chairperson Foreword

It has become customary in some Annual Reports to reduce the work of an organisation to a series of key performance indicators which spell out targets met, targets exceeded and areas where 'there is room for improvement'. While of course organisations have to demonstrate their value for money, fitness for purpose, strategic planning and so forth, I sometimes worry that something may get lost in our urge to underline our abilities as 'good managers who you can trust with your funding'. For me, an annual report should also be the opportunity where the substance of the organisation's work is recorded and the context within which it occurs explained to members and the wider public. I am therefore pleased as Chair to report that CAJ's Annual report for 2013-14 is such an 'old school' report. It captures the complexity of the organisation's broad work in the human rights and equality field, as well as the very real challenges involved in promoting a rights based society.



The breadth of the organisation's work is detailed herein but I would like to take this opportunity to draw the attention of readers to a number of particularly important developments. As in previous years, CAJ has been heavily involved in matters related to dealing with the past. The disintegration of the Historical Enquiries Team, ongoing controversies over legacy inquests, the lengthy political negotiations on dealing with the past and the recent decision by the Irish government to press for the reopening of the Ireland v UK case at the ECHR ('the Hooded Men') are all illustrations of the centrality of human rights to our collective effort to deal with the past. The requirements of Article 2 compliant mechanisms to deal with the past – requirements which were spelled out in a number of cases by the European Court of Human Rights including those litigated by CAJ – have become the key template around which political and legal discussions on these issues have focused. That in itself is quite an achievement. Gone are the days when expediency between the parties was the only guiding principle for political deal-making. CAJ and other human rights NGOs should take significant credit for ensuring that compliance with human rights standards have become axiomatic in such discussions.

As ever CAJ staff and volunteers have been busy writing policy reports, submissions, briefings and other human rights and equality related documents. As a snapshot, the 3rd edition of the CAJ Handbook of Civil Liberties, edited by the indefatigable Brice Dickson, has been completed and will be launched in early Spring of 2015. Similarly a lengthy report 'the Apparatus of Impunity' – part of an ongoing Business Alliance Partnership with Queens

- is also complete and scheduled for an early 2015 launch. Just a year last years AGM we had the launch of our 'Mapping the Rollback? human rights provisions of the Belfast/Good Friday Agreement 15 Years on' conference report and we are currently finalising the report to our 'Covert Policing and Ensuring Accountability: Ten Years on from the Cory Collusion Inquiry Reports, what now?' conference, held with the UU Transitional Justice Institute in June 2014. Important submissions have included a number to the Council of Europe outlining the ways in which the UK government's dealing with the past mechanisms are no longer Article 2 compliant and another to OFM\DFM on the centrality of human rights and equality to 'Together: Building a United Community'

CAJ's credibility to engage in these matters is based not only on the rigour of its arguments and written policy interventions but on its relationship with and support for those who have been on the receiving end of human rights abuses. Again by way of illustration, in May 2014, CAJ won its judicial review of the decision of the Parole Commission to refuse it permission to attend as an observer the hearing held into the revocation of Marian McGlinchy's release on licence. Mr Justice Treacy held that the Parole Commission erred in its decision to refuse CAJ access to this hearing – an important landmark in underlining that such proceedings should be as open and transparent as possible. In June the Northern Ireland Court of Appeal quashed the conviction of CAJ's client Frank Newell. Mr Newell had been wrongly convicted of armed robbery in 1973 and on appeal had his sentence doubled to 8 years. An application was made to the Criminal Cases Review Commission and they referred this matter to the Court of Appeal after a number of meetings and submissions by CAJ. In December 2014 leave was accepted for a judicial review challenge on the Northern Ireland Executive's failure to adopt an anti-poverty strategy based on objective need and this should be heard in early 2015. In relation to Irish language provision we also had another significant victory in a settlement achieved before the First Tier Tribunal (Information Rights) in relation to the information we had sought from the Northern Ireland Tourist Board's 'policy approach' of prohibiting bilingualism in the visitor signage they fund for third parties, and on the back of the information obtained now initiating a challenge to the policy itself. We also acted as legal representatives to Rights Watch UK (nee British Irish Rights Watch) in relation to a challenge to the policy restricting note taking in court, as a result of which the policy has been amended to permit observers to take notes without having to seek the prior permission of the judge, again another victory for open justice.

Finally, on a personal basis, I am stepping down (again!) from the Executive this year. The last time I did that, a year or 15 odd years, it was with some fanfare and included a speech and the presentation of a very good bottle of whiskey. Having been tempted back on again after a few years rather sheepishly, I would like this time to slip away a little more quietly. I would simply like to take this opportunity to say thanks to CAJ staff, volunteers and my colleagues on the Executive Committee for all their hard work over the past year and during my time as Chair. Human rights work is by its nature difficult. It can be draining on a personal basis and it certainly wouldn't be 'doable' if people did not retain a sense of humour. I know that CAJ will remain a dedicated, professional and hardworking NGO. I also know that it will retain its humanity, warmth and humour - key qualities which are deep within the DNA of the organisation. It has been a privilege to serve with you all.

***Professor Kieran McEvoy***



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## Introduction

CAJ correctly describes itself as a human rights NGO. We are members of the International Federation of Human Rights (FIDH), we orientate our work by reference to international human rights law and we locate ourselves in the mainstream of human rights activism worldwide. However, we cannot deal in detail with all aspects of human rights, even as they affect the people of Northern Ireland. Our specific focus is on those human rights issues which are directly relevant to conflict and peace. This includes relevant economic, social and cultural rights as well as civil and political rights.

CAJ was created at the height of the conflict, played a significant role in putting human rights at the heart of the peace settlement and has been occupied with making a reality of a rights based society since. We are not complacent about the continuing peace process. Our own history and contemporary examples throughout the world demonstrate both the intractability of divisions based on ethnicity and the capacity of violent conflict to re-emerge after periods of apparent calm. There are certain key matters which, in our view, determine whether Northern Ireland continues on a more or less peaceful path or lapses back into widespread violent conflict.

Many of these are connected directly with the project of re-building and maintaining faith in the rule of law. That involves overcoming the legacy of the conflict in so far as it involved concealment, cover up and effective impunity for the perpetrators of human rights violations on behalf of the state, to ensure accountability and prevent recurrence. The human rights framework also requires the state to provide effective investigations and remedies for victims of non-state actors. CAJ has called for a single, human rights compliant mechanism to investigate unsolved killings and serious injuries during the conflict to seek prosecutions where possible and truth recovery where not.

Inherent in any legitimate concept of the rule of law is compliance with human rights law. Encouraging faith in the rule of law also involves building robust contemporary forms of accountability for state security forces, especially the police, which in turn will make them more trusted and more effective in pursuing non-state criminals. Trust in the rule of law is particularly put at hazard in public order situations. The exercise of the freedoms of expression and assembly and to occasionally necessary limitations on them must all be carried out within the framework of a transparent and consistent rights based policy in order to ensure that all people recognise the impartial operation of the rule of law.

The rule of law based on a rigorous adherence to human rights standards is, in our view, the only feasible framework for the governance of a society where deep divisions remain. One of the most important human rights standards in this context is that of equality. There is quite simply no other basis for cooperation across community divisions than equality

whether in the allocation of public resources based on objective need or in equality of treatment for the culture and symbols of the two main communities, in a manner compatible with the rights of others. Furthermore, knowledge of and respect for the basic principles of human rights must be spread as widely as possible through society. For that reason, CAJ also focuses on equality and the protection and promotion of rights generally. These are the reasons for our concentration on the issues that are described in the following report. We are concerned to combat impunity, guarantee non-recurrence by working for contemporary accountability, promote a rights based framework for the exercise of the freedoms of expression and assembly, advocate the application of the fundamental principles of international law and promulgate the benefits of a rights based society. In these ways we believe that we are making a solid contribution to maintaining the peace and avoiding a return to conflict which would create a bonfire of human rights.



*Brian Gormally at Capitol Hill in Washington*



## **Combating Impunity: truth and justice for victims**

### **Introduction:**

The rule of law is a fundamental basis of the protection of human rights. As the Preamble to the Universal Declaration of Human Rights says:

“... it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law...”

The antithesis to the rule of law is impunity, which the United Nations defines as:

“...the impossibility, de jure or de facto, of bringing the perpetrators of violations to account - whether in criminal, civil, administrative or disciplinary proceedings - since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims.”

When ordinary criminals escape punishment for their crimes, through inefficiency or corruption of the criminal justice system, this is an affront to the rule of law as well as leaving victims without redress. However, when agents of the state achieve impunity, when there are no or ineffective mechanisms to investigate and punish their crimes, the damage to the rule of law is exponentially greater.

The rule of law is massively important for any society but in Northern Ireland it is doubly so. As a society trying to escape the effects of 30 years of violent conflict and a chronically divided community, demonstrating the universal and impartial operation of the rule of law is a prerequisite for achieving widespread trust in the institutions of state. Without that, we would be in constant danger of slipping back into violent conflict, with the bonfire of human rights that would be involved.

We believe that the culture of impunity has taken root here in respect of human rights violations mainly during the 30 years of conflict. The running sore of unresolved cases, with one elderly next of kin suffering endemic delays, blocking exercises and legal challenges, poses a real threat to confidence in the operations of the legal system and hence the rule of law itself. We should not underestimate the ammunition that this situation gives to those who would wreck the peace process. We should also not underestimate the corrupting effect that this culture of impunity has on both the UK security establishment itself and on its international reputation as a supposed champion of human rights.

These are the reasons why CAJ spends a considerable part of its efforts in combating impunity and seeking truth and justice for victims.



Daniel Holder at the Basque Social Forum for Peace

## The Apparatus of Impunity

Almost fifteen years ago, CAJ and other legal representatives took a group of cases to the European Court of Human Rights alleging that the UK Government was in breach of its duty under the Right to Life (Article 2 of the European Convention) to properly investigate cases where state agents may have been involved in unlawful killings. In

judgements between 2001-2003 the Court agreed, demanded that the UK rectify the situation and laid down detailed criteria for investigations that met the obligations of Article 2. What became known as the “package of measures” was the response and included the body that became the Historical Enquiries Team (in the PSNI), the Police Ombudsman’s role in grave or exceptional legacy cases, reforms to inquests and public inquiries.

Over the years, CAJ has worked assiduously, both as legal representatives and as campaigners, with all these mechanisms to achieve truth and justice. There are examples of good practice and there have been some successes for victim families. However, the evidence over these years has driven us to the conclusion that some of these mechanisms are have the purpose or effect of hiding rather than illuminating the truth and others have been subverted. We believe that a fair-minded assessment of this evidence cannot support a conclusion that a “package of measures” is being deployed in good faith by the UK government and is only held back by the complexity of the issues, cost and lack of consensus among Northern Ireland politicians. Rather, we think that the evidence points to a common purpose between the UK government, the security establishment and elements within the PSNI to prevent access to the truth and maintain a cover of impunity for state agents.

In a new partnership with Queen’s University Law School, we are bringing this evidence together and will publish it in a major report before the end of the year.

CAJ also took our learning on peace process transition to the Basque Country where we were invited as speakers to the Social Forum to Promote the Basque Peace Process in Bilbao in June 2014, organised by the NGO Lokarri. The forum was attended by hundreds of persons from civil society and our participation in the capacity as international experts. The main focus of CAJ’s input was on issues of prisons and impunity, reflecting on the provisions and strengths and weaknesses of the GFA and broader experience here. The peace process in the Basque Country is very much civil society driven with no official process of negotiation yet having been sanctioned. Other international speakers focusing on the Irish experience were Brian Curran former chair of the sentence review commission and Seana Walsh of Coiste.

## The Committee of Ministers

The Committee of Ministers is the body that supervises the implementation of decisions of the European Court. It is telling in itself that both individual cases and general measures are still under the supervision of the Committee thirteen years later. In May 2014 we made a submission to the Committee asking them to give the current situation their urgent attention. The Committee's response included the following comments which:

- “welcomed in particular the proposal to create a single, investigative mechanism (the Historical Investigations Unit)” [in the Haass Proposed Agreement]; “considered that the establishment of such a body would be a significant development with potential to bring meaningful and positive change to the investigation of legacy cases”; and strongly encouraged the authorities to use all necessary means to pursue it;
- “underlined...the importance of the independent domestic review and reform of the Police Ombudsman” and urged this was completed to ensure investigations are as effective as possible.
- “considered that further measures may be needed to address the causes of the excessive delay in inquest proceedings”

The Committee also demanded action on the individual cases where proper investigation was still outstanding.

This response by the Committee was welcome and we followed it up with further submissions in August and November but we have yet to see any positive developments from the UK Government. In fact, things have got worse since June as we detail in following sections.

## Historical Enquiries Team

This team had been severely criticised in a report from Her Majesty's Inspector of Constabulary (HMIC) and a Working Group had been set up by the Policing Board to oversee implementation of the recommendations. Together with other NGOs we met and corresponded with the Working Group and continued to express our view that the HET as presently constituted was incapable of conducting investigations to the Article 2 standard. The Working Group eventually signed off by asking the HMIC for a follow-up inspection. Meanwhile, the work of the HET on cases involving the British Army was suspended and no reports in any cases were given to families. In the last couple of weeks, we understand that some reports have been released to families but the status of these and the criteria for release are still unclear.

This situation of partial suspension and long term uncertainty continued until September 2014 when it was announced that HET would be terminated and a new Legacy Investigation Branch would be set up within the PSNI. This was partly a response to budget reductions and partly to a recognition that public confidence in HET had been irreparably damaged. It

is our position that the PSNI, as currently organised and with the current personnel in charge of intelligence materials, cannot have the requisite independence to investigate killings where state involvement is alleged. We are therefore left with a highly unsatisfactory situation and the need for a single, independent investigative body is even clearer.

### Office of the Police Ombudsman

The episode that began when CAJ published a report into the undermining of the independence of the Police Ombudsman in June 2011 concluded at the end of September 2014 with the publication of a positive Criminal Justice Inspector Report. CJI had recommended in January of last year that the suspension of the Office's historical investigations should end but said that the evidence of a return to full independence would have to await a number of completed cases. The September Report concluded: "On the basis of the evidence reviewed by the independent inspection team, the Inspectorate is satisfied the systems and process in place can withstand buffeting and challenge and the independence of the OPONI had been restored."

This is good news for independent oversight of the police and hence the rule of law and a tribute to the leadership of the current Ombudsman, Michael Maguire. This Office has been under external and sometimes internal attack since it was established. It is perhaps one of the most powerful police complaints investigative bodies in the world. In the context of the continuing struggle to improve public confidence in policing it is important that we are always vigilant in maintaining its independence and effectiveness. That is why we support the continuing oversight that the Committee of Ministers of the Council of Europe maintain over OPONI and the public comments they made this year which are quoted above.

Over the course of this last year the Ombudsman has had to face a failed judicial review by retired RUC officers seeking to curtail some of the Office's powers and also had to lodge its own legal proceedings against the PSNI to ensure disclosure from the PSNI of documents required for its legacy investigations. The later case was satisfactorily resolved. Yet another threat arose in September this year with the announcement of severe cuts in the Ombudsman's budget which, for technical reasons, fell disproportionately on the historical investigations section which deals in particular with allegations of past collusion and involvement in unlawful killings by police officers during the conflict. CAJ has worked with other NGOs who represent victims in these cases to lobby the Department of Justice to recognise the unique contribution to the rule of law that OPONI makes and to reverse the funding decision.

CAJ also recognises, however, that there are gaps and weaknesses in the legislative remit and the powers of the Police Ombudsman. We responded to the Department of Justice Targeted Consultation on a new powers package for the Police Ombudsman in July 2013. We welcomed the reforms, from the Police Ombudsman's Five Year Review of Powers, that the Department intended to implement, which would remedy gaps in OPONI's remit. However, we also noted that other recommendations from the Five Year Review, some of which engaged international obligations, were being parked by the Department – this included powers to compel retired/former RUC officers to cooperate with the Ombudsman and amendments to the RUC (Complaints etc) Regulations 2001.

On the 18 October 2013 the Department wrote again to CAJ seeking views on four further proposals presented to the Department in relation to the Police Ombudsman. The four proposals were as follows:

- i) "Recommendations and findings by the Police Ombudsman should be binding on the PSNI Chief Constable;
- ii) The PSNI should not interview or debrief serving or retired officers who are known to be witnesses or suspects or pending investigation by the Office of the Police Ombudsman;
- iii) The Police Ombudsman must be empowered to arrest and interview agents and informers [sic] of the PSNI (or any other agency) if it may assist an investigation by the Police Ombudsman; and
- iv) All protocols or memoranda of understanding (MoU) governing the release of information from the PSNI and other agencies to the Office of the Police Ombudsman to assist an investigation should be available for scrutiny by the Policing Board / Justice Committee."

In essence CAJ believes all four of the proposals would assist with furthering human rights compliance and remedy gaps in the Police Ombudsman's powers and overall accountability framework. The UK response of October 2014 indicates that it has now "put together a package of measures for the reform of OPONI, to which the Minister is currently seeking the agreement of the Northern Ireland Executive." CAJ understands that since this time the NI Executive has rejected this package of measures, but no further details have been made public. In CAJ's view many of the proposed powers are required to ensure Article 2 complaint investigations in specific cases and hence engage the UK's international obligations, yet there is no sign of the UK government acting to remedy the legislative gaps.

## Inquests

### *General*

Although previous reforms to the inquest system in Northern Ireland have meant that they are, in our view, capable of meeting many, if not all, of the criteria for an Article 2 compliant investigation, we still have serious reservations about the law and practice involved. We detailed these in our Submission to the Committee of Ministers.

"In summary some key concerns CAJ has identified in relation to the coronial system in Northern Ireland's capacity to deliver effective inquests into conflict related deaths are that:

- the process of appointing a jury is anonymous and therefore there is inadequate provision for vetting jurors who may have a conflict of interest or potential bias;
- an inquest jury in Northern Ireland, unlike elsewhere in the UK, needs to reach a unanimous decision;
- inquests in Northern Ireland cannot issue verdicts of lawful or unlawful killing,

which falls short of international standards;

- there are protracted delays and litigation involving the Police (PSNI) and armed forces ministry (MOD) in relation to disclosure to next-of-kin, of material that is submitted to be relevant, such as details of witnesses' involvement in other lethal force incidents which falls within the broader circumstances of the death;
- there are concerns about failures to secure attendance of security force personnel at the hearing; and
- inquests continue to be subject to excessive delays.

“CAJ recalls the Concurring Judgment of Judge Kalaydjieva, in *Hemsworth v. UK* and *McCaughey & Ors v. UK*, which could also apply to the large number of historic cases which the UK has failed to expeditiously investigate including the individual measures currently under the scrutiny of the CM. Judge Kalaydjieva stated:

‘...the period of demonstrated, if not deliberate, systematic refusals and failures to undertake timely and adequate investigation and to take all necessary steps to investigate arguable allegations under Article 2 and 3 seem as a matter of principle to make it possible for at least some agents of the State to benefit from virtual impunity as a result of the passage of time.’”

The issue of impunity has therefore been raised by a Judge of the European Court and we regard that as an endorsement of our continuing campaign on this issue.

The deficiencies of our current coronial system in dealing with legacy cases have been further demonstrated in the Court of Appeal judgment relating to a judicial review of the inquest into the death of Pearse Jordan – one of the 6 original cases noted to the ECtHR in which it was held that the UK had violated Article 2 ECHR. In November 2014 the Court held that there had been a violation of Article 2 ECHR and upheld the High Court's decision to quash the 2012 inquest verdict of a jury into the death of Mr Jordan and the Court of Appeal ordered a new inquest before a new Coroner. The Court held that:

“If the existing legacy inquests are to be brought to a conclusion under the present system someone could easily be hearing some of these cases in 2040.”

### ***Legal Aid and Coroners' Courts Bill***

The Department of Justice introduced this bill, without public consultation at the end of March, described as “A Bill to dissolve the Northern Ireland Legal Services Commission and provide for the exercise of functions of the Commission by the Department of Justice or the Director of Legal Aid Casework; to amend the law on legal aid in criminal proceedings, civil legal services and criminal defence services; to provide for the Lord Chief Justice to be president of the coroners' courts and for the appointment of a Presiding coroner; and for connected purposes.” What is of concern is what was not in the Bill as it does not address the long standing limitations on legacy inquests discussed above. We promoted an amendment to the Bill to change the need for unanimous verdicts at inquests to majority verdicts along the lines of the system in England and Wales, and thus remove one of the obstacles to current inquests being effective. The amendment was tabled and initiated the

debate, but ultimately was ruled out of the ambit of the Bill. The debate continues.

### **Loughgall**

For about 19 years, CAJ has been the legal representative of the families of nine men killed by the SAS in Loughgall in 1987, eight of whom were armed IRA members and one who was an uninvolved civilian. We took the case to the European Court which ruled in 2001 that previous investigative measures were inadequate and that a proper Article 2 compliant investigation should take place. After a long and ultimately unsatisfactory engagement with HET, about 18 months ago CAJ applied to the Attorney General for Northern Ireland to use his powers to order a fresh inquest.

On 7 July we received a letter from the Attorney General informing us that the Secretary of State had issued a certificate the effect of which was to remove the power to order a fresh inquest from the NI Attorney General to the NI Advocate General who is, in fact, the Attorney General for England and Wales, a UK Government Minister. Section 14(1) of the Coroners Act (Northern Ireland) 1959, as amended, gives the Attorney General power to direct an inquest or a fresh inquest on any death if he believes it "advisable." Section 14(2) of the same Act gives the Secretary of State power to transfer that role to the Advocate General if she certifies that information exists the disclosure of which may be against the interests of national security. This is the first case ever in which this power has been used.

The letter from the Attorney General's Office included a copy of the certificate and a statement that *"The Attorney General wishes me to inform you that he considers the Secretary of State's decision to be profoundly wrong in principle and is currently reflecting on the appropriate response to it."*

In a press statement we commented:

*"There is a relentless campaign, led by the UK Government and supported by some elements in Northern Ireland, to suppress the truth about the activities of state agents during the conflict. The aim is to ensure impunity for any crimes and human rights violations committed by servants of the state, whether policemen, soldiers or secret agents. This is the latest stage in this epic cover-up, using the deliberately undefined concept of 'national security' to stifle a proper investigation."*

Since then we have met the Attorney General twice, once as CAJ and once with the families of those killed and other legal representatives. We have corresponded both with the Attorney and the Northern Ireland Office (NIO). We also attended a meeting involving the families, ourselves and other legal representatives with the NIO. Officials failed to deny that the "national security" information was material that had not been shared with any previous investigation. There is continuing discussion around the legalities of these developments but our overall assessment remains the same as in our public comments at the time:

*"We don't know why this case has been singled out for the 'national security' veto – is it because the SAS were involved, or did a UK Minister give the green light for the ambush? The point is, we don't know and we won't know if the UK Government*

has anything to do with it. This situation is not just an assault on the right to truth and transparency in a democratic society, but the lack of a proper investigation is a continuing human rights violation.”

### ***Liam Paul Thompson Inquest***

Mr Thompson was murdered at Springfield Park, Belfast in 1994 following a breach in the security fence with Springmartn which had been reported to the NIO and RUC. There are allegations of collusion in this case and as well as the failure to comply with the positive obligation to protect this life, the investigation did not meet the requirements of Article 2. CAJ acts for the next of kin in relation to this death and there has been a lengthy engagement with the HET. Inquest proceedings are also in train. Following our request to have the inquest expedited a preliminary hearing was held on 11 June when counsel for the police promised disclosure of materials by the end of September. There was therefore a further hearing on 30 September 2014 where it transpired that it would be yet another two months before materials would be ready.

### **Inquiries**

The political moratorium on any further public inquiries into aspects of the conflict, imposed by the current government, remains in force. In particular, of course, the refusal to hold a public inquiry into the murder of solicitor and human rights defender Pat Finucane, in breach of a clear commitment in an international agreement, is a standing affront to justice. It is another example of the state seeking impunity for the crimes of its agents. Although there is overwhelming evidence of collusion in this case, for which the Prime Minister apologised, and although the De Silva review, limited as it was, made more damning admissions on the system in general, we still do not know exactly what is being covered up. We do know, however, that it must be serious given the embarrassing contortions that government has gone through to keep it hidden.

At the request of the family, CAJ and Queen’s University Law School co-hosted a 25th Anniversary Lecture to mark the quarter century since Pat was murdered. Mr Justice Seamus Treacy, who worked with Pat, gave the address and we published it on our website.

During the year, the House of Lords set up a select committee to examine the workings of the 2005 Inquiries Act – a measure rushed through by the Labour Government at the time and designed to undermine the independence of inquiries. In our written evidence to the Committee we noted that:

“CAJ’s concerns in relation to the Inquiries Act 2005 centre on the manner in which the Act provides for unprecedented interference at practically every stage of the inquiry by a government Minister despite the very actions of the Executive tending to be the focus of the inquiries. It is our view the Act can prevent truly independent inquiries taking place in conflict with ECHR requirements. Similar concerns have also been articulated by the UN Human Rights Committee, the Northern Ireland Human Rights Commission, Mr Justice Cory, and in a major 2006 court case.”

The Select Committee reported in February 2014. They recommended circumscribing some of the ministerial powers to intervene in the inquiry but no major overhaul of the Act as such.

### Inquiries Report

CAJ and Rights Watch UK have produced a report based on our experience of and learning from our close scrutiny of the inquiries into the murders of Billy Wright, Robert Hamill and Rosemary Nelson.

In 2004, the Coorlylusion Inquiry recommended that the UK Government hold inquiries into the circumstances surrounding these three murders. He also recommended that the UK government hold an inquiry into the circumstances surrounding the death of Pat Finucane a solicitor murdered by Loyalists in 1989, which has not yet taken place though a review was held by Sir Desmond de Silva QC. Additonally, he recommended t htahte Irish Government hold an inquiry into the deaths of Royal Ulster Constabulary (RUC) Officers Harry Breen and Bob Buchanan who were killed travelling from the Irish Republic to Northern Ireland. Because the perpetrators allegedly involved in the deaths included state agents, these inquiries were obligated to meet specific national and international human rights legal standards.

Our Inquiries Report records the outcome of our observaton of the three inquiries, comments briefly on the background which led to the inquiries, and summarise each case. The report looks at the legal basis for the inquiries, two of which were converted to inquiries held under the new Inquiries Act 2005, and the role the inquiries played in the Northern Ireland peace process. It then examine the procedural aspects of the inhqeu ierixetse,n tt to which they were able to comply with Artcile 2 of the European Conventon on Human Rights, which provides for an effective investgaton where agents of the State are alleged to be responsible for a death, and the issues surrounding the protecton of witnesses. Finally, it compares the work and reports of the three inquiries, discuss the absence of an Inquiry into the death of Pat Finucaanned make recommendatons for future inquiries. The report concludes by making the following recommendatons:

### The Haass Process

The mult-party talks, facilitated by Richard Haass and Megan O'Sullivan, concluded at the end of 2013 with the publicaton of a Proposed Agreement. In relaton to dealing with the past the "Proposed Agreement" proposed a single mechanism for dealing with unresolved serious crimes mcomited during the conflict. In many respects this reflected the positons CAJ had put in our submission to the talks. Our response made the general remark that:

"In general, CAJ regards this secton of the Proposed Agreement as a careful, sensitve and sensible contributon to the debate on dealing with the past. We also believe that, subject to a number of caveats, it could be compliant with human rights standards."

Correctly, the first substantve part of the proposal dealt with support for victims and survivors. It demanded a range of high quality services for those that need them and

suggested making available “advocate-counsellors” to work in the interest of an individual victim, providing support and helping him or her understand and request relevant services. The Proposed Agreement implicitly recognised the failures of current institutions supposed to deal with the legacy of the past, especially the HET, and proposed an alternative to elements of them.

The most important substantive proposal made in the document was the establishment of a Historical Investigations Unit (HIU). This would take over the historic investigations roles of the HET and OPONI, though not of the PSNI. It would be established under the supervision of the Policing Board (NIPB) who would appoint a “trusted figure with relevant investigative or legal experience and a reputation for integrity and independence” as Director.

In our response to the Proposed Agreement we noted that “The HIU bears a close resemblance to the single Article 2 compliant investigative mechanism proposed by CAJ in its submission to the Haass talks,” and we analysed it from a human rights point of view in detail.

The Proposed Agreement also went into some detail about a suggested new mechanism that would encourage any person or organisation with information about cases involving death or serious injury to bring it forward and offer victims and families the ability to request a report on their case. This was termed the “Independent Commission for Information Retrieval (ICIR).” The body would have no separate investigative function but would use open source material and past and future files from investigative bodies. The body could also “assess patterns” of violations not related to discernible policies or strategies of state and non-state actors.

After a detailed assessment of these proposals, we concluded:

“CAJ believes that this part of the Proposed Agreement is a good basis on which to construct a comprehensive mechanism for dealing with the past. We have raised a number of concerns about matters which could only be addressed in the necessary detail on the basis of draft legislation. Though we recognise it is for the Parties to decide whether and how to move this process forward, we believe that this part of the Proposed Agreement forms a sufficient basis on which to move to draft legislation and we urge this course on Assembly Members.”

### “On the Runs” (OTRs)

In February 2014, the trial of John Downey for involvement in the Hyde Park bombings of 1982 collapsed after it was revealed that he had received a letter from the Northern Ireland Office indicating that he was not wanted by any UK police force for any crime. The judge held that a trial in these circumstances would be an abuse of executive power. It transpired that 187 people had received such letters after the PSNI had examined the files to ascertain whether they, or any other UK police force, wished to question them. Collectively known as “on the runs,” the fate of people who felt they might be wanted for offences committed during the conflict was another legacy from the past that had not been dealt with.

This situation created a scandal and two inquiries were launched, one by Lady Justice Hallett and one (still continuing at the time of writing) by the NI Affairs Committee of the House of Commons. In written evidence to this Committee we focussed on a number of key questions in relation to achieving clarity, in light of information in the Downey judgement, on the process and criteria used by PSNI Serious Crimes Branch to make decisions on arrest and further investigation following Historical Enquiries Team (HET) reviews; whether assurances, undertakings or guarantees, written or unwritten, had been given to any other categories of persons that they will not face prosecution or investigation; and clarification as to whether the OTR scheme was designated a 'national security' matter and how the NIO operated it.

Although the letters contained supposedly factual information and did not grant any kind of amnesty, this episode inevitably fuelled suspicion as to the extent of impunity for state or non-state actors. It also again brought home the importance of establishing one investigative and information gathering mechanism to deal with unresolved crimes committed during the conflict.

### The "Hooded Men" Case

On August 9th 1971, the day internment without trial was introduced, a number of internees were selected to be subject to "enhanced interrogation" – torture – by British soldiers and, we now have learnt, specially trained RUC officers. The Irish Government took the UK Government to the European Court of Human Rights which eventually found, perversely, that the treatment was "inhuman or degrading treatment" but not torture. This distinction, , was later used by the Bush Administration in the USA to justify the use of water-boarding and other torture techniques.

In June, RTÉ screened a documentary, using material uncovered in the Public Records Office at Kew by the Pat Finucane Centre and its own researchers which showed, amongst other things, that the UK Government had lied to the European Court and that the decision to use torture had been authorised by Lord Carrington, then Minister of Defence.

CAJ now acts for the family of one of the hooded men – Sean McKenna, deceased, who was subject to the in-depth interrogation techniques. We met with RTÉ on this issue and they have agreed to share their research material with CAJ, the Pat Finucane Centre and lawyers acting for the other detainees. An application had been made to the Attorney General in the Republic to seek a re-opening of the Ireland v UK European Court case. The AG Marie Whelan indicated that there was insufficient new information to trigger this process, but since the RTÉ documentary there has been a request to see further material by representatives of the Irish government. Consideration is also being given to domestic proceedings including civil action.

Further to a presentation given to a visiting delegation in Belfast and a previous engagement with them by former policing programme officer Mick Beyers, the CAJ Deputy Director spoke at a conference in April 2014 in Bishkek, Kyrgyzstan. The Conference was entitled **"preventing torture, investigation, accountability and monitoring"** and was organised by the American University of Central Asia, who funded our participation. Our focus so far was a

tef the merits of the accountability mechanisms introduced in NI to prevent ill treatment of detainees and the effectiveness of the Police Ombudsman’s office as a model for police



*Daniel Holder speaking at conference in Bishkek, Kyrgyzstan*

## Accountability: increasing faith in the rule of law

### Introduction:

The essential counterpart to combatting impunity for past crimes is to ensure that robust mechanisms to deliver accountability exist in the present. That means we need effective law enforcement which helps to prevent crime, thoroughly investigates breaches of the criminal law and wherever possible brings perpetrators to justice. Effective law enforcement means that all people are subject to the law and that proper mechanisms are created to hold people to account, whether petty criminals, organised crime lords, rogue policemen or secret agents. It also means that people have access to justice, there are effective appeals mechanisms and that all criminal justice processes are as transparent as possible.

These mechanisms are made up of the entire criminal justice system but it is arguable that policing is the most important aspect both because all the other parts depend on it and it also interacts most with the public. Policing of all kinds is more effective when it has the support of the community. That in turn depends on the strength of people's faith in the rule of law which in turn again depends on there being transparent systems of accountability which demonstrate that no-one is above the law or can claim impunity. These aspects are therefore mutually reinforcing – the effectiveness of the police in combatting crime is increased by the extent to which they are fully and transparently accountable for their operations.

CAJ sees effective accountability as requiring, first a detailed set of written standards and regulations, based on human rights principles and open to public scrutiny. Second, there must be independent agencies that can investigate and bring to justice individual police officers guilty of misconduct or criminality. Third, accountability requires effective mechanisms for the public holding to account of policing organisations.

This third level of accountability must be structured as follows: First there should be *Prior Accountability* in the sense of a plan, priorities and budget allocation agreed between the police and the appropriate public institution, in our case the Policing Board. Second, the *Operational Independence* of the Chief Constable and his or her officers is a vital part of accountability in preventing any political or other outside interference in the police's engagement with citizens. Third, there is a need for *Post Operational Accountability* in that the police must account to the Policing Board for how they have carried out their functions – how they have exercised their operational independence.

CAJ believes that the Paten Report on policing gave a fairly comprehensive blueprint for effective law enforcement based on working with the community in full accountability. This was and is an essential part of the peace process – any rollback from the Paten dispensation not only threatens the effectiveness of policing but also the continuing peace. It is this position that has informed our thinking on two major policing issues during the year.



*Brian Gormally and Louise Mallinder talk to the Police Ombudsman for Northern Ireland Dr Michael Maguire*

## Covert Policing

After the publication of our report “Policing You Don’t See” on covert policing in December 2012, the Policing Board established a working group on the subject. We met with them and put our views on the current gaps in oversight of the PSNI compared with the Paten prescriptions.

The Paten Report stated that Police Codes of Practice should be publicly available and that Codes of Practice on all aspects of policing, including covert law enforcement techniques, should be in strict accordance with the ECHR (para 4.8). In relation to police Codes of Practice being publicly available Paten stated: “...this does not mean, for example, that all details of police operational techniques should be released – they clearly should not – **but the principles, and legal and ethical guidelines governing all aspects of police work should be, including such covert aspects as surveillance and the handling of informants...The presumption should be that everything should be available for public scrutiny unless it is in the public interest – not the police interest – to hold it back...Transparency is not a discrete issue but part and parcel of a more accountable, more community-based and more rights-based approach to policing 6g.3 (8p aerma phasis in original).”**

Unfortunately the PSNI have declined to release an important manual on the management of Covert Human Intelligence Sources (CHIS) under Freedom of Information, citing national security, law enforcement and health and safety grounds as well as Article 2 ECHR. A request for a redacted version removing anything operational and retaining just the policy framework was also declined.

The Operation Ballast report from the Police Ombudsman, reporting on the outworking of the PSNI CHIS Risk Analysis Group (CRAG Review), stated that the review directed that “all criminal activity by paramilitary informants has to be strictly documented and controlled.” It also stated that “The CRAG review established that involvement in any criminal offence, other than membership or support of a prograssacnribsaetdo on, had to be the subject of an application to the ACC of Crime Operations, who would approve or refuse the request...”

Again, under FOI the PSNI have declined to confirm whether such a procedure currently exists or make available the policy document. The PSNI has also declined to release overarching statistical information on the annual numbers of authorisations requested and granted.

The Paten Commission recommended ***A Commissioner for Covert Law Enforcement in Northern Ireland*** “a senior judicial figure, based in Northern Ireland, whose remit should include surveillance, use of informants and undercover operations” with full powers to see all documents and information (para 6.44). This post was never created. The Police Ombudsman **can** take complaints of police misconduct and criminality in relation to CHIS handling by the PSNI (but not MI5). Whilst police handlers are subject to the Police Ombudsman, the Office has no powers to interview informants themselves, and is paradoxically dependent on the police to do so. The Policing Board can oversee all aspects of the PSNI’s work but does have ‘national security’ restrictions on its powers.

The Security Service, MI5, which has primacy for national intelligence here, is not answerable to any of these accountability arrangements. Complaints against MI5 can be made to the ***Investigatory Powers Tribunal*** – a court which meets in secret, does not have to give reasons for its decisions, has no right of appeal and (at the time of publication of our report) had never upheld a single complaint against MI5. There is also the Intelligence Services Commissioner and Intelligence Services Committee but with very limited roles. We were to meet the Policing Board working group again in June but it was wound up and the responsibility taken over by the Performance and Standards Committee.

In July, CAJ in partnership with University of Ulster Transitional Justice Institute (TJI) hosted a seminar on **“Covert Policing and Ensuring Accountability: Ten Years on from the Cory Collusion Inquiry Reports, where now?”** Over 100 attendees heard from a range of domestic and international speakers on issues relating to covert policing and accountability.

A first panel focusing on *‘Collusion and Covert Policing in NI, where now?’* was chaired by Dr Louise Mallinder of TJI, speakers: Paul O’Connor, Pat Finucane Centre on the subject of *‘Deadly intelligence and the rule of law’* focusing on what archival material from DeSilva backwards reveals about the modus operandi of covert operations during the conflict; Daniel Holder CAJ contrasted ‘counter-insurgency’ and ‘law enforcement’ models of covert policing and spoke to the development of a human rights and accountability framework for covert policing in NI; finally Dr Cheryl Lawther of the School of Sociology at Queen’s University and author of *‘Truth, Denial and Transition: Northern Ireland and the Contested Past’* spoke on the theme of ‘Official and Security Force Perspectives on Collusion’.

Session II focused on the subject of *‘Covert policing and accountability, where now?’* with: Suresh Grover, Director of The Monitoring Group (UK) and former co-ordinator of the Stephen Lawrence Family Campaign, who focused on the undercover operations of the Metropolitan Police; Fionnuala Ní Aoláin, Associate Director and Professor TJI on the subject of “The Intersection of Intelligence with Exceptional Courts, Military Commissions and Procedural Exceptionalism” and Carsten Illius, a lawyer representing victims in the NSU cases in Germany.

Session III chaired by Brian Gormally of CAJ, focused on oversight mechanisms and heard from Dr Michael Maguire, Police Ombudsman for Northern Ireland, on the role of the office in overseeing covert policing; Yasmine Ahmed, the director of Rights Watch UK (née British Irish Rights Watch) on the outworkings of the public inquiries from the Cory Collusion Reports; and Ryan Feeney Independent Member the Northern Ireland Policing Board and

member of its Performance Committee, on the Board's work in relation to covert policing.

A full conference report is being prepared and videos of the speakers will be made available publicly.

Arising out of the conference, CAJ met with the senior police officer dealing with such matters and discussed the current policy framework for covert policing and in particular regulating informant conduct. The PSNI will examine whether it could put further information on the policy framework into the public domain.

Towards the end of 2013 CAJ's Deputy Director also participated in an OSCE funded launch roundtable of their manual on Human Rights in Counter-Terrorism Investigations. We attended this event as one of a small number of invited NGO participants (the bulk of participants member state Ambassadors to OSCE). Our main input was on the manual and discussion, related to covert policing policy.



### National Crime Agency

Last year the UK Home Office tried to put through proposals which would have the National Crime Agency (NCA), sometimes described as "the British FBI," operating in Northern Ireland, with full police powers, in devolved areas of responsibility. This would have meant a new police body operating in sensitive areas with no accountability to the post-Patten accountability arrangements. The Agency would also have had the power to "direct" the PSNI. CAJ vigorously opposed this undermining of the policing settlement and the necessary "legislative consent motion" was blocked in the Executive.

In fact, the NCA has operated in Northern Ireland for a year in support of the PSNI, and can exercise a range of reserved powers, including gross surveillance and running informants under the Regulation of Investigatory Powers Act (RIPA), as well as customs and immigration and a range of other powers. At present there is no accountability to the Police Ombudsman or Policing Board in the exercise of these powers. The NCA does not have police powers – the powers of a constable (such as arrest, search and detention) which are devolved to Northern Ireland.

The Department of Justice has now made some new proposals designed to meet the concerns that we and others have raised. CAJ regards the new proposals as very much moving in the right direction to ensure the NCA can operate with police powers in Northern Ireland but with the necessary accountability. We have a number of questions and suggestions which would clarify the proposals and we think there are limitations which could be addressed, particularly in relation to post-operational accountability for NCA operations. We are also clear that any new accountability framework requires to be set out in binding legislation and regulations rather than simply policy which could be changed at any time.

The DOJ document states that the Director General of the NCA will not have policing powers and that he will be unable to direct either the Chief Constable of the PSNI or other PSNI officers. CAJ welcomes this proposal, which maintains PSNI primacy. The document also proposes that legislation would provide that the exercise of police powers by the NCA in Northern Ireland would be subject to the agreement of the PSNI Chief Constable. The DOJ have informed us that this refers to specific case by case operational agreement rather than agreement relating to a whole area of activity.

The document specifies that the NCA would need the agreement of the PSNI prior to commencing covert operations and we have been assured that this again would be on a case by case basis. It also provides that the Policing Board's Human Rights Advisor can access the Surveillance Commissioners report on the NCA (in NI) in the same way as is presently done for the PSNI.

The document sets out proposed arrangements for the key issue of the NCA relationship to the Policing Board including a statutory obligation on the NCA Director General to attend the Policing Board. However, while this is welcome there should also be a statutory obligation to report to the Board (i.e. answer questions and provide information) in a similar manner as currently provided for in relation to the PSNI. We believe this would help address the present gap in the proposals whereby there is no framework to require post-operational accountability of the NCA.

There is a great deal more discussion to be had on these proposals and there is no guarantee that there will be political consensus around them. However, we are reassured that the DOJ seems to have "got" our accountability arguments and is prepared to engage with them in a productive way.

### **Miscarriages of Justice**

Accountability requires that there are effective ways of appealing wrong decisions in the criminal justice system, that the system admits when it gets things wrong and properly compensates those who have been wronged.

#### ***Ani-Social Behaviour Crime and Policing Bill (Miscarriages of Justice)***

In May 2013 the UK coalition government included a controversial single clause in the Anti-Social Behaviour, Crime and Policing Bill introduced into Westminster. The change did not relate to the ability to quash unsound convictions but rather the ability to have the case then officially recognised as a 'miscarriage of justice'. This affects entitlement to compensation but also risks facilitating impunity for malpractice within the criminal justice system as cases that require individual or structural remedies or redress will no longer be classified as miscarriages of justice.

The clause was to have the effect of amending section 133 of the Criminal Justice Act 1988 (compensation for miscarriages of justice) to change the definition of a "miscarriage of justice" to one to be determined "if and only if the new or newly discovered fact shows beyond reasonable doubt that the person was innocent of the offence." In effect the victim

of the alleged miscarriage of justice would have to take on the roles usually undertaken by police and prosecutors and gather evidence to prove themselves innocent to the high threshold of a criminal law test, for matters which may have occurred some time ago.

The Westminster Joint Committee on Human Rights held that the clause was incompatible with Article 6(2) of the European Convention on Human Rights and the common law requirements of the presumption of innocence and recommended its removal from the bill, which was supported by Liberal Democrats in the Commons. Prior to this NGOs Justice, Liberty and CAJ promoted an amendment, supported by the Labour party and SDLP, to define "miscarriage of justice" more consistently with international obligations. We also prepared briefings for MPs and Lords.

The issue was not helped to a vote and the Commons deferred to the House of Lords for further discussion, who on a narrow vote defeated the government clause with alternative wording now being recommended in a second report by the Joint Committee on Human Rights. On return to the Commons however the UK government reinstated its definition, with a seemingly semantic amendment of replacing the word "innocent" with the phrase "did not commit." This change will impact on decisions in Northern Ireland "national security" cases with decisions on compensation made by the Secretary of State rather than those by the Minister of Justice.

### ***Court of Appeal – Conviction of Frank Newell quashed***

On 16 June the Court of Appeal quashed the conviction of CAJ's client Frank Newell. Mr Newell had been wrongly convicted of armed robbery in 1973 from Lisburn Post Office and on appeal had his sentence doubled to 8 years. An application was made to the Criminal Cases Review Commission and they referred this matter to the Court of Appeal in 2013 after a number of meetings and submissions by CAJ. After a substantive hearing and a closed hearing on the issue of disclosure of sensitive material the Court held that Mr Newell's conviction was unsafe. The written judgement in this case was handed down on 11 September with the Court noting the failings by the prosecution to provide disclosure in relation to alibi evidence, identification evidence and intelligence rendered his conviction unsafe and closed by commenting that "If the disclosure obligation had been recognised it seems unlikely that the prosecution would have been continued."

### **Open Justice and Transparency**

One of the principles of accountability is that justice should be as open and transparent as possible. Unfortunately, where privacy, confidentiality or security necessarily come into play, the reaction of some agencies can be to adopt secrecy or at least restrictions on communication as the default position. CAJ has challenged this view in two judicial reviews this year.

### ***Judicial Review of the Parole Commission***

CAJ won its judicial review of the decision of the Parole Commission to refuse it permission to attend as an observer the hearing held into the revocation of Marian McGlinchy's release

on licence. Given our interest in monitoring these types of proceedings which engage the principle of open justice, we had previously requested and were refused permission to observe similar proceedings in relation to prisoners Ronnie McCartney and Brendan Lillis.

After an oral hearing in December 2013 Mr Justice Treacy delivered his judgment in these judicial review proceedings on 15 May 2014. He held that the Parole Commission erred in its decision to refuse CAJ access to this hearing. We had sought permission under Rule 22(4) of the Parole Commissioners' Rules (NI) 2009 which empowers the chairman to admit to the hearing such person on such terms and conditions as s/he considers appropriate. The Parole Commission refused our request though mistakenly relying on another rule.

The written judgment and the subsequent Declaration corrected the Commission's mistake in law but also went on to state that: "a relevant consideration was left out of account, namely the public interest in having proceedings be as transparent and accountable as possible."

We regard this judgment as important in the restatement of the principle of openness even where the proceedings themselves are confidential. CAJ wished to attend and reassure the person involved and also to be able to draw general conclusions from its observations. This purpose was accepted by the court as a proper role for a civil society "watchdog."

### ***Leave for Judicial Review on Note-taking in Court***

As legal representatives of Rights Watch UK, CAJ was granted leave to apply for a judicial review of the current policy about note-taking in Northern Ireland courts. This required that anyone wishing to take notes, other than a lawyer or court reporter, requests permission from the judge, through court officials. While we were taking this case on behalf of Rights Watch UK we had also submitted an affidavit detailing our own experiences. We could see no justification for the current policy, especially when courts in England are now allowing members of the public to attend during live proceedings.

In mid-November the solicitors for the Northern Ireland Courts and Tribunals Service (NICTS) informed us that the policy had been reconsidered. They have now come to the view that the regulation of note taking is a matter wholly within the discretion of the Judge or Tribunal dealing with any particular case and have completely rescinded their separate policy and advice to the effect that where a judge makes an order restricting the taking of notes court staff intervene at his or her direction. We were also told that the Lord Chief Justice will shortly be undertaking a consultation on note taking in court and the use of live text based communications from the courtroom.

We regard this as a minor victory for open and transparent justice but one that has wider symbolic importance. It sends a commitment, albeit belated, to bringing justice closer to the experience and concerns of the general public.



## **Freedom of Expression and Assembly: protest in a divided society**

### **Introducion:**

Freedom of expression and assembly are two connected rights which lie at the heart of a democratic, rule of law-based society. Without freedom of expression, the free promulgation and exchange of ideas, however unpopular, which must be the foundation stones of democracy, cannot exist. Without freedom of assembly, people cannot organise, through groups such as trade unions, civil associations or political parties, to generate and promote their ideas. Nor can they meet together in public to express their opinions.

Wherever one looks throughout the world, these issues mark the contested battlegrounds between tyrannous states and alienated populations and also between competing world views which would seek to remove these rights from those who oppose them. In particular, the events of the last couple of years demonstrate that the mass mobilisation of people in public protest is as politically powerful and as threatening to undemocratic elites in the 21st century as it was in the 18th, 19th and 20th centuries.

However, these rights are not absolute; their exercise may interfere with the rights of others and in that case some limitations may be necessary. These rights are included in ECHR Articles 10 and 11 on freedom of expression and assembly, which also state that any restrictions on them must be:

- Adequately “prescribed by law” i.e. that there is a clear power and basis in law for the restriction;
- In pursuit of one of a number of listed “legitimate aims” the most relevant of which are the “protection of the rights or freedoms of others,” “public safety” and the “prevention of disorder”
- “Necessary in a democratic society” i.e. they must meet a pressing social need and be proportionate to the legitimate aim pursued.

How the state deals with public protest and in particular the extent to which responses by relevant public authorities and the police are compliant with human rights is a fundamental test of a democratic society.

In few places is this more important than in Northern Ireland. From the foundation of Northern Ireland to the peace agreement of 1998, the state adopted a repressive and sectarian stance to the exercise of these rights, especially in public, by those it regarded as opposed to the status quo. The rights of freedom of public expression and assembly were effectively denied to one of the two main communities and privileged and protected for the other main community. The exercise of these rights remains heavily contested.

The explosion of street disorder around the flying of the Union Flag on Belfast City Hall has continued during the last year though has to some extent now been overshadowed by the conflict around a North Belfast Orange parade and the establishment of a permanent protest camp. These issues and the conflict on the streets have the potential to disrupt the

peace process and to reignite violent conflict – which is why CAJ is so concerned with them. Our general view is that only a consistent human rights-based approach can transcend the particularities of the Northern Ireland situation and provide an understood framework for the resolution of situations of conflicting rights. This is the view that has informed our work on a number of related areas during the year.

### Flags and Parading

Last year we gave evidence to the multi-party talks chaired by Richard Haass which were discussing flags, emblems and parades as well as dealing with the past. We advocated that a human rights policy framework be developed and applied consistently in relation to powers to limit political expression in public space and on public property. In relation to parades and protests, we supported decision-making on parades continuing to be undertaken by an independent body. However, we recommended that the decision-making criteria on restrictions under the Public Processions Act be amended to more explicitly reflect the legitimate aim under the ECHR of protecting the rights of others, rather than relying on a prevention of disorder criterion.

In the event, little agreement was reached on flags and emblems at the talks. Instead the Proposed Agreement sought to defer further discussion to a “Commission on Identity, Culture and Tradition;” nothing has been heard of this since. There was much more progress on the subject of parades regulation within the document. This included proposals which had the positive potential to enshrine human rights based criteria into the decision making framework on parades and we analysed the proposals in detail in our response.

It is CAJ’s view that a number of recent judgements by the European Court of Human Rights have developed the jurisprudence around the Convention so that a decision-making matrix based on the ECHR is now possible. We have elaborated this in policy statements and discussed it at a full meeting of the Parades Commission in September of this year. A further meeting is to be arranged.

### Public Order Policing

Last year we reported on the beginning of a new project on public order policing. This year we met with senior officers to explain our ideas and began work on a number of different aspects of the problem. A draft of a document explaining how human rights based policing of public order is supposed to work, the decision points and the accountability mechanisms has been prepared and shared with the PSNI. This was based on approved guidance for police forces contained in a new Authorised Professional Practice text from the National Policing College which came into effect October 2013.

The project of working through the detailed rights standards to create a coherent narrative is designed to identify decision points and the mechanisms through which the police are accountable for their decisions and actions. The hope is that any clarity achieved will reduce the scope for generalised accusations of political influence or bias and encourage critics to focus on the precise ways in which they think police decisions or actions were wrong. This should improve accountability both in identifying clearly where and how the police get

things wrong and also a clear defence and rationale for decisions and actions which are right, albeit unpopular. A detailed discussion with senior officers has been held on the draft and written questions put to and answered by them.

A complication has been that the PSNI have developed their own Manual on Conflict Management, which is the latest document to which they are supposed to be working and supersedes the National Policing College document referred to above. This was classified and was only posted on the PSNI website in November. The next task is therefore to revise the draft document in the light of the new manual and comments from the PSNI.



### Hate crimes

Perhaps surprisingly in a region where the sectarian variant of racism is widespread, incitement to hatred legislation is still rarely used. This does not relate to aggravated sentences under criminal justice legislation brought in 2004 (often known as “hate crimes” legislation, but rather offences under the Public Order (NI) Order 1997 for acts “intended or likely to stir up hatred or arouse fear.” This is the domestic implementation of the UK’s duties under the UN ICCPR to outlaw advocacy of hatred. Perhaps one reason is that the distinction between protected freedom of expression and unprotected racist or sectarian expression is not always clear. Certain types of expression, although they offend or make others uneasy are protected under the ECHR. There is no “right not to be offended” that can be derived from the ECHR. In a general sense expression which merely “shocks, offends or disturbs” or is capable of “creating a feeling of uneasiness in groups of citizens or because some may perceive them as disrespectful” is protected expression which should not be restricted. However ECHR jurisprudence has held that expression which “spreads, incites, promotes or justifies hatred based on intolerance” or matters such as “the promotion of discrimination or ethnic division” can be restricted by public authorities and in some circumstances there may be a positive obligation to do so.

There have been considerable developments at UN level in recent years as to the threshold test for advocacy of hatred charges, which move away from a US-style, high threshold “clear and present danger” test to a test based on European and international jurisprudence which defers more to context and the likely impact on the target group. We continued to promote the threshold test in the UN Rabat Plan of Action as a mechanism for assessing incitement to hatred charges, and engaged with the PSNI, Policing Board and political parties on the same. In brief, the Rabat Plan of Action puts forward a six point check list on which to analyse expression which may amount to racist incitement.

Context: The social and political context prevalent at the time;  
Actors: The type of organisation/groups organising and participating;  
Content or form: Whether there are indications of likely racist/sectarian etc content of speeches, banners, placards, songs and related matters or to whom the expression is targeted;  
Intent: the goals of the organisers and likely participants  
Likelihood: The need to take preventive measures in light of the probability of some kind of potential imminent harm to rights of an affected group;  
Extent: Size, duration, frequency and magnitude of the expression in relation to its likely impact.

This test is now to be taken into account by the PPS in its decision making on advocacy of hatred charges, by virtue of its inclusion in the Attorney General's human rights guidance to the PPS. CAJ continues to engage with criminal justice agencies to scope out the impact this new test will have.

### Stop and Search

CAJ met with members of the PSNI senior policy team dealing with stop and search operational policy and the training of officers in the use of the powers. It was productive and there is some indication that some of the more problematic uses of the powers are being reined in. The Policing Board also published its thematic review on the matter and among other things have taken forward one of our main recommendations – to press the PSNI to monitor the use of the powers on grounds inclusive of community background.

CAJ provided an affidavit in the successful Judicial Review taken by Emmet McAreavey where Mr Justice Treacy held that the Secretary of State had failed in her duty to consult in respect of changes to the draft Code of Practice on the operation of the stop and search powers under the Justice and Security (NI) Act 2007. This judgement, which has significant implications for consultation practice on a range of policy areas, related to the NIO consulting on a draft Code of Practice but then inserting a detrimental provision in the final Code that conflicted with what had actually been consulted on. It was this issue (which related to providing records to persons searched) which was found to be unlawful, in the context of a “fundamental change” not having been consulted on. The NIO in November 2014 has issued a fresh consultation document.

## Equality: promoting the fundamental principle

### Introducion:

Equality is a fundamental principle underlying all human rights. The whole concept of rights attaching to each individual by virtue of their humanity depends upon a robust concept of equality. So, for example, the European Convention on Human Rights in its first Article states that the contracting parties must secure the following rights for “everyone within its jurisdiction.” Article 14 expressly forbids discrimination.

In Northern Ireland, equality takes on a particular significance precisely because of the region’s unequal past. The systemic political, economic, social and cultural discrimination practised against Catholics or nationalists was one of the root causes of the violent political conflict. It is therefore one of the key areas that CAJ is engaged with in its mission to assist in the building of a rights-based society where the risk of returning to conflict is minimised. CAJ works on its own and through the broad-based Equality Coalition to promote the fundamental principle of equality and to monitor the agencies and institutions that need to implement it.



*Emma Paterson-Bennet addressing the Racial Equality Strategy Common Platform*

Further to the recommendations of our Unequal Relations report, CAJ have made recommendations to the new Councils regarding their new draft equality schemes. The proposals CAJ put forward are to define Good Relations in the new schemes as it is in Great Britain, “tackling prejudice and promoting understanding” and to extend this to cover the 9 equality categories instead of the 3 at present covered by section 75(2). We have also recommended the removal from equality screening questions of a subjective good relations “impacts” question, rather seeking the inclusion of questions based on whether policies provide opportunities to promote good relations (i.e. tackle prejudice and promote understanding). We have also asked councils to include questions from the Disability Discrimination Act in their screening questions. CAJ attended an event run by the Local Government Staff Commission and met with the new council officials on these changes.

### Equality Coalition

The Equality Coalition is a broad alliance of non-governmental organisations whose members cover all the categories listed in Section 75 of the Northern Ireland Act 1998 (‘s75’), as well as other equality strands. It was founded in 1996 by community and voluntary sector organisations and trade unions, including CAJ, UNISON, NICEM, Disability Acton,

Women's Support Network, the Upper Springfield Development Trust and the Linc Resource Centre. It was instrumental in putting equality at the forefront of the agenda at that time, specifically in relation to PAFT, the Good Friday/Belfast Agreement, and ultimately s75. It now has 86 corporate members from across civil society.

The Equality Coalition now provides a forum for unity between all sectors when campaigning for equality, while allowing for the diversity of its members' work and views. There are two key tenets to the work of the Coalition: the first is information sharing and capacity building; the second is lobbying and advocacy. Its aims and objectives can be summarised as:

- To ensure the equality duty is put into practice.
- To raise the public profile of the equality agenda in NI.
- To facilitate information sharing.
- Strategic planning to effect change for critical equality issues.

The Equality Coalition has been a key player in the equality field and by expressing a united voice, adopting the position that attacks on the equality of one are attacks on the equality of all, and presenting the multiple identity implications of equality work; it has always ensured that attempts to "divide and rule" have been unsuccessful. This approach is particularly important in the current environment, where organisations' resources are challenged and cuts to public services are impacting disproportionately on the most disadvantaged groups in our society.

The monthly meetings of the Coalition have focused both on particular areas and holding or organising meetings with relevant institutions. The Coalition meets quarterly with the Equality Commission and three times a year with OFMDFM; it also meets with the Junior Ministers and the NI Human Rights Commission twice a year. It has also met the Business Services Organisation (health) and the Commissioner for Public Appointments during the year. The Equality Coalition is also represented at the NI Housing Executive Consultative Forum and the Local Government Staff Commission Equality and Diversity Group along with other equality fora across the section 75 categories such as education and transport.

The Equality Coalition held a closed roundtable in April under the Chatham House Rule to discuss getting a definition of sectarianism in law. The expert background paper "Sectarianism in Northern Ireland: towards a definition in law" was completed by Dr Robbie McVeigh and the event was chaired by Priactia McKeown and included summing up from Prof Bill Rolston. This roundtable influenced a final expert paper which has been published on the Equality Coalition's website. The Equality Coalition also held a roundtable on defining good relations in September this year. Again, Dr Robbie McVeigh was asked to prepare and background paper and, as an input from the roundtable, this has also been published on the Equality Coalition's website.

These papers will be used for future lobbying regarding the TBUC legislation (see below) and will be of use when we meet with political parties/ officials around this subject. Both reports were submitted as part of the OFMDFM Committee Inquiry into TBUC.

The Coalition ran a seminar on “Enforcing Equality;” this event was attended by over 50 EC members, NGOs, community groups, trade unionists and other civil society activists. The event shared some good practice from EC members on using the equality scheme complaints mechanisms and FOI in order to effect change. The day had an element of training in it where groups got together to discuss case studies and how they would pursue a complaint using the equality scheme.

### **Together: Building a United Community (T:BUC)**

TBUC is the latest manifestation by the devolved government of a policy designed to bring the two main and other communities together in a shared society. T:BUC is largely composed of a series of high level projects which are being taken forward; CAJ's specific interest however was in relation to proposals within the document to incorporate a “good relations” section into Equality Impact Assessments and turn the Equality Commission into an Equality and Good Relations Commission. This proposal has manifold weaknesses and, in our view, seeks to exalt the “good relations” duty above the equality duty for public authorities, without ever defining the term. We published two briefing papers on the policy. These two briefing papers timed for Community Relations Week were aimed at and have succeeded in influencing discourse on the plans under the TBUC strategy for an “Equality and Good Relations Commission” and increasing the remit of Equality Impact Assessments to include “good relations” considerations. The first paper analyses the background to both of these issues and the question of defining good relations. The second paper covers in detail the Equality Commission's investigation report and decision into regarding Newry Council's naming (in 2001) of a play park after IRA hunger striker Raymond McCreech as a breach of their equality and good relations duties.

Our concerns over the drift of government policy towards a definition of good relations that would effectively give each main community a veto over any measure, even if taken for strong equality reasons, which might cause offence or upset, are what have prompted our interest in a better definition. Misuse of the concept of “good relations” in the absence of a definition has been a problem which has plagued the existing statutory duties in Northern Ireland as our “Unequal Relations” report, published last year, made clear. Such concerns have been articulated on the floor of the Assembly. During the debate on the draft CSI strategy in 2010 Dr Stephen Farry MLA, stated that any use of the concept of good relations to veto equality initiatives was indicative of a “misunderstanding of the concept of good relations, which has been used and abused by certain politicians.” Concerns have also been raised by the Northern Ireland Human Rights Commission and Council of Europe. The equivalent definition in the Equality Act 2010 in Great Britain is perfectly acceptable focusing, as it does, on tackling prejudice and promoting understanding.

We feel this definition would not only help prevent misinterpretation of the duty but would also assist in supporting a framework for existing Council good relations work. In being “in particular” (i.e. not exclusively but primarily) about tackling prejudice and promoting understanding provides a focus for combating sectarianism and other forms of racism (tackling prejudice) as well as a framework for work on reconciliation and dialogue (promoting understanding). Should “good relations” be clearly defined as above we would also suggest consideration of going beyond s75(2) in relation to the categories it covers and

also including matters such as a commitment to tackling homophobia as a general element of the Equality Scheme.

We have pursued this policy in advocating amendments to legislation both at Westminster (Northern Ireland (Miscellaneous Provisions) Bill) and at Stormont (Local Government Reform Bill). In both of these legislatures we received significant support but the relevant amendments were not passed, mainly for procedural reasons. With regards to local government here, however, the intention of the Minister proposing the Bill was clear. In general we have garnered significant support for the concept of good relations to be defined in legislation, including from the Equality Commission, who have indicated support among their stakeholders for the “tackling prejudice, promoting understanding” definition. To date the proposals for the changes to Equality Impact Assessments and the Commission have not been taken forward and CAJ hopes they will now be formally reconsidered.

### Ant-Poverty Strategy – Judicial Review

During the year correspondence was exchanged with the head of the civil service/OFMDFM in relation to the Executive’s duty, under s28E of the Northern Ireland Act (as amended by the St Andrews Agreement Act), to adopt an anti-poverty strategy based on objective need. It is clear – as set out in our Mapping the Rollback document published last year – that no such strategy is presently “adopted.” The response was that the Executive had adopted the “broad architecture and principles” of the direct rule “Lifetime Opportunities” strategy.

On this basis, we solicited the support of the Public Interest Litigation Service (PILS) and sought counsel’s opinion on a judicial review. On receipt of a positive opinion we issued a pre-action letter and subsequently sought leave for a judicial review. Leave was granted in September and the case is listed for January 2015. The granting of leave was widely reported in the media and we believe that this is the kind of challenge that lets politicians know that the commitments in the various legislative underpinnings of the peace process have real meaning.

A key issue for CAJ is the maintenance of the integrity of the concept of legal certainty and the principle of “objective need.” CAJ is of the view that objective need is a concept that is intended to reduce in its entirety the scope for discrimination between persons in need by tying the allocation of resources to neutral criteria that measure deprivation irrespective of community background or other affiliation. We would be deeply concerned at any digression from the concept of objective need, which in itself ensures an approach based on equality which benefits the most disadvantaged in both main communities, as well as persons who are in neither.

Leave was granted to CAJ for judicial review on the 29 September by Mr Justice Horner. Repeatedly the Executive did not concede leave but offered no substantive arguments against it being granted.

### Challenge to the Northern Ireland Tourist Board (NITB) on the issue of Bi-lingual signage

After being approached by a number of interested parties, CAJ made a number of Freedom of Information Act requests to the NITB on its funding policy of tourism interpretive signage and the Irish language. The NITB refuses to fund any bilingual signage which includes the Irish language and the basis of this policy is unclear. Some information was provided but it refused to provide full disclosure of information requested deeming that it fell within a number of exemptions including legal professional privilege (s42(1) FOIA) and that disclosure would inhibit a free and frank exchange of views within the NITB (s36(2)(b)(ii) FOIA). The Information Commissioner upheld the decision to withhold the information and we appealed against this decision with the NITB joined as second respondent. The matter was listed for hearing in October by the Information Tribunal sitting in Belfast. We had instructed counsel and had funding for his costs from the PILS Project and an indemnity for CAJ against any potential costs.

Shortly before hearing, however, our counsel was approached by the other parties with a view to settlement. After protracted negotiations we received all the material we had been seeking. On the basis of this material, we are preparing a challenge to the policy by way of judicial review.

### Complaints to the Equality Commission (ECNI)

We made a submission to the ECNI requesting the use of its paragraph 11 powers under Schedule 9 of the Northern Ireland Act 1998 to investigate the Department of Social Development (DSD) for failure to carry out screening and equality impact assessment of strategic housing policy centred around its "Facing the Future: Housing Strategy for Northern Ireland 2012-2017" policy. This has not happened with either "Facing the Future" itself or key individual policies emerging from it. This followed DSD confirming to CAJ that the "Facing the Future" Housing Strategy will not be reissued and hence that it is sticking to the position in the draft consultation document that the Housing Strategy will not be screened. In addition, DSD is regardless taking forward an Action Plan on the strategic policy without screening or EQIA's being conducted on collective or individual elements. In our view it is becoming increasingly apparent that decisions are already being taken and there is a concerted movement away from approaches to promote equality of opportunity within key elements of strategic housing policy. This could have enormous impacts on 75 groups in the short as well as medium term. The ECNI decided to use its powers to initiate an investigation and this is continuing.

We also asked the Commission to consider an investigation into whether OFMD's failure to allocate monies from the Social Investment Fund (SIF) contravenes equality policy.

We suggested that this was due to a reluctance to allocate resources on the basis of objective need. In fact the "blockage" in funding seems to have been removed by political negotiation, but we still await a decision from the Commission as to whether it will investigate what happened.



## **Protecion and Promoion of Rights: building a rights-based society**

### **Introducion:**

The promise of the Belfast /Good Friday Agreement was the constructon of a society based on equality and human rights. The text of the Agreement itself is shot through with references to a whole range of rights as well as the novel politcal architecture designed to deal with a divided society. There was clearly a view amongst those who wrote and approved the Agreement that a peace settlement depended upon everyone being confident that their rights would be protected in the new Northern Ireland, as well as their communal interests being protected in the politcal arrangements.

CAJ was one of the organisatons arguing just that at the tme of the peace settlement. Its role ever since has been to strive to make a reality of a righs-tbased society. Unfortunately, the fact that the peace process is still racked by periodic crises demonstrates that we still have a long way to go in that enterprise. It is our view that the extent to which the peace process is in crisis is the extent to which human rights are still not fully protected and promoted. We therefore work in a variety of ways to create the laws, policies and culture necessa rtyo build a rights-based society.

### **Mapping the Rollback**

In April last year, we held a major conference designed to map what we have termed the “rollback” from the commitments made in the agreements of the peace settlement. This “rollback” includes commitments made as part of the settlement which have never been implemented and areas where insttutonal and policy gains were made which are now being underminde. Unimplemented commitments include the fundamental Bill of Rights for Northern Ireland, a Single Equality Act and an Irish Language Act, the introducton of an ant-poverty strategy, the lack of full implementaton of the statutory equality dutes, and the promise to repeal emergency law.

Some commitments like the “right of women to full and equal politcal partcipaton” and to supporting young people froemas a affected by the conflict have never had a delivery mechanism to take them forward. There has been regression in commitments to victims’ services, a dri away from commitments to tackle inequality on the basis of objective need, and the pledge to remove employment barriers for ex-prisoners. There is a current threat by some Britsh politicians to the European Conventon on Human Rights which the 1998 Agreement guaranteed the incorporaton of into Northern Ireland law. We have also seen the slow pace of some justice reform and the undermining of the independence of key peace settlement insttutons such as occurred during the tenure of the second Police Ombudsman.

Policing also has seen rollback from the blueprint of a rights-based and accountable service – most notably in the 2007 transfer of the most controversial area of policing (“national security” covert policing) away from the Police Service of Northern Ireland and its oversight bodies to the secret Security Service, MI5.

There were some areas of human right related policy which were not dealt with by the Agreements, including a transitional justice mechanism to “deal with the past” (and notably one prominent related commitment in the Agreements – to hold a public inquiry into the murder of human rights lawyer Pat Finucane – has been reneged on). In fact, the failure to “deal with the past” is a failure by the UK state to honour its obligations under the Right to Life to properly investigate all unlawful deaths, especially those where state agents might have been involved.

In December of last year we launched a major publication which was made up of the contributions made at the conference. The document brings together many of the concerns we and our partners have about the failures in the process of building a rights-based society and is now being widely used as a campaigning document.

### Human Rights Training

Much of CAJ’s work involves detailed legal work and high level political lobbying. It is also important, however, to make a contribution to and meet the demands of a growing culture of human rights at the grassroots level through human rights training. In the first half of the year CAJ trained two loyalist groups on a series of issues including a Bill of Rights for Northern Ireland; rights of the child and UNCRC; Stop and Search; Human Rights and Social Justice, UN Human Rights Treaties, and the European Convention on Human Rights. A women’s group has evolved from these groups and the current training focus of this group is on “Women, Peace and Security” UN Resolution 1325. CAJ is also engaged in training with a new group of ex-police personnel. This group has an interest in protecting their families and themselves from rights violations; the training with this group centres on commitments under S75 of the NI Act 1998, Disability Discrimination Act Commitments, and anti-discrimination law in lieu of the Armed Forces Covenant in NI.

CAJ has also been involved in training-for-trainers for UNISON, equality training as well as training Friends of the Earth Ireland and the Fracking Collective on the right to protest, in Fermanagh earlier this year.

The broad range of groups, engagement and issues show an ongoing desire for human rights training and education in a wide variety of communities and settings.

### Treaties

The international treaties to which the UK is a signatory make up the human rights obligations to which the country has committed itself. CAJ regards it as important that civil society keeps in touch with the relevant monitoring bodies and continues to pressurise both central and local government to live up to their obligations. As we have noted, we keep in regular touch with the secretariat of the Committee of Ministers (the enforcement body for the ECHR) and make regular submissions.

The parent body, the Council of Europe carried out a consultation on the future of the ECHR. Our response to the consultation mainly focused on the role of the ECHR in our peace process and the proposals amongst politicians in London to withdraw from it and/or repeal

the Human Rights Act. We concluded: "Northern Ireland massively values the ECHR and its incorporation (mainly) into domestic law. Any move to withdraw from the Convention or its incorporation in the Human Rights Act would be a breach of the Belfast Good Friday Agreement and deal a serious and gratuitous blow to the Northern Ireland peace process." Since then we have had proposals from the Conservative Party to repeal the Human Rights Act and even withdraw from the ECHR. CAJ will continue to resist this policy in every available forum.

The UK will be examined by the UN on its compliance with the ICCPR at the 14 Session (29 Jun 2015 - 24 Jul 2015) and the Committee has compiled a list of issues on which to question the UK. CAJ's submission urged the Committee to include the legacy of the NI conflict within this list and the Committee has done so in some detail.

The Council of Europe Committee of Experts (COMEX) published their long awaited report into UK compliance with the European Charter for Regional or Minority Languages. The report was scathing over the lack of provision of any information on devolved matters in Northern Ireland for a second time (executive could not agree input) and focused largely on having not received information in response to each commitment rather than the usual more detailed commentary.



## **Finance and Staffing**

### **Finance**

Over the past year, CAJ has been working and negotiating with three other human rights based organisations and Atlantic Philanthropies on the establishment of a new Human Rights Fund. Atlantic Philanthropies are spending down worldwide and will cease operations in Northern Ireland in 2016. In collaboration with the Community Foundation for Northern Ireland they have established a Fund which, if contributions from other funders are achieved, will give support over a ten year period to four key human rights organisations. As well as CAJ these include the Human Rights Consortium (HRC), Participation and Practice of Rights (PPR) and Public Interest Litigation Support (PILS). The Community Foundation will manage the Fund with the help of an advisory committee which will include representatives of Atlantic and other funders.

As part of this process, the four organisations are forming a Joint Venture Company which will be funded to purchase a building for their joint occupation. The building is identified and it is hoped the sale will be agreed before the end of 2014.

The formation of the Human Rights Fund is very welcome and CAJ is grateful to Atlantic Philanthropies for the establishment of a mechanism for continuing support for human rights as their main operations close down. However, CAJ will still have to find about half of the costs it needs to keep running at its current level of staff and activity and in late summer next year we will be moving into new premises.

We are grateful to the other funders that have supported us during the year, especially the Joseph Rowntree Charitable Trust (who have been long term, faithful supporters of CAJ), the Esmée Fairbairn Foundation, the Paul D. Schurgot Foundation, Unison and the Community Foundation for Northern Ireland.

### **Staffing and Volunteers**

Aideen Gilmore, who was Deputy Director of CAJ, has decided not to return to the organisation after a three year career break. We thank Aideen for her past work and wish her well for the future. The Executive Committee has appointed Daniel Holder, who was carrying out the duties of the post over the past three years, as Deputy Director.

We would like to take this opportunity to thank all the staff for their hard work throughout the year. CAJ's work also depends heavily on volunteers. Several have been involved in significant projects for us during the year including legal and social research. Volunteers have also carried out protest and inquest observation for us, which is an invaluable resource. This year we have Lena Hensel with us as the Eirene volunteer who succeeded Johanna Ritter who was an important asset to us in her time here. Special thanks go to Mrs Rose Perry who continues to volunteer on a regular basis as she has for the past 24 years.

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

**Balance sheet**  
**as at 30 June 2014**

	Notes	2014		2013	
		£	£	£	£
<b>Fixed assets</b>					
Tangible assets	<b>3</b>		316		1,679
<b>Current assets</b>					
Stocks		400		400	
Debtors	<b>4</b>	57,733		72,110	
Current account		4,782		63,803	
Business Reserve		65,705		85,576	
Petty Cash		155		115	
		<u>128,775</u>		<u>222,004</u>	
<b>Creditors: amounts falling due within one year</b>	<b>5</b>	<u>(4,600)</u>		<u>(29,085)</u>	
<b>Net current assets</b>			<u>124,175</u>		<u>192,919</u>
<b>Total assets less current liabilities</b>			<u>124,491</u>		<u>194,598</u>
			<u>124,491</u>		<u>194,598</u>
<b>Represented by:</b>					
Accumulated Fund			194,598		77,698
Profit and loss account			(70,107)		116,900
			124,491		194,598

These financial statements have been prepared in accordance with the special provisions of Part 15 of the Companies Act 2006 relating to small companies.

The financial statements were approved by the Board on 18 December 2014 and signed on its behalf by

**Cheryl Lawther**

**Director**

**Registration number NI 032591**

**The Committee on the Administration of Justice Ltd**  
**Company limited by guarantee**  
**Detailed trading profit and loss account and expenses schedule**  
**for the year ended 30 June 2014**

	<b>2014</b>		<b>2013</b>	
<b>Income</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
Human Rights Trust	207,587			373,931
Service Fees	-			685
Paul Schurgot Foundaton	2,925			3,034
Esmee Fairbairn Foundaton and Henry Smith Charity	18,000			60,204
Project partner contributons	2,450			-
Donaton from Human Rsig Thrtust	-			50,000
Donatons	374			562
Publicatons	123			168
Reimbursement of costs (inc. Unison)	1,499			5,784
CFNI reimbursements	10,900			-
Conference and Seminar receivable	5			1,917
Staff Contributons	-			364
Income from secondment	32,054			1,932
Membership Fees	1,444			2,258
Bank Interest	249			96
Contributon to management support- HRC	-			7,064
Contributon to management support- PILS Project	9,225			11,944
Other Income	149			414
	<u>286,984</u>			<u>520,357</u>
 <b>Cost of sales</b>				
Profits/losses on disp of tangibles	(200)			-
	<u>(200)</u>			<u>-</u>
		200		-
<b>Gross profit</b>	100%	<u><u>287,184</u></u>	100%	<u><u>520,357</u></u>

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

**Detailed trading profit and loss account and expenses schedule  
for the year ended 30 June 2014**

	2014		2013	
	£	£	£	£
<b>Expenditure</b>				
Wages and salaries	222,368		244,221	
Redundancy costs	1,529		-	
Employer's NI contributons	20,300		23,282	
Staff pension costs	17,782		22,667	
Staff Development and Educaton	170		921	
CAJ training	8,550		-	
Rent pbaylea	20,000		40,000	
Insurance	3,557		2,844	
Equipment Leasing	2,420		1,728	
Light and heat	3,585		3,991	
Computer so ware and support	3,996		4,618	
Building maintenance	11,527		9,406	
Cleaning	1,281		722	
Office Materials	1,975		1,233	
Website and web development	609		38	
Postage, statonery and telecommunicatons	8,074		7,623	
Conferences and seminars	1,984		1,182	
Publicatons (including Justnews)	6,959	-	5,549	
Travelling expenses	4,197		3,209	



## **Publicatons and submissions 2013-2014**

### **Publicatons**

No.65 **Mapping the Rollback? Rights Provision of the Belfast/Good Friday Agreement 15 years on** - Conference report from conference held on 26th April 2013 in Belfast, December 2013

### **Submissions**

- S424 CAJ's submission to **the Haass Proposed Agreement on dealing with the past: analysis from a human rights perspective**. 13 January 2014
- SA4J'2s5 reqCuest to **ECNI for Para 11 Investgaton into OFMdfm SIF decisions**, Oct 2013
- S426 CAJ's request to **ECNI for Para 11 Investgaton into DSD Strategic Housing Policy**, Oct 2013
- S427 CAJ submission to **NIA Local Government Bill, Consideraton Stage Amendments to Clause 69**, March 2014
- S428 CAJ's response to **DoJ consultaton on a proposal to place the office of the Northern Ireland Prison Ombudsman on a statuto rfyootng**, April 2014
- S429 CAJ's **Written Evidence to the Northern Ireland Affairs Committee on its inquiry into the 'Administratve scheme for "on-the-runs"**, April 2014
- S430 CAJ's submission about the **independence of PSNI, May 2014**
- S431 CAJ's submission to **Committee of Ministers, incl ANNEX 1**, May 2014
- S432 CAJ's submission to the **Local Government NI Act 2014 The Dra Local Government (Standing Orders) Regulatons I()N 2014**, June 2014
- S433 CAJ's submission to the **United Natons Human Rights Committee on List of Issues for the UK's 7th Periodic Report**, July 2014
- S434 CAJ's submission to the **11 new District Councils in relatn to dra Equality Schemes**, August 2014
- S435 CAJ's submission to the **Committee of Ministers in relatn to the supervision of the cases concerning the acton of the security forces in Northlearnd I,re** August 2014
- S436 CAJ's Commentary on **new proposals for operaton of the Natonal Crime Agency (NCA) in Northern Ireland**, Sept 2014
- S437 CAJ's Submission to **the Committee for the Office of the First Minister and Deputy First Minister inquiry into "Building a United Community"**, Oct 2014



Bill of Rights

Equality

Criminal Justice System

Policing

Human Rights