

# Human Rights Centre Clinic

## Investigations into Unlawful Killings and Torture during the Northern Ireland Conflict

**Partners: Committee on the Administration of Justice and Pat Finucane Centre**

### **About the Committee on the Administration of Justice and Pat Finucane Centre**

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation for Human Rights. CAJ seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community. CAJ works closely with other domestic and international human rights groups and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

Pat Finucane Centre (PFC) acts on behalf of families in approximately 250 cases. The Centre's remit is not restricted to any one community. The Centre's focus is to offer support to any family bereaved as a result of the conflict on the island of Ireland. The Pat Finucane Centre is named after the Belfast lawyer who was shot dead in his home by loyalist paramilitaries in February 1989. Numerous official reports into his murder have confirmed collusion between his killers and the Security Service MI5, units of the police and the British army. Though the British government committed to a public inquiry into the murder, it has since reneged on the promise.

### **Project overview**

This project will contribute to the International Expert Panel on State Impunity and the Northern Ireland Conflict set up at the request of the Committee on the Administration of Justice and the Pat Finucane Centre. In the absence of official mechanisms of redress and investigation, the Panel will provide an

authoritative independent assessment of the extent of impunity in relation to human rights violations during the Northern Ireland conflict between the late 1960s and late 1990s.

The Human Rights Centre Clinic team will examine the meaning of human rights compliant investigations in relation to unlawful killings and torture, particularly considering Articles 2 and 3 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights. The Clinic team will analyse evidence that will be provided by the Committee on the Administration of Justice and the Pat Finucane Centre, and by families who will provide testimonies. The Human Rights Centre Clinic's report will be presented to the Panel to inform their assessment of the situation on the ground.

## **Background**

The [1998 UK-Ireland Good Friday Agreement \(GFA\)](#) contained a number of conflict resolution provisions relating to early prisoner release of prisoners, demilitarisation ("normalisation"), disarmament of armed groups ("decommissioning"), police and justice reform, but did not provide for an amnesty nor transitional justice mechanism.

Only a very small number of State actors were convicted in relation to direct or indirect (through paramilitary collusion) involvement in human rights violations during the thirty years of the NI conflict. CAJ and PFC have long been concerned about patterns of human rights violations including unlawful killings and torture directly by State actors as well as State collusion with paramilitary groups.

Findings of procedural violations of Article 2 of the European Convention on Human Rights (ECHR) by the European Court of Human Rights (2001-2003) led to the "Package of Measures" taken forward by the UK focusing on reforms to justice and accountability mechanisms to seek to deliver Article 2 ECHR compliant investigations into legacy deaths. There were, however, considerable limitations and State intervention in this work. A range of concerns are documented in the CAJ [Apparatus of Impunity Report](#) and in a [report by UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo De Greiff](#).

After lengthy negotiations, the British and Irish governments along with parties in the NI Executive, concluded the [2014 Stormont House Agreement](#) (SHA), providing for a new set of tailored legacy institutions to provide both Article 2 ECHR compliant investigations and an independent information retrieval commission.

The UK considerably delayed implementation of the SHA, and in March 2020 announced an intention to unilaterally depart from it. No further detail of the alternative approach favoured by the UK was set out until a [Parliamentary Command Paper in July 2021](#). In the context of commitments given to military veterans, this UK Command Paper provides for a sweeping unconditional amnesty for all conflict-related offences, the shutting down of all investigations and judicial activity (criminal and civil), and its replacement with an information recovery body limited to conducting desktop reviews of papers. [CAJ were involved in a detailed critique of this policy](#). The proposals were considered by UN Special Rapporteurs as in ["flagrant breach" of the UKs international obligations](#) and by the [Council of Europe Commissioner as not ECHR compatible](#). The British Government nevertheless proceeded in May 2022

to introduce the Northern Ireland Troubles (Legacy and Reconciliation) Bill into the UK Parliament in May 2022 and progressed it through accelerated passage.

Against this background, CAJ and PFC requested the establishment of an **International Expert Panel on State Impunity and the NI Conflict** for 2022-23. The central mission of the Expert Panel will be to examine and report on the extent to which there have been patterns of impunity for human rights violations during the NI conflict, and the extent to which the UK has met obligations to take effective action to combat impunity.

“Impunity” means 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.” [UN Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity](#) (E/CN.4/2005/102/Add.1), 2005.

“Impunity arises from a failure by States to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations; and to take other necessary steps to prevent a recurrence of violations.” (Principle 1 of the UN Principles)

The project will focus on whether patterns of impunity can be identified, relating to the NI conflict, in respect of: killings, torture and other violations arising from the direct actions of state actors; and allegations of collusion between non-state actors and the security forces.

The Panel will be given access to *inter alia* documentary evidence, including from official archives; testimony from victims/survivors and their families; legal testimony for a final report with findings and recommendations benchmarked against relevant international standards.

In the absence of any effective independent official investigative or information recovery mechanism, the Panel intends to assist in giving a voice to the voiceless and provide a level of acknowledgement to victims and survivors.

The Panel will not address outstanding legacy issues, and it will not be a substitute for official investigations. It will rather focus on the question of impunity.

## **Project Output**

The HRC Clinic project’s findings will be presented in a 10,000-12,000-word report, which will be submitted to the International Expert Panel upon completion in June 2023. Based on the research, two blog posts (1,000 words each) will be published in March and May 2023.

The HRC Clinic projects findings will take forward a considerable amount of groundwork that is necessary for the Panel to make its assessments in relation to the extent of state impunity for human rights violations in the NI conflict that are the area of focus. The research will enable the Panel to have a reliable secondary

source of collated and assessed material in the area of focus on which to base its deliberations and conclusions. The Panel will produce a final report which aims to become the independent authoritative assessment of levels of impunity in the Northern Ireland conflict. This will assist with historical clarification, and to promote guarantees of non-recurrence of policing and security practices which fuelled conflict in NI.

The Clinic Team may focus on torture exclusively or primarily, but the specific human rights issues will be determined together between the Clinic Team and the partner organisations.

## **Timeline**

Phase 1: November – December 2022:

- Preliminary research, understanding the project and developing research/report outline.
- Developing methodology and appropriate training. Develop a system for engagement with archive underpinning this project.
- Identifying a list of experts for interviews and questionnaires.
- Securing ethical approval, if necessary.
- Outline and bibliography to be submitted to CAJ and PFC for comments.

Phase 2: January – March 2023

- Collating, organising and transcribing qualitative materials.
- Research, data gathering, and thematic analysis.
- Test emerging themes through interviews (online) with relevant stakeholders.
- Report writing.
- Submission of the first full draft to CAJ and PFC.
- Production of first blog post, which can be cross-posted on dedicated panel website and the University of Essex's Human Rights Centre blog.

Phase 3: April – June 2023

- Revision and finalising the report based on input from the Panel, CAJ and PFC.
- Potentially a presentation of the findings to partners in Northern Ireland.
- Production of second blog post, which can be cross-posted on dedicated panel website and the University of Essex's Human Rights Centre blog.

## Essential sources

- CAJ (2015), The Apparatus of Impunity? <https://caj.org.uk/2015/01/19/apparatus-impunity-human-rights-violations-northern-ireland-conflict/>
- Barron report into Dublin and Monaghan bombings (2004), <https://cain.ulster.ac.uk/events/dublin/barron310304.pdf>
- Report of the Pat Finucane Review (2012), <https://www.gov.uk/government/publications/the-report-of-the-patrick-finucane-review>
- Unquiet Graves by Sean Murray (2018), <https://www.unquietgraves.com>
- Model Team Bill Response to UK gov amnesty plans (2021), [https://www.dealingwiththepastni.com/assets/Model-Bill-Team-Response-to-the-UK-Government-Command-Paper-on-Legacy-in-NI-Final-3.09.21-\(1\).pdf](https://www.dealingwiththepastni.com/assets/Model-Bill-Team-Response-to-the-UK-Government-Command-Paper-on-Legacy-in-NI-Final-3.09.21-(1).pdf)
- Northern Ireland Troubles (Legacy and Reconciliation) Bill (2022), <https://bills.parliament.uk/bills/3160> and the 2021 Command Paper, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1002140/CP\\_498\\_Addressing\\_the\\_Legacy\\_of\\_Northern\\_Ireland\\_s\\_Past.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002140/CP_498_Addressing_the_Legacy_of_Northern_Ireland_s_Past.pdf)
- Collusion between security forces and paramilitaries (CAIN database), <https://cain.ulster.ac.uk/issues/collusion/>
- Summary of Judgment - In the matter of a series of deaths that occurred in August 1971 at Ballymurphy, West Belfast, <https://www.judiciaryni.uk/judicial-decisions/summary-findings-matter-series-deaths-occurred-august-1971-ballymurphy-west>
- Anne Cadwallader, Lethal Allies: British Collusion in Ireland (2013),
- Ian Cobain, The History Thieves (2017), chapter 7,
- Aoife Duffy, Torture and Human Rights in Northern Ireland: Interrogation in Depth (2019),
- *State Impunity and the Northern Ireland Conflict* (2022), Aoife Duffy and Brian Dooley: <https://www.humanrightsfirst.org/blog/international-expert-panel-state-impunity-and-northern-ireland-conflict>
- *The Euphemistic Language of Torture* (2021), Aoife Duffy  
blog: <https://hrcessex.wordpress.com/2021/12/20/the-euphemistic-language-of-torture/>
- *Denial, Delay, and Obfuscation* (2021), Aoife Duffy: <https://writingthetroublesweb.wordpress.com/2021/12/06/denial-delay-and-obfuscation/>

## Focal Point

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