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CITY BAR

**TASK FORCE FOR THE INDEPENDENCE  
OF LAWYERS AND THE JUDICIARY**

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July 11, 2017

The Rt. Hon. Theresa May  
Prime Minister  
10 Downing Street  
London, United Kingdom SW1A 2AA

The Rt. Hon. James Brokenshire  
Secretary of State for Northern Ireland  
1 Horse Guards Road  
London, United Kingdom SW1A 2HQ

Dear Prime Minister May and Secretary Brokenshire:

I write on behalf of the New York City Bar Association to convey a series of concerns surrounding the recent climate of intimidation that has been reemerging for lawyers in Northern Ireland. Especially given the important commitments to peace in Northern Ireland made by the government of the United Kingdom in recent decades, we are troubled by reports that lawyers are increasingly facing threats and harassment for the legitimate performance of their professional duties. It is particularly disquieting that government officials appear to have contributed to this climate of intimidation, both by failing to adequately intervene in response to these threats and by engaging in their own attacks on lawyers.<sup>1</sup> With adherence to the Belfast Agreement coming under strain in the wake of the recent parliamentary elections, we urge you to take active steps to support and protect lawyers in Northern Ireland in the face of these threats.<sup>2</sup>

The Association is an independent nongovernmental organization of over 24,000 lawyers, judges, law professors and government officials from throughout the United States and over 50 other countries. Throughout its 145-year history, the Association has consistently maintained that respect for the rule of law is essential in all jurisdictions and has a long history of investigating and reporting on human rights concerns around the world, including within the United States, through the work of its International Human Rights Committee, its Task Force on the Independence of Lawyers and Judges, and other Association committees.

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<sup>1</sup> See, e.g., HUMAN RIGHTS FIRST, A TROUBLING TURN: THE VILIFICATION OF HUMAN RIGHTS LAWYERS IN NORTHERN IRELAND (2017), <http://www.humanrightsfirst.org/sites/default/files/A-Troubling-Turn.pdf>.

<sup>2</sup> John Walsh, *Enda Kenny: Tory Alliance With DUP Puts Good Friday Agreement at Risk*, TIMES (London) (June 12, 2017), <https://www.thetimes.co.uk/article/tory-alliance-with-dup-puts-good-friday-deal-at-risk-warns-enda-kenny-zn5fr9kpg>.

As part of this work, the Association has closely monitored and engaged human rights concerns in Northern Ireland since the late 1980s. During this period, the International Human Rights Committee has conducted four visits to Northern Ireland, most recently in 2015, to assess, among other issues, the failure to adequately investigate individual deaths and injuries during the Northern Ireland conflict, including the murders of two lawyers, Patrick Finucane and Rosemary Nelson. We have issued detailed reports on these and related matters, and have regularly met with government officials, lawyers, and other community members to remain apprised of developments and issues of concern.<sup>3</sup> Following our 2015 visit, we noted that while dramatic positive changes have taken place since the Belfast Agreement, giving rise to a “growing sense of hope,” substantial challenges remain, particularly with respect to implementing transitional justice mechanisms that are important elements of the reconciliation framework.<sup>4</sup>

We therefore are particularly troubled by reports that lawyers in Northern Ireland once again are facing threats, harassment, and media attacks while engaging in their professional responsibilities related to addressing the legacy of the past. These reports seem to originate with Prime Minister May’s October 2016 statement attacking “activist, left-wing human rights lawyers” for purportedly “harangu[ing] and harass[ing]” British military personnel.<sup>5</sup> Although the original context of the Prime Minister’s statement—referencing a debate about accountability for “tank-chasing” lawyers involved in claims for killings by British soldiers in Iraq and Afghanistan—related to the Middle East, the comment has been distorted by the tabloid media which has repeatedly invoked it to attack lawyers in Northern Ireland.<sup>6</sup>

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<sup>3</sup> See, e.g., NEW YORK CITY BAR ASS’N, INT’L HUMAN RIGHTS COMM., IN NORTHERN IRELAND, THE PAST IS STILL PRESENT (2016), <http://www2.nycbar.org/pdf/report/uploads/20072018-NORTHERNIRELANDREPORTINTHUM1212016.pdf> (hereinafter NEW YORK CITY BAR ASS’N, IN NORTHERN IRELAND, THE PAST IS STILL PRESENT); NEW YORK CITY BAR ASS’N, INT’L HUMAN RIGHTS COMM., HUMAN RIGHTS IN ACTION: A BRIEF HISTORY OF THE NEW YORK CITY BAR’S WORK TO PROMOTE PEACE AND RESPECT FOR HUMAN RIGHTS IN NORTHERN IRELAND (2009), <http://www.nycbar.org/pdf/report/uploads/20071765-BriefHistoryofNYCBarWorkonNorthernIreland.pdf>; New York City Bar Ass’n, Int’l Human Rights Comm., *Criminal Justice and Human Rights in Northern Ireland*, 43 REC. ASS’N B. CITY N.Y. 110 (1988), <http://www.nycbar.org/pdf/report/88083%20-%20Criminal%20Justice%20and%20Human%20Rights%20in%20Ireland.pdf>.

<sup>4</sup> NEW YORK CITY BAR ASS’N, IN NORTHERN IRELAND, THE PAST IS STILL PRESENT, *supra* note 3, at 2–3, 7–23; see Agreement Between the Parties at Stormont, ¶¶ 30–40, Dec. 23, 2014, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/390672/Stormont\\_House\\_Agreement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/390672/Stormont_House_Agreement.pdf).

<sup>5</sup> Patrick Smith, *Human Rights Lawyers Call Theresa May’s “Activist, Left-Wing” Comment A “Cheap Shot,”* BUZZFEED (Oct. 6, 2016), <https://www.buzzfeed.com/patricksmith/human-rights-lawyers-call-theresa-mays-activist-left-wing-co>.

<sup>6</sup> See Tom Newton Dunn & Matt Wilkinson, *Bloody Outrage: Decision to Investigate Brave British Troops Over all Killings in Northern Ireland’s 30 Years of the Troubles Branded a ‘Witch Hunt’*, SUN (Dec. 7, 2016), <https://www.thesun.co.uk/news/2353150/decision-to-investigate-brave-british-troops-over-killings-in-northern-irelands-30-years-of-the-troubles-branded-witch-hunt/>; Ian Drury & Larisa Brown, *So Why Are Our Soldiers Facing a Hunt?* DAILY MAIL (Dec. 8, 2016), <http://www.dailymail.co.uk/news/article-4015524/Why-Army-facing-new-witch-hunt-IRA-killers.html>; Harry Cole, *An Absolute Farce*, SUN (Mar. 7, 2017), <https://www.thesun.co.uk/news/3034289/fat-cat-lawyers-are-sending-crack-teams-to-northern-ireland-to-join-the-witch-hunt-against-ageing-british-veterans-soldier-turned-mp-claims/>; Matt Wilkinson & Ben Lazarus, *Our Lions, the Rich, and the War Probe*, SUN (Dec. 10, 2016), <https://www.thesun.co.uk/news/2368744/northern-irish-law-firms-who-scored-12m-in-legal-aid-will-make-millions-more-in-witch-hunt-probe-into-killings-by-brit-troops->

Commencing in December of 2016 and continuing into the present year, tabloid stories have assailed lawyers working in both private practice and in government, repeatedly characterizing legitimate efforts to investigate the responsibility of British military personnel for conflict-related deaths as “witch hunts”<sup>7</sup> and attacking lawyers representing family members of individuals killed or imprisoned during the conflict as “fat-cat lawyers” motivated by a desire to “make millions.”<sup>8</sup> At least one of these media reports has attacked specific lawyers by name—publishing their photographs, the locations of their firms, and the names and IRA affiliations of some of their clients in a bold, front-page headline.<sup>9</sup> In the wake of these media reports, Sinn Fein party candidate and lawyer John Finucane, son of the murdered human rights lawyer Patrick Finucane, directly received messages that not only mocked and openly supported his father’s murder, but also “expressed regret he was not killed as well.”<sup>10</sup>

More disturbing are the references in these tabloid stories to statements made by members of parliament attacking lawyers’ credibility and calling upon the public to do the same. Members of parliament have disparaged the integrity and independence of Northern Ireland’s Director of Public Prosecutions explicitly on the basis of his previous representation of a former IRA leader while in practice as a solicitor<sup>11</sup>, called upon the public to pledge support in the face of “witch-hunts” by Prosecutors seeking to “rewrite the past”<sup>12</sup>, and even attacked the reconciliation process itself by calling it “an absolute farce . . . only serving [lawyers].”<sup>13</sup> We are troubled not only that government leaders have not done more to publicly support lawyers working on reconciliation and legacy issues in the face of these threats, but have, at times, contributed to this escalating environment with their own attacks on lawyers.

In response to this climate of intimidation, government officials have an obligation to take active steps to ensure that lawyers may freely and safely perform their professional responsibilities. The UN Basic Principles on the Role of Lawyers instruct that governments must

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[during-the-troubles/](#). These reports have appeared in the context of a broader campaign of attacks against lawyers seeking accountability for killings by British military personnel not only in Northern Ireland, but also in Afghanistan and Iraq. HUMAN RIGHTS FIRST, *supra* note 1, at 5.

<sup>7</sup> *Id.*

<sup>8</sup> See Cole, *supra* note 6; see also Wilkinson and Lazarus, *supra* note 6.

<sup>9</sup> Wilkinson & Lazarus, *supra* note 6.

<sup>10</sup> *John Finucane Reports Tweets Mocking Father’s Murder to Police*, BELFAST TELEGRAPH, (June 2, 2017), <http://www.belfasttelegraph.co.uk/news/northern-ireland/john-finucane-reports-tweets-mocking-fathers-murder-to-police-35782658.html>; Allison Morris, *Sinn Féin Candidate John Finucane Contacts Police Over Tweets Mocking Father’s Murder*, IRISH NEWS, (June 2, 2017), <http://www.irishnews.com/news/northernirelandnews/2017/06/02/news/sinn-fe-in-candidate-john-finucane-contacts-police-over-tweets-mocking-father-s-murder-1042977/>.

<sup>11</sup> HUMAN RIGHTS FIRST, *supra* note 1, at 6 (discussing parliamentary statements by Henry Bellingham and Gerald Howarth).

<sup>12</sup> David Young, *DUP launches online pledge opposing 'witch hunt' of ex-security force members*, THE IRISH NEWS (February 24, 2017), <http://www.irishnews.com/news/assemblyelection/2017/02/24/news/dup-launches-online-pledge-opposing-witch-hunt-of-ex-security-force-members-944315/>.

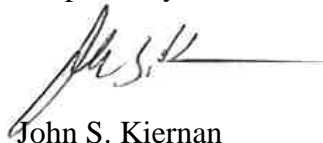
<sup>13</sup> Cole, *supra* note 6.

ensure that lawyers are “able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference,” and that lawyers must not “be identified with their clients or their clients’ causes as a result of discharging their functions.”<sup>14</sup> Government officials also have an obligation to take steps to adequately ensure the safety of lawyers when their security “is threatened as a result of discharging their functions.”<sup>15</sup>

The messages inundating the public undermine faith in a system which has cultivated peace and stability for nearly two decades. The harassment by the media has escalated to disparagement by members of parliament and, more recently, led to threats against at least one lawyer’s safety by members of the public. We urge you and other government officials to refrain from the use of inflammatory rhetoric against lawyers involved in the reconciliation process and to identify and implement steps to support lawyers working on reconciliation and legacy issues, and to publicly commit to safeguarding lawyers who have been harassed or threatened as a result of performing their professional duties.

In so doing, the government can help to ensure that the “sense of hope” we perceived during our 2015 visit to Northern Ireland is not undermined by present challenges and that it becomes lasting and more durable. Encouraging the development of this “sense of hope” in the face of present challenges shall allow the United Kingdom’s government to remain an example of successes and benefits to peace under the rule of law during these otherwise complex and troubling times.

Respectfully,



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President of the New York City Bar Association

cc: Diego García-Sayán  
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<sup>14</sup> U.N. Basic Principles on the Role of Lawyers, Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, Aug. 27-Sep. 7, 1990, U.N. Doc. A/CONF.144/28/Rev.1, at 118–23, ¶¶ 16, 18, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>; G.A. Res. 45/121, U.N. GAOR, 45th Sess., U.N. Doc. A/CONF. 144/28 (1990).

<sup>15</sup> *Id.* ¶ 17.

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