

The information in this document was collected in 2011 and may therefore be out of date. As this document refers to several pieces of legislation please ensure that you seek up to date information on the topics in this guide.

The law as your ally

The law can help you to achieve your campaign goals.

You don't need to have studied law to know important and basic facts. Across the world during 2010/11 there have been a huge number of social movements covering a wide range of issues, and as tactics and methods change, the law is increasingly tested. Questions arising over human rights, freedom of information, and use of social media have all been particularly hot topics and no doubt will continue to be so.

Find out about some of the key legislation that can help you.

Holding people to account

Remind companies and even councils and Governments of their legal obligations!

Campaigning often involves efforts to change the law. Sometimes it's about preserving a law or ensuring that it is properly observed or implemented. And campaigners often have a difficult relationship with the law.

But there is another way in which campaigners might need to understand the law. Sometimes the law is actually your ally, and you can invoke it or raise awareness of it to help meet your campaign objectives. Let's look at some examples:

Campaign for Nuclear Disarmament

Much of CND's campaigning is about holding the UK Government to account over disarmament commitments it has already made, rather than campaigning for the commitment itself!

According to the [CND website](#), Britain is committed to the elimination of its nuclear weapons under Article VI of the 1968 Nuclear Non-Proliferation Treaty. Further to this, at the NPT Review Conference in 2000, Britain committed to "accomplish the elimination" of its nuclear weapons. CND argue that the Government has "yet to do anything to implement the 2000 NPT or to fully implement Article VI".

In July 1996 the International Court of Justice gave an advisory opinion on the legality of nuclear weapons. Their conclusion was that:

" the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law." (para 2E)

and,

"states must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets." (para 78)

So, by drawing on legislation, official commitments and legal rulings, CND's campaign is actually rooted in the law.

Amnesty International

In 2005, Amnesty international published a [guide](#) targeted at Non-Governmental Organisations (NGOs) and women's groups to, to enable them to campaign for national legal reform on criminalising violence against women, based on high standards of international practice:

"The gender provisions [of the Rome Statute of the International Criminal Court] could help strengthen the capacity to address violence against women at the national level"

1 Pam Spees, 'Women's advocacy in the creation of the international criminal court: Changing the landscapes of justice and power', 28 Signs: Journal of Women Culture and Society, 2003, p. 1233.

According to the guide “All states have a legal duty under international human rights law to take action to prevent, investigate and punish violence against women. This obligation is sometimes referred to as an obligation to exercise “due diligence”. States must implement their obligation under treaties and customary international law to respect, protect and fulfil human rights in both law and practice. States must fulfil and promote rights so that they are respected by state agents and non-state actors including by maintaining an effective justice system”.

So, while in this case, the campaign wasn't about getting national Governments to observe their own laws, it was about using international legal precedents and invoking Governments' obligation for 'due diligence', as the platform for campaigning at a national level.

Greenpeace

A different angle again is exemplified by Greenpeace's Annual 'Emerald Paintbrush' Award, which they award for what they irreverently describe as 'greenwashing above and beyond the call of duty'.

In 2008 they gave the award to BP. Although BP have rebranded as going 'Beyond Petroleum', Greenpeace argue that the truth is actually more like 'Back to Petroleum'. Having looked at the company's accounts, Greenpeace assert that BP allocated 93% of its total investment fund for the development and extraction of oil, gas and other fossil fuels, compared to 1.39% for solar, and 2.79% for wind.

So, what Greenpeace have done is use BP's marketing and BP's own corporate accounts as the basis for their campaign. While this isn't strictly speaking about 'using the 'law' it serves as an interesting example of how to hold Governments and companies to account on their own commitments, promises and communications.

It's also worth commenting on this Award in the context of campaign tactics and campaign actions – they have used at least two of Saul Alinsky's '*Rules for Radicals*'

Rule 4: Make opponents live up to their own book of rules.

Rule 5: Ridicule is man's most potent weapon. It's hard to counterattack ridicule, and it infuriates the opposition, which then reacts to your advantage.

Here's an amusing [video](#) of Greenpeace trying to present the Greenwash Award to BP.

Human rights legislation

Think about whether you can use human rights legislation as the basis of your campaign.

Human rights standards, such as The Human Rights Act 1998 (HRA) and the European Convention of Human Rights (ECHR), can inform and indeed underpin a campaign.

Many national laws, local authority policies, actions by corporations etc may (inadvertently) contravene human rights legislation. Effective campaigning can be built on invoking relevant legislation. Human rights legislation is actually quite complicated, but if you believe that your campaign is a rights issue (for example, if you feel that the closure of your local post office will affect the rights of some members of your community) you can try to identify if there are relevant aspects of human rights legislation that can support you.

The [British Institute of Human Rights](#) produced an excellent guide in 2008 which illustrates how the HRA has empowered people to “benefit from the law without resorting to the law”. BIHR describe the HRA as a “framework for protecting and balancing everyone's human rights”.

"There is a significant need to take the debate about human rights beyond the law courts and give it meaning and relevance to all aspects of public life; in particular strengthening the essential role of voluntary and community organisations as advocates and campaigners for social justice, giving voice to the interests and concerns of those they work with."

Campaigning Effectiveness team, National Council for Voluntary Organisations (NCVO), 2006

"Human rights have long been a powerful campaigning tool for organisations abroad. Now it's the time to turn the spotlight on the UK and ask how rights can add voice and power to the campaigning work of organisations closer to home."
Katie Ghose, Director of the British Institute of Human Rights, 2006

The Northern Ireland Human Rights Commission was set up under the Good Friday Agreement to ensure that everyone's human rights in Northern Ireland are protected in law, policy and practice. See their website: www.nihrc.org. They can offer advice and information and guides to your rights, although there is very little on protection for campaigners. To date, the Commission has focused on issues relating to 'The Troubles'.

The NIHRC has been working on a draft Bill of Rights for Northern Ireland, as a supplement to the European Convention on Human Rights. There has been political disagreement on a Bill of Rights for Northern Ireland, as it would be the only part of the UK to benefit from this.

Campaigners' rights are still protected under the standard rights – to life, freedom of assembly, from torture, to liberty and security etc.

On a separate note, there are human rights factors related to public processions. In Northern Ireland a campaign organiser does not apply to hold a public procession under human rights legislation, but they notify the Parades Commission of their intention to organise one or a related protest meeting. This is done on an 11/1 form (commonly referred to as an “eleven bar one”). This must then be handed in to the organiser's local Police Service of Northern Ireland (PSNI) station to a person not below the rank of sergeant.

It should be noted that the Parades Commission cannot arbitrarily or summarily interfere with one's right to freedom of assembly under the European Convention on Human Rights and the United Nations International Covenant on Civil and Political Rights. However, these are not absolute rights and restrictions can be placed on the public processions, where there is, for example:

1. Any public disorder or damage to property which may result from the procession
2. Any disruption to the life of the community which the procession may cause
3. Any impact which the procession may have on relationships within the community
4. Any failure to comply with the Code of Conduct
5. A concern about the desirability of allowing a procession customarily held along a particular route to be held along that route.

If campaigners are in doubt as to whether what they are organising constitutes a public procession, then they should take advice from the Parades Commission in the first instance. Campaigners should also be aware of recent attempts to

change the legislation – see [this Guardian article](#) - although these proposals have been postponed and the 1998 act still applies.

Here is a list of previous [Liberty Human Rights Award winners](#) so you can take a look at their campaigns and achievements.

Case study

[R. \(Begum\) vs Headteacher and Governors of Denbigh High School \(2005\)](#)

Shabina Begum, a Muslim pupil at a school in Bedfordshire, claimed she had the right to wear a jibab (a long gown) in accordance with her faith, despite the schools assertion that she was required to attend in the correct uniform. It became a landmark legal battle.

Begum issued a 'claim for judicial review' (i.e. a claim to review the lawfulness of a policy, decision, or law) to allow her to wear the jibab at school. Her claim was based on her right to express her religion and her rights to education (both of which are enshrined in the European Convention on Human Rights).

The legal case was complex, and went through the High Court (where she lost the case), the Court of Appeal (where she won), and then to the Judicial Committee of the House of Lords (where she lost).

Regardless of the outcome, it is an interesting example of a campaign couched in human rights arguments.

Using Freedom of Information (Fol) laws

Information is power! Fol laws might help you to get the information your campaign needs.

Since the Freedom of Information Act (2000) (FOIA), you have a right to access information held by public authorities e.g. local authorities and central Government departments. This can be really useful in a campaigner's armoury!

Separate to FOIA is the 'Environmental Information Regulations' (EIR), which are particularly useful for environmental campaigners. These regulations are more

powerful than FOIA because there are fewer reasons that you can be denied information!

Go to the [Information Commissioner's Office EIR](#) website for more information. Having accurate information (especially that held by the bodies you may be campaigning against) is such an important part of campaigning, that it is worth having a good read of the [Information Commissioner's Office's](#) website to look at how you can get the information you need.

Bear in mind that your request might be turned down for a range of different reasons:

- Under FOIA there are 'exemptions', and under EIR there are 'exceptions', where your request for information may be turned down because they fail to meet a 'public interest test'.
- The cost of complying with your request might be too high.
- If your request is a 'repeated or vexatious request' (Section 14 of FOIA).

In Northern Ireland, the same FOI laws apply as in the rest of the UK and the ICO has a regional office in Belfast responsible for FOI and Environmental Information Regulations locally.

Public sector bodies and NDPBs (non-departmental public bodies) are subject to FOI, but not private sector organisations.

In NI, the FOI also governs Data Protection and the use of your data, which applies to private sector organisations as well. Read the ICO's [guide to Data Protection](#).

Visit the [ICO website](#) for more information.

Case study

The TaxPayers' Alliance

The TaxPayers' Alliance (TPA), who campaign for "lower taxes and better Government", regularly makes FOI requests. They use these towards large research projects, but also in identifying and highlighting what they see as "one-off instances of waste" in taxpayers' money.

As part of their campaign to highlight waste, TPA used FOIA to find out that the British Council had spent £50,000 on having a new typeface designed for them.

Read the full, and amusing, [campaign story](#). You will see from the case study that TPA asked very specific questions in their FOI request.

Once they received their reply, they made phone calls to the media and issued press releases. The story was picked up by the Daily Mail and the Sun.

Lawful Excuse

A potential legal defence for causing criminal damage to prevent even greater catastrophe.

At the time of writing (February 2011) there is not a general 'lawful excuse' defence in Northern Ireland. However, in the draft Justice Bill 2010 the defense of lawful excuse is proposed at sections 37, 39 and 40. This is in relation to Conduct at Regulated Matches (sporting) and covers s37 – throwing of missiles; s39 – going onto the playing area; and s40 – possession of fireworks, flares, etc. Campaigners who may decide to use the platform of a national/international event such as a football, rugby match, etc, should be aware of the provisions contained in the draft Justice Bill – and the defence of lawful excuse.

The Criminal Damages (Northern Ireland) Order 1977 does, however, provide some level of defence of lawful excuse in certain situations – see <http://www.legislation.gov.uk/nisi/1977/426>.

Lawful Excuse is provided for in the [Criminal Damages Act 1971](#). As this Act applies only to England and Wales, the legal concept of 'Lawful Excuse' does not apply in Scotland or Northern Ireland.

'Lawful Excuse' is a legal justification for actually breaking the law. This legal defence is often used to justify acts of vandalism, trespass or illegal direct action, where it is argued that breaking the law will prevent greater catastrophe.

The concept of 'Lawful Excuse' comes from Section 5 of the Criminal Damage Act 1971. While there is a general 'self-defence excuse' for any acts of violence, the concept of 'lawful excuse' relates specifically to criminal damage.

Like many legal issues, it is a complex and grey area. Certainly, just because you feel passionately about an issue will not give you any kind of clear 'lawful excuse' to commit criminal damage to the property of your campaign targets.

It is perhaps easiest to look at the concept of 'Lawful Excuse' in the context of a case study where it was successfully used:

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Case study

In September 2008, six Greenpeace protestors were cleared of causing £30,000 of criminal damage to Kingsnorth, a coal-fired power station in Kent in South East England.

The protestors tried to close down the power station by climbing the smokestack and painting 'Gordon' on the chimney.

The protestors defended their actions by saying that they damaged property in order to prevent greater property damage that climate change caused by Kingsnorth would lead to. It was the first time that the 'lawful excuse' defence was used in the context of climate change, and specifically the property damage that climate change would cause.

The judge told the jury that in order for them to accept the 'lawful excuse' defence, they had to be satisfied that the actions the protestors had taken were due to an immediate need to protect property belonging to others.

So while in this landmark case, the 'lawful excuse' defence was recognised, a strong case will need to be made about whether causing property damage can directly prevent greater property damage.

For more information read the [Guardian article](#) on the acquittal, where you will also see a range of related articles.