THE STATES WE ARE IN

Civil Rights in Ireland, North and South

The proceedings of a conference held in Trinity College, Dublin on 30th January 1993.

Irish Council for Civil Liberties
Committee on the Administration of Justice

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Preface

David McConnell and Colm Campbell

It is with great pleasure that we, as the Chairperson of ICCL and the outgoing Chairperson of CAJ, publish this report on the conference held in Trinity College, Dublin in January 1993. The experience of working together has been a great one for the two organisations. In the changing European and indeed global environment, it is becoming increasingly obvious that the promotion of human rights must not be hindered by state boundaries. In a more particular sense, the conference served to highlight the range of problems in Ireland common to North and South, many arising from our shared historic legacy.

One of the aims of the conference was to explore the possibilities of creating a more vibrant culture of rights in Ireland, North and South. Certainly the huge turn-out at the event, with participants from all corners of the island and farther afield, exceeded the expectations of both organisations. This was clear proof, if proof were needed, of the existence of sizable and vocal civil liberties constituences. If one message to the Irish and British governments came through on the day it was this: 'human rights are not luxuries which can be forgotten about in troubled times - rather they represent indispensible elements for the creation of just and peaceful societies everywhere'. It is hoped that this publication, which aims to provide an overview of civil liberties agendas North and South, will make a useful contribution to the creation of a just peace.

There are many people to thank: the organising group of Liz Sullivan, Michael Farrell, John McDermott and Michael Ritchie; all those who facilitated workshops - Angela Hegarty, Paddy Hillyard, Chris Robson, Paddy Malone, Stephen Livingstone, Brice Dickson, Donal Toolin, Nicky Kelly, Joe Costello, TD, Kieran McEvoy, Nuala Kelly, Niall Crowley, Bobby Eagar, Michael Foley, Margaret Lonergan, Tom Cooney, Michael Potter, Fionnuala ní Aoláin, Padraig Brennan; Garret Sheehan who chaired the morning session; Mary Holland who chaired the afternoon plenary; Andrew Puddephatt of Liberty and Andrew Miller of SCCL, both of our sister organisations in Great Britain; and of course all the participants whose enthusiasm was so inspiring to us.

We must also record our particular thanks to those funders whose generosity enabled the event to take place and the report to be published: the Joseph Rowntree Charitable Trust, the Northern Ireland Voluntary Trust and the Northern Ireland Community Relations Council.

Some of the recommendations called for at the conference have been achieved. The two organisations claim some credit for these successes. On the basis of this conference our work can only go from strength to strength.

OIFIG RÚNAÍ AN UACHTARÁIN
BAILE ÁTHA CLIATH 8

OFFICE OF THE SECRETARY TO THE PRESIDENT
DUBLIN 8

26 January, 1993

Dear Mr. McDermott,

The President, Mary Robinson, has asked me to thank you for the kind invitation to her from The Irish Council for Civil Liberties to attend a joint conference you are holding with the Committee on the Administration of Justice in Trinity College, Dublin, on Saturday, 30th January, 1993.

She very much regrets that due to extent of her commitments at that time, she is unable to accept the invitation.

The President sends her best wishes for the success of the occasion.

Yours sincerely,

K. Gleeson

Kay Gleeson
Assistant Secretary to the President

Mr. John McDermott.

TEILEAFÓN: +353-1-772815 FACS: +353-1-710529

Introduction

This report represents the proceedings of a one day conference on civil liberties in Ireland. The conference, entitled *The States we are in: Civil Rights in Ireland, North and South* was organised jointly by the Irish Council for Civil Liberties (ICCL) and the Committee on the Administration of Justice (CAJ). It was held in Trinity College, Dublin on the 30th January 1993 and was the first fruit of a growing co-operation between the two main civil liberties organisations in Ireland.

In many ways the event was a shot in the dark. It was the first conference to examine the range of civil liberties issues as they affect the whole island. It was also unique for including strong inputs from the **Scottish Council for Civil Liberties** and **Liberty** - the equivalent organisation for England and Wales. The possibilities for networking and inter-agency co-operation were highlighted and show the importance of developing campaigns over a wider area. All four organisations are affiliated to the **International Federation for Human Rights**, an international non-governmental organisation with consultative status at the UN. Relevant organisations from these islands can have a stronger impact at international level if they co-ordinate their efforts to highlight the abuses of human rights in the four jurisdictions.

The publication of this report is particularly timely given recent political developments such as the IRA and loyalist ceasefires, the Downing Street Declaration and the possibility of negotiations on the shape of a new Ireland. In this context, CAJ and ICCL believe that this report provides a useful checklist of the issues which require to be addressed to make Ireland both just as well as peaceful.

Participation

The uniqueness of the conference meant that the organisers had no way of knowing what the response might be, though a conference on censorship and freedom of information the previous week had pointed to a huge interest. In the event, over 250 people attended the conference that forms the basis for this report, a fact that made registration more hectic than anticipated! Many others had to be turned away. Nonetheless the attendance was indicative of the great interest in the issues being discussed and the thirst for ways of being involved.

The range of participation was also welcome. Students, lawyers, academics of various disciplines, community activists, members of voluntary organisations, individuals, reporters, human rights workers all attended. Many victims of human rights abuses also came, giving a special edge to the day with their testimony of miscarriages of justice, torture and ill-

treatment, killings by the security forces, racist, or sexist discrimination and on and on.....

While the majority of the participants came from Dublin and Belfast, people also came from Cork, Kerry, Galway, Derry and Waterford (indeed 17 of the 32 counties in Ireland were represented), Scotland, England and North America. Also welcome was the fact that there were plenty of "newcomers" along with those well-versed in the issues. This allowed the discussion to develop in a fresh way and tempered (to some extent) the cynicism of the seen-it-all, let's not get too upset brigade.

As well as strong representation from CAJ and ICCL, the two co-sponsors of the conference, a wide variety of other organisations were represented and indeed assisted in running the conference by making presentations at the workshops. Without this level of participation, the conference could not have been so successful. The number of workshop recommendations calling for follow-up meetings on a variety of issues testifies to the need for further networking and the generation of ideas for further action. It also demonstrates a willingness of the groups and individuals involved to continue the work on these vital issues.

The one significant gap in participation was political parties. It remains to be seen how the spirit, imagination and energy of the conference can be translated into the political will to bring an end to human rights abuses in Ireland, North and South. The need for effective lobbying to bring the issues of the day in from the political cold is perhaps where we need to exercise most effort in years ahead. It is the hope of the conference organisers that this report will serve as a checklist for the agenda that needs to be addressed.

Format of the day

The conference began with overviews of the civil liberties situation in Northern Ireland and the Republic by **Colm Campbell**, then Chair of CAJ and **Michael Farrell**, Vice-Chair of ICCL, respectively. **Gareth Pierce**, the noted human rights lawyer provided a British perspective. **Garret Sheehan**, the prominent Dublin criminal lawyer, chaired the session.

The first part of the afternoon was taken up with 13 workshops covering the broad range of civil liberties issues of concern in Ireland. These reviewed the current situation on each issue and formulated three recommendations for CAJ and ICCL. These took the form either of policies which the organisations might take up or further work which is required. The recommendations were reported back to the conference as a whole.

The conference ended with a plenary session at which a panel offered their views on the day's proceedings followed by contributions from the floor. The session was chaired by **Mary Holland**, leading columnist with the Irish Times and a long-standing supporter of civil rights. At this session, formal inputs were made by **Andrew Puddephatt** of Liberty and **Alan Miller** of SCCL. Comments from the floor attested to the sense of invigoration that people felt at the end of a worthwhile day.

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Postscript

While many of the recommendations remain aspirational, they have concentrated the minds of the organisations involved. It is important to stress that some of the recommendations are thankfully redundant due to developments since. CAJ and ICCL claim some credit for this due to their activism, along with many other individuals and groups, on these issues.

Civil Liberties in Northern Ireland

Colm Campbell, Chairperson of CAJ

These are not good times in Northern Ireland. In fact, as the 'Troubles' drag on into their third decade, and the 'emergency' has become effectively permanent, there seem little grounds for optimism. In such an environment, there may well be a temptation for human rights activists to throw their hands in the air, but thankfully, as the large gathering here today illustrates, this doesn't seem to have happened. It's great to see people here today like Michael Farrell who were involved right at the start of the Civil Rights Movement. In fact, the human rights scene in the North today is more vibrant than it has been for some time. As the proliferation of campaigns in recent times illustrates - Casement Accused, UDR 4, Voice of the Innocent, Beechmount 5, to name but a few - there is, if anything, a growing sense of empowerment. This arises to a significant extent out of the successes of the Birmingham six, Guildford 4 and the Judith Ward campaigns - a feeling that ordinary people can fight, and even sometimes win their own civil liberties battles. There is also a growing awareness that civil liberties violations can affect Catholic and Protestant, Nationalist and Unionist alike and to that extent some new space has been created.

And it is the creation of this discrete space for civil liberties issues which has been one of the key concerns of the Committee on the Administration of Justice (CAJ). Too often in the past, allegations of human rights abuses have been dismissed or marginalized as mere propaganda by somebody or other. CAJ was formed in 1981 in order to articulate civil liberties concerns in a manner which could not be easily dismissed. We realized that independence and perceptions of independence in our operation would be vital, and our

view has always been that the best way to maintain this position was to remain faithful to the simple but fundamental notion of a 'human right'.

Universal nature of human rights work

At the core of this notion is the idea that persons by virtue of their simple humanity - not because of their religion, politics, or gender, but simply because they are human beings, - have certain rights which must be respected and upheld. This means that whoever is exercising authority in the North of Ireland, whether the present situation is maintained, or whether there is some form of unification with the South, or whether you get an independent Northern Ireland, or whatever, - the same principles apply. Those who exercise control must respect human rights, and in international law must be accountable for their actions. We don't prescribe what the constitutional status of the area should be, but we do demand that whatever it is, internationally accepted human rights standards must be maintained. We are a non-party political, anti-sectarian organization, which will fight for the civil liberties of Catholic, Protestant and dissenter, since rights violations are no respecters of politics, or creed.

Of course, even with this re-iteration there will be those who attempt to dismiss civil liberties advocates as mere fellow travellers with 'gunmen' or 'subversives', but we will not leave them get away with this slur. We have a clear record of opposition to the use of violence to achieve political goals in Northern Ireland by anyone.

I am conscious that I am speaking in the South, and coming from here I am also very much aware of the depth of compassion which people here have for the underdog anywhere in the world. So much good work has been done here on raising awareness about famine in Africa, and on rights violations in Latin America. I'm also acutely aware of the Southern blind spot in relation to civil liberties issues in the North - the codes of silence, the 'things that are better left unsaid' because to speak risks attracting a Provo label.

While it's great to be concerned about human rights violations in Guatemala, and there can be few more noble struggles than that against the Apartheid state, but don't forget about human rights violations in your own back yard. If we have one message for people in the South it's that it's OK to speak out - you don't have to be afraid. We offer a rhetoric of hope, an escape from a stilted debate (or non-debate), a discourse informed by, and which remains true to, the core concept of a human right.

CAJ's agenda in Northern Ireland

What precisely are the kinds of concrete issues which currently concern us? In Northern Ireland we tend to get a double dose of civil liberties abuses. We've got those which plague Western European countries generally, and on top we've got those arising out of the 'emergency'.

It's hard to know where to start really. Looking at 'ordinary' abuses first, one of the areas of particular concern to us is the British Government's continuing failure to bring in race

relations legislation which would outlaw discrimination against ethnic minorities in Northern Ireland, despite the obligation in international law to do so. Such legislation should be drafted in such a way to protect not only groups such as the Chinese community in Northern Ireland, but also Travelling people who constitute a much abused ethnic minority. While the recent production of an official consultation document on this topic is to be welcomed, CAJ remains gravely concerned that Travellers may not be named as an ethnic group in any forthcoming legislation, and we are also concerned that any such legislation may amount to no more than an inadequate re-working of the 1976 British Race Relations Act.

Another minority which has been denied legal protection in the more general sense is the gay community. In our proposals for a Bill of Rights we insist on an anti-discrimination clause which would specifically prohibit discrimination against any person on grounds of sexual orientation. We would also like to see consolidation of legislation along the lines of the South's incitement legislation which would outlaw incitement on the same grounds.

Holding centres and fair trial issues

Turning to 'emergency issues', the old chestnuts of abuse in Castlereagh, the attack on the right to silence, Diplock courts, misuse of lethal force with lead and plastic bullets, the media ban, and exclusion orders remain as worrying as ever.

Looking first at the plight of emergency detainees, as is well known, the Prevention of Terrorism Act (PTA) allows for seven day administrative detention. This arrangement has been held to be in breach of the European Convention on Human Rights. But rather than comply with the ruling of the Court, the British government derogated from the Convention claiming that there was a 'public emergency threatening the life of the nation'.

A persistent pattern is for suspects to be arrested very early in the morning, a procedure which has the effect of heightening feelings of disorientation. Approximately three quarters of those arrested are released without charge, suggesting that many arrests are carried out simply for intelligence-gathering purposes. Detainees are generally taken to one of three specialised RUC 'holding centres', the majority being sent to the centre at Castlereagh near Belfast. This is a specially modified interrogation facility within which detainees are prevented from speaking with each other, and are denied access to books, television, newspapers and radio. Conditions are spartan: food is poor and detainees find it difficult to sleep, the overall effect being to induce extremely high levels of stress.

Detainees may be denied access to a solicitor by a senior RUC officer, on certain stated grounds, for up to 48 hours at a time. Arrests may be kept secret for 48 hours since detainees may also be deprived of the right to have relatives or friends informed of their arrest on the same basis as denial of access to solicitors. The use of these secret arrests - a typical technique of the police state - has been a growing feature in recent years and is a particularly disturbing development

Prisoners are generally interrogated intensively for many hours of the day and sometimes night, by teams of RUC detectives. Following the Bennett Report in 1978 video cameras were installed in the interrogation rooms. Soundless pictures are relayed to monitors which are intended to be scrutinised by uniformed RUC members. No recordings are made however, and it has emerged that the monitors are not always watched.

Claims of ill-treatment are common. Many of those alleging ill-treatment issue civil proceedings against the authorities. A common practice is for Government lawyers to make out-of-court settlements, details of which are not made public. In November 1991 the United Nations Committee Against Torture (UNCAT) was informed of substantial settlements. Despite these payments, and despite the fact that in several instances confessions have been ruled inadmissible because of police impropriety, not one allegation of assault during interrogation at Castlereagh has been upheld by the Independent Commission for Police Complaints. Just last December (1992) Pat Nash was acquitted before a Diplock court because his 'confession' was ruled inadmissible. He was lucky - if that is the correct phrase - in that he was able to show that following interrogation he had blood in his urine. Others have been less fortunate.

Most of those charged following detention under the PTA are tried by jury-less 'Diplock courts', in which a single judge decides all issues of law and fact. The standard for admissibility of confessions made before such courts has been deliberately lowered in order to render admissible statements which would otherwise be inadmissible. It is arguable that such an interrogation-based system is in conflict with the presumption of innocence guaranteed by article 5(2) of the European Convention on Human Rights. The presumption is further weakened by the **Criminal Evidence (Northern Ireland) Order 1988** which severely abrogates what the common law has traditionally referred to as the 'right to silence'. The provision is also of doubtful compatibility with article 14(3)(g) of the ICCPR which guarantees the privilege against self-incrimination.

At the end of the 92nd session of the United Nations Committee Against Torture in 1991, which examined the United Kingdom's report of its compliance with the instrument, the conclusions of the country rapporteur, Prof. Burns are recorded as follows:

> *'..the implementation of the Convention in Northern Ireland was far from satisfactory... He had not been persuaded by the reasons given by the members of the United Kingdom delegation for the absence of video recordings. The fact that no suspect was entitled to have his solicitor present during interrogation was also a cause for great concern. The arguments put forward to justify the refusal of the right to silence were all the less acceptable because the suspect was deprived of the assistance of a solicitor. To all intents and purposes, the United Kingdom was deliberately setting aside one of the basic protections guaranteed throughout the civilized world. Even the extreme circumstances in Northern Ireland in no way justified such a denial of basic human rights".* (UN Doc. CAT/C/SR.92, p.12.)

The situation therein described can only be regarded as wholly unacceptable, and in CAJ's view, must be abandoned.

Killings by the security forces

Another area requiring urgent attention is that of abuse of lethal force by the security forces. There could hardly be a better time to raise this issue than today, the 21st anniversary of the Bloody Sunday killings. Since the start of the Troubles, some 350 people have been killed by the British Army and the RUC. Of these 350, it appears that one half have been entirely innocent civilians. It may well be said that soldiers and policemen in Northern Ireland are in a difficult situation. Their lives are constantly under threat and, if a patrol comes under ambush, a split second decision could make the difference between life and death. But the majority of killings by the army in recent years have not fallen into this pattern. Instead the

deaths have occurred during what have been referred to by the authorities as 'set-pieces'.

The typical pattern in these set-piece killings is that the security forces obtain prior intelligence of an attack and set up an ambush using specialised units (generally SAS troops). They then allow the paramilitaries to arm themselves and when the targets present themselves, the SAS opens fire. there can rarely be any challenge to the official version of the event since the army takes the simple but effective step of killing everyone, even - in the case of the Loughgall incident in 1985 - a civilian who happened to be passing.

These are planned political killings, obviously carried out with the sanction of senior figures in the military-security axis. The questions which have to be asked is 'why were the victims not arrested?' and 'were these killings really necessary?' In our view one death in the troubles is one too many. We have a simple message for the British government: stop these killings and stop them now.

Censorship and internal exile

Discussion of these and other issues has certainly not been helped by the direct- and self-censorship introduced by the 1988 media ban. Westminster prides itself on being the 'Mother of Parliaments', the fountainhead of democracy. Democracy, of course, is all about informed choice, and how can choice be informed if entire sections of political opinion are silenced? To prevent a group or individual from using the airways to incite to violence is one thing - and many would say the correct approach to take - but to ban groups whatever they happen to be saying can only be viewed as entirely undemocratic.

The final aspect of the 'emergency' apparatus I want to highlight today is the use of 'exclusion orders' under the PTA. These allow people from Northern Ireland to be excluded from Great Britain on the order of a Minister without any judicial input. We are therefore talking about a system of internal exile, not in the Soviet Union of the 1970's but in today's United Kingdom. Indeed, it now appears that the UK is perhaps the only country in the world with such a system of administrative internal exile in place. This is a deplorable blot on the record of any state which claims to uphold western European liberal-democratic standards, and it must be excised at once.

Importance of international work

Given the deplorable human rights situation which still therefore exists today in Northern Ireland, it might well be asked how a group such as ours could be said to have made any useful contribution. I think the answer is that without the intervention of the international human rights community, of which we are a part, the situation would be far worse.

A point which has been very firmly imprinted on our consciousness is that the international dimension is all-important. Domestic Northern Ireland or British human rights opinion, even that voiced by government-appointed bodies, seems to count for little in official calculations. Crucial recommendations by the Standing Advisory Commission on Human Rights which could have protected emergency detainees against abuse have been ignored, and only the

most retrograde suggestions by the government's security adviser Viscount Colville, have been taken up. Towards the end of last year it was announced that the NIO would not accept the recommendations from the Independent Commission for Police Complaints for a truly independent body to adjudicate on complaints against the RUC. Increasingly it has been obvious that it is the military-security axis which has been setting the agenda.

Given this environment, articulation of civil liberties concerns clearly requires new strategies. The gross and persistent abuses which have typified the 'emergency' here are in clear breach of international agreements and principles which the government has freely entered into and adopted. International law must be respected, and the cost of breaches must be sufficiently high to force the British Government to take action, whatever the objections of the military-security axis.

In this regard, the publication of two reports by Helsinki Watch in the past year highlighting these breaches is particularly welcome. The Helsinki Watch's teams visits, which were facilitated by CAJ, brought the human rights experts involved face-to-face with the situation on the ground here, and helped to focus international opinion on the problem. The recent visit by the US-based Lawyers' Committee for Human Rights inquiring into the death of Pat Finucane case is also of particular importance.

As well as facilitating outside groups, CAJ has also embarked on a strategy of using its affiliation to the International Federation of Human Rights to highlight N.I. civil liberties concerns at the United Nations. I have already referred to the stinging rebuke which the United Nations Committee against Torture delivered. In published proceedings of the Committee, our written submission, which was reinforced by the attendance in Geneva of our Research Officer, Mike Ritchie, was specifically referred to.

We also made a submission on the issues of intimidation of lawyers and the plight of emergency detainees to the UN Sub-Commission on Discrimination and Minorities. Again, the effectiveness of the submission was enhanced by the attendance at Geneva of our Vice-Chairperson, Stephen Livingstone. At the hearings, Professor Claire Palley, a member of the Sub-Commission, called for audio and video recording in Castlereagh, and for a public inquiry into Pat Finucane's death. She also stated that it was unsatisfactory for complaints against the police to be investigated by the RUC themselves. CAJ also sent material on the intimidation of lawyers to the UN Special Rapporteur on the Independence and Impartiality of the Judiciary, Jurors and Assessor, and the Independence of Lawyers. His report also noted concern about the situation here.

Networking with NGOs and others

Other international pressure has been building up as a result of the Northern Ireland Human Rights Assembly, organized by CAJ, Liberty (our sister organisation in England and Wales), the Britain and Ireland Human Rights Project and others in London last April. The Assembly, which was attended by an impressive range of national and international human rights organizations, proved a major success. Its report, which should be available in the near future will provide a comprehensive examination of the state's compliance (or lack of it) with international human rights standards.

This pressure, it appears, can produce results even in the short term. Since the Torture Committee hearings the number of allegations of physical abuse in Castlereagh appear to

have considerably declined, although this has to be balanced by increasing concern over psychological ill-treatment. Other success in the recent past proving that human rights work can be effective are the overturning of the convictions of three of the UDR 4, the quashing of the conviction of Judith Ward, and the restoration of funding to Glór na nGael..

Networking is crucial. This needs to take place at four levels: firstly within our own organization. Secondly, networking is required between ourselves and groups and individuals within this society. CAJ is developing an increasing degree of expertise in many fields, not least that of international law. We can contribute to others by making this expertise available to local groups in a way which empowers people to fight their own battles. We can also learn from what those with more direct experience tell us.

Thirdly, we need to increase networking with other national Non Governmental Organizations (NGOs), both in the UK and the Republic. We already have excellent relations with Liberty and, as today's gathering illustrates, our ties with ICCL are going from strength to strength. Finally, our networking needs to expand on the international arena. By becoming affiliated to the International Federation for Human Rights, we have made massive advances in this sphere. Links are also being developed with other international NGOs, and with national NGOs from outside countries who face problems similar to our own.

The challenges may be great, but on the basis of past performance and of today's gathering, CAJ has every reason to look to the coming year with confidence.

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Postcript

Since November 1992 when Pearse Jordan was killed by an RUC unit on the Falls Road, only one person has been killed by members of the security forces in disputed circusmtances. Robin Maxwell was killed in Donaghadee, Co. Down in February 1994. Despite this welcome reduction in the number of deaths, the lack of prosecutions in both these cases indicates that problems remain.

While there has been an unprecedented amount of movement on the political front since the conference, the human rights environment remains grim. It is imperative that the issues outlined in Colm Campbell's speech be addressed if a just peace is to be achieved. There is now a danger that human rights issues will become bargaining chips in further political developments. Thus, John Major's package opening some border roads and lifting the broadcasting ban a fortnight after the IRA ceasfire was presented as a gesture by the British government. Freedom of movement and expression, however, should not be dependent on a government's interpretation of good behaviour.

In relation to discrimination on the grounds of sexual orientation, legislation lowering the age of consent for gay activity in Northern Ireland is expected to be enacted in the autumn of 1994.

Civil Liberties in the Republic of Ireland

Michael Farrell, Vice Chairperson ICCL

After a survey of the widespread violations of human rights in Northern Ireland, you may feel that people in the Republic of Ireland do not have much to complain about. After all, they do not live under a permanent state of emergency. They are not subject to arbitrary arrest and are not deprived of the right to silence or the right to trial by a jury of their peers. And the security forces in the South do not shoot people dead in controversial circumstances and then walk away from muzzled inquests.

If I went on to say that the media in the Republic are not censored, it would give the game away. In fact every one of the preceding statements is untrue.

The Republic has been subject to a permanent state of emergency since 1939. It was renewed in 1976 and is still in force, though it is not invoked nowadays. Up to two thousand people are arrested annually under Section 30 of the **Offences Against the State Act**, many of them solely for the purposes of questioning by the gardai, and often the questioning is exclusively about their political activities. The right to silence has been curtailed by the 1984 **Criminal Justice Act**, though this power is rarely used. People charged with scheduled offences, or when the DPP so directs, are tried before the non-jury Special Criminal Court, which celebrates its 21st birthday this year.

The shooting dead of a bank robber in Athy in 1990, of two other alleged robbers in Fairview and of a companion of Dessie O'Hare's some years ago were just as controversial as a lot of the killings by the security forces in the North. And the recent inquest on Austin Higgins, who was shot in Athy, was even more circumscribed than the much criticised Northern inquests have been.

I do not want to over-dramatise the situation in the Republic, however. The level of human rights abuses in the politico-legal sphere is nothing like as acute as in the North; though since the level of violence and conflict is also much less, it could be argued that there is even less excuse for the abuses that do occur.

The situation is not the same in the two jurisdictions and there are different abuses in the Republic, which loom larger on the civil liberties agenda here than they would in the North, particularly in the area of reproductive rights and choice, and sexual morality.

I am conscious here, incidentally, that these latter questions are by and large areas where the Committee on the Administration of Justice (CAJ) does not have a position, so speaking on these issues, I will be expressing the views only of the Irish Council for Civil Liberties (ICCL).

Then there are areas where both jurisdictions are equally at fault, such as discrimination based on gender, ethnic origin, or disability, or the rights of psychiatric patients.

Never ending emergency

Turning back now to the politico-legal sphere, it is important to stress that the state of emergency declared in 1976 in connection with the Northern conflict, and as part of the knee-jerk hysteria that also spawned the "Heavy Gang" in the gardai and the Sallins Mail Train case, is still in force. That state of emergency effectively enables the Oireachtas to by-pass all the human rights guarantees in the Constitution if it wishes to. And the **Emergency Powers Act 1976**, which was passed under the state of emergency and allowed for seven-day detention for questioning, is merely suspended. It could be invoked again at any time by Ministerial Order.

This legislation endorsed and encouraged a regime of brutality by elements in the gardai which led to a highly critical report by Amnesty International in 1977.

The answer normally given to complaints about these measures is that they are no longer in use and are not likely to be used again in the foreseeable future - the usual Irish solution to an Irish problem. I would suggest that that is not good enough and that if our new Government is serious about encouraging greater openness and participation and restoring confidence in the democratic process, they could begin by repealing the Emergency Powers Act and rescinding the declaration of a state of emergency.

Then there are the powers under the **Offences Against the State Act**, which *are* used, particularly Section 30, which provides for arrest and detention for 48 hours for questioning, and the provision for non-jury trials in the Special Criminal Court. Over the years, these have become an accepted part of the legal system in the Republic and have been allowed to continue in force without even a requirement for the Government to justify this suspension of fundamental legal rights to the Oireachtas every year.

There has been very little protest about these extraordinary powers because they are generally perceived as directed only against republican paramilitary groups, but we must be vigilant against any infringement of fundamental rights, no matter who they are directed against. In fact, around 2000 people are arrested annually under Section 30 of the Offences Against the State Act. And, in practice, Section 30 is now widely used in connection with non-political or non-paramilitary offences. In this way the gardai have been given the power to detain for 48 hours for a wide range of offences, instead of the 12/20-hour maximum provided even under the much criticised 1984 **Criminal Justice Act**. Section 30 is also frequently used for harassment of political activists.

And the authorities also periodically refer non-paramilitary cases to the Special Criminal Court, thereby eliminating jury trial by the back door, a tendency criticised by President Robinson in a pamphlet on the Special Criminal Court written during her days as a practising lawyer.

Of course, most of these emergency powers and politico-legal measures are connected with the conflict in Northern Ireland and there is a growing convergence of emergency legislation in both jurisdictions, with the Republic sometimes showing the way to the British authorities, as it did, for example, with the broadcasting bans and the restrictions on the right to silence. So there is all the more reason for the closest possible co-operation between the ICCL and the CAJ, with whom we share a basic belief that political conflicts are not solved, but exacerbated, by injustice and infringements of basic rights, and that the best way to persuade people to try to remedy their grievances by means other than violence, is to provide them with effective machinery for doing so.

Problems with criminal justice system

In the broader criminal justice sphere, there is also no reason to be complacent about the situation in the Republic. We have the Sallins case to rank alongside the Birmingham, Guildford, Maguire and Judy Ward cases and although Nicky Kelly's innocence was finally acknowledged last year, the Government still refuses to hold an inquiry into the Sallins case.

They have admitted that the confessions in that case were concocted and Nicky Kelly, Osgur Breatnach and Brian McNally were beaten into signing them, but they refuse to investigate who was responsible for the frame-up. Another Irish solution to an Irish problem, which appears to have encouraged the development of a group within the gardai who have specialised in obtaining confessions from vulnerable people and whose names have cropped up again and again in dubious cases.

We still have regular instances of unacceptable behaviour by elements in the gardai, notably in the recent case of Derek Fairbrother, who was paid substantial damages for injuries received in Garda custody, and the Bohan case, where a Leitrim farmer also received a substantial sum for Garda harassment and persecution. Once again, if the new Government wants its pledges to be taken seriously and wants to signal to the Gardai that unacceptable behaviour will no longer be tolerated, it must set up an independent public inquiry into the Sallins case.

And there have been other questionable convictions in addition to the Sallins case over the years, such as the Tallaght Two and Peter Pringle cases, which will be dealt with more fully in one of the workshops.

There is much else to be concerned about as well in the criminal justice area, such as the use of Section Four of the **Criminal Justice Act 1984**, which provides for detention for 12 to 20 hours purely for the purpose of interrogation, with all the resultant dangers for vulnerable individuals.

Apart from the Sallins case, we have had a number of other examples of people confessing to things they did not do; probably the saddest of all being Joanne Hayes in the Kerry Babies case. The ICCL will shortly be publishing a new booklet on the dangers of police interrogation (now published and entitled **Police Interrogation Endangers the Innocent**).

Then there is our appalling Victorian prison system which is almost guaranteed to brutalise and degrade, rather than rehabilitate, anyone committed to it. There is the related question of deaths in custody with 20 people dying in prison or police cells over the last 10 years, many of them taking their own lives. There is the increasing use of firearms by the gardai in questionable circumstances with no effective machinery for public scrutiny and review of their actions. Once again some of the workshops will look at these issues in more detail.

And reverting to the politico-legal sphere again for a moment, there is the question of extradition, where the traditional safeguards, particularly the political offence exception, have been steadily removed by a combination of legislation and some extraordinary decisions by the courts. And the most fundamental safeguard of all, the requirement to establish a prima facie case against the person whose extradition is sought, does not exist.

Censorship

We must also, of course, mention Section 31 of the **Broadcasting Act**. Here at last we have an area where we can proudly say, without fear of contradiction, that the Republic easily outstrips the North and Britain in the extremity, not to say absurdity, of its political censorship measures. At least the British broadcasting ban does not extend to discussions on mushroom growing or advertisements for books of short stories.

Fundamentally, Section 31 is an insult to the intelligence of the Irish people. It indicates that the Government does not trust its own electorate enough to allow them to watch or listen to Sinn Fein members and make up their own minds. And it represents a collective act of ostrich imitation in regard to the conflict in the North. When there is a political view out there that you do not like, exclude it from the airwaves and pretend it is not there. Then maybe it will go away. It is high time this absurd ban was ended.

Personal and public morality

Discussion of political censorship leads on to the question of censorship of information about reproductive choice. It is outrageous, in the view of the ICCL, that almost at the end of the 20th century, women's health clinics and students unions have been hauled before the courts for providing information to pregnant women about the options open to them.

The attitude that seeks to enforce by law its own narrow, rigid views in the area of sexuality and reproductive choice reached its logical conclusion last year in the X case, with the attempt to place a pregnant 14-year-old under virtual house arrest to prevent her having an abortion.

The popular outcry over the X case has at last begun to turn back the tide of moral dictatorship ushered in by the 1983 anti-abortion amendment to the Constitution, but we have still a very long way to go before the decision about whether to have an abortion is left with the person to whom it rightfully belongs, the woman who would have to bear the child.

The Republic must also be one of the last states in the world to prohibit divorce, while it would be laughable if it were not so tragic that in the midst of an AIDS epidemic, condoms cannot be sold from vending machines and there are still rows over the inclusion of advice about safe sex and using condoms in AIDS information materials.

And then there is the continuing criminalisation of homosexual relationships, with all the prejudice and potential for harassment that goes with it. Of course, they say the law is not enforced - yet another Irish solution to an Irish problem. It is now more than four years since the European Court of Human Rights found Ireland in breach of the Convention on Human Rights in the Norris case and still nothing has been done. The current Taoiseach made his attitude clear last year when he said that changing the law to conform with the Norris judgement was bottom of his list of priorities.

This cannot be allowed to go on. As well as the hurt and injustice caused to the gay community, this attitude shows contempt for a major international convention on human rights which Ireland has ratified, and it disqualifies the Irish Government from criticising other Convention signatories if they choose to flout the Convention as well.

These rigid, fear-driven prohibitions in the area of sexuality are mainly confined to the Republic now. They have largely been done away with in the North as a spin-off of progressive social changes in Britain.

Equality, discrimination and censorship

But there are many other areas of concern which affect both jurisdictions, for example, the treatment of the travelling community, which in both areas is an appalling indictment of supposedly humane and civilised societies. There is the issue of discrimination based on gender, sexual orientation or disability. The North has the added problem of religio-political discrimination, but techniques learned in combatting discrimination in one sphere can be applied with profit to the other areas as well.

There is the question of the treatment of those in receipt of psychiatric care, which in some ways has not changed much from Victorian times. And there is the treatment of aliens and immigrants/refugees, though the Northern authorities have less direct input into that. Of all those who come into contact with the legal system in the Republic, probably none have as few rights and protections afforded to them as would-be immigrants or asylum-seekers.

Focusing again specifically on the Republic, this all adds up to a pretty bleak picture of the state of civil liberties today, but there are a few brighter spots on the horizon as well. Last year a long campaign finally chalked up a substantial victory with the granting of a Presidential pardon to Nicky Kelly.

It was the culmination of years of hard work by dedicated campaigners. And, of course, its success was to a large extent due to the quashing of so many wrongful convictions in Britain over the previous three years - an excellent example of how a successful civil liberties campaign in one jurisdiction can have a profound effect in neighbouring areas as well.

Then there was the massive mobilisation in the wake of the X case, which has hopefully guaranteed the rights to travel and information and the legalisation of abortion in at least some circumstances in the near future.

There was the phenomenal success of the "Let In The Light" conference two weeks before this conference which seemed to release a flood of anger at the secrecy and censorship which have marked Irish public life for so long and to signal a real mood for change on all issues to do with censorship.

And there is the formation of a new Government which has pledged itself to a whole range of reforms - on divorce, abortion, the decriminalisation of homosexuality, legislation against discrimination, better treatment of immigrants/refugees, a new mechanism for remedying miscarriages of justice, and generally to openness, integrity and democratic participation.

We cannot but be somewhat sceptical about such promises from a Government whose dominant party has set its face against change in most of these areas for years. But there is no doubt that the emphasis on human rights and social reform in the Programme for Government is the product of a recognition by the Government parties that there is a hunger for change in the country, a mood reflected in the unprecedented swing to Labour in the last election.

Impact of international law

There is also another, less publicly known opportunity which has opened up this year. Three years ago the Irish Government ratified the United Nations Covenant on Civil and Political Rights. As a result they have had to submit a report on how the provisions of the Covenant are implemented in the Republic. The report did not bear much resemblance to the situation as most of us know it.

The Government will be questioned on this report by the UN Human Rights Committee later this year and anybody who wishes can make submissions to the Committee beforehand on the state of civil liberties in the Republic. This provides a unique opportunity to put extra pressure on the Government on a whole range of issues where they will not be anxious to have their record exposed to the world.

This and other international covenants give us a new lever for dislodging old prejudices which can be used most effectively in co-operation with our sister organisations. And that co-operation may be necessary as well to cope with new threats to civil liberties which could arise from the closer integration of the EC, another topic to be discussed in one of the workshops.

But to return to the domestic situation in the Republic. The mood for change apparent in the last election and the commitments in the Programme for Government provide those interested in civil liberties with the best opportunity for years to begin clearing away the legacy of decades of politically, socially, and sexually repressive policies, the product of fear of change, fear of the unknown, fear of anyone or anything that was different, that did not conform.

We must seize that opportunity with both hands and keep up unrelenting pressure on the new Government to fulfil its promises. Already there have been the first signs of cold feet and a certain backing away from some of those pledges. There will be plenty on the other side to urge caution and the preservation of the status quo. It is up to us to make sure that a

real start is made in the struggle to build a more open, tolerant and humane society. It may be a long time before we have as good a chance again.

And, finally, in our eagerness to seize the chance presented to us in the Republic, we must not forget the much deadlier and more urgent threats to civil liberties in the North. We must give all the support and assistance we can to our colleagues in the CAJ, who are trying to defend human rights and civil liberties in the very situation when they most need defending, a situation of violent conflict.

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Postscript

Nearly two years on from the January 1993 conference, there have been some successes, a few setbacks and a fair amount of standing still.

In June 1993, the Oireachtas finally passed a Bill decriminalising gay sex and introducing the same age of consent as for heterosexuals. From having the most anti-gay law in Western Europe, the Republic now has one of the most liberal. Shortly afterwards, the government agreed compensation awards to the victims of the Sallins miscarriage of justice. And a little earlier, in the Larry O'Toole case, the Supreme Court had overruled RTE's blanket ban on interviews with Sinn Féin members. In January 1993, however, the Government decided not to renew Section 31 of the Broadcasting Act.

These were the successes and they were the product of long years of campaigning and lobbying. There were setbacks too. The Government flatly refused to hold an inquiry into the Sallins case. And the Government opened the door to a whole new range of likely abuses of civil liberties in its hardline Criminal Justice (Public Order) Bill.

In many other areas the Government just stood still or moved forward at the pace of an arthritic snail, like on the issues of divorce and abortion information. But there have been some encouraging developments and we have found new and important allies. In July 93, the UN Human Rights Committee sharply criticized the Republic's human rights record, saying that the state was in breach of its international obligations over Section 31 and the permanent state of emergency. It said that there was no justification for the Special Criminal Court and criticised excessive police powers. Soon afterwards, the European Committee for the Prevention of Torture visited our antiquated prisons. Their report is unlikely to give the Government a pat on the back.

Experience has shown that even the most promising government needs constant pressure to keep its promises. We must keep that pressure on with a little help from our new international friends.

An English Perspective

Gareth Pierce, the English solicitor involved in many miscarriage of justice cases

When Michael Farrell was beginning his quarter of a century campaigning, to which I pay all tribute, I lived in another country where there was a different struggle for human rights. I decided I wanted to become a lawyer. At just that time, there was a speech in England by Enoch Powell talking about growing immigration from the black commonwealth. He prophesied that these intrusions into white English lives by black people would create violent conflict. That was surprising to me. I had left England in ignorance of much of our bigotry and much of our history and had become rather indignant about practices in the country in which I was living. I realised it would be hypocrisy to work in law and human rights in a different country when my own country was as bad or worse.

I returned to England in 1970 to study law, become a lawyer, and to practice what I thought was constitutional law: upholding people's rights and ensuring their protection; taking cases up to the country's "Supreme Court" where rights would be defined and asserted. It was a profound shock to me during my first year studying law when I found there was no constitution. Slightly amusing. But it is perhaps at the root of many of the problems we have today. Lawyers who train in England and Northern Ireland, who in turn are our judges, and the police who receive their elementary legal training, perhaps in a half day course, don't get any training in terms of rights. If I asked those of you here today who come from the UK what your rights are, most of you wouldn't be able to answer, you won't know. You won't know what you are absolutely entitled to. That is why when those rights are taken away from us, we don't protest in any adequate form. We don't know that those rights are being taken away.

One of the ways of looking at this is by considering the Birmingham Six case. Some of you, particularly one of you, remember it well. If you work your way through that case you can see that each little ingredient of the monstrous wrongful conviction was a denial of a basic right, which perhaps in another jurisdiction with a stronger rights-based approach to criminal justice, might have been properly understood.

Arbitrary arrest and discrimination

Looking first at the moment when the men were arrested at the ferry, revealing correspondence came to light during the course of a later civil action. The correspondence was between the West Midlands and Yorkshire police authorities. In it there was a great deal of discussion about how they should adapt their case and effectively "cook" the books. There is much guarded language and references to it being better talking on the phone, because if things are put into correspondence then of course it might lead to discovery later. It is an interesting insight into the mind of the criminal justice system. In the correspondence it is asked: When were the men arrested? Can we define the time? Was it when they were detained at the ferry or did they come to the police station voluntarily? What time are we saying that the West Midlands police arrived and were the men then arrested at that time?

What extraordinary questions to remain unanswered 15 years after the men's supposed arrest! Every constitution and all international law guarantees citizens against arbitrary arrest. But here, in this most serious of cases, the police themselves didn't have a clue as to whether they had actually formally arrested the men or not. That's one human right.

Another human right violated in this case is the right against discriminatory treatment. The only basis, the only basis for this arrest or detention, was that the men were Irish and travelling from one place to another. That was always regarded by the police as a perfectly satisfactory reason to put forward. Their human right to be protected from discrimination on grounds of nationality, politics or religion was violated.

Access to legal advice and freedom from torture

When they got to the police station they didn't have a lawyer. This is a third universally-recognised human right that was violated. The concept of the right to counsel, whether it is under a sub-heading in written constitutions or is actually spelled out. If the criminal justice system of a country is to be considered to operate with due process, every person has to have the right to counsel. Furthermore, they were subjected to outrageous brutality. Every person has to have the right to be free from self incrimination and free from torture. These guarantees were broken by the ill-treatment the men received which forced them to sign false confessions, thereby incriminating themselves.

Equality of arms

Another concept in international law and international human rights is equality of arms. The state is so powerful that, whoever the suspect, he or she is going to be vulnerable in a contest against the state. In Ireland what do you call a state prosecution? Do you say "The people against so and so", or "The state against so and so"? Perhaps that's a deceit for it sounds so democratic. It is a little bit clearer in England where they say "The Queen against so and so". When you say that you really do realise that it is the power of the state against you. Some people even personalise it when they look at indictments saying: "What's the

Queen got against me"?

The state has gigantic resources and the individual has none. However, in a trial there has to be equality and the person who is detained or charged, has to be put in a position where he or she is not totally disadvantaged as against the power of the state. The individual, alone in the police station, confronted by police officers representing the force of state power feels absolutely vulnerable. The lack of resources available to the defence to investigate evidence which may be in different jurisdictions and involve complex and expensive scientific techniques has made a mockery of the concept of equality of arms.

There's another human right violated!

Right to trial by jury

In the Birmingham 6 case, we acquired some new evidence after they had been convicted. They had a right to have it tried in front of a jury. Instead of that the Court of Appeal took it upon itself to behave as a jury and six men were denied their right to jury trial. Of course, one approach is to criticise the Court and say there were some Judges who were really very, very unpleasant in their treatment of the evidence, and very, very biased. But the crucial point is that the Judges failed to say: "What are the *rights* of these 6 men? Their rights are to have all the evidence considered by a jury, and we as Judges are precluded for all kinds of reasons within our constitution from discussing evidence. Our role is simply to consider the law." But they didn't do that, they got right down in there to the facts and decided that they didn't believe them and therefore that should be the end of the case.

Right to protest

Finally in this catalogue of violations we come to the least startling but perhaps the most insidious of all violations of the rights of those 6 men. It concerns a song composed by The Pogues about the wrongful convictions of the Birmingham 6 and the Guildford Four. That song was banned. It was said that the song suggested that convicted "terrorists" were innocent and was therefore a subversion and breach of the recently introduced broadcasting ban. If you can't even protest about being wrongfully accused then this is the hallmark of a dictatorship.

New consciousness?

There have emerged in England a number of cases, which because of false charges, because of the length of time the people served in prison and because of the extent of police fabrication, now uncovered, have had a grave effect on our consciousness and have had a cataclysmic effect upon people's confidence in our criminal justice system.

In the case of Judith Ward, who is present with us today, even the judges had a personal

distaste for the lies they were being told in Court by the scientists, by the Crown Prosecution Service, by the police and others. They didn't like it and they gave an incredibly strong judgment about disclosure, which addresses the question of equality of arms, putting the defendant in a more significant place in our system as against the state. The judgment has been far-reaching and in consequence prosecutors have been producing far more evidence to defendants than they ever had previously. Nevertheless, the judgement didn't address what was wrong with the whole system in terms of the extirpation of Judith Ward's rights. Rather it said: "We won't allow a trial to be ambushed in this country". But as I will come to later, we still have interrogations and investigations by ambush.

Development of individual rights

We therefore have to address the basics to understand why things go wrong. We have to know the origins of what few rights we have available to us to discover what it is that we should be articulating. We have to do this even though it is difficult to ask for things that you don't have and argue their significance to your society's heritage. But in brief, our concept of individual rights came through a detention.

It was the detention of John Lilburne in the early part of the seventeenth century. He refused to incriminate himself. He was incarcerated and tortured but still refused. He continued to assert, as he was dragged through the streets of London: "I will not be my executioner, no man should be made to be his own executioner". And it was that assertion that grew into the idea of right to silence. When the Star Chamber was abolished that concept grew into, not jurisprudence, but beyond it into the whole philosophy of the individual right.

Assertion of that right has broadened into the concept that there should be freedom from arbitrary arrest, freedom from arbitrary search and seizure of your personal property. The State, Big Brother, can't without reason go into your house to search for materials to incriminate you. Furthermore, there developed the idea that private conversations and private life cannot be used by the State to prosecute you. Your own words should not be involuntarily taken from you to incriminate you and to be used to prosecute you.

That concept was attached to and offered immunity to the individual and is now defined in international law. It is important to note that the right was attached to the individual as a protection against the concept of a community's prior right. You might think: "Why shouldn't the majority in a democracy have the right?" The reason is that the majority will always be at odds with the minority. The "minority" will change from time to time but it always comprises the outcasts in society, the outlaws, who the majority think have no right to be protected. The criminal suspect is never an attractive person to fight for in terms of rights because whether he or she is a child molester, or a war criminal, or an abuser of property, or a torturer, or any category of person you care to have a prejudice against, it is that person who has to be protected.

Safeguards in detention

So let us look at what the question of detaining people in police stations and why people

suggest that there should, of course, be safeguards. We find that systematic cruelty, be it psychological or physical, has proved too much for the international stomach. But really, is that the question? I am not so sure, because we in England do have so called safeguards. But does that mean it is alright to accept self-incrimination so long as the confession is tape-recorded? There is one very recent case in my jurisdiction involving Stephen Miller, one of the Cardiff Three. The original suspect, according to the police, was white. And yet they ended up with 5 young black men suspects. 3 of them were convicted. Stephen Miller had a solicitor present, who did absolutely nothing for 4 days. The interrogations were tape recorded. 19 tape recordings of 19 interviews. In the first 5 interviews Stephen denied 300 times that he had been present at the murder. But the police kept on and on and on. If you listen to the tape, they are shouting at him. Where, oh where, is the so called protection provided by tape recording?

What tape-recording means is that the police don't have to write, so the interview goes faster and the police can say more and make greater demands. This escalation can make a tape recorded interview infinitely more oppressive to the person being questioned, than an interview which isn't tape recorded. So the institution of safeguards is really rather like giving someone a life saving operation so that you can then take the role of executing them. Is providing safeguards - solicitors, tape recorded interviews, video cameras and so on - the answer when in fact the whole interrogation process is an affliction upon an individual. There is no distinction in the vulnerability of people because every individual is vulnerable in a police station. And every individual is absolutely deserving of being protected against self-incrimination.

Reality of 7 day detention

What is the purpose of providing in law for the detaining of people for up to 4 days under the Police and Criminal Evidence Act or up to 7 days under the Prevention of Terrorism Act? What is the purpose, except to obtain from that person by coercion what they wouldn't want to give you voluntarily? That's it, that is what it is all about. They want to put you in a cell. They want to deprive you of every kind of security and confidence. Your clothes may well be taken away. You will be put in some kind of humiliating paper zip-up boiler suit. You are probably bare foot. If you see a solicitor, most of the time and certainly under the Prevention of Terrorism Act, there will be a conscious process on the part of the police to intimidate the solicitor. Solicitors are frightened of police stations. They are frightened of all manner of things. They are frightened about whether they are giving their clients the right advice. They have only just met their clients and are frightened that they know nothing about them. They are worried whether they will be able to detect at a glance whether their client might be, for instance, mentally vulnerable or whether they are able to deal with the questioning. It is really a grotesque process, and we have allowed it in all our jurisdictions and we continue to allow it, and the best we can do is say: "Let's have some safeguards".

Perhaps this is unconstructive and too theoretical. But we must beware of inappropriate constructiveness and beware of recommendations which simply ameliorate a totally non-acceptable system. The detention process in itself violates every norm of international protection for criminal suspect. Unlikely as it may be, that we get proper protection for suspects in our working lifetime I, nevertheless, think that that has to be the basic right. We have a Royal Commission - set up in the wake of the Birmigham 6 case - sitting at the moment. It is only interested in safeguards and it is even investigating the abolition of the right to silence. So our attitude in our country is such that we really prefer to look at the

abolition of rights disguised as preserving them. That is a dire situation that we are in.

The "threats" which "justify" erosions of civil liberties

What is called "terrorism" is the spectre that informs all of these debates. It is assumed that reduced rights are necessary to defeat "terrorism" whether it is in the short term or long term. But "terrorism" only enters the debate as a device because arbitrary ways of controlling and restraining people can always be found depending on which section of the community is perceived as threatening. For instance, a provision was introduced to allow the police, in certain neighbourhoods where there was serious crime, to stop and search anyone without reason and require people to give names, addresses and so on. That wasn't used for "terrorism" or for white suburbia. It was used on the black community in Notting Hill when the question arose of the prevalence of cannabis. 80 policemen would, at any one time, patrol a stretch of street less than 50 yards long. Conditions were imposed on black people preventing them from moving freely around or congregating in their own areas. This was the legacy of the notorious "suss laws".

Because of this continuous creation of "threatening" minorities against whom ever more draconian controls are necessary, constant vigilance is required by civil libertarians to protect fundamental rights and freedoms.

Police attitude remains a danger

Lest we think that the high profile cases such as the Birmingham 6, the Guildford 4 and that of Judith Ward have made the police more cautious in their application of their extensive powers, I want to finish by mentioning the case of Patrick Murphy. He was arrested two weeks ago. He is an alcoholic who was in the midst of a two-week drinking binge. He has an history of attempted-suicide and appears the least likely candidate for a "terrorist" assignment. Nonetheless, he has been charged with delivering a bomb to Downing Street by mini-cab. Here you see the pattern. He was completely unfit to be interviewed when he was arrested but that didn't stop him from being questioned. The slightest attempt by the police to explore his case would have shown that he was at a meeting of Alcoholics Anonymous at the time when the bombing took place. But a completely harmless man is facing explosives charges of the most serious kind. His case is a miscarriage of justice waiting to happen. A miscarriage of justice can happen to anyone at any time.

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Postscript

After a considerable degree of media coverage, initially arising from the conference, all charges against Patrick Murphy were dropped. This was done with much less publicity than surrounded his initial arrest and charging. A similar pattern followed the arrest, charging and eventual release of John Matthews of Derry. He, however, was served with an exclusion order.

On 6th October 1993, Michael Howard, the Home Secretary, announced at the Conservative Party Conference in England, that the right of silence was to be abolished in England and Wales.

Workshops

Emergency Powers

This workshop was facilitated by **Angela Hegarty** from the CAJ. The first hour of the workshop was taken up with discussion of the framework and operation of emergency law in Great Britain and Ireland.

Paddy Hillyard talked about the operation of the PTA in Britain, outlining the range of powers available and the way in which the powers were operated. A number of participants spoke about their experiences of the PTA. One particular theme which emerged was the lack of awareness of most people, outside the Irish community living in Britain of the extent of the powers available under the PTA, and the extent to which Irish people are targeted by the police, particularly at airports and ferry terminals.

Michael Farrell spoke about the history of special powers in the Republic and about the operation of the Offences Against the State Act. A number of participants spoke about harassment, particularly of young people, by the Gardai and it became clear that this was a growing problem in the South. Another theme which emerged was the failure of most people in the South to recognise that emergency legislation existed - most people seemed aware of the problems in the north but didn't seem to connect that with certain issues in the south, e.g. section 31 (since discontinued).

Angela Hegarty spoke about the framework and operation of emergency law in Northern Ireland. Amongst the points which were raised in the ensuing discussion were problems with harassment, the non-violence declaration for election candidates, treatment in holding centres and house searches. It was clear from the discussion that the problems occur not only because of the breadth of the powers conferred upon the RUC and the British Army, but also because of abuse of those powers and an absence of effective safeguards.

The final part of the workshop was occupied with formulating suggestions to be made at the plenary later in the day. One clear focus was the need for a conference concentrating on the issues around the existence of special legislation.

Recommendations

1. The workshop recommends that all four organisations (ICCL, CAJ, Scottish Council for Civil Liberties and Liberty) co-operate to prepare a report arguing for the repeal of special legislation in Northern Ireland and the Republic of Ireland.
2. The workshop recommends that all four organisations should campaign for the production and dissemination of information on individuals' rights in harassment situations. (Section 30, Emergency Powers Act, Stop and Question, Port Powers)
3. The workshop recommends all four organisations lobby the Irish Government to repeal special legislation in the Republic and in the North via the Anglo Irish Secretariat.

Lesbian And Gay Rights

Chris Robson, ICCL executive member and member of the Gay and Lesbian Equality Network (GLEN) co-ordinated the workshop.

Four years ago the ICCL set up a sub-committee on lesbian and gay rights to examine all civil rights aspects and current discriminations. A book was produced "Equality Now; for Lesbians and Gay Men," putting forward detailed arguments for equality and anti-discrimination codes in all criminal and civil legislation. During recent negotiations to form a Government, all parties were given a memorandum by ICCL on civil rights issues, including proposals from "Equality Now." GLEN had also done the same. The **Programme for Government** reflected and encompassed many of these proposals.

It was suggested that this workshop should not fight old battles. The concern in the South should be to ensure that the necessary reforms and legislation that have been promised, are introduced as soon as possible and without any compromise. Ways should be explored of exerting the necessary influence and providing necessary back-up information. Furthermore it was important to establish whether the Minister for Justice or the Minister for Equality was responsible for Law Reform. Ways must also be explored of influencing legislation and codes in the North to encompass the same principles.
Other legislative issues discussed included:

- the abolition of the current criminal law and the introduction of a common age of consent; the need for gender-neutral legislation for all sexual offences and regulations;
- "Sexual Orientation" needs to be introduced as a category in Equal Employment Legislation and the Unfair Dismissals Act:
- protection of the custody rights of lesbian mothers and gay fathers:
- anti-discrimination codes for housing, private and public, and for other social services:
- partnership agreements (for all unmarried people?) to ensure succession and pension rights.

More broadly, the importance of liaison on anti-discrimination issues with women, the Travellers, the disabled, racial minorities, those with HIV or AIDS was stressed. The role of education was discussed particularly in relation to the need for factual non-directive sex education in schools. In this regard legislative proposals on education currently being considered by the Irish government are a good opportunity to make submissions on the question of sex-education. Furthermore it is important to challenge homophobia in all areas of education, e.g. Teacher Training and less formal Education-youth clubs.

International action at the Council of Europe, European Parliament, CSCE, and the UN. was mentioned as an important strategy, first to protect our own rights, but perhaps more importantly, to extend rights to lesbian and gays world-wide. This work could be done in co-ordination with International Lesbian & Gay Association. Irish embarrassment in relation to Europe was mentioned as a useful lever for lobbying work. On the other hand, other potential members of EC have been using Ireland's record on gay and lesbian issues as an excuse for not improving their own situation.

In relation to the North, the "reform" in 1982 brought the law into line with Britain. However, this was not a major reform. It is, for example, perfectly legal to dismiss people because of sexuality in certain areas e.g. working with children. Employers contact local police to see if they have suspicions about the candidate's sexuality. The North has a human rights commission (Standing Advisory Commission on Human Rights) which as yet has not looked at sexuality. In working for proper legislation to improve the situation for gay men and lesbians, the importance of liaison between CAJ, SCCL and Liberty was highlighted, as anti-discrimination legislation in North is dependant on getting it in Britain.

The position of gay and lesbian young people was discussed. Young people should be treated the same as heterosexual young people, with the right, for example, to form associations in schools.

Finally, it was stressed that true Equality not a grudging acceptance is what is required. That must be the target of all campaigning in this area.

Recommendations

1. The workshop recommends that the ICCL liaise with LOT, GLEN and others in making submissions on the Green Paper on Education to ensure non-directive education on sexuality and to ensure in-service teacher training on homophobia and on general gay and lesbian issues. This submission should refer to the United Nations Convention on the Rights of the Child. The CAJ should similarly liaise with NIGRA and others (including the ICCL) on similar approaches.
2. The workshop recommends that CAJ liaise specifically with Liberty and SCCL, and also where useful with ICCL, to conduct the necessary research, with the help of lesbian and gay organisations, on all anti-gay and lesbian legislation in the United Kingdom and in the North, and to campaign with these organisations for the introduction of true equality into UK Law.
3. The workshop recommends that the Irish Government rapidly introduces its Equal Status legislation and ensures that real and perceived equality underlies both the reform of the criminal legislation and the introduction of all civil anti-discrimination codes.

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Postscript

In all jurisdictions, there have now been significant changes with the age of consent being substantially reduced.

International Action

This workshop was co-ordinated by **Paddy Malone** and **Steven Livingstone**, Vice Chair of CAJ. The interest of those who attended the workshop ranged from specific involvements to more theoretical though nonetheless important issues. Examples included:

- someone working with Bosnian refugees spoke of the situation in Bosnia and the former Yugoslavia and the United Nations' failure to ensure protection for refugees;
- the role of non-governmental organisations (NGOs) in the protection of human rights;
- the question of how best to disseminate information;
- problems in relation to effectiveness and enforcement;
- the need to understand technical questions such as the incorporation of the European Convention on Human Rights, the relevance of the Optional Protocol of the International Covenant on Civil and Political Rights and the effect of derogations;
- trying to assess the effects of publicity regarding human rights violations on governments.

The basic framework of international rights was outlined. This is found in:

- international treaties drawn up under the United Nations. These include the UN Charter and various Covenants dealing with thematic issues such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) or the International Covenant on Civil and Political Rights (ICCPR). Governments' practice under these international treaties are monitored by a variety of committees set up for the purpose by the relevant UN human rights bodies; and
- regional agreements such as the European Convention on Human Rights and the Helsinki Final Act which is also known as the Conference on Security and Co-operation in Europe - the CSCE Process.
- The emphasis in international law is on individual rather than collective human rights. In cases requiring for example humanitarian relief the UN may intervene on behalf of individuals or groups against states.

The role of NGO's in international law is primarily in lobbying both their own and other governments and also seeking the most effective way to lobby at the UN level. Heightening the visibility of human rights violations is an important protection against abuse, or discrimination by governments.

Information about international law should be widely available. This requirement on states is written into the international treaties. Information should be disseminated among the public generally but also, more specifically, government employees (e.g. police forces) should be trained in their obligations under international law. Education systems should be used to create a culture of rights, not only within one's own state, but also internationally.

The question of the domestic standing of human rights was explored. The failure of the UK and the Republic to incorporate the ECHR into domestic law means that the individuals can only invoke the protection of the Convention by going to the European Court of Human Rights in Strasbourg. Only two other European Countries have failed to incorporate. On the

other hand, the Republic ratified the Optional Protocol of the ICCPR in 1990 though the UK has not yet done so. This allows individual petitions to be made to the UN Human Rights Committee.

One of the problems which affect international law, is the possibility for states to derogate from particular parts of a Convention. This nullifies the effect of signing the treaty on the issue with which the derogation deals. Thus the UK has derogated from both the ECHR and the ICCPR over the question of 7-day detention powers. On the other hand, some rights such as the right to life or the right not to be subjected to inhuman, cruel and degrading treatment, are non-derogable.

At the very least the reporting mechanisms of conventions, such as the Committee of experts which consider governmental reports on states' observance of their obligations under the Convention on the Rights of the Child, focus governments' attention on their obligations and responsibilities.

NGO's, such as Helsinki Watch and Amnesty International, as well as local groups such as ICCL, CAJ, SCCL and Liberty, have a lobbying role in such procedures. Helsinki Watch has played a role in drawing attention to abuses of human rights in Northern Ireland.

There are deficiencies in all mechanisms but particularly minority rights. In challenging government practice both activism and legal method can be useful in highlighting and challenging government/state practices which infringe human rights.

Three methods of challenging violations of human rights were highlighted:

- litigation via international law is a possibility. However, because of the non-incorporation of the ECHR, this is only possible after proceeding through all domestic courts;
- lobbying of reporting mechanisms such as Special Rapporteurs, Experts Committee, at UN Commission is something which can be very effective;
- dissemination of information and raising the level of knowledge about human rights and the government's responsibilities is an important task for NGOs. People alleging abuse should be made aware of the existence of rights and of the mechanisms to be pursued where violation occurs.

Recommendations

1. The workshop recommends that the Republic of Ireland and the United Kingdom should incorporate the European Convention on Human Rights into their domestic law.
2. The workshop recommends that ICCL, Liberty, SCCL and CAJ lobby for the United Kingdom government to ratify the Optional Protocol to the International Covenant on Civil and Political Rights which allows individuals to petition the United Nations.
3. The workshop recommends that within the context of a 'right being useless unless you are aware of its existence', the lobbying of the Irish and United Kingdom governments should take place stressing that information on human rights treaties be widely disseminated, especially at appropriate levels in schools: children should know more about human rights and mechanisms for their enforcement.

Bills of Rights

This workshop was co-ordinated by **Brice Dickson**, executive member of CAJ, and **Alan Miller**, Chair of SCCL. The workshop began by setting out what a Bill of Rights is - a constitutional guarantee of people's fundamental rights and freedoms. It sets out, as well as rights, the duties of everyone to respect the rights and freedoms of others in the interest of the society as a whole. It also places limits on the exercise of power by the state. The general advantages of a Bill of Rights include:

- it lays down basic standards which "temporary" Parliamentary majorities cannot ignore; in this sense it "de-politicises" these rights. They cease to be political footballs;
- its spirit and general wording allow gaps in current provisions to be plugged (c.f. the creation by judges in Ireland and the USA of "unenumerated" rights, such as privacy).
- it allows people to claim rights in their local courts, without having to go to the capital or abroad;
- it has a significant educative value: it can create a rights culture while stressing concomitant responsibilities.

It is SCCL's position that a Scottish Bill of Rights is a vital part of the process of democratic reform implying an important transfer of power from the British parliament to the people of Scotland. This would involve a replacement of the existing British (i.e. English) constitutional principle of 'absolute sovereignty of Parliament' with the Scots tradition of 'limited government' or 'popular sovereignty'.

In terms of Northern Ireland a number of specific advantages of a Bill of Rights were mentioned:

- it would protect different groups - both majority and minority interest groups;
- it would temper emergency laws, allowing fairer balance between security and justice;
- it would counter particular injustices, such as the unavailability of legal aid at inquests, the curtailment of the right of silence, the use of secret witnesses, the "political" vetting of community groups, the denial of jury trial and so on.

A Bill of Rights for Northern Ireland would have to be short, flexible, easy to understand. It would have to include social, economic and cultural rights as well as civil and political rights and contain wide ranging non-discrimination and all-embracing equality clauses. The Bill should prevent the use of derogation notices or declarations of emergency justifying limitations to the Bill. Finally, it should permit easy challenge to any law or decision which is *prima facie* in contravention of the Bill.

Brice Dickson summarised CAJ's conclusions:

- a Bill of Rights would not solve all of Northern Ireland's problems, not immediately nor ever; it is not a panacea, but nor is it a placebo;
- Northern Ireland needs a Bill of Rights whether or not the rest of the UK needs one;
- the European Convention on Human Rights does not go far enough in protecting rights: it has prevented very few abuses in Northern Ireland;
- in the short term there is no need for a special court to be created to deal with Bill of

Rights cases.

SCCL had co-ordinated a campaign to encourage the entrenchment of a Bill of Rights by any Scottish Parliament that is established.

Recommendations

1. The workshop recommends that the organisations involved in the conference campaign for Bills of Rights for Scotland and Northern Ireland.
2. The workshop recommends that the Bill of Rights for Scotland should be enacted by a Scottish parliament.
3. The workshop recommends that any Bill of Rights should ensure that groups as well as individuals can claim protection for their rights.

Anti-Discrimination

The workshop was facilitated by **Donal Toolin**. Participants in the workshop were involved in working against discrimination on the grounds of disability, race, sexual-orientation and religion. The participants discussed issues of concern to the various groups.

Those representing people with disabilities said that their right to vote was in question. More generally, it was not clear whether, in working for anti-discrimination legislation, it should be general or specific.

In Northern Ireland groups are working for legislation to outlaw racial discrimination and for administrative measures by statutory agencies. A consultative document has been issued but it is not clear whether Travellers will be specifically designated as an ethnic group in legislative proposals. Without strong effective legislation it will be difficult to fight routine racism against Travellers, such as refusal to serve them in shops or bars. The state must cease its practice of segregating Travellers and the education system needs to recognise the cultural and ethnic distinctiveness of Travellers.

In relation to job discrimination in Northern Ireland, the '89 fair employment legislation, though stronger than the '76 Act, is still not strong enough. Coupled with the government's failure to locate jobs in Catholic areas, there has been little progress.

In terms of seeking a governmental commitment to fighting discrimination, it was important to move from a fairly passive approach of outlawing discrimination to a more active approach which outlaws discrimination but also seeks positively to roll back discrimination.

Legislation to combat any form of discrimination needs to assert the right and value of people to be different. The state is not neutral in this struggle. In relation to Travellers, it is clear that the state does not want nomadism.

The need for networking between groups was stressed, so that strategies could be clear and argued by all groups. It is important to have a common front in, for example, calling for specific agencies to deal with the various forms of discrimination. It is not adequate to put enforcement against anti-Traveller discrimination under a body that has expertise in fighting discrimination in jobs. Another example of networking is the way draft legislation formulated by ICCL in conjunction with the Dublin Travellers Education and Development Group has been used in formulating demands by groups in the North.

Nonetheless, some success has been achieved in the South. The creation of a Department of Equality is the result of hard work by campaigning groups. It is a recognition by government that it is expedient to concede something in this area. However, the role of the Department needs to be further clarified. It will not be satisfactory if issues dealing with education, health, and accommodation are given to different departments. Minority groups have different needs in these areas and the Equality Department should have a holistic approach to the issues it deals with.

Two final points concerned the importance of setting targets which are then monitored and the principle that equality of opportunity is not enough. There has to be an understanding of the history of discrimination suffered by minority groups. The idea of "historic reparation" was mentioned as a way of trying to rectify past discrimination.

Recommendations

1. The workshop recommends that any new anti-discrimination legislation should be active and positive in asserting rights. There should be a tribunal which would undertake affirmative action and give resources to disadvantaged groups to help them achieve their rights.
2. The workshop recommends that ICCL and CAJ carry out ongoing work on the issue of anti-discrimination legislation. There should be a campaign to raise public awareness of the right to be different and the need for equality. This campaign should use "ordinary language" not legal jargon and should include positive action in the media and educational systems.
3. The workshop recommends:
   a) that Ireland should ratify the United Nations Convention on the Elimination of all Forms of Racism, and
   b) that proposed anti-discrimination legislation for Northern Ireland should include Travellers.

Miscarriages Of Justice

This workshop was co-ordinated by **Nicky Kelly** and **Michael Ritchie.** Due to the number of participants, the workshop was split into two. A number of campaigns participated and the workshop was enriched by the attendance of Judith Ward, Richard McIlkenny and Noel Bell. Each campaign introduced the issues concerning their cases and gave a brief background.

The **Sallins Case** was outlined. A long litany of issues stretching back 17 years was rehearsed. The lack of safeguards during interviews; concocted and contested confessions; the lack of corroborative evidence; the absence of jury trial; the problems of the lack of any further appeal mechanisms; the difficulties of obtaining compensation and the need for a public inquiry. The importance of campaigning was stressed. Without it, the state would be quite happy to let things lie.

The **Casement Accused** campaign spoke about the circumstances surrounding the Casement trials. They spoke of the use of very dubious video-evidence to convict large numbers of people. The use of Diplock Courts in the North deprived people of the protection of juries. The supposed safeguards during police interrogations in Castlereagh are inadequate. Finally these cases showed the staggering inconsistencies in sentencing.

The **Beechmount 5** campaign spoke about their sons who were facing trial for the muurder of an RUC officer in an IRA rocket attack. The young men were subjected to physical and psychological ill-treatment during their detention. The length of time for which people can be interviewed and the lack of safeguards were also instrumental in the young men having signed false confessions which were the basis for their prosecution.

The **Tallaght Two** campaign was introduced. Issues in this case concerned the lack of safeguards at identification parades; the importance of TV in highlighting the case; the willingness of state prosecutors to use flimsy and incorrect evidence.

The **UDR 4** case was highlighted. Similar features were reported concerning the lack of safeguards during interview; difficulties under Northern Ireland's emergency laws of obtaining adequate access to legal advice; the willingness of police officers to lie in court and the meaninglessness of the appeals procedure in operation.

Finally the **Peter Pringle** case was introduced. This involves a contested verbal confession; the willingness of the prosecution to use worthless forensic evidence; the difficulties receiving redress by way of a civil action for unlawful detention.

Other cases represented in the workshops were the **Birmingham 6** and **Judith Ward.**

In seeking for the root causes and common factors in all of these cases the participants identified a number of key issues which need to be addressed.

- Firstly, it was stressed that due cause for an arrest must be present. An approach by the

police of arresting people on the basis of general suspicion is the first link in the chain of miscarriage of justice.
- The two key safeguards for the next phase of interrogation are the presence of solicitors to advise suspects and the installation of audio- and video-recording.
- Finally there should be an end to the use of uncorroborated confessions.

If these changes were brought into the criminal justice systems of the UK and Ireland, they would go a long way towards preventing the kinds of miscarriage represented in the workshop.

Finally, it was noted that generally-speaking miscarriages of justice happen to people from marginalised groups.

Recommendations

1. The workshop recommends that ICCL and CAJ organise a conference on miscarriages-of-justice cases.
2. The workshop recommends that ICCL try to secure the establishment of an ad-hoc committee on human rights in the Oireachtas.
3. The workshop recommends that ICCL and CAJ campaign for the introduction (North and South) of satisfactory mechanisms of appeal to address miscarriages of justice.

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Postscript

While proposals have been brought forward both in the North and the South for mechanisms to address miscarriages of justice, campaigners insist that more effective procedures are required.

Prisoners' Rights

The workshop was co-ordinated by **Joe Costello TD**, **Kieran McEvoy**, CAJ Executive member and **Nuala Kelly** of the Irish Commission for Prisoners Overseas.

Kieran McEvoy introduced the workshop with an overview of the human rights concerns in prisons in Northern Ireland. These included the continued use of strip-searching, the failure to segregate remand political prisoners in Crumlin Road prison and the failure to transfer prisoners from English prisons to Northern Ireland. Joe Costello continued with the theoretical and historical background to the proposed Prison Bill in the Republic. Nuala Kelly concluded the introduction by developing the transfer question with reference to the Republic's continued failure to ratify the European Convention on the Transfer of Sentenced Persons. The workshop was then opened to the floor and after an interesting and lively discussion, the participants agreed on three recommendations to be put to the plenary of the conference.

Prison Reform in the Republic
After Mr Costello presented the participants with a draft copy of his Prison Reform Bill, the workshop recommended that ICCL should lobby for the introduction of a Prison Reform Act.

Rights not privileges
The workshop recommended that the groups involved in the conference lobby for a comprehensive package for the protection of prisoners' rights in Northern Ireland including a proper complaints procedure and Prison Rules based on rights not privileges. Given that the European Prison Rules could soon be incorporated as a protocol to the European Convention on Human Rights, the group recommended that the current review of prison rules in Northern Ireland represents a unique opportunity for the Northern Ireland Office to ensure that the new revised Prison Rules in Northern Ireland will comply.

Transfer
The group had a lengthy discussion on the failure to transfer prisoners to both Northern Ireland and the Republic and the suffering this imposed on completely innocent families. The main points raised were:
in relation to Northern Ireland, the British government had fully accepted the Ferrer's report recommendations that they make greater use of the "extended temporary transfer" system. This had raised families' hopes to the extent that some had cancelled planned visits to England thinking that they would soon be transferred. Given the length of time the report took to be compiled, further delay would be unacceptable.

In relation to the Republic, the group did not accept the arguments put forward by the Government that there is insufficient room in the Republic's prisons to accommodate newly-transferred prisoners. A number of reasons were put forward to refute the government's position: the receiving jurisdiction has a discretion as to whether or not to accept; the Irish government indicated to the Inter-Parliamentary Body that they will limit the number of

applications accepted to no more than 20 per year; the international experience of such transfer agreements is that, after an initial upsurge, numbers will trickle to 4 or 5 each year; the survey recently carried out by the ICPO amongst Irish prisoners indicated numbers of no more than 40 who wish to be transferred from English jails; the fact that the ratification of the convention would de facto mean transfer of prisoners out of the republic's jurisdiction including political and ordinary offenders originating from the north currently held in the republic.

Given the British government acceptance of the Ferrers recommendations and the weakness of the Republic's arguments against transfer, the workshop recommended that the groups involved in the conference lobby the Irish and UK governments to ensure that prisoners should be allowed to serve their sentences closer to their family home. In Northern Ireland this would require honouring the spirit and the substance of the Ferrers Report recommendations. In the Republic the immediate ratification of the Convention on the Transfer of Sentenced Persons and a general commitment to the greater consular protection of prisoners abroad.

Recommendations

1. The workshop recommends that ICCL lobbies for a Prison Reform Act in the Republic of Ireland.
2. The workshop recommends that the groups involved in the conference lobby for a comprehensive package for the protection of prisoner's rights in Northern Ireland, including proper complaints procedures and prison rules based on rights not privileges.
3. The workshop recommends that the groups involved in the conference lobby the Irish and United Kingdom Governments to ensure that prisoners should be allowed to serve their sentences closer to their family home. It also calls for the ratification of the Convention on the Transfer of the Sentenced Person by the Republic of Ireland and a general commitment to the consular protection of persons abroad.

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Postscript

A small number of prisoners has been transferred from Britain to Northern Ireland on an extended temporary basis. Concerns remain about the extent and pace of progress on this issue.

Racism and Immigration

The workshop was facilitated by **Niall Crowley** of the Dublin Travellers Education and Development Group and **Bobby Eagar**, a solicitor with a concern for immigration issues.

The workshop very quickly highlighted many shared concerns about the situation in the south and north of Ireland. The most immediate and pressing problem was the absence of effective anti-racist legislation, north and south. There is no anti-racist discrimination legislation in either part of Ireland. Northern Ireland is the only area of the UK where the 1976 Race Relations Act does not apply. The Republic of Ireland is the only EC country without anti-discrimination legislation. While both states have putative anti-incitement legislation, this legislation remains unused in either part of Ireland. Incitement to hatred legislation has been in force in the north since 1970 and in the south since 1989. However, no-one has been tried - let alone convicted - of racist incitement. This is despite the many examples of hate speech which have unambiguously incited racist hatred against different minority groups, especially Travellers.

There were also similar problems, north and south, with racist immigration policy. Contributors pointed to many of the cases of racism in the immigration service in Dublin. These were endorsed by minority ethnic representatives from the north, particularly the Chinese community. Racist immigration policies were also causing serious problems for Black and minority ethnic refugees in both states. There was evidence of widespread detention and mistreatment of refugees. There was therefore much evidence that the effects of Trevi and Schengen groups is already being felt north and south of the border. These groups were established within the EC to control the movement of migrants and refugees as part of 'Fortress Europe' and are unambiguously racist.

The specific problems experienced by Travellers, north and south, were also discussed in detail. There were similar problems, north and south, with the failure by many people and particularly Government to recognise Traveller ethnicity. This leads to a concomitant denial of the capacity of Travellers, north and south, to experience racism. It was pointed out that Travellers had to be specifically named as an ethnic group protected by any putative anti-racist legislation to guarantee protection. It was also suggested that additional 'right to travel' legislation was necessary in order to protect the rights of Travellers - and other nomads - to be nomadic.

The question of nationality in the north was also raised. It was suggested that the ongoing campaign to remove articles 2 and 3 from the Constitution of the Republic could be construed as racist in the sense that it involved a removal and denial of their chosen nationality to a substantial proportion of the people in Northern Ireland.

There was consensus on the need for immediate improvement in Government treatment of minority ethnic groups in Ireland. It was felt that Government in both states should adopt a much more proactive approach to addressing the oppression and inequality experienced by minority ethnic groups. It was pointed out that this could only be achieved through a

combination of legislative and policy changes. The overwhelming priority was for strong and effective anti-racist legislation in both states. This legislation should prevent hate speech. It should also address racist discrimination and actively promote equality of opportunity for all ethnic groups. Finally, the need for more effective networking between groups in the north and south was recognised; there should be more effective cross-border co-operation between minority ethnic organisations, anti-racist organisations and civil libertarians.

Recommendations

1. The workshop recommends that ICCL and CAJ should campaign for fair immigration procedures. The excessive powers of immigration officers and their lack of accountability should be challenged. The workshop deplores the lack of monitoring at points of access; the detention of refugees and asylum seekers, the lack of access to legal advice, legal aid and translation facilities.
2. The workshop recommends that the Irish Government ratify the United Nations Convention on the Rights of the Child. (Which includes the important provision that individuals can claim the nationality of the State they were born in.)
3. The workshop recommends that ICCL and CAJ campaign on the right to be nomadic, and that the nomadic way of life should be acknowledged in any anti-discrimination legislation.

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Postscript

The Irish government has since signed the UN Convention on the Rights of the Child.

Censorship in the Media

The session was facilitated by **Michael Foley**. The workshop was opened with suggestions that a number of topics be considered. Among these were libel, the protection of sources, Section 31, the introduction of a freedom of information act and contempt of court. In the short time allotted for the workshops, it was impossible to give all of these topics sufficient attention. But a useful discussion occurred and there was broad agreement over some general principles.

Participants in the Let in the Light Conference (which occurred the week before the ICCL/CAJ Conference) presented a brief summary of the discussions and of the tentative conclusions arrived at there. Among these were suggestions for the liberalisation of libel and contempt laws. But a number of speakers whose experience lay in the Northern Ireland legal system were wary of any move to liberalise contempt legislation, on the grounds that it might prejudice an accused person's rights.

The question of complaints by members of the public against journalists was also raised and the institution of a statutory press council was discussed. There was some support for this suggestion, but it was also strongly opposed by the journalists present.

It was agreed that what was required was a free and responsible press, one which recognised the right of reply. The disagreement concerned the question of state regulation. A representative from Liberty, the British civil liberties organisation, argued strongly against adopting the model of the British press council and against the suggested protection of privacy legislation. Such models were also opposed by journalists who warned against the implement of prior restraint on publication. It was further noted that the National Union of Journalists had a complaints procedure under which a member of the union could take.

On the question of protection of journalistic sources, the meeting agreed that what was at question was the public's right to know rather than some special deal for journalists. If journalists were forced to reveal their sources, these would immediately dry up and the public interest would be harmed by allowing criminality to remain undiscovered.

The workshop expressed itself strongly opposed to the political censorship of broadcasting. Section 31 of the Broadcasting Act and the Hurd Bann were condemned.

Recommendations

1. The workshop calls for the immediate repeal of Section 31, the Broadcasting Ban operating in the UK and the Prevention of Terrorism Act (which is also used for censorship purposes) and recommends that all those involved in civil liberties lobby

their local and national representatives for a Dáil debate on Section 31.

2. The workshop recommends that ICCL and CAJ investigate methods of ensuring the right to reply and access to the media for individuals.
3. The workshop recommends that the ICCL and CAJ monitor the general media coverage of Northern Ireland. It is the view of the workshop that often this coverage can be detrimental to the day-to-day life of people living in Northern Ireland.

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Postscript

Section 31 was discontinued in January 1994. The UK's 1988 broadcasting ban was lifted in September 1994 - a response by the British government to the IRA ceasefire.

Mental Health/Psychiatric Patients

This workshop was facilitated by **Tom Cooney** of ICCL and **Michael Potter** of CAJ.

People with mental disorders are one of the most vulnerable sections of the community. They are seldom equipped to put forward their opinions and stand up to those in authority (whether it be doctors, nurses or prison officers). It is therefore imperative that civil liberty groups realise that it is their responsibility to advocate the rights of mental patients and campaign against both lawful and unlawful abuses of individual liberty which take place in hospitals, prisons and the wider community. The workshop focused on the **Mental Treatment Act 1945**, the prevailing legislation in the Republic of Ireland. While the Act bestows wide powers on doctors, few safeguards operate to prevent abuses of persons' liberties. Some participants in the workshop were clearly casualties of the system and their vexing experiences gave great cause for concern. Much of the discussion centred on personal tragedies.

It became clear that persons suffering from mental disorders are in a particularly vulnerable position given the breadth of powers which persons in authority (including psychiatrists and gardai) enjoy and the paucity of safeguards to protect individuals.

Some attention was given to the position in Northern ireland under the **Mental Health (NI) Order 1986**. While doctors do have wide powers, a number of safeguards exist to protect individuals. Firstly there is the **Mental Health Commission** whose mandate is to keep the treatment and care of compulsorily detained patients under constant review. Another safeguard is the **Mental Health Review Tribunal**. Patients can appeal to an independent tribunal to review the legality of complusory detention and the psychiatrist who has ordered that a patient should be compulsorily detained must appear and explain why he/she believes such a course is necessary and lawful. Finally there is an anti-discrimination provision contained in the Mental Health Order (NI) 1986 which is unique within the United Kingdom. In Northern Ireland compulsory detention is divided into two stages: admission for assessment which lasts 14 days and then if the psychiatrist decides that the patient comes within the criteria set out in article 12 of the Order the patient can be detained for further treatment. A patient is only regarded in law as having been detained in a mental hospital if he/she has been detained for treatment at the end of an assessment period. Article 10(4) states that "the fact that a person to whom this article applies has been detained in hospital for assessment or any failure to disclose that fact shall not be a proper ground for dismissing or excluding that person from any office profession occupation or employment or for prejudicing him in any way in any occupation or employment". This clearly prevents some persons from being stigmatised as "mentally ill".

While some scepticism was mooted on the practical effect of the operation of similar safeguards in England, it was accepted that safeguards such as those referred to above and contained in the Northern Ireland Mental Order (even if they are not operating as effectively as they could be) are infinitely preferable to no safeguards. The workshop then discussed the recommendations and agreed to propose them to the conference.

Recommendations

1. The workshop recommends that new mental health legislation should specify criteria for involuntary admission so that we no longer have vague criteria. It should provide that no committal should take place unless there is the recommendation of one doctor and one social worker. There should be an objective assessment by a psychiatrist and the right to an independent assessment for a patient before any committal takes place.
2. The workshop recommends that the new legislation should provide for a mental health tribunal system to review all detentions and the patients' automatic right of access to that tribunal. The tribunal to review all detentions periodically especially cases involving the homeless, children and the elderly. It is also recommended that all patients have an advocate.
3. The workshop recommends that the new legislation should include a Bill of Rights which would include the right of the involuntary patient who is competent to refuse any hazardous form of treatment especially serious drug treatment and ECT. The workshop finally recommends that discrimination, especially regarding access to the courts for psychiatric patients, should be removed immediately.

Use of Lethal Force by the State

The workshop was facilitated by **Fionnuala ní Aoláin** of CAJ and **Padraig Brennan**, a solicitor who has experience of the inquest system in the Republic.

In relation to Northern Ireland, a number of distinct areas was discussed. The greatest concern related to the lack of accountability exercised when the soldiers and policemen took life. 350 people have been killed by the security forces in Northern Ireland since 1969. Only 28 prosecutions have been initiated in relation to these deaths and only two have been successfully pursued, one soldier having been convicted of murder, a second of manslaughter. Given that the only soldier convicted of murder was released after two years and returned to service with the British Army, there is a sense that a different set of rules apply when an individual is killed by a member of the security forces.

The issue of accountability is central to current disquiet over the inquest process. As there is no criminal prosecution in the majority of cases, the inquest is the only forum where there is a public examination of the facts surroundings such killings. For the many families who have lost a relative, the inquest will be their only "day in court". However, the inquest system has been emasculated in the last decade: long delays, in some cases of 10 years, hamper an inquest's effectiveness; juries can no longer enter verdicts; the army or police personnel who caused the death are no longer compellable witnesses; family counsel are denied access to witness statements and other evidence to prepare for the hearing; there is no legal aid so that families have to rely on the goodwill of their legal advisers; and finally, the government is routinely resorting to the use of Public Interest Immunity certificates to prevent disclosure of relevant information. The strong impression is given that in such cases the authorities have something to hide.

It is also clear that there are discernible trends in the use of force since 1969. In the early part of the Troubles, many deaths occurred in the course of riots and in urban settings. In the past decade, on the other hand, there has been the emergence of set-piece operations which invariably involve members of undercover specialist units. The evidence of pre-planning leading to deaths in suspicious circumstances raise real concerns that no meaningful attempt is made to arrest and bring to trial.

International observers have identified two fundamental problems. The first is that current statutory and common law provisions of the use of force fail to conform to international standards in this area - notably the provisions of Article 2 of the European Convention on Human Rights. The second is that training procedures for police and army personnel is out of step with international practice.

This issue pertains to the most fundamental right of all - the right to life. It is, therefore, imperative that a systematic review of the use of lethal force be carried out

A large part of the discussion at the workshop focused on the use of **language**. While for some the discussion was a distraction from dealing with the legal facts of the use of lethal

force by the state, for others the implications of the use of particular terms was a necessary exercise.

The use of terms such as "terrorist" or "paramilitary" raised the question of whether language, whether or not used by civil libertarians was neutral or loaded. In the context of Northern Ireland, the issue arises most clearly in connection with alleged ambush-style tactics by the security forces, when members of paramilitary organisations are killed while on active service. On the one hand it is easier for the authorities to deal with any criticisms. And yet paradoxically, it is sometimes these incidents which raise the clearest suggestions of breach of international standards. In these circumstances, describing the victims as "terrorists" is often one of the ways the authorities attempt to reduce criticism of their actions.

Recommendations

1. The workshop recommends that there should be a re-evaluation of inquest structures North and South. People who use lethal force should be held accountable.
2. The workshop recommends that the legal frameworks for lethal force North and South should be rectified since they do not comply with international standards.
3. The workshop recommends that Police forces in both (Irish) jurisdictions should not be allowed to investigate themselves.

Postscript

Two more soldiers have received convictions since the conference, one for murder and the other for attempted murder.

Civil Liberties Implications of a Single Europe

Andrew Puddephatt of **Liberty** facilitated the workshop which looked at the implications for civil liberties arising from trends towards European integration.

Important decisions on issues as broad ranging as the rights of workers, the protection of personal information, and who will be allowed to travel in the new "Europe without frontiers" are being taken now. However, of all the EC decision-making structures, only the European Parliament is directly elected and therefore democratically-accountable. Yet it is relatively powerless in comparison with the European Commission, the Council of Ministers and a hoist of other powerful but shadowy committees which meet in secret. As a result, important and sensitive issues such as immigration, visa policy, asylum for refugees, extradition and cross-border co-operation between police forces are being taken by completely unaccountable bodies such as the Trevi Group, the Working Group on Immigration, the Pompidou Group and the Co-ordinators Group. The failure to ensure proper accountability to European voters for decisions which are no longer taken by domestic parliaments is what has become known as the democratic deficit.

Refugees and third country nationals (citizens of non-EC countries) are likely to find themselves shut out as the single Europe becomes a more sinister Fortress Europe. European member states are becoming pre-occupied with the ghosts of external threats and are making decisions to increase entry requirements, establish internal identity checks and impose fresh restrictions on immigration. These measure seriously undermine the Geneva Convention on the treatment of refugees and lead to the increased harassment of black and ethnic communities already living in the EC. Because the Community's founding treaties confine the benefits of membership to nationals, not residents, many UK residents and some categories of British national such as overseas citizens will be unable to move freely within the EC. In reality, freedom of movement will be available to only one group - white EC nationals

There are strong moves towards greater integration of the police across the EC. At present, in Britain there is not effective democratic control of the police. Chief Constables can act without reference to their local police authorities. The influence of the Association of chief police Officers (ACPO), on government policy has become increasingly powerful. there is a growing number of national policing structure such as NSCIS, a police intelligence system which has no equivalent structure for national accountability. By the time one reaches EC level, accountability is almost completely lacking since cross-border policing is discussed in the closed meetings of the Trevi Group and other secret bodies.

Increasing European "harmonisation" will also affect our rights to personal privacy. There are increasing exchanges of personal data between community governments and their agents (including police forces). There is, however, no authority to supervise the flow of information within the community. the abolition of internal frontiers is leading to increased pressure for the introduction of an identity card, possibly a common card throughout the EC. The unregulated circulation of personal data inevitably carries with it the potential for

misuse. At present there is no agreement between EC states on the holding and disclosing of sensitive data covering, for example, details of racial origin, sexual orientation or political opinion.

European integration also holds out the promise of potential benefits. The Social Charter is a measure improving employment rights and conditions, particularly important for employed women. It covers issues such as part-time workers rights, the provision of child-care, maternity, parental and family leave, as well as worker consultation and participation in key decisions at the workplace. Proposals have also been mooted to incorporate the European Convention on Human Rights into Community law. These are important reforms which civil libertarians would clearly support strongly.

Recommendations

1. The workshop recommends that ICCL and CAJ should look into the feasibility of mounting a legal challenge to the existing (and ever increasing) frontier restrictions and their human rights implications, provided in the Single European Act.
2. The workshop recommends that ICCL and CAJ look into the possibility of establishing a European Network so that a single forum will exist to enable a united human rights voice to be heard at a European level.
3. The workshop recommends all the civil liberties organisations involved in the conference campaign for greater democratic accountability and openness in European decision making, and in particular to campaign for greater asylum rights and to monitor all aspects of intelligence gathering.

Right to Travel and Information: A Question of Choice?

The workshop was facilitated by **Margaret Lonergan**. Discussion among the small group of participants focussed on the need for the Irish Government to clarify its proposals for legislation on this issue.

The workshop also heard that the CAJ has not addressed itself to the issue of abortion.

Recommendations

1. The workshop recommends that the Government publishes proposed legislation on the substantive issue of abortion and the right to information as soon as possible to enable open and proper debate.
2. The workshop recommends that ICCL resubmits its position paper on abortion to the newly elected Government.
3. The workshop recommends that the ICCL and CAJ pledge to support organisations concerned with the issues of abortion and women's health services.

Statement from Liberty

Andrew Puddephatt, Director of Liberty, the civil liberties body of England and Wales addressed the conference.

It is a great pleasure to be here for this important event. The protection of civil liberties are vital in seeking for a resolution of conflicts. The fact that civil liberties groups covering all parts of these islands are represented here today is significant. There has been much discussion in recent years of the vital North/South, East/West dimensions of the conflict in Northern Ireland makes this an unique event in the history of the struggle for human rights. It has been the contention of Liberty that respect for human rights in Northern Ireland is a fundamental requirement in the search for a just peace.

Since its creation, Northern Ireland has been governed by emergency legislation. For the first 50 years this took the form of the Special Powers Act which contain many features familiar to us today - internment, powers to ban organisations, curfews and exclusion orders. Within a year of its formation in 1934, Liberty (or the National Council of Civil Liberties as it was then called) had despatched a Special Commission of Inquiry to Belfast to investigate the impact of this Act. We were also involved in establishing the Northern Ireland Civil Rights Association in the early 1960s. Throughout its history, Liberty has consistently expressed concerns about human rights abuses in Northern Ireland and the suspension of civil and political freedoms.

These human rights problems which lie at the heart of the conflict are not new: indeed they pre-date the current 'Troubles'. We recognise, of course, the extraordinary circumstances of the situation in Northern Ireland, particularly since 1969. Human rights are always vulnerable during periods of violent conflict. But it is precisely during such times that it is more important than ever than non-governmental organisations rigorously defend human rights standards and the rule of law. The fight to suppress acts of violence carries its own dangers: human rights like the truth are frequently the first casualty of war.

Recent challenges at the European Court of Human Rights to the legality of the lengthy detention of suspects under the Prevention of Terrorism Act demonstrate just one of the ways in which human rights problems arising from the conflict in Northern Ireland are being subjected to international scrutiny. This is part of an international trend where the protection and promotion of human rights is a concern that is increasingly dominating international affairs. It should not be forgotten that the United Nations was created primarily as a body for protecting universal human rights.

An indication of Liberty's interest in applying international standards led to the holding of the Human Rights Assembly in London in April 1992. The event was jointly-organised by a number of groups present in the conference today. The report (**Broken Covenants** now published, and available from **Liberty**) will represent the most comprehensive assessment of the UK government's practice in the human rights field in Northern Ireland. All the information that NGO's have worked so hard to compile will be placed before appropriate UN bodies.

Of course, though Northern Ireland remains the most compelling problem on the human rights horizon in the UK, there are many other issues where close scrutiny of the Government's actions, intentions and omissions is required. In the fields of racism, immigration, equality issues concerning gender and sexual orientation, the activities of the secret services, moves towards closer European integration and constant calls for tougher powers for the police and the courts, the atmosphere for human rights work remains cold and bracing. The networking and mutual support that has been palpable at this meeting will be important as ICCL, CAJ, SCCL and Liberty seek to work together more closely.

The strict observance of human rights is a key element in achieving a peaceful settlement to conflict. It is also a basic ingredient for a vibrant, pluralist and participative democracy. In the pursuit of both these ends, this conference has done nothing but good.

Statement from SCCL

Alan Miller, Chair of the Scottish Council for Civil Liberties, then addressed the conference.

Greetings from the SCCL. It has been good to be here and SCCL welcomes the fact that the conference has been organised and that there is such a large attendance. I want to focus on the campaign which SCCL has established for a Bill of Rights for Scotland.

On 8th February 1992, SCCL successfully launched its proposed Bill of Rights for Scotland at a packed public meeting. Representatives from the Scottish Constitutional Convention, the Scottish Liberal Democrats, the Council of Scottish Labour Authorities, the Scottish National Party and the Green Party attended.

The practical point of democracy and rights is to give people the means to find solutions to their problems and to enable society to progress. A Bill of Rights for Scotland, entrenched in a Scottish Parliament, is a vital part of the process of constitutional reform and strengthening of Scottish democracy. SCCL's Bill advances clear principles and rights drawn from both prevailing interntional law and Scots traditions and values and makes an important contribution to the growing movement for constitutional reform in Scotland. The issue raised therefore by SCCL's Bill is the transfer of power from Parliament to the people of Scotland, the replacement of the existing British (i.e. English) constitutional principle of "absolute sovereignty of Parliament" with the Scots tradition of constitutional principle of "limited government" or "popular sovereignty".

As a constitutional guarantee and protection of people's fundamental rights and freedoms, a Bill of Rights sets out, as well as rights, the duties of everyone to respect the rights and freedoms of others and the interest of the society as a whole. It furthermore places limits on the exercise of power by the state.

The prospects of a UK Bill of Rights are bleak. Incorporation by the UK of the European Convention on Human Rights is unlikely and would, in any event, be inadequate. Consequently Scots are denied rights enjoyed by the citizens of every other member of the Council of Europe. The growing constitional crisis in Scotland has placed a Scottish Bill of Rights firmly on the agenda. There is broad support within Scotland across the political spectrum. The central issue, however, is that the form and content of democracy and rights are determined from below, from the people themselves in accordance with their own interests, values and traditions. A Bill of Rights for Scotland then is a vital part of constitutional reform an absolutely essential step towards obtaining a real democracy.

The Preamble of SCCL's Bill states:

> *"This Bill is based upon clear principles derived from two sources - prevailing international norms (European Convention on Human Rights 1953, the International Covenant of Civil and Political Rights 1966 and the European Parliament Declaration of Fundamental Rights and Freedoms 1989) and our own national tradition and*

present day values."

The primary intent of the Bill is to enable the fullest participation of the people of Scotland in the governing of their affairs in order that their interests be properly served and the society as a whole progress. This is considered to be the essence of democracy.

This Bill recognises and follows the Scots constitutional principle and tradition of what may be termed as "popular sovereignty" or "limited government". It notes the statement of Lord President Cooper that:

> *"The principle of unlimited sovereignty of Parliament is a distinctively English principle which has no counterpart in Scottish constitutional law".*

Accordingly, resting on the conviction that the fundamental rights of the people are inviolable, this Bill is to be entrenched by the Parliament of Scotland. All other laws shall obtain their legitimacy only insofar as they respect the rights and duties of the people as contained within the Articles of this Bill. These may be amended only by means of a two-thirds majority vote in the Parliament of Scotland or by a national referendum.

It is SCCL's contention that an individual's rights is essentially a right to personality and the indvidual's personality, rights and freedoms are dependent not upon the grant of the state but upon the enjoyment of such rights by the community as a whole. The extent of an individual's freedom is governed not by grant of the state but by the extent of freedom and emancipation of the people and society as a whole. The Bill, therefore, provides not only individual rights but also duties to respect the rights and freedoms of others and the interests of the society as a whole.

This understanding of the individual as a person not standing on his or her own but in the community also recognises the fundamental right to that agreed minimum level of social and material provision necessary to the individual's exercise of political and civil rights contained herein and full participation in society. This Bill, therefore, provides certain enforceable, individual social and economic rights.

This proposed Bill of Rights will be respectfully presented to the Parliment of Scotland by the Scottish Council for Civil Liberties.

SCCL is now engaged in a broad consultation process identifying those areas of the Bill requiring strengthening and clarification, for example, children's rights, environmental rights, worker's rights and, of course, accountability of the judiciary. Whilst this Bill will materially change the life of the nation of the people, it is not being presented as a panacea. The Bill alone is not going to solve all of the problems people have.

It is clearly, however, a vital part of any process of constitutional reform and strengthening of democracy. Its implementation is clearly dependent upon its being entrenched in a Scottish parliament and if a new democratic culture is to develop in Scotland, its Parliament itself must clearly have democratic working procedures and there must be electoral law reform. The exercise of political and civil rights contained within our Bill in conjunction with other constitutional reform would at least enable the people to put on the agenda the issue of looking for solutions to such problems. That alone represents a much-needed and real advance towards obtaining genuine democracy. We therefore call upon all circles concerned with the state of our democracy to study our proposed Bill and join with us to ensure that such a Bill is entrenched by any Scottish Parliament that is established.

Conclusion

Angela Hegarty

One of the most positive things to emerge from out of a very busy day and a very successful conference was the degree of interest in and commitment to civil liberties which was demonstrated. The sheer number of people who turned up and the diversity of interests which they represented was heartening. The unmistakable message from the conference was that despite our differences there is a civil liberties constituency in Ireland, north and south. We are regularly reminded, often brutally, of the many quarrels on this island: it is encouraging to see that there are some things which have the power to unite so many of us.

It was clear too from the conference that there is much work to be done: primarily to develop that civil liberties constituency and create a human rights culture in Ireland, not least because of the existence of emergency powers in both jurisdictions which have so corroded peoples' lives. All too often we have seen the military-security agenda followed, without question and with scant opportunity to advocate change. In the North in particular "emergency" powers have become more draconian over the years as the safeguards have diminished. Those of us who believe in human rights have an obligation to stand up for those beliefs and to continue to pressurise for at least the minima of the international human rights standards to be applied on this island.

It is apparent from the conference that there is both a demand for co-ordinated action on the civil liberties front in Ireland and a resource of activism and expertise available to carry out that action. Whilst some of the issues may differ the major concerns-the effect of emergency laws, the erosion of international human rights standards and the deprivation of fundamental freedoms-are the same. We also have an obligation to take an interest in each other's agenda and leave behind the insularity which has marked the past. Human rights abuses are wrong regardless of whether they take place in Castlereagh or the Bridewell, in Belfast, Galway, Derry or Dublin and the more attention we can focus on that point, the better.

We also have an obligation to remember that the reason that all of us are involved in this work is because human rights abuses happen to people. It is often easy to get caught up in the rhetoric of injustice and forget the victims, forget that these events happen to individual men, women and children. We were forcibly and movingly reminded of that when first

Judith Ward and then Bernard Kane spoke at the morning session.

We are often told that anger is a negative emotion, that we should be detached and dispassionate. Whilst it is important to be calm and impartial we should not forget that anger is sometimes justified and that it is a powerful motivator. If it had not been for the anger of many the Birmingham Six and the Guildford Four would still be in prison and many others with them. We need to stay angry at all the human rights abuses in these islands, stay angry until harassment ends, until emergency laws are revoked, until people like Bernard Kane's son Pat are out of prison. And the more work we can do together, the more conferences and meetings we organise, the more cases we highlight, the more issues we take up together, the sooner that will happen.

List of CAJ Publications

No. 1 The **Administration of Justice in Northern Ireland:** the proceedings of a conference held in Belfast on June 13th, 1981 (no longer in print)
No. 2 **Emergency Laws in Northern Ireland:** a conference report, 1982 (no longer in print).
No. 3 **Complaints Against the Police in Northern Ireland,** 1982. (price £0.50)
No. 4 **Procedures for handling complaints against the Police,** 1983 (updated by pamphlet No.16).
No. 5 **Emergency Laws: suggestions for reform in Northern Ireland,** 1983 (photocopy available).
No. 6 **Consultation between the police and the public,** 1985.
No. 7 **Ways of protecting minority rights in Northern Ireland,** 1985 (price £1.00)
No. 8 **Plastic Bullets and the Law,** 1985 (updated by pamphlet No. 15)
No. 9 **"The Blessings of Liberty":** An American Perspective on a Bill of Rights for Northern Ireland, 1986 (price £1.50)
No. 10 **The Stalker Affair: More questions than answers,** 1988 (price £1.50)
No. 11 **Police Accountability in Northern Ireland,** 1988 (price £2.00)
No. 12 **Life Sentence and SOSP Prisoners in Northern Ireland,** 1989 (price £1.50)
No. 13 **Debt - An Emergency Situation?** A history of the Payments for Debt Act in Northern Ireland and its effects on public employees and people on state benefits, 1989 (price £2.00)
No. 14 **Lay Visitors to Police Stations in Northern Ireland,** 1990 (price £2.00).
No. 15 **Plastic Bullets and the Law,** 1990 (price £2.00)
No. 16 **Cause for Complaint:** The system for dealing with complaints against the police in Northern Ireland, 1990 (price £2.00)
No. 17 **Making Rights Count.** Includes a proposed Bill of Rights for Northern Ireland, 1990 (price £3.00)
No. 18 **Inquests and Disputed Killings in Northern Ireland,** 1992 (price £3.50)
No. 19 **The Casement Trials:** A Case Study on the Right to a Fair Trial in Northern Ireland, 1992 (price £3.00)
No. 20 **Racism in Northern Ireland:** The need for legislation to combat racial discrimination in Northern Ireland, the proceedings of a CAJ conference held on 30th November 1992, 1992 (price £3.00)
No. 21 **A Bill of Rights for Northern Ireland,** 1993 (price £2.00)
No. 22 **Staid agus Stadas Gaeilge i dTuaisceart na hEireann** - The Irish Language in Northern Ireland: The UK Government's approach to the Irish Language in light of the European Charter for Regional or Minority Languages, 1993 (price £3.50/IR£3.50).
No. 23 **A Fresh look at Complaints against the Police,** 1993 (price £3.50/IR£3.50)
No. 24 **Adding Insult to Injury?** Allegations of Harassment and the use of Lethal Force by the Security Forces in Northern Ireland, 1994 (price £3.50/IR£3.50).

A briefing paper on the Northern Ireland (Emergency Provisions) Bill, 1991 (price £3.00).

Human Rights in Northern Ireland: A submission to the United Nations Human Rights Committee, 1991 (price £1.50)

Submission to the United Nations Committee Against Torture, November 1991 (price £1.50)

Submission to the Royal Commission on Criminal Justice, November 1991 (price £1.50)

Submission to United Nations Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, August 1992, August 1993 and August 1994 (price £1.00 each).

Submission to Initiative '92, January 1993 (price £1.50)

Allegations of Psychological ill-treatment of Detainees held under Emergency Legislation in Northern Ireland, February 1993, (price £2.00).

Submission to the Central Community Relations Unit on Race Relations in Northern Ireland, March 1993 (price £3.00)

Submission to the United Nations Committee on the Elimination of Racial Discrimination, August 1993 (price £1.50)

Civil liberties in Northern Ireland: The CAJ Handbook (2nd edition), June 1993 (price £6.00)

Combating Racist Harassment in Northern Ireland: A joint submission by the Chinese Welfare Association, CAJ and the Northern Ireland Council for Travelling People to the Home Affairs Committee Inquiry into Racial Attacks and Harassment, June 1993 (price £2.00).

Submission to the United Nations Committee on the Rights of the Child, August 1994 (price £3.00)

All CAJ publications are available from the office:

C.A.J.
45/47 Donegall St
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List of ICCL Publications

Report of Child Sexual Abuse Working Party [1988] (price IR£2.00)

Equality Now for Lesbians and Gay Men [1990] (price IR£2.00)

Know Your Rights (as an Irish Citizen) [1992] (price IR£2.50)

Submission on Abortion and the Referenda [Oct. 1992] (price IR£3.00)

Police Interrogation Endangers the Innocent [1993] (price IR£5.50)

Submission to the Interdepartmental Committee on non-Irish Nations [August 1993] (price IR£3.00)

Submission to UN Human Rights Committee on the First Report by Ireland under the International Covenant on Civil and Political Rights [1993] (price IR£3.00)

Commentary on the Public Order Bill [1993] (price IR£3.00)

Anti-Racist Law and the Travellers (with the Irish Travellers Movement and DTEDG) (1993) (price IR£5.50)

Submission to the Lord Mayor's Commission on Crime [1993] (price IR£2.00)

"A Free Media is the Lifeblood of Democracy" - Submission on Section 31 [March 1993] (price IR£3.00)

The above publications are available from: **ICCL Offices,**
35-36 Arran Quay,
Dublin 7.

The Irish Council for Civil Liberties/Comhairle um Chearta an Duine (ICCL)

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