Committee on the Administration of Justice

(affiliate of the International Federation of Human Rights)

A Submission to Initiative '92 from the Committee on the Administration of Justice (CAJ)

11th January 1993

The Committee on the Administration of Justice, founded in 1981, is an independent organisation which monitors civil liberties issues, provides information to the public and campaigns for change in the administration of justice in Northern Ireland. Its membership is drawn from all sections of the community in Northern Ireland and includes lawyers, academics, community activists, unemployed people, trade unionists and students. The Committee takes the view that abuses of civil liberties are wrong in themselves but that they also fuel the conflict in Northern Ireland. The Committee is firmly opposed to the use of violence to achieve political ends in Northern Ireland and takes no position on the constitutional question. In making this submission CAJ wishes to make it clear that it is only concerned with ensuring greater protection for human rights.

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Introduction - Why the protection of Human Rights is vital to progress.

The Committee on the Administration of Justice is strongly of the view that whatever form political progress takes in respect of Northern Ireland protection of human rights must be an essential element of it. There can be no progress if human rights continue to be abused and we would argue that ensuring the protection of human rights would in itself be an important element of progress.

There are a number of reasons why we come to this conclusion. For a start whatever the constitutional future of this part of the world, a matter on which CAJ takes no position, it is likely to be a future within the structures of the Council of Europe and the United Nations. It is likely to be a future in which any government responsible for this area remains obligated to comply with the requirements of the European Convention on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, and remains a party to the Conference on Security and Cooperation in Europe. These are all commitments made by both the current United Kingdom and Irish governments and there is little likelihood that such commitments will change. Though the United Kingdom government has in the past considered ignoring such commitments, notably in the institution of interrogation techniques in 1971 which clearly amounted to behaviour prohibited by Article 3 of the European Convention's ban on torture, inhuman or degrading treatment, it is now accepted that there should be compliance with such international instruments - even if we would often take issue with what the government regards as compliance. To put it simply to dispense with a commitment to maintaining human rights is now impossible if a state wishes to remain part of the international community.

In addition to being a necessary international commitment we feel that there are strong reasons relating to the circumstances of Northern Ireland for advocating a vigorous defence of human rights as a basis for social progress. At their core human rights provide a basic set of elements for the maintenance of human dignity. They mark a limit on what can be taken away if human beings are to retain their dignity and a society its sense of being a community - however divided - rather than a battlefield. Human rights, if properly protected, can help to mark those limits. If people can feel that, no matter what happens as regards the constitutional position, they will be free from arbitrary arrest, detention or excessive force, that they have equal access to economic resources, that they have effective means of complaining about mistreatment and that they will be free to practise their religion and culture they may be more willing to consider openly the political options available.

If this argument seems somewhat speculative its converse can hardly be contested. Significant violations of human rights in Northern Ireland have not produced peace, far from it. Perhaps the most graphic example of this came with one of the most serious invasions of human rights. The introduction of internment in 1971 was one measure which was acknowledged to violate human rights but was hoped to put an end to violence. In the seven months of 1971 before it was introduced 34 people had died as a result of violence related to the political conflict, in the remaining five months of that year there were 147 deaths. More recently the introduction of a range of security measures in October of 1988 - including the media ban, the curtailment of the right to remain silent and a lessening on the availability of remission for those convicted of paramilitary related offences - was also designed to reduce violence at a cost to citizens rights. Yet while those rights were curtailed the level of violence has actually risen since 1988. On a more day to day level the involvement of many young people with paramilitary organisations can at least in part be traced to

the personal experience, or the experience of relatives, of harassment or mistreatment by the security forces.

These observations are not meant to condone or excuse those who have sought to achieve their objectives by violent means. Those who have done so have inflicted considerable misery and suffering on many people in Northern Ireland and CAJ has always opposed the use of violence for political ends. They do however indicate that if we want to move beyond condemnation of violence to finding ways of preventing it then continuing to tolerate violations of human rights is not the path to take. We already have evidence that measures which better protect human rights will not lead to an increase in fear and threat. One example is the more liberal policy adopted towards life sentence prisoners in response to pressure by relatives groups, politicians and civil liberties campaigners. Those sentenced to life in Northern Ireland now arguably enjoy more generous arrangements for home leave and release than life sentence prisoners in England and Wales. Yet those released have not returned to paramilitary units, indeed as far as we are aware only one of those released after life sentences has been subsequently convicted of paramilitary offences. (In this case the convicted man alleges a miscarriage of justice.) Hence the claims for better protection of human rights as an essential element of progress are clear. Rather than placing human rights concerns in opposition to better law enforcement human rights should be seen as an aspect of it. Without effective enforcement of the law against those who break it society can descend into vigilantism where the rights of none are safe. Without respect for human rights law enforcement becomes an engine of oppression and itself the cause of further conflict and deprivation of rights.

In the sections that follow CAJ details some of the most significant areas where we believe that human rights are not being respected in Northern Ireland and outlines the type of measures which we feel are necessary to rectify this situation. A number of basic principles inform these proposals. These are the need for impartiality, openness, accountability and the use of minimum force. Impartiality means that the laws are enforced equally with regard to all. There shall be no favouring of one community over another or of the agents of the state over other citizens. Openness means that those who take decisions which bear on human rights issues in Northern Ireland are accountable for their actions, that citizens have a right to know the truth in relation to such actions and that effective remedies are available when human rights are abused. Accountability means that those responsible for abuses are appropriately dealt with and held to account for their actions. Minimum force means that even in the difficult circumstances of Northern Ireland any measures taken by the state to meet a threat posed to the lives and safety of citizens should be the least restrictive possible, the least damaging to maintaining the rights of citizens.

One way of giving concrete effect to these principles, principles which underlie the basic international human rights commitments referred to earlier, would be to enact a Bill of Rights which would affect Northern Ireland, something which CAJ has long argued for. This is a proposal which has widespread support among politicians and community groups in Northern Ireland. A ready model in the European Convention on Human Rights is available and this model is one to which both the United Kingdom and the Republic of Ireland are parties. At the very least such a measure should be enacted with respect to Northern Ireland though an even more desirable step would be the incorporation of the Convention into the law of both the United Kingdom and Ireland. A Bill of Rights would provide a way of measuring the state's commitment to the protection of human rights and a way of making the state accountable when they were breached. It would provide a public forum for debate on what respecting human rights means in Northern Ireland and a way of checking legislation which is currently rushed through with little parliamentary debate. It would offer a great opportunity to educate all in Northern Ireland on what human rights we have and should protect.

Ultimately the knowledge and acceptance by all of the rights we have in common may be the most important guarantor of their protection.

Discrimination and Equality

CAJ is strongly committed to equality as a basic principle of our society and to the elimination of discrimination as a primary objective of government. The prevention of discrimination and the protection of equality is a fundamental aspect of all the international human rights treaties that we feel any government in Northern Ireland should uphold. We feel that if, as we recommend, a Bill of Rights were created then an equality clause would be a basic aspect of it.

Any such Bill of Rights would help tackle what may be seen as a major "equality deficit" in the legislation affecting Northern Ireland. While legislation currently exists to prohibit discrimination on grounds of sex and religion there is no equality law relating to race, disability or sexual orientation. As we have argued in our Pamphlet number 20, on race discrimination in Northern Ireland (enclosed), the failure to extend the Race Relations Act to Northern Ireland, or to provide equivalent legislation, is a disgraceful evasion by the government of its international obligations and weakens its commitment to the principle of equality in other areas. This should be rectified and the opportunity should also be taken to provide protection against discrimination on grounds of disability and sexual orientation.

As regards those areas where legal regulation already exists we welcomed the strenthening of the law against religious discrimination with the passing of the Fair Employment Act 1989. However when the legislation was being debated we expressed some reservations about its content in our briefing paper on the Fair Employment Act (see enclosed). These related especially to the absence of damages for findings of indirect discrimination, the lack of legal aid for individual claims of discrimination and the convoluted nature of the provisions on contract compliance and affirmative action. We have seen nothing so far that leads us to alter our views on these issues. We would also endorse the recommendations made in the Standing Advisory Commission on Human Rights' Second Report on Religious Discrimination and Equality of Opportunity in Northern Ireland that legislation preventing discrimination in the provision of goods and services on grounds or religion or political belief be passed. The current position is anomalous whereby such provisions exist as regards sex discrimination but not religious discrimination. As referred to earlier an equality provision in a Bill of Rights could make a valuable contribution regarding religious discrimination by ensuring that all public decisions could be scrutinised for their impact on equality. Such a provision could make a vital contribution to the development of equality and trust in Northern Ireland by providing a means of challenging allocations of public resources that are believed to have resulted from discrimination or prejudice. Such problems have long troubled this part of the world. The suggestions in the Standing Advisory Commission's report that minority rights, in the area of culture particularly, may have a role to play is also worth further exploration.

In the area of sex discrimination we feel that the law here should at least be brought into line with that on religious discrimination as regards such matters as monitoring, investigation powers of the Commission and remedies on a finding of discrimination. We would also urge full compliance with European Community Law on sex equality.

Prisons

Prisons are a vital area for human rights concerns in any society. As those who are in the total power of the state, and are often the most despised in society, how we treat prisoners sets the base line for how we treat everyone else. In Northern Ireland prisoners' rights have acquired a particular importance as what goes on in the prisons both mirrors and is often a catalyst for what happens in the wider society. The hunger strike of 1981 and the increased tension and conflict arising from it in the wider community show what can happen when problems in the prisons are not resolved on the basis of respect for the rights and responsibilities of prisoners.

Much has been learnt on all sides since the 1981 hunger strike and in the area of release and home leave for life sentence prisoners we feel that a more humane approach has been shown (although we are disturbed by recent refusals by the Secretary of State to give effect to Life Sentence Review Board release recommendations) in the past few years and that this has been to the benefit of all. In no small part such a change has been influenced by the campaigning of relatives, prison welfare and human rights groups and shows the important role that such campaigning can play.

However it is disturbing to report that one still cannot speak accurately of prisoners' rights for domestic law does not recognise prisoners as having enforceable legal rights, only certain limited entitlements against arbitrary treatment. Without such a clear code of rights it is not surprising that disputes in prison can escalate as neither prisoners nor prison staff know clearly what is and is not permitted. Without a clear code of rights, abuses and mistreatment can occur much more easily, through neglect as well as malice.

The proposed redrafting of the Prison Rules offers an excellent opportunity to rectify this situation. We recommend that it should give prisoners minimum rights to adequate conditions, visits, correspondence, medical care, education and protection against arbitary searches. It should also ensure an adequate complaints mechanism, including an independent element with power to overrule the prison administation where prisoners' rights have been violated. As outlined in our submission to Viscount Colville's inquiry (enclosed) into the situation in Crumlin Road jail in December 1991 we believe that issues of safe conditions in the jail for both staff and prisoners should take priority over abstract notions of segregation or integration.

The Committee remains concerned about the practice of strip-searching and was particularly disturbed by the mass strip-search of women at Maghaberry Prison in March 1992.

Throughout our work on prisons CAJ has emphasised that the interests of prisoners families must also be taken into account, they too serve the sentence despite not having been convicted of any crime. In two areas in particular we have urged changes in order to lessen the impact of imprisonment on the prisoner's family, those of the release procedures for life sentence and SOSP prisoners (see CAJ Pamphlet no. 12) and that of the transfer of Northern Irish prisoners back from English prisons to serve their sentences closer to their families (on which we have worked with NIACRO, ICPO and NAPO, see the enclosed Transfer of Prisoners Report). In both we have seen some lessening of the restrictions against which we have worked and welcome the steps that the government has taken. However in the area of life sentence prisoners the recent overturning by the Secretary of State of Life Sentence Review Board release recommendations, without the giving of any adequate reasons, has demonstrated the wisdom of our recommendation of a more independent element in release decisions. As regards transfer, the recent inter-departmental review report seems to indicate that at least temporary transfers should be more regularly available than in the past. However if

these do not become permanent a whole new set of problems may arise and we will be watching the operation of the new policy closely to see if change, more sensitive to the needs of prisoners and their families, actually occurs.

Policing

CAJ believes that changes to the policing system designed to introduce openness, impartiality and accountability are essential in Northern Ireland. The most recent figures, discussed in **Social Attitudes in Northern Ireland**, show a marked distinction between, on the one hand, unionist and Protestant opinion of the police and, on the other, nationalist and Catholic opinion.

The changes must be designed to make the police more accountable to the people who live in Northern Ireland. In our Pamphlet No. 11(see enclosed) we make a series of recommendations aimed at achieving this. We propose placing statutory duties on a new Police Authority to establish policing policies and priorities and to ensure that they are carried out. We want the new Authority more actively to cultivate good relationships with an informed public and to publish pamphlets explaining the policies it has adopted and the reasons behind them. The members of the Police Authority should be full-time and there should be a detailed contract of services drawn up between the Authority and the Chief Constable. In cases of dispute between the Chief Constable and the Authority over the power to make decisions, the Secretary of State should exercise an appellate function, with the possibility of a further appeal in appropriate cases to a Select Committee of the House of Commons.

In our Pamphlet No. 4, shortly to be updated with extensive reference to practice in other jurisdictions (particularly in North America and Australasia), and in Pamphlet No. 16 (enclosed) we argue that completely independent persons should be appointed to investigate complaints against police officers. We suggest that the office of the Commissioner for Complaints could be given this task. (Since the formation of the Independent Commission for Police Complaints in 1988, not one of the 1,019 allegations of assault made by persons arrested under the emergency laws has been substantiated after a police investigation.) To encourage complainants to co-operate with investigations, legislation should provide that statements made during the course of any such investigation cannot be used in any capacity in a civil or criminal case arising out of the same incident as that complained about.

In all cases where firearms used by police officers cause injury or death in Northern Ireland there should be an immediate investigation by a senior police officer from another force. This is apparently the practice in all parts of the United Kingdom except Northern Ireland.

We were to the fore in recommending the introduction of a lay visitors scheme for police stations in Northern Ireland (see our Pamphlet No. 14 which is enclosed), so we were gratified at the establishment of such a scheme in April 1991. However we always envisaged that the scheme would apply to the three holding centres in Northern Ireland. We are extremely disappointed that the Government has not seen fit to so extend it. We are sceptical of the official plan for an Independent Commissioner who would have the power to visit the holding centres. The present lay visitors could and should perform this role and could be far more effective.

As we explain in Pamphlet No. 6, we wish to see more meaningful powers given to the Police Community Liaison Committees.

Our views on the powers of the police, and on their use of plastic bullets, are mentioned elsewhere in this submission.

Bill of Rights

As mentioned above CAJ has actively campaigned for the introduction of a Bill of Rights since 1984. At present people in Northern Ireland do not enjoy legal protection for many liberties which people in most other countries take for granted. Issues of justice and rights have been central to much of the conflict here and if left unaddressed they will continue to feed the conflict. A Bill of Rights offers no panacea for all the ills of Northern Ireland. Instead it represents a single but important step to the peaceful resolution of the conflict here.

All the political parties in Northern Ireland with the exception of the Conservative Party have stated their support for a Bill of Rights. CAJ believes that whatever political arrangements apply to the area of Northern Ireland human rights and civil liberties should be protected. Respect for human rights is not an optional extra but rather an absolute pre-requisite for a peaceful society. As such a Bill of Rights is a key element in building such a society and represents society's recognition of the fundamental equality of all its members. It demands from the government respect for the dignity of all persons.

The Committee's views on a Bill of Rights together with a draft Bill modelled on the European Convention on Human Rights are contained in "Making Rights Count", CAJ Pamphlet No. 17 which is enclosed.

Lethal Force

CAJ continues to be concerned about the use of excessive and lethal force by members of the security forces in Northern Ireland. The lack of accountability for such use is, a serious problem for the legal system and public confidence in that system. We believe that it is essential to demonstrate that those who enforce the law are equally accountable to it.

Since 1969 over 350 people have been killed by members of the security forces in Northern Ireland, many in disputed circumstances. Criminal prosecutions have only been successful in two of the prosecutions brought. We are aware that prosecutions are pending in a number of recent cases, but feel that the Northern Irish investigative processes are fundamentally flawed, and in contravention of internationally recognised principles. As such they fail to ensure an adequate protection for life in the jurisdiction.

A more fundamental issue involves allegations that the authorities operate **a practice, if not actually a policy of shoot-to-kill**. Between 1982 and 1985, 23 individuals were shot dead by the security forces in covert operations. John Stalker, Deputy Chief Constable of Greater Manchester who

conducted an inquiry into six killings in County Armagh within a month of each other in 1982 concluded: "The killings had a common feature: each left a strong impression that a type of pre-planned police ambush had occurred, and that someone had led these men to their deaths. The circumstances of those killings pointed to a police inclination, if not a policy, to shoot suspects dead without warning rather than to arrest them." Political assassinations are specifically prohibited under the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Execution. It is worth noting that the U.N. Principles on Summary Execution state: "Exceptional circumstances including a state of war, internal political instability or any other public emergency may not be invoked as a justification of such executions."

CAJ feels that a number of inter-related issues in this area need to be addressed as a matter of urgency. The first concerns the inquest process. In our Pamphlet No. 18 (enclosed) we detail the decline of the inquest in Northern Ireland vis-a-viz its counterpart in England and Wales. We find no substantive reasons to maintain such distinctions. Inquests are crucial to the investigation of disputed killings in Northern Ireland because so few criminal prosecutions are initiated, and many civil cases for compensation often only result in a financial payment which is settled out of court. As a result the inquest provides the only public forum in which there is an attempt to explain how the death arose. CAJ's principle criticisms of the Inquest process are as follows. Firstly, the long delays involved (cases are still outstanding from 1982); secondly, the inadequacy of the enquiry (limitations on the requirement of witnesses to attend); thirdly the absence of legal aid; finally, the inadequacy of its conclusions (juries now deliver findings and not verdicts). International human rights norms oblige the state to hold meaningful enquiries into loss of life where the responsible agent is the state itself, (UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions). The inadequacy of the inquest process is simply one example of a marked lack of accountability in the investigative process as a whole. This has a serious consequential effect on public perceptions about security force accountability and the notion of equality of all before the law.

A second ongoing concern for CAJ has been the use of Plastic Bullets. In CAJ Pamphlet No. 15, (enclosed) we outlined our concern over the use of a weapon which has been one of the most controversial aspects of security force policy in Northern Ireland. Since they were first deployed in 1973 plastic bullets have been responsible for the deaths of 14 people, 7 of whom were children. CAJ strongly advocates a complete ban on the use of the weapon. We would argue that though designed to be non-lethal, in practice, it is a lethal weapon. It has not been convincingly proven that the plastic bullet is the only recourse open to the security forces for the purposes of riot control and it is particularly disturbing that such a weapon should have been responsible for deaths when no riot was taking place. Its use has provoked widespread controversy from both sides of the religious divide in Northern Ireland, and has been the subject of united opposition from trade unions, politicians, church organisations and others.

Our final area of concern is the law which governs the use of force. The basic standard is set by section 3 of the **Criminal Law Act (NI) 1967**. It is a standard which was not intended to deal with the use of force in particular, much less the state of civil disorder which currently pertains in Northern Ireland. The greatest problem with the Legal standard has arisen in its judicial application. The House of Lords in the McElhone case (**Attorney-General for Northern Ireland's Reference (No. 1 of 1975)**) has ruled that a charge of manslaughter was not permissible in cases where lethal force was intentionally used. In practice this makes it impossible to secure a conviction, as the jurisdiction does not recognise (unlike the Republic of Ireland) a charge of manslaughter where the force used was permissible but excessive in the circumstances. The failure to secure convictions adds to the sense of a lack of accountability for the use of force by members of the security forces. CAJ urges

that the law in this area be examined and brought into line with internationally recognised norms. In particular we would like to see the European Convention standard of "no more than absolutely necessary" replacing the existing standard of "reasonable in the circumanstances". If the rule of law is to hold real meaning then those who enforce the law must be held accountable for misuse of it particularly when someone has been deprived of their life. Failure to do so undermines the legal system as a whole.

Collusion

We have been increasingly concerned about the evidence of collusion between elements within the security forces and loyalist paramilitaries and the failure on the part of government to address this matter. This collusion involves either the passing of security information or more active participation in illegal activities. Such has been the concern that an inquiry into the question of collusion was instituted by the police in September 1989.

This inquiry was completed in May 1990 by Mr. Stevens, Deputy Chief Constable of Cambridgeshire in England and resulted in a large number of arrests although it failed to satisfy public concern as it concluded that "leakages of information may never be completely eliminated." Since his inquiry a number of other leakages of information have come to light. Furthermore the inquiry failed to identify a single police officer involved in the collusion. One of those arrested however was Mr. Brian Nelson. At his trial it emerged that he was working as a double agent for army intelligence and had infiltrated a loyalist paramilitary group. During this time he was involved in targetting a number of individuals who were subsequently killed. Nelson has claimed that on several occasions his army handlers were aware that these people were likely to be killed but did nothing to prevent their deaths. In spite of this no action has as yet been taken against those responsible for supervising Mr. Nelson and murder charges were dropped against him before his trial.

The Government has to date resisted calls for an inquiry into the Nelson case. Government inaction in the face of such damning evidence is a cause for major concern. The idea that security agents whose responsibility should be to preserve life have themselves been involved in the taking of life is deeply troubling and raises serious questions about the government's respect for human rights.

CAJ feels that there is an urgent need for a public inquiry into these matters followed by appropriate disciplinary action against those members of the security forces involved in the collusion. Failure to act against those responsible encourages further collusion.

Emergency Powers

There has never been any period in the history of Northern Ireland during which emergency legislation has not been in force. The 1922 Special Powers Act, which followed lines of earlier draconian laws, remained in force until it was repealed by the 1973 Emergency Provisions Act (EPA). The new legislation was, if anything, an extension of the old, since for the first time it established jury-less "Diplock" courts to try serious offences. Over the years the EPA has been

variously amended, consolidated and re-enacted, the most recent incarnation being EPA 1991. Since 1974 further emergency legislation in the shape of the Prevention of Terrorism Acts (PTA) has been in force throughout the United Kingdom. The current Act, which dates from 1989, includes powers to detain suspects for up to seven days without charge, and creates a system of internal exile by providing that persons from Northern Ireland can be "excluded" from the island of Britain.

This body of legislation has from time-to-time been the subject of the various official Reports and Reviews, but the terms of reference of virtually all of these have been deliberately drafted in a manner designed to narrow the terms of debate. Typical of this is the Baker Review (1984) which began with the proviso "Accepting that temporary emergency powers are necessary to combat sustained terrorist violence". By being barred from considering whether emergency legislation per se was actually necessary, these reviews have simply contributed to the cosy official consensus which has ensured that Northern Ireland has never been free of emergency laws. The primary assumption has always been taht emergency laws are necessary. Rights are therefore seen as contingent, as something the necessity for which must be proven. In short, there has been a reversal of the accepted values of a liberal-democratic state, and coercion-assumptions have occupied a place which should be filled with rights-assumptions.

CAJ believes that since emergency legislation by its very nature marks a departure from accepted standards, the necessity for each and every such departure must be clearly demonstrated. In addition, any such deviation must be in accordance with international human rights standards. It is our contention that the necessity for many of the powers contained in EPA 1991 and PTA 1989 has never been demonstrated, and that in several respects, this body of law fails to meet international standards. Because of this, CAJ calls for the early repeal of the legislation, believing that the ordinary law of the land is adequate. As a minimum, CAJ would like to see a thorough review by a genuinely independent body with adequate terms of reference. Only those elements of the legislation which could be shown to be (1) proportionate in their response to political violence, and (2) in accordance with international human rights standards would be retained. We are confident that little, if any, of the current legislation would survive such an examination. CAJ's detailed criticisms are contained in the attached briefings on the EPA and PTA which we prepared when the legislation was going through Parliament. As an example of our objections to the legislation, we wish to draw particular attention here to the problems surrounding the treatment of emergency detainees.

The EPA and the PTA operate in tandem to constitute the legal regime governing such detainees. As mentioned above, powers of arrest and seven-day detention are given by the PTA, while matters such as access to solicitors etc. are governed by the EPA. In addition, Codes of Conduct for the treatment of detainees are being prepared under the latter Act.

Most of those arrested under the PTA are released without charge. This suggests that many arrests are carried out not with a view to bringing charges, but rather for intelligence gathering purposes. A persistent pattern is for suspects to be arrested in the early hours of the morning, a procedure which has the effect of heightening feelings of disorientation. 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. Prisoners are generally interrogated intensively for many hours of the day, 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 scrutinized by uniformed RUC members. No recordings are made however, and it has emerged that the monitors have not always been 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. Although exact figures are unavailable, 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.

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 comon 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 forthe 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 delibertately 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"* .

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