

# Civil Liberties in Northern Ireland

*A submission to the Clinton Administration*

*From the Committee on the Administration of Justice (CAJ)*

*Belfast, Northern Ireland*

*February 1994*

## Summary of Main Points

The attached document outlines a number of issues that we believe merit attention. This is not an exhaustive list of our concerns and we will be happy to provide information on any other civil liberties issue in Northern Ireland. We are also happy to supply further material and references to support and substantiate the various points which we raise in this document. In particular we would like the Clinton administration to press the UK government on the following issues:

1. Alterations to the criminal law in Northern Ireland to ensure that it complies with the European Convention on Human Rights and that the security forces are made accountable for unlawful killings.
2. That the Inquest procedure in Northern Ireland be changed to comply with the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal Arbitrary and Summary Execution.
3. A ban on the use of plastic bullets which appear to contravene the United Nations Basic Principles on the Use of Force by Law Enforcement Officials.
4. The appointment of an outside and independent police officer to investigate killings by police in Northern Ireland and the institution of an independent public inquiry into allegations of a shoot-to-kill policy by members of the security forces in Northern Ireland.
5. The use of exclusion orders should be abandoned, as they amount to a non-judicial form of internal exile within the United Kingdom.
6. The media ban under section 29(3) of the Broadcasting Act 1981 should be abandoned as an unnecessary intrusion on freedom of expression. It stands in stark contrast to the freedom protected under the first amendment of the U.S. constitution.
7. There should be a comprehensive and independent review into the operation of the Fair Employment Act 1989 with a view to remedying deficiencies in the existing legislation and regular independent reviews of Government policy and practice in relation to fair employment.
8. The abolition of the Prevention of Terrorism Act power to detain suspects for up to seven days without charging them or bring them before a court. This means that the government would cease to derogate from the European Convention on Human Rights, as its seven day detention practices have been found to contravene fair trial provisions.
9. Detainees held under emergency legislation should be given the right to private consultation with their lawyers. This is required under the United Nations Basic Principles on the Role of the Lawyer.
10. Detainees under emergency legislation should be allowed to have their lawyers present during interrogations. This right applies in Britain but not in Northern Ireland.
11. Interrogations should be audio and video taped as recommended by the Standing Advisory Commission in Human Rights, the government's own advisory body on Human Rights. This would safeguard against ill-treatment in custody.
12. The right to remain silent should be restored in full. The current situation contravenes article 14(3)(g) of the International Covenant on Civil and Political Rights and contrasts starkly with the fifth amendment to the U.S. Constitution.
13. A radical review of emergency legislation is required. Northern Ireland has been governed by current emergency legislation for over two decades. The legislation permits

juryless courts, has altered the rules of evidence, and gives draconian powers of search, seizure and arrest. This review needs to measure emergency powers against international human rights standards.

14. An independent, public investigation is called for into allegations of collusion between loyalist paramilitaries and members of the security forces, as recommended in the Amnesty International Report of February 1994.

## Introduction

The Committee on the Administration of Justice (CAJ), is an independent organisation which monitors civil liberties issues, provides information to the public and campaigns locally, nationally and internationally for changes in the administration of justice in Northern Ireland. Our membership is drawn from all sections of the community and includes lawyers, students, community workers, trade unionists, unemployed people and academics. CAJ is affiliated to the International Federation of Human Rights which has consultative status at the United Nations.

You may remember that in January 1993 we submitted our concerns about the administration of justice in Northern Ireland to your administration. Many of these issues are up-dated in this report, and new concerns are also highlighted.

CAJ takes no position on the constitutional status of Northern Ireland and is opposed to the use of violence for political ends. **We consistently advocate that not only are abuses of civil liberties wrong in themselves but, in Northern Ireland they hinder the peaceful resolution of the conflict.** With other international human rights organisations, including Amnesty International, the Lawyers Committee on Human Rights and Helsinki Watch we have brought our concerns to government and international fora. We believe that human rights violations in Northern Ireland will only be remedied when the government adheres to the international human rights standards which it has formally accepted and ratified.

Our experience is that **human rights abuses play a central role in the conflict** in Northern Ireland. In this context the Joint Declaration issued by the British and Irish Governments on December 15th 1993 does not place the eradication of human rights abuses as a sufficient priority in the process of conflict resolution in Northern Ireland. We urge the United States Government to stress the **centrality of human rights** in ensuring a peaceful resolution to the ongoing political conflict. Unless and until these matters are properly addressed the prospects for a just and peaceful society are limited.

Again we bring to your attention a number of specific issues which we feel represent serious abuses of human rights in Northern Ireland and serve to perpetuate the conflict. Many of these have also been highlighted in the recent State Department country report on the United Kingdom. In all cases we make recommendations which will strengthen the protection of human rights. The recommendations will, we believe, create greater political accountability and judicial scrutiny, vital to the healthy functioning of society. Furthermore the measures which we propose are fundamental to any healthy and sustainable democratic society. This is not an exhaustive list of our concerns and we are happy to provide information on any other civil liberties issue in Northern Ireland. We are also able to provide further material and references and substantiate the various issues that we raise in this document.

## The use of lethal force by members of the security forces

Since 1969, the police and army in Northern Ireland have killed over 350 persons. Independent research has established that over half of the persons killed were civilians, uninvolved in any paramilitary activity. Of the remainder, many were unarmed when killed, and attempts were rarely made to arrest rather than kill them. 1993 was the first year since the troubles began that no one was killed by the police or army.

An outstanding concern in Northern Ireland is the persistent **lack of accountability** of police officers and soldiers for the use of force. Since 1969, there have been only four successful prosecutions in lethal force cases in Northern Ireland (two for murder, two for manslaughter). In one of the two murder convictions Private Ian Thain was released from a life sentence, having spent only two years and three months in prison. He is currently serving with his army

regiment. The decision not to prosecute in many cases is also subject to criticism. Since 1969 only 33 prosecutions arising out of a total of 21 incidents have been initiated. There is a clear pattern in recent years that where individuals have been killed in security operations which are pre-planned there is consistently no prosecution. The decision not to prosecute in the Pearse Jordan case in November 1993 is recent evidence of this pattern.

The problem of accountability is endemic to all the legal processes which apply to lethal force. The inquest system is characterised by delays, legislative limitations and unfair costs to the families of the deceased. Criminal prosecution decisions are decided by the Director of Public Prosecutions under statutory powers which do not require him to make public the criteria for non-prosecution.

The security forces continue to use lethal force with **virtual impunity**. The United Kingdom would appear to be in breach of the U.N. Basic Principles on the Use of Force by Law Enforcement Officials. Principle 7 states: "Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law".

Another concern is the continued use of **plastic bullets** by the security forces. 14 people (including 7 children) have been killed by these. Only one member of the security forces has ever been charged in connection with these incidents and he was acquitted. In 11 out of the 14 deaths, army and police claims that the victim was rioting have been disputed either by witnesses or by the judge or coroner conducting an inquiry into these incidents. Serious injuries were caused by police firing plastic bullets in disputed circumstances on the Shankill Road in Belfast in July 1993. Plastic bullets were introduced to Northern Ireland as non-lethal weapons. The number of deaths ensuing from their use reveal that this is not the case. Their use appears to contravene Principle 3 of the U.N. Basic Principles on the Use of Force by Law Enforcement Officials.

Allegations continue to persist as to the existence of a practice, if not a policy of **extra-judicial executions**. 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 the 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." The use of army undercover units, particularly the SAS since 1984 suggests the same pattern. Numerous incidents suggesting pre-planning and informer information have occurred. They include Loughgall (May'87), Drumnakilly (Aug'88), Coagh (June '91) and Coalisland (April '92). The use of 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 clear from these U.N. Principles that exceptional circumstances such as "war, internal political instability or any other public emergency" do not justify the use of extra-judicial executions.

In February 1994 Amnesty International renewed its call for an independent inquiry into the use of lethal force by the security forces in Northern Ireland (See **Political Killings in Northern Ireland**, Amnesty International, February 1994).

A number of options exist to remedy the lack of accountability with respect to the use of lethal force. The first is that the **domestic law needs to be adjusted to meet international legal standards**. The standard currently in place is that when the security forces use lethal force that force should be "reasonable in the circumstances". Article 2 of The European Convention on Human Rights enforces a standard of "absolutely necessary". We recommend that the domestic standard be altered to adhere to the accepted international position. Cases are currently being lodged from Northern Ireland with the European Commission which will challenge the conformity of the domestic law to European legal standards. Last year the government's own advisory body on human rights, the Standing Advisory Commission on

Human Rights, proposed that in cases involving lethal force a charge of manslaughter should be available to the prosecuting authorities. Currently this is only available for inadvertent or accidental killings.

## Freedom of Movement

Freedom of movement is one of the basic civil liberties associated with democratic societies. It is guaranteed by Article 12 of the International Covenant on Civil and Political Rights. The right to free movement has been seriously eroded in the United Kingdom by the use of **exclusion orders** made under the Prevention of Terrorism Act 1989. Exclusion orders are a form of internal exile. They can be used to prevent a citizen from leaving Northern Ireland and going to Britain or from leaving Britain and going to Northern Ireland. There is no judicial input in the decision to exclude someone, the decision is taken by a cabinet minister. There is no effective legal means to challenge the decision. Individuals who have been served with an exclusion order are not charged with any criminal offence. The basis on which the orders are made suggests that the authorities suspect that the excludee is involved in "terrorism" but that they have no evidence to support this claim.

In 1993 an exclusion order was served against John Matthews, a student from Northern Ireland. Matthews was arrested in London and charged with serious "terrorist offences". All charges were subsequently dropped but amid a storm of protest an exclusion order was served on Mr. Matthews and he was returned to Northern Ireland. Gerry Adams the President of Sinn Fein was also excluded from travelling to Britain.

CAJ is strongly of the view that **exclusion orders have no part to play in a society which claims to be democratic.**

## Freedom of Expression

Freedom of expression is a civil liberty particularly protected and respected in the United States. It is recognised as one of the fundamental political rights essential to the healthy functioning of a democratic society. The **Broadcasting Ban** which limits the ability of certain named groups to present their views continues to operate in Northern Ireland in spite of the decision by the Republic of Ireland to revoke their own broadcasting restrictions. It is a sign of a mature political society to disavow censorship and encourage openness and discussion. In the context of Northern Ireland such openness is vital. **The Broadcasting Ban should be removed.**

## Fair Employment

A quarter century after Civil Rights protests drew attention to the issue, and eighteen years after the introduction of legislation purporting to outlaw discrimination on the basis of religious and/or political belief, economic disparities between the two religious groups remain very substantial. **Catholics are still twice as likely as Protestants to be unemployed**, are over-represented in the long-term unemployed, and under-represented at managerial levels. Such continuing exclusion from equal participation in economic life constitutes a chronic failure on the part of Government to meet a duty imposed under international human rights law. It exposes the gulf between Government's public commitment to equality of opportunity and a persistent failure to bring forward adequate remedial measures, and to remove discriminatory barriers, not least in relation to the policies and practices of Government itself. Ensuring equal access to employment for the Catholic community therefore remains an essential element in the reconstruction of Northern Ireland, and failure to introduce and implement adequate measures to do so is not merely a serious violation of rights but an impediment to the just and lasting settlement which would help secure economic stability and some measure of prosperity.

In its first policy statement the Fair Employment Commission set itself the target of bringing about an equitable distribution of employment between Catholics and Protestants, and indicated that it intended to measure achievement in terms of overall change in the employment profiles of the two religious communities. Monitoring figures show a small increase in Catholic males in employment of 1.4 % over the two years since the introduction of the updated legislation, but confirm that the differential impact of unemployment meant that the target set by the Commission remains far from realisation. The Fourth Annual Report of the Fair Employment Commission published in 1993 indicated that Catholics are still not enjoying fair participation, and that the elimination of disadvantage is most difficult for those who are unemployed. This continuing difficulty for Catholics in gaining access to employment in spite of the 1989 legislation substantiates claims of **crucial and potentially fatal deficiencies in the legislation** which Government ignored before it was passed, particularly in relation to the two most important mechanisms of change, namely **affirmative action and contract compliance**.

In 1992-93 nearly £500,000 was paid on foot of individual complaints of discrimination. This demonstrates a commendable willingness to take the criminal offence of discrimination seriously, but also indicates that discrimination, often of a most blatant kind, remains a fact of life in Northern Ireland. It is a matter of particular concern that the majority of cases in this period where findings of unlawful discrimination were made involved local councils.

At the beginning of 1994 guidelines were finally introduced to ensure that Government decision-making took account of equality of opportunity on the basis of religion and political belief, as well as on other grounds. This was first promised in 1991, and is known as Policy Appraisal and Fair Treatment. The impact of this measure remains to be seen. Like the legislation it requires review and independent monitoring. It is not encouraging that no decision has been taken to publish annual reports of progress, nor that no extra resources are likely to be made available for the exercise.

Government has promised a **comprehensive review of the legislation** by the end of 1994. We find it hard to understand why responsibility for this vital exercise has been given to a unit within the Civil Service (the Central Community Relations Unit) rather than to the Standing Advisory Commission on Human Rights, which is independent of Government, has a statutory responsibility in the area, and has gained respect through its report on the matter which paved the way for the 1989 legislation. Failure to submit the effectiveness of the legislation to **independent scrutiny** undermines the credibility of the Government, prejudices future progress and further delays the realisation of that equality which is the only secure foundation for a just society and a healthy economic life in which all have a share, and therefore all have a stake.

## Fair Trial

The issue of fair trial is central to the working of the legal framework in Northern Ireland. There are well-documented concerns both domestically and internationally about the trial process, which must be addressed to ensure that the highest standards of justice apply throughout the legal system in Northern Ireland.

**Extended detention** is a feature of many arrests under the emergency powers. The United Kingdom has derogated from the European Convention on Human Rights and the International Covenant on Civil and Political Rights, in order to continue to retain the power to detain people for up to seven days without bringing them before a court. In the majority of cases individuals are not charged with an offence but are released after several days of questioning. Detention appears to serve more as an information gathering power rather than as a due process mechanism. Arrests under this seven day power can be kept secret for the first two days which amounts to **incommunicado detention**. Detainees can be denied access to their lawyers for the first 48 hours of detention and can be further denied access for 48 hour intervals thereafter. This practice has also extended to minors in detention. There is

**no right for detainees to consult with their lawyers in private.** This is in direct contravention of Principle 8 of the United Nations Basic Principles on the Role of Lawyers. Suspects should be given the right to consult with their lawyers in private and lawyers should be allowed to be present during interrogations of their clients as is the case for people arrested under the Prevention of Terrorism Act in Britain and under ordinary law throughout the United Kingdom.

There have been persistent **allegations that detainees have been ill-treated.** In 1978 the European Court of Human Rights found in the case of Ireland v United Kingdom that the United Kingdom was subjecting detainees to inhuman and degrading treatment in Northern Ireland. In November 1991, the United Nations Committee Against Torture again examined the issue of ill-treatment. It concluded that the United Kingdom was failing to fulfil its obligations to prevent torture and ill-treatment. In August 1993 the European Committee for the Prevention of Torture made an ad hoc visit to Northern Ireland to look at the situation of detainees. It has only made similar ad hoc visits to Turkey. The report on its visit is awaited.

Currently there are **no video or audio recordings of interrogations.** The only safeguard in place is the provision for a police officer to observe the interview via a silent, non-recording monitor. In the past it has emerged that these are not always watched. The United Kingdom has consistently rejected calls for the introduction of audio and video recording of interviews even though it would protect both detainees from ill-treatment and the police from false accusations. In response to international and domestic criticism the government appointed an independent commissioner with powers to visit detention centres. He cannot be there all the time and the problem of an independent record of events still remains. CAJ received renewed allegations of ill-treatment in January 1994.

The detainee's rights have been further eroded by the **abrogation of the right to remain silent.** This point has been acknowledged in the recent State Department Country Report on the United Kingdom. The law as it stands would appear to contravene Article 14(3)(g) of the International Covenant on Civil and Political Rights. It is also in stark contrast to the 5th Amendment of the United States Constitution. It is disturbing that the government is currently considering introducing a similar attack on the right to remain silent in England and Wales.

**Jury trial has been abolished** in Northern Ireland for a wide category of offences. In addition the rules governing the admissibility of confessions have been relaxed under the emergency code. The authorities reliance on supposedly temporary emergency powers is an indication of the way in which even wider powers for the police, army and the courts has become normative. The time is now overdue for a **thoroughgoing review into the operation and repercussions of this unhealthy approach.**

An issue of particular concern is the **intimidation of defence lawyers** in Northern Ireland by members of the security forces. Defence lawyers are indispensable to the normal functioning of any legal system. In Northern Ireland defence lawyers are not only prevented from functioning effectively within the legal framework but are subject to harassment and abuse. The International Commission for Jurists found in its 1992-1993 report that some 39 lawyers had been subjected to abuse or threats from police officers. At the 1993 session of the United Nations Sub-Commission on Human Rights the independent expert from the United Kingdom, Dr. Palley, raised her concerns about the matter and called for an independent inquiry. She suggested that the police justification for non-investigation of such threats was insubstantial. The Lawyers Committee for Human Rights have in particular called for an inquiry into the **1989 killing of defence lawyer Patrick Finucane.** There is strong evidence of official collusion in Mr. Finucane's death. In their report **Political Killings in Northern Ireland** Amnesty International calls on the government to establish such an inquiry. CAJ is disappointed that the government has not responded positively to these calls.



## Collusion

There is continuing concern about collusion between elements within the security forces and loyalist paramilitaries and the **failure of the government to adequately address the issue**. Collusion involves either the passing of security information or more direct participation in illegal activities. The 1990 inquiry by police officer John Stevens failed to identify those inside the security forces involved in collusion. We understand that as a result of further public concern Mr. Stevens has been again investigating allegations of collusion. As yet the outcome of these investigations is not known.

The Amnesty International Report of February 1994 documents numerous instances which demonstrate collusion. Sadly the government's response to this report and previous concerns has been either to question the bona fides of those preparing the reports or to seek to suggest that because paramilitaries abuse people's rights then somehow government's abuses are insignificant. Such a response leaves the problem unaddressed and serves only to fuel public concern and distrust of those who are meant to enforce the law. There is clearly **a need for a wide ranging independent inquiry** into these matters followed by firm action against those members of the security forces involved in collusion.

For further information

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13. A radical review of emergency legislation is required. Northern Ireland has been governed by current emergency legislation for over two decades. The legislation permits

juryless courts, has altered the rules of evidence, and gives draconian powers of search, seizure and arrest. This review needs to measure emergency powers against international human rights standards.

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## Freedom of Movement

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## Fair Employment

A quarter century after Civil Rights protests drew attention to the issue, and eighteen years after the introduction of legislation purporting to outlaw discrimination on the basis of religious and/or political belief, economic disparities between the two religious groups remain very substantial. **Catholics are still twice as likely as Protestants to be unemployed**, are over-represented in the long-term unemployed, and under-represented at managerial levels. Such continuing exclusion from equal participation in economic life constitutes a chronic failure on the part of Government to meet a duty imposed under international human rights law. It exposes the gulf between Government's public commitment to equality of opportunity and a persistent failure to bring forward adequate remedial measures, and to remove discriminatory barriers, not least in relation to the policies and practices of Government itself. Ensuring equal access to employment for the Catholic community therefore remains an essential element in the reconstruction of Northern Ireland, and failure to introduce and implement adequate measures to do so is not merely a serious violation of rights but an impediment to the just and lasting settlement which would help secure economic stability and some measure of prosperity.

In its first policy statement the Fair Employment Commission set itself the target of bringing about an equitable distribution of employment between Catholics and Protestants, and indicated that it intended to measure achievement in terms of overall change in the employment profiles of the two religious communities. Monitoring figures show a small increase in Catholic males in employment of 1.4 % over the two years since the introduction of the updated legislation, but confirm that the differential impact of unemployment meant that the target set by the Commission remains far from realisation. The Fourth Annual Report of the Fair Employment Commission published in 1993 indicated that Catholics are still not enjoying fair participation, and that the elimination of disadvantage is most difficult for those who are unemployed. This continuing difficulty for Catholics in gaining access to employment in spite of the 1989 legislation substantiates claims of **crucial and potentially fatal deficiencies in the legislation** which Government ignored before it was passed, particularly in relation to the two most important mechanisms of change, namely **affirmative action and contract compliance**.

In 1992-93 nearly £500,000 was paid on foot of individual complaints of discrimination. This demonstrates a commendable willingness to take the criminal offence of discrimination seriously, but also indicates that discrimination, often of a most blatant kind, remains a fact of life in Northern Ireland. It is a matter of particular concern that the majority of cases in this period where findings of unlawful discrimination were made involved local councils.

At the beginning of 1994 guidelines were finally introduced to ensure that Government decision-making took account of equality of opportunity on the basis of religion and political belief, as well as on other grounds. This was first promised in 1991, and is known as Policy Appraisal and Fair Treatment. The impact of this measure remains to be seen. Like the legislation it requires review and independent monitoring. It is not encouraging that no decision has been taken to publish annual reports of progress, nor that no extra resources are likely to be made available for the exercise.

Government has promised a **comprehensive review of the legislation** by the end of 1994. We find it hard to understand why responsibility for this vital exercise has been given to a unit within the Civil Service (the Central Community Relations Unit) rather than to the Standing Advisory Commission on Human Rights, which is independent of Government, has a statutory responsibility in the area, and has gained respect through its report on the matter which paved the way for the 1989 legislation. Failure to submit the effectiveness of the legislation to **independent scrutiny** undermines the credibility of the Government, prejudices future progress and further delays the realisation of that equality which is the only secure foundation for a just society and a healthy economic life in which all have a share, and therefore all have a stake.

## Fair Trial

The issue of fair trial is central to the working of the legal framework in Northern Ireland. There are well-documented concerns both domestically and internationally about the trial process, which must be addressed to ensure that the highest standards of justice apply throughout the legal system in Northern Ireland.

**Extended detention** is a feature of many arrests under the emergency powers. The United Kingdom has derogated from the European Convention on Human Rights and the International Covenant on Civil and Political Rights, in order to continue to retain the power to detain people for up to seven days without bringing them before a court. In the majority of cases individuals are not charged with an offence but are released after several days of questioning. Detention appears to serve more as an information gathering power rather than as a due process mechanism. Arrests under this seven day power can be kept secret for the first two days which amounts to **incommunicado detention**. Detainees can be denied access to their lawyers for the first 48 hours of detention and can be further denied access for 48 hour intervals thereafter. This practice has also extended to minors in detention. There is



**no right for detainees to consult with their lawyers in private.** This is in direct contravention of Principle 8 of the United Nations Basic Principles on the Role of Lawyers. Suspects should be given the right to consult with their lawyers in private and lawyers should be allowed to be present during interrogations of their clients as is the case for people arrested under the Prevention of Terrorism Act in Britain and under ordinary law throughout the United Kingdom.

There have been persistent **allegations that detainees have been ill-treated.** In 1978 the European Court of Human Rights found in the case of Ireland v United Kingdom that the United Kingdom was subjecting detainees to inhuman and degrading treatment in Northern Ireland. In November 1991, the United Nations Committee Against Torture again examined the issue of ill-treatment. It concluded that the United Kingdom was failing to fulfil its obligations to prevent torture and ill-treatment. In August 1993 the European Committee for the Prevention of Torture made an ad hoc visit to Northern Ireland to look at the situation of detainees. It has only made similar ad hoc visits to Turkey. The report on its visit is awaited.

Currently there are **no video or audio recordings of interrogations.** The only safeguard in place is the provision for a police officer to observe the interview via a silent, non-recording monitor. In the past it has emerged that these are not always watched. The United Kingdom has consistently rejected calls for the introduction of audio and video recording of interviews even though it would protect both detainees from ill-treatment and the police from false accusations. In response to international and domestic criticism the government appointed an independent commissioner with powers to visit detention centres. He cannot be there all the time and the problem of an independent record of events still remains. CAJ received renewed allegations of ill-treatment in January 1994.

The detainee's rights have been further eroded by the **abrogation of the right to remain silent.** This point has been acknowledged in the recent State Department Country Report on the United Kingdom. The law as it stands would appear to contravene Article 14(3)(g) of the International Covenant on Civil and Political Rights. It is also in stark contrast to the 5th Amendment of the United States Constitution. It is disturbing that the government is currently considering introducing a similar attack on the right to remain silent in England and Wales.

**Jury trial has been abolished** in Northern Ireland for a wide category of offences. In addition the rules governing the admissibility of confessions have been relaxed under the emergency code. The authorities reliance on supposedly temporary emergency powers is an indication of the way in which even wider powers for the police, army and the courts has become normative. The time is now overdue for a **thoroughgoing review into the operation and repercussions of this unhealthy approach.**

An issue of particular concern is the **intimidation of defence lawyers** in Northern Ireland by members of the security forces. Defence lawyers are indispensable to the normal functioning of any legal system. In Northern Ireland defence lawyers are not only prevented from functioning effectively within the legal framework but are subject to harassment and abuse. The International Commission for Jurists found in its 1992-1993 report that some 39 lawyers had been subjected to abuse or threats from police officers. At the 1993 session of the United Nations Sub-Commission on Human Rights the independent expert from the United Kingdom, Dr. Palley, raised her concerns about the matter and called for an independent inquiry. She suggested that the police justification for non-investigation of such threats was insubstantial. The Lawyers Committee for Human Rights have in particular called for an inquiry into the **1989 killing of defence lawyer Patrick Finucane.** There is strong evidence of official collusion in Mr. Finucane's death. In their report **Political Killings in Northern Ireland** Amnesty International calls on the government to establish such an inquiry. CAJ is disappointed that the government has not responded positively to these calls.

## Collusion

There is continuing concern about collusion between elements within the security forces and loyalist paramilitaries and the **failure of the government to adequately address the issue**. Collusion involves either the passing of security information or more direct participation in illegal activities. The 1990 inquiry by police officer John Stevens failed to identify those inside the security forces involved in collusion. We understand that as a result of further public concern Mr. Stevens has been again investigating allegations of collusion. As yet the outcome of these investigations is not known.

The Amnesty International Report of February 1994 documents numerous instances which demonstrate collusion. Sadly the government's response to this report and previous concerns has been either to question the bona fides of those preparing the reports or to seek to suggest that because paramilitaries abuse people's rights then somehow government's abuses are insignificant. Such a response leaves the problem unaddressed and serves only to fuel public concern and distrust of those who are meant to enforce the law. There is clearly **a need for a wide ranging independent inquiry** into these matters followed by firm action against those members of the security forces involved in collusion.

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