

The Committee on the Administration of Justice (CAJ)
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Winner of the 1998 Council of Europe Human Rights Prize

**United States Congressional Hearings on
Human Rights in Northern Ireland**

*Testimony from
Paul Mageean on behalf of CAJ*

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Statement of Paul Mageean

Committee on the Administration of Justice, Belfast

Before the International Operations and Human Rights Subcommittee of the House International Relations Committee Hearing on Human Rights in Northern Ireland

29th September 1998

Thank you for the invitation to testify today. The Committee on the Administration of Justice (CAJ) is an independent human rights organisation which draws its membership from across the different communities in Northern Ireland. CAJ works on behalf of people from all sections of the community and takes no position on the constitutional status in Northern Ireland. CAJ was recently awarded the Council of Europe human rights prize in recognition of its efforts to place human rights at the heart of the peace process. It is on these continuing efforts that my comments will mainly focus. However, before turning to these issues I want to refer briefly to the comments made by Rosemary Nelson and Peter Madden. CAJ is profoundly concerned at the continued problems experienced by the small group of highly dedicated and courageous defence lawyers in Northern Ireland who act for suspects detained under emergency laws. This has been an ongoing problem throughout the conflict but particularly since the mid 1980s. The attention it is now receiving is due to the work of the Special Rapporteur on the Independence of Judges and Lawyers and the efforts of a number of NGOs including in particular the Lawyers Committee for Human Rights and British Irish Rights Watch. We would urge the Committee to take whatever action it can to ensure that the UK Government comply with the recommendations from the UN Special Rapporteur on the Independence of Judges and Lawyers, Mr. Dato Param Cumaraswamy. Members had the opportunity to listen to Mr. Cumaraswamy earlier this morning and I would request that the contents of his report into these matters be placed on the record.

CAJ, like many others welcomed the Good Friday Agreement and its commitments to the protection of the human rights of all. The Good Friday Agreement states that:-

“The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured or their families. But, we can best honour them through a fresh start in which we firmly

dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of human rights of all.”

CAJ endorses these sentiments entirely. We have consistently maintained that human rights issues were at the heart of the conflict and that the protection of human rights must be central to building a lasting peace. In this context it is very welcome that human rights commitments have been given institutional form as an intrinsic element of the Agreement. This was then ratified by the vast majority of the people of the island of Ireland. The language of human rights has moved from the margins to the mainstream.

However, while it is right to celebrate how far we have come, we have not yet reached our destination. Now the task ahead is to turn rhetoric into reality. This is particularly true of the new human rights structures established under the Agreement. These include a new Human Rights Commission, a review of the Criminal Justice System, new arrangements to promote equality and a commission on policing.

The Commission on Policing has the crucial task, as President Clinton said on his recent visit to Belfast of adapting the police service “so that it earns the confidence, respect and support of all the people”. The extent of that task has been illustrated for the Committee by the testimony of Rosemary Nelson and Peter Madden. A key starting point for the work of the Commission is obviously the implementation of the recommendations of the Special Rapporteur to ensure that in future defence lawyers can discharge their professional duty without fear of interference from the police, a key component of any normal democratic society.

It is crucial that the will for change and lasting peace is given full expression in the institutions yet to be established. It is the task of civil servants to deliver on commitments made. It is not acceptable that they should in any way obstruct or dilute these commitments. It is equally the responsibility of ministers and politicians to ensure that those commitments are honoured.

If we take for example the proposed Human Rights Commission, the current legislative proposals fall far short of that goal. Such a Commission needs to be fully independent, it needs to be able to take cases of its own volition, and most importantly, it must be able to undertake investigations into alleged violations of human rights. The current legislative proposals should therefore be amended to

ensure a genuinely independent commission adequately equipped with the above powers to act as guarantor for the rights of everyone in Northern Ireland.

We are similarly concerned that the legislative proposals on equality fail to measure up fully to the commitments made in the Agreement. It is essential that the Bill specifies in the clearest terms the exact nature of the mechanisms to implement the equality provisions made in the Agreement. Furthermore, The Bill should ensure as envisaged in the Agreement that discrimination is outlawed on all grounds, not simply those of religious or political opinion. We would like to inform the Committee that the upper chamber of the United Kingdom Parliament, the House of Lords, will be debating the legislative proposals on human rights and equality during October. I would request that a critique of the current proposals together with a full set of proposed amendments which CAJ has compiled be placed on the record. We believe interventions by the Committee to urge that the legislation fully comply with the spirit and ethos of the Agreement may well assist in strengthening the legislative proposals on human rights and equality. We would be grateful for whatever assistance the Committee can give in this regard.

We believe that the continued support and attention of the international community, and particularly the USA, will be key to ensuring that all of the human rights commitments contained in the Agreement are implemented in full.

In this context we are particularly grateful to Chairman Smith (NAMEs) and to the other members of the sub-committee for their continuing interest in human rights in NI. We are also grateful for the continuing work of our colleagues in the international human rights groups, particularly Human Rights Watch, the Lawyers Committee for Human Rights and Amnesty.

While the Agreement offers the hope of a bright future, it is also clear that it is all too easy to repeat the mistakes of the past. This was clearly demonstrated in the wake of the horrific Omagh bombing. The government recognised that intention of those who planted the bomb had been to undermine the Agreement, however rather than heeding the need (acknowledged in the Agreement) to move away from emergency legislation, the government chose instead to introduce perhaps the most draconian legislation that we have seen in the last 30 years. We would like to place on record a briefing on this legislation compiled by CAJ and BIRW.

Similar legislation has in the past not simply failed to resolve the conflict but has actually fuelled it by undermining respect for the rule of law. We cannot allow our society to be dragged back into the tragedy from which we are emerging. A future for all the people of Ireland, underpinned by the human rights protections of the Agreement, is too precious a prize to risk by repeating the mistakes of the past. In so doing, we play into the hands of all of those who would seek to wreck the Agreement.

The task now for all of us is to secure that future and the best way we can do that is As President Clinton said to “build a more just society where human rights are birthrights and where every citizen receives equal protection and equal treatment under the law. These must be the benchmarks of the new Northern Ireland.”

Thank you very much.