

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

**US Congressional Hearings on  
Human Rights in Northern Ireland**

*Testimony from*  
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**Statement of Maggie Beirne**

**Committee on the Administration of Justice, Belfast**

**Before the US Congress regarding  
human rights in Northern Ireland**

**Friday, 24 September 1999**

Thank you for your 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 for a just and peaceful society where the human rights of all are fully protected. CAJ was awarded the 1998 Council of Europe Human Rights Prize in recognition of its efforts to place human rights at the heart of the peace process. We have a broad remit which covers many conflict-related issues such as prisoners, emergency law, and miscarriages of justice, and also concerns such as fair employment, the rights of women and children, people with disabilities, and the need for effective government action to prevent racial discrimination. Since our foundation in 1981, we have worked consistently on issues of policing, and the rest of this submission relates to that topic.

As early as 1995, CAJ argued for an independent international commission to look into future policing in Northern Ireland, and accordingly we worked hard to ensure that reference to such a body would be included in the Good Friday Agreement. We welcomed the broad terms of reference given to the Commission by the Agreement, and sought to work constructively with the Commission as soon as it came into being under the leadership of Chris Patten. We were fortunate enough to have earlier secured funding from the Ford Foundation and others to undertake a major comparative research project into good policing practice in a variety of jurisdictions around the world. The findings arising from that study have underpinned all our work with the Commission. We also believe that they have proved useful to the Commission in its work. This should not be surprising since the policing problems in Northern Ireland differ in degree rather than nature from those faced by many other countries around the world.

The Patten Commission worked for over fifteen months; studied well over 2000 written submissions; held hundreds of meetings in public and private; travelled around Northern Ireland, and abroad, to receive personal testimony from a wide variety of

people. CAJ attended many of the meetings and studied the submissions of the political parties and other key social partners. What was apparent to us was that, despite the difficulties and disagreement, there was also a surprising level of consensus across the political divide about key aspects of the way forward.

Indeed, to assess and to build upon the consensus, CAJ organised a conference in February of this year. It brought together a very diverse audience consisting of statutory groups, the police, government bodies, local party politicians, voluntary groups and community activists from both republican and loyalist communities. On the basis of those exchanges we developed a series of "human rights benchmarks for policing change", and we would like to have those benchmarks read into the record.

It seemed to us that the Patten Commission report should - as a minimum - propose major changes in six different areas. The Commission should make major recommendations to:

- urgently improve the **under-representation** of Catholics, nationalists, women, and ethnic minorities. Such proposals should include screening, affirmative action, outreach, good redundancy packages, and most importantly the setting of ambitious but realistic targets and timetables for change in composition
- ensure that policing was fully **accountable in law**. Emergency powers should be ended, the Chief Constable's "operational independence" needs to be defined more closely, policing legislation should refer to international human rights standards, and the Police Ombudsman who will look into complaints against the police should be given greater resources and greater powers.
- completely overhaul police **training**, ensure much greater civilian involvement in the design, delivery and evaluation of training, and make human rights central to the training process rather than an optional extra
- develop a **neutral working environment** and accordingly make recommendations about the external symbols and internal ethos of policing which would make it more attractive to under-represented groups

- create new **structures** which could be measured against their capacity to provide effective accountability, strong community partnership arrangements and more civilian involvement
- develop greater **democratic accountability** with the civic oversight bodies having greater powers, being more representative and themselves democratically accountable.

Overall, the whole package should be tested against its ability to deliver policing arrangements which would mean that you never again have to listen to the sad testimony you heard this morning, and we in Northern Ireland never have to experience such abuses again.

CAJ believes that, in general terms, the Commission has made a very genuine and constructive effort to meet the difficult task imposed on it by the Agreement. They have addressed all of the issues above, and have put forward many thoughtful and positive recommendations about the way forward. Most importantly of all, they have recognised (as did the Agreement itself) that just as human rights must be at the heart of a just and peaceful society in Northern Ireland, it must be at the heart of future policing arrangements.

In spite of these positive comments, we still, nevertheless, have some important reservations. Other colleagues will speak about the major concerns we all share with regard to the failure of the Commission to put in place a mechanism to ensure that the new police service does not retain officers who have committed human rights abuses, their failure to call for an end to the use of plastic bullets, and - of particular relevance given the earlier testimony - the Commission's failure to lend its voice to the defence of lawyers intimidated or killed because they were doing their job effectively.

This particular testimony, while sharing the concerns of the others who have preceded or who will follow will concentrate on two specific issues: emergency powers and accountability.

Emergency powers have been a feature of life in Northern Ireland since the 1920s. The legislation allows police to stop and search without reasonable suspicion, initially hold detainees for 48 hours and then, with political authorisation, for up to a total of seven days, and to deny access to a solicitor for the first 48 hours and for periods

thereafter. Combined with the removal of the right to silence, the removal of the right to jury trial, the weight which can be placed on confession evidence alone, the absence until recently of video or audio taping of interrogations, such powers lead to serious human rights abuses, including serious ill-treatment of detainees and the abuse and intimidation of defence lawyers.

It is clear that if these abusive powers are not removed, the risk is very high that officers, even in a new police service with a new uniform, with a new oath, and with better training, are likely to continue to abuse human rights. This, anyway, is the experience around the world, so why should Northern Ireland be any different?

Yet in the Policing Commission's report, this fundamental issue merits two paragraphs, even though they themselves, citing academics McGarry and O'Leary, note that "much of the dissatisfaction with policing, in both loyalist and republican areas, stems from the use of emergency powers". Our own belief, shared by all the other human rights organisations present, is that the Commission should have recommended the immediate repeal of emergency laws, and argued for a reliance on the ordinary criminal law. Certainly the logic of their emphasis on international human rights standards would suggest that frequent UN calls for repeal of emergency legislation should have been heeded. The failure to make such a recommendation is all the more inexplicable when looking at the current security situation in Northern Ireland, which it could be argued poses a much smaller risk to the average person than living in London or Manchester, and probably a lot less than Washington DC!

The second issue I would like to focus on is that of accountability. Of all the topics tackled, this is probably the one where the Patten Commission responded most effectively to the oft-repeated concerns of the general public about the need for greater accountability. There are many positive recommendations. However, at least two important problems remain. Patten endorses all the proposals about a more effective complaints system included in an earlier report by Dr Hayes and urges that those findings be implemented. It is clear that the Commission intended therefore that the authorities tackle the unacceptably high standard of proof required in complaints against the police. Yet no specific recommendation is made to this effect, and there is a risk that if no specific recommendation is made, it will be overlooked despite its significance to ensuring a really credible complaints system.

Another concern under the rubric of accountability is the role that is envisaged for democratic control at the local level. It appears to us that the recommendation to

establish District Policing Partnership Boards which are merely (and I quote) "advisory, explanatory and consultative", will have little or no greater powers than their largely disparaged predecessors.

Despite these concerns, and the others raised by my colleagues, I want to emphasise again that we found much of great value in the Commission's work.

It is for that reason that this submission will conclude with a number of specific requests to this Congressional sub-committee.

Firstly, CAJ believes, along with our human rights colleagues, that many of the policing changes proposed are long over-due. Many of them have been urged on the government for years by various UN bodies and its own independent assessors. While the Patten report does not deliver everything that we had hoped - and indeed think necessary - people concerned about the protection of human rights certainly cannot settle for anything less. The Secretary of State has suggested a period of consultation, and following that there is no excuse for further delay. Congress should urge the UK government to move rapidly to implement the various positive recommendations in Patten's report.

Secondly, implementation is everything. As I said in my last testimony to US Congress, before Congressman Gilman's International Relations Committee, too many previous reports have been allowed to gather dust. We argued that Patten's report could not be allowed to do so and we very warmly welcome the proposal made by the Commission to establish an "Oversight Commissioner", to report publicly and regularly on progress achieved. This proposal is all the more important given the early emphasis placed by the Chief Constable on the need to implement any eventual changes only as and when the improving security situation allows it. In fact the logic of Patten is that human rights abuses have fed and fuelled the conflict, and that human rights protection - and therefore policing change - must be at the heart of a just and fair society. Apart from being important in and of itself, it is this goal which will most effectively undermine violence. It is therefore vitally important that Congress continue to keep a watching brief on developments and monitor closely the process of implementation.

Thirdly, there will be little effective change in policing if the criminal justice system itself does not change. Thus, if judges continue to be unrepresentative of society as a

whole; if the prosecution system does not operate in a sufficiently transparent and independent way; and if there is a remarkable pre-disposition on the part of the judicial system to always rely on the testimony of police officers - changes elsewhere will be undermined. The significance of the Criminal Justice Review, which will be reporting in a few weeks' time, cannot be over-stated.

In this regard, I would ask to have read into the record material from the journalist Ed Moloney, in relation to his harassment in the Pat Finucane case and the role of the Director of Public Prosecutions in that case. We would ask that members monitor this case and the Criminal Justice Review closely and make representations to government accordingly.

The US Congress has kindly, particularly in recent years, devoted much time and energy to the problems of Northern Ireland. If we have one message to give - it is that your work is not over just yet. Peace processes are difficult and dangerous things, with the ability to fail as well as succeed. Securing good policing will be a crucial building block for long term stability and true peace and justice in Northern Ireland. We are moving in the right direction but continued vigilance will be necessary if we are to be ultimately successful. We hope that human rights groups, local as well as international, can continue to look to you for your support around our concerns.

On the impending anniversary of Rosemary Nelson's testimony to this meeting it seems the least we can all do is commit ourselves to trying to make sure that the policing problems she testified about to your Committee are effectively remedied.

Thank you.





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