

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

CAJ's Submission

to the

**United Nations Sub-Commission on the Prevention of
Discrimination and Protection of Minorities**

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What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, the Lawyers Committee for Human Rights and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, monitoring, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include prisons, policing, emergency laws, the criminal justice system, the use of lethal force, children's rights, gender equality, racism, religious discrimination and advocacy for a Bill of Rights.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

United Nations Economic and Social Council

Sub-Commission on the Prevention of Discrimination and Protection of Minorities

The Administration of Justice and the Human Rights of Detainees

The Question of Human Rights and States of Emergency

1. The International Federation of Human Rights (IFHR) and its Northern Ireland affiliate, the Committee on the Administration of Justice (CAJ) wish to bring to the attention of the Sub-Commission ongoing concerns in relation to the murder of two human rights lawyers in Northern Ireland.
2. On March 15th this year Rosemary Nelson, an Executive Committee member of the Committee on the Administration of Justice, was murdered as she left her home in Lurgan, Co. Armagh, Northern Ireland. Mrs Nelson was a solicitor who practised law in Lurgan. She represented many individuals detained under the extensive emergency laws applicable in Northern Ireland. She had also acted in three high profile cases over recent years. In the first she acted for the family of Robert Hamill, a young Catholic man who was beaten to death in the centre of Portadown by a group of Protestant youths, while officers from the Royal Ulster Constabulary (RUC) at the scene failed effectively to intervene. Mrs Nelson also acted for the residents of the Garvaghy Road area in Portadown who disagree with the route of an Orange Order parade which passes through their area. In another controversial case Mrs Nelson had acted for Colin Duffy against whom IRA charges of murdering two policemen in Lurgan in 1997 had been dropped.
3. Each of these cases and indeed many of the others in which Mrs Nelson acted brought her into conflict with state authorities. Indeed on one occasion in 1997 while present with her clients on the Garvaghy Road in Portadown Mrs Nelson complained that she was assaulted by police officers and subjected to vicious sectarian language. She was visibly marked during this incident and lodged an official complaint which was still being investigated at the time of her death. Mrs Nelson, in common with a significant number of other lawyers in Northern Ireland complained of regular abuse and indeed threats at the hands of officers of the RUC. These threats were delivered to her clients who were detained under emergency legislation.
4. Many of Mrs Nelson's clients reported that police officers would make comments about her personal appearance, suggest that she was a supporter of the IRA and

indeed that she herself had participated in IRA attacks. Officers would also threaten that Mrs Nelson was to be killed.

5. Such threats and abuse of lawyers were brought to the attention of the Special Rapporteur on the Independence of Judges and Lawyers Dato' Param Cumaraswamy. Such was his concern at the seriousness of these matters that he conducted a mission to Northern Ireland in the autumn of 1997. He found that RUC officers had engaged in activities "which constitute intimidation, hindrance, harassment or improper interference" of lawyers and had identified lawyers with their clients or their clients' causes. The Special Rapporteur called on the United Kingdom to establish an independent and impartial investigation of all threats to legal counsel in Northern Ireland. The United Kingdom has failed to comply with this recommendation.
6. The Special Rapporteur also acknowledged that many solicitors in Northern Ireland do not have confidence in the official complaints system but he urged them to nevertheless lodge complaints when they received reports of threats or abuse. Following his report Rosemary Nelson lodged a number of complaints with the relevant authorities. These complaints related to death threats allegedly made by police officers. The police initially refused to investigate the complaints. They then agreed to do so but trivialised the seriousness of the complaints by classifying the death threats as "incivility". Approximately one year after the complaints were lodged the Independent Commission for Police Complaints (ICPC) were so dissatisfied with the way in which the RUC were conducting the investigation that they called in police officers from England.
7. Shortly after Rosemary Nelson's death the ICPC issued a statement outlining its concerns in relation to the RUC investigation of the threats. It concluded that RUC officers had displayed an attitude of "general hostility, evasiveness and disinterest" to Mrs Nelson and her clients during the investigation and cast doubt on Mrs Nelson's moral character and credibility. Officers felt that correspondence received from international human rights groups on behalf of Mrs Nelson were "more to do with generating propaganda against the RUC than establishing the truth".
8. Mrs Nelson was murdered on 15th March as she left her home. Responsibility for the murder was claimed by the Red Hand Defenders, a small loyalist group opposed to the peace process. CAJ has collected witness statements since the death which allege that security force members have gloated about the murder to friends and clients of Mrs Nelson.
9. IFHR and CAJ have called on the authorities to institute an independent investigation into the murder of Mrs Nelson. An English police officer has been appointed to lead the investigation but more than half his investigation team is made up of local police officers. If these officers were unable effectively and professionally to investigate allegations of death threats against Mrs Nelson, how can they be trusted to be involved in the investigation of her murder? Accordingly we urge the United Kingdom to immediately institute a fully independent investigation into the murder of Rosemary Nelson.

10. Rosemary Nelson was not of course the first solicitor in Northern Ireland to be killed following concerns about death threats from police officers. In 1989 leading human rights lawyer Patrick Finucane was murdered in Belfast. Almost immediately after his death evidence began to emerge suggesting that elements of the police and army were involved in his murder. That evidence included the involvement of an agent of army intelligence who was involved in targeting Mr Finucane. That agent informed his army handlers that Mr Finucane was to be shot but Mr Finucane was not warned. It also emerged that RUC officers had suggested to members of a loyalist paramilitary group that Mr Finucane should be killed. A government minister also claimed that a number of solicitors in Northern Ireland were unduly sympathetic to the IRA. Three weeks after this statement Mr Finucane was killed.
11. In May further evidence came to light again pointing to security force involvement in the murder. An English police officer, John Stevens, was recently asked to re-investigate the murder of Mr Finucane. His investigation led to the arrest and charging of a man called Stobie with the murder. Stobie claimed in court when he was charged that he had been an agent for the police when the killing took place. He claimed that the evidence against him had been in the hands of the police and the prosecution authorities for almost ten years. He alleged that he had informed his handlers that the killing was imminent but that no action had been taken. He had supplied the weapons which were used in the killing. He had done this on the night of the killing and had then again phoned his handlers telling them this and the identity of the killers. Again, it appears that nothing was done. A few days after the murder, Stobie claims that one of the killers was moving the weapon and that he again informed the police. Again he alleges that the police failed to intervene.
12. After these events Stobie was arrested and charged with the possession of weapons. When the case came to trial, he claims that he threatened to go public with what he knew about the Finucane murder unless the charges against him were dropped. In spite of the fact that the weapons were found in his home, the prosecution later dropped the charges and asked that not guilty verdicts be entered.
13. Stobie's allegations add to the already substantial evidence that the security forces were involved in Mr Finucane's murder. IFHR and CAJ have urged the United Kingdom to institute a public inquiry into the circumstances surrounding Mr Finucane's murder. This call has also supported by the United Nations Special Rapporteur on the Independence of Judges and Lawyers and the United Kingdom representative to the Sub-Commission, Mrs Palley. To date the United Kingdom has failed to establish such an inquiry.
14. The success of the peace process in Northern Ireland depends in large part on the maintenance of the rule of law and equality before the law. The state has a responsibility to respect and uphold these principles. Murder, intimidation and threats against lawyers significantly undermines confidence in the application of the rule of law. We urge the United Kingdom to take immediate steps to protect solicitors who are at risk and to bring to account agents of the state who have been involved in threatening, abusing or murdering lawyers.

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