

## Historical Institutional Abuse Inquiry, Northern Ireland

After protracted lobbying for an inquiry into alleged historic child abuse in various institutional settings in Northern Ireland, the Historical Institutional Abuse Inquiry (HIAI) was set up in 2012 and given legislative effect under the Historical Institutional Abuse (Northern Ireland) Act 2013.\* The Act sets out controls for the legal representation of witnesses, as well as providing protections and flexibilities to allow the Inquiry to operate effectively.

This legislation put the HIAI, established by the Office of the First Minister and Deputy First Minister (OFMdFM), on a statutory footing and provided OFMdFM with the power to establish, resource and support the Inquiry. It confers upon the Chairperson to the Inquiry, Sir Anthony Hart (the Chair), powers to hear evidence on oath, to compel witnesses to come before the Inquiry and compel evidence to be given to the Inquiry. It also enables the Chair to restrict access to inquiry proceedings and evidence where necessary. The inquiry is independent of government in its deliberations and its workings and mechanisms are matters for the Chair of the Inquiry.

### Purpose of the Inquiry

This inquiry and investigation into institutional child abuse was established to examine if there were systemic failings by institutions or the state in their duties towards those children in their care between the years 1922 – 1995. For the purposes of the inquiry a child means anybody under 18 years of age. An institution is considered to be any body, society or organization with responsibility for the care, health or welfare of children in Northern Ireland, other than a school (but including a training school or borstal) which, during the relevant period, provided residential accommodation and took decisions about and made provisions for the day to day care of children.

### General components of the Historical Institutional Abuse Inquiry

The inquiry essentially has two main components - an Acknowledgement Forum and a Statutory Inquiry (essentially a public inquiry) involving public hearings.

### The Acknowledgement Forum

The Acknowledgement Forum, which is made up of four experienced panel members, provides a forum where victims and survivors recount their experiences as children in residential institutions in Northern Ireland between 1922 and 1995, on a confidential basis. The forum does not have an investigative role because its purpose is to provide a separate structure to which those who experienced abuse in institutions can describe those experiences in private and in confidence.

A final report will be produced by this panel outlining the experiences of the victims and survivors and presented to the Chair of the Inquiry for consideration along with all the other evidence for the final report of the HIAI.

*contd...*

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Giving information to the Acknowledgement Forum has not precluded applicants from also meeting with the legal team undertaking evidence gathering for 'the Statutory Inquiry' (public hearings) component of the HIAI, and many have chosen to meet both.

### **Statutory Inquiry (Public Hearings Component)**

The role of the Statutory Inquiry is formally to investigate whether children suffered abuse in the same institutions between 1922 and 1995. Evidence gathering has included statements from those who say they have suffered abuse in institutions, evidence from named institutions, evidence from government bodies and other public authorities such as health and social care trusts.

In January of this year, the public inquiry component, lead by the Chair and assisted by two expert child protection and social work panel members Geraldine Doherty and David Lane, commenced in Banbridge Court House, Co. Down. The Chair and Panel are currently in the process of hearing evidence from applicants with regards to St Joseph's Home, Termonbacca, Derry and Nazareth House Children's Home, Derry. Further public hearings will include evidence from alleged abuse survivors on a wide variety of institutions including Christian Brothers; Local Authority Homes, Juvenile Justice Institutions, Secular Voluntary Homes and Catholic Voluntary Homes. Representations have also been made from alleged abuse survivors in Australia who spent time in institutions in Northern Ireland and were sent from those institutions to other institutions in Australia. Some of these provide evidence to the public hearing component, and have also provided evidence to the Acknowledgement Forum mentioned above.

Transcripts of all evidence are made available on the HIAI website after each day's public hearings. Similarly, documents that form part of the evidence before the Inquiry will be subsequently published on the Inquiry website.

### **Research Function**

The research team works under the direction of the Chair of the Inquiry and provides supporting evidence for all parts of the HIAI from a wide variety of sources. The research is undertaken in parallel with the work being done by the Statutory Inquiry and Acknowledgement Forum mechanisms.

### **On completion of the Inquiry**

When all evidence has been gathered through both components of the HIAI, the Chairperson will provide a report to the Northern Ireland Executive within six months of the conclusion of all of the investigation work. Under the terms of reference the report will make recommendations and findings on the following matters:

- An apology – by whom and the nature of the apology that is owed;
- Findings of institutional or state failings in their duties towards the children in their care and if these failings were systemic;
- Recommendations as to an appropriate memorial or tribute to those who suffered abuse;
- The requirement or desirability for redress to be provided by the institution and/or the Executive to meet the particular needs of the victims.

### **Further Information**

The closing date for application to the Public Inquiry element of the HIAI has passed, but applicants can still come forward to the Acknowledgement Forum Panel before April 30th, 17.00 p.m. to arrange to meet with them and have their experiences recorded on a confidential basis as part of informing their final report for consideration by the HIAI.

\*Supplemented by Statutory Rules of Northern Ireland, 2013 No. 171, The Inquiry into Historical Institutional Abuse Rules (Northern Ireland) 2013, which came into operation on 25th July 2013.

Further information and documentation as well as contact details for the HIAI can be found at <http://www.hiainquiry.org/>

*Adrienne Reilly, is the Protection of Rights Coordinator at CAJ, and is currently on Secondment as a Researcher to the Historical Institutional Abuse Inquiry*

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## Women and Peace Building: Sharing the Learning, March 19, 2014

Thursday, March 19 marked the key conference event of the PEACE III funded project 'Women and Peace Building: Sharing the Learning'. This enormously energizing conference was chaired by Professor Monica McWilliams and attended by 350 women from across Ireland. Importantly, given the conference theme and in light of recent initiatives such as the Haass Talks, the conference opened with an address by Victims Commissioner Kathryn Stone. In a moving address, Commissioner Stone detailed the gendered legacy of the conflict, in terms of the numbers of women with whom the Victims Commission deals directly and the patterns of conflict and legacy experiences of these women.

The Women and Peace Building project is led by the Community Foundation for Northern Ireland, in partnership with the Women's Resource and Development Agency and the National Women's Council of Ireland. The Project's principal aim is to gather and disseminate learning from the experiences of women living through conflict in Northern Ireland and border counties, and through the subsequent period of conflict resolution and peace building. Structured around United Nations Security Council Resolution 1325 on Women, Peace and Security (UNSCR1325), the Project adopts the four pillars of priority action within the Resolution, namely: Participation, Protection, Prevention, and Relief and Recovery. Amongst the project outputs have been a baseline study on the implementation of UNSCR1325 in Ireland, North and South and a stakeholder consultation with representatives of relevant public institutions in the North and South. Currently a Toolkit is in development for public institutions to apply UNSCR1325 to their work, supported by policy briefings along the Resolution's four pillars.

In its lifetime, the project has been uniquely successful in engaging with grassroots women across the North and border counties, to investigate the impact of the conflict and its legacy along the Resolution's four pillars, as well as key actors within relevant public institutions North and South. This innovative use of the Resolution has structured conversations amongst women and then sought to apply the outcomes of those conversations to the priorities of public institutions. To this latter end, the planned Toolkit is the most practical and direct initiative. As well as targeting civil servants to enable post-conflict change, the project has also involved key stakeholders from the statutory and voluntary sectors and formal politics, as evidenced by the Conference's contributors, which included: Liz McManus, Chair of the Committee for the Implementation of Ireland's National Action Plan on UNSCR1325, Diane Dodds, MEP, Stella Burnside of the Equality Commission, and Irene Miskimmons of the Northern Ireland Women's European Platform that acts as Secretariat to the Assembly's All-Party Group on UNSCR1325.

The democratic approach to the conference, in combining keynote addresses with facilitated workshops, was a powerful local reminder of the salience of UNSCR1325 in a post-conflict society. The success of the Women and Peace Building project in raising awareness and raising expectations was illustrated by the outcomes of the facilitated workshops, in which groups of women articulated how the Resolution's application could make a difference to their daily lives. What the Women and Peace Building Project continues to confront, however, is what one speaker referred to as the 'virtual reality' of the UK denying its responsibility to implement the Resolution in Northern Ireland because no conflict took place in the jurisdiction. The political parties in the Assembly remain divided on the issue. Against a difficult backdrop, the All-Party Group on UNSCR1325 struggles to make an impact amongst our politicians.

In light of the recent failure of the Haass Talks, the distance between elite-level negotiations and the outcomes of the Women and Peace Building Conference was indeed striking. As we look to next steps around contending with the past, narrowing that distance might provide a valuable way forward.

*Catherine O'Rourke, Transitional Justice Institute*

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## Confidence in Policing – the Policing Board Conference and CAJ’s Interventions

The Northern Ireland Policing Board’s Annual Conference was held 24-25th March. The Theme was “Confidence in Policing” and involved the launch of the annual Human Rights report and the annual Policing Plan.

Presenting the Human Rights Report, Alyson Kilpatrick, the Board’s Human Rights Advisor, noted that there had been some well-publicised negative events, both in GB and here affecting policing. *“If the police are seen to fall below the standards that are expected of them,”* she said *“it undermines public confidence. An essential part of rebuilding public confidence is the guarantee of accountability.”*

Over the past two years, CAJ has pointed out what we call an “accountability gap” in covert, national security policing. An interesting passage of the report shows that the Policing Board has taken this issue seriously.

*“It has been reported in previous Human Rights Annual Reports that concern exists that there is insufficient transparency in respect of the oversight mechanisms [for covert policing]. In February 2013, the Human Rights and Professional Standards Committee met with the Committee on the Administration of Justice (CAJ). The CAJ had published a research report in November 2012 on covert and national security policing. In that report, CAJ was critical of the accountability mechanisms in place and argued that there was an ‘accountability gap’. Referring to the transfer of responsibility for national security intelligence work from PSNI to the Security Service in 2007, CAJ comments that ‘Contrary to official assurances it does appear that both the role of the Policing Board and the Police Ombudsman have been diminished by the transfer.’ CAJ questioned whether Security Service closed session briefings to the Policing Board, as provided for by the St. Andrews Agreement, could afford effective scrutiny over the Security Service’s work given that the Policing Board had no statutory remit in respect of the Security Service. CAJ recommended, inter alia, that there should be a full review of the entire St. Andrews agreement arrangements.*

*“Taking cognisance of those concerns, and those previously expressed to the Human Rights and Professional Standards Committee, the Performance Committee agreed at its meeting in May 2013 to establish a Project Group on oversight arrangements for covert and national security policing. The Committee agreed that the Project Group would work to the following terms of reference:*

- (i) To consider the existing accountability mechanisms, including in particular the level of transparency;*
- (ii) To consider the extent and effectiveness of the Policing Board’s oversight role; and*
- (iii) To make recommendations, if appropriate.*

*“The effectiveness of the role of the Policing Board will necessarily have to be considered in the context of the Board’s statutory remit, which is limited to holding the police, rather than the Security Service, to account. It is hoped that through the work of the Project Group, a framework can be produced which will enable the Board to effectively fulfil its oversight role. The Group has met on a number of occasions and will report on progress shortly.”*

The full Human Rights report can be accessed here:

[http://www.nipolicingboard.org.uk/human\\_rights\\_annual\\_report\\_2013.pdf](http://www.nipolicingboard.org.uk/human_rights_annual_report_2013.pdf)

and reports and videos of the conference can be found on the Board’s website.

During a Q and A session with the Chief Constable, Brian Gormally, CAJ Director made a contribution from the floor, first welcoming the theme of the conference and noting that the question of confidence in the police goes to the heart of the rule of law and building a rights based society. He noted that the debate over the

legitimacy of policing Northern Ireland is not over. He also said that those who said that nothing had changed as regards policing were talking nonsense and the kind of debate we were having today was probably unique in the world.

However, he went on to say that he would like to take issue with the Chief Constable's remarks on dealing with the past. He concurred with the Chief Constable's view that there was work for politicians to do and in CAJ's view they should move forward and legislate on the Haass proposals. He continued:

“But it's not just the politicians. The PSNI is deeply involved today in dealing with the past and not always in a good way, I have to say. We had the devastating HMIC report on the Historical Enquiry Team, which is a PSNI unit, which held, for example, that that unit was taking an unlawful attitude to state actors, in this case military personnel accused of unlawful killing. We have the situation where underpinning all the patchwork quilt of current measures for dealing with the past is access to intelligence and the personnel who are controlling that are certainly under the command of the PSNI but actually in detail are ex-RUC Special Branch people and there is a real issue of independence there.



*CAJ director Brian Gormally at the conference*

“Finally one aspect of the rehiring scandal is that some of the ex-RUC Special Branch officers re-hired were put in very sensitive if shadowy positions in legacy units dealing with the past. So when it comes to dealing with the past I do think that the PSNI has things to put right and has also to make a future commitment that there will be open access to intelligence for security cleared units in whatever mechanism is established to deal with the past.”

In response, the Chief Constable welcomed the challenge but noted that dealing with the past was an enormous task for them and recognised that it had a significant impact on public confidence. He said that over 50% of his major enquiry team time was deployed on events of 30 or 40 years ago.

He recognised that the PSNI had Article 2 obligations to conduct effective investigations. He also recognised that there had been work to be done with the HET. He said that it had to be able to conduct effective investigations and in his view that meant that it had to be rooted in the PSNI, with some measures of confidence to reassure people. The Chief Constable conceded that the issue of police personnel was difficult and understood the issue of confidence about ex-RUC people involved. However, he claimed that it would be almost impossible to build an entirely independent process and suggested that personnel with the relevant police skills were not available.

CAJ will be contesting these views in the coming period.

# Syria: war crimes, starvation and death in the siege of Yarmouk

**INTERNATIONAL**

Amnesty International published new research last month revealing that war crimes and crimes against humanity have been carried out on Palestinian and Syrian civilians in Yarmouk, on the outskirts of Damascus, which is besieged by Syrian government forces.

The report, *Squeezing the life out of Yarmouk: War crimes against besieged civilians*, published three years into the crisis in Syria, highlights the deaths of nearly 200 individuals since the siege was tightened in July 2013 and access to crucial food and medical supplies was cut off. We found that 128 of those who had died, at the time we published our research, starved to death.

After issuing the report, by 11 April 2014, Amnesty International had recorded at least 51 further such deaths, including 24 from shelling, 18 due to starvation, five due to lack of adequate medical care and two individuals who were shot dead by snipers. Information was also received on the deaths in custody of 15 individuals from Yarmouk.

Government forces and their allies have repeatedly carried out attacks, including air raids and shelling with heavy weapons, on civilian buildings such as schools, hospitals and a mosque in Yarmouk. Some of the areas attacked had served as shelters for people who have been internally displaced by the conflict.

At least 60% of those remaining in Yarmouk are said to be suffering from malnutrition. Residents told Amnesty International they had not eaten fruit or vegetables for many months. Prices have skyrocketed with a kilo of rice costing up to US\$100. A designated refugee camp has also had its electricity power supply cut since April 2013.

Despite the intermittent delivery of limited food supplies by the UN Relief and Works Agency (UNRWA) during January and February 2014 – the aid that has arrived is still woefully inadequate to meet basic needs. Aid workers have compared the efforts so far to a mere “drop in the ocean”. From 31 March to 6 April the government refused UNRWA access to distribute aid, without giving any explanation.

Reports have emerged of women dying in childbirth. Children and the elderly have suffered the most. Eighteen children, including babies, have died. Complications have also arisen from residents eating inedible or poisonous plants and dog meat.

Hospitals have run out of even the most basic medical supplies. Most have been forced to shut down. Residents told Amnesty International that in some cases armed opposition groups had looted medical supplies and stolen ambulances from the hospitals.

Medical workers have also been targeted and repeatedly harassed. At least 12 have been arrested during the siege, often at checkpoints. Six disappeared after being seized by Syrian government forces. At least one doctor is believed to have died as a result of being tortured in custody.

At least 150 people from Yarmouk have been arrested since April 2011; more than 80 were still in detention as of late February 2014. Amnesty International is calling for the immediate and unconditional release of all those who have been detained solely for their political opinions or identity.

A UN Security Council (UNSC) resolution calling for all parties to the conflict to immediately lift sieges of populated areas, unhindered access for humanitarian agencies and an end to violations of human rights and international humanitarian law, was agreed in February. But this has yet to lead to a tangible improvement in the situation of besieged civilians.

Amnesty International is calling for anyone suspected of committing or ordering war crimes or crimes against humanity to be brought to justice, including through referral of the situation in Syria to the Prosecutor of the International Criminal Court (ICC).

**Starving civilians as a method of warfare is a war crime. Join Amnesty's supporters in calling on the UN Security Council to implement resolution 2139** which calls on all parties to the conflict in Syria to put an end to all forms of violence and to stop human rights violations, including those amounting to war crimes and crimes against humanity. It also calls on them to lift sieges of populated areas and to allow unhindered humanitarian access for UN humanitarian agencies and their implementing partners, including across conflict lines and across borders. **Take action here:** <http://tinyurl.com/ncpnwoh/>

*Neil Sammonds, Syria Researcher, Amnesty International*

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## Throwing the baby out with the bathwater?

### *Letter to the editor*

For those interested in learning more about how "The Endtimes" (*Just News, March 2014*) fits into current intellectual debates, JN readers should check the OpenGlobalRights pages on the online forum of OpenDemocracy. Contributors have drawn parallels between the Hopgood claims and those of Francis Fukuyama in the past, whereby notice of a forthcoming Armageddon draws instant fame. A similar debate surrounds the work of Samuel Moyn who presents an ahistoric and US-centric view of international human rights protection. I personally think that Hopgood's "*thesis of Human Rights as a secular substitution for a Christian god*" is not merely a "*distraction*" as Avila Kilmurray suggests, but a fundamental misconception that lies at the heart of his confused analysis.

I agree with Avila that it is important for human rights activists to challenge both certainty and complacency, but Hopgood's book does not help, and its "*lack of any attempt to offer answers*" is not merely "*frustrating*", but potentially damaging. In my own examination of NI's peace building efforts, it is clear that it was the collaborative efforts of international Human Rights groups and domestic human rights groups which proved so effective.

The first line of human rights defence will always be found at the local and domestic level (since universal standards can then be applied in the specific historic, geographic, political, social and economic circumstances that prevail); however, this first line of defence is often non-existent, or extremely weak. In the NI context, domestic human rights actors existed but were relatively easily marginalised in the 70s and 80s. Only in the early 1990s did they start to exert effective leverage and this derived in great part from the legitimacy and credibility bestowed on their efforts by "external" colleagues who could not convincingly be accused of being sectarian or partisan. International human rights groups opened up forms of leverage that were previously unknown by or inaccessible to local activists (the UN system, the US Administration, the Council of Europe). We in NI in our turn had an important impact on the work of these international actors.

Hopgood sets up false dichotomies between these different realms of action. It is true that if due respect and proper collegiality is not displayed between local, national and international human rights actors, then problems will arise; however, the NI experience suggests that anyone who genuinely cares about progress should concentrate on improving these linkages, not decrying and undermining them.

*Maggie Beirne*

## Civil Liberties Diary - March 2014

### 11 March

High Court judges have quashed a decision to halt criminal conspiracy to pervert the course of justice charges against three individuals in connection with Robert Hamill's murder. The case will be readmitted for a hearing in the district court.

### 12 March

The Court of Appeal will review the 'on the run' letters scheme, in which approximately 190 letters of assurance were issued to republicans. The British government inquiry will report at the end of June.

### 20 March

The UUP proposed amendment to the Local Government Bill, calling for the reinstatement of the Union Jack flag above Belfast City Hall was defeated by a cross-community vote.

### 26 March

Stormont's Public Accounts Committee reported that one fifth of officers retired from the PSNI under the Patten reforms returned to the service. Further, by 2012, over 70% of agency staff were former police officers.

Six members of a Loyalist flute band were convicted of knowingly playing outside St. Patrick's Catholic Church in north Belfast, though three of the six were not carrying instruments. The Belfast Magistrate's Court judge determined that the six were operating as a joint enterprise.

### 27 March

Relatives of the Omagh bombing victims have brought a challenge to Secretary of State, Theresa Villiers decision to rule out a public inquiry regarding the Omagh bomb. Mr Judge Treacy reserved judgment on the application for judicial review until he reviewed the submissions.

### 28 March

Secretary of State Theresa Villiers clarified that the 'on the run' letters were not an immunity or amnesty, warning that individuals may still face prosecution, if the police are able to gather sufficient evidence.

*Compiled by Elizabeth Super from various newspapers*

### CAJ's forthcoming conference 2014

***"Covert policing, ensuring accountability and ending impunity:  
Ten Years on from the Cory Collusion Inquiry Reports,  
where now?"***

The conference will include the launch of a new CAJ report the *"Apparatus of Impunity?"* providing an overview of limitations and interference in existing mechanisms to deal with the past.

CAJ in association with Universities and others is currently planning the above conference for this summer. Further details will be available in due course.

### Just News

**Just News** welcomes readers' news, views and comments.

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