

“The Past Is Still Present” Seminar

CAJ, in conjunction with the Pat Finucane Centre, British Irish RIGHTS WATCH and Relatives for Justice recently held a seminar entitled “The Past is Still Present.” This International Human Rights Day conference provided the opportunity for academics and practitioners to assess the legacy of the Troubles and identify ways to move forward. It dealt specifically with mechanisms to fulfil obligations under the European Convention on Human Rights Article 2 Right to Life.

Professor Bill Rolston and Dr. Patricia Lundy, from the University of Ulster’s Transitional Justice Institute, set the scene for the day. Professor Rolston stressed that the purpose of legacy work is to move on without forgetting, to ‘turn the page without closing the book.’ He explained the various conceptions and roles of truth in dealing with the past. Dr. Lundy discussed the various transitional justice mechanisms which can be used to uncover truth. She suggested that any truth discovery process should begin assessment by discussing with the families of those who were victims of the conflict and determining their expectations of what they hope to gain.

A panel discussion on the effectiveness of current mechanisms followed, beginning with a presentation by Mark Thompson, director of Relatives for Justice. He discussed the strengths and weaknesses of the Office of the Police Ombudsman of Northern Ireland, the Historical Enquiries Team, and the Inquests/Inquiry system. He explained that while these structures have potential to uncover at least part of the truth, there are many obstacles they must overcome before they can do so; they are subject to political sensitivities, under-resourced, not independent, can undermine structures already in place, and can all be circumvented at the will of the government. Paul O’Connor, project co-ordinator for the Pat Finucane Centre, recognised that it is not an easy task to uncover evidence such a long time after many of the deaths. He suggested that what is needed is to create or find processes that facilitate the flow of information from people who have it to people who want or need it. He concluded by cautioning that ‘no one size fits all’ and not all cases should use the same processes.

Alan McBride, centre co-ordinator of the WAVE Trauma Centre, recognised that large amounts of money are spent to uncover the truth. In Northern Ireland, however, this truth recovery is done in a piecemeal way so that the system works for some people but fails others. Nevertheless, a truth recovery process, even with its flaws, is necessary as there is honesty in the process which can dispel rumours. Even if families do not gain the full truth, they are given some sort of answer.

Jane Winter, director of British Irish RIGHTS WATCH, spoke to the system of Public Inquiries. Inquiries are a remedy of last resort – they only happen when the system has completely failed at every stage of the criminal justice process. She suggested that this is not a particularly effective mechanism for dealing with the past. Victims are only given one voice within the Inquiry, which is easily drowned out by the many perpetrators. She concluded by discussing the four recent inquiries in Northern Ireland: the Bloody Sunday Inquiry, the Billy Wright Inquiry, the Rosemary Nelson Inquiry, and the Robert Hamill Inquiry.

Irwin Turbitt, a retired police officer, concluded the panel. He proposed that a common, shared version of the past is needed. It need not be an agreed-upon version but rather a useful version of the past would be

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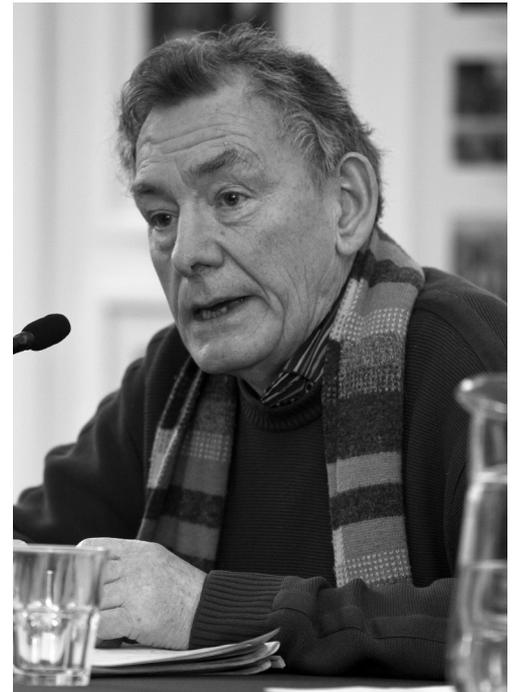
a 'collectively partisan' version. He explained that it would be difficult to prosecute the past as if it was a crime scene. He suggested that instead, human rights should be viewed as being about humanity as a whole rather than an individual. Mechanisms to deal with individual cases are not always the best answer. Sometimes these individual cases need to be compromised for the common good.

Concluding the day was the keynote speaker, Denis Bradley, with lessons to be learned from the work of the Consultative Group on the Past. He emphasised the need to take the report to the next stage with an implementation body. He explained that the responsibility for dealing with the past is often left to the victims, however, the problems which need to be addressed to move forward are much broader than that. To fully understand what these issues are and how to best deal with them, it is necessary to examine the past. This was done by the Consultative Group, but their Report has stagnated. It is necessary to take the Report of the Consultative Group on to the next stage. He stated that it is time to overcome divisions and begin to deal with the past.

Elizabeth Super, CAJ Volunteer



Mike Ritchie, CAJ with Dr Patricia Lundy, TJI



Denis Bradley



Professor Bill Rolston, TJI



Jane Winter, British Irish RIGHTS WATCH and Alan McBride, WAVE Trauma Centre

2010 AGM Report

We were very pleased to host this year's AGM on the 30th November 2010 in our new premises at Sturgen Building, 9-15 Queen Street, Belfast. Despite the inclement weather conditions, there were approximately 30 members, executive committee members, guests and staff in attendance.

Following the confirmation of last year's minutes, Mike Ritchie, Director, outlined the background in relation to the Special Resolution to adopt the new Memorandum and Articles of Association. After the clarification of some issues, this was adopted as the new operating document for CAJ Ltd. In the Director's report, Mike Ritchie and Aideen Gilmore, Deputy Director, spoke of the main developments over the last year.

They acknowledged the achievement in moving to the new premises in March and the very successful launch evening in October. Prior to the official opening a small ceremony took place to dedicate the new Boardroom to CAJ's good friend and colleague, Professor Stephen Livingstone. Tribute was also paid to Donall Murphy, one of the founder members of CAJ who died earlier in the year. They explained the new staffing structure which increases numbers to 13 and welcomed new staff into the areas of Equality, Criminal Justice, Human Rights Protection and Public Affairs. They also paid tribute to the ongoing and important work of all the volunteers and introduced this year's full-time Eirene volunteer. It was explained how the increased staffing compliment and new premises have resulted in an ongoing review of organisational development in relation to planning, policies, procedures and legal issues. The last year has also seen enhancements in our communications processes including improvements in the style of our publications and an exciting new website is now more accessible and includes social networking options. This will form part of our review of our membership strategy. If you have not had the opportunity to view this yet we would encourage you to log on at www.caj.org.uk.

The area of casework has increased this year with significant work being carried out in relation to supporting victims' families, monitoring and intervening in cases before the courts in Northern Ireland and monitoring inquiries. In the Robert Hamill Inquiry we provided written submissions and detailed potential recommendations.

Devolution offers the opportunity to encourage greater accountability and create solutions to local issues in the areas of policing and criminal justice. During the year we co-ordinated a number of key events. In November 2009 we hosted a conference on "Policing with the Community: Patten's New Beginning – 10 Year's On." This has been followed up by a number of roundtable conferences to look at how this is working in local communities. September 2010 marked the 10th anniversary of the Criminal Justice Review and we hosted a conference on "Human Rights and the Administration of Justice - Implications for Devolution?"

In November, we concluded a significant piece of work by producing a report entitled "Prisons and Prisoners in Northern Ireland – Putting human rights at the heart of prison reform" We were pleased when the report attracted a lot of media attention.

Our work in the area of equality has continued from both a proactive and reactive perspective. The Equality Commission for Northern Ireland released its new guidance on s75 Northern Act 1998 and we have considered the impact of this in conjunction with the impending spending cuts. With regard to the Bill of Rights, we continue to provide leadership and have been lobbying in Westminster, Dublin and the United States. Ongoing support has been given to families in relation to dealing with the past and to mark International Human Rights Day on 10th December, along with British Irish RIGHTS WATCH, Pat Finucane Centre and Relatives for Justice, we hosted a seminar entitled 'The Past is Still Present' - The legacy of the conflict: Where do we go from here? Finegan and Gibson, Chartered Accountants, presented the Finance Report and the election of the Executive Committee was confirmed. Pat Conway thanked everyone for their support in his role as Chairperson over the past two years. Les Allamby will be taking up this position in the coming year with Lisa Gormley as Vice Chair.

Following the more formal agenda items and refreshments, we were very pleased to introduce David McKittrick, journalist, who gave a very interactive talk on how he sees political developments over the next period in the light of devolution.

International Pressure for Bill of Rights

CAJ is very pleased to publish the following letter from US Congress to Prime Minister David Cameron, which is a direct result of our lobbying efforts in the USA in September 2010.

October 12, 2010

Prime Minister David Cameron
10, Downing Street
London SW1A 2AA

Dear Prime Minister Cameron,

We have closely followed the implementation of the peace process in Northern Ireland for many years. We strongly welcomed the recent progress made in Hillsborough Castle Agreement, as well as the subsequent vote in the Assembly. The devolution of policing and justice represents an integral step forward in the full implementation of the Good Friday Agreement.

In the months ahead, we urge you to support an inclusive, strong Bill of Rights for Northern Ireland as envisioned in the Good Friday Agreement and advanced in the St. Andrews agreement. This coming December 10th, International Human Rights Day, represents the two-year anniversary of date that the Northern Ireland Human Rights Commission presented its plan for a Northern Ireland Bill of Rights, and we believe that action in this direction should be taken by that time.

Protection of human rights was central to the Good Friday Agreement. As a society in transition from conflict to a more peaceful and shared future, a common framework of rights and values to which all can subscribe will play an essential role in sustaining the political advances already achieved. The Good Friday Agreement recognized the need to address a range of rights that had previously been insufficiently protected.

We believe that proposals for a Bill of Rights for Northern Ireland should build on -- and not roll back -- existing protections. They should also reflect more substantively the high levels of cross community support that exist for an inclusive and comprehensive Bill of Rights, and ensure greater protections for the most vulnerable and disadvantaged in society.

The protection of human rights and equality as part of a shared and peaceful future will send a message to everyone in Northern Ireland that there cannot and will not be any return to the past.

We in the United States of America share the belief in the importance of a strong constitutional framework that includes the protection of fundamental rights and values. A strong Bill of Rights that protects against the abuses of the past and provides for the hopes of the future can become a healing, unifying and inspirational document for everyone in Northern Ireland.

We urge that you work to ensure that the very real concerns, hopes and expectations of the people of Northern Ireland are reflected in a broad, strong set of rights. We look forward to hearing from you on this matter.

Sincerely,
(signed)

Joseph Crowley (D)
Eliot. L Engel (D)
Richard E. Neal (D)
Peter T. King (R)
Tim Holden (D)
Gary L. Ackerman (D)
Bill Delahunt (D)

Carolyn B. Maloney (D)
Maurice D. Hinchey (D)
Jim McDermott (D)
Jerry F. Costello (D)
Donald M. Payne (D)
Edolphus Towns (D)
Brian Higgins (D)

Edward J. Markey (D)
Russ Carnahan (D)
Eddie Bernice Johnson (D)
Michael A. Arcuri (D)
James P. Moran (D)
Michael E. Capuano (D)
James P. McGovern (D)

Congressman Crowley is the six-term representative from the 7th Congressional District of New York, which includes sections of Queens and the Bronx. He is a co-chair of the Ad-Hoc Committee on Irish Affairs. He is also one of nine chief deputy whips and sits on the powerful Ways and Means Committee and Committee on Foreign Affairs.

The Prime Minister's Response:

22 November 2010

10 Downing Street
London
SW1 2AA

Dear Members of Congress

Thank you for your letter of 12 October regarding a Bill of Rights for Northern Ireland. Your continued interest in, and commitment to Northern Ireland is welcome and I take your concerns seriously. For my part, the UK Government is firmly committed to upholding human rights across the UK, including Northern Ireland, and I believe we can be proud of our record. We are also committed to upholding the devolved, power-sharing institutions that have won the democratic backing of the people of Northern Ireland.

You rightly say that the protection of human rights for everyone in Northern Ireland was a central part of the political agreements reached which allowed the creation of the devolved institutions. But in respect of the specific point you make about a Bill of Rights, there is insufficient consensus within Northern Ireland's political leaders to proceed. Some are in favour of a wide-ranging Bill of Rights, as recommended by the Northern Ireland Human Rights Commission. Others prefer a more limited, Northern Ireland specific approach; others still see no need to go beyond the existing UK-wide human rights law. To illustrate the point, a recent Assembly motion calling for a wide-ranging Bill of Rights was rejected. This lack of consensus is not a new phenomenon; in the 12 years since the Belfast Agreement the previous Government was unable to resolve it.

On issues of such importance for Northern Ireland, the Government's view is that it is important to proceed by consensus. In the absence of such a consensus, progress is difficult. The Government hopes that all sides will engage constructively and we stand ready to facilitate agreement.

I hope this response is helpful and thank you for your continued interest in and support for progress in Northern Ireland.

Yours sincerely

David Cameron

Editor's Note:

At the time of going to print, the Northern Ireland Office published responses received to the consultation ('A Bill of Rights for Northern Ireland: Next Steps'). This showed that there had been a massive response of 36,492 submissions. Just News will provide further analysis of these submissions in a future issue.

The Northern Ireland Bill of Rights Journey

The Northern Ireland Bill of Rights (BoR) has been on a long journey and has been central to CAJ's work for many years. The issue of formal rights protections first emerged at CAJ's 1984 Annual Conference, where the decision was made to begin investigating the possibility of a BoR for Northern Ireland. A sub-committee was formed to investigate the political, legal and international elements of a possible Bill and to begin drafting some language. At the subsequent Annual Conference it was decided to pursue a campaign to incorporate the European Convention on Human Rights (ECHR) into domestic law and to campaign for an additional BoR for Northern Ireland. In November of that same year the Anglo-Irish Agreement was signed which made specific reference to considering the matter of a BoR for Northern Ireland. Through 1987 and 1988 CAJ took a lead role in stimulating discussion at government level, including at local district councils. A proposal to incorporate the ECHR into domestic law was unfortunately defeated in Parliament in 1987 and wouldn't be successful until eleven years later.

CAJ published a Pamphlet called 'Making Rights Count' in 1990, setting out the case for a BoR by reviewing international documents and national charters and referencing the views of the various political parties and other interested groups. The document included a draft BoR. In 1991, CAJ's efforts expanded to include an international focus both thematically and geographically. CAJ played a significant role in a symposium held in Boston and also featured in a highly successful workshop on 'The Bill of Rights for Northern Ireland' in Iowa.

The Belfast/Good Friday Agreement in 1998 established a process to provide a BoR supplementing the European Convention on Human Rights, drawing on the particular circumstances of Northern Ireland. The BoR campaign gained a lot of momentum after the Agreement, which coalesced into the creation of the Human Rights Consortium originally co-convened by CAJ and Amnesty International in 2000. The Consortium continues to this day and has grown to over 150 organisational members.

This greater outreach to, and mobilization of, the community was supported also by the publication by CAJ of an 'Information Pack on a BoR for Northern Ireland.' CAJ also made a submission to the Northern Ireland Human Rights Commission (NIHRC) on 'A Bill of Rights for Northern Ireland.' CAJ gave testimony to the US Congress focusing on the BoR and equality issues and continued throughout the next year to host a series of lectures including co-hosting a visit by Archbishop Desmond Tutu.

In 2002 CAJ responded to the consultation on 'Making a Bill of Rights for Northern Ireland.' By 2004 CAJ noted its reservations with the work of the NIHRC in its response publication to 'Progressing a BoR for Northern Ireland: An Update.' Noting that it would not be appropriate at that particular time to finalize advice to the Secretary of State, CAJ endorsed a call for a Roundtable which would eventually become known as the Bill of Rights Forum. The Forum was agreed as part of the St Andrews Agreement in 2006 CAJ served as the representative for the human rights NGO sector on this. In 2007, CAJ submitted a memorandum to the Joint Committee on Human Rights. In March of 2008 the Bill of Rights Forum published its recommendations to the NIHRC and CAJ continued its campaign for a strong and inclusive BoR through a publication called 'The Best Bill of Rights - A Guide.'

In December 2008 the NIHRC published its advice in a submission to the Secretary of State. CAJ reviewed the advice in relation to benchmarks for a strong and enforceable BoR and while voicing concern and reservations on several aspects of the advice given by the NIHRC to the Secretary of State, CAJ was pleased by the document overall. The NIO document which followed, 'A Bill of Rights for Northern Ireland: Next Steps' published in November of 2009 was a huge disappointment which failed to adequately consider the advice of the NIHRC and produced stunted and unacceptable proposals. As Just News went to press, the Secretary of State published the responses to this consultation. An analysis of the government response will be contained in a future edition of Just News.

Cristine Delaney, CAJ Volunteer

The Billy Wright Inquiry Report

The Billy Wright Inquiry delivered its report on 14 September 2010 after 156 days of hearings. Its terms of reference were: “To inquire into the death of Billy Wright with a view to determining whether any wrongful act or omission by or within the prison authorities or other state agencies facilitated his death, or whether attempts were made to do so; whether any such act or omission was intentional or negligent; and to make recommendations.”

Judge Cory investigated allegations of collusion by the security forces in the murder of Billy Wright at the Maze Prison on 27 December 1997, and three other controversial murders. He presented his report to the Secretary of State on 7 October 2003; a redacted report was published on 1 April 2004. The Billy Wright Inquiry did not adopt the same definition of collusion as that used by Judge Cory; attempts to adopt this definition were defended in the body of this report. The Inquiry stated that although specific reference was not made to collusion in its terms of reference, these terms “would amply cover the situation ... without having to resort to the words ‘collusion’ or ‘collusive.’” In its report, the Inquiry commented they “had at the forefront of our minds our understanding of collusion and the possibility that individuals within state agencies behaved collusively or committed collusive acts which could be said to have facilitated Billy Wright’s death.” The Inquiry, though, was never “persuaded that in any instance there was evidence of collusive acts or collusive conduct.” Though initially established under the Prisons (Northern Ireland) Act 1953, the Inquiry was converted to one under the Inquiries Act 2005. This was met with resistance by Billy Wright’s family. A judicial review seeking to quash this decision was successful before the High Court on 21 December 2006 but was reversed by the Court of Appeal on 28 June 2007. Challenges were also made to the Inquiry’s terms of reference, the Chairman’s ruling on the questioning of witnesses and the posting of transcripts on its website. The Inquiry took five years to fulfil its remit due to the complexity of the subject matter, large volume of material, and the difficulties in recovering and considering material. Having detailed the historical and political landscape, the Inquiry focused on the role of the NIPS, RUC, security service and army.

In considering the part of the NIPS, the Inquiry concluded that its failure to operate a proper system of prisoner classification in the Maze made it very difficult to exercise appropriate supervision of those prisoners who required the highest level of staff supervision. They specifically criticised the failure to classify Christopher McWilliams and John Kenneway as top risk prisoners after they held a prison officer hostage at gunpoint in 1997. Among its conclusions, the Inquiry also noted that the failure to strengthen roof defences in H Block 6 and the failure to ensure that the exercise yards were secured and checked each night, the failure of the NIPS to provide staff with clear operational instructions for daily practice, the failure on the part of the NIPS and its Chief Executive to deal with recognised management problems in the Maze and the failure to seek risk assessments about republican threats to Billy Wright and the return of the LVF to H6, all constituted wrongful omissions on their part which facilitated Billy Wright’s death. The Inquiry was also critical of the failure to implement many of the recommendations of the Steele Report which followed the discovery of a tunnel in the Maze; lack of implementation constituted a wrongful omission which facilitated the murder of Billy Wright. In its recommendations, the Inquiry highlighted the need for a Patten style process to “pave the way for radical change in the way that the NIPS is managed..” It is noteworthy that 6 days of hearing were required to address the failure of the Prison Service to provide crucial documentary evidence. The Billy Wright Inquiry noted that a large number of documents had been destroyed before the start of the inquiry though “no explanation emerged in the evidence as to how the two firearms were introduced into the prison and put into the hands of his INLA murderers.”

It stated that the withholding of material “cost the Inquiry several months” delay in its work. It also noted that the apparent lack of co-operation between Special Branch and CID was highlighted “reflecting a culture of secrecy and confidentiality which was endemic.” The Inquiry criticised the PSNI’s lack of adequate and effective systems for information management, dissemination and retention and also noted that in certain cases there was a suspicion that this “amounted to deliberate malpractice which involved the destruction of audit trails and the concealment of evidence.” It criticised the RUC’s failure to take any action over the critical threat of April 1997 and noted that its failure to communicate intelligence was a wrongful omission which facilitated Billy Wright’s death. The Inquiry rejected the allegation of collusion levied against the Security Service. We now await the reports from the Robert Hamill and Rosemary Nelson Inquiries and continue to call on the government to hold an independent inquiry into the death of Pat Finucane.

Civil Liberties Diary - November

2nd November

The Justice Minister, David Ford, has indicated there will be a review of the age of criminal responsibility, which will be part of the general review of the youth justice system. The review, is part of the commitment as agreed at the Hillsborough Castle Agreement. The review, headed by John Graham, director of the Police Foundation for England and Wales, will report in March 2011.

4th November

The Equality Commission launched an "employability toolkit." The toolkit is aimed at assisting those of marginalised minorities and other disadvantaged groups to find meaningful employment in Northern Ireland. The Commission has also encouraged all equal opportunity employers to, within the law, take positive action in relation to any group that is under represented in their particular workforce.

5th November

The government announces its decision to close the Independent Monitoring Commission (IMC). The watchdog which has monitored all paramilitary activity was set up by both the British and Irish governments in 2004. The IMC has been asked to file a final report on the lessons learned throughout its time in existence. The report will be due in early 2011 and then the Commission will be formally shut down.

8th November

The Royal National Institute for the Blind (RNIB) launched its campaign Lost for Words to highlight the barriers those with impaired vision have to countenance due to the health service and other public bodies' failure to consider their needs in an inclusive manner. The RNIB has called on the Health Minister Michael Mc Gimpsey to end the discrimination.

The Autism Bill, tabled by Dominic Bradley MLA, begins its passage through the NI Assembly. If the Bill is passed autism will be recognised as a social and communication development disorder under the Disability Discrimination Act. The Bill was welcomed by Arlene Cassidy, Chief Executive of Autism NI.

12th November

Legislation covering the 50/50 recruitment of Protestants and Catholics to the Police Service of Northern Ireland is due to expire on the 28th March 2011. Owen Paterson, Secretary of State, has indicated that he is "minded not to renew the provisions." The Secretary of State recognised "the provisions have clearly played an important role in getting us to this point, but it was always envisaged that they would be of a temporary nature." There will, however, be a consultation before any decision is reached on the matter.

24th November

The Irish News reports that 35 former prisoners are in the process of suing the Northern Ireland Prison Service for being unlawfully detained. The claimants allege that they were detained in prison for periods ranging from 3 hours to eight months after they had completed their sentence. It has been reported that prison officials have already made offers of payment to settle 2 of the claims however the prison service is denying liability in 29 of the remaining cases.

Following her investigation into the death of Paul Henderson, Pauline McCabe the Prisoner Ombudsman has made 5 recommendations in her report released today. It recommends that procedures around hospital appointments and visits by prisoners are to be reviewed and improvements made.

Owen Paterson, Secretary of State, has indicated there can be no Bill of Rights for Northern Ireland without the consent of the Northern Ireland Assembly. He stated "many members

of the assembly clearly have reservations about a bill of rights and it appears unlikely that any motion could be successfully passed. Building consensus is therefore crucial and I will ask supporters of a bill of rights to focus their energies on engaging with those members who are sceptical." He cited the earlier assembly debate this year where assembly members voted 46 for and 42 against a motion calling for an enforceable Bill of Rights.

25th November

There have been calls for a public inquiry into the UVF massacre at The Heights Bar in Loughinisland where 6 people lost their lives in 1994. There has been an ongoing investigation in to claims of police collusion by the Public Prosecution Service (PPS). However the PPS has decided not to prosecute a police officer questioned earlier this year over perverting the course of justice and aiding the killers escape due to insignificant evidence. The SDLP leader, Margret Richie, has stated that there is now a clear need for a public inquiry.

Compiled by John Keers from various newspapers

Just News

Just News welcomes readers' news, views and comments.

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