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Bulletin of the Committee on the Administration of Justice

Obstructing the Ombudsman

In December last year, the police Ombudsman Nuala O'Loan delivered a devastating critique of the RUC's handling of the Omagh bombing. The report followed a detailed and intensive investigation by her office of Northern Ireland's worst terrorist atrocity. The Chief Constable, Sir Ronnie Flanagan responded extravagantly, declaring the report 'wildly inaccurate'. The government has sought to underplay the significance of the Ombudsman's findings, while maintaining its full public support for the Chief Constable.

It bears reminding that the Office of the Ombudsman is not some fringe fraternity with an axe to grind against the police service. It is an independent body created by parliament, staffed by professionals including a significant number of former policemen and women, and headed by a legal academic of considerable personal stature. The Office of the Ombudsman is one of the building blocks of the new policing arrangements for Northern Ireland. Its creation was intended to ensure the oversight and accountability of the new police service.

The release of the report on the police failures at Omagh pointed to serious flaws in investigative process in Northern Ireland, including the failure of the RUC's Special Branch to pass on two warnings to officers on the ground in Omagh, the failure to question those implicated by the warning, and numerous other procedural and substantive failures throughout the investigation.

The response to these serious issues has been denial, rhetorical handstands and the outright vilification of the Ombusdman. It bears reminding that this three-pronged approach is not a new one. Sir Ronnie Flannagan and previous Chief Constables have adopted a remarkably similar approach when faced with criticism of depth and merit. A brief tour of previous responses by the police to external criticism is merited.

In 1978, when Amnesty International circulated its report concerning ill-treatment of detainees the then Secretary of State, Roy Mason, wrote to Amnesty to delay publication of the allegations. Following the report's publication, a police doctor, Dr. Irwin spoke on a *Weekend World* programme about a number of cases in which he had seen injuries that were not self-inflicted. Shortly afterwards the *Daily Telegraph* published a leaked story which informed the public that Dr. Irwin was holding a grudge against the RUC because of their failure to adequately investigate a crime committed against his wife in 1976.

The Stalker investigation is ripe with examples of public denunciations and undermining. John Stalker was removed from his position, and subjected to the most intimate public trial of his choice of acquaintances and judgement, following his overly zealous investigation of the shoot-to-kill deaths in Northern Ireland during November/December 1982. Finally, when Param Cumaraswamy (the United Nations Special Rapporteur on the Independence of Judges and Lawyers) published his concerns over allegations of official intimidation of defence lawyers in Northern Ireland, swift censure followed. He was accused by the RUC of a lack of 'objectivity, accuracy and fairness'. His integrity was publicly questioned on the basis of an ongoing civil action being taken against him in Malaysia.

The sad reality of such a standard response is that it draws attention away from the shared aim of ensuring that past mistakes (if any) by the police must be subject to rigorous internal review and prevented from occurring again. Clearly, it is difficult for any police force to be criticised. Such criticism is hurtful to those officers who responded with bravery and compassion to the events on the ground in Omagh following the bombing. Both the public and those officers deserve a thought-out response that acknowledges mistakes if correctly identified, and creates systems to prevent them recurring.

Equally important in this situation is the need to support rather than undermine the Office of the Ombudsman. Creating confidence in external review of police action is critical to ensuring the success of the new policing arrangements. It is in the police interest to have a strong and impartial Ombudsman. The professional inquiry by that office into the Omagh investigation demands an equally professional response. Anything less undermines the integrity of the police themselves.

Fionnuala ni Aolain

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Overseeing the oversight process!

The post of Oversight Commissioner for the police was considered by the Patten Commission to be very important in acting as "an important impetus to the process of transformation". Tom Constantine and a team of five other colleagues issued a first report in early 2001 indicating how they intended to approach the work. With the recent creation of the Policing Board, the team seems to have moved into higher gear, and two reports were issued in quick succession in late 2001. What do they have to say about the extent and nature of policing change to date?

Well, the first of these recent reports (no 2, September 2001) is more about process than substance. It looks at each of the 175 Patten recommendations and proposes a series of Performance Indicators for each recommendation (a total of over 700 Indicators). By and large, CAJ thought that these Indicators were excellent, and should provide the Oversight Commissioner team and, in due course, the general public with a very detailed insight into the police change process. We did, however, feel that on occasion the Indicators focused overmuch on the process of change, to the exclusion of any comment on substantive outcomes. For example, Patten had recommended the appointment of a lawyer with specific human rights expertise and explicitly recommended that "this lawyer should be consulted about proposed police operations that raise human rights considerations" (para 4.11). To judge by the Performance Indicators cited for this recommendation, the Oversight Commission will assess whether or not (a) a lawyer is appointed; (b) if the job description is adequate to the task; and (c) if the appointee meets the agreed criteria. No suggestion is made that the Oversight Commissioner would play any role in assessing how the post would work in practice. Surely as important as the recruitment process is the requirement that the lawyer is consulted about operations with human rights implications for example?

This scrutiny exercise is of vital importance and cannot be allowed to turn into a box-ticking exercise. For that reason, CAJ believes that the Commissioner will have to look at outcomes as well as inputs, and we proposed a number of additional Performance Indicators which would help in this regard. These indicators include requesting *evidence* that training and practices on the ground reflect the human rights action programme, that officers are aware of and abiding by the Code of Ethics etc.

The other report published by the Oversight Commissioner (no 3, December 2001) is perhaps more immediately interesting to a wider audience in that it is the first substantive public report on policing change. The report takes each chapter of Patten, and the recommendations flowing from it, and assesses progress to date. Again, CAJ issued a formal commentary on the report, and our main concerns can be summarised easily.

Firstly, the Commissioner is liaising closely with the police (as he must), but seems to have relatively little contact with non-police sources. Accordingly, CAJ was unsure as to whether or not Mr Constantine would have been made aware of crucial documents such as the newly issued European Code of Police Ethics, the NIHRC's critical assessment of police Human Rights Act training, concerns CAJ and others had raised about the approach of the Plastic Bullet Steering Group, etc. Presumably the police authorities met with would have made him aware of all these materials but, if not, who would have done so? Effective scrutiny relies to a large extent on effective data gathering, and the more diverse and pluralist the information sources tapped by the Oversight Commissioner, the more informed a view he is likely to develop.

A second important CAJ concern on the basis of this early report is how much the Oversight Commissioner intends to comment on actual outcomes (see earlier comments regarding Performance Indicators). Critical to the transformation process is the complementary role played by key actors such as the Ombudsman. Will the Commissioner, for example, comment on the level of support given by government to the new Ombudsman position, the apparently increasing role being played by the army in public order situations, the composition of the Policing Board, and/or doubts expressed as to the 'independence' of the recruitment process? While the oversight team could not – and should not – try to substitute for the Ombudsman, the Police Board, or police managers, it has an important role to play in informing the general public as to whether these people are doing their job properly.

Now that the process of oversight has started in earnest, reports are expected on a quarterly basis. CAJ intends to study each report and issue a commentary: copies are available from the office. Interested readers are encouraged to write directly to the Oversight Commissioner if they have concerns that they feel should be addressed in future reports.

Maggie Beirne

Inquest system

CAJ has become increasingly disturbed at recent developments in relation to the United Kingdom's response to the cases of Jordan, Kelly, McKerr, and Shanaghan v UK, in which judgement was delivered by the European Court of Human Rights on 4th May 2001.

In its judgement, the Strasbourg court found that in all four cases, the UK had violated Article 2 of the Convention, which protects the right to life. The basis of this ruling was that the UK had not properly investigated the killings of twelve individuals, some of them killed by the police, some by the army and one killed by loyalist paramilitaries in circumstances suggesting collusion.

The judgement, in our view, should have led the government to introduce significant changes to the way such cases are dealt with in the future and to establish proper investigations into the four cases which were the subject of the decisions.

One of the cases which was subject to the May 2001 judgement is the case of Pearse Jordan. Unlike the other cases, his inquest had not been completed and there have, since the judgement, been a number of preliminary hearings before the Belfast Coroner to try and determine the basis upon which his inquest should now proceed. The inquest is now due to proceed early next month.

On 9th January 2002, counsel for the Lord Chancellor told the Belfast Coroner that the Lord Chancellor was minded to change the Coroners Rules to allow for the compellability of witnesses who may have been responsible for the death. This was the sole change to the Rules being considered. He said there would be no alteration to the Rules in relation to the issue of verdicts.

He said that while the inquest did have a role to play in satisfying article 2, he felt that the Police Ombudsman also had a function in this arena, and that the Attorney General was considering the policy of whether to give reasons in respect of decisions of the DPP not to prosecute in certain cases.

There was considerable discussion about a number of recent judgments in England relating to the compatibility of the inquest system with the Convention. This included the Middleton case, which concluded that the inquest system as operated in England, did not violate article 2 of the Convention. This conclusion was based on the remarkable notion that it was always possible, no matter how remote the possibility in practice, that a further ad hoc investigation might take place. The Belfast Coroner accepted this reasoning and said that he would consequently hold the inquest under the old Rules.

On 14th January 2002 during a judicial review of decisions of the Lord Chancellor in the case of Jordan, counsel for the Lord Chancellor gave perhaps the fullest explanation of the government's response to the Jordan et al judgements from Strasbourg.

In terms of changes to the Coroners Rules he said that the changes on compellability were the only changes envisaged.

He said that the issue of independent investigations was dealt with by way of the establishment of the Police Ombudsman and that the criticism in relation to the refusal of the DPP to give reasons for refusing to prosecute would have to be considered by the Attorney General. The problem with certain witnesses not being compellable at the inquest was being dealt with by way of the change to Rule 9(2). There was no intention to change the rules relating to verdicts although the government accepted there was a need to have an effective process which could assist in identifying and prosecuting those responsible but that could be provided by some mechanism other than an inquest. He speculated that this might include a reconsideration by the DPP following the inquest. Issues of legal aid and disclosure were being or had been dealt with.

While judgement in this judicial review is awaited, it would appear that the government response is piecemeal and being left to individual departments or agencies rather than being co-ordinated. Given that the judgements have significant implications for the police, the Police Ombudsman, the DPP, the inquest system and the Ministry of Defence, such an approach is bound to be inadequate in terms of properly implementing the judgements. Indeed it is likely to lead to further unwarranted delay, thereby potentially violating the Convention further.

In our view the government, through a lead department or official should respond comprehensively to the European judgements. Each major criticism identified by the Strasbourg Court should be addressed in the course of this response.

In addition the government should immediately establish inquiries compliant with article 2, into the four cases subject to the judgements.

Paul Mageean

Up to date with CAJ

There have been meetings of the Equality, Bill of Rights, Policing and Membership subgroups.

CAJ's submission to the Implementation Plan for the Criminal Justice Review and the Justice (Northern Ireland) Bill is now available from the office (price £2.00)

Maggie attended an international seminar in Mexico on economic, social and cultural rights and the process of government budget-setting.

Finally, members and subscribers - please renew for 2002 - cost remains the same as last year.

Liz McAleer

CAJ's res

"Making a Bill of Right

Readers of Just News will be familiar with the ongoing Bill of Rights debate, which is now entering a key phase. The NI Human Rights Commission is just beginning its deliberations on what its final advice to the Secretary of State on a Bill of Rights for Northern Ireland will be. This advice will be based on the submissions it has received on its consultation document "Making a Bill of Rights for Northern Ireland".

CAJ made its submission in early December, which was the original deadline for receipt of submissions. The Commission had originally set this deadline as they were keen to complete their advice before the term of office of the current Commissioners expired at the end of February. With the new appointments having been made, there is now some confusion as to what the timetable currently is. It seems that the Commission is not going to submit its advice to the Secretary of State until the end of May. It is willing to receive further submissions throughout January, and possibly February.

This confusion has led to some disquiet among those who have been following the debate closely. Many feel that they were rushed to respond to a lengthy, detailed document. Members of the Ad Hoc Consortium had expressed concern to the Commission in the summer of 2001 that the focus in this debate should be on allowing *more* time for consultation with the people, so that the ownership necessary to make this project a success could be developed. Indeed, the Commission is now coming under pressure from a number of quarters to slow down and consider opening up the debate further, rather than rushing ahead with a project which does not have the support and ownership needed by local communities.

What's wrong with "Making a Bill of Rights"?

While there were several positive aspects in the draft, CAJ had a number of concerns which we felt, if not addressed, would seriously undermine the notion of the effective protection of the human rights of all.

In addition, the draft text contains provisions more disposed to separate legislation or policy decisions than to inclusion in a Bill of Rights, such as a truth process, the age of criminal responsibility etc. There were also some important omissions – most notably with regard to labour rights and freedom of movement. We once again urged the Commission to recognise that the best way to reflect the "particular circumstances of Northern Ireland" is to propose a broad range of rights with which people from across all communities can identify, thus binding communities rather than dividing them.

Accessibility

One of the greatest concerns CAJ has heard in the various consultations and seminars we have attended over the last few months is how confusing, incoherent and inaccessible the document is. Understandably, a Bill of Rights, as a legal text, must contain a certain degree of technical language, and people generally understand that. However, it was widely felt that the current document makes insufficient effort to be accessible to the reader. The language itself is overly technical, with many groups having described it as "disempowering". Even the Preamble, as the section in a Bill of Rights which should be clear and easily understood, seems to be both long and complex.

The use of clauses from the European Convention, which are then occasionally amended or even contradicted by subsequent paragraphs, is off-putting to an average reader, particularly with references to "High Contracting Parties" and the differing limitations clauses. There is no consistency in terms of who the document applies to, with "everyone", "citizens", "people of Northern Ireland" and "individuals born in Northern Ireland" being used interchangeably. Overall, there is a sense that the document lacks strategy and cohesion – problems which will need to be remedied in the final advice if this Bill is to be accessible to those who most need it.

Identity and Community Rights

CAJ has a number of concerns with the proposals in this chapter. The chapter purports to follow the Framework Convention on National Minorities but in many instances seems to undermine the provisions contained in that Convention. Most worrying is the equation of the word "minorities" with the word "communities". The term "minorities" has a specific meaning in international human rights law, and indeed these provisions are designed to protect the most vulnerable groups, and individuals in society precisely because they are minorities. Special provision is rarely, if ever, required to ensure protection for so-called "majority" groups and elaboration of these rights do not normally feature in international human rights texts. It certainly would be unacceptable if the Commission undermined any of the rights that minorities have as a result of the Framework Convention, and we believe the current proposals do exactly that.

In addition, CAJ has some concerns about the proposed right of people *not* to be treated as a member of a particular community, as this could create problems for practices

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such as employment monitoring, integrated schooling and police recruitment. There is a danger that these proposals risk undercutting equality proposals elsewhere in the Bill and in existing legislative provisions.

CAJ is particularly concerned, given that equality is one of the particular areas mandated by the Agreement for the Human Rights Commission to examine in the Bill of Rights, that the Commission's proposals in this area are lacking in some respects. Most importantly, given concerns we have raised elsewhere in the submission, we feel that positive action *must be required*, rather than being a discretionary mechanism.

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Victims

Most worrying in this chapter is the distinction made by the Commission between so-called 'victims of the past' and 'victims of the future', which in effect rejects the idea of individuals seeking redress, and runs counter to recent judgements of the European Court of Human Rights. It seems strange that the Commission would decide that individual families or victims should be unable to obtain access to justice, simply because the act in question was committed during the conflict.

Language

The chapter on language rights is problematic in a number of respects, and has been criticised by members of the Working Group who believe that their hard work and efforts have been effectively ignored. Indeed, this would appear to be the case, particularly as regards the Irish language and Ulster Scots which receive no additional protection under the current proposals. While the proposals relating to the language rights of migrant communities are to be welcomed, it is unclear why the Commission felt it necessay to develop extra protections for English. International human rights law in relation to language rights focuses on the rights of those who are nationals of the state but belong to minorities. Why is the Commission departing from the international norm in this instance particularly when to focus on indigenous languages would precisely reflect the "particular circumstances of Northern Ireland", as mandated by the Agreement?

Socio-economic rights

CAJ's biggest concern about the document relates to the contents of this chapter. The text is entirely misleading in that it suggests that the Commission is responding positively to the almost unanimous support for the inclusion of socio-economic rights, when in fact the proposals add little to provisions already available elsewhere in the text.

The interpretative clause which precedes the rights, and through which the rights are given meaning, offers action only by way of "legal remedies [to] protect the due process and equality rights of all citizens in respect of social and economic rights". This offers no more than is already offered in the equality and administrative action sections. In effect, the whole chapter is meaningless since the protections it appears to offer are already offered elsewhere in the text. This section distorts the effective protection of social and economic rights suggesting that they are being protected when that is not the case.

The format of the chapter seeks to give the impression that socio-economic rights are being treated differently from the other rights outlined in the Bill. Given that this is the one area in the Bill of Rights for which there is almost unanimous support among the people of Northern Ireland, CAJ believes that the Commission *must* propose strong and effective socio-economic rights protection in its advice to the Secretary of State.

Enforcement

CAJ was particularly surprised to see that the Commission seems to have changed its policy in relation to the creation of a new court. In its submission to the Criminal Justice Review, the Commission endorsed the suggestion of creating a Constitutional Court dedicated to interpreting a Bill of Rights for Northern Ireland. In the current proposals, however, a new court is only an option, and one which does not seem to be in favour. CAJ remains firmly of the view that a new court is *essential* if the Bill of Rights is going to be effectively enforced. New judges sitting on a new court, entrusted as guardians of the Bill of Rights, cannot help but take those rights seriously and endeavour to ensure that they are respected. In addition, a new court, which is broadly representative of the community, would be a powerful symbol that the Bill of Rights truly belongs to everyone in Northern Ireland.

Conclusion

As it stands, the proposals contained in "Making a Bill of Rights for Northern Ireland" fall far short of a strong, comprehensive Bill of Rights which adheres to international standards. Much work remains to be done if the Commission is to make this a Bill Rights of which we can be proud, and which can truly guarantee and protect the human rights of all. We hope that the Commission will seriously consider the submissions it has received, many of which raise similar concerns as CAJ's, and be courageous in proposing a Bill of Rights for all of us.

Aideen Gilmore
Bill of Rights Project Worker

For a copy of the full submission (£2.50) contact the office.

Northern Ireland's Bouncers Fall Victim to Private Finance Initiative – *Will You Be Next?*

The fortunes of the NI Trampoline Squad do not normally feature greatly in the pages of Just News. Indeed regular readers may wonder why the activities of any sporting organisation should be considered to fall within the remit of CAJ. Has our desire to mainstream equality throughout Northern Ireland made a leap too far? Well, if you, or any member of your family uses schools, hospitals, or roads your fortunes are likely to be more closely linked to the Trampoline Squad than you might think!

Until recently the squad trained in Belfast, however they have since been forced to move their practice sessions down to Newry. Admittedly, being forced to spend time in Newry does not yet constitute a human rights abuse, (indeed, the author of this article is a Newryman himself). What is of concern is the reason why the Squad were forced to move training facilities - namely, because they could not afford to stay where they were. The premises are now part of a new Private Finance Initiative/Public Private Partnership school. It appears that the private investor who built the premises, and now maintains them, is charging a price that the Squad cannot afford. According to the investor, the price is necessary to recoup the costs of entering into the arrangement in the first place.

But so what if the Trampoliners now have to travel down to Newry of an evening for their training I still hear you ask? Maybe you are not currently and have never been interested in the fortunes of Northern Ireland's finest bouncers. Well, just think, if the Northern Ireland Trampoline Squad can't afford to hire a sports hall to train in as a result of PPP/PFI, what other groups might also be affected in the future. Will facilities currently hired by OAP, mother and toddler, and youth groups also be priced out of their range?

While the NI Trampoline Squad may be inconvenienced by having to pile into a minibus and drive down the M1, will other community groups be in a position to do likewise? These are serious questions that have major implications for community access to facilities in Northern Ireland, and as always, it is those who are least well off who are likely to finish up 'priced out' of even more public space.

Actually, on the subject of public space, it is perhaps worth considering another recent PPP/PFI initiative in Belfast that involved Wellington College. Part of the 'deal' consisted of the majority of the land on which the College is based being sold off and the profit from the sale going to the private developer. The public, did not get any of the money, and now have to deal with more houses in an area which already has problems with traffic congestion etc.

To PPP or not to PPP

So, is PPP/PFI all trouble and strife? Well, the answer depends on who you speak to really. One thing about PPP/PFI is its ability to generate conflicting points of view. Indeed even the terminology can be contentious, with supporters tending to emphasise the 'partnership' aspect, while critics focus on the 'private' nature of the project. In Britain, UNISON have been very much in the vanguard of the anti-PPP/PFI movement campaigning to highlight the problems PPP/PFI has created in relation to terms and conditions of their members who have been transferred, and the quality of public services. UNISON have produced a number of publications which highlight the kind of problems outlined above. Certainly, proponents of PPP/PFI would do well to consider some of these reports, such as 'The Only Game in Town: A Report on the Cumberland Infirmary Carlisle PFI" UNISON (Northern Region). Other unions and groups in Britain have also been highlighting the potential pitfalls that can arise as a result of PPP/PFI.

So given these criticisms, why is PPP/PFI being embraced with such enthusiasm? Well, perhaps the answer lies with those who are PPP/PFI enthusiasts, namely, officials of HM Treasury. They thought up the concept in the early 1990s and have subsequently convinced Gordon Brown that it's a panacea for dealing with a legacy of public sector under-investment. The main attraction from a Treasury point of view appears to be the impact on the Public Sector Borrowing Requirement. Rather than borrowing money to pay for a project now, the government gets a private company to do the borrowing and building for them. Instead of the public finances paying out the cost of the building in a lump sum, the public sector pay for the cost of the project over say 20 - 30 years. Of course the project costs more in the long run, but that appears to be an acceptable trade off. Furthermore, the advantage of this system for a private investor is that they have an income guaranteed over the 20 or 30 years, without having to compete every year for contracts and all the financial uncertainty that that involves. Other advantages for the government include the fact that the cost to the public purse is fixed, and thus some of the more egregious overspends of the past can be eliminated. The most famous in Northern Ireland, for example, being the Belfast City Hospital Tower Block which over-ran from an initial cost of £7m to £70m.

Another one of the disagreements about PPP/PFI is whether or not it constitutes privatisation. Again, it depends very much on the side of the fence on which you are sitting. Supporters argue that it is not, given that the assets at the end of the contract transfer back to the public sector. Unions and others argue that if the money is being borrowed by the private sector, the project is being built and maintained by the private sector, and in many cases, the staff are employed by the private sector, then it is *de facto* privatisation. Moreover, they are also highlighting what they see as the insidious effects on the public interest when delivery of key services is by those whose ultimate accountability is to shareholders and not the public.

Certainly, there are a number of differences not just with the concept, but also with the process of PPP/PFI that product differentiate it from conventional procurement. For example, in conventional procurement there is an invitation to tender, with PPP/PFI there is an invitation to *negotiate*. In other words, private bidders can bid for other parts of a project outwith that originally intended. So, in practice, this can mean a private bidder deciding to bid for the maintenance and staffing of a project which effectively means the contracting out of the existing staff. It can also mean, as has been the case in England, of a reduction in the number of beds contained in hospitals to make the sums add up. One of the key things to remember about financing is that the public sector can borrow much more competitively than the private sector. Therefore, in order to make it financially worthwhile for the private sector, income has to be derived from other 'savings'. Hence, it can mean fewer beds in hospitals to reduce costs, less wages for staff to reduce costs, and higher prices for users of facilities such as sports halls to generate income.

So other than UNISON, who are the other main players trying to hold back the PPP/PFI tide. As stated, PPP/PFI is very much a UK-wide initiative, and in that context there have been a number of other UK-wide alternatives put forward. The Scottish National Party has suggested the establishment of a Scottish Investment Bank for example, while other suggestions include the use of public bonds. Unfortunately, none of these seem to be runners as far as the Treasury is concerned and the PPP/PFI juggernaut is progressing full steam ahead.

So what of the particular circumstances of Northern Ireland? Well, the Executive has set up a review of PPP/PFI and this is currently ongoing. In the meantime CAJ is asking for a moratorium on all future PPP/PFIs until the review is completed. At the moment the review plans to produce a report in May 2002 for consultation, along with an Equality Impact Assessment (EQIA).

Undoubtedly, the prevailing wind from Whitehall is in favour of PPP/PFI. As we all know, since they pay the piper, what the Treasury wants, usually the Treasury gets. Equally, no one can deny the need for a comprehensive investment programme in Northern Ireland's crumbling infrastructure. CAJ is willing to examine any option that will lead to remedying these problems. We would point out however that unlike Britain, Northern Ireland has Section 75 and Equality Impact Assessments – something even Whitehall can't ignore. In this context, CAJ has a wish-list to ensure that the mistakes outlined above are not repeated.

Section 75 and PPP/PFI

In the forthcoming review, and overall equality impact assessment, CAJ will be looking for detailed alternatives to PPP/PFI, along with mitigating measures such as how to ensure that lessons learned from previous experiences have been taken on board. Furthermore, CAJ will look for a commitment that all major PPP/PFI's being introduced are subject to a three-stage safeguard. Basically, there are three key separate stages of a PPP/PFI, each of which will require an impact assessment. These stages are respectively:

Outline Business Case

The first stage of a PPP/PFI which requires an EQIA is the 'Outline Business Case.' This effectively determines whether or not the PPP/PFI project is needed. In some cases, PPP/PFI is more appropriate than others. Experience shows that PPP/PFI tends to be more suited to infrastructure projects such as roads and sewage than to schools and hospitals.

Invitation to negotiate

One of the key differences between PPP/PFI and the traditional model is that there is an invitation to negotiate rather than an invitation to tender. In practice this means that in some cases the bidder may renegotiate the terms of the original proposal. This could mean that 'staffing' has been included when previously omitted in the advertisement to negotiate for example. Clearly a full EQIA is required at this stage.

Award of Contract

Again, it is imperative that the final contract stage is subject to a full equality impact assessment. This is necessary to ensure that issues such as community access have been safeguarded.

As stated, CAJ is aware of the need for radical measures to address the lack of investment in the Northern Ireland infrastructure, and that the 'do nothing' option is not an option. Equally, we are of the view that if Northern Ireland does go down the PPP/PFI route, then sufficient measures must be taken to ensure that overall gains for Northern Ireland are not made at the expense of the most marginalised members of society. The procedures we are demanding are the very least that need to be done to ensure that this does not happen!

Tim Cunningham

Civil Liberties Diary

Dec 3 The Police Ombudsman Nuala O'Loan has called into question the police handling of the investigations into the Omagh bomb with a damning new report. It is highly critical of the force in that it raises the possibility of a conflict of interest between the RUC's desire to protect intelligence sources, and the pursuit of the Real IRA bombers.

Dec 4 A 41 year old Portadown man, understood to be a close associate of Billy Wright, was detained at his home by police and then taken away for questioning regarding the murder of human rights lawyer Rosemary Nelson.

Dec 6 In response to PSNI claims that the police employ people who are disabled only within the ranks of their civilian workers, and not as police officers, Ms Joan Harbinson Chief Commissioner of the Equality Commission noted that the present legislation specifically excluded disabled people becoming police officers. She stated that this was too restrictive and unnecessary.

Dec 7 Homelessness within NI has increased by 23 % in the last year, according to a review carried out by the Housing Executive. There are 6,547 units ie families or individuals, who are homeless. There are 44,000 homes unfit for human habitation.

Dec 8 In a press article, Human Rights Minister, Des Browne claimed that the key to understanding what lies at the heart of the peace process in N.I. is the belief that no one can have rights without responsibilities. "We must create a society where the rights and freedoms of others are given as much consideration as our own rights and freedoms. These are the issues that lie at the heart of Human Rights".

Dec 9 Groups working on plastic bullets, including the Campaign against Plastic Bullets and the Pat Finucane Centre, criticised the latest report into finding an alternative to the use of plastic bullets. They claim that those conducting research failed to liaise with them.

Dec 12 The Comptroller and Auditor General's new report claims that more than 50 million pounds of public money has been lost due to fraud and error in N.I. Total expenditure by the departments in N.I. exceeds 8.4 billion pounds.

Dec 13 Amnesty International's N.I. campaign manager, Patrick Corrigan has presented a "Christmas Tree of Hope" to the Human Rights Commissioner, Brice Dickson. Mr Corrigan said that the best Christmas present N.I. could get is lasting peace and justice, and the key part in that must be a strong and inclusive Bill of Rights.

Dec 14 A purpose-built centre for Travellers has been set up on the outskirts of Derry. A range of courses will be offered including personal development, information technology and certified courses in child-care. In officially opening the Centre, President McAleese said 'a society cannot afford to waste any of its God given talents; each man, woman, boy and girl regardless of culture, race, religion or tradition is part of the rich tapestry of life on this island".

Dec 18 UN Special Rapporteur, Mr Cumaraswamy last night claimed that the Special Branch informer, William Stobie may have been deliberately killed by the same people who killed Pat Finucane, in order to prevent him from assisting any (eventual) independent inquiry into Pat Finucane's murder.

Dec 20 Announcing the publication of the governments response to the Criminal Justice Review for N.I., Des Browne MP claimed that the proposed changes would put human rights, respect for victims, fairness, impartiality, transparency and accountability at the heart of the new criminal justice system.

Dec 27 A report from the Government's Research Agency shows that the unemployment rate for Catholics runs at 8.8% and 5.2% for Protestants. This contrasts with an unemployment rate of 18.1% among Catholics in 1993 and 9.4% for Protestants. But among the unemployed of N.I., 56% are Catholics and 44% are Protestant. In terms of occupational groups, Protestant representation was highest among plant and machinery jobs; Catholic representation was highest in professions and technical occupations.

Compiled by Peter and Moya Gahan from various newspaper sources.

In the Headlines

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