

Discussions of the Justice Committee on the Justice Bill

Northern Ireland's first Justice Bill in 40 years will soon pass the committee phase and return to the Assembly chamber for debate. The Bill was in part the product of the negotiations in Hillsborough in February 2010, where it was agreed that certain areas required 'tidying up' and that new strengthening mechanisms needed to be introduced. As such, the Minister of Justice, David Ford, has stated that the primary areas being focused upon are; legal aid; efficiency in the courts; crime reduction partnerships; and offences at sporting events.

The Bill contains certain measures which are described as offering an alternative to prosecution and diverting individuals away from the criminal justice system. One such mechanism is a proposed Penalty Notice for Disorder (PND). PNDs allow fixed penalties to be issued for a range of offences. The fines, typically of £40 or £80, could be issued by police officers to first-time and non-habitual offenders for a range of lower level crimes. The Department of Justice has estimated that the introduction of PNDs could remove 2,000 people from the criminal justice system each year. However, the introduction of fixed penalties has raised concern amongst legal professionals as well as the community and voluntary sector. A number of academic reports have shown that PNDs, once introduced, often exceed the role which they were originally intended for. Conceding this, Assistant Chief Constable Will Kerr told the Justice Committee in January 2011, "Some forces [in England and Wales] overused them for a range of offences for which, to be quite honest, they were not appropriate. They started to creep in to some quite serious theft offences and assault offences. We set out the criteria and the Department will set out the guidance very clearly as to how we use them here. They are part of a range of measures that we will use sensibly." Both the PNDs and conditional cautions may result in a criminal record leading to increased barriers to education and employment opportunities. Adding to the concern, research in England has shown that fixed penalty notices have actually led to an increase in the number of people being placed in custody rather than a decrease.

Another measure which is contained in the Justice Bill is the introduction of an Offenders Levy. The Offenders Levy will be mandatorily imposed, but in limited circumstances the amount may be reduced or omitted. Applying to adult offenders only, the levy will apply across a wide range of specified court disposals and non-court based fixed penalties. It is envisaged that the levy will be applied on an escalating rate of between £5 and £50, increasing in line with the severity of the disposal. It will be collected and enforced by the courts in the same manner as a court fine, except when a period of custody has been given, in which case the levy will be deducted from prisoner earnings. In line with the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, CAJ agrees that offenders should pay compensation to victims and that government should endeavour to establish, strengthen and expand available national funds, however, there are equality concerns which remain unaddressed in the proposed Bill.

There are a number of provisions in the Bill dealing with vulnerable and intimidated witnesses. Specifically, they provide for a series of amendments and enhancements to the framework of special measures created by the Criminal Evidence (Northern Ireland) Order 1999. Included in these provisions is an amendment which seeks to broaden eligibility for special measures by raising the age of entitlement from those under 17 to those under 18. The Bill will also create a new provision, allowing for examination of the accused through an intermediary. The accused can ask that any court examination be conducted by an intermediary when the Court is convinced that the accused may require assistance. CAJ has previously advocated for providing this assistance to vulnerable defendants. The Justice Committee will finish considering the Bill on the 11th February and it is expected to go before the Assembly plenary sometime around the 22nd February 2011.

Contents

Discussion of the Justice Committee on the Justice Bill	1
Taking a closer look at CAJ	2
A Decade of Contribution to Human Rights Issues in Ireland	3
Civil Liberties Diary	4

Taking a closer look at CAJ

Each month in 2011, Just News will profile a different staff member, outlining his/her role in the organisation and giving an overview of the kind of work they do on a day to day basis. If you believe the CAJ staff person can be of any assistance to you, please contact them directly.

Legal Officer – Gemma McKeown

CAJ provides legal advice and assistance where a breach of human rights has been alleged. Our Legal Officer provides information, and where appropriate, representation to individuals, groups and organisations. In recent months this work has included requests for assistance and information on the policy of full body searches in prisons, the use of stop and search legislation and the use of non-jury trials. One of the key roles of our Legal Officer is to support cases previously taken to the European Court of Human Rights, cases which have been the subject of the Cory Inquiry process and other selected historic cases.

We provide advice and assistance in cases regarding the obligations of the state under Article 2 ECHR (the right to life). We work with families who are engaged with the Historical Enquires Team, the Office of the Police Ombudsman for Northern Ireland and the coronial system to ensure that the state discharges its duty to investigate these violations of the right to life in compliance with its domestic and international obligations. We also make submissions to the Committee of Ministers on the supervision of the execution of judgments of the Article 2 cases from Northern Ireland.

We provide assistance to individuals who have applications before the Criminal Cases Review Commission, the independent public body set up to investigate possible miscarriages of justice. We continue to observe cases before the courts in accordance with our strategic plan, and where appropriate, we will consider intervening in such applications, for example we intervened in judicial review proceedings challenging the 28 day pre-trial detention provisions under the Terrorism Act 2000.

We have monitored the developments in the Rosemary Nelson, Billy Wright and Robert Hamill Inquiries. In the latter, we provided written submissions and detailed potential recommendations for the Inquiry Panel to consider, as part of its terms of reference. We continue to support the campaign for a genuinely independent judicial public inquiry into the circumstances surrounding the killing of Pat Finucane.

To contact Gemma, email gemma@caj.org.uk or telephone 028 9031 6000.

Transitional Justice Institute University of Ulster (Jordanstown & Magee)

LLM Human Rights Law and Transitional Justice

The Transitional Justice Institute (TJI) offers an innovative LLM programme (full time and part time) for those wishing to acquire a critical understanding of the increasingly complex national and international legal environment where human rights and transitional justice issues are very much to the fore.

For further information on the LLM programme and the Transitional Justice Institute, visit:
www.transitionaljustice.ulster.ac.uk

CAJ celebrates its 30th anniversary!

Artistic reflections on key human rights instruments

Starting from next month, Just News will publish a range of artistic interpretations and reflections on key human rights instruments as part of our 30th anniversary celebrations. Contributions will come from artists, poets, authors and many more.

A Decade of Contribution to Human Rights Issues in Ireland

In 2010 the Irish Centre for Human Rights, National University of Ireland Galway, celebrated its ten year anniversary marking its rapid growth into one of the world's most highly respected human rights institutions. Under its Director, Professor William Schabas, the Centre soon built a reputation for the quality of its teaching, its research and its engagement with the major human rights issues in Ireland.

Northern Ireland

Though based in the Republic this engagement extended across the border facilitated largely through the work of Dr Kathleen Cavanaugh. Dr Cavanaugh was on the Committee of Amnesty International, Irish Section for six years. She worked extensively in Northern Ireland. As Amnesty's Northern Ireland specialist she was the lead researcher and author of a number of reports on a range of issues, from policing to victims rights. She worked with various organisations such as the Northern Ireland Human Rights Commission and the Committee on the Administration of Justice, forming lasting contact between the Centre and these organisations. This has led to the placement of a number of interns from amongst the Centre's students with both these organisations, among others. Complimenting and deepening these ties is the Cross-Border LLM in International Human Rights and Criminal Justice. Launched in 2003, in partnership between the Centre and Queen's University in Belfast, the programme continues to form an integral part of the operations of both institutions.

Refugees and Asylum Seekers

Dr Joshua Castellino took the lead in addressing the plight of refugees and asylum seekers in Ireland. In 2000 the Centre co-ordinated the creation of a regional refugee support network all over the west of Ireland. The network has built important connections among communities, services and institutions, involving the Irish Refugee Council, Refugee Legal Aid and South Mayo Development Council. Established in June 2004 the Refugee and Asylum Legal Support Unit at the Centre provides a practical framework for the students to volunteer their time and expertise in the provision of services to the refugee population. It forms an important part of the close links between the Centre, other organisations such as the Galway Refugee Support Group and the Women's Human Rights Alliance, and local communities. More specifically, a number of reports and representations have been undertaken by the Centre on this issue, including a memorandum on the international law implications of Irish legislation concerning immigration, a report reviewing the laws regulating hate speech in Ireland, and another on the appeals process in refugee status determination.

Racism in Ireland

Due largely to Dr Vinodh Jaichand, the Centre's Deputy Director, the issue of racism in Ireland has been engaged with in depth. The Centre was integral to the formulation of the Galway Anti-Racism Strategy, and was responsible for a seminal report on the issue entitled Breaking Down Barriers: Tackling Racism in Ireland at the Level of the State and its Institutions. Recently Dr Jaichand authored a report on racism in the Galway taxi industry, Riding Along With Racism, sparking a substantial amount of debate. Dr Jaichand was the first Chair of the Board of Integrating Ireland and is also a member of the Advisory Panel of the Equality Rights Alliance. With Amnesty International and the Gardaí, he has been responsible for numerous training sessions on the State and Institutional Racism in Ireland.

Travellers

The Centre has also engaged with the issue of discrimination against the Irish traveller community, taking place through coordination with the Irish Travellers Movement and the travellers rights NGO, Pavee Point. The Minority Rights Summer School held by the Centre every year, provides an annual focus and forum on Travellers' rights. In December 2003, the Centre participated in a hearing before the Dáil on the issue of recognition of Irish Travellers as an ethnic group. Soon after, legislation was changed to incorporate the call for such recognition.

The next ten years is sure to see this substantial level of involvement with human rights issues in Ireland continue apace.

Josh Curtis, The Irish Centre for Human Rights, http://www.nuigalway.ie/human_rights/

Civil Liberties Diary - December

1st December 2010

The Criminal Justice Inspection (CJI) released a report that claimed police officers responded to 24,482 cases of domestic violence between April 2009 and March 2010. The report has made 13 new recommendations aimed at further assisting government agencies in dealing with the issue. However Dr Maguire, chief inspector of the CJI stated "we found that there have been improvements in the manner in which domestic violence and abuse incidents are handled by the criminal justice agencies."

8th December 2010

The Northern Ireland Council for Ethnic Minorities unveiled its new offices, the Belfast Migrant Centre. The centre will facilitate the report of hate crime as against ethnic minority communities and will provide other forms of support. Pat Convery, the Belfast Lord Mayor praised the opening of the service stating "The centre will benefit local businesses and service providers by breaking down language barriers, promoting dialogue and mutual understanding."

10th December 2010

Patricia McCluskey a leading civil rights campaigner who highlighted housing discrimination in Northern Ireland against the Catholic community in the 1960s had died at her home in Dublin. Mrs McCluskey together with her husband Conn formed the Homeless Citizens League.

Due to a legislative oversight, electronic fingerprint evidence, which has been used extensively, has been used without the prerequisite government approval. For over two years the process has been used and has resulted in 50,000 prints having been taken without the appropriate Secretary of State approval for the system. Out of these figures, 179 have been used in evidence against serious crime or terrorist offences.

Senior judges are now being asked to rule as to the admissibility of the system known as Live Scan in the case of two men charged with theft. The case is seen as having possible far reaching consequences for anyone convicted using the system during the period. Verdict in the case has been reserved.

15th December 2010

It has been confirmed that the body discovered last month in the village of Waterfoot in the Glens of Antrim is that of Peter Wilson. He had been missing for almost 40 years. Peter Wilson was secretly buried after being abducted and later killed by the Provisional IRA. He is the ninth Disappeared victim to have been recovered.

The High Court has heard that the cost of policing three nights of violence that broke out in the Ardoyne flashpoint after a contentious Twelfth of July parade passed through the area cost £750,000 to police. In the bail hearing of one of those accused of being involved in the street violence, it was reported that 48 police officers were injured, one seriously. The incident, one of the more serious in recent years, saw a total of 75 petrol bombs being used while police reportedly fired 74 baton rounds to try and quell the disturbance of over 300 protestors.

17th December 2010

The two reports on the controversial killings of Robert Hamill and Rosemary Nelson which were due to be handed to the government before the end of the year have hit delays. The Northern Ireland Secretary of State informed the House of Commons that the Hamill report is not expected to be complete until late February 2011 and that the Nelson report could take up until April 2011.

The Northern Ireland First Minister, Peter Robinson, today announced that an inquiry will be held into historic institutional child abuse in Northern Ireland. The taskforce will include nine departments headed by the Office of First Minister and Deputy First Minister (OFMDFM) and the Department of Health. It has been reported that Northern Ireland victims have met the OFMDFM and have sought a similar process to the Ryan Commission. The taskforce will report by the end of March on meeting the needs of victims.

22nd December 2010

The Public Prosecution Service (PPS) has stated that three people are to be charged over the murder of Robert Hamill. Mr Hamill was beaten to death by a loyalist mob in Portadown in 1997. Police failed to intervene while the attack occurred as Mr Hamill walked home after a night out with relatives. He died from his injuries 11 days later. The three will stand charged with perverting the course of justice.

Compiled by John Keers from various newspapers

Just News

Just News welcomes readers' news, views and comments.

Just News is published by the Committee on the Administration of Justice Ltd.

Correspondence should be addressed to the Editor, **Fionnuala Ní Aoláin**, CAJ Ltd.

2nd Floor, Sturgen Building
9-15 Queen Street

Belfast

BT1 6EA

Phone: (028) 9031 6000

Fax: (028) 9031 4583

Email: info@caj.org.uk

The views expressed in Just News are not necessarily those of CAJ.