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Just News

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Bulletin of the Committee on the Administration of Justice

# "A situation which cries out for an explanation"

**On May 4 2001, the European Court of Human Rights handed down its most significant judgements to date on the right to life. In four joined cases – *Kelly, Jordan, McKerr & Shanaghan* v. *United Kingdom*, two of which were brought by CAJ, the Court unanimously decided that the state had failed to protect the right to life of 12 persons, by failing to carry out an effective and thorough investigation following their deaths.**

This is a highly significant decision, not only for Northern Ireland but for all 41 states who are members of the Council of Europe.

## *Principles Established by the Court*

In all four cases, the Court opened its assessment by outlining the legal principles which apply to the right to life. These include

1. The Right to Life is one of the most fundamental provisions in the European Convention on Human Rights
2. The Right to Life is a basic value of a democratic society.
3. When life is taken by the state the circumstances must be closely examined and strictly limited.
4. When the circumstances which lead to a life being taken are fully within the control of the state, the burden of proof will lie with the state to give satisfactory explanations for the loss of life.
5. The obligation placed on the state under Article 2 of the Convention require that there is an effective official investigation when persons are killed as a result of state use of force.
6. It is the responsibility of the state to activate an official investigation, not the responsibility of the next of kin.
7. Investigations into the loss of life must be fully independent.
8. Investigations must not only establish the facts concerning a death but must be able to determine whether the use of force was justified in the circumstances.
9. Investigations into lethal force deaths must be prompt.
10. In all cases of lethal force use the next of kin must be involved in the procedure so that they can protect their legitimate interests.

The breadth and depth of these principles has enormous legal significance. Some of the principles have appeared before in the *McCann* case and in Turkish cases alleging right to life violations. However, some are new and highly significant.

In particular, the emphasis on complete impartiality and the role of family members in the investigative process marks a new departure by the Court. Moreover, the fact that the Court is prepared to spell out principles to which any investigative process must conform means that there are clear guidelines by which to measure domestic proceedings. This will certainly affect how all outstanding lethal force cases are regarded in Northern Ireland. It should also have significant consequences for the outcome of the inquest review promised by the government.

## *Applying the Principles to the Cases*

In all four cases, the Court was not prepared to make a finding on the actual circumstances of the deaths. It argued that, as all four cases still had some recourse in the domestic courts (either by civil proceedings or inquest) the Court would be overstepping its authority by trying to establish the facts of each incident. In short, the Court was saying that domestic courts would be in a better position to ascertain what happened. This finding is debatable, particularly given the extensive and unsatisfactory fact-finding which has occurred in cases such as *McKerr*. Nonetheless, it is understandable that the Court takes this view. The Court never seeks to overstep the good will of States party, particularly when the issues are sensitive and heavily disputed.

## *Assessing the Police Investigation*

While in all four cases the Court concluded that the police investigations were not sufficiently independent, some aspects of the Court's decision on the adequacy of police investigation are disappointing. In particular, the Court dismissed the criticisms of the scenes-of-crime investigation by the police, their forensic examination procedures, and the manner in which civilian and other witnesses were dealt with. Given its own principle that there must be an effective official investigation, they seem to have stopped short of applying the letter of the law to the facts before them. This aspect of the judgements is ripe ground for further cases.

contd. on page 5

## Contents

# Plastic Bullets

**Last month the Northern Ireland Office issued a press release on plastic bullets. Firstly, the NIO reported that changes had been made to the guidelines for plastic bullet usage; secondly, they announced the publication of a paper from the Steering Group on Plastic Bullets established in the wake of Patten; and last but not least they announced the deployment of what they claimed was a 'safer' plastic bullet.**

## Changes to the Guidelines

CAJ is totally opposed to the use of plastic bullets but if the authorities insist on retaining them, then at least a tightening of the guidelines governing their use must be welcomed. The changes announced in the press release purportedly set higher standards in policing training, a reduction in the number of officers authorised to use the lethal weapon, and a better record keeping system which should mean greater accountability. While many more changes might have been hoped for, this was at least a move in the right direction. The same cannot be said for the other two announcements!

## Looking for Alternatives?

The Steering Group into Plastic Bullets was established because Patten expressed surprise at the fact that "the government, the Police Authority and the RUC have collectively failed to invest more time and money in a search for an acceptable alternative". Yet the composition of the group consists of very many of the same people that Patten accused of complacency in the past. Consisting of representatives of the Association of Chief Police Officers, Her Majesty's Inspector of Constabulary, the Home Office, the Ministry of Defence, the Police Scientific Development Branch of the Home Office, the Police Authority, the RUC and the NIO, the Group has no independent researchers, no independent human rights experts, nor indeed anyone outside of the security establishment.

## Putting human rights at the heart of public order

Patten's opening assertion was that "the fundamental purpose of policing should be, in the words of the Agreement, the protection and vindication of the human rights of all". This is clearly not understood by government to apply to the weaponry used by the police in public order situations. No reference is made in the Steering Group's Terms of Reference to the question of rights; no allusion is made to the UN's recommendation that plastic bullets be abolished (Committee Against Torture, November 1998); and in the parliamentary debate around the policing legislation, the NI Human Rights Commission was explicitly denied any formal role in commenting on plastic bullet guidance. Given all this, it is perhaps not surprising that the Steering Group has taken no initiative to contact CAJ or, to our knowledge, others with a human rights interest. Nearly twelve months into its life, we still await information on the Group's methodology and its intentions (if any) for involving people beyond the police and security forces in this important debate.

## A new more dangerous bullet

But all of these concerns fade somewhat into insignificance when compared to the third announcement in the NIO's press release. The statement claims that a "safer baton round system" will be made available from the early summer. Yet the ink was hardly dry on the print before we learnt that, in fact - in the recesses of the House of Commons Library - was a report saying something quite different.

The government's Defence Scientific Advisory Council advice, dated August 2000, about the new so-called 'safer' plastic bullet is chilling. DSAC concluded that "it is likely to increase the incidence of some intra-abdominal injuries" (para. 18a); that they will "produce serious injuries if they strike the head" (para 18c); that "the severity of injuries to the brain is likely to be greater" (ibid.); and, if the round "does contact the head, and it strikes perpendicular to the skull (head on), there is a risk that the projectile will be retained in the head". The DSAC summarises its conclusions by suggesting that there is a reduced risk of striking the head, both of the intended target and of bystanders - because of the supposed improved accuracy in the weapon - but that "the consequences of an impact to the head will be more serious" (para 20).

## Events on the ground this summer

CAJ has urged the Chief Constable to refuse to deploy this new bullet. Indeed, as ever, we have urged that all plastic bullets - of whatever type - be withdrawn as an unacceptable lethal weapon. It is interesting to note that thankfully in London plastic bullets were ruled out of consideration by the Commander of the Met, and were not used in response to the recent serious rioting in Oldham.

Like everyone else, we hope very much that there will be few serious occasions of public disorder this summer. But regardless of developments on the streets, we insist that the use of plastic bullets is both unhelpful in that it risks seriously exacerbating the situation, and unacceptable in terms of the risk to life and limb.

***Maggie Beirne***

### *Up to date with CAJ*

**Two lectures in the series on a Bill of Rights took place in Derry and Belfast, (see report opposite).**

**Maggie facilitated a workshop at NICEM's conference on equality.**

**Paul and representatives from BIRW, ICPO and NIACRO visited Maghaberry Prison for a discussion with the governor regarding prison conditions.**

**Martin, Paul and Tim did training sessions for a group of visiting Russian human rights activists.**

**Maggie attended a meeting in Glasgow organized by the Commission on Racial Equality and the Scottish Council of Voluntary Organisations on mainstreaming equality.**

**Finally, congratulations from everyone at CAJ to Martin and Helen on the birth of their baby son, James Patrick O'Brien.**

## Action Column

The Bill of Rights consultation process is entering a new phase with the NIHRC due to publish its draft advice over the summer. Already, the debate is hotting up in the media, with more and more articles and letters to the editor appearing in the newspapers.

CAJ would like to encourage members to contribute to this written debate by contributing personal articles on different perspectives on a Bill of Rights, as well as responding to letters in the editorial page. A full and open debate about the Bill of Rights will be almost as important as the legislation which it produces.

## *Socio-economic rights in a domestic charter: some Canadian advice*

Readers of Just News will know that as part of its contribution to the Bill of Rights process, CAJ is hosting a series of lectures by international experts on different areas of human rights. The first of these was held recently with Bruce Porter, a Canadian activist on economic and social issues, particularly housing and poverty.

The lectures provided a fascinating insight into how NGOs can use the UN mechanisms to put pressure on government to honour its commitments under international human rights law, with particular regard to socio-economic rights. In the Canadian case, domestic NGOs have made submissions to the UN Committee on Economic, Social and Cultural Rights when it is reviewing Canada's compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR). In many cases, this has led to intense public criticisms by the Committee on issues such as homelessness and poverty in what is perceived to be a very affluent nation.

Too often, governments like to keep quiet about their international obligations, but there exists a wealth of commitments in the international arena to which governments must adhere. NGOs have an important role to play in highlighting these commitments. This has particular relevance should the government hesitate to include socio-economic rights in the Bill of Rights for Northern Ireland. In doing so, the authorities leave themselves open to cries of hypocrisy by not implementing domestically what they have agreed to do internationally.

The lectures also showed the struggles and injustices which take place in the Canadian Courts as a result of a lack of economic and social rights' protection in their domestic Charter of Rights. Organisations such as the housing group of which Bruce is Director, have had to be creative in bringing what are clearly violations of human rights before the courts. In some instances they have been successful, but quite often they have not, and the most vulnerable groups in society, such as single mothers and children who are living below the poverty line, are left unprotected. There are clear lessons to be learned in Northern Ireland from this experience.

While visiting NI, Bruce also held a meeting with a number of housing groups who were able to share information with him on the problems in the housing sector here. He was in turn able to share with them his expertise on how rights can be put into practice to help those who are facing homelessness. He also met with the NIHRC and some politicians to share his international experiences with them. His visit was extremely useful and timely given the current debate about socio-economic rights in a Bill of Rights for Northern Ireland. Those who attended the lectures will agree that a Bill of Rights which is supposed to protect the basic values of human dignity will fail miserably in doing this without including economic and social rights.

***Aideen Gilmore*** - CAJ's Bill of Rights Project worker

● ***The next in the series of lectures will be given by Professor Sir Nigel Rodley on Thursday 31st May at 7.30pm in the Malone Lodge Hotel on "A Bill of Rights for Northern Ireland: some international lessons".***

# ECPT Report on Conditions of Detention in Northern Ireland

**A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (ECPT) visited Northern Ireland from 29 November to 8 December 1999. The Council of Europe established the ECPT as part of its efforts to prevent violations of the European Convention of Human Rights. The ECPT's mandate provides "The Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment." Members of the ECPT are elected for 4-year terms by the Committee of Ministers, the Council of Europe's decision-making body.**

During its visit, the ECPT delegation visited Holding Centres, prisons, and juvenile justice centres. The delegation also consulted with government officials and several human rights organisations, including CAJ. Eighteen months later the government authorised its publication and the ECPT issued its report on Northern Ireland on the 3rd May 2001.

In this report, the ECPT explained that it had found significant evidence of ill-treatment at the point of arrest. One of the more serious cases involved the arrest of a group of five people on 10 April 1997. Upon their arrival at Gough Barracks Holding Centre, all five complained that they had been ill-treated by the soldiers. One of the five, for example, made the following complaint

> *"I was the victim of repeated and significant assaults upon me by British soldiers prior to the time of my arrest. These attacks were unwarranted and unprovoked. I offered no resistance to the officers in question and I was assaulted in an upright and kneeling position. I was struck with rifle butts and barrels, boots and fists. I suffered injuries to both temples, nose, eyes, head, ear, shoulder, arm, back, leg and knees. I was lacerated and required hospital treatment and stitching. The police doctor recorded particulars of my injuries."*

Indeed, in each of the five cases, the medical officer at Gough Barracks found that the detainee bore injuries consistent with his allegations. Despite this, the government informed the ECPT on 30 June 2000 that the complaints against the police and army in these cases "have been fully investigated and no criminal or disciplinary procedures were directed by either the ICPC or the DPP." In response to this, the ECPT has asked to receive a copy of the RUC's investigation report, along with an explanation of the DPP's decision not to prosecute the soldiers/police officers.

Another particularly disturbing case highlighted in the report involved a man held at Castlereagh Holding Centre between 29 October and 3 November 1999. This man had filed a formal complaint with the police, alleging that he had been physically assaulted in his cell and in an interview room. As the man's allegations related (at least partly) to an incident in an interview room, members of the ECPT delegation watched the video tape corresponding to the period in question. They described the scene as follows:

> "*When – a few moments later – the detainee enters the picture, he is being dragged by two uniformed officers (one of whom is holding his right arm, the other his left leg), who proceed to throw him against the interview room wall, on which he bangs his head. As the detainee lies prone, holding his head in his hands, the detective officers are seen to lift the desk, strike him with it, and then hold it down on top of him for nearly a minute. Afterwards, the detainee is carried out of the interview room (and out of the picture) by uniformed officers."*

According to the ECPT, the tape "contains clear images of the detainee being physically mistreated." The government claims, however, that it was the other way round; the detainee was assaulting the officers. In a letter dated 30 June 2000, the government informed the ECPT that the detainee's complaint had been investigated and rejected.

The ECPT report makes clear that it strongly disagrees with the government's version of the incident. It emphasises that the ECPT's description of the event is based on "at least three separate viewings of the video footage in question." The ECPT also found it "noteworthy that, some three weeks after the event, the ECPT's delegation was the first body to request to view the video tape of this incident." Specifically, the ECPT noted that neither the Deputy Independent Commissioner for the Holding Centres (who had recorded the detainee's allegations in his logbook) nor the investigating RUC officer (to whom the formal complaint was submitted), had even bothered to view or request access to the video of the alleged assault.

The ECPT also recommended, for example, that audio and video recordings of interviews be synchronised to prevent detectives from conducting unauthorised "off-tape" interviews with detainees. It also urged the government to ease restrictions on access to lawyers and asked that the government take steps to close the remaining holding centres, as the Patten Commission had recommended. The ECPT also expressed concern about the death of Jim McDonnell, who died in Maghaberry on 30 March 1996 shortly after being restrained by prison officers. In its report, the ECPT asks to be informed of the findings of his inquest as soon as it has been completed.

***Fiona Doherty*** (US intern)

For ECPT report & govt. response - www.cpt.coe.int

*contd. from front page*

## Criticisms of the DPP

One of the most robust aspects of all four decisions is the view taken of the DPP's role. While civil libertarians have consistently critiqued the lack of transparency in the DPP's decision-making, little official response has been forthcoming. The European Court makes clear that the failure by the DPP to give reasons on his decision not to seek criminal prosecutions in two of these cases (*Kelly & Jordan*) undermine the independence of and confidence in the legal process. The matter is compounded in the Northern Ireland context as 'the police investigation procedure is itself open to doubts of a lack of independence and is not amenable to public scrutiny'. The Court stressed that giving reasons is crucial to allowing the family access to information and making meaningful their right to legal challenge. It is evident that the practices of the DPP will have to change substantially to conform with this judgement.

## The Inadequacy of Inquests

The European Court was particularly harsh in its assessment of inquests. The Court was dissatisfied with the Coroner's inability to call the person to testify. Because this person could not be cross-examined on any statement made to the police it was impossible to establish the lawfulness of the use of force. This meant that the inquest procedure could not play any effective role in identifying or prosecuting criminal offences.

The Court laid a heavy emphasis on the involvement of the next-of-kin in the inquest process. It stressed that providing them with information was a critical aspect of a fair procedure. The next-of-kin's inability to have prior sight and review of the documents produced at inquests by the police, and the Coroner was a serious flaw in the process. The Court commented on the contrast between the police and army's position during inquest proceedings and that of the families. The decisions firmly established the right of families to participate in inquests. They state that the state is required to establish procedures which protect the interest of family members.

Finally, the Court examined the issues of delay. It concluded that the families had every right to legally challenge the limitations of the inquest process. They did not behave unreasonably in doing do. However, the pattern of adjournments in these inquests posed a serious question as to the promptness and effectiveness of inquests. With all these compounded issues the inquest procedure was found to be in violation of Article 2's obligation to ensure an effective investigation.

## Civil Proceedings

The Court was succinct in its assessment of the civil process. It found that as civil remedies were initiated by the next-of-kin, and were unable to deal with the question of the lawfulness of the use of force, they could not be taken into account in assessing the state's compliance with its obligations to protect the right to life. In short, the best that the civil proceedings could do was to provide a forum in which the facts of the incident were decided. This was not sufficient to demonstrate that the state had fully protected the right to life as required under Article 2 of the Convention.

## Collusion

One case is particularly important in these decisions, and that is the *Shanaghan* case. This is because cases involving collusion have received so little legal attention in the past that they have mainly been banished to the political arena. This is no longer the case. The Court found the same weaknesses in the *Shanaghan* case as were found in the *Kelly*, *McKerr*, and *Jordan* cases.

However, when addressing the *Shanaghan* inquests the Court paid particular heed to the unique circumstances of Patrick Shanaghan's death – including the loss of his identity photographs by the security forces and the threats made to his life and person by police officers. The family were not permitted to raise these issues at the inquest. The Court decided that 'serious and legitimate' concerns of the family and the public had been excluded from legal review.

This is a critical finding. It imposes an obligation on the judicial investigation to take seriously any allegations of collusion – and gives them a legitimate standing. In short, collusion can no longer be ignored in the legal arena which investigates deaths.

## Conclusions

The Court concluded in all cases that the state had not put in place the necessary safeguards to protect the right to life. The legal protections were neither accessible to the next-of-kin nor were they effective. The current members facilitated a lack of public confidence and fuelled the suspicions of that the state had acted improperly.

The Court, which in ludes members from several member states of the Council of Europe, including in this instance a senior UK judge, made an unanimous ruling on all four cases. A unanimous vote renders the judgement all the more compelling.

The fact that each one of the victims -including Anthony Hughes who had already received civil compensation from the state - were awarded damages of £10,000 is an indication of how concerned the Court was about the legal processes which followed these lethal force deaths.

What is also clear is that these decisions have a momentous effect on all outstanding lethal force cases. The decisions impugn all legal processes to date in all these controversial cases. It leaves the government with a clear class of cases in which legal remedies have been found wanting. The question is – what will they do now?

***Fionnuala ni Aolain***

# SANCTUARY IN A CELL

**As an organisation working directly with minority ethnic communities in Northern Ireland, and providing advice, assistance and representation on immigration and asylum matters, Northern Ireland Council for Ethnic Minorities (NICEM) has been increasingly concerned about the use of immigration detention in Northern Ireland. Accordingly, we welcome the findings and recommendations of 'Sanctuary In a Cell,' particularly with the Home Office's current review of the use of immigration detention in the UK. We would also like to extend our gratitude to Vicki Tennant and her colleagues at Law Centre (NI) for their hard work and dedication in bringing the report to completion.**

The report is easily read and provides an excellent and comprehensive insight into the current practices of the UK Immigration Service in Northern Ireland. Most importantly, the report measures these practices against domestic and international human rights standards, including the UN Body of Principles for the Protection of All Persons Under any Form of Detention or Imprisonment (1988), the European Prison Rules (1987) and recommendations by the UN High Commissioner for Refugees and the UN Committee Against Torture.

The report raises grave concerns about the fact that people detained in Northern Ireland under the 1971 Immigration Act, are detained in the prison system, alongside convicted prisoners. All of the aforementioned standards conclude that, in no circumstances, should asylum seekers be held with convicted prisoners. Indeed, as the report points out, the Chief Inspector of Prisons has said that mainstream prison facilities are not suitable for the detention of asylum seekers. This applies particularly when people are detained for lengthy periods. Furthermore, the report refers to the location of the prisons, and in particular to Magilligan, which makes access to community support for those detained very difficult, therefore exacerbating feelings of isolation and vulnerability.

The report contrasts the situation in Northern Ireland, with Britain. It highlights that, in Britain, the majority of immigration detainees are held in dedicated detention centres or in separate immigration detention facilities, within prisons. Even the small number who are held in non-dedicated facilities in mainstream prisons are held alongside remand prisoners. Of grave concern is the fact that Northern Ireland is the only part of the UK, where asylum seekers are routinely held alongside sentenced prisoners, a practice, which is manifestly undesirable and contravenes international human rights standards.

Whilst calling for an end to this practice in Northern Ireland, the report examines alternatives to detention. One suggestion is the development of a dedicated immigration facility, close to Belfast, in order to maintain links with community groups and foster and encourage support for those who are unfortunately placed in detention. The development of such a facility would allow for greater access to interpreters and improve opportunities for detainees to receive regular visits and access to legal advice and representation. The report however, raises concerns that developing such a facility has the potential of increased numbers of asylum seekers being detained.

Further non-custodial alternatives have been examined in the report. These would enable the Immigration Service to exercise close supervision - such as strict reporting requirements and residence at a particular address - all of which measures, have been employed by the Immigration Adjudicator when granting bail.

It bears reiterating that the establishment of a legal framework and institutional mechanisms to provide for human rights protections, as promised in the Good Friday Agreement, have created an opportunity for the examination of the treatment of asylum seekers and refugees in Northern Ireland, as set against domestic and international human rights standards.

In examining the significance and application of domestic standards, the report calls for the Northern Ireland Prison Service, to carry out a full impact assessment of all its functions in the light of its duty under Section 75 of the Northern Ireland Act 1998. This requires the promotion of equality of opportunity between (inter alia), persons of different racial groups. Alarmingly, the Home Office, has not been designated under Section 75 and the report sensibly recommends that it should be designated for the purposes of Section75. This is crucial, given the significant powers the Immigration Service has in Northern Ireland, in particular with regard to decisions on detention.

The report recommends a number of important steps to be taken in respect of practices within the prison. It recommends race relations/cultural awareness training for staff, access to language facilities, and the development of and provision of culturally appropriate diet options. Crucial in Northern Ireland is also the establishment of an advisory body on immigration detention in NI.

NICEM fully supports and endorses the recommendations of the report and we look forward to positive steps being taken to build further upon these recommendations.

***Sharon Dhillon NICEM***

*Sanctuary in a Cell* is available from the Law Centre, 124 Donegall Street, Belfast (028)90244401. Cost £10.00
(a limited number of free executive summaries are also available)

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**Continuing the series of perspectives on a Bill of Rights for Northern Ireland**

# *A Bill of Rights and* LEARNING DISABILITY

**A review of the literature on human rights and disability shows clearly that people with disabilities here and in the United Kingdom suffer from a severe, systematic and institutionalised discrimination that has been described as 'apartheid'. Within this context, the history of people with learning disabilities is particularly distressing. They have been perceived as wholly good, or wholly evil; and over the years, philosophies and policies have condemned them to lives of misery and even death.**

In the past 50 years, the creation of national and international legislation encouraging equality of treatment for people with learning disabilities has been, at least, in the right direction. Nonetheless, negative perceptions and practices are still around. With over 8,000 people with learning disabilities known to the Health Boards here, this is a sizeable group of citizens likely to have been discriminated against and for whom there may have been a failure to deliver rights under the law. Local research shows the existence of a culture that militates against people with learning disabilities reaching their full potential and citizenship, and does little to eradicate the daily occurrence of prejudice, discrimination and social exclusion.

Disability, and learning disability in particular, is the final minority cause to be tackled. In the past, people who had been institutionalised, marginalised and demoralised could not fight for themselves, and the people doing the fighting forgot about them. Here and in Britain, the people affected have not been central to the fight for their equality of treatment, of opportunity. That is not to say that people with learning disabilities have not sought justice and representation. The rallying cry of their international self-advocacy movement illustrates the radical nature of its goal, ie: 'Nothing about me without me'.

Local focus group research illustrates that people who experience learning disabilities are capable of recognising and identifying the discrimination that exists in their lives, and report negative experiences of power and control. Euphemisms like 'blissfully unaware', 'happy', and 'contented' do not serve people with learning disabilities well. Not only are they painfully untrue, they allow individuals and institutions to continue to fail in their duty to include this group of people in their priorities and financial planning for the future.

So, rather than set out my own thoughts on the Bill of Rights for people with learning disabilities, I want to encourage a process that will give voice to people and enable them to make decisions about what, in their view, should be included in a Bill of Rights that will be meaningful for their lives.

There is a growing swell of opinion, intolerant of traditional methods, arguing for a type of research that will establish a workable dialogue between the research community and people with disabilities in order to facilitate the latter's empowerment. It seems to me that this way of working could be borrowed and used in the context of the Bill of Rights.

As with other pressure groups, people with learning disabilities should be included at every stage of any process set up to attack discrimination - defining the agenda, designing the methods, carrying out the research, analysing the findings, etc. Participatory Action Research (PAR), as an ethical and democratic research method, stems from development programmes which enable people to control improvements in their lives. It can also be used as a tool to initiate change through shared responsibility, power and knowledge. In the field of learning disability, PAR is fraught with difficulties. For example, research, or dialogue, is much slower than it can be with people who are not learning disabled; public transportation can be problematic for a group of people who, for the most part, do not drive; resistance can come from professional and family carers; there is often no direct access to income support and other benefits. But there is no doubt that with commitment, time, energy and finance, the enthusiasm, ability and ideas of people with learning disabilities, could be harnessed.

When the arguments for social inclusion, equality and human rights are implemented in a cohesive, coherent strategy, then people with learning disabilities will be part of a democratic and caring society. The equality agenda must take seriously the democratisation of this most marginalised group of citizens. If the work carried out on equality provisions allows for, and encourages, the social inclusion of people with learning disabilities, then the equality provisions will be meaningful for all citizens. With regard to the Bill of Rights, this is the formidable challenge that faces the Human Rights Commission and the organisations run by and for people with learning disabilities.

***Hazel Gordon***

# Civil Liberties Diary

**Apr 2** It was reported that two RUC Special Branch officers are to be charged in connection with the murder of leading lawyer Pat Finucane. The anti terrorist officers will face charges of withholding and failing to act on information given to them before the 1989 killing. This comes in the wake of revelations that the case against William Stobie, the only person already charged in connection with the loyalist killing of Mr Finucane is set to collapse.

Orangemen have resumed their presence at Drumcree to mark 1000 days of protest at their march being blocked. It had been suspended for a month due to foot and mouth disease.

**Apr 3** The issue of new and supposedly more "accurate" plastic bullets to the RUC and army has sparked outrage. The new bullets will be available for crowd control from June 1. Clara Reilly, chairperson of the United Campaign Against Plastic Bullets said she was astounded by the announcement. (see page 2)

**Apr 5** Newspapers reported the British government faced unprecedented criticism today at the United Nations in Geneva where growing allegations of security collusion in the murder of solicitor Pat Finucane were raised. U.N. Special Rapporteur Param Cumaraswamy insisted that the current police investigation could not properly deal with allegations that loyalist paramilitaries amid members of the security forces were involved in a conspiracy. He ialso made a first call for an inquiry into the murder of solicitor Rosemary Nelson

**Apr 7** Sinn Fein leader Gerry Adams was awarded £500 damages in a court case against the RUC. The judge said Adams had sustained substantial damages arising out of a "curfew" the night before a 12th July Orange march along lower Ormeau Road in 1996. Adams said police hemmed him in for 3 hours before he was allowed through the cordon. By barring his way police had deliberately prevented him from carrying out one of the normal functions of a public representative i.e. monitoring a situation of public concern.

**Apr 11** The seven people arrested in connection with Robert Hamill case were released without charge. The probe into the case is being directed by the Police Ombudsman's office. The Hamill family again repeated its call for a public inquiry

Speaking about a possible abolition of the 11+ exam, Education Minister Martin McGuinness said that the review was about enabling all our children to realise their full potential about cherishing all our children equally. He added "no education system and no society has the right to tell any child at the age of 11 or 10 that they are a failure".

**Apr 18** Colin Reid, policy adviser with the NSPCC, suggests that as the N.I. Assembly embarks on a consultation on the smacking and hitting of children, we will be faced with a debate about state intervention, rights and freedoms and the need ultimately to move to a position where children are afforded the same protection under the law as adults.

**Apr 23** The trial of a loyalist accused of the murder of solicitor Pat Finucane may collapse after it emerged that vital evidence may be withdrawn from the case. At the High court in Belfast the prosecution was granted an adjournment for four weeks to obtain a medical report on former journalist Neil Mulholland who may withdraw crucial evidence on health grounds. This could result in the case against William Stobie being dropped.

**Apr 25** Stringent new laws aimed at making it easier to seize assets accrued through crime could flout human rights legislation. Prof. Brice Dickson of the Human Rights Commission told an Assembly Committee that aspects of the Proceeds of Crime Bill could contravene European standards. Under the measures, the state will be able to confiscate all money or property accumulated by convicted criminals over a six year period unless they can prove they were accumulated by legitimate means.

**Apr 30** The Bloody Sunday Inquiry is expected to receive a draft statement from Martin McGuinness in which he is expected to acknowledge his former high ranking position in the Provisional IRA in Derry.

***Compiled by Peter Gahan from various newspaper sources.***

## Just News

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