Bulletin of the Committee on the Administration of Justice
May 2008
Just News
Human Rights in Northern Ireland

Devolution deadline passes

The deadline date (May 2008) for the devolution of criminal justice has passed without any fanfare. However there has been increased debate on the topic, and CAJ is in demand as a commentator based on the findings of our international research report.

We have reported in previous issues of Just News on some of the key findings of this research. In summary these were concerned not with who would hold power but how this power would be exercised.

The Report examines the advantages and disadvantages of a variety of executive models from the point of view of efficiency, effectiveness and, most importantly, human rights compliance. It also details the wider parliamentary and other safeguards that need to be built around any executive model.

The report goes on to look at how to ensure that everyone in Northern Ireland, whatever their creed, colour or political belief, can feel fairly treated by a local administration vested with important powers over people's basic liberties. It also attempts to examine the potential consequences of the retention of certain powers at Westminster, and calls for greater clarity on this issue.

The last question in our research was designed to look at how the opportunity of devolution can be used to "reimagine" criminal justice. While we did gather many international examples, we were not able to explore this topic in too much detail in the report. It is a subject that we believe should be revisited.

It is clear that much change has taken place in the policing and criminal justice system in Northern Ireland, and it is to be commended in as far as it goes. But the facts and figures show that we still spend huge amounts of money on a system that is not operating particularly effectively, especially in relation to crime prevention and rehabilitation. Even if only from a financial point of view, local ministers will surely want to concern themselves with that.

We would argue that this process of devolution provides an opportunity to look again at the system and how to make criminal justice (lower case) more effective and responsive in those areas in particular in which it is not performing well.

Related to this, one of the key human rights principles that goes to the heart of good governance and accountability is the participation of people in decisions which affect them, listening to the consumers as it were. Thus, the second recommendation in CAJ's report advises that:

"… the discussion about the appropriate devolution model to adopt should itself be an open and transparent debate, and should not be, or be seen to be, held behind closed doors and the subject to horse trading between different political parties."

Participation and consultation has a number of purposes – most importantly it helps to build an effective criminal justice system that is responsive to needs because it is based on them. It also promotes accountability and transparency and builds trust and confidence in the system. It stands to reason then that involving people in discussions about devolution will help build confidence in devolution itself.

In light of the delay then, we would urge all involved to use the opportunity to bring the debate out there, explain to people what devolution entails, involve them in the decisions and help build confidence. This might also lead to the development of some more creative ideas about how to make the system more effective and responsive.

Contents

Shutting the door when the horse has bolted?

CAJ recently responded to the consultation on the Equality Impact Assessment (EQIA) of Tasers conducted by the Police Service of Northern Ireland (PSNI).

CAJ, and many other groups, have previously expressed concern about the potential impact Tasers may have on certain vulnerable groups in society such as children and young people, those with physical and mental health conditions or pregnant women.

In order to address these concerns, CAJ has consistently argued for the need for a full EQIA of any decision around the proposed introduction of Tasers in order to identify how vulnerable groups might be adversely affected by the use of the new weapons, and how such adverse consequences might be addressed. Such a process would in our view not only contribute to increasing confidence in the PSNI generally, but importantly, ensure compliance with the requirements of both the Northern Ireland Act and the Human Rights Act.

Timing

In our response, CAJ registered our concern at the fact that the EQIA has taken place after the decision to procure a number of Taser units has gone ahead and training in the use of the weapon has taken place. Regrettably then, both in relation to the timing and content, the EQIA - rather than informing a course of future action - appears to provide more of an ex post facto justification for a decision that was in fact taken at least as far back as August 2007. Such an approach in our view undermines and misrepresents the purpose of an EQIA.

CAJ also expressed concern about the lack of independent data contained in the EQIA. Equally, we were not convinced that the EQIA as formulated offered a realistic assessment of the potential adverse consequences that may arise from the use of the weapon. As such, we recommended that the PSNI "go back to the drawing board" with respect to this EQIA and examine, in line with the legal requirements of an EQIA, a full range of data about the potential impacts of Tasers. Such an approach would, we believe, lead to very different conclusions about the potential adverse consequences that might arise vis-à-vis the use of such a weapon in Northern Ireland. Such conclusions would, in our view, give rise to more serious consideration about the identification of specific mitigating and alternative measures that would need to be adopted should the decision to deploy Tasers proceed.

Engaging the community in policing

Building confidence in the community in policing is a key role of the Northern Ireland Policing Board and as such, its community engagement strategy is a pivotal delivery mechanism.

Having originally devised a community engagement strategy in 2006, the Board has recently been consulting on and reviewing this. In its response to this consultation, CAJ commended the overall aims as providing a sound basis for an effective community engagement strategy. However, the subsequent activities outlined gave some cause for concern.

In particular, the strategy lists target sectors but does not give information on how these were chosen, the rationale for including some and excluding others. At first glance, there are some obvious omissions. Neither does the strategy incorporate "overarching groups" who have an interest in community engagement but do not fit exactly into one of these groups, or perhaps fit into them all, e.g. rural sector, human rights sector etc.

Multiple Identity

In addition, while the Board acknowledges that rarely an individual is rarely and solely a member of just one of these groups it does not go any further and explain what mechanisms will be put in place to deal with this multiple-identity issue. CAJ fears that listing and separating groups in such a way risks missing out on important connections between various groups and identities.

This fear is compounded by the proposal to isolate those sectors identified into their own individual reference groups, which we believe risks further polarising the issues. As such we reiterate the recommendation that more consideration be given to mechanisms for addressing multiple-identity and cross-cutting concerns so as to allow more efficient and effective engagement, such as a forum for bringing the various groups together on a regular basis? At the very least, the Board must ensure that those who may be identified as fitting into one group not be denied the opportunity to attend other groups should they so wish. In addition, some mechanism for facilitating the participation of more generalist groups in any or all of the reference groups must be found.

We are also disappointed that more information or ideas are not given in relation to how it is intended to engage with Republican and Loyalist communities. Engaging with these groups at a very local community level will be key to any successful community engagement strategy in terms of building confidence in the police.

Economic and Social Rights in the Bill of Rights: Protecting the Integrity of Human Rights in Northern Ireland

Having followed the discussions in Northern Ireland on the Bill of Rights with considerable interest, I was pleased to see the prominent place reserved for economic and social rights in the Bill of Rights Forum Report and Recommendations . This dimension of human rights protections, including rights such as the right to an adequate standard of living, housing, work, education and health, was of course integral to the original framework of the Universal Declaration of Human Rights and remains integral to any comprehensive framework for human rights protections. If a Bill of Rights in Northern Ireland is to address current challenges in relation to economic inequality and social exclusion, in the particular context of Northern Ireland as well as in the more global context, this dimension of human rights protections is, now more than ever, absolutely essential.

One point to emphasize in relation to Forum Report, however, is that unless economic and social rights are accorded equal status in terms of access to adjudication by courts or tribunals, their inclusion in the Bill serves no real purpose and indeed, could even be detrimental. One of the options that is included in the section on enforcement is to declare those aspects of the Bill of Rights that are subject to "progressive realization" – that is, subject to available resources or requiring time to implement - to be "non-justiciable". Such a compromise, in my view, would undermine the integrity and inclusiveness not only of the economic and social rights, but of the Bill of Rights itself.

The approach taken by the Forum Report to more traditional civil and political rights, particularly to the right to equality, shows an appreciation of the two dimensional nature human rights - the "negative" dimension, protecting individual liberty and property from government interference, and the "positive" dimension, requiring programs and legislation to ensure dignity, equality and peaceful coexistence.

From this perspective, economic and social rights are not so much additional rights as an elaboration of the substantive dimension of the core human rights values of dignity, security and equality that run through all of the provisions. Any Bill of Rights which instructs the courts to ignore the "positive" dimension of governments' obligations - those that may require time and resources to implement - will create discriminatory consequences for those who happen to rely on positive measures from governments because of their unique circumstances of need.

We have recently been through a five year process at the United Nations, where governments from around the world have debated the content of a long overdue optional complaints procedure under the International Covenant on Economic, Social and Cultural Rights, (ICESCR). The Optional Protocol to the ICESCR would allow those who have had their economic, social or cultural rights infringed access to the same kind of complaint and adjudication procedure that has existed for civil and political rights for more than forty years at the UN. A number of states, including the UK, Canada and the US, originally insisted that such a complaints procedure should be the subject of a "compromise" , allowing states to choose which rights or which components of economic and social rights they consider "justiciable". Fortunately, these compromises were not accepted. Other compromises had to be made, of course, but the basic principle that every human rights must be subject to adjudication and remedy has remained intact in the draft of the Optional Protocol that will hopefully be adopted by the UN Human Rights Council in June.

A particular strength of the Forum recommendations is that they have been faithful to the content of international human rights instruments ratified by the UK and binding on all governments and governmental actors in Northern Ireland. The recommended provisions for economic and social rights often utilize the language in the ICESCR itself. Providing effective remedies to those whose economic and social rights are violated before courts or tribunals is an essential component of the obligations under international human rights law.

The fashioning of appropriate remedies in response to judicial or administrative decisions will remain, of course, the role of the legislative branch. There need be no compromise of the expertise and role of the legislative branch to design and implement the social programs necessary to the implementation of economic and social rights. But there must be a place – a court or a tribunal – to go for a hearing and a decision if rights have been violated.

It will be important, as the Forum recommendations proceed through further discussion and "compromise" that there be no compromise of the principle that everyone's human rights deserve the protection of courts and tribunals. I am confident, however, that the spirit of inclusiveness and tolerance of diverse circumstances that runs through all of the proposals of the Forum will also inform any final decisions as to the role of courts and tribunals in enforcing rights. Congratulations to all involved on the amazing work that has been done, and best of luck in moving the process forward.

Bruce Porter
Social Rights Advocacy Centre, Canada

BILL OF RIGHTS FORUM - A MISSED OPPORTUNITY

When the Bill of Rights Forum (BORF) was estblished some optimistically hoped that the long standing problem of a Bill of Rights (BOR) for Northern Ireland would finally be cracked. Earlier attempts at drafting a BOR by the first Northern Ireland Human Rights Commission (NIHRC) had foundered on lack of political buy in, and belief by some that it has overstepped its remit. Sadly, rather than bridge differences, the final BORF report, while weighty in content, has, in the view of the DUP, simply taken the process into an even deeper hole than it was before.

In its establishment of BORF, Government showed it had learned something from earlier mistakes by having direct political representation from the start, but in other ways repeated earlier errors. Equal representation was given to appointees from civil society, who mostly pursued a maximalist approach to what should be contained in a BOR. This, combined with the failure to appoint representatives from such groups as the Loyal Orders, Ulster-Scots and a range of Evangelical Churches, and a tendency for civil society representatives to back each other up in a sense of solidarity, re-enforced a sense of isolation and disengagement amongst unionists. When unionist frustration at the composition of the BORF was raised in the Assembly, the reaction was one of anger to the robustness of the debate, rather than any attempt to addres the underlying problem.

The weakness of the inclusion of civil society members, caused by limitations that lie outside their control. For example, how can anyone fully represent the divergence of views of 850.000 Northern Ireland women? Faced with this limitation, the choice is either to reflect everyone's opinion by remaining neutral on most issues, or follow the wishes of the small unrepresentative interest group that they come from. Not surprisingly the later approach was the one that found favour.

The lack of agreed understanding manifested itself around three divisions. Firstly, there was a bizarre and I believe ill judged attempt to directly incorporate and sometimes rewrite the ECHR into any local bill.

Secondly, there was the differing interpretations of the particular circumstances of Northern Ireland, which was supposed to be the report's context. While Unionists interpreted this as excluding issues that were equally relevant to other jurisdictions, most Forum members took a very wide view, in effect driving a coach and horses through any commonsense definition. Civil society delegates, not surprisingly, fought vigorously for their own areas of interest, (they perhaps would not have been doing their job had they not done so) with the end result that a whole stable of hobby horses were let loose throughout the document.

Finally, a range of proposals were put forward that were clearly policy considerations. This was an attempt to impose on any Stormont Executive a long list of economic and social obligations, that would circumscribe political choices. What cannot be won on a democratic agenda or given sufficient priority round the Executive table, would in effect be imposed by judges via the back door. For Sinn Fein in particular this was a device both to frame a particular Stormont agenda, and to create leverage for similar proposals for the Republic.

The end result, coupled with a failure to agree a voting mechanism, was a stream of proposals (over 100 meetings and more than 200 pages) but little progress. Of the 41 substantive proposals on contents, none achieved cross community consensus and of 216 clauses, only 7 had cross community support. Consideration of the volume of proposals left no real time for negotiation to seek compromise and consensus, and the scattergun approach adopted, meant a very limited focus on issues that are clearly particular to Northern Ireland, such as parades, linguistic rights and victims of terrorism.

The BORF was a missed opportunity, but how can we move on from here? Firstly, there has got to be a realization of the need that any attempt at legislation must be based on cross community buy in. In the same way that unionists have accepted that governance at Stormont cannot simply be based on majoritarianism, nationalists must accept on this issue that they simply cannot impose their wishes on a resistant unionist majority. Acceptance of the need for cross community support in the Assembly is a vital prerequisite for any BOR. Similarly, in seeking consensus, everyone needs to recognise the context of existing protections and the reassurance of the political checks and balances already in place. Finally, instead of trying to accommodate vested interests and cover every aspect of life under the sun, we need to focus more detailed discussion around rights issues which all agree go to the heart of our problems in Northern Ireland. If we can at least and at last learn and implement these lessons, then perhaps the experience of the Bill of Rights Forum will not have been wasted after all.

Peter Weir, DUP

As indicated in last month's edition of Just News, CAJ is keen to continue the debate from the Bill of Rights Forum. As such, for the remainder of the year we are inviting input from all parties and sectors represented on the Forum. This month we hear from DUP and Sinn Fein, next month will feature UUP and SDLP.

Civil Rights to Bill of Rights – 40 years of struggle

Almost exactly 40 years since the birth of the Civil Rights campaign, the long struggle for genuine equality in Ireland took a huge leap forward on March 31st when the Bill of Rights Forum presented its long-awaited report. The opulent surroundings of Belfast's Hilton Hotel – where the report was officially unveiled – is probably as far removed from Burntollet beach or the narrow terraces of Derry as possible. However, there was very little to differentiate between the aims of those who took to the streets in 1968 and the aims of those who gathered in the Hilton – or at least some of them. Four decades on, they are still struggling for equality, for human rights and an end to poverty.

The Bill of Rights Forum has been a difficult process and there were times when it looked like we might not reach any kind of agreement at all. But when you consider that all the North's main political parties as well as civic society were represented on the Forum, it was always going to be challenging to reach consensus. But Republicans have never been afraid of a challenge and the Bill of Rights is too important to the people of Ireland to let it slip away.

Making a difference

A strong, enforceable Bill of Rights would compel the government to provide the necessary resources and legislation to tackle issues such as homelessness and poverty.

There are hundreds of thousands of children the length and breadth of Ireland who are living below the poverty line. A Bill of Rights would require the government to take whatever steps are necessary to address that issue over a given period of time. It would also compel them to provide an adequate standard of living for all, to ensure that all employers pay a fair wage, to give our pensioners the assistance and dignity they deserve and to support families and carers in their day-to-day lives. These are just a few examples of the very real differences which a Bill of Rights can mean to the ordinary man and woman.

All of these rights are included in the Forum's report and there are many more. It recognises the need to protect and support the Irish language, the needs of victims, ethnic minorities and other vulnerable groups. The report also enshrines the principle of equality – which is of course a priority for Sinn Féin. The party already secured some of the most progressive equality legislation in Europe as part of the Good Friday Agreement. Recently, we built on that in the Assembly when we secured further equality-proofing measures which mean that all public spending will have to be used in such a way that it genuinely benefits those who need it most. A Bill of Rights will further reinforce that commitment to equality and this will make a very real and positive impact on people's lives.

Of course, we didn't get everything we wanted. No-one did. And we have particular concerns about the prospect of so-called 'national security' being used as a pretext to negate some of the rights. As Republicans are all too aware, 'national security' grounds have been used and abused in the past to justify and cover-up all manner of human rights abuses. Nevertheless, I am convinced that a strong Bill of Rights would provide a template to affect real change in Ireland and we have a responsibility to see the process through.

All-Ireland

The Bill of Rights Forum was established to explore what rights are required in the North of Ireland in order to supplement existing human rights laws and with particular reference to the needs of a society emerging from conflict. However, there is also a very strong All-Ireland dimension. This Bill of Rights has very obvious implications for the development of the All-Ireland Charter of Rights in that it should inform the All-Ireland Charter, but we need to begin campaigning and working towards that goal now.

Human rights are relevant to everyone on this island. A hungry child is a hungry child, whether they live in Belfast or Ballymun, Dundalk or Derry. So in many ways the real work begins here. The Forum report has now been submitted to the Human Rights Commission and they will examine our proposals before producing a final draft which will then be presented to the British Government on December 10 – International Human Rights Day. They will then have responsibility for implementing it but we need to create the demand and pressure to ensure they produce the kind of Bill which we all want to see. The same must happen in terms of the All-Ireland Charter.

Forty years ago, a generation of young Irish republicans and radicals began the campaign for Civil Rights. Now, a new generation can bring that struggle to a successful conclusion and finally right the wrongs of the past.

Martina Anderson,
Sinn Fein

McConkey & Marks v Simon Community Northern Ireland

The Court of Appeal handed down its judgment in relation to the appeal of Mr McConkey and Mr Marks (the claimants) against Simon Community Northern Ireland (Respondent) on 21st February 2008.

The Court of Appeal dismissed the applicants' claim that the respondent had unlawfully discriminated against the applicants on account of their political opinion and/or perceived political opinion. The appeal came before the Court of Appeal by way of case stated from the decision of the Fair Employment Tribunal (FET) promulgated on 29th December 2006. The appeal centrally concerned the proper interpretation of Articles 2(4) and 3 of the Fair Employment and Treatment (Northern Ireland) Order 1998.

The FET had already dismissed the claimants appeal against the Simon Community who had failed to appoint them to the posts of "residential support worker" and a "night worker" respectively and following the receipt of the Pre-Employment Checks (PECS). The latter disclosed that the claimants had prior convictions and had been released under the terms of the Good Friday Agreement. The Simon Community considered that the convictions were paramilitary convictions and that these convictions had to involve a political element in which violence was used to achieve political ends and thus were not suitable for the positions which had been advertised.

Despite the FET finding that the Simon Community had acted in fundamental breach of its own recruitment and selection procedure and had failed to follow the Fair Employment in Northern Ireland Code of Practice 1989, it dismissed the claimants' appeal in the first instance. It stated that the claimants could have established that they were unlawfully discriminated against on account of their political opinion but for the application of Article 2(4) of the 1998 Order.

McConkey and Marks had argued before the Court of Appeal that the exception which the Simon Community relied on to dispute that they have unlawfully discriminated against the claimants does not apply as the claimants current political opinion does not "*include an opinion which consists of or includes approval or acceptance of the use of violence for political ends connected to the affairs of northern Ireland".*

In the leading judgement Higgins LJ stated that:

"…The use of the word 'opinion' in Article 2(4) in relation to the approval or acceptance of the use of violence for political ends must be read in conjunction with the earlier phrase ' a person's political opinion'. It seems clear from this that Parliament did not regard an opinion that approved or accepted use of violence for political ends (or for the purpose of putting the public in fear) as a political opinion for the purpose of Article 3"

Higgins found that the FET erred in finding that the use of violence for political ends was a political opinion within the terms of Article 3 of the Fair Employment and Treatment (NI) Order 1998.

He also found that ***"As the approval or acceptance of violence for political ends is not a political opinion within the terms of Article 3 it was not open to the Tribunal to find that the respondent could have discriminated against the claimants and therefore it was not necessary to consider the second step in the process there being no factual matter within Article 3 proved for the respondent to rebut"***.

Crucially, however it seems that the Court of Appeal had failed to consider whether the employees had attributed a political opinion to the claimants and whether that played an instrumental part in the Simon Community's decision not to employ the claimants. It seems of material relevance what the Simon Community perceived to be the political opinion of the claimants. The FET was best placed to make findings of fact upon hearing extensive evidence in chief and cross examination of all relevant parties. It found at paragraph 10.2 of its decision in relation to the first claimant that ***"In particular, she did not deny there was indeed a political element to her*** [the respondent] ***decision…."***. Similarly, the FET in relation to the second claimant stated that ***"..Indeed, in this context, the Tribunal noted the connection Ms. O'Bryan drew between the opposition of Sinn Fain to the respondent's operation in Newry and her assumption of his support for such position"***.

The wider implications of this judgment are that that this vulnerable group of ex-prisoners continues to be subjected to discrimination which has the effect of nullifying or impairing equality of opportunity. There is no doubt that if more is not done to promote equality of opportunity that this group will further plunge into isolation and marginalisation. This inaction certainly flies in the face of many international and European standards, and not least the Good Friday Agreement which states that:

"The governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education."

An application for leave to appeal to the House of Lords has been lodged by the claimants.

Historic victory for trans people in the Irish High Court

It took Lydia Foy 10 years to establish her right to have her gender identity recognised in Irish law. Her gender reassignment occurred in July 1992. In 1997, she commenced legal proceedings, supported by Free Legal Advice Centres, to establish her right to have her Irish birth certificate altered and also the right to marry as a female. This case resulted in a first judgment by Mr Justice McKechnie in October 2002 dismissing her arguments. Within two days of that judgment, the European Court of Human Rights (ECtHR) gave its landmark judgment in *Goodwin v UK*, finally establishing that it was a breach of Ms Goodwin's right to privacy under Article 8 of the Convention not to have her gender identity acknowledged and a breach of Article 12 not to recognise her right to marry as a female. Of equal significance, in 2003 Ireland enacted the Irish Human Rights Act (IHRA).

The case before the High Court in 2007 was both a reconsideration of the 2002 judgment and the result of a fresh application made by Ms Foy in 2005 which was after *Goodwin* and after the IHRA. Hence in October 2007 Mr Justice McKechnie issued his ground-breaking judgment, not just for trans rights in Ireland but also by indicating his intention to issue the first declaration of incompatibility under the IHRA.

The Trans issues

The High Court determined that *Foy* was indistinguishable from *Goodwin*. Both sets of legislation were very similar. In *Goodwin*, the ECtHR had eliminated the 'margin of appreciation' which Contracting States enjoyed in relation to privacy rights and gender identity. The UK had, within two years of *Goodwin*, enacted the Gender Recognition Act 2004 which provides for gender recognition certificates for those who have undergone gender reassignment. Ireland had revised its Civil Registration Act in 2004 without taking *Goodwin* and the IHRA into account. Hence Ireland had lost its 'margin of appreciation' on Ms Foy's right to privacy. As Ms Foy was not yet divorced, the court did not rule on her right to marry but stated that indicated that *Goodwin* should apply.

The outcome of the case

The judge dismissed the first application for the same reasons as given in its 2002 judgment. However the court concluded that it should issue a declaration of incompatibility, which was formally made on 12 February 2008 (PILN Bulletin, 3rd March 2008, http://www.flac.ie/publicinterest/piln.html) but whose effect was stayed for two months to give the State an opportunity to appeal. (Which it has now done) Failing that, the Taoiseach must lay a bill before each House of the Oireachtas within 21 working days of the order.

Some observations

The first observation concerns the importance of European litigation in the assertion of trans rights in the UK and Ireland. The European Court of Justice in 1996, in *P v S and Cornwall County Council*, concluded that direct discrimination against transgendered people amounted to direct sex discrimination. Hence the Sex Discrimination Order 1976 has been amended in terms of employment and now goods and services (despite dissension in our Executive) to protect trans rights. So also, through *Goodwin*, gender recognition and the right to marry for trans people have been recognised. It is also significant that the wider concept of 'gender identity', which goes beyond issues of gender reassignment, has been adopted by the Bill of Rights Forum, in the spirit of the Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity (2007), which have been strongly advocated by the Coalition on Sexual Orientation in the Bill of Rights Forum negotiations.

The second observation concerns the potential potency of declarations of incompatibility. As a member of Preamble Enforcement and Implementation Working Group of the Forum, I can commend the comprehensive tables on enforcement mechanisms produced by the Working Group's legal adviser, Dr Catherine Donnelly of Trinity College Dublin, appended to the Forum's Report. The most interesting implication of *Foy* is that Ireland had lost its 'margin of appreciation' by 'doing nothing' on gender identity but, looked at from another perspective, that Ireland, in light of *Goodwin* and the enactment of the IHRA, ought to have 'progressively realised' the rights of trans people to gender recognition. In this context, *Foy* points the way towards a 'low-level' justiciability of programmatic rights in a Bill of Rights for Northern Ireland by providing that the NI courts, or at least an Assembly committee, could declare, in a 'do nothing' scenario, that existing NI law is incompatible with the Bill of Rights.

Barry Fitzpatrick
Equality law consultant
(www.barryfitzpatrickconsulting.co.uk)

Civil Liberties Diary

1st April

NIHRC Chief Commissioner Monica McWilliams confirms December 10th as the deadline for a report on the Bill of Rights.

7th April

PSNI Chief Constable Sir Hugh Orde says that Inquiries are hampering the budget for day to day operations and community policing.

8th April

The PSNI announces that it is to revise its gender plan due to the successful increase in the proportion of female officers. The new plan is designed to ensure that 22% will have the same opportunities as their male colleagues.

9th April

The Victims and Survivors Bill is pulled from the legislative agenda in the Assembly after members of the two leading political parties were unable to agree on the elevation of one of the four commissioners to the position of Chief Commissioner.

10th April

The Public Accounts Committee at Stormont warns that care standards for the elderly could be endangered if pay and conditions are not improved. The MLAs published their Report into Older People and Domiciliary Care at Home and said that the priority must be holding on to the 12,000 current workers.

Figures released show that almost 8,000 children in Northern Ireland's schools do not have English as their first language. MLAs were told this represented a significant difficulty in terms of education.

11th April

Gregory Campbell MP warns that Protestant representation in the police will drop to unacceptable levels unless 50/50 recruitment is abandoned immediately. He also highlighted the fact that no person from the loyalist Shankill Rd area had been recruited to the police since the force was set up 5 years ago.

Mr. Justice Morgan, the judge in charge of the Omagh bomb compensation case, has pledged to prevent hearings becoming cloaked in secrecy. He urged both sides involved to ensure proceedings remained as open as possible.

15th April

Com Murphy and Seamus Daly lose their case in the High Court in Belfast to have all evidence from the PSNI investigation into the Omagh bomb banned from their civil case. They had claimed that their right to a fair trial was threatened by the level of assistance police had given to the families seeking damages.

The Billy Wright Inquiry is adjourned when lawyers announced they were ceasing to act for the then governor of Maghaberry Prison when the LVF chief arrived in 1997. Duncan McLaughlan had been expected to give evidence in Banbridge when it was revealed the former prison governor had handed over previously undisclosed documents and material to the CSO less than 24 hours earlier.

The Inquiry into the murder of solicitor Rosemary Nelson opens.

Constable John Larmour's son calls on the PSNI to re-open the investigation into his father's murder. He alleges that the police had information, which if acted on, may have identified the IRA member who had committed the murder. The investigation revealed that police were passed information which could have helped identify the killer in 1988. The Historical Enquiries Team is currently investigating the murder.

17th April

Tom Woods, a former deputy governor of the Maze, tells the Billy Wright Inquiry that the prison had become almost unmanageable by the 1990s.

23rd April

Down District Council has opposed a motion to remove two IRA monuments from its property eight years after a warning letter from the Equality Commission. The motion is instead to be referred to a committee.

24th April

The Irish News headlines with a story that Geraldine Finucane has received an NIO letter that revealed that in 2006 Peter Hain made the decision to halt preparations for an Inquiry as the family was not prepared to co-operate with one set up under the 2005 Inquiries Act.

25th April

DUP MP Sammy Wilson condemns the family of Pat Finucane for demanding "exorbitant" inquiries into his death while at the same time not supporting equal investigations into the murders of members of the security forces.

Compiled by Mark Bassett from various newspapers

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