

# Just News

Human Rights in Northern Ireland

## CAJ's Annual General Meeting

**CAJ held its 2007 Annual General Meeting on October 24. The AGM is the occasion for CAJ's members to come together and hear from CAJ on its work over the previous year and plans for the year ahead. Fiona Doherty - Chair of CAJ's Executive Committee - gave highlights from the Chairperson's report found in the annual report.**

Fiona pointed particularly to the success of the recently completed evaluation of CAJ. The evaluation was undertaken by two independent consultants, after spending time at CAJ and also consulting other NGOs, political parties, and statutory bodies who are familiar with CAJ's work. They produced a comprehensive evaluation of the CAJ, which overall was very positive and concluded that

*"CAJ is in our view a very special organisation with a tremendous track record. Its achievements continue right up to the present. It is widely admired and respected."*

Fiona highlighted a unique point that came out of the evaluation. Namely, that CAJ needs to consider afresh how best to use its members, as it is vital that CAJ stays in touch with its grassroots and maintains a broad base of support.

As described in the Annual Report, CAJ had an eventful year with a number of significant achievements. For example, CAJ took the lead in organising a series of hearings for the visit of the Eminent Jurists Panel of the International Commission of Jurists to Northern Ireland last year. Currently, CAJ is finalising publication of its report which analyses the written and oral submissions made to the Panel and offers lessons from Northern Ireland to the global counter terrorism debate.

In the work on criminal justice and policing, the big issue at the moment is devolution and on the basis of a major report produced last year on the topic, CAJ is actively engaging with the Assembly Executive Review Committee while it conducts its inquiry into the devolution of policing and justice matters.

CAJ's report, "Equality in Northern Ireland: the rhetoric and the reality", has been widely circulated and has played a useful role in eliciting a wider debate of the extent to which progress has and has not been made in tackling religious and political inequalities. CAJ's work with the Equality Coalition also continues.

On the Human Rights Programme, CAJ has two dedicated part-time staff members to manage the work involved with the Bill of Rights in particular. After the Bill of Rights Forum was established, CAJ was selected to take the seat reserved for the human rights sector. CAJ's Research & Policy Officer, Aideen Gilmore, has taken the seat and is also chairing the Forum Working Group on preamble, enforcement and implementation.

Abed Natur was hired as CAJ's legal officer in the beginning of the year and as such has taken over responsibility for casework. This year also saw the Police Ombudsman's report of her investigation into the death of lawyer Rosemary Nelson, as a result of CAJ's complaint filed with the Ombudsman. The complaint was upheld to the extent that the Ombudsman was led to the conclusion that the police and the NIO had failed Rosemary.

With a sad note, it was announced to the members that the Director, Maggie Beirne, is soon leaving CAJ. The hunt for her successor has already begun, but it cannot be emphasised enough how much Maggie will be missed.

In conclusion, Fiona thanked all of CAJ's funders, and in particular the generosity of Angela Hickey who had left a very sizeable donation by way of a legacy. As outgoing chair, Fiona thanked her colleagues on the executive, and the CAJ staff and volunteers who are so dedicated and hard-working. She commended the annual report to the membership and they duly adopted it, along with the accounts, re-appointed the auditors, recorded the newly elected executive, and handed over to the new Chair, Kieran McEvoy.

*contd on page two*

### Contents

CAJ's AGM	1/2
"The War on Terror: lessons from Northern Ireland"	3
Case Update / Assembly inquiries into devolution of justice and policing powers / One Step forward and two backwards	4/5
"Rights and Righteousness"?	6
Jury still out on the Historical Enquiries Team	7
Civil Liberties Diary	8

contd from front page

## Police Ombudsman - reflections on the Office

The guest speaker at CAJ's AGM this year was outgoing Police Ombudsman, Mrs. Nuala O'Loan, who was invited to reflect upon her experiences of 7 years as Northern Ireland's first Police Ombudsman, and set out her hopes for the future of the Office. She gave a candid and insightful talk.

She spoke of how proud she is of her staff for being "ready to do anything" from the beginning, even when the Office was hugely understaffed and under resourced. The Office began its work on 6 November 2000 with a staff of 57 instead of 103. At that time, the Ombudsman had no retroactive powers and had to operate under 3 sets of regulations. Her office received 400 complaints in the first month alone.

Seven years on, the Ombudsman runs a round-the-clock service with a dedicated staff of 151, and has dealt with 22,000 complaints and 33,000 allegations. It has full investigative powers, and can even investigate police policy and practice. It has an international reputation, and as well as its complaints function it provides detailed statistical analysis and is invited to contribute its learning and advice to other countries considering establishing independent police complaints systems.

Mrs O'Loan stressed the huge support the office receives and emphasised their purpose was to deliver the best possible policing, not make the police look bad. Prosecutions against police officers are only recommended when this is required by the circumstances. Very often the problems lie not with individual officers but with problems in training, or in the management and supervision of junior officers. She identified the difficulty in disciplining an officer if he or she is not being shown how to do the job properly. Recent statistics show that of those police officers who have been the subject of complaints and allegations by the Office, 92% thought the Ombudsman was impartial and 82% thought they had been treated fairly.

Mrs O'Loan emphasised a number of elements to the work that she had undertaken which were essential to the operation of the Office. The first of these was independence and impartiality – the Ombudsman must be prepared to publish and stand by whatever findings are made and not succumb to pressure from any source. The second was the need to work with communities and to reach out to

them. She felt this was particularly important in establishing and maintaining confidence in the Office and she gave examples of weekend and evening visits to local community halls, Citizens Advice Bureaux, and education establishments.

In discussion, Mrs O'Loan outlined what she believed were a number of challenges for the future. The first of these is the review of powers of the Office which is currently being conducted by the Northern Ireland Office. Mrs O'Loan expressed her surprise that CAJ had not yet been invited to contribute to this review. Of particular concern is what

she anticipates as a diminished role or potential gap in the accountability mechanisms with the transfer of responsibility of intelligence from the police to MI5. The findings of a number of her investigations to date clearly demonstrate the need for strong accountability mechanisms for the use of informants, and this she believes needs urgently addressed, as the future must not repeat the past. Linked to this she emphasised the need to find some way as a society of dealing with the past and not simply seek to bury it.

As regards powers, she also stressed the need for a statutory power of mediation which she described as a 21<sup>st</sup> century solution to a huge range of problems.

The need to continue engaging with the community as a means of building confidence both in the Ombudsman's Office and in policing as a whole was emphasised again.

Finally, she outlined the importance of the imminent devolution of criminal justice and policing powers and the need to ensure it is done in a way that enhances rather than decreases accountability and openness. She pointed out that Patten had said that the police should not allow themselves to become a political football, and that this was a particularly important principle to bear in mind as this debate proceeds.

Although CAJ robustly engaged with Mrs O'Loan, it is unquestionable that throughout her tenure she sought always to carry out her duties fairly and impartially, and that she has set a hard act to follow. CAJ will be watching closely the work of the new incumbent – Al Hutchinson – to ensure that this standard is maintained.

**Devika Prasad**  
CAJ volunteer

*Copies of CAJ's annual report will soon be sent to all members. Anyone who is not a member but is interested in receiving a copy should contact the office*

## "The War on Terror: lessons from Northern Ireland"

As Just News readers will be aware, there is a lively Westminster and media debate underway on the extension of pre-trial detention – should we have 28 days, or 56 days, or 90 days? CAJ's response is that the experience of Northern Ireland would argue against any extension of the period of pre-trial detention. 28 days is already far too long; anyone really concerned about security should be seeking to minimise this period, not further extend it.

A CAJ report currently at the printers, entitled "The War on Terror: lessons from Northern Ireland" rejects the claims that effective security requires a reduction in human rights and civil liberties. The report argues instead – *"It may be blindingly obvious, but it is important to articulate it - in order to defend the rule of law it is necessary to defend the rule of law. Human rights standards, in their focus on the demands of accountability and safeguards, actually underpin the rule of law and thereby contribute directly to everyone's security."*

CAJ argues that Britain, and the wider world, has much to learn from the experience of Northern Ireland. Drawing on testimony (oral and written) submitted to the Eminent Jurists Panel in Belfast last year, and on an extensive piece of desk research by CAJ volunteers, the report will argue eight 'lessons' (see box).

Time and time again, the report cites evidence to the effect that emergency-type legislation is wrong in and of itself, but also that it is ineffective in deterring politically motivated violence, since it demonises the very communities that could be of most assistance in countering violence. Indeed, the experience of Northern Ireland has been that emergency legislation allows a climate of fear to be misused against minority groups; prioritises the gathering of information for intelligence/political purposes rather than for evidential reasons; and corrupts individuals and institutions, especially undermining the vital role that must be played by judges, lawyers and police.

The CAJ report also argues that measures that are frequently vaunted as safeguards, do not work. The judiciary is often cited as a vigilant protector of rights, but judges are not immune to the climate of fear that is often deliberately stoked to maintain public vigilance. The concept of 'national security' is allowed to predominate over all other considerations, and yet only the rarely

1. **Human rights abuses fuel conflict.**
2. **The integration of human rights measures into legislation, policy and institutional practice is essential.**
3. **Protection of due process is vital to the security and stability of society.**
4. **Equality and non-discrimination practices are crucial to security and strong community relations.**
5. **Domestic efforts to protect human rights in times of crisis need to be backed by international measures.**
6. **Special or emergency legislation can easily lead to serious abuses and be counter-productive.**
7. **Token democratic and legal safeguards are not enough to keep in check a state with extraordinary powers.**
8. **The tragedies of the past must be confronted to ensure lasting peace and stability.**

led to fundamental change, either because their terms of reference were extremely limited.

On the positive side, the report argues that defending the rights of individuals through due process is central to the protection and security of society as a whole. The rule of law and principles of due process exist to ensure that the suspects who are arrested, detained, and imprisoned are indeed guilty of the crimes alleged. The system breaks down if people engaged in criminal acts are not arrested, or if the wrong suspects are imprisoned. Such

abuses undermine public confidence in the rule of law.

We argue that a society that treats its individual members respectfully and respects diversity, will actively tackle the inequalities, social exclusion, and marginalisation that often foster anger and violence.

It has taken a long time for some of these lessons to be learned in Northern Ireland; it is extremely disappointing to see the same mistakes being made elsewhere in the supposed "war on terror"

### Case update

The recent decision by the High Court on the enactment of the Equality Act Regulations of 2006 by the Office of the First Minister and Deputy First Minister (OFM/DFM) raises interesting questions about religious institutions and their role in constructing government legislation. A judicial motion was filed to enjoin the OFMDFM from enacting the provisions concerning sexual orientation. The Applicants, representing a coalition of Protestant institutions, along with the Catholic Church as an intervener, argued that the provisions on sexual orientation are fundamentally unsound because of the flawed consultative process that was required in accordance with Section 75 of the Northern Ireland Act.

Among the objections raised to the provisions of the Act, the Applicants stated that OFMDFM failed to consult interested parties about the content of the Regulations and in particular did so by failing to allow the "standard minimum period" of twelve weeks for the consultation period that is the norm in the rest of the United Kingdom. Furthermore, they argued that the public was consulted upon proposals fundamentally different from the regulations in their current form, particularly with regards to harassment and that OFMDFM failed to take into account the responses from the consultative process itself before finalizing the regulations.

In response, the OFMDFM, in conjunction with a coalition of equality and human rights organizations, countered firstly that there were three major consultation exercises over three months in 2006 on issues such as discrimination and same-sex adoption, thus demonstrating that the consultation process was procedurally appropriate. Additionally, as the harassment provisions indicate, the Regulations proposals were still in a formative stage, thus allowing OFMDFM to make late changes to the draft regulations as a result of the consultative process.

The High Court separated considerations of the harassment provisions from those of the Equality Act's provisions in general. The Court went on to quash the harassment provisions of the Equality Act, on the grounds that the provisions, as formally inserted into the Act were much broader and fundamentally different from the version upon which the consultation was based.

The Court also considered the enactment of the Equality Act in general. On this point, it was determined that the Act not only did not treat Christians more unfavourably by violating their freedom of expression but also that the consultation period established was in conformity with the procedural norms of Northern Ireland and the U.K. As a result, no grounds for interference with the Regulations were found and the Equality Act was allowed to stand.

### Assembly inquires into devolution

A central part of the political negotiations around devolution involved the issue of policing and criminal justice powers. In the St Andrew's Agreement, the governments encouraged parties to continue dialogue on this issue, and expressed the hope that:

*"implementation of the agreement published today should be sufficient to build the community confidence necessary for the Assembly to request the devolution of criminal justice and policing from the British Government by May 2008."*

While political views (naturally) diverge as to *when*—and indeed *if*—this will happen, in reality all the parties are actively participating in a discussion of *how* it could happen in the form of an inquiry being run by the Assembly and Executive Review Committee. Known colloquially known as the Donaldson Committee (after its chair, Jeffrey Donaldson), the terms of reference of the Committee are:

1. To identify those policing and justice matters which are currently reserved matters under Schedule 3 of the Northern Ireland Act 1998 (the 1998 Act);
2. To consider which of these matters should be devolved and the extent to which they should be devolved;
3. To identify the preferred ministerial model and procedures for filling the ministerial post/posts for the new policing and justice department;
4. To identify what preparations need to be made by the Northern Ireland Assembly to facilitate the devolution of policing and justice matters and what preparations have been made;
5. To assess whether the Assembly is likely to make a request under section 4 (2A) of the 1998 Act before 1 May 2008, as to which policing and justice matters should cease to be reserved matters; and
6. To report to the Assembly by 29 February 2008.

As reported in previous issues of Just News, CAJ produced (2006) a major report on the devolution of criminal justice and policing powers to Northern Ireland. The report looks at models on offer from other jurisdictions and evaluates the advantages and disadvantages associated with each. Moreover, the report looks at other accountability mechanisms that need to be built into any system to ensure that power is administered fairly, effectively and in a human rights compliant manner. In addition, the report looks at the recent

## of justice and policing powers

changes that have been taking place in criminal justice system in Northern Ireland as regards the impact they could have on devolution of power to the local level. Finally, it examines the issue of the delineation of powers to be devolved or retained at Westminster and the consequences this may have.

As such, we are very well placed to engage in this debate and wrote to the Committee sending a summary of our recommendations and a cover letter highlighting what we believe to be a key issue in this debate. This is the need to receive from the Northern Ireland Office a detailed examination of all the legislation that relates to criminal justice and policing matters in Northern Ireland in order to ascertain what power lies where and what exactly would be devolved.

The Committee has held several meetings, received written evidence and heard some oral evidence from the Lord Chief Justice, the NI Court Service, the Policing Board, the Public Prosecution Service, the PUP and the Alliance Party. Despite earlier indications that we may be called to give oral testimony, this has not transpired. When we followed this up with the Committee we were disappointed to learn that they did not intend to call any more witnesses.

One of the key recommendations in CAJ's report was: *"... 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, CAJ believes that the timetable for debate and for decision making is also a matter of public interest, rather than merely party political interest."*

While the evidence and views of criminal justice and policing institutions who are directly affected, as well as the political parties not represented on the Committee are obviously extremely important, we are aware that there are many other groups and individuals who have a particular interest in and experience to bring to this debate. An opportunity is lost – and a bad precedent set – if they are not given the opportunity to contribute. The Westminster Committee system – on which the Assembly system is modelled – has a tradition of calling a wide variety of witnesses from across the governmental and non-governmental fields to contribute to and enrich its discussions.

As our report indicates, how policing and criminal justice powers are administered here is of importance and relevance far beyond the politics, and as such it must not be a purely political discussion. For our part, we will now be looking at how we can open the discussion up and make the contents of our report more widely known and debated, in the hope that greater public ownership is taken of this important topic.

### One step forward and two backwards

In a joint letter, CAJ and BIRW expressed a number of concerns to the Billy Wright Inquiry. The Inquiry had yet again postponed the commencement of its oral hearings due to the fact that PSNI had failed to comply with the Inquiry's request to disclose pertinent material. The Inquiry had issued notices as far back as November 2005 under the Inquiries Act 2005 for the disclosure of this material.

The Inquiry was concerned and continues to be concerned that there appears to be significant gaps in the material provided by PSNI. At an Inquiry Hearing on 17<sup>th</sup> September 2007, PSNI was given until 15<sup>th</sup> October 2007 to comply fully with the notices outlined above. PSNI, through its representative, indicated at the hearing that the Chief Constable, Hugh Orde commissioned a review which was headed by retired ACC Sam Kinkaid to examine whether the Inquiry was served with all the information which was sought under the disclosure notices. It was indicated that a report of the review would be made available to the Inquiry by 15<sup>th</sup> October.

Having now received the report from Mr Kinkaid, the Inquiry Panel was not satisfied that it gives a full response to the notices issued under the Inquiries Act 2005. Consequently, the Inquiry Panel in a press notice on 25<sup>th</sup> October 2007, decided to issue an interim report in relation to PSNI failure to disclose all relevant material. As a result it decided not to hold any further hearings until the publication of their report in early 2008. However, prior to its release the Inquiry must consult with the Northern Ireland Office (NIO).

It is not clear why a more robust action is not pursued by the Inquiry Panel against PSNI. PSNI failure to comply continues to impact directly on the proceedings. Does PSNI behaviour amount to a contempt of Court and has a consideration been given by the Inquiry to that effect? We do not know whether the matter has been referred to the Attorney General for consideration.

The protracted delay is undermining the proceedings and causing the Inquiry to incur avoidable and unnecessary costs.

It came as a surprise that the Crown Solicitor's Office and the Security Services were granted full participant status, in that no prior notice of these bodies' application had been given. It also appears that their application to participate in the proceedings has been determined behind closed doors. There are also concerns around transparency. Confidence in the Inquiry by the family and others risks being undermined if these concerns are not addressed.

## "Rights and Righteousness"?

**CAJ recently attended the Northern Ireland Human Rights Commission's Conference entitled "Rights and Righteousness". Aiming to consider rights and faith based approaches to human rights and justice, the conference examined and attempted to abridge the dichotomy between religious pluralism and human rights. A host of local and international experts spoke over the course of a day and half, with a chance for participants, drawn from a wide range of academic, religious and community backgrounds, to contribute and engage in the discussion through a number of workshops.**

Kevin Boyle, Professor of Law from the University of Essex, began day one of the conference with an overview of the key international issues in this area. He examined the parallels between the context of human rights as they developed post World War II, in the shadow of the holocaust, and human rights today, standing in the shadow of the 'war on terror'. The role of human rights in both contexts, it was stressed, is that of merely one strand in a wider global campaign for social justice, and in that sense "there should not be conflict between the mission of universal rights and the mission of religions".

In the Economic Justice workshop that followed, one of a number of concurrent workshops, Brigid Reynolds and Sean Healy of CORI discussed their views on the link between religion and human rights; that is, Christian values form the basis of human rights and economic justice. They argued that spirituality and morality provide the reasoning and opportunity for social engagement, through which we can build a just society.

Providing an alternative religious perspective on the link between rights and religion was a workshop on the principles of Islam, presented by Mamoun Mobayed, and Buddhism, presented by Michelle Lamb and Edith Shillue. Common to both presentations, indeed to both faiths, was the assertion that while human rights may not be expressly referred to in their religious doctrines, the values and beliefs they are based on enable the promotion of a human rights culture.

Francesca Klug, from the London School of Economics, then addressed the history of the "rights and righteousness debate". She argued that rights have traditionally been

portrayed as the antithesis of righteousness; that the universality of human rights is owed primarily to their secularity. Yet examination of the origins of human rights reveals a close link to divination, and furthermore, their universality is in fact endorsed by the role of major religions world wide as campaigners for rights; from the role of American and English Protestants churches in anti-slavery campaigns, to the ongoing struggles of Buddhist monks for rights in Burma. In this way the manifestation of religious belief is quite often in aid of the protection of the fundamental rights of others.

Another 'secularist' contention is the idea that human rights too readily promote the interests of individuals, in contrast to the responsibilities or mutual moral obligations affirmed by the "righteous". Klug disagrees however and argued that the perception of human rights as individualistic defies the sense of "moral purpose" for all mankind that underpinned the drafting of post WWII human rights treaties. She made the point that these treaties were the result of a common desire to "establish a framework of ethical values driven not just by the *ideals* of liberty, autonomy and justice but also by normative *values* like dignity, equality and community.

Drawing together the links between rights and righteousness, the speaker identified our sense of conscience as the key point on which the spiritual and human rights framework overlap; it is what fuels our "struggle to do 'what is right' in our troubled world".

Day two of the conference saw Linda Hogan, Chair in Ecumenics at the Irish School of Ecumenics, Duncan Morrow, Chief Executive of the Community Relations Council, contextualise the "rights and righteous" debate by looking at the extent of pluralism in Northern Ireland. Identified by Hogan as being "remarkably homogenous" in terms of religious identity, Northern Ireland also contains a lot of internal diversity within particular religions. NIHRC Chief Commissioner, Monica McWilliams concluded the segment by looking specifically at the issue of rights and responsibilities and argued that while people who have done wrong should not be denied human rights because of it, there is, at the same time, an overarching responsibility to act in a way that doesn't restrict the rights of others.

Karin Ryan, Director of the Carter Centre in Washington's Human Rights Programme, concluded the conference proceedings by making the point that it is not a question of whether human rights and religion are aligned; their values are the same; the key is to acknowledge the larger framework in which we are all working.

## JURY STILL OUT ON THE HISTORICAL ENQUIRIES TEAM

**The Historical Enquiries Team (HET) was set up by the Police Service of Northern Ireland (PSNI) in 2005 to examine all deaths arising from the conflict between 1969 and the signing of the Good Friday/Belfast Agreement in April 1998. They are examining 3,268 deaths arising from 2,516 incidents. So far, they have started evaluating 830 incidents. Of these, 314 re-examinations have been completed or are nearing completion.**

The HET is also responsible for the PSNI's response to the Police Ombudsman's report, *Operation Ballast*, which looked at complaints surrounding collusion between the police and a single UVF informer. This investigation involves 29 cases.

When the HET examines a case, it first collects together all the information about it that is available to the PSNI, both internally and from external sources such as newspaper cuttings, documentaries etc. They also look at all associated intelligence. The case is then assessed to see what material is available and whether any evidence is missing. Then a review assesses if there have been any missed opportunities, such as witnesses who were not interviewed, or any new forensic techniques that could be tried. If any such opportunities exist, a focussed investigation is carried out. At the end of the process, whatever the outcome, the family is sent a Review Summary Report, which tells them what was found and what was done. So far, 90 families have received reports relating to 82 incidents.

Cases are being considered chronologically from 1969, with certain exceptions. A case will be exempted from the chronological order if the PSNI had already re-opened the case before the HET existed; for humanitarian reasons, such as a relative being elderly or ill; where cases involve issues of serious public interest; or where it is discovered that an earlier case has links to later murders. In chronological terms, the HET has only reached 1973.

The HET describe themselves as "family centred" and they make every effort to contact families, answer their questions, and keep them informed. However, they admit that they have failed to reach their original goal of dealing with a case in an average time of 12 weeks. In reality, cases are taking many months, if not years, to complete. British Irish *RIGHTS WATCH* (BIRW) has yet to see any results in any of the cases in which we are involved!

It is entirely a matter for each individual family to decide whether they want to engage with the HET. Some families feel that, since the HET are a branch of the police investigating the police, they are insufficiently independent. Others, while recognising the truth of this, feel that the HET is their only realistic chance of finding out the truth. If, as sometimes happens, different branches of a family have different views or questions, the HET is willing to deal with them separately.

Those families who have decided to engage with the HET have often sought the support of human rights groups, who can help them to identify the questions they want answered, present information to the HET, and go to meetings with them.

There can be a certain amount of overlap between the work of the HET and that of the Police Ombudsman. The Ombudsman can only investigate police misconduct, while the HET can re-investigate a murder, when necessary. In BIRW's experience, liaison between the HET and the Ombudsman's office is limited with

evident negative consequences for the investigative process as a whole. is not very good. If a case is being examined by both agencies, it is important not to assume that information given to one of them has been passed to the other.

Some of the 90 families who have received final reports from the HET have not been happy with the outcome. Obviously, it is difficult to investigate cases that are over 30 years old. Witnesses may have died and exhibits been lost or destroyed, and memories are not always reliable. Collusion has also meant that some evidence has been deliberately removed or falsified, as *Operation Ballast* demonstrated. Families cannot expect the HET to work miracles, and in our experience, most families are very realistic about that. However, families are certainly entitled to the best quality investigation possible given the state of the evidence, and it has become clear that this has not always been delivered by the HET. The HET themselves acknowledge that they are still on a learning curve, and anyone who is dissatisfied with one of their reports should raise it with the HET, and also seek advice from a human rights group.

The HET is a unique experiment. Its lack of independence means that its investigations do not comply with Article 2 of the European Convention on Human Rights, which guarantees the right to an independent, effective investigation. It remains to be seen whether the HET can nonetheless make a positive contribution to helping uncover some of the truth about what occurred during the conflict in Northern Ireland.

**Jane Winter, Director  
British Irish Rights Watch**

## Civil Liberties Diary

**1 Oct** Family of Michael Hayes calls on the British army to apologise for his death in 1972. The 27 year old father of two was shot near his home in Spamount St in north Belfast. Soldiers had claimed he was a gunman but no residues were found on him that would suggest he had been firing a weapon.

**3 Oct** The Equality Commission is being asked for advice on the controversial decision by Craigavon Borough Council to approve a memorial seat for the graveside of ex-LVF leader Mark Fulton in the Kernan Cemetery.

Northern Ireland Chief Justice Sir Brian Kerr appears before MLAs for the first time. He was called to give evidence to a committee examining the proposed devolution of policing and justice powers to the Assembly. He recommended the establishment of a non-departmental board to protect the court service's independence.

**4 Oct** Calls are to be made to change an "ageist" health policy which saw Michael Hanratty, an active 76 year old farmer from south Armagh, refused specialist brain treatment because he is a pensioner. He was told that because he was over 65 he could not attend the Musgrave Park regional unit for acquired brain injuries. A spokeswoman for the Department of Health said such a decision was in line with NHS guidelines.

**5 Oct** Police Ombudsman Nuala O'Loan's report is published into the shooting of Neil McConville outside Lisburn in 2003. It found that the officers were justified in opening fire but criticised the handling of the case – highlighted was a refusal by the PSNI to hand over files, forcing Chief Constable to intervene.

**10 Oct** Senior coroner John Leckey formally requests that Chief Constable Sir Hugh Orde hand over two unpublished reports on allegations of security force "shoot to kill" deaths over 25 years ago so inquests can finally go ahead. In 1994, Mr. Leckey abandoned his investigation after he was denied access to the Stalker and Sampson reports on grounds of national security.

At the opening of the Inquest in the death of Pearse Jordan, killed in Belfast in 1992, it is revealed that the officer who fired the fatal shots could not be compelled to give evidence as he could not be found.

**16 Oct** Unionist Assembly members vote in favour of a motion which claims they have been excluded from the rights debate and were under-represented at the Bill of Rights forum. They have voiced these concerns to NI Secretary Shaun Woodward.

**17 Oct** Over 120 people (including several members of the security force) due to give evidence to the Rosemary Nelson inquiry have applied for anonymity, according to the chairman, Sir Michael Morland. The formal public inquiry is to begin on April 15<sup>th</sup> 2008.

Culture Minister Edwin Poots rules out plans to bring in Irish language legislation saying that the Bill would have been too costly and divisive. Secretary of State Shaun Woodward now faces demands that the British government act to fulfil its pledge under the St. Andrews Agreement of last year.

**19 Oct** NIHRC Chief Commissioner Monica McWilliams writes to the NIO after culture Minister Edwin Poots announces that he would not introduce an Irish Language Act, the Commission's position being that when regional authorities do not comply with international human rights standards in this area the state is still responsible.

**30 Oct** Department of Health releases figures which show lung cancer rates 71% higher than average in the most deprived areas of Northern Ireland. The study also found that life expectancy for men and women in deprived areas was 3.8 years and 2.6 years lower respectively.

**31 Oct** Criminal Justice Inspectorate investigation into Northern Ireland's restorative justice projects recommends the establishment of an independent complaints system to be set up in the style of an ombudsman. It found that further development of Community Based Restorative Justice schemes in nationalist areas is needed in order for them to meet Government protocol accreditation though such schemes have been valued by their local communities.

Police Ombudsman's report into the UVF murder of Gerard and Rory Cairns near Lurgan in 1993 finds that the police investigation was "flawed". Among the criticisms of the RUC was that within weeks officers had lost, destroyed and withheld forensic information and suspect's statements.

*Compiled by Mark Bassett from various newspapers.*

Bulletin of the Committee on the Administration of Justice  
  
 Human Rights in Northern Ireland

**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 Ni Aolain**, CAJ Ltd.

45/47 Donegall Street, Belfast BT1 2BR  
 Phone (028) 9096 1122

Fax: (028) 9024 6706

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