

## **Bloody Sunday Inquiry continues.....**

**No one could fail to be impressed at the scale of the work that has already taken place on the Bloody Sunday Inquiry. In his eleven-week long opening statement, Counsel for the Inquiry, Christopher Clarke QC, presented a detailed overview of where the Inquiry was up to in its task to discover the truth. He succeeded in organising the vast body of evidence into a manageable and intelligible format.**

### **The Guildhall**

The scene inside the Guildhall is impressive, if a little intimidating to non-lawyers. The Tribunal and teams of lawyers are seated on raised platforms, which take up most of the space in the main hall. Computer terminals on each of their desks relay the documents and images as counsel refers to them.

Mr Clarke provided a framework for the evidence by dividing his opening statement into fifteen categories. He separated the Bogside into five different sectors and covered the shootings chronologically in the sector where the death or wounding took place. This has made the vast body of evidence more intelligible and the proceedings relatively easy to follow. At the end of each category, Mr Clarke summarised the issues that the Tribunal will need to resolve by the end of the Inquiry.

At the outset, Mr Clarke made it clear that this was an unconventional way of opening an inquiry. He described it as a 'working' opening. He aimed to review and partially analyse the evidence he had received so far. He stressed that the Tribunal would not make any findings until the end of the Inquiry, after all the evidence had been heard.

For the most part, Mr Clarke stuck to a straight forward analysis of the evidence. Often, he referred to

numerous accounts of the same incident, simply to show how diverse the evidence was. He pointed to discrepancies and inconsistencies in evidence from all sources. However at times, he gave the impression that he had already formed a view on some issues. This was most noticeable in the evidence relating to the nail bombs found on Gerard Donaghy's body. Mr Clarke appeared to be at pains to dismiss any suggestion that the bombs had been planted on Mr Donaghy's body, in spite of strong evidence to the contrary.

### **Reaction of the families**

To have the day when your brother, son or father was killed so graphically recreated must be unimaginably harrowing. Added to that the relatives have to contend with the attention of the world's press, a detailed examination of their loved ones last steps, hearing the soldiers involved speak disrespectfully of them and recognising them in film footage that has never been seen before.

Family members have attended every day of the Inquiry, following the proceedings and keeping those who cannot attend up to date. Whilst grieving for their own relatives, they are also grieving for the others who died because, for the first time, they are hearing the circumstances of all of the deaths.

However the process is already providing opportunities to heal some wounds. Prior to the start of the Inquiry some relatives felt that the people of Derry had not always shown interest in Bloody Sunday. The eyewitness accounts reveal that what seemed to be the public's indifference was often an attempt to protect family members from further distress.

### **Reaction of the people of Derry**

Members of the public are following proceedings from the public gallery and in the Derry Journal, which prints extracts from the evidence every day. There is a quiet sense of amazement at both the amount and nature of the evidence.

There is also a feeling that this is a unique occasion. Civilian accounts of the soldiers' brutality are heard in the formality of a legal setting. Voices, previously dismissed or ignored, have finally been given the opportunity to speak.

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## Case by Case

### David Adams

**Readers of Just News will be familiar with the case of David Adams, the man brutally assaulted by police after being arrested for IRA-related offences in early 1994. Adams suffered such severe injuries at the hands of the RUC that the Chief Constable was held liable for £30,000 damages in civil proceedings. After Adams' victory in civil court, the Independent Commission for Police Complaints (ICPC) ordered a criminal investigation against the police officers involved. However, the Director of Public Prosecutions (DPP) failed to bring a single charge against any officer and declined to give either detailed reasons for his decision or to disclose the results of the ICPC investigation. Unfortunately, CAJ must report that a challenge by Adams' solicitors against the DPP was recently struck down in a decision by Judge Gillen holding that the DPP's (in)actions were justified as a matter of law.**

### Grounds for the decision

As the court sat in judicial review, Judge Gillen was not able to consider anew the contested facts of Adams' case. Rather than weigh evidence, Justice Gillen had to accept previous conclusions of fact and judgement and in light of these conclusions consider whether the DPP's decisions not to prosecute or to give detailed reasons were legally defensible.

On the question of not prosecuting, Judge Gillen found that Adams had enjoyed procedural fairness throughout his numerous appeals and reviews. It was not implausible that the DPP had insufficient evidence to sustain a conviction despite the civil verdict because none of the officers potentially facing charges were named or implicated in the civil suit and because the standard of proof is higher in criminal proceedings. The DPP is vested with tremendous discretion and only "aberrant, inexplicable, or irrational" decisions will be overturned on judicial review.

Regarding the DPP's failure to cite reasons for not prosecuting, Judge Gillen initially observed that there is no general legal duty for administrative bodies to explain their decisions. Since the DPP does not adjudicate between

two parties, it must balance the public interest as a whole in deciding when to disclose. The only time the DPP does have to give reasons for not prosecuting is when there has been a death in state custody (see the Manning case). Judge Gillen added that torture, even at the hand of state agents, is not inherently worse than other outrageous offences like rape or child abuse where case law supports the right not to give reasons.

### Criticism of the Decision

Judge Gillen's decision failed to question the established rules and legal precedents that consistently excuse the State from answering for its own acts of injustice. The bottom line is that the police officers who abused Mr. Adams have never had to answer for their crime and they may well still be serving on the RUC. If Northern Ireland is to enjoy the new beginning promised by the Good Friday Agreement, it behoves public servants like judges to criticise existing regulations that frustrate the principles of equal justice.

The DPP does indeed have a tremendous amount of discretion under current law. Yet while it is possible that inadequate proof existed to guarantee a conviction, surely Adams' victory in civil court demonstrates that enough evidence existed to sustain a vigorous public trial. By not prosecuting and not giving reasons, the DPP deprived the public of the opportunity to hear and weigh the conflicting accounts. This course of action does little to assuage the fears of those who charge that the police and prosecution service are not adequately independent of each other.

It is also disappointing that Judge Gillen found that forcing the DPP to state the reasons why he declined to prosecute in Adams' case would mandate disclosure for all heinous crimes like rape or child molestation. While line drawing is a difficult exercise, the key factor that differentiates Adams' situation is the presence of State actors. Although the perspective of the victim may be the same, torture at the hands of the police is worse than torture by an "ordinary citizen" because it implicates the legitimacy of government and the State. In order to build trust in the system, the state must be willing to police itself as strictly as it does its own citizens.

**Colin Starger**  
(Visiting US intern)

# Update

## Defending Human Rights

amnesty international world lawyers' meeting to be held on Friday, 6th - Sunday, 8th October 2000 at the Wellington Park Hotel, Belfast. The meeting will cover the following themes:

- Impunity/International Criminal Court;
- Defending Human Rights Lawyers; and
- Human Rights Commissions

Key speakers include Param Cumaraswamy, UN Special Rapporteur on the Independence of Judges and Lawyers, Michael H. Posner, Lawyers Committee for Human Rights, New York, Jane Winter, British Irish Rights Watch, Brice Dickson, N.I. Human Rights Commission, Michael Mansfield QC, Martin O'Brien, CAJ, Andy McEntee, Amnesty International UK, Seamus Sheils, Amnesty International Irish Section and Helen DeSa, AI International Secretariat.

For further information contact: Amnesty International UK, 80a Stranmillis Road, Belfast BT9 5AD  
Tele: 44 (0)28 9066 6216 Fax: 44 (0) 28 9066 6164  
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## In the Headlines

The CAJ holds newspaper clippings on more than 50 civil liberties and justice issues (from mid 1987). Copies of these can be purchased from the CAJ office.

Anyone interested in this service, should phone (028) 9096 1122.

## Up to date with CAJ

Paul spoke at an NGO Forum in Dublin, hosted by the Department of Foreign Affairs on Human Rights Commissions.

The launch of the Equality Coalition took place in Belfast on 28th June. The first copy of "Equality Coalition News" has been produced and is available from UNISON (028 9077 0813) or CAJ (028 9096 1122).

At the end of the summer, CAJ hopes to appoint two new members of staff for 18 months, an Equality Project worker and a Bill of Rights worker.

We would like to thank the visiting US interns, Colin, Sarah and Helen for all their hard work during their 10 weeks with CAJ and to wish them all the very best.

Sadly, Arist von Hehn's time as an Eirene volunteer comes to an end in August. We would like to take this opportunity to thank him for his extremely dedicated hard work and to wish him well in his future career. Michael Frahm from the Eirene project will replace Arist in the CAJ office.

CAJ observers were present at parades at Portadown and Belfast.

Maggie attended an event with JUSTICE in London on Economic & Social Rights.

An Equality sub-group meeting took place.

Finally, Congratulations from everyone at CAJ to Martin and Helen on their recent marriage.

**Liz Martin**

*contd from front page*

## The Tribunal

Lord Saville is keeping a tight check on the progress of the Inquiry and is clearly keen to prevent delays. He postponed making a decision on where the soldiers should give evidence until nearer the time, to avoid having to reconsider his decision each time a new security assessment was released.

He refuses to allow any of the lawyers to make disingenuous arguments. Lord Saville sharply dismissed the argument that the soldiers' anxiety would increase if the Tribunal postponed the decision on venue. If the soldiers were suffering because of this delay he would have expected them to join the families when they asked for the same decision to be made last November

## September 2000

When the inquiry resumes the lawyers for the families and the soldiers will give their opening statements. More evidence will be brought out and some of Mr Clarke's observations will be criticised. There are still many outstanding questions on the evidence, in particular the missing army photographs and whether there has been full disclosure of security service documents.

The framework is now in place for the oral evidence, the substance of the Inquiry, to begin. Whilst the first stage is over, there is still much more to come. Anybody who wants to follow the proceedings can find a weekly report on British Irish Rights Watch's website at <http://www.fhit.org/birw/>.

**Catherine McKenna**

(Observer for British Irish Rights Watch)

## Statutory Equality Duty

### *Response of the Northern Ireland Government Departments*

On June 30, the Northern Ireland government departments, along with over 100 other public authorities, submitted revised Equality Schemes to the Equality Commission for review. Section 75 of the Northern Ireland Act requires public authorities to draft a Scheme that details how they will implement their statutory duty to promote equality of opportunity among persons of different religious belief, political opinion, racial groups, age, marital status, sexual orientation, men and women generally, persons with a disability and those without, and persons with dependants and those without. CAJ is examining these Schemes quite closely. The following summary includes all government departments and the Northern Ireland Office.

Most departments appeared to have profited from the responses to their draft Schemes as the revised Schemes met many of the statutory requirements. The Schemes included a statement from the relevant Minister ensuring his/her commitment to promoting equality of opportunity. All the Schemes met the requirement of promising to allocate all necessary resources, in terms of time, people, and money, to meeting their statutory duty. The Schemes stated that, in their pursuit of equality, the departments would address the particular needs of young people and those with learning difficulties. Most of the Schemes were comprehensible and accessible to the lay reader: many Schemes provided an organisational chart and a brief explanation of their functions and policies. In terms of consultation, many departments increased their list of consultees and stated that the list was not exhaustive. However, some problems involving consultation still remain. For example, the Department of Culture, Arts & Leisure did not list CAJ or any group representing the lesbian, bisexual, and gay community as future consultees.

Other serious problems also remain. For example, public authorities must promote equality of opportunity in areas that affect Section 75 constituencies. Authorities may therefore "screen out" areas that they believe do not have a differential affect on Section 75 constituencies. Many government departments screened out policies without consulting the NGO community as to the potential impact of those policies on affected communities. This resulted in some strange assumptions. For example, the Department of Health's Scheme implies that preventing the abuse of vulnerable adults has no differential impact on those from ethnic minority communities who may not have English as a first language. The Scheme also states that policies regarding Looked After Children have a differential impact in terms of sexual orientation, but policies regarding Leaving and After Care Services do not. The Department of Higher and Further Education, Training and Employment's Scheme stated that none of their policies had a differential impact based on political opinion or sexual orientation. CAJ

reminded the departments of the legal requirement to provide details on the policies they plan to screen out. CAJ also pointed out to the departments that they are required to screen all policies "regardless of their origin" because once a policy is accepted and put into practice within a public authority it becomes the policy of that authority. Most government departments stated that the Department of Finance and Personnel would assess all employment and procurement policies. Due to the crucial impact of employment and procurement policies in terms of equality of opportunity, every government department must accept its responsibility in this area.

A final problem in the revised Schemes is that of a failure to truly engage with *how* the departments could better promote equality of opportunity. Many of the departmental Schemes were presented in a formulaic manner, and failed to explain the particular problems and equality challenges facing the department in securing greater equality of opportunity in their relevant area of responsibility. The Department of the Environment, for example, made little if any reference to the challenges it will face in providing road safety education to people with learning difficulties or to those for whom English is not a first language. The departments also failed to share their vision of how equality of opportunity would improve the lives of affected communities. The Department of Education did not describe how the problem of Traveller children's educational attainment might be impacted, and the Northern Ireland Office failed to explain how promotion of equality of opportunity would affect the NIO's ability to deliver a fair and efficient system of justice within the context of Section 75 constituencies. CAJ urged the departments to engage with the real issues surrounding equality of opportunity.

## Outcomes

For example, looking at the latest Equality Commission Monitoring Report, one can see that over the last ten years the underrepresentation of Catholics in the workplace has decreased. However, as the report states, the underrepresentation of Catholics in security-related occupations has changed little over the last 10 years, and Catholics remain underrepresented in upper senior grades of the civil service. In relation to the latter, clearly it is crucial that the relevant public authorities show how they propose to address this issue. In the case of the former, obviously the full implementation of Patten is a pre-requisite, but the new Policing Service Equality Scheme will also have an important role to play in redressing these imbalances. Only when these **outcomes** are delivered can the potential of Section 75 be fulfilled, and the Good Friday Agreement be implemented in full.

**Helen Harnett**  
(Visiting US intern)

**The International Helsinki Federation for Human Rights (IHF) has produced its annual report entitled "Human Rights in the OSCE Region (the Balkans, the Caucasus, Europe, Central Asia and North America), Report 2000." The report sheds light on governments' compliance with international human rights commitments and highlights some of the human rights problems in those countries. The section on the United Kingdom focuses on several areas, including rule of law; torture, human rights defenders; and ill-treatment and misconduct by law enforcement officials.**

### Rule of Law

Under rule of law, the report welcomed the establishment of the Northern Ireland Human Rights Commission.

The report concluded that most human rights violations in the UK were reported in connection with police abuse and intimidation. In the area of torture, ill-treatment and misconduct by law enforcement officials, the report argued that accountability was a crucial issue.

Recent controversial decisions of the DPP not to prosecute RUC officers in a number of cases undermined faith in the effort to bring perpetrators of violence to justice and "damaged RUC credibility as an investigative mechanism." The report illustrated this by focusing specifically on the cases of David Adams and Robert Hamill.

Following the conclusion in the David Adams case in the High Court, the Independent Commission for Police Complaints in Northern Ireland carried out an investigation which was passed on to the DPP. Despite the "clear-cut" nature of the physical evidence in the case and the High Court ruling, the DPP decided not to bring any criminal charges against the officers involved.

In March 1999 Marc Hobson was acquitted of the murder of Robert Hamill for lack of evidence. In its judgement, the Diplock Court said it was unable to resolve whether police officers present had failed to react adequately when

Hamill was attacked along with his companions by around 30 Loyalist men and women. Following this acquittal, the DPP ultimately decided in September not to bring criminal charges against the RUC officers.

### "Human Rights in the OSCE Region"

(the Balkans, the Caucasus, Europe,  
Central Asia and North America)

### Report 2000

Commenting on the recommendations of the Patten Commission, the report criticised the failure to secure a mechanism that would ensure that police officers involved in human rights abuses were not retained in the force. There was also concern expressed at the failure to call for an immediate end to the use of emergency legislation and plastic bullets in line with recommendations by UN human rights bodies.

### Human Rights Defenders

The report also addressed issues relating to human rights defenders, as exemplified by the deaths of Rosemary Nelson and Patrick Finucane. In April 1999, the European Parliament and the US House of Representatives passed resolutions urging the UK to carry out an independent investigation into Rosemary Nelson's murder. The House also passed the American Embassy Security Act, section 408 of which was designed to stop RUC members' participation in any FBI

program of educational or cultural exchange unless "complete, independent, credible and transparent investigations of the murders of defence attorneys Rosemary Nelson and Patrick Finucane have been initiated by the UK government" and appropriate steps have been taken to protect defence attorneys against RUC harassment.

In April, John Stevens, deputy commissioner of the London Metropolitan Police, was enlisted to reopen the Patrick Finucane murder investigation. In June William Stobie was arrested and charged with the murder. Stobie denied the charge, but

it later turned out that following Finucane's killing, he had already admitted his participation in it. This contrasted sharply with a prior statement by the DPP that in 1990 Stobie had denied involvement in the murder.

An article written by Ed Moloney in the Sunday

Tribune based on a 1990 interview with Stobie alleged that Stobie had escaped arms possession charges only through keeping silent about RUC complicity in the Finucane murder. Under the Prevention of Terrorism Act, Moloney was ordered to surrender the notes from his interviews with Stobie. Human rights organisations protested this, arguing that it could lead to a chilling effect on reporting on governmental accountability and coercing journalists that explored collusion.

Moloney challenged the court order and has since won his case. Stobie was granted bail in October 1999. The report argued that the Nelson murder and the renewed investigation into the Finucane murder confirmed the precarious position of defence lawyers in Northern Ireland as targets of abuse. Amid credible evidence of collusion, the RUC also came under considerable public suspicion.

**Sarah Clinton** (Visiting US intern)

Copies available from International Helsinki Federation for Human Rights (IHF), Wickenburggasse 14/7, A-1080 Vienna, Austria. <http://www.ihf-hr.org>

## Preventing Terror or Institutionalising Power?\*

**Northern Ireland's legal history is closely allied with the history of emergency powers in the jurisdiction. Since 1922, emergency powers have been normalized as part of daily life here. Many legal actors and policymakers do not conceive of emergency powers as abnormal. Rather, these laws form part of the ordinary legal tapestry that judges, governmental officials and police assume to be unproblematic and justifiable.**

Close reading of the statistics concerning the operation of the Prevention of Terrorism legislation in England, Scotland and Wales for 1999 in tandem with the annual statistics related to the operation of the *Northern Ireland (Emergency Provisions) Act 1999*, vividly illustrate the extent to which the state has failed to dismantle the emergency law apparatus in Northern Ireland despite ongoing cease-fires, a massive decrease in violent and paramilitary related crime and the disuse of many emergency provisions - all confirmed by the state's own statistical analysis. The government's own statistical evidence solidly supports the claims made by civil libertarians that there is no longer a firm legal basis for the use of these powers. Moreover, the empirical evidence suggests that the United Kingdom may also be in breach of its international legal obligations by its failure to repeal emergency laws which are no longer required by the exigencies of the situation.

### ***A Fall in Emergency Arrests - The PTA.***

A closer look at the operation of the two pieces of legislation is warranted. First, the information concerning the *Prevention of Terrorism Act* [PTA] in 1999. In 1999 only 12 persons were detained in Britain in connection with Northern Ireland terrorism. This figure is illustrative of a general trend towards fewer arrests as 20 persons were arrested in 1998 and 31 in 1997 under the same legislation. Of this number only one detained person was charged with an offence. The report is eager to demonstrate the significance of this arrest by pointing out that this represents 8% of the total, a drop from 25% the previous year.

The report goes on to state blithely that, "The 1994 and continuing 1997 cease-fires may account for some of these fluctuations" which apparently are unrelated to a secure environment in which devolved government is taking root. There is an evident failure to acknowledge that such a continuous drop in detention rates may significantly alter the state's legal obligations domestically and internationally.

Notably of the 12 persons arrested in 1999, 9 were released within 48 hours of their arrest. Correspondingly of the 87

persons detained in connection with international terrorism, 82 were released within 48 hours. Such detail suggests that the ordinary law, the Police and Criminal Evidence legislation is more than capable of accommodating the arrest and detention needs that arise in the United Kingdom. Disturbing also is the information that during 1999, 437 persons were examined for more than one hour under the *Prevention of Terrorism Act*, but not detained. The use of the emergency arrest powers to facilitate easier arrest premised on looser evidential standards is one of the most problematic aspects of emergency laws. The onus should correctly lie with the state to demonstrate why the ordinary law is incapable of providing a sufficient basis for state agents to function, rather than to allow a situation in which resort to extraordinary power is normalized. Finally and positively, the report notes that no exclusion orders have been made against persons not previously excluded and, the power to make these orders has lapsed.

### ***The Emergency Powers Act - An Operational Overview***

The Emergency Provisions Act has been in force in Northern Ireland (in various guises) since 1973. The Report on its operation manifestly demonstrates the shaky legal basis of its continued application, most especially when examined in light of the United Kingdom's legal obligations under the European Convention on Human Rights, and the International Covenant on Civil and Political Rights.

The misplaced application of emergency arrest powers and the subsequent requirement to 'schedule out' individuals whose offences do not appropriately come for trial in the Diplock Courts, is patently revealed in the report concerning the operation of the EPA in 1999. In this year 1,360 applications were made to the Attorney-General for offences to be certified out of the Diplock Courts, of which 1,200 (88%) were granted. In the first quarter of 2000, 335 applications were made to the Attorney-General for certification out, of which 297 (89%) were granted. It bears reminding that those persons whose offences are certified out, may have experienced an arrest and detention process which significantly modifies their due process rights. Certifying out is an official declaration that such individuals have a full right to jury trial and all attendant due process rights. Certification out does not remedy the harm already caused by arrest under extra-ordinary law. 88% de-certification confirms long standing calls for abandonment of the Diplock Courts or at minimum the entrenchment of the presumption that cases be 'certified in' - rather than requiring the individual concerned to seek de-certification. Depressingly in its recent review on the Diplock courts the NIO rejected such a change.

*contd on next page*

## *OSCE calls for protection of human rights lawyers*

**The Parliamentary Assembly of the Organisation for Security and Cooperation in Europe (OSCE), which met in Bucharest in July, called for government protection of human rights lawyers in light of the murders of Pat Finucane and Rosemary Nelson. The Assembly contains 249 delegates from 50 countries from all over Europe and North America.**

Representative Chris Smith, who led the US delegation and who previously had invited Rosemary to give testimony to the United States Congress in 1998, asked that the Assembly amend its final document known as the Bucharest Declaration to include a paragraph demanding that governments "hold accountable persons" responsible for threatening human rights lawyers.

Chris Smith said "[T]he harassment and intimidation of defence attorneys is particularly offensive as it undermines the due process rights of all citizens in all of the participating states. Those who killed Rosemary Nelson and Patrick Finucane committed acts of cowardice and should be held accountable so that people will have faith in the ability of government institutions to protect their rights."

The issue of protection for human rights lawyers in Northern Ireland and the cases of Rosemary Nelson and Pat Finucane dominated the debate.

### *The successful Smith amendment reads:*

**Concerned** that human rights defenders, including human rights attorneys, who are engaged in promoting and defending human rights and fundamental freedoms in the OSCE region today have been the targets of detention, harassment, intimidation, specious legal obstacles and criminal prosecution and, in some instances, violence directed against them, and that human rights attorneys have been stripped of their licenses or threatened with disbarment;

**Convinced** that OSCE participating States must take steps to ensure the safety of human rights defenders and to hold accountable persons who are responsible for threatening, harassing or otherwise harming human rights defenders on account of their efforts to promote and defend human rights and fundamental freedoms."

**Paul Mageean**

## ***The Declining Use of Emergency Arrest Powers***

In 1999 a total of 8 persons were arrested under section 19 of the EPA. Of this number only 3 persons arrested under the emergency power were charged with terrorist-type offences. Notably, not a single person was arrested by the RUC under section 18 of the EPA in 1999. In the first quarter of 2000, 2 persons were charged by the RUC with offences under the EPA. International law requires that when emergency powers are no longer necessary, the state repeal them. There is no stronger evidence available at the present time than the state's own statistics, to demonstrate the need to retire this legislation.

### ***Right of Access to a Lawyer***

One of the most contentious aspects of the EPA's operation has been the refusal to allow access to legal representation following arrest. This practice allied with the removal of the right to silence for detainees, has been found by the European Court of Human Rights to violate Article 5 of the Convention. In 1999 a total of 353 persons made a request for access to a solicitor. Of these, 334 requests were immediately facilitated and 19 were denied. In 1998 4 such requests were denied, in 1997, 33. While the numbers of persons experiencing delays in access to legal counsel are small by comparison to the statistic of 825 persons given delayed access in 1991, the effect of the practice should not be underestimated. Positively, in the first quarter of 2000, 44 requests were made for access to a solicitor of which all were granted.

The normalization of the security situation is emphasized by a number of key statistics provided by the 1999 EPA Report. In 1999 the High Court granted bail to 612 persons (59%) charged with scheduled offences. In the first quarter of 2000, 126 persons charged with similar offences were granted bail (54%). There has also been a substantial drop in the number of building searches carried out by the police and army under section 20 of the EPA. In 1999, a total of 505 such searches took place. In the first quarter of 2000, 87 searches were undertaken. This compares to a high of 4,136 in 1988. While once again, the decrease in use of such extensive powers is to be welcomed, the pertinent question to be asked is whether the ordinary law is capable of facilitating such state action. International law mandates that where an ordinary law is capable of responding to a state's needs, it is to be the first port of call for the state, not the last.

### ***Conclusion***

These statistics are a useful overview of the changing political situation in Northern Ireland, writ large on the legal statistics related to emergency powers. However, they are also a powerful tool by which to argue that the continued application of such law is no longer necessary and in possible contravention of international law. The time has come to actively dismantle the emergency apparatus in Northern Ireland, rather than to presume that it will wither away.

**Fionnuala ni Aolain**

## Civil Liberties Diary

**June 1** Tom Constantine, former head of the United States Drugs Enforcement Agency, was announced as the new Oversight Commissioner charged with overseeing policing change.

Chief Commissioner of the Equality Commission, Mrs Joan Harbison said that the proportion of Catholics in the workforce had risen from 35% to 40% over ten years.

**June 6** The Police (Northern Ireland) Bill had its second reading in the House of Commons.

Prime Minister Tony Blair apologised to the 'Guildford Four' saying he was "very sorry" about the case.

The Human Rights Commission stated that there remained unanswered questions in the case of the death of IRA man Colum Marks who was shot dead by police in 1991. However, Mr Brice Dickson stated that Commission could not investigate the case fully due to lack of resources and investigative powers.

**June 7** The European Court of Human Rights ruled that the British government breached the rights of Gerard Magee who was convicted of IRA offences, in denying him access to his solicitor for 48 hours, under the provisions of the Prevention of Terrorism Act.

**June 8** The family of Robert Hamill presented further evidence to the Taoiseach in their bid to secure a public inquiry into the circumstances of the murder and the behaviour of police officers in the area. It was reported on the same day that the Coroner John Leckey had decided there would be no inquest into the killing due to fears for the safety of witnesses.

**June 9** Two women received £20 000 each in settlement of discrimination claims against the Northern Ireland Office, involving religious and sex discrimination.

Taoiseach Bertie Ahern said there were "very serious and unanswered questions" about the role of police officers in the vicinity of the fatal attack on Robert Hamill. He stated: "The government are ... of the view that this case should be the subject of an independent public inquiry."

At the Belfast Travellers Sites Project AGM, Ms Mary McMahon said that "Issues, policies and practices with the potential to impact positively on the Irish Traveller are really beginning to bite."

**June 13** A test case resulting from police action on the Ormeau Road in July 1996, was settled in the High Court. The terms were not revealed. Mr Sean Beckett complained that he was unable to leave his home from 6pm on July 11<sup>th</sup> until early afternoon the following day. 700 residents were similarly confined.

**June 14** The Police (Northern Ireland) Bill entered Committee stage in the House of Commons.

**June 15** In *Report 2000*, the annual human rights review published by Amnesty International, Northern Ireland was described as giving "cause for concern" despite the reforms of the Good Friday Agreement.

The Secretary of State refused on legal grounds to answer questions relating to the conviction of two RUC officers after they beat and threatened a Belfast man, Bernard Griffin. Charges against the man were subsequently dropped.

**June 17** A man was granted judicial review of a decision by police not to hand over files they possess relating to information held by loyalists about the man.

**June 21** Chair of the US House of Representatives sub-committee on human rights, Chris Smith, announced that there would be congressional hearings on the implementation of the Patten report.

**June 23** A barrister, Mr Martin Rogers, was granted leave to take a judicial review against a decision to deny him access to his client in Maghaberry jail unless he removed his shoes.

**June 24** The Lord Chancellor, Lord Irvine, confirmed that barristers will no longer be required to swear allegiance to the Queen in order to take up the senior position of "Queen's Counsel".

**June 29** A meeting was held by the Association of Family Solicitors for Children, to promote awareness of the work they do to ensure that young people have full and fair access to the justice system.

**July 6** A report by the Lord Chancellor's Advisory Committee on Legal Aid concluded that the service here is worse than in the UK. The Chair of the body described it as "the bleakest [he could] remember".

**July 7** The Secretary of State said in the House of Commons that for operational purposes the name of the RUC would be changed to the "Police Service of Northern Ireland".

**July 12** The British government failed to move its own amendment relating to the new name of the police service, leaving debate to continue before the House of Lords.

*Compiled by volunteers from various newspaper sources.*

### Just News

Just News welcomes readers' news, views and comments.

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