

Response to Police Ombudsman's Review

On 27th March, CAJ responded to a Statutory Report submitted by the former Police Ombudsman, Dame Nuala O'Loan in July 2007 and to comments on the report by Police Ombudsman, Al Hutchinson, in relation to the powers of the Ombudsman's Office.

CAJ took the opportunity to again highlight the following issues raised in our Commentary on the Office of the Ombudsman (2005):

a. The Ombudsman should be resourced to carry out extensive research functions, or if the Office chooses instead to commission research, their power to do so would be enhanced by being clearly set out in statute.

b. The OPONI should have the power to set deadlines for PSNI compliance with its investigations. The current long delays are not acceptable and yet recommendations have not been made about how this might be addressed.

c. CAJ welcomes the extension of authority of OPONI to retired officers but no reference is made to army officers operating under the directions of the PSNI.

d. CAJ has made many recommendations which refer to the need to cooperate more closely with complainants, their solicitors and non-governmental organisations. This concern does not seem to have been addressed.

e. The OPONI should seek to put its power to investigate discharges of lethal and less-lethal weaponry (currently a matter of discretion for the Chief Constable) on a statutory basis. By extension, the OPONI should seek to enhance its powers relating to investigation into the use of all forms of police weaponry which would benefit from additional scrutiny.

Turning specifically the most recent Statutory Report, CAJ raised the following points:

- Disclosure (Recommendation 3)

While understanding the ambiguity that currently exists, CAJ would oppose any extension to the limitations on disclosure by OPONI per se. CAJ undertook a judicial review in the strong belief that public confidence requires more not less disclosure on the part of OPONI. Our Commentary urges that the burden of proof on disclosure be reversed to that currently and mirror the legislative

provisions which apply to the IPCC for England and Wales.

- Informal resolution (Recommendation 9)

CAJ has argued that it is essential for OPONI to have the option of pursuing a failed informal resolution case, and to have a new closure category which better reflects the reality.

- Investigation of criminal behaviour involving civilians (Recommendation 15)

While the argument for this recommendation is very clear it may be difficult to implement in practice. It is possible to imagine situations where the actions of one police officer are intimately tied into the actions of a large number of civilian suspects, and OPONI would be drawn further and further from its police focus. CAJ recommends that the formulation clarifies that OPONI may arrest civilians when this action proves necessary to proceed effectively against police officers who are being investigated.

Recommendations 17 – 22 form an important set of recommendations which aim to improve the operation of the Ombudsman's functions with regard to disciplinary actions and should enhance coordination with the PSNI. CAJ welcomes these initial recommendations but also notes that a further recommendation - that the complainant solicitor be empowered to attend disciplinary hearings (along with the Ombudsman) had been recommended in CAJ's previous commentary.

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Review of Police and Criminal Evidence (PACE)

The Northern Ireland Office recently held a consultation in relation to the “Government Proposals in Response to a Review of Police & Criminal Evidence (PACE) in Northern Ireland.” The focus of the proposals was to “further develop policing powers to meet the needs and expectations of the criminal justice system.” Clearly these needs and expectations alter as social and economic influences change and the NIO should be commended for monitoring these needs and expectations.

Nonetheless, numerous of the proposals raise concerns and a few are addressed here. One such proposal is related to the PSNI right of entry to arrest. The proposed amendment would permit the PSNI to enter premises in order to arrest for summary offences previously deemed ‘arrestable’ although exactly what these offences are is not explicitly stated. Despite the fact that a number of such powers were taken away from the police with the revisions made to the Police and Criminal Evidence (Amendment) Order in 2007, most of the entry to arrest powers were re-established in the Criminal Justice (Northern Ireland) Order 2008.

The fact that these powers were taken away from the police by the PACE amendment in 2007 suggests that there was a reason for this. Increasing the powers of the police, without adequate safeguards, increases the possibility for abuse of power.

Moreover, the power of entry for the purpose of arrest in any situation where a person is unlawfully at large and the officer is not in ‘immediate pursuit’ raises concerns regarding the state’s obligations under the European Convention on Human Rights (ECHR). This power raises concerns regarding increased potential to contravene Article 5 (right to liberty and security) of the ECHR and may open up the perception of breaches of Article 14 (prohibition of discrimination).

The proposal suggests expanding the current necessity criteria on arrest in relation to dealing with so-called ‘on-going offences’. This implies that officers would have the power to arrest for civil offences including certain types of anti-social behaviour.

It appears that this proposal has the potential to broaden the scope and application of the already subjective concept of ‘anti-social behaviour’. This is cause for concern particularly in light of the fact that the United Nations monitoring committee of the International Covenant on Civil and Political Rights, in its examination of the UK

government last year, expressed various concerns relating to legislation on anti-social behaviour orders (ASBOs).

Extending the PACE legislation in relation to anti-social behaviour would raise a number of concerns, not least the potential to criminalise a civil offence. Moreover, given the generally higher incidences of anti-social behaviour in deprived communities it is important to assess the potential equality and human rights repercussions that the proposal may have.

It also appears that further consideration needs to be given in regard to the proposal to grant police the power to impose conditions on street bail. How and when would the officer assess the vulnerability of the suspect? Exactly what offences would be considered appropriate for arresting a person on bail and how would breaches of bail be dealt with? Here the danger exists for blurring the line between civil and criminal law by the criminalisation of behaviour which is not actually criminal in nature.

There is also concern about proposed provisions which would allow the court to draw inferences based on a suspect’s silence ‘in the face of post-charge questioning’. The right to remain silent, while not infallible, is a recognised international standard. Article 14(3)(g) of the ICCPR states that in the determination of any criminal charge against a person, everyone shall be entitled to a guarantee not to be compelled to testify against him/herself or to confess guilt. Article 6 the ECHR has been interpreted as upholding the right to remain silent and the right not to self-incriminate. By extension, suspects should have access to legal advice before being questioned so as to understand the possible inferences and implications of remaining silent during questioning.

All questioning of suspects must also be in the presence of legal counsel so as to ensure that the rights of the detainee are upheld and to prevent the suspect from self-incrimination. It is worth bearing in mind a suspect’s right to have unrestricted access to legal counsel which exists from the time of arrest and during pre-trial investigation.

There are additional aspects of the proposed PACE amendments which are worrisome but space here does not permit further discussion. Ideally the review will be shelved until after the anticipated devolution of policing and justice issues which will allow for greater attention and analysis by local ministers and law makers.

Constitutional Committee examining issues of emergency law

The history of Northern Ireland is beset, many would say blighted, by the application of 'emergency legislation'. Legislation might be depicted as being of the 'emergency' variety in two senses.

The first type responds to an emergency situation – 'substantive emergency legislation'. These emergencies commonly embody two features. One is that they predominantly relate to terrorism - floods and pestilence have never provoked a derogation notice under article 15 of the European Convention. The second feature is that emergencies endure – in the case of the United Kingdom, for a total of 59 years, with all but five years attributable to events in Northern Ireland.

The second genre, with three varieties, is 'procedural emergency legislation'. One is a bill which is expedited through Parliament, such as the Criminal Justice (Terrorism and Conspiracy) Act 1998. The second is where the Government introduces substantial new elements at a late stage on grounds of urgency, such as Part V of the Counter-Terrorism Act 2008. The third situation relates to the ministerial order-making powers in Part II of the Civil Contingencies Act 2004 which respond to emergency situations. Procedural circumstances often correlate with the first type of emergency but not always, as illustrated by the Criminal Evidence (Witness Anonymity) Act 2008.

These variants of emergency legislation can pose threats to cherished values such as individual rights. Furthermore, greater scrutiny is feasible because the legislation is often not conjured out of thin air but has been previously drafted, as applied to the Prevention of Terrorism Act 1974. Therefore, the current inquiry by the House of Lords Constitution Committee into 'Emergency Legislation' is welcome, albeit that it is confined to 'procedural' emergency legislation. What ideas might it now consider so as to avert the consequent threats and disadvantages?

Expedited passage of primary legislation

Two recommendations are suggested in response. The first is the value of promulgating standing 'limiting principles'. These limiting principles do not need to be enacted, but Parliament should assert its authority and demand that these standards be addressed by the executive. The checklist of 'limiting principles' should comprise:

- 'Policy relevance and impact' by which legislation should deliver efficacy and efficiency, according to announced strategies;
- 'Accountability' which includes attributes such as information provision, open and independent debate, and effective review mechanisms (including via the courts);
- 'Constitutional governance', meaning the

subjection of action to clear and open norms;

• 'Rights audit' by which the rights of individuals must be respected. The Human Rights Act 1998 offers a ready reckoner of standards, though it does not reflect some deeply entrenched common law traditions (such as trial by jury), nor should it exclude reference to other international rights instruments. In addition, resort to Article 15 should be restrained more vigorously than by sections 14 and 16 of the Human Rights Act, by which a designated derogation can subsist for five years without interim inquiry or debate.

Moving from 'limiting principles', the second reform should involve the timely production of the drafts of legislation well before their launch in circumstances too fraught to allow proper scrutiny.

Late urgent amendments to primary legislation

The remedies for such abuse of the legislative system include explicit reference to the limiting principles now adduced. Another remedy might comprise clearer standing orders about the 'admissibility' of amendments. The current parliamentary rules on the elimination of amendments deemed to be 'out of order' are obscure and contained in diverse rulings. A narrower rule on admissibility could be combined with a grant of extra emergency parliamentary time for new primary legislation which could then ensure that there is a distinct and repeated debate.

Ministerial order-making powers in the Civil Contingencies Act 2004, Part II

The detailed deficiencies in these powers, which have not yet been invoked, are manifold and include: the subjective nature of their exercise; lack of clarity, such as whether a power of detention without trial might be available; lack of protection for 'constitutional' legislation beyond the Human Rights Act; the absence of detailed national and regional arrangements; and limited Parliamentary and independent scrutiny. Aside from addressing these defects, drafts of Part II regulations should be issued now for review and debate.

Conclusion

Whilst some select committees (especially the Joint Committee on Human Rights) have performed admirably, the Parliamentary scrutiny of emergency laws is often marked by disinterest, ignorance, and lack of principle. It is to be hoped that the Constitution Committee and the reaction to its report prove to be exceptions.

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Implementing Economic, Social and Cultural Rights

CAJ recently made a submission to the UN Committee on Economic, Social and Cultural Rights outlining our concern about the lack of progress in giving effect to the International Covenant on Economic, Social and Cultural rights (CESCR) in the UK and N.I.. This submission was followed up by a visit to Geneva to attend the formal examination by the Committee of the UK Government's record in terms of delivering on their obligations under the Covenant. Following the hearing, the Committee will then publish a final report on their "concluding observations" regarding UK Government compliance with the Covenant. No doubt, Just News will revisit this issue, following the issuing of the concluding observations. There are a number of points worth highlighting however regarding our recent submission, which is available on the CAJ website.

Among the issues which CAJ raised in our recent submission was the refusal on the part of the UK Government to ratify the Optional Protocol to CESCR, which would allow individuals the right to petition the Committee directly about failures to comply with the provisions of the Covenant if they are unable to achieve adequate redress in their domestic system. The current position of the UK Government is that they do not intend to ratify the Optional Protocol because they do not consider that economic, social and cultural rights – because of their progressively realisable nature - lend themselves to third party adjudication in the same way as civil and political rights.

CAJ totally rejects these arguments, which were in fact dealt with at length by the UN during the discussions which preceded the adoption of the Optional Protocol. CAJ feels that it is particularly important that the UK government ratify the Optional Protocol in light of the lack of rights-based social and economic legal protection in UK law and the UK's failure to ratify the Additional Protocol to the European Social Charter which makes provision for a regional complaints mechanisms in relation to social and economic rights violations.

In our submission CAJ also addressed the issue of the status of the Covenant in domestic law. The UK Government had argued in their submission that the social provisions contained within the structures of the Welfare State (such as the National Health Service, and free schooling) have become so deeply engrained in the culture of the UK, that they are universally regarded as "rights", and therefore equivalent to a legally enforceable Bill of

Rights. Needless to say, CAJ rejects this argument, instead arguing that the best way to give effect to the provisions of the Covenant in a local setting is to give effect to a strong and inclusive Bill of Rights, with judicially enforceable economic and social rights, the point being that the Welfare State provisions do not have the status of a "rights based" instrument such as a Bill of Rights.

CAJ also raised concerns about the status of the Covenant generally in the UK along with a poor approach on the part of the Government to reporting on and monitoring progress made in implementing the Covenant. It is worth noting that the Covenant requires the UK Government to work towards the "progressive realisation" of the rights contained in the Covenant. The UK Government however has yet to identify how, and to what extent, "progressive realisation" is being achieved in any of the areas of the Covenant. Moreover, there are also problems with how the particular circumstances of the various regions of the UK are covered in the context of a UK-wide reporting system. In particular, CAJ would be concerned about the lack of "Northern Ireland focus" within the UK-wide reports.

In terms of the substantive provisions of the Covenant, CAJ had no shortage of concerns to bring to the attention of the UN Committee, including for example issues around continuing inequalities in the areas of health, housing, employment and education. Lack of adequate childcare provision, under-representation of women in public life, continuing differentials between the two communities in economic activity rates, corporal punishment and lack of available Traveller sites were among the specific issues CAJ drew to the Committees attention. In addition, CAJ also raised the issue of the impact of the conflict on economic and social rights in Northern Ireland pointing out for example that over a thirty year period in excess of 3000 people lost their lives, with the highest concentration of deaths and casualties occurring within the poorest parts of Northern Ireland.

The current UN reporting system allows for the UN Committee to consider the evidence they have received from both the UK Government and NGOs, before publishing their concluding observations. CAJ looks forward to receiving these in due course and bringing them to the attention of policymakers, politicians, and of course Just News readers.

Dealing with the past by building a future - a Bill of Rights for Northern Ireland

Recent assertions in the press have been made that a reduced content for Bill of Rights could be accepted because we are so far into the “peace” that we are no longer experiencing marked differences than in the rest of the United Kingdom. In other words, the effects of the conflict are having no major effect on our communities.

Those that work in areas most affected by the conflict know that this is not the case and some issues arising from the conflict are only starting to manifest themselves. Violent events of the conflict affect not just individuals but whole communities. The link between poverty, experiences of conflict and post traumatic stress disorder is well acknowledged. However most people who suffer from the symptoms of post traumatic stress disorder do not see themselves as victims and do not seek or do not have access to appropriate services. The increase in suicides particularly in areas that suffered the most from the conflict is one example of this.

Old Warren is a loyalist working class area based in the affluent city of Lisburn, which is associated and stigmatised as a result of the conflict. The area is designated the “seventh worst” in terms of health, and recent events that we have experienced in the area indicate that the effects of post conflict trauma can manifest and destroy lives of individuals, families and communities at any time.

Current post conflict initiatives have focussed on the physical presence of the conflict. Removal of murals depicting identity, and symbols of the historical conflict have been seen as a priority for funding. Physical removal of weapons is also seen as a key step in the process. In other words, the external physical reminders of the past are being destroyed but the internal scars of our violent past are being left to suppurate.

Not only are the symptoms of the conflicts being ignored – but also the causes. Immediately post conflict there was an understanding that conflict, poverty and inequality were linked. Socio-economic rights were seen as a way to address the legacy of the conflict and prevent a return to violence. The stakeholders in civic society were to be given a stake in making adjustments, or in reforming political, economic and social relationships.

Through the opportunities arising from peace our community in the loyalist Old Warren developed relationships with similarly deprived republican communities in the New Lodge, Creggan and Poleglass. Working together using rights on common issues of health, housing and education to address social and economic inequalities have forged relationships between loyalist and nationalist communities which have affected beneficial social change. However the current move away from addressing the real issues on the ground is leaving communities in a vulnerable situation.

The lessons of the conflict should not be unlearned. The Bill of Rights offers a way to include all stakeholders in society - to give us a stake in making adjustments and setting a framework for political, economic and social relationships.

The removal of physical manifestations of our conflict cannot solve the problems that currently face our communities alone. The Bill of Rights is not a panacea to all our problems – but it does offer ways of working on issues that are unique to Northern Ireland. It offers a framework to address the issues facing our communities post conflict and to address the issues that lead to the conflict. There has been support for the Bill of Rights in Northern Ireland across both republican and loyalist communities, not surprisingly in areas which have suffered the most from the conflict.

In Old Warren we believe that we have the chance now to build a framework for the sort of country we want for our children.

Fiona McCausland
Committee Member
Old Warren Partnership

The report of the Criminal Justice Inspection into the impact of Section 75 of the Northern Ireland Act 1998 on the criminal justice system has now been published and is available on the CJI website at www.cjini.org/ The report points out for example that:

- 12% of the Irish Traveller community stopped and searched compared with 1% of the white population.
- Across the 15 District Command Units surveyed, Roman Catholic juveniles were tending more often to be referred for prosecution and Protestant juveniles were tending more often to be referred for diversionary (ie non-prosecutorial) disposals.
- While the Catholic share of the sentenced prison population was roughly in line with their share of the population as a whole (around 45%), there was a significant over-representation in the Catholic share of remand prisoners (which at one point in the study this was as high as 58%)
- 42% of Catholic prisoners were on the enhanced level [of privileges] compared with 55% of Protestant prisoners

There are a number of useful recommendations in the report around the lack of data and failure to put in place adequate monitoring procedures generally within the criminal justice system, which CAJ will be pursuing in due course.

Republic of Ireland funding cuts (updates)

The December 2008 edition of Just News carried an article outlining the savage cuts made to the Irish statutory equality and human rights infrastructure by the Government. This article offers an update on the situation and information regarding the work of Equality & Rights Alliance (ERA), established in August 2008 to oppose the dismantling of the equality and human rights infrastructure in Ireland.

In October 2008, the Irish Government announced budget cuts to the Equality Authority and the Irish Human Rights Commission of 43% and 24% respectively. For the Equality Authority, there was an additional blow with the announcement that the planned decentralisation of staff from the Dublin office would be fast-tracked (this at a time when decentralisation was halted for other Government departments) thus ensuring a loss of experienced staff. On December 11th Niall Crowley, Chief Executive Officer of the Equality Authority, tendered his resignation protesting that the Equality Authority had been rendered unviable by the cuts imposed. In his letter of resignation Crowley seemed in no doubt that the cuts were a deliberate attempt to silence a body which had become a thorn in the side of Government. In his letter of resignation to the Minister for Justice, Equality and Law Reform he noted:

'The only credible explanation I can see for what has been done to the Equality Authority appears to be that the casework strategy implemented by it, particularly in relation to allegations of discrimination in the public sector, has been experienced as a threat by senior civil servants and/or Government. It would further appear that the independent voice of the Equality Authority has had to be silenced for becoming an awkward witness to the inequality and discrimination in our society. The Equality Authority is being victimised for doing well what it was established to do'.

Crowley's stance was supported with the swift resignation of six of the Authority's board. These actions sparked a massive outcry by civil society groups representing the interests of the most marginalized, supporting the stance taken by Crowley and his fellow board members and calling on the Government to review the situation immediately.

Ironically, then, the Government move to silence the equality and rights bodies has actually galvanized support for their protection. The Equality & Rights Alliance grew from an initial 40 members in September 2008 to over 70 by the end of the year. We now have in excess of 100 members representing equality and human rights based NGOs, unions, academics, and individual activists.

ERA has sought clarification from the Government, through parliamentary questions, media debate, and lobbying, on

how the Department of Justice, Equality and Law Reform can continue the pretense that the Equality Authority and the Irish Human Rights Commission remain viable, when all reasoned opinion suggests the opposite to be the case. In November, ERA sought and received assurances from the Green Party (coalition partners in the current Government) that they would seek a partial reversal of the cuts imposed. This culminated in an announcement by the leader of the Greens that his party had secured assurances, from within Government, that there would be a review of the cuts imposed and that the decentralisation of Equality Authority staff would be halted. The Minister for Justice, Equality and Law Reform and members of his Department continued to insist that no deal had been secured regarding the Equality Authority; in a written Dail question the Minister stated that decentralization would continue. However, in an embarrassing climb down, he announced in the Dáil on April 22nd that there would in fact be a review of the Authority's funding based on its 2008 budget (i.e. pre-budget cut position) and that decentralisation of staff from the Authority's office in Dublin would be halted.

Equality & Rights Alliance has responded to this latest announcement with a cautious welcome. This promised review of the Authority's budget comes in tandem with a palpable silence from the Minister for Justice, Equality and Law Reform regarding the outcome of a value for money audit which his Department commissioned on the Equality Authority in 2008. This review has never seen the light of day which, one can only assume, suggests its findings offered nothing of consequence to justify slashing the budget of the Authority.

ERA will continue to rigorously monitor the situation. We will be focusing our immediate attention on the forthcoming EU elections and on monitoring the impact of cuts on the capacity and independence of the bodies. It has been noted by experts in the area that Ireland has moved from being a model of excellence at EU level to being in danger of breaching EU directives and standards as a result of the cuts imposed.

ERA has commissioned research to track the impact of cuts to the statutory bodies on a roll over basis. This data will allow us to determine whether and in what ways the bodies in question are unable to carry out their designated functions and, critically, how this is impacting on the lives of the most marginalized in Irish society who experience inequality, discrimination and human rights abuses on a daily basis.

Rachel Mullen
ERA Campaign Coordinator

Major international report learns lessons from Northern Ireland

CAJ has welcomed the publication of a major international report by the Eminent Jurists Panel of the International Commission of Jurists (ICJ) on counter-terrorism and human rights. The report “Assessing Damage, Urging Action” provides a comprehensive review of the detrimental impact on human rights of counter-terrorism measures, and in doing so resonates heavily with the conclusions of a report by CAJ submitted to the study.

The report of the Eminent Jurists Panel (EJP) is the product of a three year global study which examined the compatibility of laws, policies and practices, which are justified expressly or implicitly as necessary to counter terrorism, with international human rights law. The Panel was chaired by Justice Arthur Chaskalson, Former Chief Justice of South Africa and the first President of South Africa’s Constitutional Court and consists of highly respected judges and lawyers of world renown from different regions and legal traditions.

CAJ hosted a visit to Northern Ireland by the Eminent Jurists Panel in April 2006 where they received testimony from, among others, families of victims of paramilitary and state violence, the Chief, Deputy and Assistant Chief Constables of the PSNI, members of the legal profession, the Director of Public Prosecutions and human rights organisations.

As well as looking at current examples, the EJP report rightly examines how terrorism has been tackled in the past to assess whether lessons can be learned, and as such draws heavily on the experience of Northern Ireland. So, for example, the report examines the extent to which many current laws and practices are similar to those in the past:

“Sometimes the parallels are almost surreal. Witnesses talked of the failed detention policies used in Northern Ireland as having led to “hundreds of young men in working class nationalist communities joining the IRA and creating one of the most efficient insurgency forces in the world”. It is now generally accepted that this policy of interning detainees alienated whole communities. One must wonder, 30 years later, what impact the sight of the treatment of detainees held at Guantánamo Bay or Abu Ghraib is having on young Muslims (in Britain and elsewhere). (p.30)

It also looks at the permanence of emergency laws and departure from ordinary procedures that ensues, and drawing again on the Northern Ireland experience reports:

“The case of Northern Ireland is relevant and may provide a particularly salutary example, with parallels to current challenges...Special legislation was introduced in 1922, and remained a constant feature; Northern Ireland has never since that time experienced a decade without “special” or “emergency” powers. The prolonged nature of the emergency and special powers inevitably influenced the institutional culture of the police, military and the legal system...There was, with the benefit of hindsight, extensive agreement amongst witnesses, including Northern Ireland’s most senior police officers, that many emergency powers were a failure from a security, political and human rights perspective.” (p.41/42)

Drawing on the material gathered during the visit of the Eminent Jurists Panel to Northern Ireland, and based on its own experience, CAJ itself produced a major report in January 2008 entitled “War on Terror - Lessons from Northern Ireland” that was submitted to the ICJ as part of its study and which was drawn upon extensively in the Panel’s report. For example, in terms of guidance on how to avoid or limit the counter-productive effects of counter-terrorism measures, the EJP report refers to the human rights safeguards introduced in Northern Ireland as highlighted by CAJ in its report, namely:

- an independent complaints body vested with extensive legal powers to effectively oversee civilian complaints against the police;
- strong civic oversight of the police and a range of measures to ensure recruitment from across different communities;
- new legislation, codes of conduct, and training for the police;
- audio and video recording of all police interrogations;
- changes to the human rights legal framework
- stronger equality legislation;
- reforms to the judiciary and prosecution service;
- creation of domestic bodies to oversee and guide government on human rights and equality measures;
- integration of human rights and equality considerations into all government policies. (p.45)

The report of the ICJ has been launched in Geneva, London and Washington DC. International media coverage has already been significant, with many highlighting the Northern Ireland lessons.

A summary of the CAJ report can be found on CAJ’s website - www.caj.org.uk. Copies of the full CAJ report can be obtained by contacting the CAJ office or e-mailing info@caj.org.uk.

Civil Liberties Diary - April

10th of March

Correction

At the Court of Appeal counsel for the Defence Secretary argues that an earlier High Court ruling, that British soldiers are covered by human rights laws while on the battlefield, should be overturned. In April of last year Mr Justice Collins had ruled that sending out soldiers on patrol or into battle with defective equipment could amount to a breach of human rights. The case will decide whether British troops in Iraq come with the jurisdiction of the European Convention on Human Rights.

9th April

Roger Poole announces that he is to step down as Chairman of the Parades Commission after three years.

17th April

The Policing Board begins the process of appointing a successor to chief constable Sir Hugh Orde who announced his resignation the day before. The Board revealed that an external appointment will take place when he leaves in the autumn.

20th April

The NIHRC makes 32 recommendations in a damning report on the treatment of suspected illegal immigrants in the north. Chief among of the Commission's concerns was that a detention centre be built for immigrants waiting to be deported rather than holding them in police cells.

21st April

DUP MLA Ian Paisley Jnr. announces that he will not appeal a court order to reveal the name of the prison officer who told him about an alleged file destruction policy at the Maze Prison following the murder of LVF leader Billy Wright. The politician may now face legal penalties.

The Irish News Newspaper publishes a story that officials are considering building a new "Supergrass" wing at Maghaberry jail. This follows the decision in 2007 by Chief Constable Sir Hugh Orde to allow the re-introduction of the system whereby paramilitaries give state's evidence.

22nd April

NI Children's Commissioner Patricia Lewsley announces the body has abandoned its attempts to ban parents from smacking their children. NICCY had lost a High Court case and a subsequent appeal as well as having costs awarded against it. Ms. Lewsley said her office had insufficient resources to continue her challenge to the legislation.

28th April

The family of an Indian man killed five years ago in Co. Derry accuse the criminal justice system of institutional racism. Brij Sharma (37) died after being hit during an argument outside his friend's house. One man pleaded guilty to his manslaughter and was sentenced to 17 months imprisonment. However, Mr. Sharma's family, who made public a report on the case by the Police Ombudsman's Office yesterday, argued that the sentence was too lenient and claimed the PPS had ignored the racial motivation for the attack. Their remarks come as it is announced that two officers were disciplined for the handling of the case.

29th April

The Family Bar Association reveals that its members, who deal with highly sensitive child protection cases, have been forced to wait up to ten years for payment by the NI Legal Services Commission. It is feared that the dispute over payment could lead to long delays in child care cases.

NI Prisoner Ombudsman Pauline McCabe writes to Security Minister Paul Goggins to call for an

independent probe into claims that inmates are being mistreated during searches of prison cells.

The Robert Hamill Inquiry rules that 19 serving and retired police officers will be able to give evidence from behind screens. They will not be granted full anonymity though and their names shall be given to the Inquiry.

The Equality Commission helps win damages for HIV sufferer Tony Bell who was discriminated against when a hospital patient. Staff at Craigavon Area Hospital had refused to perform an endoscopy surgical procedure because of his illness.

30th April

The Court Of Appeal upholds a ruling that found former NI Secretary of State had broken the law over his appointment of Bertha McDougall as interim victim's commissioner. However, the panel differed in the reasons for its judgment instead finding that Peter Hain had failed in his obligation to take into account the code of practice for ministerial appointments to public bodies.

Compiled by Mark Bassett from various newspaper

Just News

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