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IHF FOCUS: Rule of law; elections; freedom of expression and access to information; peaceful assembly; fair trial and detainees' rights; torture, ill-treatment and misconduct by law enforcement officials; rights of homosexuals; protection of asylum seekers and immigrants; accountability for crimes against humanity; rights of the child; human rights defenders.

Most human rights violations in the UK were reported in connection with police abuse and intimidation. The recent decisions of the Director of Public Prosecutions (DPP) not to prosecute officers in the Royal Ulster Constabulary (RUC) in a number of cases involving harassment and intimidation undermined faith in the effort to bring perpetrators of violence to justice and damaged RUC credibility as an investigative mechanism. Fresh allegations of collusion in the murder of Belfast solicitor Pat Finucane, and the murder of Rosemary Nelson, further emphasized the need for independent and impartial inquiries into the harassment of defense lawyers in Northern Ireland.

A landmark decision by the European Court of Human Rights concerning homosexuals' right to respect for private life forced changes in the military code, putting an end to overt discrimination on the grounds of sexuality. Other concerns included accountability for misconduct by law enforcement officers, refugees' rights, and accountability for crimes against humanity in the case of General Augusto Pinochet.

Rule of Law

In March 1999, the Northern Ireland Human Rights Commission (NIHRC),

chaired by Professor Brice Dickson, was set up under section 68 of the Northern Ireland Act 1998 in compliance with the Good Friday Agreement. The NIHRC is required by statute to advise the secretary of state on the scope for defining, in a Bill of Rights for Northern Ireland to be enacted by Westminster legislation, rights supplementary to those in the European Convention on Human Rights. A bill to create a Human Rights Commission in the Republic of Ireland, with which the Northern Ireland Human Rights Commission is to set up a joint committee, was published in summer 1999.¹

On 19 January 2000, Northern Ireland Secretary Peter Mandelson confirmed the RUC would have its name changed as part of the wide-ranging reforms recommended in a review of policing carried out as part of the Good Friday peace agreement. The RUC will lose its royal title and be known as the Police Service of Northern Ireland from autumn 2001. The decision was welcomed by the Taoiseach (Irish Prime Minister) Bertie Ahern, and British Prime Minister Tony Blair. Many, however, were critical of the new move, claiming it dishonored the RUC and did not do justice to all those who lost their lives to sectarian strife in the past thirty years.²

The inquiry into the 1993 racist murder of Stephen Lawrence was published on 24 February. The *Financial Times* reported that senior UK legal figures said the power to re-try suspects for the same crime, a reform suggested by the inquiry, could lead to further abuse of the criminal justice system. Sir William Macpherson, the inquiry chairman, suggested that the Court of Appeal might be given the power to allow further prosecution in acquittal in cases where "fresh and viable" evidence was

¹ *Northern Ireland Human Rights Commission, Background Information*, <http://www.nihrc.org>

² *BBC News, 19 January 2000*, <http://www.news.bbc.co.uk>

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presented. His recommendation was backed by Home Secretary Jack Straw who said he had asked the Law Commission to consider the suggestion. Geoffrey Robertson QC, the defense barrister, warned that “double jeopardy is enshrined in almost every human rights treaty devised” and that “it is a principle to protect people from oppression. John Wadham, director of the human rights group Liberty, agreed: “This is wrong in principle [it will also] be used more often against black people than white.” The Bar Council restated that it had no fundamental objection to a review of the removal of double jeopardy, once proper safeguards were provided.³

Elections

On 18 February the European Court of Human Rights ordered the UK to pay legal costs in the amount of £ 47,780 (U.S.\$ 75,500) to Denise Matthews, a Gibraltar citizen who sued Britain for denying citizens of its Gibraltar colony the right to vote in European Parliament elections. The ruling effectively orders Britain to extend voting rights to Gibraltarians. The Foreign Office said that “It is not in our power unilaterally to extend the franchise ... [but] the judgment greatly strengthens the basis on which to approach other member states.”⁴

Freedom of Expression and Access to Information

In July, Article 19 published a submission to the UK government on the Freedom of Information Bill. The submission, while

identifying positive features as regards the Information Commissioner’s powers, appeals and scope, was concerned by a number of provisions in the draft law. Foremost in this regard was the extremely broad nature of the exemptions and exclusions, many of which go far beyond what has been considered necessary in other jurisdictions. This serious shortcoming was compounded by the weak test for engaging exemptions, which is at best a requirement that disclosure of the information would prejudice the relevant interest. The public interest test suffered from several flaws, including the fact that public interest is simply one factor amongst many, the complete exclusion from its ambit of security information, and its essentially discretionary nature. Article 19 also had a number of serious concerns regarding process.⁵

Fair Trial and Detainees’ Rights

In two judgments delivered at Strasbourg on 16 December in the cases of *T. v. the United Kingdom* and *V. v. the United Kingdom*, the European Court of Human Rights ruled that there had been a violation of article 6(1) as regards the trial.

The applicants were convicted in November 1993 of the abduction and murder of a two-year-old boy. They were ten years old at the time of the offence, and eleven at the time of their trial, which took place in public in the Crown Court and attracted high levels of press and public interest. Following their conviction, the applicants were sentenced to be detained indefinitely, “during her Majesty’s pleasure.”⁶ The

³ *Human Rights Daily*, Thursday 25 February 1999.

⁴ *Human Rights Daily*, Friday 19 February 1999.

⁵ *Article 19, Submission to the UK Government on the Freedom of Information Bill*, issue 53, July 1999.

⁶ According to English law and practice, children and young persons sentenced to be detained during “her Majesty’s pleasure” must first serve a tariff period, set by the home secretary, to satisfy the requirements of retribution and deterrence. Following the expiry of the tariff, detainees must be released unless, in the view of the Parole Board, they represent a danger to the public.

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home secretary then set a tariff of fifteen years in respect of each applicant. The decision was quashed by the House of Lords in judicial review proceedings on 12 June 1997. No new tariff has been set since that date.

The applicants complained to the European Court of Human Rights that, in view of their young age, their trial in public in an adult Crown Court and the punitive nature of their sentence constituted violations of their rights not to be subjected to inhuman or degrading treatment or punishment as guaranteed under article 3 of the European Convention. They further complained that they were denied a fair trial in breach of article 6 of the convention. In addition, they contended that the sentence imposed on them of detention "at Her Majesty's pleasure" amounted to a breach of their right to liberty under article 5, and the fact that a government minister, rather than a judge, was responsible for setting the tariff violated their rights under article 6. Finally, they complained under article 5(4) of the convention that, to date, they had not had the opportunity to have the continuing lawfulness of their detention examined by a judicial body, such as the Parole Board.

The European Court held that the age of ten, although low, could not be said to be so young as to differ disproportionately to the age limit followed by other European states. The attribution of criminal responsibility did not, therefore, in itself give rise to a breach of article 3.

The court recognized that the proceedings were not motivated by any intention on the part of the state authorities to humiliate the applicants or cause them suffering; indeed, special measures had been taken to modify the Crown Court procedure in order to attenuate the rigors of an adult

trial in view of the defendants' young age. Moreover, although there was psychiatric evidence that such proceedings could be expected to have a harmful effect on eleven-year-old children, any inquiry into the killing of the two-year-old would have provoked in the applicants feelings of guilt, distress, anguish and fear. The court ruled that the public nature of the proceedings did not exacerbate these feelings to the extent that it constituted a violation of article 3.

The court further ruled that article 6(1), which guarantees the right of an accused to participate effectively in a criminal trial, had been violated because although the applicants were represented by skilled and experienced lawyers, it was highly unlikely that they would have felt sufficiently uninhibited, in the tense court room and under public scrutiny, to have consulted their lawyers during the trial. Moreover, given their immaturity and disturbed emotional state, they would not have been able to cooperate with their lawyers and give them information for the purposes of their defense. The court awarded legal costs in the amount of £ 18,000 (U.S.\$ 29,736) and £ 32,000 (U.S.\$ 52,864) to T. and V. respectively.⁷

The home secretary referred the cases to the Lord Chief Justice on 13 March 2000 for a decision on a release date.

Torture, Ill-Treatment and Misconduct by Law Enforcement Officials

Accountability

Several verdicts in cases of alleged police violence were delivered in 1999.

■ In January, prompted by the deaths in custody of Nathan Delahunty and Roger

⁷ *T. v. the United Kingdom and V. v. the United Kingdom*, European Court of Human Rights, 16 December 1999.

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Sylvester, the London Metropolitan police announced plans to bring in rapid response medical units. An inquest in January decided that the death of Nathan Delahunty in July 1998 had been caused partly as a result of being restrained by police and carried to a van with his hands cuffed behind his back while under the influence of cocaine. Similarly, Roger Sylvester died eight days after being restrained outside his Tottenham home on 11 January 1998. The eight police officers that restrained Sylvester were moved to non-operational duties while an inquiry was conducted by Essex police under the supervision of the Police Complaints Authority. The Metropolitan Police, who claimed he had behaved in an “aggressive and vociferous” manner at the time of the restraint although there was no evidence to support this, apologized for issuing a false statement about Sylvester.⁸

■ Five police officers were suspended as part of an investigation into the death of Christopher Alder, who died in April 1998 after being restrained face down with his arms handcuffed behind his back on the floor of the Hull police station.⁹

■ The Prison Service was criticized in a report published in March by the Parliamentary Ombudsman, Michael Buckley, for its conduct in the case of Kenneth Severin, who died in November 1995 after being restrained face-down on the floor by prison officers. Among the shortcomings highlighted were the Prison Service’s failure to train its staff adequately on the dangers of using traditional restraint techniques and its failure to disclose details of its internal inquiry into Severin’s death to his family. Following the report, the Prison Service agreed to release information relating to Severin’s death.¹⁰

■ In April, firearms officer PC Chris Sherwood was charged with murder and manslaughter after shooting dead James Ashley during a raid in January 1998. Ashley was naked, unarmed and in bed with his girlfriend when thirty officers raided his flat in Hastings in connection with cocaine trafficking and attempted murder, although it subsequently emerged that police were acting on inaccurate intelligence reports and that the attempted murder have been prevented rather than perpetrated by Ashley. Four other officers were charged with misfeasance in a public office. Two senior officers received disciplinary notices, and Deputy Chief Constable Mark Jordan remained suspended while awaiting a disciplinary tribunal.¹¹

Many of the investigations into police brutality were linked to violence in Northern Ireland. Following the conclusion of the Adams case in the High Court, the Independent Commission for Police Complaints in Northern Ireland carried out an investigation into the case and a file was passed on to the DPP.

■ David Adams was severely ill-treated by police upon his arrest in east Belfast and at Castlereagh Holding Centre in Northern Ireland in February 1994. He reportedly suffered a fractured leg, two fractured ribs, a punctured lung, and multiple cuts and bruises to his face and body as well as verbal abuse. The High Court awarded Adams £ 30,000 (U.S.\$ 47,630) compensation in February 1998, the judge concluding that “at least most of the injuries suffered by Adams were more likely to be the result of direct, deliberate blows,” which in his view constituted “illegal behavior.” Furthermore, the judge questioned the truth and accuracy of the evidence of police officers at the scene, who

⁸ *Amnesty International, Concerns in Europe, January – June 1999.*

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

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denied that Adams had been assaulted. Still, despite the clear-cut nature of the physical evidence in the case and the High Court ruling, in August 1999 the DPP decided not to bring any criminal charges against the officers involved. In January 1999, the UN Special Rapporteur on torture said that the UK government had failed to respond to his September request for its findings in the Adams case.¹²

■ Marc Hobson was acquitted in March 1999 of Robert Hamill's murder for lack of evidence. Hobson had been jailed for four years for committing an affray at the time of the incident. In its judgment, the Diplock Court said that 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. Hamill suffered severe head injuries; he never regained consciousness and died on 8 May 1997. He was allegedly beaten in plain sight of four officers sitting in an RUC jeep about 20 feet away, none of whom intervened to stop the attack. Following misleading and inadequate investigations into the case, six people were arrested and charged with his murder. However, by November 1997, all but one of the six suspects had been released. Charges against the other five were dropped because, on the available evidence, there was no reasonable prospect of convicting any of the officers. No one was ever charged with the assault on Hamill's companion, Gregory Girvan, who suffered facial cuts and severe bruising. Following Hobson's acquittal in March 1999, DPP ultimately decided, on 29 September, not to bring criminal charges against the officers. Following this decision, the Hamill family decided to

take civil action against the six officers originally charged, and against four police officers who they say refused to come to Hamill's assistance.¹³ The Hamill family's lawyer, Rosemary Nelson, was murdered in March 1999.

The Northern Ireland "Marching Season"

The Northern Ireland "Marching Season" commonly refers to the May-August period in which loyal fraternal order (the Orange Order, the Apprentice Boys of Derry, and the Royal Black Institution) plan marches and parades to commemorate historical events of significance to the Protestant community. The marches have been contentious, however, because they have involved processions through predominantly Catholic-nationalist neighborhoods. RUC policing has exacerbated the situation by using excessive physical force against peaceful protesters; indiscriminately firing plastic bullets under circumstances which violated not only international standards for the use of force, but the RUC's own internal guidelines regulating the use of plastic bullets; verbally assaulting protesters with sectarian and sexist insults; and generally failing to halt illegal activities during marching disturbances.¹⁴

On 9 September, the Independent Commission on Policing for Northern Ireland published its report in accordance with the Good Friday Agreement aimed at a "new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the community as a whole". The report, however, states that "a fresh start cannot be fashioned out of a series of judgments about who was culpable for each of the tragedies and mis-

¹² Amnesty International, *United Kingdom: Northern Ireland. End Impunity for Ill-Treatment: the David Adams Case*, EUR 45/45/99, 4 November 1999.

¹³ Amnesty International, *United Kingdom: Northern Ireland. The Sectarian Killing of Robert Hamill Report*, EUR 45/31/99, October 1999.

¹⁴ Human Rights Watch, *Developments: The 1999 Marching Season*, <http://www.hrw.org>

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takes,” noting that Northern Ireland voted overwhelmingly in 1998 to turn its back on the politics of revenge and retaliation¹⁵ and thus failing to secure a mechanism that would ensure that police officers who were involved in human rights abuses were not retained in the force. The Patten Report also recommended a human rights-based approach to policing, a new oath expressing an explicit commitment to upholding human rights, a new code of ethics integrating the European Convention on Human Rights into police practice, and the monitoring of police performance by the Policing Board.¹⁶

The Committee on the Administration of Justice (CAJ) and Human Rights Watch both expressed their disappointment at the lack of a vetting mechanism to weed out officers currently serving in the RUC with past records of human rights violations. They expressed further concern on the failure to call for an immediate end to the use of emergency legislation and plastic bullets in line with recommendations by a variety of UN human rights bodies.¹⁷

DNA Testing in Scotland

In July, the Lothian and Borders Police in Scotland announced that they would extend the use of DNA testing and take samples from all those arrested for crimes such as assault, car theft and house breaking, becoming the first police force in the UK to use DNA sampling on such a large scale. Until then, police had tended to use these powers only for violent or sexual

crimes. Other police forces were said to be paying close attention to the project.

The Scottish Human Rights Centre expressed grave concern over this development. It said it appeared that the police were going beyond the powers given to them by law. The Criminal Procedure (Scotland) Act 1995 allowed for police to take DNA samples, but only with “regard to the circumstances of the suspected offence” and only when it was reasonably considered to be appropriate, i.e., not in every situation. The Scottish Human Rights Centre recognized that DNA testing did have benefits in solving some crimes. It noted, however, that it was important to regulate its use properly and to inform the public about who had access to the information and what was being done with it. The police were not allowed to keep records of DNA where there was no proceedings taken or a person was not convicted, but there was so independent mechanism to ensure that samples had been destroyed.¹⁸

Rights of Homosexuals

In a judgment delivered at Strasbourg on 27 September in the case of Lustig-Prean and Beckett v. the United Kingdom, the European Court of Human Rights held unanimously that there had been a violation of article 8 (right to respect for private and family life) of the European Convention on Human Rights. In a second judgment delivered on the same day in the case of Smith and Grady v. the United

¹⁵ *The Report of the Independent Commission on Policing for Northern Ireland, The Task of the Independent Commission on Policing, Chapter 1, p. 4* (text in full available at <http://www.belfast.org.uk>)

¹⁶ *Ibid.*; *Summary of Recommendations, Chapter 20, p.107.*

¹⁷ *Committee on the Administration of Justice, “CAJ Reaction to Patten Report,” press release, 9 September 1999; see also Human Rights Watch, “Northern Ireland: Critique of Patten Report,” press Release, 23 November 1999.*

¹⁸ *Scottish Human Rights Centre, Rights, Newsletter, September 1999.* <http://www.dspace.dial.pipex.com/shrc/>

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Kingdom, the court also found a violation of article 8 together with a violation of article 13 (right to an effective remedy) of the convention.

All four applicants, who were at the relevant time members of the UK armed forces, are homosexual. The Ministry of Defense applied a policy which excluded homosexuals from the armed forces. The applicants, who were each the subject of an investigation by the service police concerning their homosexuality, all admitted their homosexuality and were administratively discharged on the sole ground of their sexual orientation, in accordance with ministry of defense policy. They were discharged in January 1995, July 1993, November 1994 and December 1994 respectively. The Court of Appeal rejected their judicial review applications in November 1995. All four applicant complained to the European Court of Human Rights that the investigations into their sexual orientation and their subsequent discharges violated their right to respect for their private lives, protected by article 8 of the convention, and that they had been discriminated against contrary to article 14. In addition, Smith and Grady further complained that the Ministry of Defense policy against homosexuals and consequent investigations and discharges were degrading contrary to article 3 (prohibition of inhuman or degrading treatment or punishment); that the policy limited their right to express their sexual identity in violation of article 10 (freedom of expression); and that they did not have an effective domestic remedy for their complaints as required by article 13. Article 14 was also invoked in conjunction with the complaints under articles 3 and 10. The court considered the investigations, and in particular the interviews of the applicants, to have been exceptionally intrusive, noting that the administrative discharges had a profound ef-

fect on the applicants' careers and prospects and considered the absolute and general character of the policy, which admitted of no exception, to be striking. It therefore considered that the investigations conducted into the applicants' sexual orientation, together with their discharge from the armed forces, constituted especially grave interference with their private lives.

In the case of *Smith and Grady v. the United Kingdom*, in relation to article 8, the court adopted the same reasoning and reached the same conclusion as in *Lustig-Prean and Beckett*. In addition, the court did not exclude that treatment grounded upon a predisposed bias on the part of a heterosexual majority against a homosexual minority as in the present case could, in principle, fall within the scope of article 3. It also accepted that the Ministry of Defense policy together with the consequent investigations and discharges were undoubtedly distressing and humiliating for each of the applicants. However, the court did not consider that, in the circumstances of the case, the treatment reached the minimum level of severity which would bring it within the scope of article 3. Accordingly, it concluded that there had been no violation of article 3 either alone or in conjunction with article 14.¹⁹

Secretary of State for Defense Geoff Hoon MP said, in a statement to the House of Commons on 12 January 2000, that "in light of the court's decisions, it was clear that the existing policy was not legally sustainable. As a result, a revised policy has been instigated in order to reflect the court's conclusion that legally we are obliged to adopt an approach which regards sexual orientation as essentially a private matter for the individual." Members of the armed forces will, however, be subject to a code of conduct that will reg-

¹⁹ *Lustig-Prean and Beckett v. the United Kingdom and Smith and Grady v. the United Kingdom*, *European Court of Human Rights*, 27 September 1999.

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ulate personal behavior, at the heart of which is a service test which asks: "have the actions or behavior of an individual adversely impacted or are they likely to impact on the efficiency or operational effectiveness of the service?"²⁰

Protection of Asylum Seekers and Immigrants

On 9 February, a new Immigration and Asylum Bill, (containing most of the measures outlined in the White Paper, 'Fairer, Firmer, Faster: A Modern Approach to Immigration and Asylum', which the government issued in July 1998), was introduced into parliament. While the Refugee Council welcomed the government's attention to this area, they remained gravely concerned that the new bill introduces a sweeping range of draconian controls upon asylum seekers, without adequate safeguards or accountability; it remains vague in detail in many key points and hands huge powers to specify details to the home secretary through secondary legislation; and its proposals for a new national support system carry huge risks in terms of the effect on individuals and potential to waste public money.²¹

Accountability for Crimes Against Humanity

In its second decision on 24 March, the House of Lords ruled that the only crimes for which General Augusto Pinochet of Chile could be extradited were torture and conspiracy to commit torture after 8 December 1988, when the UN Convention on Torture took effect in the UK. Proceedings on the extradition of General Pinochet began on 27 September. On 8

October, Magistrate Bartle specifically ruled, however, that Pinochet's conduct before 1988 – which would include the creation of the secret police and the establishment of Operation Condon targeting Pinochet's opponents abroad – could be examined by the Spanish courts in proving the existence of a conspiracy which continued after December 1988. Bartle's ruling was particularly significant for its treatment of the conspiracy charge and of the allegations of "disappearances" by Pinochet's regime.

On 5 January 2000, Pinochet underwent a thorough and extensive medical examination undertaken by an eminent team of clinicians appointed by the secretary of state, with a view to obtaining comprehensive advice on his condition. The detail of the report remained confidential to Pinochet, but the "unequivocal and unanimous conclusion of the three medical practitioners and the consultant neuropsychologist is that, following recent deterioration in the state of Pinochet's health, which seems to have occurred principally during September and October 1999, he is at present unfit to stand trial, and that no change to that position can be expected." Under the circumstances, the secretary of state was "minded" not to extradite Pinochet.²²

Human rights groups expressed outrage at this decision, particularly in view of the confidential nature of the medical exam and criticizing the lack of transparency and fairness of the procedure. Criticism was largely levied at the fact that the "medical opinion was evaluated in secret by the home secretary, a political official, rather than by a court, without any oppor-

²⁰ Home Secretary, press release, BBC News 12 January 2000, <http://news.bbc.co.uk>

²¹ Refugee Council, *Briefing on the Government's New Immigration and Asylum Bill*, March 1999.

²² BBC News, *Home Office Statement in Full*, 12 January 2000. <http://www.news.bbc.co.uk>

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tunity for the prosecution to observe the medical examination, challenge it, or obtain a second independent medical opinion."²³

Newly elected Chilean President Ricardo Lagos was opposed to Pinochet facing trial in Spain, on the grounds that it violated Chilean sovereignty, but promised that civil actions against him in Chile can proceed. If Pinochet is prosecuted, Lagos promised to amend the constitution drafted by the general himself, to remove his immunity.²⁴

Although Pinochet was allowed to return home to Chile on 2 March 2000, Amnesty International said that the extradition proceedings against him will leave a powerful legacy that people accused of crimes against humanity can be prosecuted anywhere in the world.

According to Amnesty International USA section Executive Director William F. Schulz, "The Pinochet case has also firmly established that former heads of state are not immune from prosecution for such crimes. This achievement stands despite the decision by the British home secretary not to extradite General Pinochet to Spain."²⁵

Rights of the Child

In July, the Chief Inspector of Constabulary criticized the unacceptably high number of children being held in police cells beside adults in the Lothian and Borders areas of Scotland. The law provided for specific procedures that should be followed when a minor was arrested on sus-

picion of criminal activity. For example, pending a court hearing, the child should not be transferred to a police station, but to another place of safety; and a minor could only be kept in a cell if a police officer certified that the minor was unruly. Although such regulations could only be disregarded in exceptional circumstances, it appeared that financial constraints had caused the police to put the children at risk.

According to the Scottish Human Rights Centre, police training aimed at dealing with children and deciding on how to properly determine the unruliness of a child was also inadequate. Her Majesty's Inspectorate of the Constabulary reported that it was aware that children were kept in police cells because of limited accommodation for child suspects in Scotland and that "this fact should not be used as an inappropriate reason for detaining children in police custody."²⁶

Human Rights Defenders

Rosemary Nelson

On 15 March, Rosemary Nelson, a human rights activist and lawyer, was killed in a car bomb attack near her home in Lurgan, County Armagh, Northern Ireland. The Red Hand Defenders, a loyalist paramilitary group, claimed responsibility amid suspicion of RUC involvement.

In October 1997, Nelson had given evidence to UN Special Rapporteur Param Cumaraswamy on the Independence of Judges and Lawyers in an investigation into allegations of the harassment and in-

²³ Amnesty International, *Pinochet Case: Home Secretary's Statement a Mockery of Justice*, news release, EUR 45/05/00, 12 January 2000.

²⁴ *The Irish Times*, Tuesday 18 January 2000, www.ireland.com

²⁵ Amnesty International, *press release*, 2 March 2000, <http://www.amnestyusa.org.news>

²⁶ Scottish Human Rights Centre, *Rights*, Newsletter, September 1999, <http://www.dspace.dial.pipex.com/shrc/>

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intimidation of defense lawyers by officers of the RUC. In January 1998, the UN special rapporteur expressed particular concern for Nelson's safety in a documentary televised by Channel 4.²⁷

On 29 September 1998, Nelson had given evidence to the International Operations and Human Rights Sub-Committee of the U.S. Congress. Nelson testified that "RUC officers questioned her professional integrity, made allegations that she was a member of a paramilitary group and, at their most serious, made threats against her personal safety, including death threats." She noted that all of the remarks had been made to her clients in her absence because lawyers in Northern Ireland were routinely excluded from interviews with clients detained in holding centers.²⁸

The UN report, which was published in March 1998, concluded that "the RUC had engaged in activities constituting intimidation, hindrance, harassment or improper interference." It recorded particular concern "that the RUC identified solicitors with their clients or their clients' causes as a result of discharging their functions." In July 1998, the ICPC raised a number of serious concerns with Secretary of State Mo Mowlam and chief constable Ronnie Flanagan, over the RUC handling of its own investigation into death threats against Nelson. As a result, a commander from the London Metropolitan Police was

called in to replace the RUC and head its own investigation into allegations of death threats, illustrating the lack of confidence in the RUC investigation process.²⁹

In April 1999, the European Parliament and the U.S. House of Representatives both passed resolutions urging the UK to carry out independent investigation into the murder of Nelson's murder.³⁰ The House of Representatives also passed the American Embassy Security Act, section 408 of which was designed stop RUC members' participation in any FBI program of educational or cultural exchange or training unless "complete, independent, credible and transparent investigations of the murders of defense attorneys Rosemary Nelson and Patrick Finucane have been initiated by the government of the United Kingdom and that the government has taken appropriate steps to protect defense attorneys against RUC harassment in Northern Ireland."³¹

On 8 January 2000, the DPP announced its decision not to prosecute any RUC officers involved in threatening Nelson's life.³²

Patrick Finucane

In his report of 13 January 1999, the UN special rapporteur emphasized two issues: the intimidation and harassment of defense lawyers and the murder of Patrick

²⁷ *The Pat Finucane Centre for Human Rights and Social Change, Rosemary Nelson: The Life and Death of a Human Rights Defender*, <http://www.homepage.iol.ie/~pfc/index.htm>

²⁸ *Rosemary Nelson Campaign, Statement to the International Operations and Human Rights Sub-Committee*, Reference Material: <http://www.rosemarynelsoncampaign.com>

²⁹ *Commission on Human Rights, 54th Session E/CN.4/1998/39/Add.4*, www.unhchr.ch

³⁰ *The Patrick Finucane Centre for Human Rights and Social Change, Rosemary Nelson: Appendix E*, <http://www.server.com/pfc/rosemary/rosemary.html>; U.S. House of Representatives, *Congressional Resolution H.Res.128*, passed 20 April 1999.

³¹ *Library of Congress, American Embassy Security Act H.R. 2415*, <http://www.thomas.loc.gov/home/thomas.html>

³² *Rosemary Nelson Campaign, Failure to Prosecute in Rosemary Nelson Harassment Case Condemned*, press release, 8 January 2000.

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Finucane, a defense lawyer in Northern Ireland brutally murdered in 1989. In his view, the RUC showed “complete indifference” to the allegations of intimidation and harassment contained in credible NGO reports. The UN special rapporteur expressed his conviction that there were compelling reasons for an independent judicial inquiry because of at least prima facie evidence of such collusion.³³

On 12 February 1999, British Irish Rights Watch submitted a confidential report to the British government containing new evidence of collusion between the RUC and the loyalist paramilitaries who murdered defense lawyer Pat Finucane in 1989.³⁴

In April, John Stevens, deputy commissioner of the London Metropolitan Police, was enlisted to reopen the Finucane murder investigation. In June, his team arrested William Stobie and charged him with Finucane’s murder. Stobie denied the charge but it later turned out that following Finucane’s killing, he had already admitted his participation in it – an account that contrasted sharply with a prior statement by the DPP that in 1990 Stobie had denied involvement in the murder. A Sunday Tribune article from 27 June, written by Ed Moloney and based on interview with Stobie in 1990, alleged that Stobie had escaped arms possession charges only through keeping silent about RUC complicity in the Finucane murder. Ed Moloney was ordered under the Prevention of Terrorism Act in July to surrender notes from 1990 interviews with Stobie, upon which the June 1999 article was based. Human rights organizations

protested the order arguing that it could result in a chilling effect on reporting on governmental accountability and coercing journalists that explored collusion.³⁵

Moloney challenged the court order at an August hearing. Stobie was granted bail on 5 October 1999 and Moloney has since won his case.

The Nelson murder and the renewed investigation into the Finucane murder confirmed the precarious position of defense lawyers in Northern Ireland as targets of abuse. Amid credible evidence of collusion, the RUC also came under considerable public suspicion. ■■■

³³ Office of the United Nations High Commissioner for Human Rights, 13 January 1999, Geneva, <http://www.unhchr.ch/>

³⁴ Irish Government, *Dail Debates, Official Report 17 February 1999*, <http://www.irlgov.ie/oireachtas/frame.htm>

³⁵ Committee on the Administration of Justice, *Groups Express Concern on Moloney Case*, press release, 22 September 1999.