

EUROPE

Europol given go-ahead by Trevi

At their meeting in the Hague on 2-3 December the six-monthly meeting of Trevi ministers responsible for police and security matters decided to establish Europol (European police organisation). The objective of Europol is to provide the centralised exchange and co-ordination of crime-related information between EC member states. This includes the collection and analysis of information on cross-border crime, including crime that extends beyond the area of the EC.

The first element of the initiative was the decision to set up a Europol Drugs Unit which will complement the decision at the Trevi meeting in June to create a European Drugs Intelligence Unit (EDIU).

The ministers agreed on the 1992 Programme of Action in connection with the removal of internal frontiers from 1 January 1993. The measures include a study of the 'relationship between Community legislation on telecommunications and possibilities at a national level for judicial interception of telecommunications'; to extend co-operation particularly in areas of environmental crime, the development of crime analysis and the combatting of money laundering.

They also agreed on contact points in each country for the maintenance of public order in member states 'so that contact can be made at an early stage if specific disturbances of public order acquire an international dimension... The Ministers emphasised in this regard the fundamental right to demonstrate.'

Trevi, press release, December 1991.

European court: Refugee and Spycatcher decisions

Human rights activists and lawyers expressed their dismay at the rejection by the European Court of Human Rights of a claim by Tamil refugees that Britain had violated their human rights by sending them back to Sri Lanka. On 30 October 1991 the Court ruled that there was no violation of Article 3, which prohibits inhuman or degrading treatment, or of Article 13, which demands an effective domestic remedy for alleged violations.

The five Tamils fled from Sri Lanka to Britain in 1987 and claimed political asylum. They were refused, and after applications for judicial review of the decision were finally rejected by the House of Lords; the men were returned to Sri Lanka in February 1988. There, four of them were detained and tortured or ill-treated by the authorities. Later, an appeal succeeded and the Home Office was obliged to readmit them. But the Court decided that the evidence the Home Office had in February 1988 did not establish that their position was any worse than that of other Tamils; there was a possibility of detention and ill-treatment, but that did not oblige the Home Office to let them stay. The Court also decided that judicial review of a decision not to grant asylum was an adequate remedy, even though it did not allow the court to decide

that the Home Office was wrong in refusing asylum.

The Tamils' solicitor, Chris Randall, spoke for many when he said: 'I fear the judgment has a lot to do with European politics and very little to do with human rights.'

There was further disappointment over the decision, a week later, that the injunctions preventing publication of extracts from *Spycatcher* on grounds of national security did not violate Article 10 of the Human Rights Convention, which guarantees freedom of speech, until the book had been published elsewhere. The Court held that considerations of national security were legitimate to stop publication by the *Observer* and others, until publication in the US and elsewhere rendered such considerations impractical.

Vilvarajah v United Kingdom, ECHR, 30.10.91; *Observer v United Kingdom*, ECHR.

DNA test to be legalized in Holland

Persons suspected of having committed a crime, punishable with 8 years or more imprisonment, can in the future be forced to allow a blood sample to be taken for a DNA test. With this test it will be possible to establish whether the genetic material from blood, sperm, hairs or skin particles found at a scene of crime matches a suspect's unique DNA code. If sufficient DNA material is available, suspects are allowed counter-expert's assessment at their own cost.

The Dutch Supreme Court (Hoge Raad) ruled in July 1990 that a suspect can not be forced to allow a doctor to take a DNA test, since there was no specific law in which this violation of physical integrity is regulated. A commission (Commissie-Moons) concluded later that year that European treaties would not form a barrier to such legislation. Subsequently, Minister of Justice Mr Ernst Hirsch Ballin sent a bill to parliament at the beginning of December.

The bill is likely to be amended, since there is no provision for privacy safeguards with regard to further use of the DNA material or the data derived from it. However, a majority in parliament is expected to endorse the bill.

Privacy protection needed

On November 28-29, 1991, the Data Protection Commissioners (the official watch-dogs on privacy legislation and practices, also known as "Data Protection Commissions") from Belgium, Denmark, France, Germany, United Kingdom, Ireland, Luxembourg and the Netherlands met in The Hague to discuss the privacy implications of growing European police cooperation. They issued a joint statement declaring that adequate legislative privacy protection is a necessity for the coming into force of the additional Schengen Agreement. Several Schengen countries, such as Belgium, are still without such legislation. The statement also asked for safeguards during the actual development and implementation of the Schengen Information System. The Registration Chambers from the Schengen Countries decided to form a special working group to tackle these problems. The conclusions of the conference will be brought to the attention of the European Committee and the European Parliament.

New police search powers in Spain

A new police law, the 'Law on the security of citizens', which will allow police officers to search a house or premises without a search warrant and to take into custody all individuals who are not carrying an identity card is being discussed in Spain. The Spanish leading newspaper El Pais called it 'the greatest scandal in contemporary parliamentary history'. The bill was considered in the Senate in January 1992 and will subsequently become law. Minister Corcuera from the governing Socialist Party, who is responsible for the bill, stated that only intellectuals who have no knowledge of how the average population feels, would engage in juridical hairsplitting such as the relation between the law and the constitution, matters which according to the minister were mere folklore to most people. Spain has known numerous incidents lately in which citizens turned against suspected drugs dealers. Vigilante groups have prevented gipsy families suspected of drug dealing from moving into homes that were built especially for them. The government claims harsh measures are needed to prevent the extreme right from capitalizing on the fear for crime.

Bugging bill introduced in Holland

On 11 December 1991, the draft of a new bill was leaked. Under it the police will be allowed to monitor conversations by means of bugging equipment or directional microphones. Permission for the use of such technical means is at the discretion of the examining magistrate; the bill allows their deployment for crimes that are punishable by 4 years or more in prison. This means that the suspicion of being a member of an illegal organization, an increasingly common charge against squatters and other 'political activists', suffices. At the moment only the security service (Binnenlandse Veiligheidsdienst) is allowed the use of bugging and microphone devices, but up to now there is no evidence that the intelligence gained by these means has ever been used in a Dutch court. The draft bill follows a sustained campaign by certain police and justice officials who claim that new means are needed to combat organized crime.

Schengen conference in Leuven

The Institute for Criminal Law and the Centre for European Economic Law of the Catholic University in Leuven (Belgium) are organizing a conference on the Schengen Treaties on Saturday 22 February 1992 in Auditorium 'Zeger van Hee', Faculty of Law, Tiensestraat 41, 3000 Leuven. Academics, high-level officials of the EC and the Benelux Union (Belgium, Netherlands and Luxembourg), border and regular police officers and a prominent member of the Parliamentary Meeting of the Council of Europe will make contributions. For a full programme and further information please contact Mrs A Vereecken, Instituut voor Strafrecht, Hooverplein 10, 3000 Leuven, Belgium, tel. (+32 16) 285211, fax 285314.

Netherlands: foreign agencies questioned

Following a series of revelations about German and US intelligence or Drug Enforcement Agency officials operating on Dutch soil, the opposition conservative liberal party (VVD) have asked cabinet ministers to give a clear picture of the arrangements for foreign policing and intelligence operations in Holland. 'We are not just

concerned about the activities of American services, but also about other forms of international cooperation that remain obscure', says MP Hans Dijkstal. 'In matters of prosecution etcetera, I encounter far too many Americans lately' adds his colleague Mr. Korthals (not to be confused with the former minister of Justice Mr Frits Korthals Altes, also an MP for the VVD party).

Minister of the Interior Mrs Ien Dales said that all officers have to comply with the laws and restrictions of the country in which an operation takes place.

European Drug Monitoring Centre

The EC Committee meeting in Brussels on 27 November 1991 proposed the foundation of a 'European Drug Monitoring Centre' (EDMC). This Centre will collect, evaluate and distribute information related to the illicit use and trafficking of narcotics. EDMC activities will focus on the reduction of the demand for drugs, an inventory of measures that have been taken on national and EC levels, the advancement of international information and coordination, and the elaboration of programmes to stimulate drugs-producing countries to change to other profitable activities by means of economic assistance and cooperation programmes.

The EDMC will further collect information about the drugs trade in general, and a study is to be conducted on the shadow 'economy' that has developed around narcotics. The proposal will be submitted to the council of ministers and the European Parliament. The location of the EDMC has not yet been decided.

MILITARY

Belgian Parliamentary Commission Enquiry into Gladio

The Belgian parliamentary commission has ended its investigation into the 'Stay Behind', or Gladio, network. Its conclusions show that the Belgian network was jointly organised by the STC/MOB (a branch of the civilian security service) and the SDRA 8 (of the military security service). In addition to functioning as a resistance network in the event of a Soviet attack on western Europe, the organisation also had contingency plans for evacuation of VIPs, the removal of security service secret documents and maintaining contact with government ministers.

The first 'Stay Behind' network, codenamed "Sussex II", was set up in December 1944 with the approval of Premier Spaak, when Sir Stewart Menzies (Chief of MI6) visited Brussels. In 1948 the Brussels Pact created the Clandestine Committee of the Western Union (CCWU) which by 1951 had become the Clandestine Planning Committee (CPC), based in Paris. A letter, written by Belgian Premier Van Houtte in March 1953, discusses coordination and technical arrangements between the CPC and SHAPE (Supreme Headquarters Allied Powers Europe), clearly linking the CPC with NATO.

During 1957 the CPC created two sub-committees, one of which went on to become the Allied Coordination Committee (ACC) and was responsible for coordinating the 'Stay Behind' networks in Belgium, Denmark, France, Germany, Italy, Luxembourg, Holland, Norway, United Kingdom and the United States. Its peacetime duties included elaborating the directives for the network, developing its clandestine capability and organising bases in Britain and the United States. In wartime it was to plan stay behind operations in conjunction with SHAPE; organisers were to activate clandestine bases and organise operations from there. Organisers would receive diplomatic immunity for their actions.

Between 1980 and 1986 the ACC arranged three-yearly

international exercises to test its radiocommunications network and the collation of information. These exercises were codenamed 'Oregon'. In addition there were annual exercises to test the professionalism and performance of the network: 1985 WODAN (Belgium/Holland); 1985 THUNDERBOLT (Belgium/US); 1987 SEABIRD 1 (Belgium/US); 1988 SEABIRD 11 (Belgium/Holland); 1989 SEABIRD 111 (Belgium/Italy); 1990 MARGARITA (Belgium/Britain).

The last ACC meeting took place on the 23-24 October 1990, and members discussed the re-orientation of the ACC. The Belgian security service suggested a policy that would allow the network to operate more broadly in 'crisis' situations. Apparently the 'stay behind' network had been activated during the Zaire crisis in 1980, but failed to intervene because of operational problems.

Contact between the ACC and SHAPE (NATO) was carried out by the Clandestine Planning Committee. When, in 1968, the Chair of the CPC moved to Brussels it became a part of the Belgian military security service (SGR) known as section SDRA 11 and served as the international secretariat of the CPC.

During the Belgian parliamentary commission enquiry the head of the SGR, General Van Calster gave evidence that was misleading. When questioned about the structure of the SGR he omitted to mention SDRA 11. Colonel Detrembleur, head of SDRA 11, refused to answer the commissions enquiries on his department, asserting that he was bound by NATO confidentiality. He claimed that the commission would need to obtain SHAPE authority for him to answer any questions, and he doubted if this would be forthcoming as it had been refused to other countries in the past. The commission dropped their investigations into the NATO connection.

Although the security service witnesses confirmed the existence of a functioning NATO security system against subversion, a NATO Security Committee and its National Security Authorities, much of this information had been published by Stef Janssens and Jan Willems in their book *Gladio*. According to their investigations NATO members must install a National Security Authority which is responsible for implementing NATO security guidelines. It meets twice yearly in the NATO Security Committee, which is directed by the NATO Security Bureau. The National Security Bureau is the most important advisor to the NATO Secretary General who is based in Evere in Belgium.

UK nuclear test

The UK and US held a nuclear test, code-named Bristol, at 10.35am on 26 November 1991. The British nuclear device with a yield of around 20 kilotons was exploded at the Nevada test site. *Ministry of Defence*, press release, 26.11.91.

Military - new material

Citizens in Arms: The Home Guard and the Internal Security of the UK, 1940-41, S P MacKenzie. *Intelligence and National Security*, Vol 6 no 3, 1991, pp548-572.

The Chemical and Biological defence establishment, Porton Down 1916-1991, G B Carter. *RUSI Journal*, Autumn 1991, pp66-74.

European Security: a military perspective, General John R Galvin. *RUSI Journal*, Autumn 1991, pp5-9.

NATO Strategy Review: out of step with events, Otfried Nassauer and Daniel Plesch. *Armed Forces Journal International*,

October 1991, pp50-52.

The Campus Connection: Military Research on Campus, Rob Evans, Nicola Butler and Eddie Goncalves. Excellent survey available from: Student CND, 162 Holloway Road, London N7 8DQ. £3.00.

Nuclear Cover-up, from the Nuclear Policy and Information Unit, Town Hall, Manchester M60 2LA. Tel: 061-234-3244. Gives details of nuclear sites, and road, rail and sea routes for the transportation of nuclear waste.

House of Commons debates

Nuclear defence, 22.11.91, cols 537-602

Defence, 14.10.91, cols 50-120 & 15.10.91, cols 171-256

Army regiments, 14.10.91, cols 121-4

Dounreay, 31.10.91, cols 110-116

NATO summit, 12.11.91, 901-914

POLICING

Avon police raid Irish travellers

Irish travellers in Bristol believe that a campaign of hatred against them by residents and the local press is behind a series of dawn raids on December 4 in which 28 people, including four children, were arrested and three caravans impounded. Only two people have been charged with any offences, with the remainder released on police bail. The travellers believe that the raids and police comments in the media blaming them for hundreds of local crimes amount to a conspiracy to drive them from the area.

Operation Capture involved 150 police officers, DHSS officials and fraud investigators, according to the officer in charge Detective Superintendent Alun Howells. The operation, which began at 7am, raided three unofficial travellers' sites where 24 people were arrested; another three people were arrested in a raid on a private house and another man later.

Following the arrests one of the solicitors acting for the travellers said he would be looking into questions about some of the procedures adopted by the police, and expressed surprise at the length of time most of the travellers were held in custody. Some were not released until over 30 hours after their arrest.

The police raids follow almost 12 months of campaigning by local residents to oust the travellers who have been living in the area for over a year. Local Tory MPs Jonathan Sayeed and Jack Aspinall have been backing the residents objections to the creation of official sites in the Bristol area and there have been angry outbursts against the travellers at packed consultation meetings to discuss where temporary emergency sites can be provided to clear travellers from the unofficial sites.

The travellers say that they feel themselves to be under siege and accuse residents of videoing them and calling them names on the street. 'The papers are making us out to be criminals', they say, but 'if we had committed all those crimes, we wouldn't be living here. We'd probably be living in nice houses like them.'

The travellers are demanding that action be taken to stop the invasion of their privacy by video cameras, to recover their property from the police, for false charges to be dropped and for compensation for damage caused during the raids. They also want swift action by Avon to find them permanent sites.

Cleveland police unlawfully killed black man

An inquest jury has found that Oliver Pryce, who was asphyxiated after six police officers pinned him down in the back of a police van, was unlawfully killed. Pryce was arrested, in July 1989, after he had a nervous breakdown and threw himself at an ambulance on the Berwick Hill Estate in Middlesborough. Following the incident the Middlesborough Special Operations Squad arrived and, as an eye-witness told the inquest: 'Seven policemen jumped out of the vans and pinned the black man to the ground, face-down. One of the policemen had the man's arm coiled around his neck and was pulling it back. The black man's mouth and eyes were wide open ... you could tell the policeman was pulling tight.' At Middlesborough police station a post-mortem examination revealed that Pryce had choked to death. A representative of the group Inquest said that 'Oliver's slow and painful death shows that the officers ... were clearly unable to cope with a black man. We heard all the stereotypes from the police during the inquest about drug-taking and violence. None of them were true.' The coroner has sent the evidence to the Director of Public prosecution, who before the inquest rejected any prosecutions, for reconsideration. The police officers involved have been suspended from duty.

Independent, 23.11.91, 26.11.91, 27.11.91, 30.11.91; *Guardian* 23.11.91, 30.11.91

EURO police glossary

The Personnel and Training Committee of the Association of Chief Police Officers (ACPO) has produced a 38-page glossary of policing and legal terms in French, German and Spanish. While including many obvious terms and concepts it also has translations for 'bigwig', and 'bawdy house' as well as 'conscientious objector', 'executioner', 'garrot', 'gibbet', 'guillotine', 'gallows', 'hooligan', 'yob', 'identity card', 'informer, nark', 'machine gun', 'mugging, hand-bag snatching', 'riot', 'rogue, scoundrel', and 'surveillance'.

The introduction by the chairman of the Committee, Mr Graham, says that the glossary of 'commonly used English legal terms' is intended to help police officers communicate with their EC counterparts who neither speak nor understand English.

Policing - new material

The Police response to the Lockerbie disaster, M Mitchell, J Boddy and L Cecchi. *Disaster Management*, Vol 3, no 4, 1991, pp198-205.

A watchdog for the service, Richard Cowley. *Police Review*, 26.7.91, pp1521-1522. Looks at the history and origins of Her Majesty's Inspectorate of Constabulary.

Police cautioning and the young adult offender, Roger Evans. *Criminal Law Review*, August 1991, pp598-609.

The effects of Home Office guidelines on the cautioning of offenders, Superintendent David Westwood. *Criminal Law Review*, August 1991, pp591-597.

Genetic fingerprinting, Pauline Lowrie and Susan Wells. *New Scientist*, 16.11.91.

House of Commons debates

Juvenile offenders, 16.10.91, 413-420

Policing (London), 18.10.91, 538-610

Derbyshire police force, 8.11.91, 875-882

IMMIGRATION

Asylum Bill

'There are few circumstances,' wrote Peter Lloyd, Minister responsible for Immigration at the Home Office, 'in which an intercontinental flight is required to escape the threat of persecution.' This justification for the Asylum Bill, published on 1 November and passed by 311 to 233 votes on its second reading on 13 November, was printed in the *Independent* on 7 November after that paper denounced the 'mean-minded little bill'. Lloyd had said much the same thing on BBC Radio 4's *The World Tonight* on 1 November, in more pungent terms: 'We can't have the whole of Asia and Africa coming to live in London'.

Despite Kenneth Baker's heated denials of racist intent in Parliament, it has been clear from the outset that the Bill's design is to keep out asylum-seekers from the Third World. It does this by operating a series of procedural and substantive 'presumptions against innocence'. Of these, fingerprinting of all asylum-seekers is one of the most widely condemned as a basic infringement of civil rights. Its justification is the 'growing problem of multiple applications for asylum and for social security benefits'. But Mr Baker was only able to describe two such cases in Parliament. The accompanying rules contain a list of factors which can be held against an asylum-seeker, including destruction or damage to a passport, failure to move to a part of his/her own country which 'might be safer', activities within the UK against his/her country's authorities 'calculated to enhance the application', previous or concurrent asylum applications, failure to apply immediately, failure to comply with a fingerprinting order, and the actions of others without the asylum-seeker's approval. Procedure rules give an impossibly tight time scale for appealing a negative decision, and the right of appeal is not automatic but subject to the grant of leave.

Autonomous refugee and black groups, and organisations working with refugees, have been joined in their condemnation of the Bill by the churches, the Bar Council, Amnesty International and the Commission for Racial Equality, which has threatened to take the government to court under the Race Relations Act. The critics are alarmed not only by what the Bill and its rules say, which put impossible hurdles before genuine refugees and are likely to endanger many lives, but also what is not said: there are no provisions for bail in the Bill, but the Home Secretary announced the provision of 300 new places in detention centres; and legal aid is not referred to in the Bill, giving rise to fears that there will be no right to independent advice or representation for asylum-seekers.

The new Bill goes hand in hand with the increase in fines on transport operators carrying undocumented or falsely-documented passengers, from £1000 to £2000, which came into effect in August. Peter Lloyd conceded that the measures were 'bound to have an effect on some genuine asylum-seekers'. But a refugee denied a seat on a flight could, he said, still leave a despotic country by crossing land borders into a neighbouring state. He could not have made it clearer that in his view Third World refugees belong in their own continents.

The proposal to abolish 'green form' and 'pink form' legal aid for advice and assistance in asylum and immigration cases, announced in July, will be implemented, it seems clear, if the Home Office funded United Kingdom Immigrants Advisory Service (UKIAS) succumbs to the threats to its funding given in a letter from Peter Lloyd. UKIAS was told that if it did not accept the proposal to become the monopoly provider of advice, its future was uncertain,

in the wake of a vote to refuse the role. There are now plans to strengthen its resistance by bringing members of other organisations such as the Joint Council for the Welfare of Immigrants (JCWI) and the Medical Foundation for the Care of Victims of Torture on to its management committee.

Another asylum-seeker dies in detention

Amasase Lumumba, the great-nephew of Patrice Lumumba, the first Prime Minister of an independent Zaire, died at the age of 32 in Pentonville prison of a heart attack on 10 October after being restrained by prison officers.

Mr Lumumba had arrived from France on false papers on 1 September 1991, and was arrested in Catford, South London, on 15 September on suspicion of theft of a bicycle and assaulting children. He was passed to the immigration service without being charged, and had been in Pentonville since 20 September. He had been in the prison hospital for psychiatric attention for symptoms of confusion and anger, and was returning there for further treatment when he allegedly attempted to break free and was restrained by prison officers. He died of a choking fit.

During the Gulf War, the International Red Cross protested at the use of Pentonville prison to house immigration prisoners and asylum-seekers. But Pentonville, and other prisons, are still being used, in addition to the immigration detention centres at Heathrow, Harmondsworth, Gatwick, Dover and Haslar. In 1990 over 9000 people were detained under the Immigration Act, although figures for asylum-seekers are not available separately, according to a written answer on 14 October (*Hansard* 14 October 1991, col. 19-20)

Immigration, asylum and Maastricht

Why is Douglas Hurd so fervent in his refusal to allow immigration and asylum to come within the province of the European Community? And why does Chancellor Kohl want the opposite? Statewatch analyses the history of European cooperation on immigration and asylum and looks at the factors pressing on member states.

Although the Single European Act of 1987 committed all EC member states to abolish internal borders by 1 January 1993, it left immigration policy to member states' own governments, leaving harmonisation of policies vis-a-vis immigration and asylum to inter-governmental agreements. This is because it has always been seen as an aspect of policing - of control of people entering a country and inside it. While these issues can be made the subject of cooperation on the ground, governments do not always want to expose them to the scrutiny of their own national parliaments, let alone the European Parliament.

Thus, the TREVI group of Ministers, set up in 1976 to deal with 'terrorism, radicalism, extremism and violence', comprised Home Affairs ministers from the Twelve, together with their senior police and security chiefs, but outside the remit of European institutions. By 1987 it had expanded its brief to take in 'policing and security aspects of free movement', including immigration, visas, asylum and border controls. Its meetings and conclusions are unpublicised, and deal with practical aspects of police, customs and immigration service cooperation.

Another example of the inter-governmental approach is the Schengen Accord. Signed in 1985, it committed signatory states, who were at that time just five - France, Germany and the Benelux countries - to working out measures to compensate for the abolition of internal borders in the fields of policing and immigration. The

Schengen Supplementary Agreement, signed in 1990 by the original five countries, and later by Italy, Spain and Portugal, sets out those measures in detail. They cover the criteria and procedures for the issue of visas, the strengthening of external border controls, measures for dealing with asylum-seekers who have come through another Schengen country, penalties for transport operators bringing in undocumented and falsely documented passengers, the setting up of computerised information exchange systems on refugees, 'undesirables' and criminals, together with a host of other measures on immigration, internal controls and policing.

The UK says it will not join Schengen Agreement because, unlike the TREVI group, it starts with the abolition of internal border controls, which the UK will not accept, arguing that this will allow access to Britain for terrorists, criminals, drug traffickers and illegal immigrants.

The Ad Hoc Group on Immigration is another inter-governmental forum, comprising the same Home Affairs ministers as the TREVI group. It was set up in October 1986 to 'end abuses of the asylum process'. It was this group which, in April 1987, agreed to sanctions on transport operators bringing in undocumented asylum-seekers, and to a procedure for limiting asylum requests to one country. Britain had already brought in fines for airlines in the previous month. In 1990 the Ad Hoc group produced the Dublin Convention, which limits the rights of asylum-seekers by deciding which country is responsible for processing his/her application, thus allowing only one application. The Convention also sets up a system of information exchange on 'migratory movements', and on individual asylum-seekers.

European institutions did not enter this picture until 1988, when the Council of Ministers set up a Group of Coordinators to oversee the work of TREVI and the Ad Hoc Group. The Group of Coordinators set out the tasks of the inter-governmental bodies in securing the borders of Europe and ensuring internal controls in the Palma Document of 1989. There was still no impetus for immigration or asylum policy to be brought within the competence of the EC, however, and the Dublin Convention, although signed by the Twelve, remains outside EC jurisdiction.

The Ad Hoc Group produced a second draft Convention, considered at Maastricht, which commits the Twelve to common measures on visas, external border controls, conditions of entry for third country nationals, and a common information system to monitor and keep out 'undesirables'. Once again, this will be outside Community competence. Meanwhile, the work of the Ad Hoc group is being extended to a wider geographical area, to deal with migration from Eastern Europe. A Ministerial conference took place in Vienna in January 1991, and senior officials from EC member states, EFTA countries and Eastern European countries have met several times since then to work out information systems, visa policies, transfrontier employment and ways of reducing 'migration pressure' including economic aid to Eastern Europe. The Ad Hoc Group has also set up a 'rapid consultation centre' on immigration problems, to advise countries confronted with 'a strong and sudden immigration influx'. The United Nations High Commissioner for Refugees has not been invited to attend meetings. In fact the UNHCR has been excluded from all the inter-governmental initiatives discussed above.

Another document discussed at Maastricht is an agenda for harmonising asylum procedures within the twelve member states. The document's recommendations include speedy procedures to get rid of 'manifestly unfounded' applications, by, inter alia, drawing up a list of 'safe' countries, whose citizens would have asylum claims dismissed almost automatically; harmonising 'reception and expulsion' policies; and the fingerprinting of asylum-seekers. A feasibility study on the comparison of fingerprints throughout the

Twelve countries has already been undertaken. Exchange of information on countries of origin is also recommended, although the document does not recommend harmonisation of criteria for asylum yet.

A great deal of co-operation is going on already, both at the level of policy and on the ground, even though neither the Schengen Supplementary Agreement nor the Dublin Convention has yet been ratified. The 'Union' treaty, however, still contains no proposals for immigration and asylum policy to be brought within the framework of the EC institutions. This is because Britain still refuses. The British government does not believe that Europeans are capable of keeping out undesirable immigrants as well as British immigration officers are. Douglas Hurd, meeting EC partners in Brussels on 5 November in the run-up to the Summit, referred to the success of Britain's notorious 'primary purpose' rule in keeping out thousands of husbands each year from the Indian sub-continent, and doubted the competence of Luxembourg immigration officials, who did not know the sub-continent, to tell bogus husbands from genuine ones. Britain, while happy to agree to stricter external controls, is thus determined to hang on to internal border controls as well, at all costs.

If the UK government fears that European immigration policy will be laxer than its own, Germany wants Community competence for the opposite reason, believing that in the matter of asylum, Community laws will be significantly tougher than its own. For years, Kohl's Christian Democrats have been trying to abolish the constitutional right to asylum which obliges it to give temporary admission to all asylum-seekers. The Social Democrats will not play ball, although they have agreed to the recent proposal for 'collection camps' for asylum-seekers. Kohl's idea is that if he can't abolish the constitutional right, he can make sure it is over-riden by Community laws which would take precedence over domestic ones. On asylum, he reasons, all the Community are at one, in wanting to qualify the right to asylum by returning people to 'safe' countries without looking at the merits of their claim, so any Community law will restrict the right of entry of asylum-seekers to those who have not arrived through a safe third country. Since 98 per cent of Germany's refugees arrive overland, such a measure would effectively spell the end of Germany's responsibility to asylum-seekers. It would merely send them back to whichever country they came through.

So far Britain has had its way and immigration and asylum are outside Community competence. Kohl is now exploring other ways of bringing in the 'safe third country' rule without it being declared unconstitutional. Britain's gain is, however, a loss for those who want to see the European Parliament having a say in how immigrants and asylum-seekers are treated in Europe, and, indeed, in how Europe is policed post-1992.

No action on Gulf War detainees

An internal inquiry into the detention of 90 innocent Iraqis during the Gulf War has concluded that no action should be taken against MI5, the Special Branch and Immigration officials who drew up the list.

The inquiry was made by Sir Philip Woodfield, formerly Permanent Under Secretary at the Northern Ireland Office and currently the Staff Counsellor for MI5. His secret report to the Home Secretary said the officers involved should be neither criticised nor disciplined.

The list was apparently based on out-of-date files and scant suspicions. A spokesperson for Amnesty International said: 'An inquiry which simply exonerates the perpetrators of the violations does nothing to stop abuses of human rights happening again'.

Independent, 16.12.91.

Immigration - new material

Government squeezes UKIAS to accept asylum work, Marion McKeone. *Law Society's Gazette*, 6.11.91., pp 6-7.

Third country asylum, S Choudhury. *New Law Journal*, 15.11.91., pp1564-1565.

Deterring asylum seekers: German and Danish law on political asylum - Part I, Nana Mallet. *Immigration and Nationality Law and Practice*, Vol 5, no 4, 1991, pp 115-122.

Immigrants and the city. *Forum*, September 1991, pp42-44. Looks at the question of establishing a proper legal status for foreigners lawfully resident in Council of Europe countries.

House of Commons debate

Asylum Bill, 13.11.91, 1082-1182

CIVIL LIBERTIES

New material

The following are recent publications added to the library of Liberty, 21 Tabard Street, London SE1 4LA. Tel: 071-403-3888. Please make an appointment if you wish to visit - a small charge is made to non-members.

Beyond Law and Order: Criminal Justice Policy and Politics into the 1990s, Robert Reiner and Malcolm Cross (eds) Macmillan, 1991 £45 (hb) £17.50 (pb). Includes essays on privatisation, the role of the RUC, investigating tax and benefit fraud and managing the prison service.

Blackstone's Guide to the Criminal Justice Act 1991 Martin Wasik and Richard Taylor. Blackstone, 1991 £16.95 (pb). Written for lawyers and non-lawyers, explains the provisions of the Act which include electronic monitoring, new procedures for discretionary life sentences, reform of the parole system and children's evidence.

Civil Liberties: Cases and Materials, S H Bailey, S J Harris and B L Jones. Butterworths, 3rd ed. 1991 £25.95 (pb). With a commentary on major aspects of the law relating to civil liberties provides a unique and detailed reference work.

A Freedom of Information Act for Britain: A Draft Bill and Commentary, Campaign for Freedom of Information, 1991 £12 (pb).

The Investigation of Crime: A Guide to Police, Powers Vaughan Bevan and Ken Lidstone. Butterworths, 1991 £24.95 (pb). An essential text for professionals involved in the criminal process and for advice centres; provides a comprehensive guide to police powers, including case law and statutory changes up to July 1991.

Pornography and Feminism: The Case against Censorship - Feminists Against Censorship, Gillian Rodgeron and Elizabeth Wilson (eds) Lawrence and Wishart, 1991 £4.99 (pb). Argues the anti-porn lobby's greatest illusion is that repressive measures like

ensorship will effect any change in attitude.

Restricted Subjects: Freedom of Expression in the United Kingdom, Fund for Free Expression. New York: Human Rights Watch, 485 Fifth Avenue, New York 1991 £3 (pb). In recent years, with the absence of a written constitution, freedom of expression in the UK has been restricted through the official Secrets Act, changes in the libel laws, limitations on the right to demonstrate and the erosion of broadcasting independence. This report documents the restrictions and makes recommendations for legal reform.

Espionage and secrecy: the Official Secrets Acts, 1911-1989, of the United Kingdom, Rosamund M Thomas. Routledge, 1991. 304pp.

SECURITY & INTELLIGENCE

MI5 defies EC ruling

The Security Service Tribunal has confirmed that MI5 is still holding files on two former workers at the National Council for Civil Liberties (Liberty) despite a ruling by the European Court of Human Rights last year that this breached Article 8 of the European Convention on Human Rights which guarantees respect for private life.

MI5's F branch, responsible for domestic subversion, opened files on Harriet Harman, now a Labour MP, and Patricia Hewitt, now with the Institute of Public Policy Research, when they were respectively the Legal Officer and General Secretary of NCCL.

Liberty wrote to the Security Service Tribunal, which was set up under the Security Service Act 1989 to investigate complaints, to ask if the files had been destroyed. It received a series of tortuous letters. The first letter in July said it intended to treat the complaint as being that MI5 had 'unreasonably' made them the 'subject of its inquiries' since the Security Service Act 1989 came into force on 18 December 1989. It went on to say that the Tribunal had no powers to investigate 'the assumed continued holding' of personal information. But when investigating whether inquiries post-December 1989 were unreasonable it might use its powers under paragraph 7(2) of Schedule 1 (i.e. to refer for investigation whether MI5 has in any other respect acted unreasonably) if it made no determination in favour of the complaints (i.e. if it did not uphold them). In this case it would ask the Commissioner to investigate:

whether the Security Service has acted unreasonably (whether or not in breach of Section 2)... by continuing (if they do) to hold personal information...

Section 2 of the 1989 Act states that the Director-General of MI5 shall ensure that 'no information is obtained' except as necessary for the discharge of its functions (Section 2(a)). The functions referred to being the 'protection of national security' from 'actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means' (Section 1(2)).

By October the Tribunal had decided that 'no determination' could be made on the complaints, but that it had decided to refer the matter outside its jurisdiction - 'the alleged continued holding of personal information' - in breach of Section 2 to the Commissioner. The letter ends by stating this decision 'carries no implications either way as to whether the Security Service continued to hold (or ever held) personal information upon all or any of the complainants'.

Letters from the Security Service Tribunal, 5.7.91 & 18.10.91;

Guardian, 7.12.91.

New head of MI5

The Home Office broke with tradition by officially announcing the name of the new head of MI5 in a press release. Stella Rimmington, the first woman head of MI5, takes over in February with the retirement of Sir Patrick Walker. Mrs Rimmington, one of two deputy directors-general, has been in MI5 for 22 years. According to security sources she has spent much of her career as a desk officer in MI5's F branch responsible for monitoring domestic 'subversion'. Indeed she ran F branch during the miners strike and over the period when Cathy Massiter, who left MI5, claimed there was intrusive surveillance of legitimate political and trade union activity.

Home Office press release 16.12.91; *Guardian* 17.12.91; *Times* 17.12.91.

Special Branch jail-break fiasco

The escape from Brixton prison on 7 July, 1991 of two suspected IRA members, Nessan Quinlivan and Pearse McAuley, has seen the early retirement of the prison governor and the replacement of the head of the directorate of custody at the Prison Service office. Moreover, since the escape 57 of the prison's staff have been transferred out of Brixton. The two men escaped using a plan drawn by the Special Branch in Staffordshire.

The Staffordshire Special Branch recruited a Brixton prison warden, an ex-SAS officer, to act as go-between to get information from the men about their escape network. For five months the prison officer tried to get the confidence of the two men but when they asked for a gun they dropped the matter. The Staffordshire Special Branch then informed the prison governor and the Metropolitan Police about the project.

The procedure followed by the Staffordshire SB was set out in the Chief Constable's annual report for 1990 (published in 1991). It said that their SB had been 'heavily involved in two major terrorist incidents at Lichfield and Milford' during the year. These incidents involved the murder of a soldier at Lichfield railway station and the attempted murder of Sir Peter Terry, the ex-governor of Gibraltar. The report goes on to state that:

The principles adopted and the way in which Special Branch organised their operation to constantly update the senior investigating officers was devised in-force and is acknowledged as being particularly successful. It is understood that the Staffordshire procedures are to be incorporated in national guidelines.

If this procedure was followed and the Metropolitan Police informed of what had taken place in February 1991 - nearly six months before the escape - it remains a mystery as to why 'B' Squad of SO12 in the Metropolitan Police Special Branch, which is the national intelligence collation agency on the IRA, appears to have known nothing about the escape plans.

Hansard, written answer 2.12.91; *Guardian* 19.11.91; *Independent*, 21.11.91.

Security and intelligence - new material

Fascism, the Security Service and curious careers of Maxwell Knight and James McGuirk Hughes, John Hope. *Lobster* no 22, November 1991, pp 1-5.

The exclusion of 'security risks' as a form of immigration

control: law and process in Canada - parts I & II, Brian Horlick. *Immigration and Nationality Law and Practice*, Part I, Vol 5, no 3, 1991, pp76-82; Part II, Vol 5, no 4, pp109-115.

LAW

Womens' response to violence

In Britain each year, an average of 70 women are killed by their male partners compared to 12 to 15 men being killed by their women partners. Yet according to the Crown Prosecution Service, 40% of these women are found guilty of murder compared to 25% of the men. Many of the men are able to rely on defences of provocation which reduces the charge from murder to manslaughter and the sentence from life to a matter of years, or self-defence which leads to acquittal.

The partial defence of provocation depends on being able to show that the killer reacted immediately to the other person's actions or words without pausing to consider their actions and in a manner in which any reasonable person might be expected to react. It is a defence that has developed in response to the majority of violent incidents, which are perpetrated by men. It is a narrowly defined defence, which does not recognise that women have been socially conditioned to react to attack with caution, to try and negotiate and diffuse situations and to respond with violence only as a last desperate attempt to protect themselves. As a result, a woman who puts up with years of abuse or who tries to negotiate with her attacker by arming herself with the nearest available weapon may find herself deprived of this defence.

By the mid 1980s, the police force and local authorities recognised, in theory if not in practice, the need to respond seriously to domestic violence. It became accepted wisdom that such violence was not the isolated result of a sudden conflict of wills but a symptom of an ongoing imbalance of power and resources.

It was recognised that a brief talking to from the local police officer was not an effective antidote to years of social and cultural conditioning that placed most women in a terminally inferior position in the eyes of many men. Instead it was necessary to provide housing for single women and their children, creches for women who needed or wished to work and refuges for those whose partners wished to seek revenge or force them to return to the home.

However, resources were scarce and there remained a minority of women who, through economic necessity, a mistaken belief that they could reform their partner or that they deserved his abuse, endured on-going domestic violence. In the end, some of them were driven to respond to violence with violence.

The law is blind to gender specific responses to violence. If a woman is not reacting to an immediate act or words from her partner, she cannot claim to have been provoked. And yet, the House of Lords in *DPP v Camplin [1978] 2 ALL ER 168* recognised the need to judge the actions of a reasonable man in relation to his age and race.

The law also provides a complete defence to murder if it can be proved that the person attacked reacted in self defence and with a level of force proportionate to the attack. Again, the law presupposes two protagonists of roughly equal strength and experience.

It takes no account of most women's lack of experience of physical fighting or their lack of strength, that stems not only from relative weight or muscle power, but from their conditioned fear and inexperience. Therefore, when a woman, because of her previous experience of domestic violence or her own perception of

vulnerability, retaliates with a weapon, she often deprives herself of this defence.

The law as it stands recognises that in the heat of the moment a person might miscalculate the amount of force necessary. It now needs to go further and recognise that the social conditioning and history of many women also tends to lead to their over reaction.

Many groups have raised these issues in submissions to the Royal Commission on Criminal Justice and in the next few months, the Court of Appeal will be hearing arguments on behalf of Amelia Rossiter and Kiranjit Ahluwalia, both victims of domestic violence who finally met violence with violence, but yet were not able to rely on the traditional defences open to men. The judiciary now has a chance to tackle the discrimination inherent in the definitions of defences to murder by recognising that gender affects most aspects of women's lives, including responses to violence. *Rights of Women Newsletter*, Autumn 1991.

Tottenham Three vindicated

The Court of Appeal formally quashed the convictions of Winston Silcott, Mark Braithwaite and Engin Raghip for the murder of PC Keith Blakelock, on 5 December 1991, and expressed their 'profound regret' to the three for the 'shortcomings of the criminal process.' The Court had surprised observers by granting unconditional bail to Raghip and Braithwaite three days into the hearing, on 27 November, having declared Silcott's conviction unsafe on the first day.

Silcott's conviction was quashed first, because ESDA tests on his 'admissions' interview had established that pages had been rewritten and that officers, notably Detective Chief Superintendent Melvin, the officer in overall charge of the investigation into Blakelock's murder, had lied when describing the notes of the interview as 'contemporaneous'. The prosecution then conceded that 'we would not have gone on against Raghip or Braithwaite, or any of the other defendants, having learned of the apparent dishonesty of the officer in charge of the case.' The judges said that 'no system of trials is proof against perjury, although this will be of little consolation to its victims.'

The Court of Appeal also reaffirmed the rights of people in custody, saying that the denial of access to a solicitor was enough to quash the convictions of Raghip and Braithwaite. 'Access to legal advice is one of the most important and fundamental rights of a citizen', they said. They heard that Melvin took a policy decision to refuse suspects access to a solicitor, and as a result 77 suspects saw no solicitor. Raghip was interviewed ten times in five days, and succumbed to the pressure by making a number of self-incriminating statements. But psychological evidence, ruled inadmissible by Lord Chief Justice Lane in the men's previous appeal in 1988, established that he was extremely suggestible. Braithwaite was interviewed seven times. He was not arrested until about three months after the event, by which time, the Court said, any legitimate reason for withholding access to a solicitor had long gone.

The finding of dishonesty and improper denial of access to legal advice by Detective Chief Supt Melvin comes four months after Home Secretary Kenneth Baker accepted the recommendation of an appeal tribunal that he be exonerated on disciplinary charges relating to the investigation. He had been found guilty of denying access to Jason Hill, a 13-year-old charged with the murder, but acquitted at trial after the judge described his confession as 'high fantasy'. Two other juveniles were acquitted after their confessions were thrown out of court.

The Broadwater Farm trials involved 69 defendants, six charged with murder and 63 with riot or affray. In the majority of cases the

only evidence was confession evidence. During the murder trial, in March 1987, the judge condemned police treatment of suspects in custody as illegal. Despite his remarks, and despite the weakness of the evidence, Silcott, Braithwaite and Raghip have been in prison for five years on charges on which they should never have been convicted.

Police reaction to the quashing of the conviction was divided. Mike Bennett, the chair of the Police Federation's Metropolitan Branch, felt 'let down by the hierarchy', while the national director of the Federation, Barrie Irving, called for a professional code of ethics in the police, to be monitored by an external body which had the power to dismiss police. But the Police Superintendents' Association said it was backing Melvin. Met Police Commissioner Peter Imbert, in an ambiguous statement, said he regretted that anyone had been wrongly convicted, but suggested that the people of Broadwater Farm were guilty of not cooperating to find the killers.

Poll tax figures - millions before the courts

In the fifteen month period 1 April 1990 to 30 June 1991 magistrates courts made liability orders for the poll tax against 3,960,111 people. By the end of September 1991 the figures over the same period had risen to 5,700,000 orders. 34 million people are liable for the annual poll tax.

Further figures compiled by Dave Nellist MP showed that between April 1990 and the end of September 1991 8 million summonses were issued. 4.2 million liability hearings took place without defendants present. The total estimated cost in magistrate courts' time was £5.1 million. Ninety people had been sent to prison, a third of whom were unemployed.

Independent, 18.11.91; *Hansard*, written answer, 17.11.91.

National Critical Lawyers' Conference 1992

The 1992 National Critical Lawyers' Conference is being held on Saturday 1 February - Sunday 2 February 1992 at Rutherford College, University of Kent, Canterbury. The organisers are providing free accommodation and registration is free for students, trainee solicitors and barristers and the unwaged. For the waged the cost of the conference is £25 including all material. Workshops include Legal education - law's hidden assumptions; Violence, men, women and the law; European 'state' and law - threat or saviour?; Asylum, immigration and the third world - a new colonial order?; Ireland; Gays, lesbian and the law; and Critical legal practice v. Socialist practice. Details from: I M Grigg-Spall, The Critical Lawyers Group, Rutherford College, The University, Canterbury, Kent CT2 7NX. Tel: 0227-764000 ext 3425 (day) or 0227-766233 (evenings). Fax: 0227-475473.

Law - new material

The Critical Lawyers Handbook, edited by Ian Grigg-Spall and Paddy Ireland, University of Kent. Pluto Press, 1992, 240pp. £7.95 pk.

Judicial review: have the judges made a mess of it? *Law Society's Gazette*, 17.10.91., pp18-20. Lord Justice Woolf says 'no', James Goudies QC says 'yes'.

The Gulf War deportations and the courts, Ian Leigh. *Public Law*, Autumn 1991, pp331-339.

The Gulf Crisis and the ghost of Liversidge v Anderson, Alex J

Carroll. *Immigration and Nationality Law and Practice*, Vol 5, no 3, 1991, pp72-76. Looks at the Gulf War, national security and immigration control.

Free Sarah Thornton Campaign, Newsletter available from: Julie Donovan, 55 Regina Point, Canada Estate, London SE16 or phone 071-401-2315 or 071-375-2680. **Justice for battered women who kill**, c/o Soutall Black Sisters, 52 Norwood Road, Southall, Middx UB2 4BW. **Sarah Thornton Support Group**, phone 071-704-0651.

House of Commons debates

BCCI, 4.11.91, 302-310

Rape case (criminal investigation), 20.11.91, 391-396

RACISM and FASCISM

Far right election gains across Europe

Following on from the surge of neo-nazi violence that swept across Europe during recent months (see Statewatch 5), far right parties have seen a dramatic increase in support during elections.

In Belgium, the mainstream political parties suffered humiliating losses as the Prime Minister, Wilfred Martens, handed in his resignation following a General Election that has left the country in what has been described as one of its greatest political crises. It was an election that saw the Front National win a seat in the national legislature representing the Brussels region and the Vlams Blok gain another ten seats to bring their total to twelve. The Vlams Blok, which was founded in 1978, was not a significant political threat until 1986 when it won two seats in the Belgian national parliament. In 1988, it had 23 councillors elected during the October municipal elections. The VB's heartland is in Antwerp where it received 21% of the vote in the June 1989 Euro-elections and its leader, Karel Dillen, was elected to the European Parliament.

The VB's history emerges from the pre-war fascist movement in Belgium, which collaborated with the country's nazi occupiers during the Second World War. Its formation brought together several nationalist parties and drew on a rigid tradition of Flemish nationalism. Today its policies are those of racism and its main slogan is 'Our own people first.'

While it is a legally constituted political party the VB does have links with the violent Voorpost (Vanguard) organisation and its members have been involved in violent attacks on political opponents. Indeed, one of their candidates in Antwerp, Xavier Buiseret, is currently facing charges of beating up an immigrant with a baseball bat.

In Austria the Freiheitliche Partei Osterreichs (FPO), or Freedom Party, has established itself as the second largest party in the Vienna city government, gaining 23% of the vote. The FPO, which is led by the openly fascist Jorg Haider, conducted an alarmist campaign around the slogan 'Vienna for the Viennese' and warning that the Austrian capital would be overrun by immigrants. Haider himself is no stranger to controversy and recently spoke with admiration of Hitler's employment policies. The vote was the third successful surge by the FPO this autumn.

And in Italy the Lombard League, who won nearly 20% of the vote in local elections in Lombardy last year, received 24% of the vote in the local elections in Brescia to topple the Christian Democrats who have ruled it since the Second World War.

Independent 11.11.91, 23.11.91, 27.11.91; *Guardian* 25.11.91, 26.11.91;

Opposition to Le Pen's London visit

Jean Marie Le Pen, leader of the French neo-nazi Front National and the far-right grouping in the European Parliament, visited London at the beginning of December. Le Pen, who once dismissed the nazi holocaust as a mere 'detail', attended a meeting with other members of the European right and addressed a meeting hosted by the far-right grouping, Western Goals. The Ad-hoc Committee to Stop Le Pen's Visit organised a picket of the French Consulate in protest at his presence. A second picket two days later, outside the Charing Cross Hotel where he was speaking, ended in confrontations between police and protesters outraged at his presence.

Racist violence in Germany

On 13 December 1991 the German Bundesamt fuer Verfassungsschutz (BfV, security service) announced that it will be transferring 100 personnel from the extreme left to the extreme right department.

According to the BfV in 1991 up to mid-December, 1,150 extreme-right violent incidents have been reported. 790 of these in the former West Germany, (128 in 1990) and 362 in former GDR. Most of the attacks were against minorities and asylum seekers, but a quarter of those in the former GDR were against Soviet military personnel or installations.

PRISONS

Category A prisoners

In November there were 602 Category A prisoners held in 23 prisons in England and Wales.

Hansard, written answer, 18.11.91.

Prison escapes

The number of prisoners escaping from prisons in the UK is on the increase. In the year to 1 November 1989 there were 169 escapes, in the year to 1 November 1990 there were 185 escapes and in the year to 1 November 1991 a total of 316 escapes.

Hansard, written answer, 11.11.91.

Prison populations

A national prison survey, carried out at the beginning of 1991, showed that 44% of those held in prison on remand and 31% of those convicted were unemployed before entering prison. The survey also showed that 35% of convicted prisoners said someone else in their family had also served a prison sentence and that 17% of remand prisoners and 12% of convicted prisoners were homeless at the time of their imprisonment.

Hansard, written answer, 7.11.91.

Prisons - new material

Deaths in Custody on Britain and Australia, David Biles. *Howard Journal*, Vol 30, no 2, 1991, pp110-120.

Bizarre Institutions. *Counsel*, November 1991, pp12-13. Article

on Judge Tummin's views on imprisonment and training.

Women Partners of Prisoners, Moira Peelo, John Stewart, Gill Stewart and Ann Prior. *Howard Journal*, Vol 30, no 4, 1991, pp311-327.

Mad, bad or dangerous - women in Special Hospitals, Nancy Biggs and Prue Stevenson. *Socialist Lawyer*, June 1991, pp10-11.

NORTHERN IRELAND

Who Kills Who?

The Social Construction of the Northern Ireland Conflict

1991 was the worst year for conflict-related deaths in Northern Ireland since 1982. The 1991 death toll, 94 at the time of writing, is little short of the 101 deaths in the year of the hunger strikes (1981), and is much higher than the 1980s low point of 54 deaths in 1985. The latest wave of killings, especially the resurgence of loyalist attacks on Catholics in the second half of the year, has been largely relegated to the sidelines by the British Press. In Ireland, however, it has once more raised the question of the nature and status of the conflict and in particular the meaning and motives behind violence and murder. It is easy, and even morally comfortable, to dismiss all such activity as mindless, criminal, repugnant, corrupt and even the cause of unemployment, to quote some of the popular Northern Ireland Office (NIO) labelling. This vocabulary about violence also includes the phrase 'tit-for-tat killings' which suggests that the essence of the conflict is a sectarian scrap between the forces of loyalism on the one hand - the Ulster Defence Association, the Ulster Freedom Fighters, the Protestant Action Force, the Ulster Volunteer Force - and the republican IRA, plus minor groups like the Irish People's Liberation Organisation. This characterisation continues with the idea that the RUC (a heavily armed force) and the military (the British Army and Ulster Defence Regiment) are in the middle, friends of a law-abiding community which generally abhors violence. These agents of the state are said to be acting in the neutral, apolitical role of upholding the rule of law. Indeed, the British government itself, as Peter Brooke the current Secretary of State for NI has emphasised on many occasions, has no partisan or strategic interest in the North.

But serious analysts of the conflict and the leading protagonists themselves, whether military or political, depart significantly from the official view. For example, counter-insurgency and terrorist experts such as Kitson, Eveleigh and Wilkinson know that the violence has political and ideological roots and is sustained to some extent by popular feeling and community support. The RUC itself has explicitly rejected the idea that some killings are of a tit-for-tat nature. This is not to deny the significant level of popular feeling which simply wants the violence to stop, whether this stems from a general saturation with the pain of death, from the war weariness of the working class neighbourhoods, from the middle class concern over disruptions to daily life, or from those who have consciously embraced a peace ideology. It is notable in this respect that the President of Sinn Fien has not only been critical of some IRA actions - those involving civilian deaths - but has been actively developing a 'peace process'. This has cut little ice with the Northern Ireland Office. Adams' latest initiative drew the following response from Richard Needham: 'The only message I have for Mr Adams is he should call off his rottweillers and if he ever wants to be remembered for anything good in his life, he can help to bring peace to this place by stopping the terrorist activity which his party supports.' But what is a 'civilian death', a 'sectarian killing', a

'legitimate target'? How are such categories constructed?

A key element in the representation of the conflict is, to put it crudely, the question of who kills who. Since the mid-1980s the Irish Information Partnership (IIP) has been publishing *Agenda*, a database covering, amongst other things, incidents of violence and a catalogue of all deaths arising from the NI conflict which have occurred since 1969. The *Agenda* statistics on who kills who have been used on many occasions by both unionist and nationalist politicians and have frequently been traded across the floor of the House of Commons.

What IIP did was collect information from newspapers and other sources on all the deaths, and to categorise each on the basis of a number of variables including religion, agency responsible and status of victim, the latter according to five broad types. These are Civilians, Prison Officers, Security Forces, Nationalist Paramilitaries and Loyalist Paramilitaries. There is no direct inclusion of 'sectarian killings' here and these can only be inferred to a limited extent from the published data. The IIP claims that between 1969 and 1989, 'nationalist paramilitaries' have been responsible for 58% of all deaths. They have killed 574 'civilians' of whom 173 were Catholics, 379 Protestants and 22 'others'. Almost 20% of all deaths are recorded as being of this type, i.e. 'nationalist paramilitary'-perpetrated civilian deaths. 'Loyalist paramilitaries', IIP claims, have killed a total of 705 people (up to 1989), of whom 506, or 71%, are listed as 'Catholic civilian'. They killed only 10 members of the 'security forces' in the 1969-89 period. In contrast, 'nationalist paramilitaries' have killed 847 'security forces' members, a figure which is about 55% of all 'nationalist paramilitaries' attributed killings.

The IIP data also gives a breakdown of 'security forces' killings, which total 329. In over one third of these (123), the status of the victim is listed as 'nationalist paramilitaries'. Between 1969 and 1989 the security forces were responsible for 178 'civilian' deaths - thus 55% of security forces killings were of 'civilians'. The equivalent figure for 'nationalist paramilitaries' and 'loyalist paramilitaries' is 36% and 90% respectively. On this basis 'nationalist paramilitaries' have the lowest proportion of 'civilian' casualties from the deaths attributed to them and 'loyalist paramilitaries' the highest. As is frequently pointed out, however, the IIP figures claim that 'nationalist paramilitaries' have killed more Catholic civilians than the security forces - 173 as against 149 (again, the period referred to is 1969-89).

The 'civilian' casualty figures, totalling 1516, or 54% of the total deaths, clearly give the impression that the conflict does not fit neatly into the commonsense notion of a war between military forces, notwithstanding the fact that civilians are usually a big element in any war casualty figures. Furthermore, so the argument runs, the nationalist community can hardly be seen as victims when republican forces are responsible for nearly 60% of all the killings. Indeed many loyalists argue that the IRA provokes them to retaliate so republican forces are really morally responsible for a much higher proportion of the total deaths, if not all of them. RUC Chief Constable Hugh Annesley adopted a similar view in an interview on Radio Ulster on Sunday 20th October, in which he stated that "the principal resources of the RUC are and will continue to be deployed against the Provisional IRA....Almost all loyalist activity is reactive to that threat".

Loyalists also try to refute the idea that most of their killings are random sectarian murders of Catholic civilians. During the latest UFF offensive, for instance, the group claimed that Brian McCabe (who died on 16th October) was an ex-prisoner, a claim rejected by his family and the RUC. Similarly, Queen's University politics lecturer Adrian Guelke, shot but not killed on the 5th September, was accused in a UFF statement of arranging IRA arms shipments.

The group claim to have been shown an intelligence file relating to Mr. Guelke, although a few days after the shooting it was reported from 'reliable security force sources' that the file related to someone else. John McGuigan, the manager of a builders suppliers yard in East Belfast, was killed on 15th October supposedly because he was a member of an IRA active service unit in the Lenadoon area of West Belfast, claimed the UFF. Again this claim was refuted by the victim's family and the IRA did not claim him as a volunteer (which it would usually do in such circumstances). Harry Conlon, the fifth Catholic taxi driver shot dead in 1991, was killed according to the UFF because he was driving for one of three West Belfast taxi firms with "IRA links". General political reinforcement for the UFF's position came from Official Unionist MP John Taylor in a widely reported speech on 3rd September. Taylor said, "the harsh reality is that as one walks down the street or goes into work, one out of every three Roman Catholics one meets is either a supporter of murder or worse still a murderer."

The UFF have lately sought to re-define what they regard as 'legitimate targets'. Shopkeepers who stock An Phoblacht/Republican News were recently included (two have so far been shot dead) and on 8th October, the UFF announced that any Gaelic Athletic Association members (of which there are about 40,000 organised into 400 clubs in the North) are now targets because, the group says, the GAA supports 'the republican war machine'. This threat was later withdrawn.

Claims and counter-claims surround recent republican actions. On 10th September, the IRA killed John Hanna (19), because he had been "a member of loyalist death squads" and involved in attacks on nationalists. This was denied by Hanna's family. IPLO shootings in loyalist bars, one of which involved the killing of Harry Ward on 17th October, were described as 'sectarian' by Gerry Adams, yet the IPLO itself claimed, "our attacks on the UFF and UVF are extremely popular among the nationalist community. Our membership is increasing, we are getting stronger and more effective".

Clearly, much of the moral-cum-political controversy surrounding the status of victims concerns 'civilians' and whether or not they have been deliberately targeted as such. The IIP data is not particularly sensitive in this regard. In terms of motives, and perceptions of motives within local communities, people do discriminate, rightly or wrongly, between deliberate killings of civilians to which the term 'sectarian' would be applied, and 'accidents'. Furthermore, it is common for people to make judgements about killings on the basis of the perceived degree of involvement of the victim in political or military affairs, or indeed in commercial activities which lend support to one or other of the major protagonists. It is also important to point out that these judgements are by no means 'fixed' - they are subject to constant discussion, argument and negotiation.

There is a challenge to the IIP categories and data in the latest pamphlet from Troops Out Movement. Instead of almost 600 'civilians' killed by 'nationalist paramilitaries', the pamphlet states the following:

The majority of casualties of republican military activities have been British forces members (1,012). In addition IRA actions have killed 286 civilians. Republican forces have carried out 118 deliberate killings of 'protestant' civilians (i.e. sectarian killings), only nine of which occurred in the past decade - from 1980 to the end of 1990.

The majority of casualties of loyalist forces have been unarmed civilians (638). Over 80% of all loyalist killings have been deliberate killings of Catholic civilians. Loyalist military activists have killed 11 British forces members (5 accidentally).'

Acknowledging the (still) high civilian casualty figures, the pamphlet nevertheless concludes:

'The low casualties inflicted on loyalist forces by British forces and vice-versa confirm that there is an alliance between these forces. On the other hand, the figures show that the main casualties of republican forces are British forces' members. Finally they show the high casualty figures amongst the civilian population of Northern Ireland'.

Further evidence of collusion (see Bulletin 4) came in a Channel Four Dispatches programme broadcast on 2nd October. The programme revealed the existence of a 'central co-ordinating committee', formed two years ago by around 60 business people, senior RUC officers and politicians, which is approached every now and then by an 'inner circle/force' within the RUC and advised that the time is right to eliminate a particular republican. Dispatches also claimed that the Stevens Inquiry into collusion uncovered little because the 'inner force' knew the movements of the inquiry team a week in advance. The RUC's response to the programme was as follows:

'Allegations of collusion between members of the security forces and loyalist paramilitaries were fully investigated by deputy chief constable John Stevens, of Cambridgeshire. As a result 26 persons have been convicted and 15 persons are awaiting trial. Specifically, the allegation of a so-called inner-circle in the RUC was thoroughly investigated by Mr. Stevens but no evidence was found to support the allegation'.

Little over a week later, the RUC claimed the upsurge in loyalist killings was attributable to 27 former loyalist prisoners. By mid-October, on the eve of an Anglo-Irish Conference meeting in London, Annesley was announcing the formation of a special police squad to catch loyalist killers. RUC detectives had reportedly identified 30 UVF active gunmen and 18 in the UFF. In summary, the RUC's public position is that loyalist violence is reactive/retaliatory in nature and is currently being organised by a small group of ex-prisoners. This ignores the changing political context in which violence occurs. Loyalist paramilitaries became quite active in the period leading up to the Brooke talks. They then announced a ceasefire. Once the talks collapsed, they accelerated their campaign. However extensive the collusion between security forces and loyalist groupings, there must be some credence given to the view that an increase in loyalist actions in the run up to a British general election is designed to act as a warning to a future Labour government that it should not get too carried away with its commitment to Irish unity and all-Ireland institution building. It is a warning above all that loyalist consent will not be forthcoming.

Human Rights

The Committee on the Administration of Justice and Amnesty International made submissions to the United Nations Committee Against Torture and Other Degrading Treatment or Punishment in November. The submissions focused on continuing concern about RUC treatment of suspects in interrogation centres. One member of the UN body described the seven-day detention powers as extraordinary and criticised the lack of access to solicitors as well as British government resistance to the videoing of interviews. Robert Morris, responding for the government, argued that current powers were necessary while terrorism remained a real threat, although the PTA was regularly reviewed. The RUC Chief

Constable in a statement issued prior to the UN hearings, denied that there was any genuine cause for public concern: 'Any area of police success will be targeted by the paramilitary organisations with a campaign of spurious complaints and propaganda by them and their political bedfellows.' Meanwhile a firm of Belfast solicitors has revealed that in the 18 month period up to March 1991, it has represented 58 clients seeking compensation for ill-treatment in Castlereagh interrogation centre. The firm had secured a total of £134,000 in compensation payments for its clients.

Paul O'Dwyer, the New York City Commissioner to the United Nations, has resigned from his post. His decision was announced on Irish Human Rights Day, 9th December, and was taken in protest at continuing human rights abuses in the North of Ireland.

The law which abolishes the right to silence, the Criminal Evidence (NI) Order 1988, is to be challenged in the House of Lords. Under the Order, Judges are permitted to draw a negative inference from a suspect's failure to answer questions or appear in a witness box. Kevin Murray lost an appeal in October against an 18 year sentence for attempting to murder a member of the UDR. Justice Kelly drew an adverse inference from Murray's failure to go into the witness box to counter the prosecution's forensic evidence yet in his judgement he stated that a trial of fact must not assume guilt from an accused's election not to testify.

Irish News 12.11.91; 14.11.91; 9.12.91; AP/RN 28.11.91; *Human Rights in Northern Ireland*, A Submission by CAJ to the United Nations Human Rights Committee, February 1991.

UDR

British Army HQ at Lisburn has now admitted that its estimates of the numbers of Catholics and Southerners in the Royal Irish Rangers were wrong. When the UDR/Rangers merger was originally announced the Rangers were said to be 30% Catholic, but this figure is now put at 6%. 'It seems the figure for Ballymena barracks got into our system as the overall regimental breakdown', an Army spokesman said.

Northern Ireland Office press release, 28.11.91; *News Letter* 29.10.91; *Irish News* 18.11.91.

Crumlin Road Prison

Lord Colville, current chair of the Parole Board for England and Wales, and the person appointed to conduct annual reviews of the EPA and PTA, has been appointed to undertake an inquiry into 'the management of paramilitary prisoners from opposing factions'. This followed an IRA bombing on Sunday 24th November inside Crumlin Road prison which resulted in the deaths of two loyalist prisoners. The conflict inside the gaol has been simmering for at least two years and is over the NIO's refusal to segregate loyalist and republican remand prisoners. More than 80 prison officers are reported as receiving injuries in the conflict over the past year. There appears to be no support from any political party, prisoner lobby group or voluntary organisation for the NIO's stand.

NIO Press Release, 26.11.91; *Irish News* 25.11.91; 24.12.91.

Baker Criticised

In a High Court ruling on 17th December, the Home Secretary Kenneth Baker was criticised for refusing to consider all the necessary factors in refusing a release date for Robert Walsh, one of three life sentence prisoners still held for their part in an IRA bombing campaign in Britain in 1973. Walsh's case was that Baker's failure to set a release date was unfair and that it implied that he had to serve at least 20 years to satisfy the requirements of

retribution and deterrence. Baker was ordered to reconsider the case immediately because he had not taken account of the fact that others involved in the case had been released and therefore had appeared to serve the right tariff. *Irish News* 17.12.91; *Guardian*, 17.12.91.

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Background document files

The following background files are available:

Gladio *Statewatch briefing*, introduction and background country-by-country; *Guardian* article (2pp); *State Research*, article from 1977 (1p). Total: 16 pages. Cost: £2.00 inc. p&p.

Positive vetting for civil servants, guidelines announced in 1985 (4pp) and **Home Office Guidelines for the Special Branch** (1984) 2pp. Total 6 pages. Cost £1.50 inc. p&p.

Statewatch is produced by an independent group of journalists, researchers, lawyers, lecturers and community activists.

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For all orders please make cheques payable to: *Statewatch*, and send to the address below.

Published by Statewatch, PO Box 1516, London N16 0EW

Tel: 081-802-1882

Fax: 081-880-1727

E-mail: GEO2: Statewatch-Off

Printed by Russell Press,
Radford Mill,
Norton Street,
Nottingham NG7 3HN
ISSN 0961-7280