

Number 4

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## POLICING

### Police powers in action

The only measure of the exercise of police powers under the Police and Criminal Evidence Act 1984 (PACE) in England and Wales is the annual Home Office statistics. The statistics cover stop and searches, road-blocks, extended detention and intimate body searches.

The publication of figures for 1990 in July confirms another leap in the 'stop and search' figures - from 202,800 to 256,900 - and another drop in the percentage subsequently arrested - from 17% in 1986 to 16% in 1989 and to 15% in 1990.

These stop and searches were made by the police on the grounds of suspected stolen property, drugs, firearms, offensive weapons and other offences.

The figures given for 'stop and search' do not include the many instances where a person is stopped and questioned (and possibly arrested) but is *not searched*.

No. of stop and searches      Arrests (1986-1990)

1986	109,800	18,900
1987	118,300	19,600
1988	149,600	23,700
1989	202,800	32,800
1990	256,900	39,200

In 1988 the Home Office felt obliged to comment on the rise of 31,000 stops and searches over 1987. This it said was largely due to 'increases in recorded searches in the Metropolitan Police District (London)..(and) to more comprehensive recording'. No reasons are given for the subsequent increases of 53,000 in 1989 and 44,000 in 1990.

The only way of measuring the 'success' of stop and search would be the figures for subsequent arrests, charges, and convictions, but only the figures of those arrested are given (15%). Moreover, 227,719 people were stopped and searched and not arrested.

By far the greatest use of stop and search is in the London Metropolitan Police District (Met):

No. of stop and searches      Arrests London (1986-1990)

1986	35,260	6,092
1988	79,872	12,739
1990	150,252	22,055

The Met, which comprises just 20% of police strength was responsible for 32% of stop and searches in 1986, 53% in 1988 and nearly 60% in 1990.

Road checks, or road-blocks, are carried out where it is thought a vehicle might be carrying a person who: has committed a serious arrestable offence, or was a witness to or intending to commit a serious arrestable offence or who was unlawfully at large. A total of

298 road checks involving 38,700 vehicles were carried out in 1990. There were only 18 arrests connected with the reason for the road check and 33 arrests for reasons not connected with it.

In 1990 a total of 542 people were detained by the police for more than 24 hours of whom 465 were released without charge and 77 were detained for longer periods. Four hundred and one people were detained without charge under warrant for more than 36 hours; of these 324 were eventually charged.

Intimate body searches involving the examination of body orifices such as the anus or vagina were carried out on 51 people in custody. In only 4 cases was the suspected item found.

Twenty-nine of the 43 police forces covered carried out no intimate body searches; 22 of the 51 searches were carried out in London.

*Statistics on the operation of certain police powers under the Police and Criminal Evidence Act, England and Wales, 1984,* Home Office Statistical Bulletin, 15 July 1991.

### Police shoot black youth

Tension is high in the black community of Hadley, near Telford, in Shropshire after West Mercia police marksmen shot dead a 24 year old black man, Ian Gordon, who had been seen walking around the town with an air rifle. There are conflicting accounts of the shooting with the police claiming that the officers involved believed that their lives were at risk. Eye witness, Claire Middleton, disputes this claiming that the policemen screamed at Gordon to put his gun down and that he replied: 'It's only a toy gun, it isn't going to hurt you.' Ian's friend, Shazad Khan, also says that he told police that the weapon was harmless and not loaded. After Ian's death there were angry clashes between the community and the police, and four hundred demonstrators marched through Telford in protest at the killing. Ian's family intend to sue West Mercia police for damages, alleging negligence. His younger brother, Garry, has appealed to the Home Secretary to set up an independent inquiry.

*Guardian*, 17.8.91; *Observer*, 18.8.91; *Voice*, 20.8.91

### Broadwater Farm 3

The Home Secretary, Kenneth Baker, has announced that there will be a police inquiry into allegations that officers faked evidence that led to the convictions of two men for the murder of PC Keith Blakelock during the Broadwater Farm riot in 1985. He has also asked that the inquiry should include electrostatic document analysis (Esda) tests of interviews with Winston Silcott and Mark Braithwaite. Defence lawyers have condemned the decision not to refer the cases directly back to the Court of Appeal, and accused the Home Secretary of stalling. They point out that supporters have recently had Esda tests carried out on Silcott's interviews at a Metropolitan Police Laboratory and that they showed that crucial passages had been added. The third man convicted of Blakelock's murder, Engin Raghip, had his case referred to the Court of Appeal in December 1990.

*Home Office news release*, 25.7.91; *Independent*, 26.7.91.

## Policing - new material

**Local and democratic - the role of police authorities in the 1990s: report of an AMA working party on the police authority role: strategic issues**, Association of Metropolitan Authorities, March 1991, £5, pp14. Also **The authority role - strategic issues**, AMA, £3, pp45. The proposals include putting the tripartite agreement (between Chief Constables, local police authorities, and the Home Office) on a statutory basis. Presently all the initiatives are in the hands of Home Office and the Association of Chief Police Officers (ACPO). Instead of remaining a powerful informal body it proposes that ACPO should be formally established and made accountable in law.

**CIA assets and the rise of the Guadalajara Connection**, Marshall, J. The article addresses the issue of the success of drug traffickers and their political protection with particular reference to the rise of the Guadalajara Cartel in Mexico, which was one of the largest drug suppliers to the North American market in the late 1970's and 1980's. **A smugglers paradise: Cocaine Trafficking through the Bahamas**, Bullington, B. The paper examines the reasons why the United States government has done little or nothing to curb the participation of the Bahamas in the transhipment of illicit drugs into America. **Drug Lords and narco-corruption: The players change but the game continues**, Lupsha, P. Examines the history of drug trafficking related corruption in Mexico. **Colombia's cocaine syndicates**, Lee, R.W. The article looks at the drug trafficking coalitions in Colombia in particular the Medellin and the Cali syndicates. *Crime Law and Social Justice, Vol.16, No.1. 1991*

**No Euro-bonanza for drug barons**, Sir Jack Stewart Clark, MEP. *POLICE magazine*, July 1991, pp8-9.

**Scottish Criminal Statistics**, Cm 475, HMSO, March 1991, 5pp, £1.75.

**Japanese police state - Tokko in interwar Japan**, Elise Tipton, Athlone, 1991, pp210.

**Recruiting a multiracial police force**, Simon Holdaway, Home Office, HMSO, 1991, pp210, £12.95.

**CS gas - an indiscriminate weapon?** Leonard Jason-Lloyd, *New Law Journal*, 26.7.91, pp1043-1046.

**Getting back into the act: metropolitan police authorities in the 1990s**, Barry Loveday, *Political Quarterly*, Vol 62, no 3, 1991, pp386-392.

## IMMIGRATION

### Asylum-seekers face draconian new measures

On 2 July Home Secretary Kenneth Baker announced draconian new measures to deal with asylum-seekers, in the light of what the government sees as an unacceptable increase in their numbers in the past two years. The proposals include: a doubling of the fines to £2000 per passenger for carriers (air and sea) bringing in undocumented passengers or passengers with false documents; immediate removal for those who travelled through a safe third country; identity-checking measures including fingerprinting and possibly DNA testing to prevent 'fraudulent multiple applications';

a new appeals system with a 'fast track' to screen out 'manifestly unfounded' applications immediately; and the removal of free legal advice and assistance under the green form scheme for all immigration cases.

While the numbers of people claiming political asylum in the UK have increased in the past two years, from about 5000 applications in 1989 to over 20,000 in 1990, there is no evidence to substantiate the Home Office claim that the increase is due to 'bogus' refugees. The majority of new arrivals are from countries such as Zaire, Angola, Turkey, Somalia, Ethiopia and Uganda - countries either racked by civil war or condemned by Amnesty International and other monitoring agencies for human rights abuses. In Uganda, for example, four months after the British government imposed a visa requirement which effectively closed the door on Ugandan refugees coming to Britain, a report from the New York Bar Association in August 1991 noted the continued suppression of political parties and called on the government to fulfil its promises on human rights.

Most press attention, and opposition, has focused on the ending of free legal advice and assistance under the green form scheme to all immigrants, not just asylum-seekers. At present legal aid is not available for immigration appeals, which have to be paid for privately, but someone seeking advice or help with an immigration problem can go to a law centre or solicitor, who can claim payment within certain limits from the Legal Aid Board. This legal help has literally meant the difference between life and death for many asylum-seekers. After intervention by lawyers, the Home Office has changed its mind and granted refugee status to many whom it had intended to remove. Lawyers have successfully challenged many illegal practices by the Home Office, and through legal challenges have improved the investigation of asylum-seekers' claims. The right of appeal, now being offered for the first time to rejected asylum-seekers, is a result of a ruling by the European Commission on Human Rights that the lack of such a right is a breach of the European Convention on Human Rights.

The new proposals would mean that even this free access to lawyers would cease, and the only source of free advice would be the Home Office-funded United Kingdom Immigrants Advisory Service (UKIAS). Race relations and immigration lawyers suggest that such a move might be contrary to the Race Relations Act, and a strong campaign is underway to which the United Nations High Commission for Refugees (UNHCR) has added its voice. UKIAS has rejected the monopoly role and the money that went with it, and its future is now in doubt, while the Home Office seeks alternative agencies to take the contract. The National Association of Citizens Advice Bureaux (NACAB) is also said to have rejected the role of monopoly immigration adviser.

The proposal to end free independent legal advice is only one of five, the other proposals having been overshadowed. Of these, the removal of asylum-seekers to safe countries through which they travelled has in fact been in operation since July 1990, a month after Britain signed the Dublin Convention along with its eleven EC partners. The Convention, which is outside the jurisdiction of the EC, assigns responsibility for considering an asylum application to the country which first allowed the asylum-seeker in to Europe. The Convention is not part of domestic law but has been applied enthusiastically by the Home Office for the past year, resulting in an increase in the RIO phenomenon (Refugees in Orbit). This phrase describes the now common event of refugees being shuttled from one European airport or seaport to another, while neighbouring countries squabble over who should take responsibility for them.

Another proposal which was implemented with the minimum of publicity is the doubling of fines on carriers, which came into effect

on 1 August. Airlines have objected strenuously to being made front-line agents of immigration control, and the government is having to pursue several through the courts for around £15m in unpaid fines.

Another proposal which has serious implications for civil rights is the introduction of fingerprinting and possibly DNA tests for asylum-seekers. Just two weeks after the proposals were announced, the Data Protection Registrar Eric Howe warned the Home Secretary that the creation of a DNA profile database could seriously infringe privacy laws. Problems of mistaken identity, inaccuracies and administrative mix-ups are among many critical difficulties surrounding such a data base, he said. He was responding to an exploration by the Home Secretary, the House of Commons home affairs select committee, the Forensic Science Service and the National Identification Bureau into ways of extending the use of DNA to fight crime. But his criticisms are just as valid when applied to refugees - perhaps more so, given that there are no statutory controls, such as those in the Police and Criminal Evidence Act, applying to the treatment of asylum-seekers. The same arguments would apply to a fingerprint database.

In the same month as the Home Office proposals, Kenneth Baker escaped imprisonment or a heavy fine for contempt of court only by pleading that he was above the law, after his officials broke an undertaking to the High Court and returned a Zairean asylum-seeker to Zaire. The judge accepted the argument that the Home Secretary was immune from punishment by a modern version of the medieval doctrine of the divine right of kings. Since the Crown was the 'fountain of all justice and power', from which the courts derived their authority, it was impossible for one part of the Crown to be prosecuted by another. The asylum-seeker concerned managed to leave Zaire and is now in Nigeria, considering whether to take up the offer of the Home Office to return to Britain, and be detained, while his case is reconsidered.

In August, another Zairean asylum-seeker who was due to be removed has been allowed to stay pending an application to the European Commission on Human Rights. He claims that his return to Zaire, where he would face a repeat of the torture and imprisonment he has undergone, would breach Articles 3 and 13 of the European Convention on Human Rights, which prohibits inhuman or degrading treatment, and guarantees an adequate remedy for violation of human rights.

It is worth recalling that such cases would not be brought, and the asylum-seekers concerned would have been removed with no-one being any the wiser, if the Home Secretary's proposals were in effect. What the government is doing is using the numbers game to justify reneging on its responsibilities under international law for the protection of human rights, including the right to life.

*Statement of Home Secretary to House of Commons, 2.7.91; Independent, 3, 4, 5, 7, 15, 21.7.91 & 1, 6, 7, 8.91; Guardian 3, 4, 5, 24.7.91 & 7.8.91.*

## EC Convention on external borders

The twelve EC states reached agreement in July on a Convention on external borders, harmonising visa controls throughout the EC. Although the Convention has not been signed yet, owing to an unresolved dispute between Britain and Spain over Gibraltar, European states are expected to adopt its measures informally in practice pending signature, probably in the autumn. Although it has not been published, reports indicate that it follows the Schengen Convention (of which France, Germany, Belgium, Netherlands, Luxembourg, Italy, Portugal and Spain are signatories) in mutual recognition of visas issued by any EC country, a common list of countries whose nationals will require visas, and exchange of

information and centralised lists of 'undesirables' to whom entry should be refused. As expected, the Convention limits the freedom of movement of non-EC nationals living in Europe to holidays in other EC countries without a visa; they will not be able to work in any country other than that in which they are settled.

Home Office ministers see the Convention as a victory for the British view that internal borders should not be discussed. Britain refuses to sign the Schengen agreement since this abolishes internal frontiers between signatory states, which Britain argues would be a breach of its sovereign right to control its own borders.

The justification for the treatment of policing and immigration issues on an intergovernmental level, rather than through EC legislation, has been that this preserves the sovereignty of each state, and that national parliaments will be able to scrutinise any agreements reached. But the Home Secretary and his Immigration Minister refused to publish minutes of the meetings making these decisions. On 3 June 1991, in response to parliamentary questions, Peter Lloyd, Home Office Minister of State, refused to put in the House of Commons Library minutes of the Ad Hoc Group on Immigration, and immediately afterwards Kenneth Baker gave the same response in relation to minutes of the Trevi group of ministers. Ministers would continue the practice of answering a planned written question setting out the main conclusions of the meetings.

(*Hansard 3.6.91 col. 77*)

## House of Commons debates

Mr Ramesh Kumar (immigration case), 14.6.91, cols 1223-1230  
Immigration (dependent children), 24.7.91, cols 1184-1188

## MILITARY

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### Reforming the UDR?

From the 1st July 1992, the 76th anniversary of the Battle of the Somme, the Ulster Defence Regiment will be merged with the Royal Irish Rangers to become the Royal Irish Regiment. The UDR, a force of full- and part-time soldiers which includes 700 women (known as 'greenfinches'), is currently around 6,200 strong, all recruited from within Northern Ireland aside from a few senior officers drawn from other regiments of the British Army. Only about 3% of the regiment come from the minority Catholic community. Approximately 50% of the UDR are full-time members. In all, some 45,000 people have passed through the ranks of the UDR in its 21 year history.

The Royal Irish Rangers, current strength around 1,300, will lose a battalion and the new combined regiment will number 6,750. The Rangers are said to be 30% Catholic with half this figure recruited from south of the border. On this basis the new regiment's seven 'home service battalions' for duty in the North will not have a significantly higher proportion of Catholic members than the UDR at present.

The re-styling of the UDR came as part of Defence Secretary Tom King's restructuring of the British Army announced on 23rd July, the 'Options for Change' Review. The overall plan involves a reduction of 40,000 troops and the cutting of the 55 infantry battalions to 38, which will contain around 116,000. Close on one third of the infantry is likely to be committed to the North of Ireland at any one time.

At the press conference announcing the new regiment, the commander of the British Army in Northern Ireland, Lt General Sir John Wilsey, admitted that the UDR had a serious image problem,

although he claimed that the formation of the Royal Irish Regiment was a military, not political, decision. He said, 'now the UDR has not sought to be sectarian, one-sided or filled its ranks with Protestants, but that's the way it turned out'. He hoped that the new regiment would be a 'pan-Irish regiment which attracts to its ranks from all parts of the community and beyond from the South'.

Sir Wilsey was speaking just three weeks after the Queen inspected the UDR at Lisburn on her first visit to the North since 1977. Her short speech of endorsement of the regiment was described by one columnist as 'a politicised demarche that can only be regarded as untimely and hamfisted'.

The UDR was formed in 1970 on the recommendation of the Hunt Report (Report of the Advisory Committee on the Police in Northern Ireland). Hunt proposed the UDR as a replacement for the notorious 'B' Specials, the exclusively Protestant auxiliary police force which had been in existence since partition. The UDR's reputation never escaped its origins.

Three things have discredited the regiment. Firstly, there is a relatively high rate of recorded criminality among its members. Between 1985 and 1989, UDR members were twice as likely to commit a crime as the general public. The UDR crime rate was ten times that of the RUC and about four times the British Army rate. Around 120 members/ex-members of the regiment are serving prison sentences for serious crimes, including 17 who have been convicted of murder. Four of these (the UDR Four) are serving life for the murder of Adrian Carroll for which they were convicted in 1986. The four - Neil Latimer, Noel Bell, James Hegan and Winston Allen - are protesting their innocence on the grounds that the only evidence against them was based on confessions, later retracted, made in Castlereagh Holding Centre, and contested eye witness accounts from two people. In July, the Secretary of State referred the case back to the Appeal Court.

The second problem with the UDR concerns the alleged links between its members and loyalist paramilitary groups. This 'collusion' has amongst other things taken the form of sectarian assassinations, thefts of arms and the passing on of details of republicans, the latter being the subject of the Stevens' Inquiry which reported in May 1990. The tone was set by Brigadier Ormerod, commander of the UDR in 1972, when he said that if one of his soldiers also belonged to the loyalist paramilitary Ulster Defence Association, he would take no action. Stevens' main recommendation was to tighten up on the screening and vetting of UDR recruits.

At the beginning of July, the head of the UDA, Tommy Lyttle, was jailed for seven years having pleaded guilty to a charge of threatening to kill witnesses in a UDA racketeering trial in January 1990. Along with four others, Lyttle faced a total of 51 charges relating to the possession of documents 'likely to be of use to terrorists' (see *Irish News* 21/6/91), charges which arose from the work of the Stevens' Inquiry. One of the documents came from RUC Headquarters. Ironically, it was the publication of leaked security forces' documents by the Ulster Freedom Fighters (widely assumed to be the 'active' arm of the UDA) which led to the Stevens' Inquiry and the subsequent UDA trial involving Lyttle. The UFF had sought to prove that its killings were not random and sectarian, but well-targeted on republicans on the basis of leaked information from the RUC and UDR. The UDA, although subject to the broadcasting ban, is *not* a proscribed organisation under the Emergency Provisions Act (i.e. it remains legal).

During the Lyttle case, it emerged that the documents at the centre of the trial had only been handed over to the Stevens' inquiry team following a request to the army by a chief superintendent. According to an expert witness, the fingerprints of Lyttle and his co-accused were among the 2,500 prints identified on the

documents, although the most prevalent prints belonged to Brian Nelson, described in court as 'the main character'. From behind a screen a prosecution witness, 'Soldier Z' claimed that the documents (all originals) had been passed back to the army by Nelson who, the witness added, had been acting as an army agent for ten years. As this evidence was being given, Nelson himself was appearing in another court charged with two murders and other offences.

As the Lyttle trial got underway, a World in Action programme broadcast on 17th June revealed that a black bin bag of sensitive security files had been found on a council dump at Drumaduff, a loyalist area of Co. Derry close to the nationalist town of Dungiven. The bag contained files on 21 republican suspects as well as details of the movements of MPs and contractors working for the RUC. Apparently, the bag was destined for incineration (and labelled as such according to the RUC) but for some reason had become mixed up with kitchen waste.

Three weeks later, another batch of files went missing in south Armagh, containing 88 photographs of IRA suspects. The RUC detectives interviewed several soldiers about this and there are suspicions that an undercover army unit may have been involved. In a spate of shootings in mid-August, including the loyalist ambush of a minibus taking relatives to visit republican prisoners, accusations of collusion were made once again. In particular residents of Divis (in West Belfast) demanded to know how two Ulster Volunteer Force gunmen had managed to walk into the area, kill a 28 year old man, injure his 7 year old daughter, and escape by car to the Shankill Road, all under the noses of the army observation post on top of Divis tower. Following the killing of a Falls Road newsagent on 10th August, the Loyalist Retaliation and Defence Group said the man had been targeted because his shop stocked An Phoblacht/Republican News. The Group claimed to have a comprehensive list of AP/RN suppliers and that any one of them would be targets for future attacks. After this statement, Sinn Fein councillor Fra McCann called on the RUC Chief Constable Hugh Annesley "to state publicly whether documents, which included lists of paper sellers, that were seized during an RUC raid of AP/RN's Belfast office in January of this year have been leaked to loyalist death squads". The third reason that the UDR is discredited in the eyes of nationalists is the routine harassment experienced chiefly at road blocks in those largely rural areas where the regiment is permitted to patrol - it does not venture into West Belfast, the Bogside (Derry), or south Armagh.

As an Irish News editorial put it, 'the slovenly ill-disciplined part-timers have been a particular menace. It is disturbing for law-abiding drivers to be confronted by yobs with guns who in a more civilised society might expect to be in prison or a mental institution'.

By 1990, Lord Hunt himself had come to the conclusion that 'the distrust of the minority population in the B Specials had been inherited... the UDR should be phased out'. The UDR has come under sustained attack over the last 21 years. The IRA has killed an estimated 195 serving members and 47 former members of the regiment, and 405 have been wounded. Hence Unionist MP and ex-UDR Major Ken Maginnis' view that the regiment has exercised considerable restraint under severe pressure. While Maginnis welcomed the idea that the UDR would soon be a 'royal' regiment and that the part-time element would remain, at least for the time being, others were more critical of the change. Linking the merger to the political influence of the Dublin government, the Democratic Unionist Party's press officer, Sammy Wilson, described the change as 'one of the most cowardly cave-ins ever attributable to the British government'. The News Letter predicted a flood of resignations and some Unionists called for a re-think on the name -

the preferred option being 'Royal Ulster Regiment'. One member of the UDA's Inner Council said 'there are people who have been in the UDR for the last 20 years and it's understandable that they feel betrayed by this. But they should remember this - we in the Ulster Defence Association are still there ... If people want to come and join us that would be understandable. From what we hear there is a lot of disillusionment about this.'

Sinn Fein president and West Belfast MP Gerry Adams described the UDR/RIR merger as a cosmetic exercise and called for the total disbandment of the UDR. SDLP MP Seamus Mallon pointed to the paradox that while the British Army was being heavily cut, troop numbers were being reinforced in Northern Ireland. He criticised the retention of the part-time element and wanted to see the new regiment fully integrated with the British Army, and hence eligible for service beyond the confines of the North of Ireland.

*Irish News*, 20.6.91, 1, 16, 20, 24.7.91, 3.8.91; *Northern Ireland Office press release* 23.7.91; *Guardian* 20.7.91 & 17.8.91; *AP/RN* 15.8.91.

## Military - new material

**Western State Terrorism**, edited by Alexander George, Polity Press, 1991, pp264, £11.95 (pb). With an introduction by Noam Chomsky this book gives an account of the forms of terrorism supported by the United States and its allies. Includes a chapter by Bill Rolston on 'Containment and its failure: the British state and the control of conflict in Northern Ireland'.

## House of Commons debates

Armed Forces (Re-committed) Bill, 14.6.91, cols 1223-1230  
Armed Forces (Discipline) Bill, 17.6.91, cols 90-119  
Royal Navy, 24.6.91, cols 1172-1237  
Arms Control and Disarmament Bill, 9.7.91, cols 871-892  
Naval support (charges), 17.7.91, cols 357-371  
Cambodia (ref. SAS), 22.7.91, cols 865-885  
Nuclear deterrence, 22.7.91, cols 927-943  
Army (restructuring), 23.7.91, cols 1035-1051

## CIVIL LIBERTIES

### Civil liberty Agenda

The summer issue of the newsletter of the National Council for Civil Liberties carries an interview with the mother of Michael Hickey, one of four men convicted for the murder of Carl Bridgewater at Yew Tree Farm in 1978 and an article by John Wadham, Liberty's Legal Officer entitled 'Appealing against the system' which goes through the problem of miscarriages of justice and the appeals system.

From: 21 Tabard Street, London SE1 4LA.

### Human rights concerns

Amnesty International's (AI) latest report on the United Kingdom sets out seven major areas of concern: ill-treatment by police and prison officers; fair trial issues; arrests and detentions on national security grounds; killings by security forces; collusion between security forces and armed groups; derogation from international Conventions; and the treatment of asylum seekers.

The majority of documented cases of ill-treatment come from Northern Ireland, and relate to the treatment by the RUC of Catholic suspects, in which complaints of assault are consistently

high and have almost never resulted in disciplinary action or prosecution against the officers concerned. In England and Wales, the cases documented by AI include that of Mohammed Hajiazim, awarded £25,000 damages in March 1991 as a result of his claim that Metropolitan police officers had hit and kicked him between the legs after his arrest for a parking offence, resulting in his having to have a testicle removed.

AI expresses concern that unfair trials result from the denial of legal advice to suspects and the use of uncorroborated and contested admissions to secure convictions - features both present in the Broadwater Farm cases of Winston Silcott, Mark Braithwaite and Engin Raghip as well as in the Guildford Four and Birmingham Six cases. Other concerns in this area relate to the continued use of Diplock courts in Northern Ireland and the special rules of evidence there.

AI is highly critical of the national security detentions and deportations of Middle East nationals in 1990 and 1991. Some of those detained and deported may, according to AI, have been detained for their non-violent political activities, and as such may have been prisoners of conscience. The procedure used during the Gulf War whereby a panel of advisers reviewed national security deportations is condemned as contravening international standards of treatment.

Suspicions of extra-judicial executions by security forces in Northern Ireland are, according to the report, exacerbated by coroner's inquest rules and procedures which make it almost impossible to get at the truth behind someone's death. AI is also extremely critical of the handling of leaks by the RUC to loyalist paramilitary groups of detailed information on IRA suspects, including addresses, which pointed to official involvement in sectarian killings. It criticises, too, the government's derogation from the European Convention of Human Rights in response to the Human Rights Court's finding that the detention of suspects for seven days under the Prevention of Terrorism Act violated the Convention.

Finally, the report condemns the illegal removal of asylum-seekers, the lack of disciplinary action against immigration officers who behave illegally, and the lack of a UK right of appeal against the refusal of asylum. The report was published before the Home Secretary's announcement of changes to refugee procedures, and since its publication AI has added its voice to the condemnation of those further restrictions on refugees' human rights.

*United Kingdom: Human Rights Concerns. Amnesty International, June 1991*

### Civil liberties - new material

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

**Police detention: A practical guide to advising the suspect**, Chris Lethem, Waterlow, 1991, 173pp.

**Citizens' Europe: Policies for the political and institutional reform of the European Community**, Liberal Democrats, (Federal Green Paper No 20) Liberal Democrats, 1991, 32pp, £4.

**Taking children seriously: a proposal for a Children's Rights Commissioner**, Martin Rosenbaum and Peter Newell, Calouste Gulbenkian Foundation, 1991, 76pp, £5 (pb).

**Seventh report of the Data Protection Registrar** (553) HMSO, July 1991, 87pp, £11.40 (pb)

**Presenting your case to Europe**, Danton de Rouffignac, Peter Mercury, 1991, 245pp, £25.

**Press freedom in Britain**, David Flintham and Nicholas Herbert, The Newspaper Society, June 1991. 34pp.

**Law, liberty and Australian democracy**, Beth Gaze, and Melinda Jones, Law Book Company, Australia, 1990. 505pp, \$69 (pb).

**Regulating the media**, Thomas Gibbons, (Modern Legal Studies) Sweet and Maxwell, 1991, 189pp, £27.50 (hb).

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## House of Commons debate

Women's rights, 24.6.91, cols 1238-1244

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## RACISM

### Rise in racist attacks

In a written answer to Keith Vaz on racist attacks, Peter Lloyd, Minister of State at the Home Office, said that 6,459 racial incidents were reported to police forces during 1990. Later in another written answer, using figures compiled by Her Majesty's inspectorate of constabulary, the number of incidents for 1990 was 6,359 - up on the previous year by over 1,000. The difference between the two figures is not clear.

A recent report by the Greenwich Action Committee Against Racist Attacks claims that 254 racist incidents were reported to them in the south-east London area in the past year. The figure is nearly a hundred more than in the previous year.

Southwark council has also reported a wave of racist incidents in the borough, with 30 attacks taking place in three months. This spate of attacks coincided with the BNP's decision to stand a candidate in a local by-election. Their candidate, Stephen Tyler, polled 132 votes. Black groups are planning to hold a march and rally to demonstrate against the attacks, which the BNP have threatened to oppose.

*Hansard*, written answer 6.6.91, 3.7.91; *South London Press*, 23.7.91

### Racist attacks increase in Scotland

Anger is growing in Scotland at the news that the British National Party (BNP) is putting up four candidates in Glasgow and Edinburgh at the next general election. BNP leader John Tyndall, has recently moved up to Scotland to spearhead their campaign.

Scotland's Campaign Against Racism has reported an increased number of attacks; and figures published in *Hansard* show that the number of reported incidents in Scotland has increased from 299 in 1988 to 546 in 1990.

*Voice*, 11.6.91; *Hansard*, written answer, 3.7.91

### Book review

**Deadly silence: Black deaths in custody**, Institute of Race Relations, 2-6 Leeke Street, London WC1X 9HS, pp75, £4.

This disturbing publication from the Institute of Race Relations investigates nearly forty cases of black deaths in custody. The

pamphlet is divided into three sections on 'Death and the police', 'Death in prison' and 'Death in hospital custody'. The policing section looks in some detail at deaths that occur while on patrol and raids on the home; deaths on arrest and while at the police station. The Prison section covers: misdiagnosis; inadequate treatment; aggravated suicides and deaths following violent treatment. Chapter 4 is a roll call of 75 black deaths that have occurred in custody since 1969. The overwhelming evidence presented in this book demonstrates that black people suffer unequal, and sometimes fatal, treatment at every stage of the Criminal Justice system. In the final chapter 14 recommendations are made to redress this imbalance by protecting the rights of black people in custody and, in the case of a death, ensuring that custodians are held to account.

### Racism - new material

#### The bigger Tory vote, Toczek, Nick, AK Press, pp47, 1991.

Toczek's pamphlet documents the links between the New Right, leading British and Italian fascists and the intelligence services. It contains profiles of such luminaries as G K Young, Harvey Procter and Lady Jane Birdwood.

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## EUROPE

### Netherlands: political intelligence gathering reorganised

In June 1991, the long-awaited report was published of the working group 'co-operation structure Police/BVD', chaired by the Apeldoorn chief of police, J W Bakker. This report proposes some solutions to the continuing problem of local political intelligence mishaps by the Plaatselijke Inlichtingendiensten (PID's), resulting from outdated concepts and amateurish methods of local sleuths spying on pacifists and communists.

The 40-page report stresses the importance of a professional approach to local political intelligence gathering. Parallel to the ongoing police reorganization, which will transform the Dutch police into 25 regional departments and one national body, the working group advises creating regional intelligence services (RID's), staffed with full-time personnel. Strict planning, reporting and evaluation procedures are proposed to change the present semi-autonomous practices, and integrated training programs of BVD and police personnel are proposed to bring RID and BVD employees on the same level of knowledge and skills. One important element in the reforms will be the central administration of all political intelligence in a region, including the detailed registration of all 'work contacts' with agents and informers 'for the protection of the employees themselves'.

This is clearly a reaction to past events in which PID case officers were 'taken over' or blackmailed by their contacts, or started deploying them for their own private undertakings, including cases of fraud, extortion and arson.

By tasking the new RID's with providing tailored BVD information to local authorities, a more effective and influential use of intelligence is anticipated. Also, structural co-operation with local criminal intelligence services involving exchange of information and sharing of investigation facilities is deemed necessary to deal with 'disruptive phenomena' of shared interest.

In relation to present developments on the European scene, the new RID's are to establish or intensify contacts with their foreign counterparts. The committee proposes profiting from experiences with methodologies and training courses in the field of political intelligence in other Schengen or Trevi states. Even more urgent

however is the lack of standardization in local PID computer systems, which in many cases renders an efficient exchange of information virtually impossible. The Dutch parliament is expected to discuss the new proposals at the end of the year.

## Police Cooperation in a European Perspective

At the Free University of Amsterdam, a research project headed by Professor T M Schalken has started, in which police law in the five primary partner states of the Schengen Agreement is to be compared. Attention will be focused on the law-constituting and political implications of the planned intensification of police cooperation. What specific law is to be applied to this police cooperation and how does such cooperation function in the reality of crime-fighting? Is there a need for a broader juridical foundation of this cooperation?

For more information: Prof. Mr. T.M. Schalken, Faculty of Law, Department of Criminal Law Studies, Vrije Universiteit, De Boelelaan 1105, 1081 HV Amsterdam, tel. ++31 20 548 6943.

## Germany: police annual statistics

The German police produced their annual statistics on 1990. Some of the more interesting figures are given below, with the figures for 1989 in brackets.

The number of reported political explosives and firebomb attacks in 1990 was 139 (146). The number of incidents investigated in relation to state security was 10,335 (13,043). Of these, 3184 (4042) concerned endangering the democratic state order, 106 (280) concerned investigations under clause 129a, forming a terrorist organization. Unlawful entry, which in this context means squatting, was up to 142 (96), a rise due to the many squats in former Eastern Berlin. "Landfriedensbruch", meaning breaking the peace of the land, occurred 433 (580) times, and violating the public demonstration law 474 (369) times: these figures point at the reduced number of demonstrations in Germany. The rest of the state security offences are in the main ones like resisting police officers, public threatening to commit crimes, stirring up a crowd, insulting a police officer, inflicting bodily harm, damaging property, etc. These figures indicate that among the Schengen countries there is a difference of opinion on what should be considered a crime against state security.

The number of people that died in relation to the abuse of narcotics in Germany in 1990 was 1478, (1989: 991, 1988: 670). This is generally seen as an indication that the German strategy of not making any distinction between soft and hard drugs, and threatening drug abuse as a crime problem instead of a serious public health issue, is not working.

In response to a parliamentary question regarding German GSG 9 counterterrorist police providing training to Turkish nationals, the Minister of State of the Ministry of the Interior, Mr Lintner, admitted recently that from 1981 to 1986 some 18 Turkish police specialists attended advanced courses, each lasting several months, in counterterrorist tactics and techniques.

## Dutch Court Acquits Irish

In May 1990, the IRA claimed responsibility for killing two London-based Australian lawyers on holiday at Roermond, Holland, saying they were mistaken for off-duty British soldiers. Donna Maguire, Sean Hick, Paul Hughes and Gerard Harte were charged with the murders, but only Harte was found guilty and given an eighteen year sentence. Maguire, Hick and Hughes remained in custody, however, to face charges of IRA membership,

to await proceedings for extradition to Germany and because the prosecution wished to appeal against the verdicts in the original murder trial. The Dutch Appeal Court on the 5th July not only rejected the prosecution's appeal, but acquitted Harte as well, concluding that the case against the four was almost entirely circumstantial. Following the acquittal, the four remained in jail awaiting the outcome of the IRA membership case.

The four were acquitted of the membership charge on 12th July. Harte was released and flew back to Ireland where he was immediately arrested at Dublin Airport under Section 30 of the 1939 Offences Against the State Act. Ostensibly, he was questioned about firearms offences relating to July 1989, but was released 24hrs later. Harte himself maintains that the Gardai spent most of the time 'ranting' about the Dutch case and offered him money to provide information on republicans. The Dublin arrest occurred after Harte's Dutch lawyers had been informed by the Irish authorities that he was not wanted for any offences in the Irish Republic. Harte is from Lurgan in the North and an RUC source made it clear that it would not be wise for him to return home.

Maguire, Hick and Hughes are still in jail pending the completion of proceedings for extradition to Germany. Maguire is contesting her extradition and the Dutch Supreme Court will hear her appeal in September.

The acquittals caused a minor storm amongst British MPs, some of whom suggested that there were now serious diplomatic problems between the British and Dutch governments. Ivor Stanbrook of the Conservative back-bench Northern Ireland Committee called for Holland to be excluded from the TREVI Group because 'the Dutch have shown a totally unrealistic attitude with regard to the battle against terrorism in Western Europe'. Labour called on the Foreign Office to insist that the Dutch revise their 'flawed' laws on terrorist activity.

*Irish News, 13.7.91 & 15.7.91.*

## Human rights rulings: some decisions of the European Commission of Human Rights and the European Court of Human Rights

**Telephone tapping:** In a judgment given in April 1990 (*Kruslin and Hurnig v France*) the European Court of Human Rights held that the French system of telephone tapping violated Article 8 of the Convention (the right to privacy), since French law did not declare with sufficient clarity the scope and manner of the exercise of the discretion to authorise telephone tapping. The Court said that telephone tapping represented a serious interference with private life and communications and accordingly had to be based on a law which was particularly precise. It was essential to have clear, detailed rules on the subject, especially as the technology is continually becoming more sophisticated. The categories of people liable to have their phone tapped by judicial order and the nature of the offences which might give rise to such an order were nowhere defined. Nothing obliged a judge to set a limit on the duration of the tapping. The information from the government on these and other points showed at best the existence of a practice, but one lacking the necessary regulatory control in the absence of legislation or case law.

**Restrictions on journalists:** The Commission held inadmissible the complaint of Betty Purcell and others against the government of Ireland's restrictions on journalists which prohibited them from broadcasting interviews with members of certain listed organisations (the complaint alleged that these restrictions violated Article 10, freedom of expression). However, it found that Article 10 had been violated by the British government's temporary injunctions against the Observer, the Guardian and the Sunday

Times to prevent them from publishing extracts from 'Spycatcher'. The cases (*Observer and Guardian v UK; Sunday Times v UK*) went to the Court for hearing on 25 June 1991. The Commission also found a breach of Article 10 in the Irish government's ban on the provision of information to pregnant women as to names and addresses of abortion clinics in the UK (*Open Door Counselling and Dublin Well Woman Centre v Ireland*).

**Detention on remand:** Remand prisoners awaiting trial for periods approaching 3 years were held by the Commission to be victims of violations of Article 5(3), which guarantees the right to have a trial within a reasonable period or to be released pending trial. The case of *Clooth v Belgium*, in which a murder and arson suspect had been held for 3 years, was referred to the full court for hearing on 24 June 1991. In *Letellier v France* the Court held on 26 June 1991 that the detention pending trial of a suspect for 2 years and 10 months was a violation of Article 5(3).

**Expulsion:** In *Moustaquin v Belgium* the Commission found a violation of Article 8 (the right to family life) by the Belgian government's expulsion of a Moroccan national aged 20, who had committed a number of serious offences, who had lived in Belgium virtually all his life, spoke no Arabic and knew no-one in Morocco. *ECHR Press Releases 19-26.6.91; Human Rights News 200(91) 3.6.91; Council of Europe Human Rights H/Inf (90)2, Information Sheet No. 26.*

#### Europe - new material

**Europe and 1992**, Ann Dummett, 1990, pp28, £1.50. Catholic Association for Racial Justice.

**British Identity Cards: the unpalatable logic of European membership?** David Lyon, *Political Quarterly*, Vol 62, no 3, 1991, pp377-385. Looks at the implications of ID cards recalling that such a system of compulsory cards existed in Britain between 1939-52.

**European Union: Fortress or democracy? Towards a democratic market and a new economic order**, Michael Barratt Brown, Spokesman, 1991, pp129, £7.95 (pb). The book raises questions about the failure of economic command systems in the East to deliver the goods and the equal failure of the capitalist world market to meet the needs of more than a small minority of the world's people.

**Europe into the 1990s: An end to the post-war era?** Nicholas Hopkinson, Wilton Park Papers no 8, 1988, pp29. **The interdependent triad: Japan, the United States and Europe**, Richard Latter, Wilton Park Papers no 19, 1989, pp28. **Ethics and Foreign Policy in the Common European Home**, Geoffrey Denton, Wilton Park Papers no 28, 1990, pp38. **A new Europe?** Geoffrey Denton, Wilton Park Papers no 30, 1990, pp29. **A new Germany in a new Europe**, John F Dunn, Wilton Park Papers no 36, 1990, pp29. All available from HMSO at £7.50 each.

**'Gladio' and the European secret armies**, Open Eye, Issue 1, 1991, pp31-36 (Open Eye is available from: c/o Bookmarks, 265 Seven Sisters Road, London N4 2DE, price £1.20).

**Puppet masters: the political use of terrorism in Italy**, Willan, Philip, Constable 1991, pp375, £30. With the continuing disclosures about the Gladio paramilitary network Willan's book is a timely summary of recent developments. Referring extensively to untranslated sources such as the investigations of Italian magistrates and interviews and articles in Italian journals Willan

concludes that 'the lions share of the blame must go to those members of the Italian secret services who deliberately fostered terrorist violence...' Nonetheless, the number of acquittals of right-wing terrorists, which continue to the present day, indicates that there is still a great deal more that the Italian authorities (not to mention the CIA) would like to see kept in the dark.

**The European Convention on human rights in Scots law**, J L Murdoch, *Public Law*, Spring 1991, pp40-51.

#### **House of Commons debates**

European Community, 24.6.91, cols 1011-1096

European Standing Committees, 24.6.91, cols 1097-1114

## NORTHERN IRELAND

#### **Disputed killings by security forces**

Since 1985, Amnesty International has been calling on the British government to establish new procedures which would ensure that the full facts behind disputed killings by the security forces (otherwise known as 'shoot to kill' incidents) are brought into the public arena. Specifically, Amnesty International would like to see an independent judicial inquiry set up to investigate all disputed killings since 1982. This would include the killings at the centre of the Stalker/Sampson investigation, the findings of which were never published. Although in this case the Attorney General said the investigation revealed evidence that RUC officers had conspired to pervert the course of justice, he decided that none would be prosecuted - in the interests of 'national security'. Yorkshire TV's award winning drama documentary, Shoot to Kill, based on events surrounding the Stalker affair has been broadcast in Britain but not in Northern Ireland. It was due to be screened by RTE on 9th August but was withdrawn at the last minute despite extensive pre-broadcast publicity. The programme was withdrawn seemingly because of the possibility of Sir John Hermon, former Chief Constable of the RUC, issuing libel proceedings against RTE.

In recent years, the United Nations Special Rapporteur on summary or arbitrary executions has set out the minimum requirements for proper investigations into such cases, and these were endorsed by the UN General Assembly in 1989 as 'The United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions'. Amongst other things, the principles call for thorough, prompt and impartial investigation, and for powers to obtain all necessary information. All information relevant to the investigation should be made available to families of the deceased and a written report should be published. If normal procedures do not allow for the application of such principles then special public inquiries should be established.

Because of the absence of such procedures, the family of Fergal Caraher (20), who was shot dead at Cullyhanna by soldiers on 30th December last year, called for the setting up of a public inquiry, a request denied by the government. Indeed, the family have even been denied access to the autopsy report. Hence local people set up their own inquiry with the assistance of the Irish National Congress and the Cullyhanna Justice Group. Over the weekend of 22/23 June, Michael Mansfield QC chaired a panel of legal experts from the USA and Europe which took evidence on the killing. On the final day of the inquiry, the shooting was reconstructed largely

from the evidence of Michael Caraher (Fergal's brother) who survived the attack. A full report will be sent to the DPP, the Irish government and human rights groups. In another disputed killing in September 1990, two West Belfast 'joyriders' Karen Reilly and Martin Peake, were shot dead by soldiers who claimed they opened fire because one of them had been hit by the car being driven by Peake. In a Panorama programme broadcast on 22nd July, a witness claimed that the soldiers faked an injury after the shooting to make it look as if one of them had been hit by the car. Shortly after the programme six soldiers from the Parachute Regiment appeared in court to face charges in connection with the incident. Three are charged with the attempted murder of Peake and one, Private Lee Clegg, with the murder of Reilly. At the remand hearing, the only RUC officer on patrol with the sixteen soldiers present at the shooting gave evidence that he had heard the soldiers deciding on who was to be the one supposedly hit by the car. This soldier then lay on the ground while another struck him on the leg.

*Irish News* 24.6.91.

## Repatriation

The British Labour Party has undertaken to transfer Irish prisoners back to jails in the North. In Belfast on the 18th of June, Kevin McNamara said, 'a Labour government would transfer these prisoners home but I could not quite give them an exact date or time on this.'

There are currently 38 Irish Category A prisoners in British jails whose offences were 'related to paramilitary activity'. Among these are Robert Walsh (42), William Armstrong (43) and Paul Holmes (43) jailed in 1973 along with five others for causing and plotting explosions. They caused no fatalities but were nevertheless given life sentences. Convicted with them were Marian and Dolours Price, transferred to Northern Ireland in 1975 after prolonged hunger strikes (216 days) and forcible feeding (lasting 166 days). Marian and Dolours were released in 1980 and 1981 respectively. Gerard Kelly, one of 38 who escaped from the H Blocks in 1983, was another involved in the case. He was later captured in Holland and extradited back to the North, a condition of the Dutch court being that the British authorities drop his life sentence, which they did. Kelly was released in 1989. The other two in the case, Hugh Feeney and Martin Brady, are also now free.

Walsh, Armstrong and Holmes were the subjects of an Appeal Court ruling on 1st August. The three had sought to argue that their life sentences were wrong in principle. Justices Beldam, Saville and Buckley pointed out that the original defence team had decided not to challenge the sentences, because they believed that a substituted sentence might have resulted in a longer prison term. Lord Justice Beldam said that it was not considered at the time of the trial that life was too severe or wrong in principle. The release of the men was an executive decision of the Parole Board and the Home Secretary, not one for the Court of Appeal. The appeal was refused. The men will now apply for a judicial review of the decision of the Parole Board and Home Office not to release them. Now in their nineteenth year in prison, they have been told that they will next be considered for release in 1994. The Appeal Court's decision came a few days after the Commons rejected an attempt by the House of Lords to end mandatory life sentences for murder. In April the Lords had amended the Criminal Justice Bill with a majority of 98, but on 25th June the Commons overruled the amendment with a vote of 236 to 158.

In June it was revealed that Ulster Freedom Fighter member Albert 'Ginger' Baker had been transferred from Long Lartin to Maghaberry. He was given a life sentence in England in 1973 on four separate counts of murder. Two years ago, Baker wrote to the

Irish News alleging that senior RUC officers handed over documents on members of the nationalist community to UFF assassination teams. Baker is the first prisoner to be transferred this year. 31 requests for transfer to the North have been made in 1991 (from January to 31st May) and so far 18 have been refused, two withdrawn and the rest are outstanding.

Between 1985 and 1990 a total of 229 requests for permanent transfer to the North were made. 14 of these were withdrawn and in five cases prisoners were released on appeal or parole before a decision was reached on the transfer request.

Over this period a total of 32 prisoners were transferred, but no information is available on whether those transferred were loyalists or republicans, or prisoners whose offences were unconnected to the current conflict.

*Hansard*, written answers 14.6.91, cols 691-3; *Irish News* 26.6.91.

## The Right to March

On International Women's Day, a group of women from West Belfast sought to march to Belfast city centre. They were stopped by the RUC because one of their banners was in Irish and 'the fundamental principle on which RUC decisions are made in respect of parades is whether or not they are likely to affect peace and public tranquillity'. Since then, the Right to March Group has had two other proposed city centre parades banned, on 21st April and 26th May.

Under article 3 of the Public Order (Northern Ireland) Order 1987, not less than seven days notice must be given by anyone organising a public parade, procession or demonstration. Only funerals are exempt, although these remain regulated under the Emergency Provisions Act. Anyone filing for a march must give precise details of time, route, numbers participating, stewarding arrangements and name and address of the organiser. The RUC has powers to ban marches, to re-route or confine them more or less as it thinks fit, except that RUC decisions on parades have recently been the subject of a number of cases of judicial review.

A resident of the 95% nationalist village of Pomeroy applied for a judicial review of the RUC's decision to allow 7,000 Orangemen to parade through the village on the 12th of July (the date on which Orangemen commemorate the Battle of the Boyne). The resident's lawyer argued that if the parade was not re-routed, then residents had only three choices facing them - to remain at home acting normally and thereby risking violence; imposing a curfew on themselves and staying indoors; or leaving the village altogether for the day. In any event, the Orangemen would cause considerable disruption to the ordinary life of the community, one of the grounds under the public order legislation for re-routing such a parade. The application was rejected and the parade allowed to proceed.

The Right to March Group applied for a judicial review to compel the RUC to make an early decision on their application to march from the Markets area to Belfast City Hall on July 28th. The Markets is adjacent to the city centre and marchers would not pass through any residential areas. Before the High Court made its decision, the RUC gave permission for the march to go ahead.

A similar legal battle surrounded the hunger strike/internment anniversary rally on 11th August, attended by more than 20,000 people. The RUC held off giving a decision on whether groups from the Markets and Short Strand could march across the city centre (deserted on a Sunday) to join the Falls Road rally. The Chief Constable was challenged in court to make an early decision on the application to march. At one stage the judge asked the Crown lawyer, 'Is he (the Chief Constable) not being bloody minded in mucking up the arrangements the organisers have made

for the march?' The RUC eventually allowed the Markets group to march but refused permission for the Short Strand group to parade over the Albert bridge - the only obstacle between this small nationalist enclave on the edge of east Belfast and the city centre.  
*Irish News*, 22.4.91 & 10.8.91.

## Northern Ireland - new material

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*Irish Reporter*, issue number 3 has an interview with Gareth Pierce and includes the following articles: **Challenging Time: Political Status Revisited**, by Robert McClenaghan and Jim Gibney. **Lost in France: An Irish Prisoner's Tale**, by Bill Rolston. **The Birmingham Six and After**, by Michael Farrell. **Turning Into a Nightmare: Students and the PTA**, by Linda Sever.

**Irish Rebels in English Prisons**, O'Donovan Rossa, Jeremiah, Dingle, Brandon Book Publishers Ltd, 314pp. This book is a reprint of a collection of writings of the famous Fenian imprisoned as business manager of the newspaper The Irish People in 1865. After six years in six different English prisons, O'Donovan Rossa was released and exiled to the USA where he became editor of the United Irishman. The original work, O'Donovan Rossa's Prison Life, was published in 1874.

**Unreliable Confessions**, Farrell, Michael, The Independent Magazine, 6th July 1991, pp. 24-30. A comprehensive account of the Judith Ward case.

**Web of Punishment**, Carol Coulter, Dublin: Attic Press, 157pp. Written by award winning Irish Times journalist Carol Coulter, this book focuses on the experiences of the families of Irish political prisoners in jails in Britain and Northern Ireland. More than 100,000 partners, children and close relatives are caught up in the web of punishment.

**British government policy in Northern Ireland 1969-89 - its nature and execution**, Michael J Cunningham, Manchester University Press, 1991, pp292, £40.

## House of Commons debates

Northern Ireland (Emergency Provisions) Bill, 20.6.91, cols 485-513

Northern Ireland (Interim period), 20.6.91, cols 514-575

Peace train (NI), 19.7.91, cols 730-736

RUC Chief Constable's report, 25.7.91, cols 1293-1302

## LAW

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### Miscarriages of justice

On 26 June, the Appeal Court decided that the convictions of the Maguire Seven, including Giuseppe Conlon who died in prison in 1980, were unsafe and unsatisfactory. But the judgement was regarded as far from satisfactory by the Maguire family and their supporters. The decision to quash the 1976 convictions was on only one of the six grounds heard by the Court, namely that 'the possibility of innocent contamination (with nitroglycerine) cannot be excluded'. The judges therefore accepted the original forensic evidence even though it was the interim findings of the May inquiry into the Guildford and Maguire cases which strongly criticised the forensic scientists involved and which finally forced the Maguire case back to the Appeal Court. In an entirely hypothetical example

used as the basis for the Court's judgement, Lord Justice Stuart-Smith suggested that all seven appellants may have used the same bathroom towel, which may have been contaminated with nitroglycerine. No evidence of explosives was found anywhere in the house even though it was dubbed 'Aunt Annie's Bomb Factory' by the press.

At the end of June, Gareth Pierce acting for Judith Ward submitted material to the Home Office questioning the forensic evidence in the 1974 case. Ward was given twelve life sentences plus thirty years for planting a bomb on an army coach which exploded on the M62 killing nine soldiers, a soldier's wife and her two sons. She is one of the longest serving women prisoners in Britain and has never appealed against her conviction despite maintaining her innocence.

Judith Ward was convicted on the basis of forensic and confession evidence, even though at the time the coach bomb was planted she was 100 miles away. Dr. Frank Skuse, the discredited Home Office forensic scientist involved in the Birmingham Six case, claimed to find traces of explosives on both of Ward's hands using the widely-criticised Griess test. As Michael Farrell points out, when the more sensitive Thin Layer Chromatography test was carried out, Skuse's results were not confirmed. This time only faint traces were reported on one of Ward's hands. The weakness of the forensic data was clearly acknowledged during the West Midlands police interrogation of one of the Birmingham Six, Paddy Hill, when he was told, "you've got more 'jelly' on you than Judith Ward". It is now accepted that Hill had never touched or handled gelignite.

### Retired judges reflect on Irish trials

In July, Lord Denning, the former Master of the Rolls, wrote to *The Times* withdrawing comments he had made earlier regarding the acquittal of the Winchester Three - Finbar Cullen, Martina Shanahan and John McCann - in April 1990. During the original trial in October 1988 the Secretary of State for Northern Ireland (at the time Tom King) held a much-publicised press conference at which he announced that the government had decided to withdraw the traditional right to silence in Northern Ireland. He suggested that this was necessary because terrorists had trained themselves to resist interrogation and remain silent. Silence, in other words, could be taken as an admission of guilt. This press conference was held on the very day that the Winchester Three had decided to fight their case through legal arguments rather than take the witness stand. It clearly made a fair trial impossible. When the three were finally released on appeal, Denning stated publicly that they were released on a legal technicality and implied that they were in fact guilty. Denning's latest letter states, 'The Court of Appeal would have ordered a re-trial but for the law which did not permit it. So all they could do was quash the convictions and enter a judgement and verdict of acquittal. This means that the Winchester Three were not guilty. I would like to take this opportunity of withdrawing unequivocally any implication to the contrary in my previous letter.'

Speaking to RTE in Dublin on 3 July, retired Judge Pickles said that British troops should come out of Ireland immediately because 'they symbolize centuries of oppression by the British upon the Irish'. He argued for an international peace-keeping force to replace the British. Pickles again called on Lord Lane to resign as 'the only way the judiciary could apologise' for the wrong done to Irish people. In the Birmingham Six case, Pickles said, Lord Lane was concerned 'not to have to admit that the system had got it wrong and that innocent people had been kept inside for 16 years. He just couldn't face that...'

*Irish News* 4.7.91 & 22.7.91.

## **Conference: Technology and law**

The 7th conference of the British and Irish Legal Education Association (BILETA) is being held at the University of Warwick on 9-10 April 1992. The title is: Technology and law. For details contact: Mrs Moyra Butterworth, Information Officer, CTI Law Technology Centre, Social Studies Building, University of Warwick, Coventry CV4 7AL. Tel: 0203-523294.

## **Law - new material**

**International action against drug trafficking: trends in United Kingdom law and practice through the 1980s**, William C Gilmore, *Commonwealth Law Bulletin*, January 1991, pp287-313.

**A private function**, John Griffith, *Guardian* 26.6.91. Looks at how judges 'reveal their political position in the way they interpret the public interest...'

**Miscarriages of justice and the accessibility of the Court of Appeal**, Kate Malleson, *Criminal Law Review*, May 1991, pp323-332.

**Diversion of mentally disordered offenders from custody**, Phil Fennell, *Criminal Law Review*, May 1991, pp333-348.

**English DNA evidence held inadmissible**, Neil McLeod, *Criminal Law Review*, August 1991, pp583-590.

**What's wrong with rights? Problems for feminist politics of law**, Elizabeth F Kingdom, Edinburgh University Press, pp172, hardback, £25.

**The permanent revolution? Conservative law and the trade unions**, John McIlroy, Spokesman, 1991, pp256, £9.95 (pb).

**Defences for women who kill**, Katherine O'Donovan, *Journal of Law and Society*, Summer 1991, pp219-240.

**Prostitution, Criminal Law and morality in the Netherlands**, Boutellier, J, *Crime, Law and Social Change* Vol 15, no 3 1991. The paper discusses the proposal to abolish the prohibition of brothel keeping in the Netherlands.

**Technology, property and law: The case of Computer Crime**, Michalowski, R et al, *Crime, Law and Social Justice*, Vol 15, no 3, 1991. The article examines computer crime in the U.S.A. with particular reference to the laws passed in some states between 1975 and 1986 which criminalised unauthorised access to computer based information.

## **House of Commons debates**

Criminal Justice Bill, 24 June 1991, cols 866-954

Criminal Justice Bill, 16 July 1991, cols 309-325

BCCI, 8.7.91, cols 660-674; 22.7.91 cols 757-764 & 905-926

High Court Judges, 22.7.91, cols 944-955

## **PRISONS**

### **Prison suicides**

Since 1980 seven women have committed suicide while in prison, two in Holloway (1981 and 1985), four in Risley (1986, 1987, and twice in 1989) and one in Durham (1990). There is currently no information on attempted suicides.

*Hansard*, written answer, 11.6.91.

## **Prisons - new material**

**'When you aint got nothing, you got nothing to lose' - the Peterhead Rebellion, the state and the case for prison abolition**, Joe Sim, Institute of Crime, Justice and Welfare Studies, Liverpool Polytechnic, Liverpool L3 2ET, pp44. Paper presented at the British Criminology Conference, July 1991. The paper looks at why the state has problems restoring order and achieving hegemony in the prison system. The reasons include the emergence of radical prisoners' rights organisations; the critique of the radical critical criminologists who counterposed the individualistic explanation of prison conflict with an understanding of the wider structural processes; the continuing conflicts between management and prisoner officers and between the prisoners and the prison managers. At the centre of the paper is a critique of 'Opportunity and Responsibility' published by the Scottish Office in 1990 after a sustained period of conflict in Scottish prisons. One of the many areas ignored in the prison debate is that of accountability where a 'highly discretionary operational culture' allows prison staff 'a tight degree of control over the confined which is often unregulated and unaccountable'.

The paper ends by arguing the case for abolitionism: 'Like dinosaurs, prisons in their present form should become part of an era of human history that is worth studying but to which we would not want to return'.

**Prisoners, patients or people?** Rik Henderson and Mark Wallis, Freedom in Action, BM Box 37, London WC1N 3XX, pp150, £5. Deals with mental hospitals and interviews with ex-patients.

**A fresh start for women**, NACRO, July 1991, £4.50. A completely restructured women's prison system, based on small hostel-type 'prisons' near women's homes is proposed.

**Black communities and the Probation Service: working together for change**, NACRO, August 1991, £4.50. Produced against the background where black people make up 16% of the male and 26% of the female prison population: 'It is clear from prison statistics that black people sentenced to custody have fewer previous convictions than white prisoners'.

**A fresh start for women**, NACRO, July 1991, £4.50. A completely restructured women's prison system, based on small hostel-type 'prisons' near women's homes is proposed.

## **House of Commons debates**

Youth treatment centres, 24 June 1991, cols 687-696

Brixton prison, 8 July 1991, 649-659

## **SECURITY and INTELLIGENCE**

### **Telephone tapping: out of control**

In July Granada's 'World in Action' programme carried an interview with Robin Robison, an administrative officer in the Joint

Intelligence Unit (JIU) until last year. Mr Robison, a Quaker, resigned because of what he saw as the abuse of power by the intelligence agencies in monitoring telephone calls, telexes and other phone transactions. The JIU services the Joint Intelligence Committee (JIC) which collates and analyses intelligence from MI5, MI6, GCHQ, and Defence Intelligence (DI).

The programme revealed that GCHQ at Cheltenham and its listening post at Bude in north Cornwall are routinely gathering conversations quite unrelated to espionage. In the post Cold War period the gathering of economic intelligence has moved to the fore both on UK companies, competitors in Europe, and Third World countries. It is said that supposedly private communications of organisations like Rolls Royce, Marconi, British oil and mining companies are being intercepted.

It was also revealed that individuals whose action might embarrass the government or state agencies have also been targeted. These include the telephones of Lieutenant Robert Lawrence, the Falklands war hero whose story was told in the film 'Tumbledown' because of Ministry of Defence concern over his claim for compensation; the Vatican and Roman Catholic archbishops to evaluate their attitude to changes in Eastern Europe; Kathleen Tacchi-Morris, the founder of Women for World Disarmament; east European trade unions; and Campbell Christie, general secretary of the Scottish Trade Union Congress.

The interception of communications is not limited to individuals. Communications satellites over the Atlantic, Indian Ocean and the Middle East are routinely trawled through 'standard baseband surveys' or all calls to a particular dialling code are downloaded. The increased use of 'keyword' software now enables them to select and transcribe a greater volume of traffic.

The legality of this operation is highly questionable. The Interception of Communications Act was passed in 1985 after pressure from the European Court of Human Rights. It was supposed to place limits on those placed under surveillance and the grounds for doing so. The Act placed the formal responsibility on the Home Secretary to issue warrants but this GCHQ operation, run in conjunction with the US National Security Agency, comes under the Foreign Secretary.

*Guardian*, 16.7.91 & 17.7.91.

### **Security vetting - homosexuality**

The government has reviewed its policy on homosexuality being an automatic bar to top posts in the diplomatic service and other sensitive posts under the security vetting procedures. Homosexuality has been grounds for an automatic bar on clearance on PV (TS) - positive vetting (top secret) - or enhanced positive vetting (EPV) posts.

The Prime Minister announced in July that the automatic bar is to go but 'the susceptibility of the subject to blackmail or pressure by a foreign intelligence service will continue to be a factor in the vetting of all candidates for posts involving access to highly classified information'.

The bar remains in the armed forces where 'homosexual acts remain offences under the service disciplinary Acts'.

However, a confidential Foreign Office memorandum to all staff entitled 'Homosexuality and Security Vetting' encouraging gay diplomats to be open about their sexuality warns they could be disciplined or sacked for past 'deliberate falsehoods and untrustworthiness'. The sexuality of staff is relevant, says the memo, to their susceptibility to blackmail.

*Hansard*, written answer, 23.7.91; *Independent*, 15.8.91.

### **Security and intelligence - new material**

**Smear! Wilson and the secret state**, Stephen Dorrell and Robin Ramsay, Fourth Estate, 1991, pp400, £20. A detailed, well documented and fascinating account of 'the secret history of the years 1964 to 1979, which reveals the influence covert politics played in determining how Britain was to be run'.

**The truth about dirty tricks: from Harold Wilson to Margaret Thatcher**, Chapman Pincher, Sidgwick & Jackson, 1991, pp343, £17.50.

**Gulf War launches 'New World Order'**, Philip Agee, Open Eye Issue 1, 1991, pp16-23 (Open Eye is available from: c/o Bookmarks, 265 Seven Sisters Road, London N4 2DE, price £1.20).

**Tap Tap... Who's there?** Ken Hyder, Police Review, 2.8.91, pp1572-3.

**The Security Commission: constitutional achievement or curiosity**, Ian Leigh and Laurence Lustgarten, *Public Law*, Summer 1991, pp251-232.

## **EMERGENCY PLANNING**

### **Shift from civil defence to emergency planning**

The Home Secretary announced in July that there was to be a further shift from civil defence towards emergency planning, reflecting 'the reduced risk of nuclear conflict and the need for better peacetime planning'. Civil defence plans will now be maintained on the basis that they 'could be brought into full readiness within a period of three months'. Local councils will be expected to maintain only one protected emergency centre instead of two, and the Royal Observer Corps is being disbanded.

This falls short of tackling the deficiencies in peacetime emergency planning outlined in a report by Mr David Brook, the Civil Emergencies Adviser. The report says that many councils do not maintain adequate peacetime emergency plans because the legislation is based on the amended 1948 Civil Defence Act.  
*Home Office press release*, 10.7.91.

### **Civil defence & emergency planning - new material**

**The role of the police at major incidents**, T I Dickie, *Journal of the Royal Society of Health*, August 1991, pp152-5

**The European Community, nuclear issues and local authorities**, Emergency Planning Committee, *South Yorkshire Fire and Civil Defence Authority*, 26.7.91, 5 pages.

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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.

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