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CORRECTED TRANSCRIPT OF ORAL EVIDENCE To be published as HC 333-iii

House of COMMONS

MINUTES OF EVIDENCE

TAKEN BEFORE

NORTHERN IRELAND AFFAIRS COMMITTEE

POLICING AND CRIMINAL JUSTICE IN NORTHERN IRELAND

Wednesday 12 March 2008

MISS MAGGIE BEIRNE

Evidence heard in Public Questions 141-208

USE OF THE TRANSCRIPT

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Oral Evidence

Taken before the Northern Ireland Affairs Committee

on Wednesday 12 March 2008

Members present

Sir Patrick Cormack, in the Chair

Mr David Anderson

Mr Gregory Campbell

Christopher Fraser

Mr Stephen Hepburn

Kate Hoey

Dr Alasdair McDonnell

Stephen Pound

Sammy Wilson

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**Memorandum submitted by Committee on the Administration of Justice**

**Examination of Witness**

Witness: **Miss Maggie Beirne**, Director, Committee on the Administration of Justice, gave evidence.

**Q141 Chairman:** Miss Beirne, you are very welcome. Thank you very much indeed for coming to give us evidence. Although it is a total breach of protocol, we do have a number of visitors from the parliament of Iran who have come to listen to this session and we are all delighted to see them. I gather that you have just retired.

Miss Beirne: And very happy as a result.

**Q142 Chairman:** I thought you had a bounce in your step when you came in. We are grateful to you for coming and we would obviously like to meet your successor on some occasion. Your organisation has been in existence since the early 1980s. Could you just, for the benefit of the Committee and for the record, say a little bit about the background and in particular about the funding of the organisation?

Miss Beirne: We were founded in 1981 at a conference at Queen's University, essentially with people coming together and saying we may not agree about the constitutional status of Northern Ireland - some of us believe it should be part of the United Kingdom, some of us believe it should be part of a united Ireland - but we do all agree that whoever is responsible for this jurisdiction must comply with international human rights standards. From 1981 to 1985 there was no staff; it was just a voluntary group of people, mainly legal academics but gradually a variety of social workers, campaigners and other people got involved. Then it took on staff in 1985 and now we have six full-time staff. We have a broad membership. We consider ourselves a cross-community organisation. We have always worked with anyone and everyone who has a concern about how to ensure that human rights are maintained and protected in Northern Ireland.

**Q143 Chairman:** Do the people who run it come from both communities?

Miss Beirne: Yes; our executive committee and staff are all drawn from right across the community and I suppose it would be fair to say that up until the agreement we would have been a responsive organisation in that we just had to deal with what we saw as serious human rights violations that were occurring there and then. In the lead-up to the agreement and thereafter we tried to build on the lessons from that experience and tried to make contributions about how you build human rights and equality standards into fair society rules.

**Q144 Chairman:** How long have you been with them?

Miss Beirne: I have been with them as a volunteer since the late 1980s, on staff since 1995 and as director since 2004.

**Q145 Chairman:** And what was your background before all of this?

Miss Beirne: I worked for 17 years with Amnesty International in their international secretariat, worked on Latin America and, in the last few years, was head of campaigning and membership internationally. Basically I am a human rights activist.

**Q146 Chairman:** What about the funding?

Miss Beirne: Obviously we did not have an awful lot of funding in the early days but we have always taken the position that we should not take government money because we wanted both to be independent and to be seen to be independent. We take money from charitable foundations, from members, from selling publications, just general fund raising but mainly from charitable foundations. As many such groups we would have been very dependent on the Joseph Rowntree Charitable Foundation in the early years and then diversified, the Barrow Cadbury Trust - very keen on chocolates - and now Atlantic have been giving us funds, Oak Foundation, and we have also tried to raise money in the States, but not with great success I have to say. Everyone thinks there is an awful lot of money in the States.

**Q147 Chairman:** There is, but it is a question of getting it. What is your budget?

Miss Beirne: I have gone completely blank.

**Q148 Chairman:** Doubtless you will let us know in due course.

Miss Beirne: Yes; I have my annual report with all the audited accounts and so on.

**Q149 Chairman:** Your mind is clearly on higher things like retirement. You have a very great deal of experience of the areas into which we are inquiring, so perhaps you could share that with us this afternoon. Colleagues have a number of questions they would like to ask you about inquests and other things but perhaps I could kick off. One of the disturbing matters is the high cost of public inquiries. One of the things we are looking at is the possibly disproportionate cost of historic inquiries when it comes to the police budget and indeed when it comes to the budget of the Ombudsman. The Ombudsman himself was very forthright in what he said and actually said he felt two organisations should be spawned out of his: one to deal with the past; and one to deal with the present and the future. Your views on that and on the justification of the high costs of public inquiries?

Miss Beirne: It would be very difficult to sit and to say that the money that is currently being spent on inquiries is all money well spent and absolutely every penny of it should be spent in this way. We have a lot of concerns and have expressed these at different times about the expenditure and about whether this is the appropriate way to respond. However, in a sense we want to start at a different place which is that this is where we are at now. Families have been asking for answers to questions for a very long time and we seem to have come up with this piecemeal response in a number of different areas: we have the Historic Enquiries Team within the Police Service in Northern Ireland; we have the Cory inquiries, three of which are up and running in the north; we have the Police Ombudsman's responsibility in this area. Obviously we have a much broader swathe of cases which have not even really been effectively addressed and presumably some of which can be addressed through the work of the Victims' Commissioners now and the Eames/Bradley Panel to deal with the past. One of the key concerns that we have been trying to question is, why we are spending so much money. We would argue anyway that there seems to be insufficient interest in actually tackling these problems effectively. We gave the example in our written submission to the Committee that in the Billy Wright Inquiry there is one legal team representing David Wright, the father of Billy Wright who was killed in prison, with three staff - a senior and a junior barrister and a solicitor - and then several legal teams representing various government agencies. One of the things that you regularly see in the media is how much these inquiries are costing and querying why we are spending so much on Family X, but when you break it down, you realise that there is a big question mark about all of those agencies that feel that they have to be separately represented at the inquiry. It was only very latterly that the security services decided that they needed to be represented separately at the inquiry and that they would require their own legal team. So the first problem is the route that has been taken and the fact that government agencies in their many forms, feel that they have to have official representation. Also, when we went to the Eames/Bradley Panel to deal with the Past, we were saying that there were several things that we thought could be dealt with in terms of capping, legal fees and trying to encourage a less adversarial approach. The problem, we would argue, is that this is all being done after the fact, a rather piecemeal approach and that if you choose to go the Cory inquiry route, Cory made various recommendations about how to cap legal fees, how to maintain it within a reasonable expenditure but some of the questions need to be addressed out to government agencies. Then I suppose a key thing that I probably will reiterate several times during this testimony is that we feel that there is a lot of learning to come from these inquiries. We certainly do not see it as just looking back and asking what happened, who was responsible, bring them to court, whatever it might be, but actually asking what the learning is from that past experience and how we can put it to good effect in our current response to policing and future arrangements around policing.

**Q150 Chairman:** This Committee will have to make recommendations and although, of course, we cannot guarantee that they will be accepted and adopted, we will have to make them and have to make them in the field of costs as well as to what should be done. If there were two or three things that you believe would help address this issue, what would those two or three paramount things be that you would hope that we might endorse and recommend?

Miss Beirne: One of the issues would be engaging with the Law Society and the Bar Council about issues around legal fees.

**Q151 Chairman:** Is this the capping issue?

Miss Beirne: Yes, the capping issue. Another issue would be asking Government why so many different agencies need their own separate representation in these inquiries. I am talking now particularly about the Cory inquiries because there were obviously so many different issues and I can come back to the other matters, if you like. Also, and I know that that is not directly the remit or at least, if I understand the Committee's terms of reference, which is very much about the expenditure I suppose I would be saying that one of the things is actually to think about how this expenditure could be made as effective as possible. I know that you have already received testimony from the Chief Constable, but I do not think this question arose. One of the issues would be how that learning is being institutionalised now. The Billy Wright Inquiry has already made some serious criticisms of the police response. How is that information being taken back within the PSNI and built upon for improvements and so on? I really want also to think about how you get the most benefit out of money that is spent as well as trying to keep the level down.

**Q152 Chairman:** If you have to assess the inquiries in general, would you say that they excite too many unrealistic expectations or would you say that, on balance, they have done more for public confidence and therefore the expenditure is justified?

Miss Beirne: I do not like either of those two options. They have not excited too much expectation, certainly we have had contact with all of the four families that are involved in the Cory inquiries and we have a lot of contact with families that are working with the Historic Enquiries Team and obviously with the Police Ombudsman's Office and in fact it is always quite surprising, or at least I find it quite surprising, how victims very often do have a very limited expectation in that they do not expect to get answers to all of their questions. Sometimes, as I am sure you would have heard from the Historic Enquiries Team, families just want very basic information such as whether a doctor got to a person in time, a priest or a religious minister or whatever it might be. In terms of families at least, they have, in my experience, extremely high expectations. On the other hand, society as a whole looks at these inquiries - and in fact they are only just starting after a very, very long comparative period, after big expenditure in terms of gathering the documentation and so on - and I do not think that society would say this is the best of monies use and this is reassuring them about confidence in policing. That would bring me again to this question about the whole tone and tenor of the debate. I have raised this personally with the Chief Constable himself in response to a speech he gave at Queen's and I felt it came through again in the testimony before you. Obviously, he has a budget and he has to keep within that budget and he is very concerned about the expenditure, but if most of the public pronouncements from the Chief Constable are about the burden that these things place on the police, then it is not surprising that many people within society will think that inquiries create an obstacle to good policing. I feel the inquiries should be part of this process of encouraging greater confidence of society in the police and ensuring that they do feel confident that we have learned from the past and that hopefully we will not make the same mistakes. Maybe ideally some of our learning can be shared with other police forces.

**Q153 Sammy Wilson:** Given that we have already seen the reaction of some of the families, for example involved in the Bloody Sunday inquiry, given that many of those, especially those who push for inquiries, do not just want to hear what happened, they want actually to see somebody in the dock at the end of the process - many of the families have already made that quite clear - and that is not likely to be the outcome of course of these inquiries given their nature, is that not one of the things that the Chief Constable is referring to, that regardless of the outcome, if someone does not finish up in jail over this, then people will believe justice has not been

done? So you have a costly inquiry, you have big demand on police resources and people dissatisfied at the end anyway.

Miss Beirne: I should not have given the impression that everyone starts from the same starting point. I totally agree with you, the families cover the whole spectrum and there will be families who expect that there will be individuals who are prosecuted at the end and some people who feel that prosecuting individuals is not the key point, it is getting institutions to take responsibility for what they did, and other people who want something very basic in terms of information. There will be fantastically different expectations within families but also some of the realism that the Chief Constable was talking about. Certainly the Historic Enquiries Team have really very consistently gone out of their way and all the families engaging with them know what their remit is - that they are looking for evidential opportunities. If you are talking of older cases, it is less likely that there are going to be evidential opportunities.

**Q154 Chairman:** I want to move to historic inquiries separately a little later on and colleagues will want to ask questions, but that is very helpful. What about the Inquiries Act itself? Are there severe limitations that make it difficult or do you think it is more or less all right?

Miss Beirne: I need to check but I think that CAJ in an earlier inquiry the Northern Ireland Committee may have addressed this, even indirectly, when we talked in more detail about being very concerned about the Inquiries Act when it was introduced and our belief that it would not ensure an Article 2 of the European Convention compliant inquiry. Obviously, when the Government decided to bring together all of the many statutes that allowed for inquiries this was to cover a vast, vast array - major train accidents, food problems and so on - but, particularly in the Northern Ireland context, there was a sensitivity where there were allegations of state involvement in loss of life, where it was felt particularly problematic where the minister, a political appointment, would determine the composition of the inquiry, the terms of reference of the inquiry, in fact could even call the inquiry short at certain stages and certainly had a lot of authority over what could and could not be disclosed. We were very concerned when the Inquiries Act was introduced and argued very strongly against it.

**Q155 Chairman:** And your fears have not been allayed since.

Miss Beirne: No.

**Q156 Kate Hoey:** You mention here in the memorandum to us "Any even cursory glance" at the Billy Wright Inquiry "about the inadequacy of police response to their efforts should disturb NIAC members. The audit trail highlights serious problems about police procedures and record-keeping at the time of Billy Wright's murder, but also in the year 2007". Tell us about 2007?

Miss Beirne: Essentially, in the statement that the Billy Wright Inquiry issued, they really went through an audit trail of their engagement with the police and obviously requested material from the PSNI that related to the time of the murder of Billy Wright, but the concerns that they expressed were that they had made numerous requests for information which were initially not responded to, that they then received an assurance that they had received all of the information that was available to the PSNI, then they subsequently received further information that had been found and that was then made available. Then the PSNI asked to hold a specific internal review, invited retired ACC Kinkaid to ensure that all the information was now available, and meetings were arranged at different times for inquiry panel members and the police did not arrive and so on. So the reference to 2007 was the difficulty that the inquiry was having then in receiving full response and comprehensive responses and effective responses from the current PSNI, albeit about events that related to an earlier period.

**Q157 Kate Hoey:** In saying that, were you actually being absolutely overtly critical about the police in 2007?

Miss Beirne: The Billy Wright Inquiry; yes.

**Q158 Kate Hoey:** Your organisation.

Miss Beirne: We were reading into that that there was reason to be concerned about police.

**Q159 Kate Hoey:** So you were being overtly critical.

Miss Beirne: Yes, though it does not sound as though we were being very overt. It is ambiguous. Yes, we are concerned about this information which would lead us to think that there are currently concerns about the police.

**Q160 Sammy Wilson:** Does the CAJ actually look at whether or not the fault may have lain with the inquiry rather than the police? Of course the police in their response to us told us that one of the problems was that other inquiries focused into and asked for specific pieces of information and were quite specific what they asked for. The Billy Wright Inquiry just made general requests and it was very, very hard sometimes to identify what information they were after or where that information lay. Hence, months later it was found that other bits of information were to hand and had they been asked for they may have been looked for. Rather than simply take at face value the complaints from the inquiry, the CAJ could have acted to see whether the inquiry were doing their job.

Miss Beirne: Well, we were critical of the inquiry too. It was not that we take as given what the inquiry says about everything. It did seem to us that this was a very detailed, almost day-by-day, week-by-week account of, at the very best, failures of communication between police and a very important inquiry. On that score, that is why we made the reference in the testimony that this would be something that the Northern Ireland Affairs Committee would be well placed to look at. I do not know whether we should have just submitted the document, but it is rather long, about 40 or 50 pages. Chapters seven and eight provide a good summary.

Chairman: Let us make sure we have that.

**Q161 Mr Campbell:** On the issue of overall costs of inquiries and the best outcome of those inquiries, you have indicated - and I think it is self-evident - quite a range of relatives have a range of expectations and I fully understand that. Given that is the case and that it is bound to be the case, if we look at inquiries per se for a moment, probably over £200 million of costs to the state, there is a range of expectations, not many of them likely to be realised and the cost is only going to increase. Is there, in the view of CAJ, a different way of looking at them?

Miss Beirne: We testified recently before the Eames/Bradley Panel to deal with the Past. We made the point that, although there are lots of lawyers amongst our members and our executive committee, we were not in the business of just arguing for more work for lawyers and that we could certainly see that families were not necessarily best served by highly legalistic adversarial systems of getting at the truth and that what was needed was a more comprehensive response to the past which addressed these many, many different and complementary issues and questions. At the same time we said that it was very difficult, and we would argue actually impossible, to roll back on the commitments which had already been made to families and gave the very concrete example of the lack of inquiry in the Pat Finucane case. The Government have committed, in response to the Cory inquiry and the breakdown of the prosecution case, that there would be an inquiry and we made the case that Eames/Bradley would be very ill-advised to suggest anything that would run counter to that, that would say that we do not need a Pat Finucane inquiry, here is a different vehicle. On the other hand if the panel dealing with the past were able to come forward with a number of proposals about how to respond to these conflicting and different and sometimes complementary needs then it might reassure the families who are currently engaged in Cory inquiries or Historic Enquiries Team work that they will actually get more of the truth of what they are after or more response to what they need through this alternative, more comprehensive dealing with the past. Essentially you do need something more than this piecemeal approach, but you cannot deny the families which are currently engaged in those mechanisms their responses because you are hoping that something better will come along.

**Q162 Mr Campbell:** If we look at the 35 years of the violence and, speaking off the top of my head, probably about three quarters of the people who were murdered as a result of that were murdered by illegal paramilitary organisations and even of the quarter who were not, most of them not in disputed circumstances - only a tiny number of that number are in disputed circumstances - given that the vast bulk of those killings are not going to be the subject of any inquiries, there are no requests or demands for them, do you not see there could well be a case out there in the public mind that the excessive expenditure on such a small number of cases with no end in sight cannot continue to be justified?

Miss Beirne: What we would be opposed to is to say that these families cannot have the truth because we have not planned a mechanism for dealing with these broader questions. I do totally agree with you that Northern Ireland society and needs to find some way of dealing with the past. There are serious tragedies where you cannot just close the door and say "That's it. It's over. The agreement was to some extent drawing a line in the sand and looking forward and what we want is a better society and future". Now there is a recognition that that is not so easy to do, that one needs to understand some of the issues of the past in order to move forward effectively. That is where I do think society as a whole is saying we need to have better vehicles for dealing with the past and we cannot deal with it in this piecemeal fashion. There I would totally agree with you. Where we might possibly disagree, with the flavour of the question, is that CAJ believes that for those families who have no alternative at the moment, and who have been given a commitment by Government that there will be inquiries with a view to finding out what would be the best way forward (the whole Cory setup which proposed independent inquiries and Government have moved ahead), those have to be pursued until there is something better on offer. Those families have a right to that.

**Q163 Mr Campbell:** Do you not see any redress for the relatives of the people who were murdered by the IRA?

Miss Beirne: The redress has to be these mechanisms that we come up with together as a society and talk about how we deal with all of the past; totally.

**Q164 Kate Hoey:** But should we spend money on that?

Miss Beirne: I would have thought we will have to.

Chairman: Can we move to inquests?

**Q165 Dr McDonnell:** I know a little bit about this, but for the benefit of other Committee members I want to ask you to give a little background on the something in the region of 100 inquests outstanding.

Miss Beirne: That is right. I am afraid I am not going to be able to be that knowledgeable because it is now with the coroner. In a sense the process has started afresh because of recent judicial rulings. I think it is slightly more than 100 but I do not have those figures to hand. I am sorry.

**Q166 Dr McDonnell:** I am told that 48 of those, roughly half, are classified as fairly contentious.

Miss Beirne: That is right.

**Q167 Dr McDonnell:** Do you see those coroners' inquests, if we can have them, making a helpful contribution to healing for the families involved or do you think it is too little too late?

Miss Beirne: It is partly what I keep reiterating. If we as a society and the leadership within the society, such as the Chief Constable, constantly give the impression that dealing with the past is a drain and preventing moving forward, then that is a problem and it is going to be too little too late. As a society, what we have to do is to recognise that people do need answers and that that is an important part of us moving forward. If the coroner is now able to start the inquests it will deal with some of the issues that families have but inquests in Northern Ireland still have more limited powers than ones in England and Wales. Whether he will be able to answer all the questions, we still have to wait and see. At the moment he is looking at the Stevens material. [\[1\]](#) There is some question mark as to how much that is going to be able to be drawn upon. There are bound to be legal challenges to the fact that the coroner has seen this material which is considered very relevant to the inquest but the legal teams for the families will not be able to have access to the same material. It is probably too early to say, but all the signs are there that this is not going to be the easy answer either.

**Q168 Chairman:** It could drag on and on and on.

Miss Beirne: Yes.

**Q169 Chairman:** Do you agree with the Ombudsman that there should be a time limit? He did not have a dogmatic view as to what

the time limit should be. He talked in terms of three or five or seven years. He felt that there should be a time after which we do not do these things. Do you agree with that?

Miss Beirne: It is very interesting looking at other countries and other places and how they have dealt with their past; even when they have looked back, and they thought they had stopped looking back, they revisit and revisit. I am not quite sure that there is a model out there which says this is how you deal with your past and that is where the Panel dealing with the Past, the Eames/Bradley initiative, will be really interesting. They are trying at least to get

a lot of input from different organisations, including *Healing Through Remembering*, which brought together a broad variety of people, looking at the experience in other countries and whether time limits could be set. I am afraid I do not have any easy answer to that.

**Q170 Chairman:** You do not have a fixed view.

Miss Beirne: No, I do not have a fixed view.

**Q171 Chairman:** You are not against it, but you do not hold a particular view for it.

Miss Beirne: I suppose, if anything, my instinct would be that it might be problematic to set a time limit. I do not know why, but I instinctively think that that might close down options and, at least initially, that is what I hope the panel is doing, hearing from a load of different perspectives. If a lot of people say that we could cope with this but it needs to be in a constrained time period, then that would be something people could buy into and that would be effective.

**Q172 Dr McDonnell:** I was just trying to probe some of the harder stuff but what you are saying is that the coroners' cases will not perhaps answer any questions and perhaps they might have answered questions had they been held earlier.

Miss Beirne: That is definitely the case.

**Q173 Dr McDonnell:** Where do we go from here on? Are you saying that you suspect perhaps the coroners' cases, once they are over, will lead to more requirements and more requests for public inquiries?

Miss Beirne: CAJ was honoured to host a visit by something called the Eminent Jurists Panel two years ago and we brought out a report *War on Terror: lessons for Northern Ireland*. The Chief Constable, the Director of Public Prosecutions and others came and testified before the panel. One of the things we did was hold a small group session with people who had lost family members right across the various communities Republican, Loyalist and non-politically-involved. It was fascinating. There were 16 families around the table and some had had inquests and some were awaiting inquests, there was no deadline or anything, yet all of them had this sense that nothing so far had worked, nothing had given them, allowed them to get to the truth of it. Even the people who had had inquests were able to say to other people that they had had inquests but all they said was that X was killed in such and such a situation, not who, what or the full circumstances.

**Q174 Dr McDonnell:** A final point, to pick up on something Gregory Campbell raised earlier, again I am asking you to speculate or think out loud, in the light of the fact that the majority of people killed and therefore probably the majority of some of the contentious cases were killed by terrorist organisations, Loyalists, Provos, whatever, do you see any way in which there can be some closure for some of their victims?

Miss Beirne: Most of you know CAJ work essentially on state abuses and we have always taken that as our focus of work. However we have also been very clear in any engagement with the past that you have to deal with all of the issues to do with the past. Clearly a vast number of people were killed by different paramilitary groups and it would be a nonsense to have an engagement with the past which ignored that fact. We need to learn from that as well. We tend to comment on the areas in which we have some expertise and obviously there is a particular concern around state responsibility since the state acts for us, is paid by our taxes and so on. However, clearly there has to be a comprehensive approach to all of those deaths and losses.

**Q175 Mr Anderson:** I am going to ask you about the Historic Enquiries Team. Next week the Committee are going to meet the team in Northern Ireland. When we interviewed Sir Hugh Orde, each time he said the HET was "a burden worth having" and "a very positive thing", but what would the view of your organisation be about the work the HET has been doing and have they carried out the role they set out to do?

Miss Beirne: When the Historic Enquiries Team was first launched there was a lot of uncertainty in the early stages because there was uncertainty about what deaths they were going to cover, what their terms of reference would be and so on. Over time it has become clearer and they have been able to communicate that message very clearly to people who come to them. Some families will not engage with the Historic Enquiries Team because it is part of the Police Service in Northern Ireland, they see it as intimately tied in institutionally to the police and therefore they do not want to engage. Other families are very eager and pleased to engage with the Historic Enquiries Team. One thing which has been very positive about HET's work is that from the outset they have said that they are victim-centred and they clearly wanted to engage directly with families, keep families informed about what was happening and so on. I think they have had a whole range of problems, not least I was taken aback when I read the testimony you received from the PSNI about the turnover in staff. I realised there was turnover but I had not actually realised the percentages. I had realised that by virtue of the people we were dealing with; different people quite a lot. To some extent they (HET) had to get themselves up to speed, many of them were from outside our jurisdiction and they had to get themselves up to speed and take on a very difficult area of work. We have engaged with some families who have been unhappy about the process; it is taking too long, they are not getting answers and other family members who felt that this is a very useful mechanism. Mixed responses really.

**Q176 Chairman:** You would not criticise the general integrity of the operation.

Miss Beirne: No, I think this was a very genuine attempt. It is a very narrow remit, as they rightly say and as they make clear to potential people who come looking to them; it is a police response to the fact that there are so many household murders and they are carrying out a basic investigation of all of the deaths in the conflict and that is just one part of the puzzle. We make regular submissions to the Council of Europe because the Committee of Ministers is overseeing a number of Article 2 cases - cases which we in

fact took to Europe. We always make it clear that the Historic Enquiries Team cannot be compliant with that standard because HET is internal to the police. However, at the same time they have certain benefits and there can be a very effective investigation; the more recent the case the more likely it is to be effective. The victim-centred approach has been very positive.

**Q177 Mr Anderson:** The Police Ombudsman told us that the volume of work which has been produced by HET is giving him concerns about the ability of his Office to do the job. He said that the potential shortfall in funding could be £2 million to £3 million a year. Do you have a view on that?

Miss Beirne: I have mixed views. It was rather unfortunate that the current Police Ombudsman commented negatively about dealing with the past before he had taken up office and, rightly or wrongly, there is a certain questioning about whether he did not really think the Office should be dealing with cases in the past and now, surprise, surprise, he has agreed his earlier analysis that they should not be engaging with cases from the past. At the same time, clearly when it was set up it was not envisaged that the Police Ombudsman's Office would take on the level of investigation they are carrying out and it was essentially to look forward to new cases coming to them, though there might be some "grave and exceptional" ones. Now that has understandably been interpreted to mean all deaths in which there may have been police involvement, that is stacking up into a very, very large number of cases. It is a very genuine problem that he is now juggling with. I noticed that there may have been some reference to a protocol being agreed between the Police Ombudsman and the Historic Enquiries Team and that is something we would want to follow up on because we have been asked several times whether we can have sight of that. It did seem as though there was a potential gap between the work the Historic Enquiries Team was doing and what the Police Ombudsman was doing and who was actually taking responsibility at what level. That is one thing we shall be pursuing with both entities. It is a big job certainly.

**Q178 Mr Anderson:** Is there a risk from the continuing focus on historic conduct to the reputation of what the police are trying to do today?

Miss Beirne: I do not think so. I think that it is much more risky if we do not find out what was happening in the past or something of what was happening in the past and ensure that we can test that against the changes which have been made. That is much more risky. A lot of people will look to the police and will want to have confidence in policing as it is now and as it will be in the future, but some of that surely has to be engaging with the pressures which were put on policing, pressures that policing created and making sure that anything we do now we have learned from the past. I do not know whether this is directly relevant, but in the wake of the McCord Inquiry last year the Chief Constable referred to the fact that these problems could not occur now because there had been a big clearing out of informers and very detailed analysis of all their informers and they had more or less sacked a very high percentage, something like 20%, of informers, half of them on the grounds that they had been involved or might have been involved in serious criminal activity, half because they were no longer particularly effective or relevant. We have said that is excellent, that there was a triggering off of this analysis of informers, but we have asked on several occasions whether, if so many were sacked because they were involved in serious criminal activity, charges have been laid against any of them, whether charges have been laid against any of the police handlers of those informers who were engaged in serious criminal activity. Until those sorts of things start to happen ... That is what is needed to ensure public confidence in policing, that there are no serious criminals being used as informers or that the police are not turning a blind eye to that kind of activity. That is the kind of learning we want to get from the past, making sure that whatever legislation we have now, whatever guidelines we have, overseeing amongst other informers, that we learn from that background.

Sammy Wilson: That is just what worries me about the approach which you have to the past. I noted very carefully what you said about whether charges have been brought against people, whether charges have been brought against the handlers, but many of those people were handled in situations where the protocols which are in place today and against which you clearly now want the police to be judged, were not in place. To have this kind of witch hunt - because that is how this is perceived and I know you paint a picture of a cross-community organisation but I have to say that is not how CAJ are perceived in Northern Ireland - this desire to have police prosecuted for how they handled informers in the past, even though the protocols in the past would have been different from the protocols at present, is the very concern that people have about this ongoing inquiry, that it is a witch hunt against one side where, as Gregory Campbell has pointed out, there is nothing. There is no paper trail, you do not even know the names of the people and in many cases there is no way of bringing the terrorists, who committed far worse atrocities, through the same process.

**Q179 Chairman:** These are very important questions and I should like you to give as clear an answer as you can.

Miss Beirne: Absolutely. First on the witch hunt. I and my organisation would be more reassured, just to take that concrete example I gave, that in the clearing out of the large number of informers a certain proportion of them were considered to have been engaged in serious criminal activity - and to my knowledge there has never been a statement about what internal, never mind external, steps were taken regarding those informants who were engaged in criminal activity or the police handlers who were dealing with them - it is quite conceivable that if the Chief Constable would say "Here are the steps which have been taken vis-à-vis these people or vis-à-vis this system and it is impossible to get the information at this stage. We are not able to bring them to court for X and Y reasons" that would be a very understandable and in a sense a good public debate to have. What I am concerned about is that there has to my knowledge not been any exploration of how to convict people who engaged in serious criminal activity and what should or should not have happened to the police handlers of those informers. Personally I am not asking for a witch hunt. The only reason why any of this money would be justified is that people want answers but the key thing is that we learn from that past and make sure it cannot happen again. It is as simple as that both in Northern Ireland and there may be lessons for here. On the cross-community point, that is obviously a criticism which is regularly made of CAJ. Your own party and Gregory Campbell put down a resolution at the Assembly which accused us of being anti-British and anti-Unionist. Even though I took personal exception to that, I did appreciate the fact that you (Sammy Wilson) engaged with us at least. We are still hopefully awaiting a response from Mr Campbell. I am more than happy to answer for our executive committee, our staff, our membership and, the nature of the work we do, that we are a cross-community organisation. I can draw parallels in other countries where people who work on human rights and civil liberties are seen to have left-wing interests or be anti-state or anti-government, a label which is very easily placed on them. I would argue that in trying to make sure this is a better society, and that we have better policing, that we are a very positive and, I hope, constructive contributor to the debate, so I would challenge that. Lastly, to give a very concrete example of something that we did recently that related very much to the concern of a Loyalist group, though I am not necessarily saying you are pleading that case particularly, but it was of concern to me. CAJ met with the Chief Constable and had been pursuing this issue about the informers and yet the current practice about informers. We had received several complaints from individuals detained in Loyalist working class communities about being approached to be informers and when we raised this with the Chief Constable he directed us to the Police Ombudsman's Office. I said of course we directed individuals who had complaints to the Police Ombudsman's Office but it seemed to me that this was something important he should know about. That kind of concern, trying to feed back current concerns to the leadership of the police, is something we are trying to do.

Dr McDonnell: The insinuation that I was taking from Sammy Wilson's point and I would not like our witness to go away with the impression that it is the Committee's view was that somehow or other a crime is not a crime depending on who commits it.

Chairman: I do not think the witness is taking away any views. She is answering questions from individual members of the Committee. We will deliberate later and decide what weight we put on evidence we have heard from a whole range of people, including you and we are very grateful to her for coming.

**Q180 Stephen Pound:** It is real pleasure to see you again. I am sure the Committee joins me in wishing you every happiness in your early retirement and thank you for the extremely good work you have done for human rights. Some of the witnesses who have spoken to us have actually talked about the idea of an independent replacement both for the Historic Enquiries Team and the Police Ombudsman. Bearing in mind that in the search for independence Her Majesty's Government have depopulated whole provinces of Canada as well as drawing deep on the wells of Finland and South Africa, do you think there ever could be in the context of Northern Ireland an independent agency which could deal with these issues?

Miss Beirne: I think the Police Ombudsman's Office has established itself as an independent entity. It is not by virtue of just seeking independence that there will be problems. Clearly there will be problems in getting people, getting more powers and so on, but this idea that maybe instead of an Historic Enquiries Team within the police and the Police Ombudsman dealing with the past that they be brought together is something on which CAJ does not actually have a position as yet. It has been floated on a couple of occasions. There certainly would be advantages; one can see an immediate advantage to it. Whether it actually saves you, us any money or whether it makes any difference to the extent of police time and resources that will need to be put to the service of that independent mechanism is another matter. If in fact, since the thrust of my argument is that we need to look at the past in order to move forward, if it were a better way of doing it, then it might be a better use of the money.

**Q181 Stephen Pound:** On the subject of a better way, you use a dramatic expression - and I take it is meant to be - in your evidence when you say "adversarial highly legalistic remedies are often far from ideal in getting to the truth". May I ask you the obvious question? If not that, what?

Miss Beirne: That is what the Eames/Bradley panel is engaging with now and I know *Healing Through Remembering* have done a lot of work in that domain.

**Q182 Chairman:** We are seeing that.

Miss Beirne: Good; excellent. They looked at international powers and then came up with four or five different models. There are some organisations who are actively canvassing for a Truth Commission and we have not got to that position yet. We had just said "Here are some of the principles by which that mechanism should be assessed".

**Q183 Stephen Pound:** Could you enunciate the principles you see?

Miss Beirne: Unfortunately they are those difficult ones you were just alluding to: independence; transparency; that the mechanism will allow people to comply with Articles 2 and 3 of the European Convention and Human Rights Act; that accountability is built in. In the light of the fact that this debate has become a lot more live and there is a lot more depth to it, we are going back to our drawing board and trying to see how those international human rights principles might be fed into the current process. As an organisation we will be going beyond that but at the moment those are just the principles we have laid out. We may have submitted that in earlier testimony, but I can very easily forward that for the record if that were relevant to your discussions.

**Q184 Stephen Pound:** There is a conflict between mechanisms, outcomes and structures here and we do have different agencies which sometimes watch over different areas of control. Do you think that there could be a single integrated agency, or even a single, integrated approach to address this issue?

Miss Beirne: My own instinct, probably speaking more personally than organisationally, is that you are going to need a whole variety of different mechanisms but the comprehensive approach is in recognising these and how they complement each other and there might be different ways of getting at what people need; the whole issue, for example, of story telling. For some people that is more crucial than anything else, that they be heard on what actually happened to them, because it often did not happen at the time. That is totally separate.

**Q185 Stephen Pound:** I can see that the multiplicity of internal mechanisms is entirely appropriate and I very much take your point. Forgive me for thinking as a bureaucrat or an apparatchik but do you think one overarching agency could actually address the issue, instead of having the Police Ombudsman, instead of having the Historic Enquiries Team and any others?

Miss Beirne: Possibly you could have it for dealing with the Historic Enquiries Team and the Police Ombudsman overlap, because in a sense they both show different sides of the same problem, but it is quite difficult to imagine an overall agency for dealing with the past.

**Q186 Christopher Fraser:** In terms of the whole issue of how one goes about the business of the past, how does one encourage former paramilitaries to come forward and provide information about their actions? Is it going to be possible? Can we extend the scope of investigations to allow that to happen?

Miss Beirne: This would not be an area I would be that knowledgeable about. I understand that was one of the options the *Healing Through Remembering* group thought initially, because they have engaged both with former police, former paramilitaries, a whole variety of people, there would not be a lot of support for, actually different paramilitary groups and different institutions almost carrying out an inquiry into their actions and then putting that into the public domain. That has secured more sympathy than they had initially expected, but I do not have any easy answers as to how that would be done. I am not quite sure how one would approach it. It is really interesting. Our focus is very much on the state and agencies and the state and that is proving very difficult, so I would imagine it would be very difficult to do paramilitary groups as well.

**Q187 Christopher Fraser:** Is the whole issue about granting amnesty key to how other countries have dealt with this issue? Do you



see that as being a way forward? Can you tell us something about the advantages and disadvantages of doing that?

Miss Beirne: This has come up twice in the recent past: initially at the time of the agreement when there was a discussion on what to do about prisoners from various paramilitary groups; then there was a discussion about on-the-runs legislation. We have not revisited that more recently in the light of the current debate. Essentially we looked, as we always do, for the international standards in this area and essentially they are not very clear. There is a clear international standard that you cannot have a blanket immunity, you cannot just say it does not matter what people did in the past, that is it, it is over. There are issues around accountability and holding people to account and how you do that. For example, we did not engage directly in the issue about the prisoners because we said they had gone through a trial process on a case-by-case basis, the legislation proposes a two-year minimum sentence and cases will be reviewed and they will be let out on a limited licence. All of those things seem to be safeguards which are built in so it does not violate the international principle of no blanket amnesty. With on-the-runs legislation, we were more critical because, at least in the early drafts, it was clear that Government were trying to do something which would just close down the past and we argued for some sort of judicial process and case-by-case analysis. We will have to look at the individual proposals which come back from Eames/Bradley about what they are proposing in this instance and see whether there is more to be added to it.

**Q188 Christopher Fraser:** In your opinion are there merits in broadening the scope of the historic investigations to cover the Republic as well?

Miss Beirne: We restrict ourselves very much to commenting on Northern Ireland; we do not comment on either Great Britain or the Republic. I do not know how joint Garda/PSNI investigations would work because of the different jurisdictions.

**Q189 Christopher Fraser:** Possibly.

Miss Beirne: The only problem is how that would work judicially afterwards.

**Q190 Christopher Fraser:** Do you have an opinion on it?

Miss Beirne: Do I have an opinion on whether inquiries should be extended?

**Q191 Christopher Fraser:** What is your opinion about that view?

Miss Beirne: That they investigate deaths in the Republic?

**Q192 Christopher Fraser:** Broadening the scope of investigations to the Republic as well.

Miss Beirne: I do not know that I have any; we do not have any.

**Q193 Kate Hoey:** It may seem minor and pedantic to some of my colleagues but you talk about being cross-community yet over and over in all your writings and the bit about Amnesty you talk about either the Northern Irish or the north of Ireland.

Miss Beirne: Where does it say North of Ireland?

**Q194 Kate Hoey:** You talk about the Northern Irish context in your February newsletter and you talk about the north of Ireland in the Amnesty one. Why can you not talk about Northern Ireland? That is what most people use.

Miss Beirne: We always use the term; that is why I am expressing some surprise.

**Q195 Kate Hoey:** Your CAJ February newsletter.

Miss Beirne: Refers to Northern Ireland.

**Q196 Kate Hoey:** It talks about the Northern Irish context.

Miss Beirne: Northern Irish is the adjective, is it not? May I be clear? We use the term Northern Ireland. This is the United Kingdom of Great Britain and Northern Ireland; it is the UN language for the jurisdiction.

**Q197 Chairman:** That is something you have never departed from.

Miss Beirne: No. As an organisation that is the language we use.

**Q198 Mr Campbell:** I just want to raise an accuracy point. In the course of responding to a question posed by my colleague Sammy Wilson the witness indicated that I had tabled a motion at the Assembly referring to CAJ. In fact I had not.

Miss Beirne: At the Bill of Rights Forum where CAJ was criticised.

Mr Campbell: I am quite happy to be associated with the comments which were made regarding CAJ but in the interests of accuracy I did not actually table the motion.

**Q199 Chairman:** Having had a couple of clarifications, you did not table a motion and you have never departed from using the term Northern Ireland.

Miss Beirne: Now I am nervous when you say "never" since 1981. Someone will bring out a document in which we do. Our current, and for as long as I can remember, policy has been to use UN terminology.

Chairman: We accept it. I should like Mr Wilson to lead on the questions on protecting the anonymity of covert sources, which is a very important issue.

**Q200 Sammy Wilson:** You mentioned the fact that CAJ are concerned about the activities of some of the covert sources that the police used and of course at many of the inquiries references have been made to covert sources which the police recruited. Do you believe that it is possible for the Cory inquiries, which are quoted quite a lot, to do a job without first of all risking the exposure of those covert sources and their handlers and also of the methods of intelligence which the police used in the past and which could be useful to criminals and terrorists in the present and future?

Miss Beirne: The Government must think it is possible because they passed an Inquiries Act which allowed for the establishment of these inquiries and there are plenty of safeguards, some of which we think we criticised, which would enable the inquiry not to seek certain disclosure or to protect the anonymity of witnesses and such like. Certainly the Inquiries Act does allow for that reality. What we have to do is see what actually happens now in practice.

**Q201 Sammy Wilson:** The fact that you are critical of them would indicate that you believe therefore that the inquiry cannot do their job without some of those safeguards being removed.

Miss Beirne: It would be very difficult for the inquiries to do their job. Obviously the legislation just gives the power to the minister to intervene in a number of different circumstances. If the minister chooses not to intervene then clearly that is not going to be so problematic. If, however, the minister does see that there are many instances in which he or she has to intervene to protect sources then it will be very difficult to see how the inquiry can get to the truth of a situation.

**Q202 Sammy Wilson:** On balance then, is it the view of CAJ that, in order to get to the truth that the people who asked for the inquiry want to get to, the police should be obliged to disclose who their sources might be, disclose who handled those sources maybe and in some cases disclose the methods they used? Is it CAJ's view that when you balance these things up really police methodology and police anonymity are less important than the demands of the people?

Miss Beirne: No. It is CAJ's view that there should be a balancing out of these different demands and I think testimony has already been given to you that informers have a right to life too. They are certainly not in the business of emblazoning names of informers across Northern Ireland.

**Q203 Chairman:** Do you accept that it is an unfortunate but necessary part of the process that some people's anonymity has to be protected in perpetuity?

Miss Beirne: That clearly would have to be the case. What we are saying is that there needs to be a proper balance. We are not sure the legislation has got it right about that proper balancing.

**Q204 Sammy Wilson:** In an earlier answer you said you did not believe it was possible for the inquiries to do their job on some occasions without the information being disclosed. Yet all along you have been defending these inquiries. That to me is contradictory. If you believe that there should be some protection, because informers have a right to life, and inquiries cannot do their job without that protection being removed, then what is the point of having inquiries?

Miss Beirne: In a sense you are going from one extreme to the other. It is not necessarily the case that in order for the inquiry to do its job the name has to be given of every informer and the level of detailed methodology, but that actually there is a lot of information which could be put into the public domain, more information certainly than is there currently, that would allow us to assess why certain decisions were made and what actually happened.

**Q205 Sammy Wilson:** Yes, but the police argument is - and in fact that you have said in some cases you need to know the name of informers, you need to know whether they are dead or whatever - that once you start down that route by naming or maybe not even naming but giving some of the information they gave or some of the incidents in which they had supplied information or whatever, that you immediately identify them to their colleagues; you do not have to give their names and addresses. If you identify the methodology which the police used to get that information that compromises not just what happened in the past, which is bad enough, but that compromises current police operations and future police operations.

Miss Beirne: I am not sure I am allowed to ask questions of you. My question is: how do we then get to the truth of these situations? You have very credible allegations of collusion between police officers and various individuals and that information cannot be pursued because of a concern around protecting the methodology, protecting individuals, so how do we then make sure that those problems are not going to continue?

**Q206 Chairman:** You are quite right to address that to the Committee. Of course the Committee will not give you an answer this afternoon, but it is one of the issues which we will have to wrestle with and we will have to address in writing our report. We will have to decide what recommendations, if any, we make on this particular issue. Mr Wilson is entirely right to raise it and you are justified in batting it back to us in the way that you have.

Miss Beirne: To be fair, the key thing, one of the issues you rightly raised, is how we ensure general confidence in policing. That is what our concern ought to be. We want to have good policing and we want to ensure that society as a whole has confidence in policing. I think dealing with this past has to be part of that. It cannot just be pushed under the carpet.

**Q207 Sammy Wilson:** Part of the confidence in policing rests with the people being prepared to come forward, sometimes having placed themselves in dangerous positions, to give evidence and information to the police. One point which the police have made to us is that if the kind of demands made by some of the relatives of families who have asked for inquiries to be made and demands made by groups like yours, were acceded to, in the future it would be almost impossible to recruit informers. An informer would wonder whether ten years, 20 years down the line their name would be given out in some inquiry because demands were being made to try to

find what happened to a particular individual whose case they were involved in.

Miss Beirne: That is not an inconsiderable concern but I do not know how else we are going to handle this. Drawing your attention again to the McCord Inquiry, that was really one complaint about one individual who was murdered. That essentially opened a can of worms about operations like that, and not that long ago either. I can certainly see there are big problems with what was happening in the 1970s and a lot of the testimony from the Chief Constable was very right in emphasising that the number of deaths in any one year - 1974 was horrendous - placed particular pressures on policing. The interesting thing is that the Cory inquiries were all late 1990s, McCord is also a more recent case, and yet clearly it took some of the uncovering (brought about by the Ombudsman's Inquiry) to start to create the change we are now beginning to see in terms of that overview of informers.

**Q208 Chairman:** Clearly there are dilemmas and clearly there are tensions and we will have to discuss many of these things. Do you believe, as many of our witnesses, both formal and informal have believed, that there has to be - you have made your position on arbitrary dates plain - a drawing of the line at some point in some way? Do you believe that is right or do you think it is so important that inquiries be conducted, that there is absolutely no time limit; we go on and we go on and we go on.

Miss Beirne: That discussion needs to be had. Looking back with hindsight to the agreement, it is really interesting that, with the exception of one of the opening paragraphs where it talks about tragedies of the past and, the need to build a shared future, there was no discussion of the past, no discussion about anything really, it was essentially about what we wanted to do for the future. Now we have realised in the ten years since then that that was not going to cut it. We need to have something much more fundamental looking back. I personally will not answer. I do not think organisationally we can say what that timeframe should be. Hopefully something is coming out of Eames/Bradley about whether people as whole think a time limit can be set. Look at Spain, Japan, Germany.

Chairman: Thank you very much indeed. Thank you for coming, thank you for giving your evidence; it is helpful to us and we will take this into account as we see others. We are going to be visiting the Historic Enquiries Team and the Ombudsman's Office next week in Belfast and we shall be reflecting on these things. If there are points you believe ought to be brought to the Committee and they are not contained either within your written submission or what you said this afternoon, please let us know. Please also discuss with your successor in case he wishes to add anything to the testimony you have given. We appreciate your coming and wish you a safe journey home. That concludes our proceedings. Thank you very much.

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[1] The witness later clarified she meant to say Stalker/Sampson material